

President's Say

Shortly after I became President, the Silver Anniversary of the foundation of the Institute presented a unique opportunity to address members at Dinners in all of the Chapters. In that Address, 'The Institute in the 21st Century - The Way Ahead', I set out some ideas for the future of the Institute, including the objectives on which we need to focus if the Institute is to grow and prosper in the future, namely:

- We maintain and then improve the standard of the services which we offer, in terms of the excellence of our 'product' in providing cost-effective and expeditious dispute resolution services to the community, and in our educational and professional development programs.
- We provide a level of service to our members of such a standard that they value highly their membership of the Institute.

As I look back now, near the end of my two years as President, I am pleased with the progress we have made. The CEO's Report in the November 2001 National Newsletter sets out some of the things we achieved in 2001 in pursuit of those objectives. We also introduced the new Expert Determination Rules and new Mediation & Conciliation Rules, which were approved by Council in November 2001, and have made substantial progress in updating the Institute's Practice Notes. In addition, we have spent a good deal of time and effort in developing a higher profile and level of involvement with government and other professional organisations, a task which is particularly important in creating an awareness of the Institute as the best source of high quality, efficient and cost-effective dispute resolution services.

The progress we are making is reflected in the healthy growth of our membership. Something which is particularly satisfying is the expansion of the Institute's membership beyond our traditional base of more mature male professionals, principally engaged in architecture, building, engineering and related fields. Our membership now includes professionals from a wide variety of other disciplines, including accountancy, health services, agricultural science, intellectual property, human resources, insurance, law, medicine, science, pharmacy, education, management consultancy, industrial relations, insurance and information technology. The gender imbalance is not as extreme as it once was. We now have 148 women members (of a total membership of about 1,330), compared with only a handful of women ten years ago. I was particularly pleased to note, in the batch of Certificates I recently signed, that new Associate Members comprised 28 men and 13 women, Arbitrators comprised 12 men and 4 women, and Mediators comprised 14 men and 6 women. This augurs well for the future.

I expect this will be my last 'President's Say'. I would like to take the opportunity to thank all those volunteers who have given freely of their time, energies and talents in promoting the interests of the Institute and its members during my term as President. I would particularly like to thank the Executive (Ian Nosworthy, Janet Grey and Tony Comisso) and the Council for their contribution and their support. I greatly appreciate the work done by the CEO during a fairly challenging period, when he had to re-build the administration of the National Office almost from scratch, cope with the demands of an ambitious program for reform and expansion, and still find time to develop relationships with government and other professional organisations. I would also like to thank the members of the Council Committees, the Chapter Chairs, Chapter Committees, as well as the staff in National Office and the various Chapter offices, for their work on behalf of the Institute and its members.

Finally, I would again encourage other members to contribute to the affairs of the Institute, at Chapter or Council level. We all have a stake in ensuring that the Institute continues to grow and prosper in the twenty first century.

Robert Hunt

Quid Novi

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... and more

The CEO Report

Each new year has a certain mood or feel about it, and this one is no different. Last year was a year of immense challenge but also optimism for the numerous tasks which lay ahead of us and the numerous possibilities that were emerging. This year it is more a feeling of consolidation to build on the progress so far made and ensure that it is sustained. I believe that for IAMA, this year will be one of some completion as the various tasks set by Council and the Chapters over the last year start to bear fruit.

2002 BUDGET

The budget as agreed to by the Council at its meeting on 14 February 2002 was arrived at after a considerable amount of consultation with the Chapters and it reflects the priority of ensuring that the Institute diversifies and develops its income stream and contains costs as well. For the first time I think we have a budget which reasonably reflects the income and expenditure projections for the forthcoming year. Also, the establishment by the Council on 14 February, 2002 of a Finance Committee to actively monitor budget implementation is a further step forward.

TRUST ACCOUNT

When I commenced in this position in July 2000, the Trust Account held approximately \$1.4 million. It now holds approximately \$ 2.2 million and it is continuing to grow and to be further used by arbitrators and mediators. It is estimated that the Trust Account now turns over between \$5 - 6 million per year. We have continued to refine the processing of matters and I have issued a second round of guidelines which are included elsewhere in this newsletter for your information. If you are thinking of using the trust account for any matter, please contact me or our Trust Account Administrator, Ms Martha Wike.

MEMBERSHIP SUBSCRIPTION RETURNS

Most members have now returned their subscriptions and approximately 700 took advantage of our early bird savings. Those members who have still not paid will receive a further reminder soon. I believe that this year the subscription mail out, processing and follow up has been the best yet. Over the period of the subscription mail out (November 2001 to February 2002) we have had a net gain in membership of approximately 30.

This is an unprecedented increase and I think in the coming year we can look forward to a significant increase in our membership. The Queensland Chapter is leading the charge in this by suggesting to all current members that they each recruit one new member in the coming year as a personal target.

2002 SYMPOSIUM

We are very pleased to have as our Special Guests at the Symposium the Honourable Chief Justice of Victoria, John Phillips AC (keynote speaker) and the Honourable Rod Welford MP, Attorney General and Minister for Justice of Queensland. They will be ably backed up by George Golvan QC, our after-dinner speaker and Eric Pratt QC who will be giving the closing address. In addition to this we have a distinguished panel of facilitators. You will see an outline of the Symposium and a registration with this newsletter. Not only is the annual get-together a great chance to meet fellow members and make yourself known, this year it will also be a very good opportunity to pick up some very practical and pertinent tips about how to manage your arbitration and mediation practice.

Our venue at the Surfers Paradise Marriott Resort, having been there myself several times, is an excellent one and will enhance everyone's enjoyment of the occasion. We will also have some magic in the evening and an ensemble from students of the Queensland Conservatorium to help us digest our dinner. As well the Institute's AGM will occur on Saturday, 25 May during a break in this Symposium and all members are invited to attend and to witness the formal installation of the new Council which will take office this time for two years. You will also have the opportunity to witness the installation of the new Executive Committee.

THE IAMA WEBSITE

The new website keeps on going from strength to strength. Since May 2001 almost 9,000 visits have been made to the site. I get constant calls and useful contacts from people who have accessed the site and are finding out about our services for the first time.

We have been upgrading the member database and it now has members' names and some identifying and contact information on the website. Being a member of IAMA now has even more use because members of the public can access arbitrators and mediators through the website for the first time.

BUSINESS PLAN

Over the last four months, Council has been considering a draft of a Business Plan and it is almost near completion. The new Finance Committee is to attach a finance plan to it and it will be completed. The Business Plan provides a working blueprint for the further development and consolidation of the Institute's many and varied activities.

THE PROFESSIONAL CERTIFICATE IN ARBITRATION

This joint venture between Adelaide University and the Institute is moving into a new phase of development as it moves from what I call its "honeymoon period" to a more mature stage of consolidation and refinement.

The first edition of the course handbook has been received very well and has sold most of the 500 copies initially printed. The consolidation of this course will mean that it will have to be more carefully targeted and will probably only occur in most States bi-annually. However, there is now available an on-line facility, especially valuable to country students, so that in those places where a course is not offered in face to face mode, students will still be able to access the course. There has been considerable improvement over the last year in the management of this course and we look forward to some more as it matures as the leading arbitration course in the region.

THE PRACTITIONER'S CERTIFICATE IN MEDIATION AND CONCILIATION

We are now expanding and diversifying the resource base for the teaching and presentation of this course around the country. It is hoped that courses will be run in the Northern Territory and Western Australia (and possibly Tasmania) for the first time. We will also be training and introducing the course to a new panel of teachers throughout the Chapters so as to spread the reach of this course, project skills throughout the membership and to further develop Chapters and the whole organisation.

