

Age Discrimination in Education: A Critique of Law and Policy¹

*Katherine A Lindsay
Faculty of Law, The University of Newcastle, NSW*

Introduction

This paper critically evaluates the form and content of the law in relation to age discrimination in education and the associated policy framework. In particular, the examination of the exceptions and exemptions contained in the statutory schemes reveals severe tensions between anti-discrimination and entrenched educational objectives. It will be argued that these stresses strike at the very heart of the efficacy of the laws. The pressure emerges most clearly in the juxtaposition of the radical, catalytic face of anti-discrimination laws, especially age discrimination laws, with the entrenched historical, social, political and economic assumption of the connection between chronological age and education. The social supposition of the link between youth, and childhood in particular, and opportunities for formal education can be illustrated clearly in the consistent form in which compulsory education statutes have been enacted in the Victorian era and the twentieth century. This analysis raises serious questions about the appropriateness of existing age discrimination in education legislation to counteract perceived 'discrimination problems' and the policy vacuum which attends the introduction of novel grounds of discrimination.²

Most state and territory jurisdictions in Australia make unlawful age discrimination in a variety of areas of public life.³ Age discrimination is one of the 'new generation' of grounds of unlawful discrimination introduced in the 1990s to augment the scope of equal opportunity protection. As with other grounds of discrimination of longer standing, such as sex, race or disability, legislative provisions against unlawful age discrimination also support a range of exceptions and exemptions from the operation of the scheme for types of behaviour deemed to fall outside the legitimate realm of legal protection. The provision of education and educational services in the public sphere⁴ is one area regulated by anti-discrimination statutes. Several jurisdictions have chosen to enact prohibitions on unlawful age discrimination in education, subject to a range of exceptions.

The Statutory Scheme

Legal concepts and the scope of protection

The unlawful age discrimination provisions found in state and territory anti-discrimination statutes to a large extent mirror the form of other grounds of discrimination, such as sex or race. This means that age discrimination is prohibited in respect of admission of students, their access to benefits whilst enrolled and in connection with expulsion of students from school.⁵ There are very few reported cases testing the scope of the age discrimination in education provisions.⁶ One example where the expulsion provisions were argued, ultimately unsuccessfully, concerned the Queensland complaint in *Hashish v Minister of Education*.⁷ This incident concerned age discrimination in the expulsion of a student with multiple disabilities from a special school when he attained the age of 18 years.⁸

Behaviour may amount to unlawful discrimination if it falls within the definitions of direct or indirect discrimination. The statutes require that a complainant must prove either less favourable treatment in comparable circumstances (direct discrimination),⁹ or the imposition of a requirement or condition with which a substantially higher proportion of students not of the complainant's age are able to comply and the complainant is unable to comply and the requirement is not reasonable in the circumstances (indirect discrimination).¹⁰ In all jurisdictions the statutory schemes do provide designated exceptions for every ground of discrimination, which serve to exclude selected prima facie discriminatory acts from categorisation as unlawful. The range and content of exceptions differs amongst jurisdictions depending on the policy objectives of the legislatures. There are some similarities amongst the exceptions throughout Australia. For example, acts of discrimination may be permitted under anti-discrimination statutes if required to comply with the provisions of other statutes.¹¹ This was a fatal stumbling block for the complainant in *Hashish*.

The scope of exceptions to age discrimination in education provisions

Age discrimination in education provisions permit the use of chronological, and hence prima facie age discriminatory criteria in a significant range of circumstances. The range and content of the exceptions, especially in jurisdictions such as Victoria, vitally affected the attaining of broad anti-discrimination objectives in this sphere. In particular, the presence of exceptions in relation to minimum age, age-related quotas and institutional exceptions cut deeply into the liberal aim of freedom from age discrimination in education suggested by the amendments. The equivocation inherent in the framing of age discrimination in education laws deserves special attention. There are grounds for arguing that more narrowly drafted provisions which address pressing age discrimination issues would more effectively achieve anti-discrimination objectives in this area.

