



AIJA NEWS

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The Australian Institute of

Judicial Administration Incorporated

Newsletter of the Australian Institute of Judicial Administration Inc

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RECORD ATTENDANCE AT AIJA TRIBUNALS' CONFERENCE

180 tribunal members, from all Australian jurisdictions, New Zealand and Singapore attended the 4th Annual AIJA Tribunals' Conference held in Sydney on 8 June 2001.

The Annual Tribunals' Conference was initiated by the AIJA Tribunals' Committee, convened by AIJA President, Justice Murray Kellam. It is designed to provide an opportunity for tribunal members to meet and consider issues of topical interest to their work on a regular basis and is the only national gathering of its type.

The theme of this year's conference was 'Tribunals: They Need to be Different' and the keynote address was given by Mr Nick O'Neill, President of the Guardianship Board of New South Wales.

The conference also featured presentations on:

- Principles of Conduct for Tribunal members
- Communication (with guest presenter Julie McCrossin)
- Litigants in Person Plans
- Examination of Rules of Evidence in Tribunal Proceedings
- Disqualification on the Grounds of Bias
- Rethinking Tribunals Justice: Working with the Community (a presentation from Singapore)

The Institute is grateful for the contributions of all members of the Tribunals' Committee, the speakers and session convenors and for the administrative support provided by VCAT and the ADT.

Papers from the Conference will be made available on the AIJA Web site at www.aija.org.au

The AIJA will hold a further Tribunals Conference in June 2002 and details will be advised on the web site and in future editions of AIJA News.

AIJA MAGISTRATES' CONFERENCE

20-21 July 2001, *The Chifley on Flemington*
5-17 *Flemington Road, North Melbourne*

The inaugural AIJA Magistrates' Conference is to take place in Melbourne between 20-21 July 2001 and will be opened by the Attorney-General for Victoria, the Hon Robert Hulls MP.

The Conference is concerned to discuss matters of contemporary interest to the Australian magistracy.

Topics will include:

- * **Problem-Oriented Courts - Keynote Address** by Professor Arie Freiberg, Department of Criminology, The University of Melbourne with commentary by Ms Diane Fingleton, Chief Magistrate of Queensland, to be followed by a presentation by the Victorian Magistrates' Court in respect of parallel services.
- * **Litigants in Person** - including discussion of the AIJA publication "Litigants in Person Management Plans: Issues for Courts and Tribunals".
- * **Magistrates and Expert Evidence** - presentation by Dr Ian Freckelton and Dr Prasuna Reddy of their report "Australian Magistrates' Perspective on Expert Evidence: a Comparative Study".
- * A commentary on the new fault provisions of the **Commonwealth Criminal Code** by Mr Ian Leader-Elliott, Senior Lecturer in Law, Adelaide University.
- * **Victim Involvement in Criminal Matters** - presentation by Mrs Bernice Rasmussen, Protect All Children Today Inc (PACT), Queensland.
- * **Current Issues in Family Law** - presented by Justice Linda Dessau, Family Court of Australia.
- * **The Changing Role of the Magistrates' Court** - presentation by project researchers Associate Professor Kathy Mack, and Associate Professor Sharyn Roach Anleu, Flinders University.

The AIJA is also delighted that **Professor Marco Fabri** of the University of Bologna, an acknowledged expert on the courts and judicial administration, has agreed to speak on "The Introduction of Criminal Adversarial Procedure in Countries with a Civil Law Tradition. The peculiar case of Italy in a Comparative Perspective".

For further informaton - see the AIJA Website at www.aija.org.au - or contact the Secretariat at:

Tel: (03) 9347 6600; Fax: (03) 9347 2980.

APPELLATE COURTS AND THE MANAGEMENT OF APPEALS IN AUSTRALIA

The AIJA has recently published another new research report, this time in the area of appellate case management. The report was written for the AIJA by Mr Brian Opeskin, formerly Associate Dean in the Faculty of Law, The University of Sydney and now a Commissioner at the Australian Law Reform Commission.



