



The Australian Institute of

Judicial Administration Incorporated

Newsletter of the Australian Institute of
Judicial Administration Inc

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AIJA NEWS

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AIJA CONFERENCE, COURSE AND SEMINAR PROGRAMME 2000

- **Criminal Trial Reform Conference**, 24-25 March 2000 (Melbourne)
- **5th Biennial Masters' Conference**, 26-28 April 2000 (Auckland NZ)
- **3rd AIJA Tribunals Conference**, 9 June 2000 (Melbourne)
- **AIJA Oration** (Speaker: The Hon Justice Sian Elias, Chief Justice of New Zealand) 16 June 2000 (Sydney)
- **18th AIJA Annual Conference**, 14-16 July 2000 (Darwin)
- **National Judicial Orientation Programme**, 6-11 August 2000 (Sydney)
- **Technology for Justice 2000**, 8-10 October 2000 (Melbourne)
- **3th Annual AIJA Magistrates' Course**, November 2000

TO BE SCHEDULED:

- **Annual AIJA Court Administrators' Conference 2000** (Date and venue to be advised)

Technology for Justice 2000!

8-10 October 2000, Hotel Sofitel, Melbourne

Enclosed with this edition of *AIJA News* is a First Announcement for the AIJA's second national conference on the use of technology in the justice system.

Registration information and the conference program will be available shortly. To secure your place at TFJ2000, please register your expression of interest as soon as possible. *Further details are available on the AIJA Website at <http://www.aija.org.au>*

www.aija.org.au

CRIMINAL TRIAL REFORM CONFERENCE

*Melbourne Business School,
200 Leicester Street, Carlton,
24-25 March 2000*

The Standing Committee of Attorneys General and the Australian Institute of Judicial Administration will convene a national conference in March 2000 to discuss and develop proposals for the reform of the procedure of criminal trials.

The conference will examine the Working Group on Criminal Trial Reform Report to SCAG which was released publicly in November last year and build on work done by the AIJA in the follow-up to the highly successful AIJA conference on Reform of Court Rules and Procedure in Criminal Cases held in Brisbane in July 1998.

A full copy of the SCAG Report and its recommendations can be found at: <http://law.gov.au/publications/crimtrial/scag.html>

At the conference, keynote speakers from each jurisdiction will present papers on:

- * **Adversarial justice and the role of the jury trial;**
- * **The role of the Federal, State and Territory Directors of Public Prosecution with regard to investigations and committal proceedings;**
- * **The obligations placed on the Defence, including the right to silence;**
- * **Procedural changes to improve quality and timeliness for trial preparation and conduct;**
- * **Judicial supervision and control of cases, and**
- * **Legal Aid**

The format of the conference will be designed to promote deliberation on reforms to reduce criminal trial delays without adversely impacting on an accused's right to a fair trial.

The conference programme and registration information are available from the AIJA, 1st Floor, 723 Swanston Street,

IRISH JUDGE TO HEAD DARWIN PROGRAM

AIJA Annual Conference 14-16 July 2000

The AIJA is pleased to announce that the keynote speaker for this year's Annual Conference will be Mrs Justice Susan Denham of the Supreme Court of Ireland. Justice Denham headed the inquiry into the Irish Court system, whose recommendations result in the formation of the new Irish Courts Service in 1998. She will speak on the topic of 'Judicial Accountability.'

A flyer for the conference is enclosed with this newsletter, together with a registration form. The full conference program will be available shortly.

Please book early to avoid disappointment, as bookings for travel and accommodation in the Top End in July can be tight.

AIJA BUSINESS PLAN

At its meeting on 9 October 1999, AIJA Council approved a five-year business plan for the Institute which is reproduced below. Comments and feedback are welcome and can be directed to: The Executive Director, Professor Greg Reinhardt (Tel: (03) 9347 6600, Fax: (03) 9347 2980 Email: g.reinhardt@law.unimelb.edu.au).

The Institute has approved as its objective or mission the following:

The objective of the AIJA is to promote excellence in the administration of justice throughout Australia and its surrounding region.