Perhaps the most significant inroad to age discrimination protection is the exception which permits a minimum age of entry for compulsory schooling (s 49ZYL(4) ADA (NSW) (6 years);

s 57E(1) DA (ACT)). The provision of a minimum age for access to compulsory schooling in the public sector¹² may be justifiable on ‘educational’, pedagogical, psychological or other policy grounds, but this justification merely highlights the extreme pressure created by what are in reality competing and irreconcilable policy goals. If minimum ages for access to public schooling, or a minimum qualifying age for access to an educational ‘programme’ (s 41(a) EOA (Vic); s 43 ADA (Qld)) are permissible and hence impliedly ‘acceptable’ as the exceptions suggest, then the efficacy of the general prohibitions on age discrimination in education found in the statutes is seriously undermined. It may be that a general prohibition on age discrimination as reflected in existing statutes is not sustainable on logical or policy grounds.

There is little suggestion in policy sources that the use of chronological criteria will be abandoned in the educational sphere. The pattern of use of age-related criteria in defining compulsory schooling requirements reinforces this argument. For example, the requirement of attendance at school is identified in current education statutes not primarily by reference to standards of achievement in knowledge and skills, but by reference to a student’s age¹³ just as it was last century.¹⁴ The widespread presence of the exception for acts done under statutory authority or in compliance with other legislation, which includes state public education statutes (s 54(1) ADA (NSW); 69 EOA (Vic); s 106 ADA (Qld); s 66ZS EOA(WA); s 30 DA(ACT); s 57 ADA(NT)) serves to entrench the pattern of reliance upon age-based criteria in educational decision making.

Other exceptions disclose the fundamental social commitment to age-based decisions which further undercuts the legislative prohibition. For example, some jurisdictions have addressed the issue of age-based concessions and benefits (eg student travel concessions) by way of exception to the age discrimination provisions (s 49ZYL (5) ADA (NSW); s 81 EOA (Vic); s 66ZD(3) EOA (WA)¹⁵). This aspect of government policy is largely unobjectionable. However, the objective of benefiting full-time students enrolled in primary and secondary schooling by the provision of concessional travel passes and other education-related concessions might be achieved without reference to age, by targeting the enrolment status as the criterion of eligibility.

In contrast, Western Australia and the Australian Capital Territory directly address the serious issue of education for adult students in exceptions which protect mature age entry programmes in education (s 66ZD (4) EOA (WA); s 57E(2) DA (ACT)). There are strong equity arguments to support the maintenance of age-based criteria in ‘mature age entry’ programmes, the aim of which is to expand the educational opportunities of disadvantaged groups.¹⁶ ‘Mature age entry’ programmes, particularly in primary and secondary spheres, effectively counter the stereotypical assumption that elementary and compulsory levels of education should be available solely to children. However, the establishment of mature age entry programmes to achieve a perceived desirable social goal, could be effected in a range of ways, including legislative amendment to existing education statutes without the necessity for a legislative prohibition in anti-discrimination statutes. Similar, if less precise, arguments might be adopted in relation to the provisions protecting special needs and equal opportunity programmes based on age (s 49ZYR

ADA (NSW); s 105 ADA (Qld); s 85p EOA (SA); s 66ZP EOA (WA); s 27 DA (ACT); s 24 ADA (NT)). Programmes which are directed to the redress of identified disadvantage have found protection under anti-discrimination statutes in respect of other grounds (eg s 21 ADA (NSW)). The only real question about the operation of the 'special needs' exceptions is whether the identification of 'age' as the relevant criterion for the establishment of a protected special needs programme in fact masks the essential 'cause' of need which might be socio-economic status, race, sex or other 'non-age' characteristic.

Also of significance amongst the exceptions are those which identify age-specific 'levels of education' and educational programmes for a 'particular age or age group'. In South Australia and New South Wales, an exception is provided for educational authorities where 'level of education or training' sought is provided only for students above a particular age (s 49ZYL (3)(a) ADA (NSW); s 85i(3) EOA (SA)). Such provisions might well apply to children or young adolescents seeking entry to tertiary educational courses. The exception is loosely constructed and there is no definition of 'level of education'. Hence, the exception is potentially applicable to all stages of education. It proceeds from a prima facie age discriminatory premise and further undermines the general prohibition. The desire to restrict the broad operation of age discrimination in education laws in compliance with existing norms is most clearly exemplified in the Victorian Act which permits the exclusion of students on the ground of age from educational institutions or programmes 'offered wholly or mainly for students of a particular age or age group' (s 38 EOA (Vic)). It also protects the selection of students for educational programmes on the basis of age-related quotas (s 41(b) EOA (Vic)). The former provision may conceivably serve to exclude children above the chronological age of 6 years from 'pre-schools', regardless of their mental age. The latter reveals a highly circumscribed commitment to age discrimination protection in the field of education.

