



AIJA NEWS

Vol. 19 No. 3

November 2006

The Australian Institute of

Judicial Administration Incorporated

Newsletter of the Australasian Institute of Judicial Administration

Editor: Professor Greg Reinhardt

Secretariat: 1st Floor, 472 Bourke Street

Melbourne, Victoria 3000

Phone: (03) 9600 1311 Fax: (03) 9606 0366

Website: www.aija.org.au

PATRON

The Honourable A M Gleeson AC, Chief Justice of Australia

COUNCIL

President, The Hon Justice Virginia Bell, Supreme Court of New South Wales

Deputy President, The Hon Justice Christine Wheeler, Court of Appeal, Western Australia

Deputy President, Mr Laurie Glanfield AM, Director-General, Attorney-General's Department, New South Wales

Professor Hilary Astor, Law Faculty, Sydney University

Dr Andrew J Cannon AM, Acting Chief Magistrate, South Australia

Mrs Anne Coghlan, Deputy President – General, Victorian Civil & Administrative Tribunal, Victoria

Ms Jennifer Cooke, Deputy General Manager – Service Delivery, Child Support Agency, Canberra

Mr David Curtain QC, Barrister, Victoria

Magistrate Peter Dixon, Tasmania

The Hon Justice Garry Downes AM, President, Commonwealth Administrative Appeals Tribunal

Professor Arie Freiberg, Dean, Faculty of Law, Monash University

Mr Bob Gotterson QC, Barrister, Queensland

Mr Ian Govey, Deputy Secretary, Civil Justice and Legal Services Group, Commonwealth Attorney-General's Department

Ms Megan Greenwood, CEO & Principal Registrar, Supreme Court of New South Wales

Mr John Griffin PSM, Executive Director Courts, Department of Justice, Victoria

Mr John Gunson, Partner, Gibney & Gunson, Solicitors, New South Wales

Magistrate Annette Hennessy, Queensland

The Hon Justice Patrick Keane, Court of Appeal, Queensland

The Hon Justice Michelle May, Family Court of Australia

The Hon Justice Robert Nicholson AO, Federal Court of Australia

Mr Richard Refshauge SC, Director of Public Prosecutions, Australian Capital Territory

Chief Judge Michael Rozenes, County Court of Victoria

Ms Anne Sullivan, Partner, Blake Dawson Waldron, New South Wales

Her Honour Judge Christine Trenorden, Senior Judge, Environment, Resources and Development Court, South Australia

Mr George Turnbull, Director, Legal Aid, Western Australia

Chief Justice Peter Underwood AO, Supreme Court of Tasmania

Her Honour Judge Mary Ann Yeats, District Court of Western Australia

OVERSEAS MEMBER

The Hon Justice Ron Young, High Court, Wellington, New Zealand

OVERSEAS OBSERVER

The Hon Sir Salamo Injia Kt, Deputy Chief Justice, Supreme Court, Papua New Guinea

In this issue:

AGM and Council Elections.....	2
AIJA Conference Reports	3
AIJA Conference Reports (cont'd).....	4
AIJA Award for Excellence.....	4
Message from the Executive Director.....	5
Other Conferences of interest	5
Other Conferences of interest (cont'd)	6
AIJA Membership	6

25th AIJA ANNUAL CONFERENCE

12-14 October 2007

Hilton on the Park, Melbourne

CULTURES AND THE LAW

The 25th AIJA Annual Conference will have as its theme the interaction of Cultures and the Law.

To what extent should culture be taken into account in legal decision making?

Can the legal system respect cultural and religious rights whilst at the same time protecting individual rights?

The conference will explore:

- Barriers to justice
- Diversity and judicial awareness
- The role of anti discrimination law
- The value or otherwise of enshrining cultural values in law
- Cultural accommodation and its limits
- Cultural awareness and organisational awareness- looking at what legal institutions are doing in their engagement with multicultural communities
- Dealing with religious differences
- Dealing with linguistic differences including working with interpreters
- Gender issues
- The Indigenous community
- Court and tribunal administration and cultural issues
- Judicial education
- Disability and culture

The conference will include both national and international speakers and will follow a major international conference on multiculturalism in Melbourne, the "Metropolis" Conference.

