

## FOREWORD

**The Hon. Sir Laurence Street AC, KCMG, QC**

Sport is one of the great aspects of Australian and New Zealand life which unifies our two nations and helps define our unique ANZAC character forged not just on the battlefields of the past century, but also on the sporting fields in contests such as the Bledisloe Cup and the Melbourne Cup.

In recent decades sport has also grown from being a popular and recreational pastime for many, to what has now become part of an international media, merchandising and entertainment industry.

In Australia, the establishment of the Australian Institute of Sport in 1981, as a consequence of the endeavours of the then Federal Minister for Home Affairs, The Hon. Robert Ellicott QC, witnessed the dawn of a new era of professional sport in Australia. That was only 25 years ago.

With more at stake now for participants and other stakeholders in the professional sporting arena, so too has there been a corresponding need for lawyers and their services. One need look no further than the growth of the operation of the Court of Arbitration for Sport (“CAS”) over the past decade, which highlights the ongoing interaction of law and sport, especially in the Oceania Division of CAS, which has made a significant contribution to the development of an international sporting jurisprudence.

The relationship between sport and the law also extends beyond the area of decisions by courts and tribunals and the negotiated resolution of disputes, to the provision of advisory services and the preparation of transactional documentation necessary for the staging of sporting events and competitions. Nowhere has this been more evident than with the successful staging in Sydney of the Olympic Games in 2000 and the Americas Cup in Auckland in 2000 and 2003, again emphasising how well Australia and New Zealand fight above their weight off the international sporting field as well as on it. Both these events have left an enduring legacy for their respective communities, in which lawyers and more particularly sports lawyers have played a significant role.

Many say that the law and lawyers should stay out of sport, but perhaps the reality of the modern sporting environment is reflected in the opening paragraph of the dissenting judgment of Ashley AJA (as he then was) in *Carlton v Australian Football League* [1998] 2 VR 546 at 570:

*“The Australian Football League (“A.F.L.” or “the league”) and Carlton Football Club Ltd. (“Carlton”) are parties to a contract which is at the*

*heart of the proceedings before this court. Each of the A.F.L. and Carlton is engaged in a large business undertaking, of which the contract is an incident. The fact that the core subject matter of the undertaking is Australian Rules Football has led to certain public comment that the law should be kept out of sport. The dimensions of the business relationships are such that this catchcry has a distinct air of unreality about it.*

*The second plaintiff, Gregory Williams (“Williams”) is also a party to the contract to which I referred to a moment ago. He is one of those skilled footballers without whom the A.F.L. and Carlton could not successfully conduct their businesses – businesses which turn over many millions of dollars each year. Williams makes his livelihood out of playing football. For him, critically, the contract is concerned with the means by which and terms on which he earns that livelihood.”*

Whether we like it or not, sport and the law, for better or for worse, are now well and truly married.

As with any professional discipline, including the law, collegiality is important for the dissemination of ideas and the development and sharing of knowledge. This is not just in the interests of like minded professional colleagues who stand to gain amongst themselves from their collective learning and instruction, but also the community, which is advantaged from being served by an informed and capable professional body. The Australian and New Zealand Sports Law Association (“ANZSLA”) is such a professional body and the *Australian and New Zealand Sports Law Journal* (“ANZSLJ”) admirably serves this purpose.

The ANZSLJ is the first ever peer reviewed or refereed legal journal focussing exclusively on sports law to be published in Australasia. As such, the ANZSLJ is likely to play an important and significant role in the progression of this emerging area of legal practice amongst Australian and New Zealand lawyers, not just for the benefit of the Australasian community, but also the international community and sport in general.

Establishing a specialist refereed legal journal from scratch is no simple task. The ANZSLJ is a laudable and ambitious venture with high ideals. I congratulate the Editor and the Editorial Committee of the ANZSLJ on their efforts so far in bringing the journal to fruition and wish them and ANZSLA every success in the future as they pursue their goal for the ANZSLJ to become one of the world’s leading sports law resources.

**Sydney**  
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