

## The Australian 6 March 2009

Friday, 06 March 2009

The Australian's reporting today on the Australian Bar Association's 2009 conference in Strasbourg and London.

The Australian devotes much of today's coverage of legal affairs to criticising the forthcoming ABA conference.

The criticism in The Australian was essentially a rehash of what has been said by it about earlier ABA conferences and entirely ignores the professional benefit derived from such conferences.

The purpose of these conferences is to allow Australian practitioners to listen to, and discuss with, leading lawyers and other experts practical legal issues and how they are dealt with in their jurisdiction. As one of my predecessors put it in an article written for The Australian in 2007, one of the dangers facing any profession is that of complacency - the mindset that the way things have been done in the past should continue to be done in the future. Another danger is insularity, an unwillingness or refusal to learn from experience in other jurisdictions.

We should always be looking to do things better. We should be open to adopting overseas ideas and practices - and rejecting those that, after consideration, do not suit our, and especially our clients' and our courts', needs. Personal exchange of ideas and information are of benefit to us all.

The major themes around which the conference has been put together are 'Human rights: Government, business and the people', 'The Bar under the microscope: Regulation, ethics and access' and 'Problems with privacy'. They raise important issues for consideration, not just for barristers but Governments and the judiciary.

Mr Merritt seems particularly perturbed that one of the speakers, the former barrister Max Mosley, is to speak about his recent defamation trial. Mr Mosley, as a result of his recent trial, is well equipped to speak about the law of privacy and the intrusions that are made into an individual's privacy by the media. Mr Mosley, of course, successfully sued The News of the World in an action for breach of confidence and infringement of rights of privacy as protected by Article 8 of the European Convention on Human Rights and Fundamental Freedoms. On the same panel is Desmond Browne QC, Chairman of the Bar of England and Wales, a leading specialist in defamation and privacy.

Mr Merritt asked why the ABA did not hold its conference at Hamilton Island, the Gold Coast or Broome. Strasbourg is where the European Court of Human Rights sits; despite the recession, London retains its status as a global financial and legal services centre. The recent report, International Financial Services London - Legal Services 2009, shows that the city is home to some of the largest law firms in the world and Australian firms are well represented in the market.

It is simply not possible to gather in one place in Australia at the one time the eminent speakers who can speak in their home city. It is naive to suggest that conference speakers such as, for example, Sir Nicolas Bratza, Vice President of the European Court of Human Rights; Judge Egbert Myjer, a Judge of the ECHR; The Rt Hon. Jack Straw MP, Lord Chancellor; The Rt Hon the Lord Phillips of Worth-Matavers, Senior Law Lord; The Rt Hon. The Lord Judge, Lord Chief Justice; The Hon. Madam Justice Abella, Supreme Court of Canada; The Hon. Justice Edwin Cameron, Constitutional Court of South Africa; Sir Geoffrey Nice QC, former leading counsel in the Milosevic prosecution; and Prof Robert McCorquodale, Director, British Institute of International and Comparative Law, would be available if the conference was held in Australia. Their agreeing to speak is an indication of the high reputation enjoyed by the ABA for its conferences. Presumably Joshua Rozenberg, former Legal Editor, The (London) Daily Telegraph and Robert Fisk, Middle East Correspondent, The Independent, too, see some value in participating in the conference.

The Australian yet again claims that the taxpayer is subsidising the judges and barristers who seek to enhance their professional knowledge by attending the conference. The taxation laws allow anyone attending any international conference for business purposes to claim a deduction on some of the costs in attending that conference. To single out members of the legal profession is, as was said by another of my predecessors about earlier attacks on the ABA conferences by The Australian, simply 'lawyer bashing'. Some of those attending the conference may choose to stay on (at their own expense) to watch the cricket or tennis - or visit courts and libraries. They will only receive a deduction for that portion of the trip which relates to their professional development. The excursions available about which Mr Merritt is so concerned are not organised by the ABA but by an independent travel agent. The ABA gains nothing from those excursions, which are primarily aimed at persons accompanying the conference participant.

The ABA makes no apologies for seeking to expose its members to the views and experiences of some of the finest minds in Europe on the important issues to be dealt with during the conference. I regard it as important for the ongoing professional development of its members.

Tom Bathurst QC

President

Australian Bar Association

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