The nature of legal protection

The 'mirror' or 'template' drafting which has been common in the amendment of anti-discrimination statutes, and is exemplified in most age discrimination amendments, arguably fails to give sufficient weight to the sui generis nature of many 'new' grounds of discrimination. Age (and other grounds, such as sexuality) are grounds of discrimination in which this argument ought to have significant force. Legislative amendments to age discrimination statutes ought ideally to balance the desire to extend legislative reform into new fields by encompassing new grounds, against the scope of identifiable disadvantage suffered in respect of 'malign' or 'harmful' discrimination. An examination of existing age discrimination in education provisions reveals that current drafting arguably casts a much wider net than is required for adequate legislative protection on this ground. Further the formula adopted in the area of education is highly cumbersome, characterised by the general prohibition which is undercut substantially by the variety and breadth of the exceptions.

In contrast, the form of disability discrimination laws discloses attention to the particular characteristics of the grounds and to its potential operation within a range of areas of public life. Notably, the introduction of the concepts of ‘reasonable accommodation’ and ‘unjustifiable hardship’ to the law and language of discrimination protection in Australia have revealed a sensitivity, both to the limits of statutory protection and the legitimate distinctions between disability and other grounds. The complexity of the issues arising in relation to age as a ground of discrimination suggests that the distinctive and unique dimensions of the ground should mould the form of legislative protection. Conformity with the statutory form of existing grounds is arguably of secondary relevance. In view of the entrenched use of age classifications in the educational sphere generally, there are still real questions about the desirability of a legislative prohibition on age discrimination in education (with or without exceptions).¹⁷

The Policy Background

Age discrimination policy

In approaching the issue of age discrimination amendments to anti-discrimination legislation, government documents¹⁸ reveal very meagre attention to and lack of systematic appraisal of ‘live’ age discrimination issues in the educational sphere. The overwhelming emphasis in the documents is on discussion of age discrimination in employment and employment-related matters. Whilst there are circumstances in which age discrimination in employment issues may overlap with the educational sphere,¹⁹ it is worth noting that in government discussion of the issue there is far less overt anxiety about the negative impact of age discriminatory policies in respect of education. This can be illustrated clearly by reference to New South Wales Green and White Papers on age discrimination prepared by the Attorney-General’s Department. In these documents the systemic use of chronological criteria in the process of educating children and young people is not the subject of adverse comment. The identification of age discrimination in education issues is far more circumscribed. For example, in the Green Paper (NSW), the ‘main areas’ of age discrimination are recognised as the provision of upper age limits in the completion of secondary education, age limits on the availability of scholarships, and age-related admissions to courses of study.²⁰ These issues are likely to have the greatest impact in the secondary, tertiary and vocational education spheres. However, there is no systematic treatment of the ways in which chronological, and prima facie age discriminatory, criteria have become entrenched in the provision of compulsory education in the primary and secondary spheres. This is a serious omission, especially in view of the final form of age discrimination in education amendments.

Perspectives on the development of education policy

In assessing the use of age-related criteria in education and their relationship to age discrimination initiatives, the complex background of social, economic, historical and political factors must be addressed. These considerations serve as legitimate influences upon a decision to prohibit

discrimination on the ground of age. Further, they both inform and reflect the process of establishing past and contemporary community standards. Some themes emerge very clearly from the evidence. Most significantly, the historical record supports the proposition that at least since the nineteenth century decisions have been made in the public domain about the provision of compulsory and post-compulsory education invariably using chronological criteria. Additionally there is a rich historical legacy of evidence which marks a link between age, desirability of literacy²¹ and the provision of formal schooling to achieve that end.²² In this connection the strong link between education and employment should be stressed, in particular in the arguments concerning the development of human capital through education.²³ Finally, the social engineering function of compulsory schooling²⁴ during childhood has been a significant influence upon the form of compulsory schooling statutes.²⁵

Early documents from the fledgling colony of New South Wales indicate that age was a key factor in seeking elementary schooling from private sources. For example, school rules from 1798 provide unequivocally that ‘no child will be admitted until the age of 3 years’.²⁶ In the second half of the nineteenth century when compulsory schooling statutes were first enacted, the obligations imposed upon parents to ‘cause’ their children ‘to attend school’ was limited to a particular age range.²⁷ Whilst these ages did differ amongst jurisdictions, the principle of age-based attendance is uniform.²⁸ The direct relationship between these statutes and the earlier *Factory Acts* imposing duties concerning schooling upon employers of minors has been clearly demonstrated.²⁹ This forms an important political and economic backdrop to the state regulation of school attendance.

