



AIJA NEWS

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The Australian Institute of

Judicial Administration Incorporated

Newsletter of the Australian Institute of Judicial Administration
Editor: Anne Wallace

Secretariat: 1st Floor, 472 Bourke Street
Melbourne, Victoria 3000

Phone: (03) 9600 1311 Fax: (03) 9606 0366
Website: www.aija.org.au

AIJA PRESIDENT 2004-2006



AIJA President Justice John Byrne

AIJA is pleased to announce the election of Justice John Byrne of the Supreme Court of Queensland as the AIJA's new President. Justice Byrne will take office for two years.

Justice Byrne is the third Queensland judge to serve as President of the AIJA, following on from Justice Glen Williams of the Queensland Court of Appeal and Justice Neil Buckley of the Family Court of Australia.

Justice Byrne holds Arts and Law degrees from the University of Queensland and a Master of Laws from the University of Michigan. He practised at the Queensland Bar from 1973 to 1989 and was appointed a Queen's Counsel in 1982. He was appointed to the Supreme Court of Queensland in 1989.

Justice Byrne has been a Council Member Council of the AIJA since 1997 and a Board member since 2001.

His contribution to the AIJA has been particularly focused on its educational activities. He convened the Institute's Education Committee from 1999 until taking office as President and in that capacity was involved in supervising the development of proposals for educational activities to be undertaken by the AIJA.

He was closely involved in the process leading to the establishment of the National Judicial College of Australia and served as the AIJA's inaugural representative on the Consultative Committee of the College. He also convened the Steering Committee for the highly successful AIJA Annual Conference held in Queensland in 2002.

Justice Byrne will be supported by two Deputy Presidents, Justice Virginia Bell of the Supreme Court of New South Wales and Mr Laurie Glanfield, the Director-General of the NSW Attorney-General's Department.

PATRON

The Honourable A M Gleeson AC, Chief Justice of Australia

COUNCIL

President, The Hon Justice John Byrne, Supreme Court of Queensland

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

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

Dr Andrew J Cannon, Deputy Chief Magistrate, South Australia

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

Ms Jennifer Cooke, Executive Director, Client Services, Family Court of Australia

The Hon Justice Linda Dessau, Family Court of Australia

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 Tim Goodes, Director, Justice Strategy Division, Attorney-General's Department, South Australia

Mr Bob Gotterson QC, Immediate Past President, Law Council of Australia

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

Magistrate Annette Hennessy, Queensland

Mr Peter Johnstone, Partner, Blake Dawson Waldron, New South Wales

Professor Marcia Neave AO, Chairperson, Victorian Law Reform Commission

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

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

Mr George Turnbull, Director, Legal Aid, Western Australia

The Hon Justice Peter Underwood AO, Supreme Court of Tasmania

Ms Amanda Watt, Partner, Minter Ellison Lawyers, Victoria

The Hon Justice Christine Wheeler, Supreme Court of Western Australia

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

OVERSEAS MEMBER

The Hon Justice Anthony Randerson, High Court, Auckland, New Zealand

OVERSEAS OBSERVER

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

23rd AIJA Annual Conference

14-16 October 2005

(Wellington, New Zealand)

Further details will be available to members soon and regular updates posted on our website at www.aija.org.au

Enquiries to:

aija@law.monash.edu.au or phone us on 61 3 9600 1311

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22nd AIJA ANNUAL CONFERENCE

'Proportionality — cost-effective justice?'

148 delegates attended this year's AIJA Annual Conference which took as its topic 'Proportionality – cost-effective justice?' The issue of proportionality - the value of the resources devoted to resolving disputes - has been identified by AIJA Council as one of its key themes in the current AIJA Strategic Plan.

Held in Sydney on 17-19 September, 2004, the conference was attended by delegates from all Australian States and Territories and overseas delegates from New Zealand, Malaysia, Brunei, Singapore and New Zealand.