Mr Brian Opeskin

This project was originally suggested by Justice David Ipp of the Supreme Court of Western Australia, who expressed the view that the Institute should conduct a study of appellate practice and procedure in Australia with a view to the making of recommendations for reform in the interests of the effective and efficient functioning of the appellate process.

Initially the proposal for a research project made slow progress. No ready funds were available for it. However, the establishment of the AIJA Research Fund constituted by a research levy imposed on AIJA educational activities, allowed funds to be committed to the project. A further difficulty in identification of a researcher was solved when Mr Brian Opeskin, then Associate Dean in the Faculty of Law, The University of Sydney and now a Commissioner at the Australian Law Reform Commission agreed to undertake the

project. The project was supervised by the Hon Dennis Mahoney AO QC, a former President of the AIJA and Justice of Appeal at the Supreme Court of New South Wales.

The completed project makes a valuable contribution to judicial administration. It addresses many of the problems encountered in Australia courts exercising appellate jurisdiction and posits solutions which will no doubt be carefully considered by judges and court administrators involved in the appellate process.

The researchers were assisted by the helpful comments of an Advisory Committee constituted by the Hon Justice Sally Thomas, Supreme Court of the Northern Territory (Convenor), the Hon Justice Bryan Beaumont, Federal Court of Australia, the Hon Justice Geoff Davies, Court of Appeal, Supreme Court of Queensland, the Hon Justice David Ipp, Supreme Court of Western Australia and Master Kathryn Kings, Supreme Court of Victoria.

All financial members of the AIJA have received a copy of the report. Additional copies are available for purchase from the AIJA Secretariat, by contacting Kathy Jarrett, Publications Officer, on (03) 9347 6600 or email:k.jarrett@unimelb.edu.au .

AIJA CONFERENCE, COURSE AND SEMINAR PROGRAMME 2001-2002

SCHEDULED:

- 11th AIJA Oration** (Speaker: The Hon Justice Michael Kirby, High Court of Australia) 22 June 2001 (Sydney)
- AIJA Magistrates' Conference**, 20-21 July 2001 (Melbourne)
- 19th AIJA Annual Conference**, 21-23 September 2001 (Hobart)
- National Judicial Orientation Programme** 21-25 October 2001 (Sydney)
- 20th AIJA Annual Conference**, 12-14 July 2002 (Brisbane)

TO BE CONFIRMED:

- National Sheriffs' Conference** - 21 September 2001 (Hobart)
- Appellate Court Judges' Program**
- Biennial Masters' Conference** - March 2002 (Hobart)

If you are a member of the AIJA and your membership is financial, you will automatically receive information about AIJA conferences and seminars as it becomes available. Up-to-date information is also available on the AIJA web site at www.aija.org.au

MANAGING PREJUDICIAL PUBLICITY

An empirical study of criminal jury trials in NSW

A major empirical study has found that jurors in criminal trials are relatively successful in resisting publicity surrounding those trials.

Managing Prejudicial Publicity: an empirical study of criminal jury trials in New South Wales was recently launched by the NSW Attorney General the Hon Bob Debus MP.

Written by Professor Michael Chesterman and Associate Professor Janet Chan of the University of NSW and Shelley Hampton of the Law and Justice Foundation's Justice Research Centre, the report sets out the findings of an empirical research project into 41 criminal jury trials held in NSW between 1997 and 2000.

The study's key findings include:

- in 30 (75%) of the 40 trials in which a jury delivered a verdict, the judge and both prosecution and defence counsel thought it to be justified by the evidence. Significantly, in 12 of these 30 trials the verdict was delivered in the face of media publicity urging or suggesting a different outcome.
- in eight (20%) of the trials in which a jury delivered a verdict, doubts about the verdict were expressed by counsel on the losing side, but not by opposing counsel or the judge.
- in three (7.5%) of the 40 trials in which the jury delivered a verdict, it was found the verdict was likely to have been significantly influenced by publicity rather than based on the evidence. However, in only one of these was the verdict – an acquittal – considered 'unsafe' by counsel and the judge.