AIJA EDUCATION PROGRAMMES 2007

- **Twilight Seminar - Courts Governance**, Melbourne, 16 January 2007, Professor Carl Baar, York University, Canada,
- **10th AIJA Tribunals Conference**, Melbourne, 7-8 June 2007
- **Working with Juries**, Melbourne, 15 June 2007 (*to be confirmed*)
- **National Indigenous Courts Conference**, Mildura, 4-7 September 2007
- **25th AIJA Annual Conference**, Melbourne, 12-14 October 2007
- **National Court Administrators' Conference**, Brisbane, 15-16 November 2007

ANNUAL GENERAL MEETING AND COUNCIL ELECTIONS

DEPUTY PRESIDENTS

Following this year's AGM, Council elected two Deputy Presidents who will each serve for a period of twelve months.



THE HON JUSTICE CHRISTINE WHEELER

Christine was appointed to the Supreme Court bench in October 1996 and was appointed, on the creation of the Western Australian Court of Appeal, to that Court.

She was admitted to practise in December 1980. As Assistant Crown Solicitor from 1984-1988 she headed the Policy and Law Reform Unit. From 1988

to 1994 she held the positions of Senior Assistant Crown Solicitor and Senior Assistant Crown Counsel.

From May 1994 she practised at the Bar, principally in the areas of constitutional and administrative law. In 1994 she became the first woman in Western Australia to be appointed Queen's Counsel. During 1995-96 she sat as a Commissioner in the District and Supreme Courts of Western Australia and in 1994 held the position of part-time Judicial Registrar of the Industrial Relations Court of Australia.



LAURIE GLANFIELD AM

Laurie joined the AIJA Council in October 1995 and has been a Board member since October 1997.

He has participated in the organising committees for several of the AIJA's major conferences and has served as a member of the Institute's Education Committee and currently its Project

and Research Committee.

He is Secretary to the Standing Committee of Attorneys-General and a Council member of the National Judicial College of Australia.

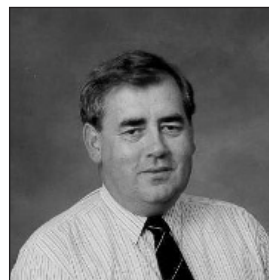
NEW COUNCIL MEMBERS



Mr David Curtain QC

David signed the Bar Roll in 1976 and was appointed a Queen's Counsel in 1993. He practises in a wide variety of areas including medical and other professional negligence claims, civil juries, personal injuries, and commercial litigation, both at trial and at appellate level.

He was a member of the Victorian Bar Council 1993-2000 being Chairman of the Council 1998-2000. He was President of the Australian Bar Association 2002-2003.



Mr John Griffin PSM

John has been Executive Director Courts, Department of Justice, Victoria, since 2001.

He is a fellow of the Australian Institute of Management and a member of the Institute of Public Administration.

John has held a number of positions in Government including positions in the Corrections area in both New South Wales and Victoria.



The Hon Justice Patrick Keane

Patrick was admitted as a Barrister of the Supreme Court of Queensland in December 1977 and practised principally in commercial and constitutional cases. He was appointed Queen's Counsel in November 1988. In 1992 he was appointed Solicitor-General for Queensland which position he

occupied until February 2005 when he was appointed to the Court of Appeal, Queensland.

He is a graduate of the University of Queensland and Oxford University.



Ms Anne Sullivan

Anne practises in general commercial and professional indemnity litigation. She acts for corporate clients in general commercial litigation and for key health clients on a range of litigious matters, including the largest medical defence organisation in Australia, United Medical Protection.

Anne has a strong interest in advocacy and she has appeared in all New South Wales jurisdictions, the Federal and High Courts of Australia and a number of tribunals. She also has experience in Royal Commissions and Coroners' Courts.