The Keynote address was delivered by Professor Ian Scott, Professor of Law, University of Birmingham, UK, Senior Editor of the White Book Service and AIJA Life Member.

Subsequent conference sessions examined:

- ◆ The significance of the concept of proportionality on procedural law in Australia, New Zealand and Singapore
- ◆ Judicial Control over the trial process - focussing on a recent pilot project by the Family Court of Australia
- ◆ Cost policies in lower courts
- ◆ The effectiveness of diversion programs in the criminal jurisdiction
- ◆ The allocation of court and tribunals resources in relation to the value of claims and the use of expert evidence
- ◆ The effectiveness of alternative dispute resolution in the court process; and
- ◆ Moves to harmonise court rules.

A highlight of the conference was the after-dinner address by Paul Brunton, Senior Curator of the Mitchell Library, in New South Wales, who spoke about the collection of letters of the Australian author, Miles Franklin, recently published by the Library.

Papers & Presentations from the conference are available on the AIJA Website at www.aija.org.au

FORUM CONSIDERS BEST PRACTICE FOR SELF-REPRESENTED LITIGANTS

Invitees and observers from all Australian jurisdictions attended a forum on this topic convened by the AIJA and the Federal Court of Australia in Sydney on 17 September 2004.

The Forum was designed to discuss court practices and procedures in dealing with litigants who are not legally represented, with a view to identifying useful innovations and to identify further areas for discussion and research.

A report on the Forum is underway and should be available soon. The AIJA website's Litigants in Person page has also been updated from the Forum, and interested members may find useful information and links at www.aija.org.au/LIP.htm

2005 Education Programmes & Events

- * 8th AIJA Annual Tribunals Conference, 9-10 June 2005 (Sydney)
- * 23rd AIJA Annual Conference, 14-16 October 2005 (Wellington, New Zealand)

*For further information contact the AIJA Secretariat
Tel: (03) 9600 1311, Fax: (03) 9606 0366 or Email aija@law.monash.edu.au*

AIJA WELCOMES NEW COUNCIL MEMBERS

This year's Annual General Meeting took place in Sydney on 18 September 2004. Seven new Council Members were elected at the AGM or appointed at the Council meeting following.



JENNIFER COOKE

Elected to Council in the Court Administrator category, was Jennifer Cooke the national General Manager Client Services for the Family Court of Australia, a position she has held since 2001. This role, working directly to the CEO has operational responsibilities for the non-judicial client services delivered by the Court.

Jennifer has an academic background in social work and psychology and has done postgraduate study in applied social research. Prior to joining the Family Court in 1991, she worked in the areas of mental health and community development including four years working on an Aboriginal community in Arnhem Land establishing a range of women's services.

She has had several different positions with the Family Court since her original management role within its Mediation Section. She has been involved with the development of the court's Family Violence Strategy, Cultural Diversity Plan and the Indigenous Family Consultant Program.



PETER DIXON

A new Judicial Member on Council is Tasmanian Magistrate Peter Dixon. Peter was admitted to the Bar of the Supreme Court of Tasmania on 5 February, 1968 and worked in private practice at Ulverstone and Burnie until 1986, when he was appointed a Magistrate.

He was President of the Tasmanian Bar Association 1983 to 1984 and is a Life member of the Bar Association. He is also a past member of the Standing Committee on Reform of Criminal Law and Procedure and Immediate Past President of the Australian Association of Magistrates.

Peter has been the co-ordinator of Magistrates Court Practice and Advocacy Unit since 1997 and is the co-ordinator of programs leading to the accreditation of Bench Justices and regular Lecturer to Justices of the Peace. He is an Honorary life member of the Tasmanian Society of Honorary Justices and Regional Convenor of the National Judicial College of Australia.



GARRY DOWNES AM

Another new appointment to Council is Justice Garry Downes, the President of the Commonwealth Administrative Appeals Tribunal.

Justice Downes was called to the Australian Bar in 1970 and appointed Queen's Counsel in 1983. His practice was concentrated on commercial law, administrative law and international arbitration.

