

Dear Members

Please find attached a letter I have this morning sent to Senator Henderson in respect of the above matter.

The immediate context is set out in the letter. There is a broader political context; Burnside ran as a Greens candidate for the Treasurer's seat at the last federal election.

Some may ask whether this is a 'Victorian' matter and not something in which The Western Australian Bar should get involved. To this I say two things.

First, Senator Henderson is an Australian Senator. She is also Chair of the Senate Legal and Constitutional Affairs Legislation Committee. Her attitude to free speech is a matter of interest to all Australians. A dedicated commitment to the promotion of free speech (amongst other things) is one of the reasons the WA Bar exists. It is also something on which we, as barristers, have something significant to contribute to public debate, and should do.

Secondly, it is a matter of concern to all barristers, not simply Victorians, that an Australian Senator would respond in this way to a barrister exercising his or her right of free speech on a matter of public interest. The WA Bar has a legitimate role, in the interests of all barristers, in making clear that such conduct is inappropriate and should not be normalised.

Finally, Bar Council is acutely aware that the subject matter is particularly sensitive to Jewish persons, including Jewish members of the Bar who are entitled, with respect, to find Burnside's comments insensitive and offensive. However, every Jewish member of The WA Bar that I know is a first-rate lawyer, and I am not prepared to do them the disservice of attributing to them the inability to distinguish between the offensive nature of Burnside's comments and his right in a free and democratic society to express them.

Kind regards



Martin Cuerden SC
President