

Editorial

Although this is only the fifth issue of ANZJLE the journal has made a most significant impact in increasing readers' awareness of the range and intensity of the influence of areas of law on educational practice. In the period since 1996, when the first issue was published, there has been a considerable growth in matters to do with the law in schools and tertiary institutions in Australia and New Zealand and there is every indication that this will continue. Journals dealing with "education law" now exist in Canada, the UK, Europe, the United States, South Africa and of course here in Australia and New Zealand. It has been our practice to develop ANZJLE as a journal reflecting international developments and, to a large extent, I believe we have succeeded in that process. However, the growth of the journal will only be sustained if an adequate supply of quality articles is forthcoming.

As we enter the new millennium there will be many exciting legally-related challenges confronting educators and those of us living and working in the South Pacific region are increasingly aware that we are not immune from developments in the more populated areas of the world. It is my belief that we have a lot to learn from such developments whether these are in North America, Europe, Asia, or elsewhere. While laws between countries may well be very different, there is much to be gained from knowing what is going on outside Australia and New Zealand. Even where laws between countries are similar their interpretation may not be the same. Nonetheless the problems that have emanated from political decisions and from socio-economic developments bear a striking similarity. As a consequence our understanding of what is happening in "our" part of the world can be significantly enhanced by our understanding what is happening elsewhere. In this regard it is important that we understand why a particular court decision was reached in another country or why a particular statute was introduced as this in turn can influence the way similar issues are managed in our own country.

In this issue of the journal the article by Russo, which deals with search and seizure of students and teachers, alerts us to the growing problem of drug and alcohol abuse in Australia and New Zealand. While we may, or may not, agree with the way the United States courts and legislatures, react to drug and alcohol abuse, the reality is that this is a very real social problem and Russo's article provides a good analysis of what is happening in his country. Educators, and in particular school administrators, will benefit from this analysis and hopefully will find some of the suggested procedures for managing the problem to be helpful in their own institutions.

The two articles from New Zealand are based on papers presented at the ANZELA Conference held in Auckland in July 1999. They have been revised for inclusion in the

journal and make a very important contribution to developments that are occurring in that country. In the first article, Kós explores the legal basis of the relationship between universities and students. It is the case that traditionally- in Australia and New Zealand - there has been a general reluctance by students to question the decisions or powers of their universities. This is no longer so and students are showing a willingness to challenge university policies and procedures and, where necessary, seek recourse through litigation. The challenge now is how universities will respond.

In her article Breakwell explores the issue of the rights of New Zealand students to enrol in schools of their choice and how recent legislation affects this right. An interesting discussion of the history of enrolment schemes in New Zealand is provided and an analysis of important terms such as “reasonably convenient school” is undertaken. Recent court decisions where students have challenged restrictions on their enrolment are included.

The two case notes included in this issue may appear to deal with totally different topics. They do, however, contain similar points of discussion to do with the power and/or willingness of courts to intervene in school-related matters. In the first, Lindsay provides a most useful analysis of the recent decision of the United States Supreme Court in *Davis v Munro County Board of Education* concerning sexual harassment and abuse of a young female student. In the second Shorten provides a penetrating analysis of the English Court of Appeal decision in *Phelps v Hillingdon Borough Council*. This decision, reached in 1999 was to do with the duty of care to educate owed to a dyslexic student who was not identified as such, despite her learning problems being investigated by a qualified educational psychologist.

Three book reviews conclude this issue. Two deal with recent Australian publications; the first, *Being Fair: A procedural fairness manual for Australian schools* is reviewed by Andrew Knott and the second, a CCH loose leaf publication titled *The Australian Professional Liability- Education* is reviewed by Anthony Taylor and Julie Haughton. The third publication, reviewed by Derek Cameron is of Walsh’s *Schools Go To Court: Education Case Law for New Zealand Schools*.

Doug Stewart
Editor