He has served on a number of international and national organisations in various capacities, including as President of the Union Internationale des Avocats, Patron and Founder of the Anglo-Australasian Lawyers' Society, Chairman of the Chartered Institute of Arbitrators Australia, Member of the International Court of Arbitration of the International Chamber of Commerce, Member of the Council of the NSW Bar Association and Chairman of the NSW Council of Law Reporting. He has also served as Chairman of the Federal Litigation Section of the Law Council of Australia and Chairman of its Administrative Law Committee.

He was appointed to the Federal Court and took on his current role in 2002.



JOHN GUNSON

Joining Council in the Professional Members category is solicitor John Gunson, a partner in the Albury-Wodonga firm of Gibney & Gunson. John holds degrees in economics and law from Monash University and a Master of Laws from the University of Melbourne. He served articles in Victoria and was admitted in 1983.

In 1986, he co-founded the law firm of Gibney & Gunson, which has grown to a mid-sized regional practice.

John is partner in charge of his firm's litigation department and has a particular interest in medical negligence cases. He regularly appears in the Magistrates' Court of Victoria and Local Court of New South Wales. He instructs in matters before the District Court, County Court, Supreme Courts of New South Wales and Victoria, Courts of Appeal, the Federal Magistrates' Court and the Family Court.



BOB GOTTERSON QC

Joining Council as a Professional Member is Bob Gotterson QC a Brisbane silk, who is the Immediate Past President of the Law Council of Australia. Bob began his legal career as an articled clerk, worked briefly as a solicitor and went to the bar in 1976. He took silk in 1988. He practises in revenue, commercial and administrative law.

Bob is a veteran of law politics. a Past President of the Queensland Bar, the Australian Bar Association and ultimately the Law Council of Australia, he is the second of only two barristers who have led both the Law Council and the ABA.



MICHAEL ROZENES

Also joining Council as an Appointed Member is Chief Judge Michael Rozenes of the County Court of Victoria.

Born in Sosnowiec, Poland, Michael Rozenes migrated with his family to Australia at age of three. He completed a Bachelor of Jurisprudence and Bachelor of Laws at Monash University.

He was admitted to practice in 1971 and became a Queen's Counsel in 1986. He specialised in criminal and general law, in particular complex taxation, corporate and appellant criminal cases. He appeared before numerous Royal Commissions, including the HIH Royal Commission, Builders' Royal Commission and Melbourne Ambulance Service Royal Commission. He also served for five years as the Commonwealth Director of Public Prosecutions

He took up his appointment as Chief Judge in November 2003.



GEORGE TURNBULL

George Turnbull was appointed Legal Aid WA Director in June 1999, and currently heads National Legal Aid. He was first admitted to practice as a barrister and solicitor of the Supreme Court of Victoria in 1973.

Mr Turnbull was until June 1998 the Director of the Victorian Office of the Australian Government Solicitor, and was previously Director of the New South Wales and South Australian Offices. During the 1980's, he was Deputy Crown Solicitor and Director for Western Australia.

He joins the Council as a Professional Member, continuing a practice of including representation from National Legal Aid.

AIJA TRIBUNALS CONFERENCE ATTRACTS RECORD NUMBER

The then AIJA President, Justice Peter Underwood welcomed over 230 delegates to the 7th AIJA Tribunals Conference, which was held this year in Brisbane on 10-12 June in Brisbane. He noted the substantial representation from New Zealand, as well as delegates from Malaysia and New Zealand. Justice Underwood observed that the level of attendance reflected the important role tribunals play in dispute resolution in modern society and the general high level of regard in which tribunal members are held in society.