The CEO Report (cont.)

We are also developing some post certificate mediation courses starting with a two-day "Post Accreditation Workshop" being trialled in Queensland by Judge Eric Pratt QC and his excellent team.

RECIPROCAL ARRANGEMENTS

Following some enquiries from members and a meeting between our President and a delegation from the Chartered Institute of Arbitrators (UK) some preliminary exchanges have been made to pursue the possibility of reciprocal arrangements with this organisation. You will also see reference to some arrangements made with the Royal Institute of Chartered Surveyors (RICS) elsewhere in the newsletter.

THE CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAM

This is the first year that we have asked members to return record sheets to comply with the CPD Policy. As at the end of February 2002 just over 80 sheets have been submitted. The program seems to have operated very smoothly so far and National Office has

fielded approximately 50 - 60 enquiries relating to aspects of the program. A reminder notice was issued to all members in the last week of January and accredited mediators and graded arbitrators have until 31 March 2002 to return their record sheets. The Professional Affairs Committee is proceeding to arrange for the audit of these record sheets.

AND FINALLY

These are just some of the things going on in your Institute and all of them rely upon the active and sometimes valiant efforts of Council and Committee members and other members offering their time and expertise.

Last year demonstrated that disasters will continue to happen and that there will be certain things outside of our control which can have a profound impact on our personal and professional lives. I hope that 2002 is a year that meets your expectations and, for our part, we look forward to continue to serve you and making it a productive one as we possibly can.

Peter Condliffe

DOMAIN NAME DISPUTES: Call for Expressions of Interest

The Institute has been selected as one of the providers of an independent review and arbitration service for dispute in the .au domain. This service is being administered by a company called .auDomainAdministration (auDA).

We are therefore seeking to assemble a suitable panel of arbitrators with IT experience who can officiate in such matters. Fees per case will be fixed. If interested, please send your resume to the CEO at National Office.

For further information about this service, go to www.auda.org.au

Letters to the Editor

[From the Association of Northern Mediators (England) – 21 November 2001]

Dear Sirs,

I write very briefly to bring to your attention the Association of Northern Mediators representing over 100 Commercial Mediators in the North of England. This is an inclusive organisation open to all fully qualified Mediators trained by the main UK providers, the ADR Group, the Academy of Experts, the Centre for Effective Dispute Resolution and the Chartered Institute of Arbitrators.

We remain committed to developing the use of civil and commercial mediation in this region and we are interested in learning from and liaising with other organisations with an interest in mediation. We are currently running two Court annexed Mediation Schemes and we are hoping to develop these as a prototype for Mediation Schemes in the UK. Full details can be obtained from our web site in the "What's New" section.

If you would like any further information, please don't hesitate to contact me.

Anthony Glaister

The Trust Account

The Institute runs a busy and growing Trust Account with a turnover of around \$6 million per year. It is the safe repository for member and non-member parties' funds and is especially useful in long running cases.

We have recently updated our Trust Account Guidelines to ensure the smooth running of these accounts. As well, members will find here a useful disbursement precedent. Contact our Trust Account Administrator, Martha Wike on (03) 9607 6909 if you have any queries.

TRUST ACCOUNT ADMINISTRATIVE GUIDELINES for ARBITRATORS, MEDIATORS, EXPERTS & PARTIES IN DISPUTE

These administrative guidelines are meant to ensure that arbitrators, mediators, experts and parties involved in a dispute depositing or withdrawing monies into the Institute's Trust Account are properly informed as its operation so as to ensure the efficient and most beneficial use of funds held.

1. Arbitrators and mediators should obtain a Trust Account matter number from the Trust Account Administrator at the National Office of the Institute before proceeding with correspondence to parties relating to the Trust Account.
2. Arbitrators, mediators and other parties using the Trust Account shall, at all times, identify the matter by quoting the matter number provided by the Institute. To minimize the risk of error, no transactions will be processed unless the matter number is included in documentation forwarded to the Institute.
3. A receipt detailing necessary particulars identifying the matter shall be issued for every deposit made into the Trust Account. Cheque payments should only be made through the arbitrator/mediator. If a direct deposit is made notification of this must be sent both to the arbitrator/mediator and the Institute. Cheques should be made payable to "IAMA Trust Account".
4. Trust monies will only be disbursed at the direction of the arbitrator/mediator/expert or other person duly authorised to disburse such monies.
5. Any cheques drawn on the Trust Account shall:
 - not be made payable to cash;
 - shall be crossed and marked not negotiable/credit account payee only

6. A separate account ledger shall be opened with the relevant identifying data including party names, name of arbitrator/mediator/expert and the matter number for each matter to be conducted on behalf of the arbitrator/mediator/expert and parties.
7. Sufficient details shall be posted into the trust ledger to enable the nature of the transaction to be clearly understood and shall include at least the following information:
 - (a) the date of each transaction;
 - (b) the name of the person from whom the monies were received or to whom they were paid;
 - (c) the purpose of the receipt or payment;
 - (d) the amount received or paid;
 - (e) the cheque number, receipt or transfer journal folio number; and
 - (f) the balance after each entry.
8. The monies deposited in the Trust Account shall not accrue interest or other benefit to the arbitrator/mediator/expert or parties. Any interest or other benefit accrued will be used by the Institute, as a non-profit organization, for the advancement of its stated objectives.
9. The Institute will not disburse monies held in trust upon any particular direction of an arbitrator/mediator/expert or authorised person unless there are sufficient monies in the relevant file of the Trust Account to cover the whole of the disbursement direction (i.e. advance or part payments relating to any disbursement direction will not be made).
10. Any administrative charges relating to the operation of the Trust Account are a charge (including GST) to the arbitrator/mediator/expert not to the parties in dispute. Arbitrators, mediators and experts can incorporate this charge into their invoice to the parties. Arbitrators, mediators and experts should not, therefore, ask the parties to pay the Institute's invoice (which is directed to the arbitrator, mediator or expert) directly or separately to the Institute.
11. Any queries relating to the operation of the Trust Account should be made, in the first instance, to the Institute's Trust Account Administrator (Telephone: (03) 9607 6908).

Peter Condliffe
Chief Executive Officer
Operative on 12 February 2002

Visit our website for further information: www.iama.org.au

VICTORIA – SECURITY OF PAYMENTS LEGISLATION

Building Contractors and sub-contractors in Victoria will have access to regular cash flows for the first time after the State Government announced it would introduce new "security of payment" laws covering the construction sector.

The new legislation is expected to end the use of so-called "phoenix companies" where a builder goes into administration and immediately re-emerges on the market under a different name to avoid paying taxes, wages and other entitlements.

The legislation will institute monthly periodic payments and allow contractors and sub-contractors to suspend work when they have not been paid.

It will also establish a dispute resolution process for handling disputes over payments and introduce a register of contractors to make it easier to track down payments owed.

Watch this space for further developments.

THE INSTITUTE of ARBITRATORS & MEDIATORS AUSTRALIA

Conflict Management Expertise

AUTHORISATION for DISBURSEMENT of SECURITY DEPOSITS

Matter No. (Institute Nomination Yes or No)

SECURITY DEPOSITS LODGED

Table with columns for PARTY, amount, and Less amounts disbursed to date: Administration fee, Nominee fee 5%, Arbitrators/Mediators fee, Other.