The Institute has identified and approved the following strategies for attaining its mission:

- (i) Stimulate public interest in the administration of justice in Australia and its region.
- (ii) Stimulate professional interest in the administration of justice in Australia and its region and for that purpose:
 - (a) Consult and co-operate with judges, magistrates, tribunal members, lawyers, court administrators and professional teachers of law.
 - (b) Consult and co-operate with bodies representing such persons including in particular:
 - The Judicial Conference of Australia
 - The Law Council of Australia; and
 - The Committee of Australian Law Deans
- (iii) Make recommendations to governments in Australia
- (iv) Undertake research.
- (v) Undertake education including programs of orientation and judicial continuing education and programs directed to the public.
- (vi) Issue publications.
- (vii) Disseminate information by means of conferences, seminars, discussions, lectures and the like.
- (vii) Serve as a national resource centre.

Several issues identified as likely to require attention during the five year life of the Business Plan are dealt with as follows:

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In addition to the key issues identified above, more general matters have been identified which will require attention in the context of a five year business plan. An attempt has been made to prioritize these activities as follows:

- * priority one (to be actioned within 6 months)
- # priority two (to be actioned within 12 months)
- @ priority three (to be actioned within five years or ongoing)

The collection and dissemination of information in relation to judicial administration - including its promotion amongst Institute members and the wider community.

1. *The Institute Librarian, in consultation with the Executive Director or Deputy Executive Director to look at the Institute's existing collection of materials with a view to the following:*
 - (a) determining whether any existing subscriptions may be obtained more efficiently electronically;#
 - (b) determining, in any event, whether existing subscriptions meet the objective of collecting and maintaining a collection of judicial administration materials;#
 - (c) exploring the establishment of arrangements with the publishers of professional practice journals, such as the Law Institute Journal and the Law Society Journal for complimentary copies of such journals in exchange for Institute publications;#
 - (d) exploring the development of arrangements with Australian Universities, the Law Council of Australia and the Judicial Conference of Australia in relation to the exchange of publications and information generally in respect of judicial administration;#
 - (e) identifying overseas Universities, judicial bodies and other institutions with a view to the exchange of information in relation to judicial administration;@
 - (f) identifying areas of government, including law reform bodies, with which information may be exchanged;@
 - (g) organising materials in discrete areas, in particular, in relation to judicial education so as to make them more accessible, for example, all materials in respect of judgment writing;@
 - (h) identifying materials which might be acquired in areas where the existing collection may be deficient such as tribunals;#
 - (i) rationalising the Institute's collection of materials generally so as to ensure that the identified objective is fulfilled;@
 - (j) reviewing the existing budget for library resources.#
2. *The Executive Director, or the Deputy Executive Director, in consultation with the Practice Committee and the Membership Committee to examine Institute publications generally with a view to:*
 - (a) determining the extent to which regular Institute publications such as the Newsletter, and bulk mail outs to members may be distributed electronically;*
 - (b) determining the extent to which Institute research reports may be made available in electronic format;*
 - (c) reviewing generally existing publications, including content, format and timing of publication and, in particular, the Newsletter, the Annual Report, the Institute's publications list and considering whether there is a need for alternative or additional publications targeted at members generally, specific groups of members or the public generally;*
 - (d) reviewing the content and format of the Institute's Website to ensure the most effective vision of information and services to members and the public generally.*
3. *The Executive Director or the deputy Executive Director, in consultation with the Practice Committee and the Membership Committee, to consider dissemination of information concerning judicial administration by:*
 - (a) Identifying groups to whom information generated by the Institute may be relevant and to devise means by which information may be so disseminated and, in particular, to identify groups to whom the Executive Director might undertake speaking engagements for that purpose;#

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- (b) Identifying overseas countries, particularly in the South Pacific area, which might benefit from the regular receipt of information in relation to judicial administration and visits from representatives of the Institute;@
- (c) Identifying conferences and seminars at which presentations might be given by representatives of the Institute or at which they might or should be present;@
- (d) Identifying Journals and other publications, including electronic forums, which might provide a forum for the Institute to disseminate information in relation to its activities and generally in relation to judicial administration and reviewing the involvement of the Institute in existing publications;#
- (e) Providing members, on a regular basis, perhaps electronically, with information concerning the Institute's collection of materials, and, in particular, new acquisitions;#
- (f) Reviewing the Institute's involvement in the teaching of Judicial Administration in light of the current review by the University of Melbourne of its post-graduate programme in Dispute Resolution and Judicial Administration.*