Topics discussed at the conference included:

- ◆ The role of consensual dispute resolution in tribunals.
- ◆ Benchbooks for Tribunals – The Next Stage
- ◆ Tribunals – A User’s Perspective
- ◆ Comparing Processes in the Mental Health Review Tribunals
- ◆ “It’s not Easy being Sessional” - Forum for Sessional Tribunal Members
- ◆ Giving the Decision
 - *Oral Reasons for Decision*
 - *Plain English in Decision-Writing*
- ◆ Eliciting and Evaluating Evidence
 - *How should Tribunals evaluate the evidence?*
 - *Are Tribunals asking the right questions to get to the facts?*
- ◆ Tribunals are part of the executive arm of government but as merit review tribunals they provide decision making and dispute resolution processes between the citizen and the government. What steps are required to ensure that they are truly independent of the executive arm of government?
- ◆ Are tribunals inquisitorial or do they tend to become adversarial and does it make any difference?
- ◆ A Moveable Feast; Identifying Ethical Norms within Quasi-judicial Practice? The development of a uniform theory of tribunal ethics and practice.

Papers & Presentations from the conference are available on the AIJA Website at www.ajja.org.au

The 8th AIJA Tribunals Conference will be held in Sydney on 9-10 June 2005.



Mr John Lesser, President, Mental Health Review Board Victoria, speaking in the session "Comparing Processes in the Mental Health Review Tribunals"



Dr Ros McDonald, Senior Lecturer, Law Faculty QUT, addresses the conference about plain English in decision-writing.

AIJA TO FUND TRIBUNALS' BENCHBOOK

Delegates to this year's AIJA Tribunals' Conference heard about work being done through the Council of Australasian Tribunals to develop a benchbook for use by tribunals generally. Following an approach by COAT to the AIJA, the AIJA Council recently decided to contribute \$35,000 funding to the production of the tribunals' benchbook. The balance of the funding required for the benchbook will be sought from the Standing Committee of Attorneys-General.

**AIJA PRESENTS A
BOOK LAUNCH**

**THE GOVERNANCE OF
AUSTRALIA'S COURTS: A
MANAGERIAL PERSPECTIVE**

**Thursday 25 November 2004
at 5.30 for 6.00 pm**

**at the
Victorian Supreme Court Library
210 William Street, Melbourne**

*RSVP: By 22 November 2004
to:*

AIJA on 9600 1311
Email: aija@law.monash.edu.au

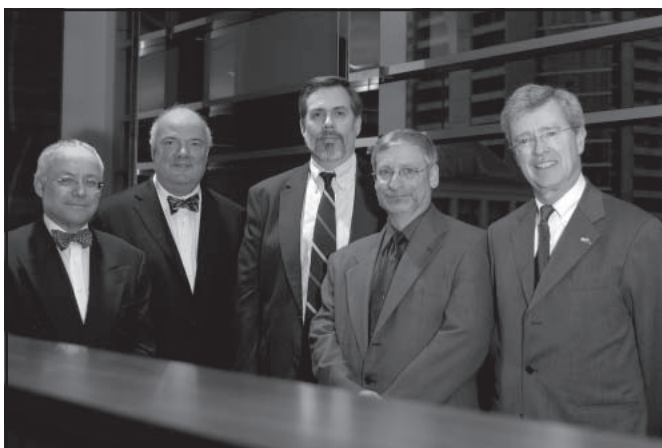
Refreshment will be served prior to the Launch

**Law and the U.S. Judiciary post the
Supreme Court ruling on detainees**

The Australian Institute of Judicial Administration co-hosted a lecture by visiting US Federal judge, Judge Diarmuid O'Scannlain in Melbourne on 30 August 2004. The Lecture organised with Monash University Law School and in conjunction with the US Consulate General, Melbourne, was held in the County Court of Victoria.

Judge O'Scannlain is a senior judge on the 9th Circuit Court of Appeals, covering 10 U.S. states and approximately 40 million people. As a long time observer of the U.S. Supreme Court and Judiciary, his very timely address provided a useful perspective on the recent Supreme Court ruling on detainees.

Our thanks to the County Court of Victoria for hosting the event.



