

FOREWORD

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The law and the Australian legal profession owe a great deal to the Olympic Movement. I particularly look at the extent to which the Sydney legal profession has benefited from the construction and management of venues, sponsorship agreements, television and media arrangements and a host of other issues including inquiries into the bid process and ticketing! Can there be any doubt that lawyers have been the first recipients of gold from the 2000 Olympic Games even before an event has been run!

In particular, Simon Rofe, the solicitor for the Australian Olympic Committee, owes even more for all the work given to him since 1990 when we first commenced down the long road that led first to Sydney being selected by the AOC to bid for the Games, next to the historic announcement in Monte Carlo on 23 September 1993, when Sydney was selected to host the Games, and to the present, where the Games are now less than a year away.

During this passage of time lawyers have played a considerable role in our success and our misfortunes. Being a solicitor, it was natural that I should insist on proper and documented arrangements between the AOC, the State of NSW and the City of Sydney concerning the conditions governing the AOC's endorsement of Sydney's bid. As far as I have been able to learn, that document, known as the Endorsement Contract, is unique. For the first time a national Olympic committee set out in writing the conditions governing the bid and the rules which were to apply if it was successful.

Much has been written and spoken in the media about the power and influence of the AOC in the organisation and staging of the Games. Without doubt, that power and influence is founded in the Endorsement Contract. Everything that has developed between the AOC, the State of NSW and the organising committee for the Games (SOCOG) has its roots in that contract.

As Mark Brabazon has pointed out in his paper, the Host City Contract is expressly stated to be governed by Swiss law. The effects of this provision should not be underestimated, for Swiss law played a pivotal role in securing what Mark describes as "the AOC buyout" and in the ability of the AOC to require prior approval of the SOCOG legislation and amendments thereto.

One of the Journal's authors was vitally involved in this process. Rod McGeoch was chosen to be the chief executive officer of the Bid Committee and quickly shed his years of legal training and habits of practice to become a consummate salesman of Sydney's attractions and capabilities. Without Rod's dedicated involvement and tireless efforts there is no doubt that we would not

now be looking forward to having the focus of world upon our city for the premier sporting event in September 2000. Rod continued his keen involvement with the Games by serving on the Board of SOCOG until last year.

The articles appearing in this thematic edition reflect the increasing role that law is playing in all of sport, and not just the Olympic Games. Whilst there is no doubt that for years there was a perception that sport was outside the law, this perception has been shown to be wrong. With just the modicum of reflection available to an essentially non-practising lawyer, this is readily apparent from the imposition of the legal principles of restraint of trade as long ago as 1964 in *Eastham v Newcastle United Football Club* and which was clearly a forerunner to the challenges of the player qualification and transfer rules of the professional football codes in the 1970s and 1980s and ultimately to the *Superleague Case* itself. There is not one aspect of sport and the staging of a sporting event that the law does not touch.

To a sports administrator this can be frustrating at times. There are times I believe that the legal team at SOCOG and Simon Rofe are controlling and directing the Games and the Australian participation more than those of us who have been elected or appointed to this role. Law has a role to play, but it should be in defining the boundaries of activity and not the actual activity itself. However, the Olympic Movement is not alone in having to recognise the importance of law in governing our activities. The difficulty at times is holding back the lawyers and their usual direct approach to problems and issues!

The structure for the 2000 Olympic Games is a unique experience of interaction between government, sport and the business community. It is a recognition that the cost of staging the Olympic Games is now beyond the reach of all but the largest of the world's cities and requires the direct involvement of government and access to its resources. While there have been complaints that sport is not what it used to be, the simple fact is that a major international event such as the Olympic Games cannot be funded without commercial involvement and support. This blend of interests has led to problems and conflicts, but this is not unexpected - especially in hindsight! Rather than concentrate on these issues, I would prefer instead to direct your thoughts to the benefits that this mix has generated. The range of diverse approaches to the issues that have arisen on a daily basis has been a source of encouragement leading us to find solutions in unexpected ways not readily apparent at the outset.

I am particularly pleased to see that Trish Kavanagh has written a paper on the Doping Cases and the Court of Arbitration for Sport. As a Vice President of the International Council for Arbitration in Sport, which governs CAS and appoints its arbitrators, of whom Trish is one, I have been very keen for its role and authority to be recognised throughout the world and especially here in Australia. All eight Australian arbitrators on CAS are experienced and knowledgeable of sport and the law and they have given the CAS Oceania Registry a reputation for sound decisions, fairness and expeditious action. The use of an independent specialised tribunal to hear sports related disputes and disciplinary matters has resulted in it having the confidence of Australian

sports organisations and, at the same time, providing savings in costs when compared to our traditional dispute resolution procedures.

In fact, the role and authority of ICAS and CAS has been the precedent for the creation and structure of the World Anti-Doping Agency on 10 November 1999. At the recent International Summit on Drugs in Sport convened here in Sydney by the Federal Minister for Sport, Jackie Kelly, the government delegations from 26 countries who attended unanimously determined to support WADA as the body to provide international leadership and coordination of anti-doping activities. The Board of WADA has equal representation of representatives of the Olympic Movement and public authorities. Like ICAS, the Olympic Movement representatives on WADA's Board are comprised of equal numbers from the IOC, international federation, national Olympic committees and athletes.

I am honoured to be asked to introduce this edition of the New South Wales Law Journal. As a humble solicitor it is somewhat ironic to be associated with such a leading professional and academic publication. I have, however, remembered enough of my legal training to include one caveat – the views of the contributing authors are not necessarily shared by me. I commend the journal to you and trust that it will invigorate thought and debate on the role and impact of the law on the Olympic Games.

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