Thanks to Retiring Council Members

Retiring from AIJA Council this year were members, Mr Tim Goodes, Attorney-General's Department South Australia, Mr Peter Johnstone (now Judge Peter Johnstone) and Ms Amanda Watt.

The AIJA would like to record its appreciation to all of them for their contributions to its work over their years of membership.

AIJA CONFERENCES

Therapeutic Jurisprudence Conference

The AIJA hosted the 3rd International Therapeutic Jurisprudence Conference in Perth between 7-9 June 2006. The conference followed two earlier successful conferences (the first held at the University of Southampton in Winchester, England, in July 1998 and second hosted by the University of Cincinnati in the United States in May 2001).

Two plenary sessions were associated with over 40 individual sessions conducted in several streams. Sessions involved speakers from Australia, United States of America, Canada, New Zealand, Scotland, Pakistan, South Africa and Vanuatu including judges, magistrates, lawyers, academics, justice system professionals, students and professionals from service and treatment agencies.

The keynote speakers, Professor Bruce Winick, Director, the University of Miami and Professor David Wexler, the University of Arizona, have developed the concept of therapeutic jurisprudence.

Therapeutic jurisprudence has been developed in a number of areas including criminal, civil, family, mental health and international law and in relation to a wide variety of different groups who come before courts and tribunals.

The therapeutic jurisprudence conference program committee was convened by Western Australia Magistrate Dr Michael King.

As a follow-up to the conference, it has been agreed, in principle, that the AIJA will act as a clearing house for information concerning therapeutic jurisprudence and that a refereed monograph be published in relation to a selection of papers presented at the conference. Other papers will be published on the AIJA website.

AIJA Appellate Judges' Conference

The Third AIJA Appellate Judges' Conference took place in Adelaide from 14-15 September 2006. The first conference was held in Melbourne in 2001 and the second in Sydney in 2004. Those conferences provided strong support for further opportunities for appellate judges to gather to discuss matters of common interest.

There were three main emphases in the 2006 program, namely, an international dimension, issues of practical relevance to appellate work, and encouragement for interactive discussion.

A reception for participants and accompanying persons was held at Government House Adelaide, hosted by the Deputy Governor of South Australia, His Excellency Mr Bruno Krumins AM.

Conference delegates heard of current appellate practice both in the United States (through a presentation by the Hon Sandra Day O'Connor) and in England and Wales (with a presentation by the Rt Hon Sir Anthony Clarke (Master of the Rolls)). Other presenters included:

- The Hon James Wood AO, QC, former Chief Judge of the Common Law Division of the Supreme Court of New South Wales;
- The Hon Justice Kenneth Hayne AC, High Court of Australia;
- The Hon Justice Keith Mason AC, President of the New South Wales Court of Appeal;
- The Hon Justice John McGrath, Supreme Court of New Zealand;
- The Hon Justice John Byrne, President of the AIJA;
- The Hon Chief Justice Diana Bryant, Chief Justice of the Family Court of Australia;
- The Hon Justice Christine Wheeler, Court of Appeal of Western Australia.

The AIJA is indebted to the Chief Justice of the Federal Court, the Hon Chief Justice Michael Black AC and the Hon Justice John Mansfield for their assistance in making the venue at the Federal Court of Australia available for the conference.

It has been suggested that the AIJA act as a clearing house for information in relation to appellate practice. Would any member with any item of interest in relation to appellate courts and practice please provide this to the Secretariat.