BALANCE OF SECURITY DEPOSITS LODGED

TO: Institute of Arbitrators & Mediators Australia PO Box 13064 Law Courts, Melbourne Vic 8010

From: Arbitrator/Mediator

INSTRUCTION Pursuant to the express authority of the parties I/we hereby authorise payment of the following expenditure:

ARBITRATORS/MEDIATORS FEES & EXPENSES

Table with columns for ADMIN FEES, NOMINEE FEES 5% of professional fees in Institute Nominations, FEES/EXPENSES.

BALANCE TO BE DISBURSED AS FOLLOWS

Table with columns for PAYABLE TO.

TOTAL DISBURSEMENTS

BALANCE IN TRUST

OTHER INSTITUTE FEES NOT PAID FROM TRUST ACCOUNT

Table with columns for ROOM HIRE, NOMINATION FEES.

Date

Signature of Arbitrator/Mediator

NOTE: Any special instructions will be covered by a separate letter

National - Independent - Multidisciplinary

Continuing Professional Development

CPD AND COUNTRY MEMBERS

On 19 April, 2001 National Council resolved that members who live more than 150 kilometres from their respective Chapter Offices be allowed 15 CPD points for appropriate private reading of arbitration and ADR materials (1 CPD point per 2 hours).

CPD PAPERS: DON'T MISS OUT!

Since 2000, George Strohfeldt, National Councillor and member of the Education and Professional Development Committee has, with the assistance of Queensland Chapter Administrator, Ann Winzar, collected many of the papers and course outlines presented by the Chapters throughout Australia. A list of these is included here.

If you would like a copy of any of these, please send a cheque for \$11 (GST incl) for members and \$16.50 (GST incl) for non-members to:

QLD Chapter Administrator IAMA
PO Box 10500 Adelaide Street
Brisbane QLD 4000

2001

<i>Date</i>	<i>SPEAKER</i>	<i>TOPIC</i>
Thursday 1 February 2001	Mr Michael Klug Mr Michael Rochester	'Negotiation – The Forgotten Dispute Resolution Tool' The October 2000 Northern Territory decision – Jiniess' Case – Application of Bryan v Maloney
Thursday 1 March 2001	Mr David Stewart Mr Eric C. Pratt QC	'Strategic Transport Opportunities Brisbane Project' "Action Plans"
Thursday	Mr Mike Hertz & Mr Alan Garlick Ms Denise Kelly The General Rule'	'Brisbane Water Infrastructure 5 April 2001 Planning & Delivery' 'Arbitrators Powers to Award Costs –
Thursday 3 May 2001	The Honourable Mr Justice R N Chesterman Ms Jane Lambert	Managing Interlocutory Procedure – Philosophy and Practice 'Planning a Native Title Symposium'
Thursday 7 June 2001	Ms Carol Brubaker & Ms Judith Anderson	'National Association of Women in Construction (NAWIC)'
Thursday 5 July 2001	Mr Eric C. Pratt QC	A Chairman's Interview and Preliminary Conference for a shorter Arbitration
Thursday 2 August 2001	Mr George Strohfeldt Ms Julie Whitehead	'Managing Contract Disputes – A Principal's Perspective' 'Appeals from Arbitrators' Awards'
Thursday 6 September 2001	Mr Barry Broe Mr Michael Creedon	'South East Queensland Integrated Transit Plan' Justice Whites' recent decision in Mulgrave Central Mill Company Ltd v Hagglands Drives Pty Ltd' (and whether Clause 47 of AS2124 is a binding arbitration agreement)
Thursday 4 October 2001	Mr Colin Hegarty Mr Stewart Muirhead	"Panacea, Red Tape or Framework?" "The High Court Decision in Henville v Walker (2001) HCA 52 - No apportionment of damages under section 82 of the Trade Practices Act 1974"
Thursday 1 November 2001	Mr Paul Venus	"Releases, Indemnities and Warranties"

Continuing Professional Development (cont.)

2000

<i>Date</i>	<i>SPEAKER</i>	<i>TOPIC</i>
Thursday 3 February 2000	Mr Ian Briggs	Update Brief – G T and Construction Contracts
Thursday 6 April 2000	Mr Peter Willis	Stork Electrical v Leighton Contractors (Qld Supreme Court 13 March 2000)
Thursday 4 May 2000	Mr David Waldby	Expert Determination v. Expedited Arbitration
	Mr Bill Morrissey	Update Brief – New Supreme Court Uniform Civil Procedures Rules
Thursday 1 June 2000	Mr Michael Rochester	Update Brief – Duties and Responsibilities of an Expert Witness
Thursday 6 July 2000	Mr Alan McLennan QDMR	Relationship Dispute Management on the Pacific Motorway Project
	Ms Rachel Shah Arbitrators Award	Update Breif – Leave to Appeal
Thursday 3 August 2000	Mr Simon Leeper & Ms Renaye Peters Review Boards	Alternative Dispute Resolution – Alliance Contracting & Dispute
	Ms Jennifer Kerkin Building Tribunal Act	Update Breif – The New Queensland
Thursday 7 September 2000	Mr John McEvoy	Privatisation – Global and Australian Trends, and Emerging Roles for Arbitrators
	Mr James Bremen	Update Breif – Granny Smith – The Appeal Decision with Good Faith Revisited
Thursday 2 November 2000	Judge Eric Pratt QC	'Land & Resources Tribunal / Competing Land Uses / Aboriginal Views & Aspirations' How Institute Members May be Engaged on a Long Term Professional Basis
	Mr Craig Singleton Negotiate in Good Faith	Update Breif – Agreements to

IAMA and RICS

After an initial contact early this year between our President, Robert Hunt, and John Coward, the Executive Director of the Royal Institute of Chartered Surveyors (RICS), a preliminary agreement has been reached to provide reciprocal educational activities between the organisations. The two organisations will also "swap" website links.

The RICS' website is www.rics.org.au.

Continuing Professional Development

FAQs about the CPD PROGRAM

Why is the Institute insisting on a certain amount of Professional Development to be done each year?

In introducing the CPD Program, Council was responding to the growing public perception that professional associations be more accountable to the community for the privileges and status that its members enjoy. In our case, this also applies to the perception of the Courts. One of these ways is to demonstrate that its members maintain professional standards, including by remaining current in developments within the profession. The program of seminars and courses that professional institutes run for their members is for this purpose. Meeting minimum criteria for participation is the accountability part. The community and the Courts know that an Institute's professionally active members meet certain standards for current professional knowledge and so can conduct proceedings for the public to a high professional standard. Almost all bodies of professionals have moved in this direction.

What if I haven't been recording my attendance at Institute events?

Hopefully you have your cheque butts or credit card statements! It is not necessary to spell out in detail the date and speaker if you don't have that information, it is sufficient to say 'May CPD seminar'.

What if I haven't achieved 25 points for the year?

You should still submit your CPD record sheet. Whilst 25 points is the target, the formal requirement is 75 points over a rolling triennium. So it is possible to catch up the following year. But 25 points per year has very sensibly been set as the target because it can be difficult to make up a large number of points if you fall behind. (Note that if you are applying for grading, re-grading or accreditation, you must achieve 25 points in the year leading up to it. This is checked by the grading or accreditation committee. For accreditation or initial grading this is not usually a problem because you are likely to have done the Institute's course recently. It's a point that needs to be watched more carefully for re-grading as an arbitrator.)