EDUCATION

The Education Committee, in consultation with the Executive Director, to:

1. Review existing annual and biennial programmes, namely, the Court Administrators' Conference, the Tribunals Conference, the Magistrates' Course, the Annual Conference, the Librarians' Conference and the Masters' Conference as to format, length and substance so as to determine whether such programmes meet the aims and objectives laid down in the Education Protocol and whether the programmes should be modified in any, and, if so, which ways;#
2. Examine specialised seminars and other educational programmes offered by the Institute to ensure that they meet the aims and objectives laid down in the Education Protocol and that any matters of follow up arising from such programmes are given supervision and direction;#
3. Ensure that guidance is given in relation to publication of proceedings of any conference, budgets set for publication and groups and individuals identified in relation to the distribution of such publications;#
4. Examine programmes offered elsewhere in Australia (and overseas) and, in particular, by the Judicial Commission of New South Wales and in New Zealand, with a view to comparing Institute programmes and identifying features which might be adopted by the Institute in its own programmes;@
5. Provide members with regular information in relation to seminars, lectures and other educational programmes that may be of interest to them.*

RESEARCH

The Research Committee, in consultation with the Executive Director, to:

1. Examine all existing Research Projects so as to ensure that there is compliance with the Institute's Research Protocol and to ensure that time lines are fixed and adhered to in relation to the completion of Research reports;*
2. Examine all outstanding Research proposals so as to establish priorities in relation to each of them, to establish a realistic budget for them at an early date, to identify funding both in relation to research and publication and to appoint a member of the Research Committee to guide the proposal through the Research Committee;#
3. Develop guidelines for adoption by Council in relation to the expenditure of moneys standing in the Research Fund;*
4. Consider the work conducted or being conducted by other bodies and, in particular, Law reform bodies with a view to ensuring that research is not duplicated, is original and meets the objectives of the Institute;@
5. Develop and maintain a list of acknowledged experts to facilitate the identification of suitable researchers;@
6. Examine the basis upon which Advisory Committees are and should be chosen for Research projects and establish more formal guidelines for their operation;#
7. Liaise with Universities in Australia (and perhaps overseas) with a view to joint research or otherwise the facilitation of the Institute's research objectives;@
8. Develop a strategy for the identification of matters which might usefully be the subject of research by the Institute.#

FINANCIAL IMPLICATIONS

Clearly there will be some financial implications for the Institute budget. It is difficult to identify these in detail at this stage, but clearly the time of the Executive Director and the deputy Executive Director will need to be allocated to the various matters which have been set out. There will be revenue implications for publications and expenditure implications for the reorganisation or rationalisation of library resources. Changes to educational programmes will necessarily import budget considerations. The financial implications of the Business Plan will evolve over time and will require supervision and reporting on a continual basis.

Move to Harmonise Corporations Law Rules

The Council of Chief Justices at its meeting held on Friday, 29 October, 1999, adopted a recommendation by the Committee established by the Council for the Harmonisation of Practice and Procedure under the Corporations Law for the adoption of harmonised Rules of Court in Corporations Law matters in all Australian jurisdictions.

The AIJA is pleased to have been closely involved in the work of the Committee. The Committee, in September 1997, resolved to recommend to the Council that the AIJA be engaged to draft model rules and forms and that, as a first step, the Institute identify "harmonising principles" for approval by the Committee.

A formal proposal, suggesting relevant harmonising principles, prepared by the Institute was adopted by the Committee and approved by the Council of Chief Justices. An initial draft of proposed harmonised rules was prepared by the AIJA and has been the subject of detailed discussion and examination over the best part of 18 months. Thanks are due to Professor Reinhardt's research assistants Mr Matthew Flood and Ms Sarala Fitzgerald, for their work in relation to the early drafts. Ms Fitzgerald also attended several meetings in relation to later drafts of the rules.