According to Project Director Professor Michael Chesterman, these findings suggest that NSW juries are relatively successful in resisting prejudicial publicity.

"We believe this resistance is chiefly attributable to four causes. First, due to legal restrictions on publicity juries are normally not exposed to intensely prejudicial publicity either immediately before or during the trial. Secondly, jurors overall are not likely to recall pre-trial specific publicity. Thirdly, while juries are quite likely to seek out reports of the trial itself they are generally not vulnerable to influence from biased or incomplete coverage, because they perceive these defects.

"Fourthly, a significant proportion of jurors discharge their duty to scrutinize the evidence carefully. Often, this is because the requirement of unanimity compels them to argue about it at length," says Professor Chesterman.

This in-depth empirical study provides the first real insight into the impact of publicity on the operations of juries in NSW. Professor Chesterman says the report findings provide guidance when judges are considering whether publicity provides grounds for changing the venue of a trial or for aborting a trial that has already commenced, and may also affect determinations in contempt proceedings. However the findings do not suggest that contempt laws in NSW could be safely abolished.

*For further information please contact:
Catherine Lloyd, Law and Justice Foundation of NSW
Tel: (02) 9221 3900
Email: clloyd@lawfoundation.net.au*

19th AIJA Annual Conference

21-23 September 2001

Hotel Grand Chancellor, Hobart, Tasmania

The Keynote Speaker will be Her Excellency Dame Silvia Cartwright, the newly appointed Governor-General of New Zealand and former New Zealand High Court Judge. Dame Silvia will speak on the topic of United Nations Human Rights Treaties.

Other conference topics will include:

- ◆ Interpreters for indigenous people before the courts;
- ◆ A presentation by Dr Ann Eyland on the research conducted by The Justice Research Centre (NSW) on evaluation of case management in the courts
- ◆ The effect of decision-making on bureaucratic process

This will be the second AIJA Annual Conference to be held in Hobart and the local Steering Committee look forward to welcoming all participants to an enjoyable and informative conference.

The Conference program and registration details will be distributed to members shortly. They will also be available on the AIJA Website at - www.ajia.org.au

JUDICIAL TRAINING PROGRAM - INDONESIA

Greg Reinhardt and John Byrne



From left to right:

Satya Arinanto, Lecturer & Associate Dean, Faculty of Law, the University of Indonesia; **Professor Greg Reinhardt**, Executive Director, AIJA; Former Deputy Chief Justice **Adi Andojo Soetjipto**, the former head of the government-sponsored anti-corruption team; **Justice John Byrne**, Supreme Court of Queensland.

The Executive Director, Greg Reinhardt, and Justice John Byrne, AIJA Council member and Convenor of the Institute's Education Committee, were in Jakarta between 16 and 20 April, as part of the Federal Court of Australia's Judicial Co-operation Program with the Supreme Court of Indonesia, to report upon the future direction of assistance to the judicial sector and to assess the broader judicial training needs of Indonesia.

They met with members of the Supreme Court of Indonesia, including Justice Professor Paulus Effendid Lotulung, who has since become Chief Justice of Indonesia, representatives of the Supreme Court Training Centre, including Ny Susanti Adi Nugroho (Ibu Adi), Co-ordinator and Dr H. Eddy Djunaedi (Pak Eddy) Head of the Centre, representatives of the National Law Commission, the University of Indonesia, the Indonesian Legal Aid Foundation and the Indonesian Institute for an Independent judiciary.

The Supreme Court Training Centre is the body responsible for judicial education throughout the Archipelego.

Greg Reinhardt was then responsible for a three day program for 14 Indonesian Judges which was held in Melbourne between 26-28 April.



From left to right:

Dr H Eddy Djunaedi, SH. MCJ, Head of Research Development and Training Centre; **Professor Greg Reinhardt**, Executive Director, AIJA; **Ny Susanti Adi Nugroho**, Co-ordinator, Judicial Research and Training Centre, Supreme Court of Indonesia.