Amongst modern educationalists, there is consciousness of the entrenched nature of chronological indicators in school environments together with a sense of the limitations of existing age-grade structures to achieve contemporary, broad ranging schooling objectives.³⁰ However, one of the tensions clearly identified but not resolved in this line of research is the incompatibility between the individual and collective objectives of education, especially at elementary levels.³¹ The desire to promote individual achievement is pitted against the operation of a bureaucratized public educational administration, rules and procedures. There can be little doubt that the seminal influence of Jean Piaget’s theories in which developmental stages in children are linked directly to a child’s chronological age has had a profound and lingering influence in this century upon the way in which educational decisions about curriculum content have been determined.³² In a keenly modernist sense, ‘science’ reinforced, almost ‘legitimated’ existing social practice.

Conclusion: The Why and Wherefore of Unlawfulness

The difficulties raised in this analysis suggest the need for a systematic reassessment of the scope of the prohibition on age discrimination in education and the mode of protection of age as a ground of discrimination. Prohibition of age discrimination in the sphere of public education produces particular effects which cut across long standing and accepted norms of behaviour. It is clear from the range and breadth of exceptions to the provisions that a general prohibition on age

discrimination does not accord with perceived desirable social goals. The social sense of ‘harm’ associated with age discrimination in education is strictly muted in comparison with other grounds of discrimination, such as sex, race or disability. The historical, social and economic indicators suggest the use of age-related criteria in education is historically determined, socially accepted and reinforced in the economic sphere by means of corresponding age-related employment concepts such as ‘working life’, ‘retirement years’, ‘youth wages’. This inquiry then seems to confirm the radical nature of recent amendments to anti-discrimination statutes.

Keywords

Education; Age-discrimination; Schools; Australia.

References

- Attorney General’s Department (NSW) (1992) *Age Discrimination - Options for New South Wales A Discussion Paper*. Sydney: Attorney-General’s Department.
- Attorney General’s Department (NSW) (1993) *Age Discrimination Legislation for New South Wales*. Sydney: Attorney-General’s Department.
- Donajgradzki, A.P. (ed) (1977) *Social Control in Nineteenth Century Britain*. London: Croom Helm.
- Gruber, H.E. & Voneche, J.J. (eds) (1977) *The Essential Piaget*. London: Routledge & Kegan Paul.
- Lindsay, K. (1996) Cradle to Grave: Age Discrimination and Legislative Policy in Australia. *Australian Journal of Human Rights*, 3(1): 97-116.
- Stuart Maclure, J. (1979) *Educational Documents in England and Wales 1816 to the present day*, 4th ed. London: Methuen.
- Nardinelli, C. (1990) *Child Labour and the Industrial Revolution*. Bloomington: Indiana University Press.
- Ramsay, I.M. & Shorten, A.R. (eds) (1996) *Education and the Law*. Sydney: Butterworths.
- Sanderson, M. (1983) *Education, Economic Change and Society in England 1780-1870*. London: MacMillan.
- Stone, L. (1969) Literacy and Education in England 1640-1900. *Past and Present* 42: 69.
- Stone, L. (ed) (1976) *Schooling and Society*. Baltimore: Johns Hopkins University Press.
- Thornton, M. (1990) *The Liberal Promise*. Melbourne: Oxford University Press.
- Turney, C. (ed) (1969) *Pioneers of Australian Education*. Sydney: Sydney University Press.
- Turney, C. (ed) (1975) *Sources in the History of Australian Education 1788-1970*. Sydney: Angus & Robertson.
- Wardle, D. (1976) *English Popular Education 1780-1975*. Cambridge: Cambridge University Press.

Weiner, D.E.B. (1994) *Architecture and Social Reform in Late-Victorian London*. Manchester: Manchester University Press.

Yates, L. (ed) (1995) *Melbourne Studies in Education: Politics, Policy and History*. Bundoora: La Trobe University Press.

Endnotes

¹ I wish to record my thanks to Dr D Stewart, School of Professional Studies, Queensland University of Technology and Associate Professor WG Warren, Faculty of Education, The University of Newcastle, who kindly discussed some of the issues raised in this paper whilst it was in its infancy. I am grateful for their assistance, but any errors and misconceptions remain entirely my own.