(L to R) the Hon Sandra Day O'Connor, Chief Justice Michael Black AC, Justice Margaret Beazley AO, Chief Justice Diana Bryant and the Hon Kember Murray AO



(L to R) Mrs Mimi McCallum, His Excellency Mr Robert McCallum Jr, United States Ambassador, His Excellency Mr Bruno Krumins AM and the Hon Sandra Day O'Connor

24TH AIJA ANNUAL CONFERENCE



(L to R) *the Hon Sandra Day O'Connor, Lord Mayor Michael Harbison and The Hon Justice John Byrne*



(L to R) *Lord Mayor Michael Harbison, the Rt Hon Sir Anthony Clarke, Lady Rosemary Clarke and The Hon Justice John Byrne*

The AIJA was honoured to have as keynote speaker at the 24th AIJA Annual Conference, the Honourable Sandra Day O'Connor, Associate Justice, retired, Supreme Court of the United States.

The topic of Justice O'Connor's address was "Terror and Justice" in which she described the conflict between the executive and judicial branches of the United States Government in confronting the necessities of wartime.

Her address commenced with the suspension of the constitutional right to a writ of habeas corpus by President Abraham Lincoln during the United States Civil War, proceeded to the exigencies brought about by the 2nd World War and then focused upon the current conflict between the executive branch of Government and the United States Supreme Court post September 11.

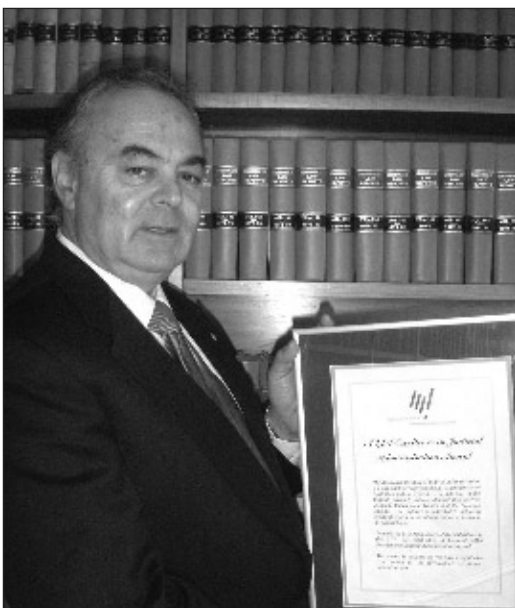
Justice O'Connor's visit to Australia was supported by the Embassy of the United States of America.

The principal focus of the 24th Annual Conference was upon "Affordable Justice". The conference benefited greatly from a discussion of the current situation in England and Wales involving, amongst others, the Master of the Rolls and Head of Civil Jurisdiction, the Rt Hon Sir Anthony Clarke. Other sessions included:

- ❖ Measuring Court Performance: Can Appropriate Quality Indicators be Identified and Applied?
- ❖ Getting Serious about the Causes of Delay and Expense in the Criminal Justice System;
- ❖ Alternatives to Activity Based Costing;
- ❖ Alternatives to Adversarial Hearings;
- ❖ Alternative Approaches in Criminal Cases: Sentence Indication Hearings;
- ❖ Funding Litigation: The Challenge; and
- ❖ Costs and the Legal Profession – Transparency, Professional Responsibility and the Impact of Case Management.

The AIJA Project and Research Committee and Council have been actively engaged in consideration of possible research projects identified at the conference.

AIJA AWARD FOR EXCELLENCE IN JUDICIAL ADMINISTRATION



the Hon James Spigelman AC

This is the third year in which the AIJA Award for Excellence in Judicial Administration has been made in recognition of the 25th Anniversary of the establishment of the Institute. This year's award was made to the Judicial Commission of New South Wales in recognition of its contribution to the administration of justice through the Equality before the Law Benchbook.

The Equality Before the Law Benchbook is a handbook that provides judges and magistrates with:

- Statistics and information about the different values, cultures, lifestyles, socio-economic disadvantage and/or potential barriers in relation to full and equitable participation in court proceedings for nine different groups of people; and
- Practical suggestions to assist judges and magistrates take account of this information in court – from the start to the conclusion of court proceedings – to ensure that individuals receive a fair and just outcome.

The Award was received by the Hon James Spigelman AC, Chief Justice of New South Wales, at the dinner held during the AIJA Annual Conference in Adelaide.