Technology for Justice 2000 Report

The report from the AIJA Technology for Justice 2000 technology review and conference has now been published and distribute to all conference delegates.

It is also available on the AIJA Website at www.aija.org.au/tech2/report.pdf

XVlth Congress of the International Academy of Comparative Law

The 2002 AIJA Annual Conference is being held in Brisbane, in conjunction with the 16th Congress of the International Academy of Comparative Law. The Congress, with the theme of 'Convergence of Legal Systems in the 21st Century' will be held at the School Law at the University of Queensland, from 14-20 July 2002.

The Congress will provide an opportunity to discuss recent developments in the field of comparative law and to consider solutions adopted by different legal systems to the problems of today's world. With a program of distinguished international speakers, the Congress promises to be of considerable appeal.

Further information on the Congress can be obtained from :

*The University of Queensland, TC Beirne School of Law
Telephone: (07) 3365 2220 or Website: www.law/uq.edu.au*

AIJA Litigant in Person Plan

Dealing with unrepresented parties is an increasing issue of concern for most courts and tribunals. The AIJA's most recent publication follows on from the recommendations by Professor Stephen Parker in his 1999 report for the AIJA "Courts and the Public". Professor Parker suggested that there would be value in courts identifying 'best practice' in dealing with litigants in person and in sharing information about their practices in this regard.

The AIJA's Courts and the Public Committee, convened by Justice RD Nicholson of the Federal Court of Australia, undertook a project designed to gather information from courts and tribunals on this topic and to distill that information into a series of suggestions or guidelines. The report which has resulted from that work, "Litigants in Person Management Plans: Issues for Courts and Tribunals, was prepared under the supervision of the Committee with Paul Sheiner (BA, LLB) as the consultant research assistant.

The AIJA is grateful for the contributions of the Committee members, who included:

Her Honour Judge Jennifer Coate, President, Melbourne Children's Court

Mr Richard Foster, Chief Executive Officer, Family Court of Australia

Her Honour Judge Helen O'Sullivan, District Court of Queensland

Professor Stephen Parker, Dean, Faculty of Law, Monash University

The Hon Justice Carolyn Simpson, Supreme Court of NSW

Mr Stephen Skehill, Special Counsel, Mallesons Stephen Jaques

The Hon Justice Sally Thomas, Supreme Court of NT

The Hon Justice Peter Underwood, Supreme Court of Tasmania

The purpose of the publication is to assist courts and tribunals in planning for and management of persons appearing or conducting matters in courts and tribunals without representation. It is not intended to be a guide for self-represented litigants to courts and tribunals.

Litigation in courts is a highly technical matter dependent upon the inter-related skills of persons of appropriate professional expertise, whether as judges, barristers, solicitors or court staff. This publication is not intended to diminish reliance upon such professional expertise or to suggest that litigants in person are not at risk when such skills are not available to them.

Copies of the report have been distributed to all members of the AIJA. Additional copies are available from the AIJA Secretariat, by contacting Kathy Jarrett, Publications Officer, on (03) 9347 6600 or email: k.jarrett@unimelb.edu.au

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. This appears 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: (03) 9347 6600 Fax: (03) 9347 2980 or email the Membership and Publications Officer, Kathy Jarrett on k.jarrett@unimelb.edu.au)