I have lost my CPD Record Sheet.

Look on the web site index on the home page, where you will find an entry for CPD Record Sheet. It can be downloaded from there. The form also contains a summary of the eligibility of various activities.

I am a senior arbitrator (or mediator). I have done the courses, I have the experience. Many of the other seminars offered are pitched at more junior members. How do I attain my CPD points?

There are a couple of things to say here. For grade 1 and 2 arbitrators, Chapters hold master classes every year or two, attendance at which is a requirement for retaining grading. Being workshops, they attract 2 points per hour, so a half-day class could be worth say 8 CPD points. Secondly, you can obtain up to half the annual quota (i.e. up to 12.5 points) through practising professionally. Thirdly, you can present a paper at an Institute seminar, conference or course on a topic of relevance which you have experience with. You are credited with 10 CPD points per contact hour. Fourthly, you can publish papers or articles in an appropriate forum. The National Education Committee recently issued a guideline that a scholarly paper of merit will be awarded 10 CPD points per thousand words (maximum 20 points per paper), but they will normally be assessed case by case by that Committee.

I do not reside in a capital city where a Chapter is located, so I cannot attend most events.

This is a significant issue for regional and country members. There are several points to consider. First of all, note that up to 12.5 CPD points of the annual target of 25 can be earned by practising professionally in arbitration or mediation. But this is 15 for regional members. Secondly, you can write papers and articles. Thirdly, because the CPD Program is triennial in nature, you can do a major course sometime within that triennium and carry forward points in excess of the annual target. Fourthly, the national Education and Professional Development Committee, at the request of several members, recently recommended to Council that the reading of Institute journal and other matter directly relating to professional practice be another area of eligible activity. This is part of formal CPD for a number of other Institutes. The recommendation was that it be allowed for at the rate of 1 hour per 3 hours reading to a maximum of 4 points for city and 8 points for regional members (150 kilometres from the Chapter Office). Council will consider this at its next meeting and the details of allowable points will then be published.

Graham Keen
E & PD Committee Member

Advertising Rate

Want to be Noticed?

The National Newsletter goes out to 1500 eminent lawyers, architects, building consultants, engineers, accountants, academics etc. and into the libraries of many of our leading institutions.

If you want your conference, meeting or special event published at no charge, then send it in to national@iama.org.au.

If you want to advertise your services, it's simple, send text by email and we will include it.

Rates are very competitive: 1/4 page: \$75 • 1/2 page: \$150 • Full page: \$275

Children in Focus

The central aim of Children in Focus programs is to raise awareness of the centrality of children in family disputes, legally and psychologically, and to promote pathways for achieving child-sensitive outcomes at various points of contact with parents during separation – principally through counselling and mediation.

Under the auspices of the Federal Attorney-General's Department, the program has been developed and will be run by leading Australian and international experts in child psychology, family law, mediation counselling, and family therapy. IAMA is evaluating the program under contract with this Department.

Three distinct training forums will be provided, designed to build upon existing expertise in the field. Participants can attend part, or all, of the Program. Resource materials, follow-up support and supervision opportunities will also be available.

Children in Focus will provide multiple-levels of input and skill development around child focused practice in parental separation. Related professionals who frequently deal with separating families will also find this training helpful. In particular, the program will be useful for practitioners dealing with high conflict couples.

The program begins with a one-day Symposium in most capital cities, featuring a thought provoking and challenging set of papers by the project's senior consultants, including a presentation by Dr Joan Kelly, and program videos. The Symposium provides a forum for considering:

- children's needs in the face of parental conflict;
- the emerging child-focussed culture in legal and non-legal dispute management sectors;
- cross-sector collaboration and development of common language centred around children's interests; and
- state-of-the-art research and practice on child-focussed pathways through entrenched dispute.

The Symposium will feature a presentation by Dr Joan Kelly (California).

Workshop 1: Parents in Conflict, Children in Focus

A practice-based workshop designed to build on participants' ability to assist separated parents to recognise, affirm and share their ongoing responsibilities as parents. Participants will develop their basic understanding of personality factors and couple dynamics associated with entrenched dispute, and consider approaches for assisting couples to achieve their highest potential in considering the needs of their children during and beyond their separation process. Strategies from multiple therapeutic orientations are discussed. The Workshop will elaborate on gold standard parent education strategies from evidence-based research. It is suitable for a broad base of therapists, non-legal and legal dispute management practitioners.

Workshop 2: Child Inclusive Practices for Mediation and Counselling (numbers strictly limited)

A two-day clinical intensive training for practitioners wishing to develop skills in direct consultation with children – as part of dispute resolution work with parents. The Workshop is tailored for practitioners who have some prior experience in working with children in a counselling setting. Participants will learn to evaluate family situations in which direct child consultation would assist the child and the outcome of parents' counselling or mediation. It provides an evidence-based framework for interaction with children and parents around conflict and separation issues, together with guidelines for effective integration of children's core issues within parents' counselling and mediation processes. A follow-up consultation with the trainer is included in the fee, and participants will be linked to accredited supervisors for ongoing support.

SCHEDULE:

Melbourne

Symposium	30 May, 2002
Workshop 1	31 May, 2002
Workshop 2	15 and 16 July, 2002

Canberra

Symposium	3 June, 2002
Workshop 1	4 June, 2002
Workshop 2	22 and 23 July, 2002

Brisbane

Symposium	24 June, 2002
Workshop 1	25 June, 2002
Workshop 2	4 and 5 July, 2002

Darwin

Symposium	1 July, 2002
Workshop 1	2 July, 2002
Workshop 2	4 and 5 July, 2002

Adelaide

Symposium	5 August, 2002
Workshop 1	6 August, 2002
Workshop 2	22 and 23 August, 2002

Sydney

Symposium	19 August, 2002
Workshop 1	20 August, 2002
Workshop 2	23 and 24 September, 2002

Perth

Symposium	6 September, 2002
Workshop 1	7 September, 2002
Workshop 2	9 and 10 September, 2002

Townsville

Workshop 2 (2 days)	8 and 9 August, 2002
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Albury/Wodonga

Workshop 2 (2 days)	25 and 26 July, 2002
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Newcastle

Workshop 2 (2 days)	19 and 20 September, 2002
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Hobart

Workshop 2 (2 days)	29 and 30 August, 2002
Fee for Symposium	\$125
Fee for Workshop 1	\$125
Fee for Workshop 2	\$300
Project Manager	Associate Professor Peter Foreman
Project Officer	Ms Mary Caruana

Australian Institute for Primary Care

5th Floor	
Health Sciences Building 2	
La Trobe University	
Victoria, 3086	
Australia	
Telephone:	(03) 9479 3934
Facsimile:	(03) 9479 5977
Email:	cif@latrobe.edu.au

Off the Press – Without Fear or Favor

Within a few days of buying *The New York Times* (1896), Adolph S Ochs sat in his room at the Madison Avenue Hotel and drafted a set of principles that would guide the newspaper for over a century: "It will be my earnest aim," he wrote, "that *The New York Times* gives the news, all the news, in concise and attractive form, in language that is parliamentary in good society. To give the news impartially, without fear or favor, regardless of party, sect or interest involved".

"Without fear or favor" is a phrase journalists most often appropriate as their credo. In keeping with this ideal, we present a selection of snippets relating to ADR and Institute matters for your interest. Full transcripts can be obtained from the respective newspapers.