The proposed rules went through some 13 drafts. Ms Claire Parkhill, Office of Legislative Drafting, Canberra, is to be congratulated for her painstaking and patient work in relation to the drafting and redrafting of the rules.

The members of the Committee were:

Justice Robert Austin (New South Wales);

Justice John Batt (Vic);

Justice Peter Evans (Tas);

Justice Ken McKenzie (Qld);

Justice Kevin Lindgren (Federal Court)- Convenor;

Justice Neville Owen (WA);

Justice Trevor Olsson (SA);

Justice Terry Higgins (ACT);

Justice Dean Mildren and Registrar Margaret Rischbieth (NT).

Thanks are due particularly to Justice Lindgren who patiently steered the project through to completion. Justice Lindgren gained considerable assistance from Ms Margaret Quinn and Ms Jenny Hedge, Deputy District Registrars, Federal Court of Australia (Sydney). Judge Bowen Pain (SA) attended meetings of the Committee and his comments were of great assistance to it.

South Australia and the Federal Court have adopted the harmonised rules and they are in force in those jurisdictions. Victoria has also adopted the rules and they will come into force in that state shortly. Other jurisdictions are in the process of adopting the rules.

There can be no doubt that the successful completion of the project will have great practical significance for the administration of justice throughout Australia. In particular, practitioners concerned with the winding-up of companies in jurisdictions other than their own can be assured that an application will not fail provided that the harmonised rules are used. Moreover the rules are drafted so as to overcome the ambiguities and uncertainties present in existing state and territory Corporations Law Court rules.

The Institute has for some time had an interest in the promotion of harmonised court rules generally. Mr Maurie Stack, an AIJA Council member, has had a particular interest in this. It is hoped that a conference, which is being organised by Justice Lindgren and which is to be held in Sydney on Saturday, 20 May 2000, on Harmonisation of Court Rules, will provide the catalyst for work towards the harmonisation of the general rules of procedure.

Court Architecture

The topic of court buildings and court architecture is one which, until relatively recently, had received little attention in judicial administration in Australia. However, there are several indications of an awakening interest in this area.

The Law Reform Commission of Western Australia devoted a chapter of its recent final report on the *Review of the Criminal and Civil Justice System* to an examination of court architecture and psychology. Under the heading, 'The Court Environment' Chapter 34 of the report is devoted to an increased understanding of the role which architecture plays in access to justice issues. It considers what (non-verbal) messages are given to users of court services, the public and participants in the justice system, by the physical environment of court facilities including:

- layout of waiting rooms or jury rooms;
- how and where parties are seated in court rooms; and
- differences in accommodation provided to judges, juries, vulnerable witnesses, and prisoners.

It also examines visions court buildings embody and how they 'shape' users' experience of the justice system.

Chapter 34 can be located on the Internet at <http://www.wa.gov.au/lrc/finalreport/finalreporthtml/ch34courtenviron.html>

The inaugural issue of a new electronic journal the *Journal of Social Change and Critical Inquiry* examines the ways in which courts, justice and the law are represented in built form, art and the media. In part one of a two part photo essay, Chief Justice Michael Black of the Federal Court of Australia discusses the significance of the architecture of courts. In part two, architect Paul Katsieris outlines philosophy his company applied in the design of the Commonwealth Law Courts Building in Melbourne.

The Journal of Social Change and Critical Inquiry can be located at: <http://www.uow.edu.au/arts/joscci/>

The February issue of the *Journal of Judicial Administration* also includes a collection of papers from the highly successful conference Representing Justice run by the Centre for Court Policy and Administration at the University of Wollongong in June 1998.

The Journal is published by the Law Book Company.

AIJA MEMBERSHIP

AIJA Membership is open to judges, magistrates, members of tribunals, practitioners, graduates in law or jurisprudence, researchers in law reform and related agencies, court administrators, law librarians, and others with an interest in judicial administration. In each edition of *AIJA News* we publish a list of our most recent members. Details of 24 new members appear below.

Members receive free copies of the AIJA research publications, *AIJA News*, our *Annual Report* and advance notice of AIJA courses, conferences and seminars and discount registration rates.