L to R

Chief Judge Michael Rozenes, Professor Greg Reinhardt, Mr David Hopper, US Consul, Professor Arie Freiberg, Judge Diarmuid O'Scannlain

MEMBER FEEDBACK

Under the AIJA Strategic Plan adopted by Council, the Institute seeks to involve members more fully in AIJA activities by seeking ideas or opinions about AIJA projects, forming interest groups in the Institute and holding specific conferences and workshops.

In accordance with the Strategic Plan, the Secretariat would be pleased to receive member feedback in relation to AIJA activities, the views of members in relation to specific activity which the Institute might participate in and whether there are particular interest groups which members wish to see formed to advance their involvement in judicial administration.

*Please feel free to ring Greg Reinhardt on
(03) 9600 1311 or email on
gregory.reinhardt@law.monash.edu.au.*

**At the Cutting Edge: Therapeutic
Jurisprudence in Magistrates Courts**

**A One Day Conference: Friday 8 April 2005,
Perth, Western Australia**

Call for Papers

An approach to law and court practice that is gaining increasing acceptance and application worldwide is therapeutic jurisprudence (TJ). In Western Australia, Magistrates Courts are leaders in the application of TJ. Western Australia has diverse Magistrates Courts that apply TJ on the basis that therapeutic court processes can enhance participant wellbeing and thereby promote justice system goals such as reduced substance abuse, violence and offending behaviour. The Perth Drug Court, Joondalup Family Violence Court, the Drug Court at the Perth Children's Court, the Geraldton Alternative Sentencing Regime and related Geraldton projects and the Yandeyarra Circle Court are examples of courts applying TJ. The TJ work of Magistrates Courts in this State is gaining international recognition.

The Perth Drug Court and the Geraldton Magistrates Court are organising this conference. It aims to cover the work of Magistrates Courts applying therapeutic jurisprudence. It is intended to be interdisciplinary in nature and will be of interest to academics and practitioners in the fields of justice, psychology, health and social work.

Professionals in the field are invited to submit abstracts of papers for consideration for presentation at the conference. Abstracts should be no longer than 150 words.

Papers should be directed to a topic connected to the practice of a therapeutic Magistrates Court such as therapeutic judicial techniques, managing participants in a therapeutic jurisprudence based court, the role of professionals in the process, therapeutic legal practice, participant and community outcomes of therapeutic courts, administering a therapeutic jurisprudence based court, communicating the nature and value of therapeutic courts to the community and the role of a TJ court in the justice system. There will be a special session on judicial case management where Magistrates are invited to attend.

*Abstracts should be submitted by email to:
kate.wilson@justice.wa.gov.au
(Closing date for abstracts: 10 December 2004)*

Those submitting abstracts will be advised by 14 January 2005 whether their paper has been accepted. It is anticipated that presenters will be asked to provide a written version of their paper for inclusion in an electronic record of the conference that may be posted to the internet. Those presenting papers will be required to register for the conference. Details as to venue and registration will follow shortly.

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 received 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