- *Factotum Iamus*, National Office

Australia Day Honours

AO for ADR Judge

"Justice Terence William Sheahan, Potts Point, NSW, for service to the law, particularly in the area of alternative dispute resolution, to the New South Wales Parliament, and to the community through organisations concerned with health, care of the aged, human rights and the environment."

- Australia Day Honours List - *The Age* 24 January 2002

The Building and Construction Industry Royal Commission

In the reportage washup of the *Building and Construction Industry Royal Commission, a company with a familiar-sounding name sparks speculation about its ADR service. From Plato to Puzo, age-old processes in alternative dispute resolution ...

"Mr Barker enlisted the services of Mr Hedgcock and Melbourne underworld identity, Dominic "Mick" Gatto, who ran a company called Arbitration and Mediation Services Pty Ltd to negotiate a deal with the union. Mr Gatto was an associate of Alphonse Gangitano, an underworld figure murdered in 1998 ... There are no records of Mr Gatto receiving payment for his union negotiating skills ..."

- Paul Robinson, Workplace Editor, *The Age* 26 February 2002

*The Building and Construction Industry Royal Commission

- Established in 2001 by the Federal Government to investigate allegations of corruption, fraud, intimidation and breaches of the Workplace Relations Act in the building and construction industry.
- Opened in Melbourne in December 2001 taking evidence from building employers and senior unionists.
- Moved to Brisbane in January 2002 investigating tender arrangements at Nambour Hospital, provoking the ire of the Beattie Labor Government.
- Returned to Melbourne in February 2002 to examine industrial conduct at the State Netball and Hockey Centre and the National Gallery of Victoria site.
- Expected to report in December 2002.

Privacy Amendment (Private Sector) Act 2000

On December 21 2001, the Privacy Amendment (Private Sector) Act 2000 was introduced, obliging companies with revenues above \$3 million, and some smaller entities, to comply with the 10 National Privacy Principles. Among the challenges facing the Privacy Commissioner, Malcolm Crompton, is how to manage the regime and arbitrate any disputes ...

AFR: What penalties exist for infringement of the new Australian laws?

Crompton: The first level is to try and get the parties to get a resolution themselves. Supposing that fails then we run a process based on alternative dispute resolution. We have been able to set complaints aside every time except twice in the 12 years of this office. The final stage is to seek a formal determination by the privacy commissioner. This is not about punishment it's about restitution, but there can be fines of between \$500 and \$3,000. [There are also provisions for further financial awards where, say, a loss of income stream due to a privacy breach can be proven. Although the privacy commissioner has never had to go before a court, constitutionally the law is enforceable via the federal magistrates or federal court.]

AFR: What is the role of the ordinary Australian in ensuring their own privacy?

Crompton: We have rules when we are pedestrians. We look right and we look left and if we are knocked down then we expect a policeman to come and sort it out. But we would not expect to cross the road with the policeman holding our hand.

It's the same with privacy, we have to think about it."

- Beverley Head, *Australian Financial Review* 20 February 2002

Property Disputes

Solving disputes isn't easy. People can be passionate about their property, especially in Sydney. As the Herald reported in one notable dispute, a Fairfield real estate agent was stabbed to death after a disagreement with a client. But things are changing ...

"There are plans this year to merge the Residential Tribunal with the Fair Trading Tribunal to create the Consumer, Trader and Tenancy Tribunal. A spokesman for the Minister for Fair Trading, John Aquilina, said this would result in speedier service with an emphasis on conciliation and alternative dispute resolution.

Despite these changes, the substance of the Residential Tribunal will remain the same. If you wish to lodge a claim against a landlord, real estate agent or tenant you must follow the guidelines set down by the Department of Fair Trading. To have your matter listed at the tribunal, a "Notice of Dispute" must be sent to both the tribunal and the opposing party. The notice should observe time limits, clearly set out the nature of the grievance and the desired remedy.

At the meeting, the tribunal member will ask parties to talk about the issues in the hope that the matter may be resolved without going to a full hearing. If there is no resolution through private discussion the matter is brought before the tribunal member in a hearing room. Both sides are then called upon to give their version of events. If necessary, a full hearing can be requested where witnesses are called to provide evidence to the tribunal under oath.

The person bringing the application is required to prove his or her claim.

The evidentiary test in the Residential Tribunal is the "balance of probabilities", so when making a decision, the tribunal member must be satisfied on the balance of probabilities that the person making the application has the stronger case. You can strengthen your case by presenting evidence clearly and concisely and including supporting statements.

Don't become aggressive or antagonistic when presenting your case; set out the facts logically and calmly. Do not interrupt your opponent when they are speaking - even if you disagree with them. The tribunal is not an Australian version of Judge Judy."

- Brigid Delaney, *Sydney Morning Herald*, 17 January 2002

Members Only

PROFILE

FRANK COSTIGAN QC FCI Arb (UK), ACI Arb

Grade 1 Arbitrator, Institute of Arbitrators & Mediators Australia
Fellow, The Chartered Institute of Arbitrators, United Kingdom
Member of Singapore International Arbitration Centre

Admitted to Victorian Bar May 1957; Appointed Queen's Counsel: Victoria 1973; New South Wales 1976; Australian Capital Territory 1976; Northern Territory 1978; South Australia 1988; Western Australia 1996; Admitted to Irish Bar 1991; Certified Mediator

Appeared before Privy Council 3 times; President Australian Bar Association 1979; Chairman Victorian Bar Council 1977 – 1979; Vice-Chairman Victorian Bar Council 1976 – 1977; Member Victorian Bar Council 1971 – 1989; Member of Executive of Law Council of Australia 1977 – 1979 and Treasurer 1978 – 1979; Member Victorian Law Foundation 1979

Royal Commissioner into the activities of the Federated Ship Painters and Dockers Union and organised crime 1980 – 1984

Chairman of Victorian Drug Rehabilitation Fund 1986 – 1994

Director Youth Substance Abuse Service (YSAS)

Director and Vice-Chairman Jesuit Social Services

Foundation Member of the Centre for Philosophy and Public Issues at Melbourne University

Author of Chapter "Conflicts of Interest and Bamboo Curtains" in *Business Ethics and the Law*

Profession:

Barrister

What/Who inspired you into arbitration/mediation?

ADR became an accepted part of my practice many years ago. No specific event or person is responsible.

What trait makes a good mediator/arbitrator?

There is no one trait. Experience, ability to analyse issues, willingness to listen and willingness to be pro-active are all important.

Refer to an historical conflict you wish you could have participated in and why?

If conflict means war, then there is none in which I wish to have participated. I would like to have been part of the campaign against slavery and the campaign for civil rights and the rights of the individual.

What is your idea of perfect happiness?

There is no such thing as perfect happiness but a loving family, good friends and a good book are not bad.

What is your greatest fear?

Not being able to read.

What is your greatest extravagance?

Travel.

Which living person do you most admire?

In Australia, Sir William Deane.

Which living person do you most despise?

Prime Minister John Howard for his cynical appeals to fear and racism for his own short-term political gain.

Which historical figure do you most identify with?

I do not actually identify with any particular historical figure.

What is your favourite journey?

From home to Melbourne airport.

What is your favourite piece of music?

La Traviata – Giuseppe Verdi.

What is your favourite book of literature?

No one book, but Charles Dickens is my favourite author.

What is your favourite film?

Casablanca.

What credo/maxim/motto inspires you?