MESSAGE FROM THE EXECUTIVE DIRECTOR, GREG REINHARDT

Those who have attempted to access the AIJA website are perhaps as frustrated as I am about the inability to access new information. The Board of Management has authorised entry into a contract for the design and provision for a new website for the Institute. There has been emphasis upon the need for easy website navigation. It is hoped that a much more user friendly website will be available shortly. The website will enable the AIJA to adopt a role as a clearing house for exchange of information in relation to matters relevant to judicial administration.

At a Special General Meeting of members of the Institute held on 11 November 2006, it was resolved that the name of the Institute become the Australasian Institute of Judicial Administration Incorporated. This results from discussions which have taken place with the Department of Justice in New Zealand. It has been agreed that the Department will contribute to the annual funding of the Institute in the same way as the Attorneys-General of the Commonwealth, States and Territories contribute to its funding. The proposed amendment is designed to reflect a closer cooperation between Australia and New Zealand in the administration of justice and in the activities of the Institute.

The Annual General Meeting held in Adelaide on Saturday 16 September 2006 marked the retirement of the Honourable Justice John Byrne as the President of the Institute. Justice Byrne has made a valuable contribution to the work of the Institute over the period of his tenure. In particular, I would like to note the considerable efforts in arrangements for the visit of the Hon. Sandra Day O'Connor to Australia, a very significant event for the AIJA.

ACCESS TO JUSTICE

For those with an interest in the question of access to justice, reference can be made "Justice in the 21st Century", Cavendish Publishing Limited, written by one of the founding members of the AIJA, The Honourable Russell Fox AC. For further information: Email: orders.press@unsw.edu.au, website: www.unireps.com.au

CONFERENCES OF INTEREST

Confidence in the Courts Conference

9-11 February 2007

National Museum of Australia, Canberra

the conference is hosted by
National Judicial College of Australia,
ANU College of Law
ANU National Institute of Social Sciences & Law

The conference will explore a wide range of issues, including:

- why is public confidence in courts so important?
- historical and comparative perspectives on public confidence in the courts
- is the judiciary out of touch with the people affected by its processes?
- how are experts treated by courts and tribunals?
- judicial appointments and judicial behaviour
- recent research and theoretical developments relating to courts
- jurors' view of the courts and their confidence during the process
- dealing with miscarriages of justice
- volunteer services at court
- the treatment of victims of crime
- issues arising from the Family Court
- the cost of court processes
- the time court processes take
- is our judicial system a closed system?
- what is the role of the media?
- how can courts inform and engage the public about what the judiciary do and why they do it?

For further information:

T: (02) 6125 6655 or (02) 6125 2906 F: (02) 6125 6651
Email: confidencecourts@law.anu.edu.au
Website: <http://law.anu.edu.au/nissl/courts.htm>

AUSTRALIAN LEGAL CONVENTION

22-25 March 2007, Sydney

Business sessions include:

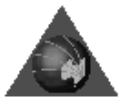
- Dispute Resolution a Century on;
- Industrial Relations a Century on - Have the masters and servants returned?;
- Family Law a Century on - Collaborative Law Practice;
- Criminal Law a Century on - doing the crime and doing the time;
- International Trade a Century on - the law as facilitator;
- Access to Justice a Hundred Years on - in forma pauperis or equality before the law.

There is also to be a hypothetical entitled 'Love thy neighbour or turn the other cheek - let's talk tort law reform'.

For further information:

Ms Susan Welburn
Law Council of Australia, GPO Box 1989
Canberra ACT 2601
Tel: (02) 6246 3788 Fax: (02) 6248 0639
Email: susan.welburn@lawcouncil.asn.au

CONFERENCES OF INTEREST



Critical Link 5 Quality in Interpreting: A shared responsibility

**11-15 April 2007, Parramatta, Sydney,
Australia**

CL5 aims to generate discussion on such issues as:

- the meaning of quality in interpreting,
- the responsibility for quality interpreting in community settings being shared by all those involved,
- the expectations of all those involved in the interpreted encounter,
- the demands placed on interpreters to provide a quality service.