Ms Elizabeth Aitken, N.Z Refugee States Appeals
The Hon Justice Christopher Allan, High Court, New Zealand
Ms Angela Allen, University of Queensland Library
Mr Stephen Andrew, Family Court of Australia
Mr Peter Barker, Dispute Resolution Services Ltd, New Zealand
Mr Jeffrey Barnes, Law School, La Trobe University, Victoria
Ms Deborah Barrett, Office of the Public Advocate, Queensland
Mr Steve Bishop, Anti-Discrimination Tribunal of Tasmania
Mr John Blount, Refugee Review Tribunal, New South Wales
Board of Teacher Registration, Queensland
Ms Joanne Browne, Transport Accident Commission, Victoria
Ms Virginia Buring, Family Court of Australia
Justice Dato Steven Chong, Supreme Court, NEGARA, BRUNEI
Mr Mark Cocker, Department of Justice Fines Enforcement, Tasmania
Ms Jennifer Cooke, Family Court of Australia
Mr James Cotta, Family Court of Australia
Mr Peter Crowley, Clayton Utz, Australian Capital Territory
Department of Justice, Civil Law Policy, Victoria
Ms Nicole Dinnen, Transport Accident Commission, Victoria
Mr Michael Dunn, Dispute Resolution Services Ltd, New Zealand
Mr Lynden Esdaile, Housing Appeals Committee, Victoria
Ms Shelley Fisher, Mental Health Review Tribunal, Queensland
Mr Timothy Fitzsimmons, Judges Associate, Victoria,
The Hon Justice John Fogarty, High Court of New Zealand
Mrs Anne Forbes, Retail Shop Lease Tribunal, Brisbane
Mr Patricia French, New Zealand Teachers Council
Ms Terese Henning, Faculty of Law, University of Tasmania
Commissioner David Hoffman, Australian Industrial Relations Commission, Queensland
Mr Ken Howell, Dispute Resolution Services Ltd, New Zealand
Ms Laurie Kerslake, LRT, CST & GAAT, Queensland
Mr Paul King, Dispute Resolution Services Ltd, New Zealand
Ms Janet Kitcher, Family Court of Australia
Ms Antonia Kohl, Anti Discrimination Tribunal, Tasmania
Mr Graham Lee, Retail Shop Lease Tribunal, Queensland
Mr David Liddell, SSAT, MHRT, Queensland
Mr Kevin Maguire, Practitioner, FIJI
The Hon Datuk Richard Malanjum, Court of Appeal, Malaysia
The Hon Justice Keith Mason AC, President - Court of Appeal, Supreme Court of NSW
Ms Ann-Maree McDiarmid, Children Services Tribunal, Queensland
Medical Practitioners Board, Victoria
The Hon Dato Abdul Hamid Mohamad, Federal Court of Malaysia
Ms Joanne Morris, Broadcasting Standards Authority, New Zealand
Mr Daniel O'Dwyer, Victorian Civil & Administrative Tribunal
Chief Assessor Helen Porter, Office of Criminal Justice Compensation, Western Australia
Chief Magistrate Derek Price, New South Wales
Q-Comp, Medical Assessment Tribunal Secretariat, Queensland
Raif Thevar Wu & Associates, Practitioners, New South Wales
Ms Barbara Robertson, Guardianship Board, South Australia

New Members continued...

Ms Viki Rutter, Anti Discrimination Tribunal, Tasmania
Justice Datin Hayati Salleh, Supreme Court, NEGARA, BRUNEI
Spark & Cannon, New South Wales
Mr Michael Stace, Broadcasting Standards Authority, New Zealand
Supreme Court Brunei, BRUNEI
Mr Peter Sutherland, Soft Law, Australian Capital Territory
Ms Sarah Todd, Consumer and Trader Tribunal, Australian Capital Territory
Mr George Turnbull, Legal Aid, Western Australia
Magistrate Julie Wager, Western Australia
Ms Mary Walker, Barrister, New South Wales
Ms Meg Wallace, Department of Justice & Community Safety, Australian Capital Territory
Mr Geoff Wilson, Dibbs Barker Gosling, Queensland
Ms Judith Worrall, Guardianship Board, South Australia
Ms Jane Wrightson, Broadcasting Standards Authority, New Zealand
Mr Hugh Wyndham, New South Wales

3rd Annual Australasian Jury Research Conference

Friday 19 November 2004
Law School
University of Melbourne

For programme and registration details see the Melbourne University Law School website at:
<http://www.law.unimelb.edu.au>
- News & Events

For further information contact:
Dr David Tait,
University of Canberra
Email: David.Tait@canberra.edu.au

MEMBERSHIP INVOICES

AIJA membership is based on the financial year. Members have received invoices for 2004-2005 membership in July 2004. Prompt payment will ensure that you continue to receive copies of all mail-outs.

If you have any queries about your membership fees, call Heather Sevald at the AIJA Secretariat on (03) 9600 1311
Email:

Heather.Sevald@law.monash.edu.au