"... No man is an island, entire of itself; every man is a piece of the Continent, a part of the main; ... any man's death diminishes me, because I am involved in Mankind, and therefore never send to know for whom the bell tolls; it tolls for thee ..." – John Donne
"Meditation XVII: Nunc Lento Sonitu Dicunt, Morieris"

Devotions upon Emergent Occasions (1624)

WELCOME!

NEW ASSOCIATE MEMBERS

Christina Alfs	Qld
John Bremhorst	Qld
Gail Brown	Qld
Timothy Burbury	Tas
Malcolm Caire	SA
Leonie Campbell	Qld
Lee Carlson	SA
John Cleary	Qld
Rachel Collis	Qld
Graham Dredge	Qld
Simon Dunn	SA
Andrew Dunsire	ACT
Paul Grey	Qld
Dominic Katter	Qld
Peter Kelly	Qld
Margaret Kummerfeld	Qld
Michael Lucchitti	NSW
Susan McCulloch	Qld
Megan McLean	Qld
Tracey McMillan	Qld
Patrick Mackay	NSW
Garry Maynard	Qld
Robert Mills	Qld
Thomas Newland	SA
Mary O'Donoghue	Qld
Malcolm Paterson	Qld
Helen Poropat	Qld
David Quinlivan	WA
John Savage	Qld
Ben Schoeman	WA
John Shillabeer	Qld
Robert Skrzeczynski	Qld
Annette Smith	Qld
Brian Smith	Qld
Robert Sundercombe	NSW
Jaswinder Takhar	Qld
Alan Taylor	SA
Robert Travers	WA
Grahame Wrobel	Qld

CONGRATULATIONS!

ACCREDITED AS MEDIATORS

Malcolm Caire	SA
Susan Crennan	Vic
Trevor Donnelly	NSW
Geoffrey Ewing	Qld
Ian McDowall	SA
Geoffrey Murray	Qld
Gideon Rathner	Vic
Andrew Robertson	SA
Madeleine Stewart	Qld
Marita Stinton	Qld
Ian Townson	Qld
Stephen Watterston	Qld

GRADED AS ARBITRATORS

Russell Edgecombe	SA	3
Geoffrey Ewing	Qld	3
Bronwyn Lincoln	Vic	3
Joanna Jenkins	Qld	3
Ian McDowall	SA	3
Patrick Mead	Qld	3
Geoffrey Murray	Qld	3
Angela O'Brien	Vic	3
John Permewan	Vic	1
John (Robert) Reeves	Qld	3
Perry Setford	Vic	3
Toby Shnookal	Vic	2
Kenneth Stout	Vic	3
David Thyer	Vic	3
Jennifer Wyatt	Qld	3

Around The Chapters

Qld Chapter

MEDIATION

So far as the Queensland Chapter is concerned the trial of introducing the IAMA model of mediation by means of an intensive five-day course presented by the CEO – Mr Peter Condliffe, Ms Jennifer David and Ms Alysoun Boyle was a great success. It has provided us with proper guidelines for the future provision of efficient mediation services.

Building on what has now been created, this Chapter will conduct five similar courses in 2002 and at the same time provide shorter post-accreditation workshops for those accredited members desirous of becoming familiar with the new IAMA model as it is now being taught and/or desirous of gaining practice in mediation skills under expert tuition.

Such has been the scale of our efforts in 2001 that significant progress has been made in negotiations, particularly with government agencies, leading to the acceptance of mediation as a suitable ADR tool in all manner of disputes between private persons and government.

IAMA members are totally independent and ready to employ a suitable model of mediation. To meet the strong possibility of more work coming to IAMA mediators in this Chapter the effort which we are about to apply in teaching and honing mediation skills will be crucial.

ARBITRATION AND ADJUDICATION

In 2001 we put through an excellent batch of students at the University Course in Arbitration even though our members were slightly fewer than last year. However, expressions of interest in 2002 courses are such that we are confident that at least 25 people will attempt the course in 2002.

We are greatly indebted to Ms Wendy Cusack and Ms Joanna Jenkins for their efforts last year. Thanks to them and their co-operation with several of our committee members we seem to have avoided most of the pitfalls which might be encountered in such an enterprise.

We are turning out excellently qualified people to conduct mediations. Those who have graduated and achieved grading through the university course over the past three years have received the benefit of teaching which is at a higher standard than that which went before. Even the university course itself keeps improving year by year and it is understood that many of our previously graded arbitrators would appreciate being brought up to date in all areas without having to enroll to take the full course.

To meet this challenge it is proposed to conduct three modules, each of one day, spread evenly throughout the year together with an award-writing exercise in about October which members will have some weeks to complete. The three modules will be open to all grades and the emphasis will be on instruction in subjects like torts, contract, trade practices, estoppel and evidence. The modules and award writing exercise will in truth be a reflection of the university course itself and Ms Joanna Jenkins and I will conduct tutorials along with regular university lecturers.

As to expert determination, we will be conducting another such workshop towards the middle of the year. That workshop will be open to all our members.

Finally a word about referrals for arbitration etc. throughout the IAMA chair. It is still the case that referrals of all kinds though the

chair are fewer than we would like, even though numbers are slightly up on last year.

This situation will always be the subject of anxious examination. However a closer study has revealed that our graded arbitrators are in fact also receiving quite a number of referrals from outside sources. The Law Society, The Institute of Engineers, The Master Builders Association and Solicitors acting on behalf of parties, are all regularly referring matters to our graded arbitrators.

Personally, I find this particularly pleasing. But I would find it even more pleasing if those referring bodies or forms would quietly consult me when they are considering referrals to arbitration etc.

These days the achievement of passing the course and obtaining grading is all one needs to be very much in the running to receive arbitration work either directly through IAMA or indirectly through other bodies or firms. In very recent times I have acquired knowledge of six referrals which have gone to grade two arbitrators here and a similar number to grade threes.

With the proven ability of those members and their preparedness to seek advise when appropriate especially in regard to the form which an award might take, I am quite satisfied that those referral numbers will soon increase.

Eric C Pratt QC
Queensland Chapter Chairman

SA Chapter

The new Continuing Professional Development Program for 2002 is in full swing. Already this year we have seen the first meeting of the new Mediator's Study Group and a talk by Brenton Ellery on Taxation Issues in Settlements and Awards.

However there is plenty more on the agenda to come:-

- The new Mediator's Study Group will be meeting again on 21 March, 9 May and 27 June 2002. You don't have to be accredited to attend, just interested in learning about and discussing mediation.
- Expert Witnesses, their role, purpose and obligations relating to them will be the topic of an evening presentation by Mr Neville Morcombe QC on 25 March 2002.
- Agriculture and ADR will be the topic for a breakfast briefing in the Bradman Stand at the Adelaide Oval on 18 April 2002.
- Preliminary Conferences will be explored in two mock preliminary conferences in a Saturday morning session on 4 May 2002.

With all this activity there is simply no excuse for all members, no matter what level, for not becoming involved in the Institute at Chapter level.

If you have any queries, comments or suggestions for future events do not hesitate to contact the Chapter Administrator (Andrew Robertson) on 8227 2111, by email sa.chapter@iama.org.au or by post at GPO Box 2922 Adelaide SA 5001.

Peter Battersby
SA Chapter Deputy Chairman

Andrew Robertson
SA Chapter Administrator

Around The Chapters (cont.)

Vic Chapter

Congratulations to members John Permewan and Toby Shnookal on recent re-gradings. John has been regraded to grade 1 and Toby to grade 2.

Congratulations also to David Thyer, who won a prize as the top student nationally in the Professional Certificate in Arbitration for 2001.