² On this topic, see also Lindsay, K. (1996) *Cradle to Grave: Age Discrimination and Legislative Policy in Australia* *Australian Journal of Human Rights* 3(1): 97-116.

³ Part 4G *Anti-Discrimination Act* 1977 (NSW) (ADA (NSW)); s 6(a) *Equal Opportunity Act* 1995 (Vic) (EOA (Vic)); s 7(1)(f) *Anti-Discrimination Act* 1991 (Qld) (ADA (Qld)); Part VA *Equal Opportunity Act* 1984 (SA) (EOA (SA)); Part IVB *Equal Opportunity Act* 1984 (WA); s 7(1)(a) *Discrimination Act* 1991 (ACT) (DA (ACT)); s 19(1)(d) *Anti-Discrimination Act* 1992 (NT) (ADA (NT)).

⁴ There are significant limitations in some jurisdictions upon the regulation of private educational authorities and institutions by anti-discrimination statutes. See Ramsay, I.M. & Shorten, A.R. (1996) *Education and the Law*, Sydney: Butterworths, 203-205.

⁵ s 49ZYL(1), (2) ADA(NSW); s 37 EOA(Vic); s 38, 39 ADA(Qld); s 85i EOA(SA); s 66ZD EOA(WA); s 18 DA(ACT); s 29 ADA(NT).

⁶ See Ramsay, I.M. & Shorten, A.R. (1996) *Education and the Law*, Sydney: Butterworths, 223.

⁷ (1996) EOC 92-806.

⁸ In the *Hashish* case, it is strongly arguable that the nature of the discrimination occasioned to the complainant was discrimination on the ground of disability, not age. As a student with multiple physical and intellectual disabilities, the educational authority was required to make reasonable accommodation of the disabilities in the provision of education. It is not incontestable that the nature of reasonable accommodation of the complainant's disabilities might include permitting him to remain at school beyond the age of eighteen years (as provided in the Queensland Education statute) in order to prepare the complainant for post-school options. This was not the approach adopted in this case, as the Queensland Education Department successfully relied upon the exception provided in s 106 ADA (Qld) which excludes acts done under statutory authority, in this case the provisions dealing with age restrictions associated with the definition of 'disabled person' under the education statute.

⁹ S 49ZYA(1)(a), 2 ADA(NSW); 7, 8 EOA (Vic); 9, 10 ADA (Qld); 85a(a), © EOA(SA); 66V(1) EOA (WA); s 8(1) (a) DA (ACT); s 20 ADA (NT).

¹⁰ S 49ZYA(1)(b), ADA(NSW); 7, 9 EOA (Vic); 9, 11 ADA (Qld); 85a(b) EOA(SA);

66V(3) EOA (WA); s 8(1) (b), (2), (3) DA (ACT).

11 Ss 54(1) ADA(NSW); 69 EOA (Vic); 106 ADA (Qld); 85f(4)EOA(SA); 69 EOA (WA);
30 DA (ACT); 53 ADA (NT). Unlike other jurisdictions, the South Australian Act
contains no blanket exception for acts done under statutory authority.

12 Private and religious schools are excluded from the age discrimination provisions in New
South Wales, Victoria and Queensland: s 49ZYL (3) NSW; s 76 (Vic); s 42 (Qld).

13 For example, s 22 *Education Reform Act* 1990 (NSW); s 3(3) *Education (General
Provisions) Act* 1989 (Qld).

14 s 74 *Elementary Education Act* 1870 (UK); s 20 *Public Instruction Act* 1880 (NSW).

15 The Western Australian Act refers to ‘scholarships and benefits’.

16 For example, see Thornton, M. (1990) *The Liberal Promise*, Melbourne: Oxford
University Press, 52-53, 67.

17 Thornton has argued powerfully elsewhere (*The Liberal Promise*, above n 16, 21-22) ‘a
single theory embracing all traits within one legislative [anti-discrimination] instrument
[is] untenable.’ The force of her arguments based on theory seem to gain even greater
force with time.

18 In this section I shall rely primarily upon the New South Wales Green and White Papers
on age discrimination: Attorney General’s Department (NSW) *Age Discrimination -
Options for New South Wales A Discussion Paper*, Sydney: Attorney-General’s
Department, 1992 (‘Green Paper (NSW)’); Attorney General’s Department (NSW) *Age
Discrimination Legislation for New South Wales*, Sydney: Attorney-General’s
Department, 1993 (‘White Paper (NSW)’).