Interpreters cannot be held solely responsible for achieving quality. All participants in the interaction, the systems under which they operate (eg. the legal system, the education system, the health system), interpreter agencies and policy makers, need to share responsibility for quality of interpreting. It is a basic human right for people, regardless of the language they speak, to be able to communicate in their community and to gain access to any services available

Critical Link 5 Congress Secretariat
ICMS Australasia, GPO Box 3270, Sydney NSW 2001
Ph: (61 2) 9254 5000, Fax: (61 2) 9251 3552
Email: registration@criticallink2007.com
Website: www.criticallink2007.com



LAWASIA's 20th Biennial Conference
5-8 June 2007, Hong Kong
Hong Kong Convention & Exhibition Centre

For enquiries
LAWASIA 2007 Conference Secretariat
International Conference Consultants Limited
Tel: 852 2559 9973 - Fax: 852 2547 9528
email: lawasia2007@icc.com.hk
Website: www.lawasia2007.org

ADELAIDE, AUSTRALIA
3-8 July 2007

3rd International Congress
of Psychology and Law

In conjunction with the 27th Annual Congress of
Australian & New Zealand Association of
Psychiatry, Psychology and Law (ANZAPPL)



The Congress promises to be one of the major conferences of its type and will host registrants from around the world to come together and discuss, debate and inform on issues related to the disciplines of psychology, psychiatry and law.

Further information please contact the Conference Secretariat
Ms Lesley Woods, SAPMEA Conventions,
200 Greenhill Road, EASTWOOD SA 5063
T: 61 8 8274 6055 F: 61 8 8274 600
Email: lwoods@sapmea.asn.au
Website: www.sapmea.asn.au/psychlaw2007

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) 9600 1311 Fax: (03) 9606 0366.

NEW MEMBERS

Mr Robert Bain QC, Queensland
Mrs Elizabeth Benson-Stott, Aggregate Corporation, Queensland
The Hon Justice Robert Buchanan, Federal Court of Australia
Magistrate Paul Cloran, New South Wales
Her Hon Judge Susanne Cole, Environment Resources & Development Court, South Australia
The Hon Justice Mark Cooper, High Court of New Zealand
Master Melissa Daley, Supreme Court, Victoria
The Hon Justice Michael David, Supreme Court, South Australia
The Hon Justice Roger Dive, Senior Judge, Drug Court, New South Wales
The Hon Justice Leonie Farrell, Industrial Relations Court, South Australia
Ms Rebecca Grant, elaw Australia Pty Limited, New South Wales
Mr John Griffin PSM, Executive Director, Courts, Department of Justice, Victoria
Mr Peter Hansen, Rouse & Co International, Dubai, United Arab Emirates
Ms Dominique Hogan-Doran, Practitioner, New South Wales
Master Robyn Lansdowne, Supreme Court, Victoria
Ms Rebecca Leshinsky, Victoria University Law School Library, Victoria
The Hon Justice Ann Lyons, Supreme Court, Queensland
The Hon Chief Justice Wayne Martin, Supreme Court, Western Australia
Ms Robyn Martin, Beryl Women Inc, Australian Capital Territory
Ms Susan Pezaro, Residential Tenancies & Disputes Tribunal, New Zealand
The Hon Justice Lynton Stevens, High Court New Zealand,
Ms Anne Sullivan, Blake Dawson Waldron, New South Wales
His Hon Judge Sydney Tilmouth, District Court, South Australia
The Hon Justice Robert Torres, Supreme Court of Guam
Magistrate Christopher Webster, Tasmania
His Hon Judge J Williams, District Court, New South Wales
Workcover Dispute Resolution Directorate, Western Australia

YOUR EMAIL ADDRESS

If you would like to receive this newsletter electronically, please email our Membership Officer, Ms Heather Sevald
Email: Heather.Sevald@law.monash.edu.au