The first 2002 CPD session was in February, on the topic "On-Going Education in Construction Law". We were fortunate to secure the services of Ms Paula Gerber; an experienced construction lawyer and educator, currently Director of Studies for the Master of Construction Law degree at Melbourne University and for Legal Studies in other faculties of the university. Paula spoke about the degree, what it is attempting to address and how it has been working in practice. Apparently it is one of the few such post-graduate degrees in the world. This presentation was well received by the twenty members who attended.

In March Professor Michael Pryles addressed a luncheon gathering at the Celtic Club. He spoke about international arbitration; twenty one members and guests enjoyed a good meal and were able to ask questions about this area of interest. For those wishing to break into this field, his advice (in summary) was to do one of the courses on offer, read the journals (many) and build up arbitration credibility in your field. Also - join ACICA!

The next Chapter CPD event will be a breakfast in April; Federal Magistrate Maurice Phipps will speak about mediation in the context of the Federal Magistrates Court. Maurice is a former QC, Grade 1 Arbitrator and Mediator. Maurice presented to the Chapter on aspects of the then-new Federal Magistrates Court at a fully-subscribed breakfast last year. We look forward to listening to him and discussing these matters next month.

The Victorian Chapter Committee put considerable effort into creating an interesting forum series for 2002. Care has been taken to produce a program with maximum appeal, with particular attention this year to mediation.

This year the Chapter is using the premises of the Celtic Club (a few blocks from the Institute's office) for most of its CPD functions. This venue is well provided with meeting rooms and a dining room. Monthly meetings are generally held after work at 6.00 pm, with nibbles and drinks available from 5.30 pm to allow members to catch up and enjoy networking. There are also a couple of lunches and a couple of breakfasts on the programme.

As part of arrangements with the Supreme Court of Victoria (our landlord), the Chapter administers a suite of hearing rooms which are part of the premises, for which we receive a percentage of the rental. There are two rooms suitable for arbitration and six suitable for mediation or break-out rooms. Last year, we had fifty people in the largest room for a public hearing. Bookings are now averaging about 50% occupancy. Interstate members are invited to hire the rooms when conducting hearings or meetings in Melbourne.

A point of interest: one week in March, father and son Robert and David Thyer were simultaneously hearing separate disputes in our rooms!

Jim Elliott-Smith
Victorian Chapter Chairman

Graham Keen
Victorian Chapter Committee Member

WA Chapter

STATISTICS

After the encouraging start from our initiative to collect statistics of arbitration conducted by members for year 2000, we are in the process of slight amendments to our information form and we expect to be able to produce the statistics for year 2001 about mid-year.

If any other chapter wants information please contact Richard Machell at rmachell@southwest.com.au

We believe it gives a reasonable overall picture and maintains the privacy by no names for participants and a nom de plume for our members. It would be interesting to compile a picture for Australia as a whole. Our statistics show the high number of arbitrations that do NOT go to appeals.

SECURITY OF PAYMENT

The Chapter committee in WA has been active in attending seminars and has recently made a submission to the Government agency involved with regard to this proposal following the report by an industry task force, chaired by a parliamentarian.

The building industry has been plagued by slow or non-payment between tradesmen and builders, and suppliers, and consultants - we have all experienced that situation!

The Government has decided to follow the lead in other states and overseas, to protect those businesses that believe they have not been paid when they should.

Our submission makes it quite clear that the IAMA is well placed to train the adjudicators, set and monitor a panel, co-ordinate the other interested organizations and to be a nominator for adjudicators for each dispute.

ADJUDICATORS DID YOU SAY?

Yes! - For some reason, certain sectors of commerce have a phobia about arbitration, so they call the process by another name. In other words, it is arbitration, with the outcome being exactly the same, but it is painted a different colour. Why is this necessary do you think?

CHAPTER ADMINISTRATOR

At the close of 2001 the Chapter closed a chapter of our history when we farewelled Trish Luxford after 5 years of somewhat turbulent action in the Institute and the WA Chapter. Trish selflessly applied herself to the task and going well beyond the expectations for the post. With gratitude we can record that her efforts and actions complemented those of our leading members on the Committee and sub-committees and are appreciated by all our members.

TRISH - Thankyou heaps and Best Wishes and Good Luck.

We welcomed Sue Doherty as our new administrator on 1 January 2002 and she has already shown her dedication and cooperative attitude that we are sure bodes well for the future. Thanks Sue!

CPD

- Margaret Halsmith, an experienced commercial and relationships mediator addressed our November breakfast meeting and the paper was included in the December View. This was certainly one of the best presentations on mediation for some time and is well worthy of consideration for all.

Around The Chapters (cont.)

- Our February meeting viewed a video of the SCRAM programme and considered why and to what extent IAMA should be involved. Currently we are on the fringe through our representation on the WADRA committee with other ADR organisations.

We shall discuss further at committee. What are other chapters doing? Please let us know!

- Laurie James and Clive Raymond addressed the November CPD session on “The Functions of Pleadings in Arbitration Hearings” from the case *Oldfield Knott Architects P/L –v- Ortiz Investments P/L –WASC – [2000WASC 141 and WASCA 255]*.

Laurie’s paper was included in the November View and Clive’s partly dissenting opinions will be published later.

- The March meeting is to be addressed by Laurie with the Title “TAXING COSTS OF AN ARBITRATION”.

Laurie’s paper was published in the February View and he will report and discuss the effects of the case of *Yahaya –v- Mayer* that came before Justice Murray on 29th January 2002. In essence it seems that the legal position is now uncertain for the taxing of costs of arbitrations and he recommends that arbitrators should tax the costs themselves, rather than referring them to the Court.

- We shall discuss at a future meeting the relationship and why of “Rules OR Guidelines for Expert Determinations for ADR processes”.

THE VIEW

Our bi-monthly newsletter has increased in size due to the stalwart efforts of Barry, Richard and Laura but we are concerned that we do not get any feedback from other chapters. Why don’t we get regular copies of your newsletters and why don’t we get “letters to the editor”?

OTHER INITIATIVES

Our input to the Regulator of the Rail Access Regime still continues but although this is now well established the Regulator and his advisers are still sorting through the mass of documentation. The Institute is the nominated body in the Act for the provision of arbitrators and mediators and we have two presentation meetings with their senior staff and we expect to reach the final stages to implement the process in the next six months.

We have been successful with our negotiations with Western Power and now receive an annual fee for the provision of nominations for any disputes.

Alan Swann

WA Chapter Committee Member

NSW Chapter

FORUM EVENING PROGRAM 2002

The Chapter is continuing its successful and well received monthly Wednesday evening Forums. The Forum program is directed to a wide range of issues concerning dispute resolution but recognises the Institute’s commitment to continuing professional education. The Forum evenings are well attended with participants often exceeding 60.

The Forum program is but one part of the Chapter’s CPD. The Chapter proposes later in the year to conduct a Negotiation Skills

Workshop and to conduct a whole day seminar on Expert Evidence including reference to the substantial changes which have been made to the Supreme and District Court Rules on the subject.

In the February Forum Michael Whelan, assisted by Phil Arnessen from the Department of the Public Works and Services, reviewed the operation of the New South Wales Building and Construction Industry Security for Payment Act 1999. This legislation was intended to provide a speedy determination of progress payments by a process of adjudication. The Institute was appointed as one of the few nominating bodies under the Act and resolved to conduct training and accreditation for adjudicators. It accordingly has an interest in reviewing the effectiveness of the process of adjudication. It was apparent from the response by participants that the number of adjudications of progress claims has not been as great as might have been anticipated. The evening provided an opportunity for members to communicate to the Department some ideas about amendments which might be made to the operation of the Act and to inform others as to their experiences with its operation.