19 For example, Green Paper (NSW), 16-17; 27.

20 Green Paper (NSW), 31.

21 See Anderson, C.A. & Bowman, M.J. ‘Education and Economic Modernization in
Historical Perspective’ in L Stone (ed) (1976) *Schooling and Society*, Baltimore: Johns
Hopkins University Press, 5-7; L Stone (1969) ‘Literacy and Education in England 1640-
1900’ *Past and Present* 42: 69, 84.

22 For example, see White, D. ‘The practice of teaching in the era of globalisation’ in L
Yates (ed) (1995) *Melbourne Studies in Education: Politics, Policy and History*,
Bundoora: La Trobe University Press, 29-38; DEB Weiner (1994) *Architecture and
Social Reform in Late-Victorian London*, Manchester: Manchester University Press, 37.

23 See Nardinelli, C. (1990) *Child Labour and the Industrial Revolution*, Bloomington:
Indiana University Press, especially 63 and 101.

24 See Kaestle, C.F. ‘Between the Scylla of Brutal Ignorance and the Charybdis of a Literary
Education: Elite Attitudes Toward Mass Schooling in Early Industrial England and
America’ in L. Stone (ed) (1976) *Schooling and Society*, Baltimore: Johns Hopkins
University Press, 179. CfTW Laqueur ‘Working class demand and the Growth of English
Elementary Education 1750-1850’ in L. Stone, above n 24, 192-205

25 See Wardle, D. (1976) *English Popular Education 1780-1975*, Cambridge: Cambridge
University Press. Johnson, R. ‘Educating the Educators: “Experts” and the State 1833 -9’
in A.P. Donajgrodzki (ed) (1977) *Social Control in Nineteenth Century Britain*, London:
Croom Helm, argues cogently that improving the people in the nineteenth century was
seen to require a kind of ‘moral engineering’ and that the role of the state was to ‘educate

and civilise' via schooling and law and order.

²⁶ See Turney, C. (ed) (1975) *Sources in the History of Australian Education 1788-1970*, Sydney: Angus & Robertson, 17.

²⁷ See Stuart Maclure, J. (1979) *Educational Documents England and Wales 1816 to the present day*, 4th ed, London: Methuen; Turney, C. (ed) (1969) *Pioneers of Australian Education*, Sydney: Sydney University Press, 185.

²⁸ For example, see s 74 *Elementary Education Act 1870* (UK) (Attendance of children at school): 'Every school board may ... make byelaws for all or any of the following purposes:

(1) Requiring the parents of children of such age, not less than five years nor more than thirteen years, as may be fixed by the byelaws, to cause such children (unless there is some reasonable excuse) to attend school ...

There is a proviso in the legislation that an inspector has a discretion to grant a certificate of exemption from attendance for a pupil between age of 10 and 13 years if the child reached the standard of education specified.

See also s 20 *Public Instruction Act 1880* (NSW): After the expiration of three months from the passing of this Act it shall be obligatory upon the parents or guardians of all children between the ages of six and fourteen years (unless just cause of exemption can be shown) to cause such children to attend school for a period of not less than seventy days in each half year ...'

²⁹ See Sanderson, M. (1983) *Education, Economic Change and Society in England 1780-1870*, London: MacMillan, 21: '... the Factory Act of 1833, more successfully than that of 1802, obliged factory owners to ensure that their child workers were receiving a regular education either in a factory school or outside, before being allowed to engage in factory work. This was firmly enforced. It was all the more remarkable in that nearly fifty years before general compulsory education was introduced by the Mundella Act in 1880, the 1833 Factory Act enforced compulsory education on a large sector of free children who would have been deprived of schooling.'

³⁰ See Trethewey, L. 'Reforming age-grade structures in South Australian Schools: history and politics 1945-1991' in L. Yates (ed) *Melbourne Studies in Education: Politics, Policy and History*, Bundoora: La Trobe University Press, 1995, 114-133 and White, D. above n 21, 33 .

³¹ Trethewey, L. above n 30, 130.

³² See Gruber, H.E. & Voneche, J.J. (eds) (1977) *The Essential Piaget*, London: Routledge & Kegan Paul, esp Part IV and V and pp 691 ff (Piaget on Education)