If you are interested in becoming a member of the Institute, or would like further information, please contact the AIJA Secretariat (Tel: 9347 6600 Fax: (03) 9347 2980 or Email to Rosemary Carlton, Acting Membership and Publications Officer, r.carlton@law.unimelb.edu.au)

New Members

Mr Gerard Butcher, Legal Profession Tribunal, Victoria
Mr Richard Coates, Director, Northern Territory Legal Aid Commission
Mr S Forbes, Part-time member, Fair Trading Tribunal, NSW
Mr B Grant, Director, ELaw Australia Pty Ltd, Sydney, NSW
Mr John Gunson, Legal Practitioner, Lavington, NSW
Mr Malcolm Howell, Legal Profession Tribunal, Victoria
Mr Graeme Innes, Member, Administrative Decisions Tribunal, NSW
Ms Helen Kiel, Legal Practitioner, Sydney, NSW
Mr Peter Kings, Member, Administrative Decisions Tribunal, NSW
Mrs G F Madgwick, Magistrate, NSW
Mr K W Mapperson, Tribunal member, New South Wales
The Hon Chief Justice Sir John Muria, High Court of Solomon Islands
Mr Maksut Narikbayev, Chairman, Supreme Court of Kazakhstan
Ms Pauline Phillips, Family Court of Western Australia
Mr Ian Robinson, Member, Valuation List, Victorian Civil and Administrative Tribunal
Ms C Szczygielski, Registrar, Administrative Decisions Tribunal, NSW
The Hon Justice Brian Tamberlin, Federal Court of Australia
Mr Roger Vincent, Member, Residential Tenancies Tribunal, SA
Professor D Weisbrot, President, Australian Law Reform Commission
Ms P A Wilkinson, Member, Residential Tenancies Tribunal, SA
Her Hon Judge K Williams, County Court of Victoria
Mr Paul M Winch, Public Defender, NSW
Ms Gillian Witchard, Snr Deputy Registrar, ACT Magistrates' Court
Mr R J Young, Legal Practitioner, VIC

Overseas Conferences

A list of overseas conferences likely to be of interest to AIJA members is now published on the AIJA Website at <http://www.aija.org.au/OSHYPE.htm>. If you would like a hard copy please contact the AIJA Secretariat on Tel (03) 9347 6600 or Fax (03) 9347 2980.

Truth and Reconciliation in South Africa

The NSW Bar Association, in conjunction with the NSW Chapter of the Australian Institute of Judicial Administration, hosted a special address by His Excellency Dr Bhadra Ranchod, South African High Commissioner to Australia, on Wednesday, 27 October 1999.

Dr Ranchod, who was actively involved in the drafting of the South African Constitution, spoke on the report of the Truth and Reconciliation Commission (TRC) and the work of the TRC as a means of resolving the conflict in South Africa.

The TRC was established to document the human rights violations which occurred within South Africa under the apartheid regime. The TRC also facilitated the granting of amnesty to people who made full disclosures to the TRC regarding acts, omissions and offences associated with political objectives which occurred during this period of South African history.

Dr Ranchod contrasted this approach to the dealing with civil conflict with the "Nuremburg method". He also discussed the importance of the TRC in helping South Africans to come to terms with the past and build a peaceful and stable future.

Twelfth AIJA Annual Magistrates' Course

17 Australian magistrates joined 3 of their colleagues from Papua New Guinea, to make up the complement of this year's AIJA Magistrates' Course. Held in Melbourne, on 21-24 November 1999, the course began with a stimulating address by former Chief Magistrate of Victoria, now Family Court judge, Justice Sally Brown on 'The Role of the Magistrate in the New Millennium'.

Over three days, the participants examined a diverse range of topics including:

- *Gender and social awareness
- *Dealing with the media
- *Disability issues
- *Forum shopping and the Service and Execution of Process Act 1992 (Cth)
- *Case management
- *Using computers as a research and management tool
- *Expert evidence
- *Sentencing

As in previous years, the course was developed and run by Mr Ron Cahill, the Chief Magistrate of the ACT and Professor Greg Reinhardt, Executive Director of the AIJA, in consultation with other Chief Magistrates.