New Members

The Hon Justice Bernard Bongiorno, Supreme Court of Victoria
Mr Barry J Carr, E Business Legal Adviser, South Australia
Mr Peter Cartwright, Chairman, Broadcasting Standards Authority, New Zealand
Mr Stephen Colbran, Senior Lecturer, Queensland University of Technology,
Mr K Connell, Barrister, New South Wales
Ms Lesley Fleming, Magistrate, Victoria
Mr Ian Gray, Chief Magistrate, Victoria
Mr Matthew Groves, Legal Adviser, Victorian Bar Association
Mrs Annette Hennessy, Magistrate, Queensland
Dr Philip Jamieson, Adjunct Associate Professor, School of Law, Northern Territory University
The Honourable Les Kaufman, Senior Deputy President, Australian Industrial Relations Commission, Victoria
Mr Randall Kune, Barrister, Victoria
The Honourable Brian Lacy, Senior Deputy President, Australian Industrial Relations Commission, Victoria
Ms Ann Lyons, President, Guardianship & Administration Tribunal, Queensland
Motor Accidents Assessments Services, New South Wales
Mr Brian Opeskin, Commissioner, Australian Law Reform Commission
The Hon Justice Mark O'Regan, High Court of Auckland
Dr Melissa Perry, Barrister, South Australia
Mr Bruce Poplewell, Court Administrator, South Australia
Ms Lindy Powell QC, Barrister, South Australia
Residential Tenancies Tribunal, South Australia
Her Hon Judge Richards, District Court, of Queensland
His Hon Judge R Sorby, District Court of New South Wales
The Hon Justice Marilyn Warren, Supreme Court of Victoria
The Hon Justice A Whealy, Supreme Court of New South Wales

Certificate in Litigation Support/ Document Management

RMIT University is offering a program designed to provide training for paralegals or others employed in law firms or courts in the areas of litigation support and document management.

*Details can be obtained from RMIT Business
Training & Consultancy Services,
Fax: (03) 9925 5489 or
Email: bt&cs.rmit.edu.au*

The Attorney-General's Department (SA) and The Office of The
Director of Public Prosecutions (SA)

DNA EVIDENCE PROSECUTING UNDER THE MICROSCOPE INTERNATIONAL CONFERENCE

9-11 September 2001

Stamford Grand Adelaide, Glenelg Beach, South
Australia

The Conference will be held in Adelaide, immediately following the International Association of Prosecutors Conference in Sydney.

Commencing with a cocktail reception on the evening of Sunday 9th September, 2001 and concluding on Tuesday 11th September 2001 (with optional sightseeing tours).

This conference will feature numerous lectures and workshops on DNA evidence and its future role in the courts. The program will cover current and future issues facing DNA technology and the challenge's faced in presenting and explaining DNA evidence to judges and juries. The presenters will include leading scientists and prosecutors from within Australia and overseas.

Some examples of the area that will be addressed in plenary, simultaneous sessions and workshops include:

- * Forensic DNA Revolutions
- * Interpretation of Scientific Evidence
- * Basic DNA
- * Interpretation of DNA
- * Mitochondrial DNA
- * Issues and challenges Facing Forensic DNA Analysis
- * Presenting DNA Evidence
- * Cross Examination of Expert Witnesses
- * Current Scientific Issues
- * Current Interpretation Issues
- * The Future of DNA

For more information please contact:
Plevin & Associates Pty Ltd, PO Box 54, Burnside, South
Australia, Tel: (61 8) 8379 8222 Fax: (61 8) 8379 8177
Email: plevin@camtech.net.au
WEBSITE ADDRESS

<http://www.camtech.net.au/~plevin/DNA/Home.htm>

The International Society for the Reform of Criminal Law Conference

Politics, Crime and Criminal Justice

26-30 August 2001, Canberra, Australia

Politics - the organic, intellectual and moral systems necessary for the organization of society through government processes of the state and the organs and institutions through which the state functions - has a direct relationship to criminal justice. The state defines crimes and imposes punishment on offenders through laws enacted by politicians for the maintenance of public order and enforced by a system of justice. While political philosophies - the place and order of values and the principles of political obligation (why people should or should not obey political authority) - differ, there are now widely recognized international norms of rights, justice, and freedom. This conference will examine the inter-relationship of politics and criminal justice systems at local, national and international levels.

For details of the conference program, see the ISRCL website at www.isrcl.org or contact:

*Secretariat, International Society for the Reform of Criminal
Law, Suite 1000, 840 Howe Street, Vancouver, B.C. V6Z 2M1,
Canada Tel: +1 604 643-1252, Fax: +1 604 643-1200 e-mail :
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