The March Forum was conducted by the Honourable John Hannaford an ex Attorney-General in New South Wales and an active participant in a wide range of ADR organisations including being a member of the National Alternative Dispute Resolution Advisory Council (NADRAC). The paper delivered by John entitled “ADR- A Growth Business?” addressed a number of national and international developments and the expanding use of ADR in commerce. He referred to recently introduced compulsory procedures in New South Wales Courts. John also commented upon the necessity for the establishment of a peak ADR body within Australia. I am sure that the Institute is well placed to achieve this worthy status.

It is hoped that a copy of the extremely interesting and well considered paper by John might be available for publication in *The Arbitrator* shortly.

REGIONAL CONTACTS

The Chapter’s CPD program this year includes a number of workshops in regional cities in New South Wales. The first program will be in Newcastle on 26 and 27 April with an evening session on Friday 26 addressing dispute resolution generally particularly commercial arbitration, Court references, expert determination and mediations. There will also be an introductory session on the Building and Construction Industry Security for Payment Act. The Saturday program will include an opportunity for accreditation by the Institute of adjudicators under the legislation in Newcastle.

It is proposed to conduct similar programs in Dubbo and Wollongong in future months.

RECENT SUPREME COURT DECISIONS

There have been a number of recent notable decisions of the Supreme Court of New South Wales. The first case, *ICT Pty Ltd v Sea Containers Ltd* [2002] NSWSC 77 (22 February 2002) dealt with a successful application for removal of arbitrators for misconduct arising from directions about security deposits and cancellation fees. The second case, *McKensy v Hewitt* [2002] NSWSC 145 (11 March 2002) addressed the issue of whether in the absence of agreement between the parties, an arbitrator had power to order payment of security for fees. Both cases can be accessed on www.austlii.edu.au/au/cases/nsw/supreme.

Ian Bailey

NSW Chapter Chairman

Getting Together

International and National

EXPERT EVIDENCE: CAUSATION, PROOF AND PRESENTATION Prato, Tuscany 2-5 July 2002

Inaugural Conference of the International Institute of Forensic Studies

Registration fees are as follows:

Delegate (early bird)	AUD \$750 for registrations received prior to 31 March, 2002 AUD \$850 for registrations received after 31 March, 2002
Accompanying person:	AUD \$175 for registrations received prior to 31 March, 2002 AUD \$850 for registrations received after 31 March, 2002
Day registration:	AUD \$175 for registrations received prior to 31 March, 2002 AUD \$200 for registrations received after 31 March, 2002
Pre-conference workshop:	AUD \$100 for delegates attending the conference AUD \$150 for workshop attendance only
Children:	At event cost.
Contact:	Jenny Crofts 61 3 9421 1682 Email: jennycrofts@ozemail.com.au

EFFECTIVE USE OF THE FIDIC CONTRACT CONDITIONS IN INTERNATIONAL CONSTRUCTION PROJECTS

Dates and	28-29 November 2002
Locations:	Radisson SAS Scandinavia Amager Boulevard 70 Copenhagan S DK-2300, Denmark Tel: +45 33 965 500 Fax: +45 33 965 555
Ways to Book:	<ul style="list-style-type: none">• To book online please visit www.hawksmere.com• By e-mail to: melanie.crocker@hawksmere.com• Call Melanie Crocker on +44 (0) 20 7881 1886 to reserve your place if booking by credit card or to make a provisional booking.
Cost:	£999 plus VAT

INTERNATIONAL ADVANCED MEDIATOR TRAINING COURSE

Castello Bonaccorsi, San Pietro, Rome, Italy

01 – 08 June 2002

Training Faculty

- Heather Allen (MATA and CEDR)
- Lawrence Kershen QC (MATA and CEDR)
- Joanna Kalowski (MATA and LEADR)
- David Richbell (MATA and CEDR)

Website: www.mata.org.uk

Cost

The cost of the course, seven nights accommodation, food and local wine is:

• Standard Room (four only)	£2500
• Double Room (eleven)	£3000
• Suites (five only)	£3500

The only additional costs are:

- Transport to and from Castello Bonaccorsi
- Partners (£50 per day full board)

Booking Procedure

Provisional bookings can be made by email on jane@mata.org.uk

Confirmation and full payment will be due by 1 April 2002.

MANAGING MAINTENANCE CONTRACTS

Brisbane 17 – 18 June 2002

Course fees: \$1,695 + GST (\$169.50) = \$1,864.50

This includes lunch, refreshments and documentation.

AIJA 2002 ACCESS TO JUSTICE – THE WAY FORWARD

Presented by the Australian Institute of Judicial Administration

This conference will feature presentation and workshops in a wide range of areas relevant to the improvement of access to justice. It will have as its objective the development of a plan for further action in this important area of administration of justice. It will have as its objective the development of a plan for further action in this important area of administration of justice.

When:	12 – 14 July 2002
Telephone:	07 3858 5582
Where:	Stamford Plaza, Brisbane
Facsimile:	07 3858 5510
Contact:	Conference Secretariat
Email:	aija02@im.com.au Intermedia Convention and Event Management, PO Box 1280 MILTON QLD 4064
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“Design-Build Contracting Claims”, copyright 1991, and *“2001 Cumulative Supplement”*, copyright 2001, published by Aspen Law & Business, (New York). Editors: Barry B. Bramble and Joseph D. West.

“Design-Build Contracting Claims” is a 479 page reference book to the Design-Build project delivery method. A guide to risk management and dispute prevention and resolution, prepared by contributors from a broad spectrum of industry practitioners, including attorneys, engineers, managers, and association executives.

IAMA BRAND PRODUCTS

Show up front that you belong to Australia's foremost arbitration and mediation organisation.

New Institute merchandise is now available.

LAPEL BADGES

Lapel badges are now available. Small and elegant (measuring 1cm across) they are perfect for the business suit and depict the Institute's logo. Cost is only \$9.75 (GST & postage included). For orders of two or more there is a 10% discount.

TIES

Woven corporate ties in block stripes with Institute scales: two colors – red & navy and green & gold.
Cost: \$27.50 (GST & postage included)

T - SHIRTS

Heavy weight cotton T-shirts in Navy displaying Institute seal (white) in S, M, L, XL & XXL.
Cost: \$20 (GST & postage included)

CAPS

Six-panelled heavy brushed cotton baseball caps with suede peak in Navy with Institute logo embroidered on front panel.
Cost: \$20 (GST & postage included)

NATIONAL NEWSLETTER - FOLDER

A4 – 2 ring (25 mm capacity) black vinyl binder with gold print of Institute Seal on front and spine.
Cost: - \$18.50 (GST & postage included)

THE ARBITRATOR & MEDIATOR – FOLDER

A5 – 2 ring (45 mm capacity) black vinyl binder with gold print of Institute Seal on front and spine.
Cost: \$18.50 (GST & postage included)



Cut here

Yes! I am interested in the Institute's range of promotional products.

- Lapel** **Tie** **Cap** **T-Shirt – Size:**
 National Newsletter Folder **The Arbitrator & Mediator Folder**

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I enclose a cheque for \$ _____

If paying by credit card, please complete Bankcard Visacard Mastercard

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