

President's Report

Presented at Annual Meeting—Perth, W.A.—16th May, 1987

ON behalf of the Council of the Institute I extend to each and everyone of you a very warm welcome to this meeting and on behalf of my fellow Councillors I have pleasure in reviewing the operations of the Institute during the year 1986.

MEMBERSHIP

Numerically, the number of members in each Chapter and of the Institute as a whole increased during the year. An important milestone was recently passed when membership exceeded 1000 for the first time. Chapter membership is now as follows:

New South Wales	338
Australian Capital Territory	30
Victoria	306
Tasmania	25
Queensland	150
Western Australia	101
South Australia	66
Northern Territory	15
Overseas	<u>32</u>
	<u>1063</u>

EDUCATION AND TRAINING OF ARBITRATORS

The Institute's education programme continues to be well supported by members. During 1986 General Arbitration Courses were held in Brisbane and Hong Kong and an Advanced Arbitration Course was also conducted in Brisbane. An important part of the programme is the conduct of continuing professional development activities by Chapter Committees. These were well supported by members during the year under review and were focused mainly on the Uniform Arbitration legislation and its practical application.

EXAMINATION

At the recent examination a record number of 58 candidates presented themselves and it is pleasing to report a 52% pass rate which is somewhat better than pass rates recorded in previous years. It is noted that most Chapter Committees are now conducting pre-examination tutorials for candidates. The examination results are testimony to the success of these tutorials.

GRADING OF ARBITRATORS

As a result of the improved examination success rate an increasing number of members are becoming eligible to apply to be graded and have their names

included on the Institute's published List of Arbitrators. As a consequence of the widening of the Institute's membership base the numbers of categories of graded arbitrators is also increasing. These include categories in respect of members who are skilled in insurance, accounting, the law, as well as computers and high technology and valuation.

INSTITUTE CONFERENCE 1986

The 1986 Conference was held in Hong Kong and the Council of the Institute is very appreciative of the support which members gave to the Conference and to the efforts of all the speakers who made the conference such a success. The opportunity was taken whilst we were in Hong Kong to cement the warm relationship which had previously been developed with the Council and members of The Hong Kong Branch of The Chartered Institute of Arbitrators, the directors of the Hong Kong International Arbitration Centre and of course our own members who reside in the Colony.

LEGISLATION

It is noted that all States and Territories except Queensland have passed what is known as the "Uniform" Arbitration Act and I am pleased to report that our Queensland Chapter Committee is active in pursuing discussions with the relevant people in that State with the view to having a new Act passed or the present Act amended to bring it into line with the remainder of Australia. In South Australia and Tasmania the Act, although passed, has not been proclaimed however, this is expected to be done shortly when the legislation will become operative.

Although the Act is loosely referred to as being "a Uniform act" there are differences between them in each State, the appropriate Rules of the relevant Supreme Courts and County Courts are not identical and it is already apparent from cases which have found their way to the Courts that judicial interpretation differs on occasions. Of particular importance are several decisions which have recently been handed down relating to the Reasons given by Arbitrators in their awards and I would strongly commend to all members a close study of the case notes which are published in the Journal.

NOMINATIONS OF ARBITRATORS

Members will be aware that in many Contracts either the President or Chapter Chairman of the Institute is named as the person designated to nominate arbitrators in respect of any disputes or differences arising in connection with the contract. I am pleased to report that at national level and in the Chapters an increasing number of nominations are being made.

JOURNAL

The Journal continues to be a useful tool for communications within the Institute. The Journal Committee headed by Frank Shelton has recently carried out a critical review of the Journal and as a result many changes have been made

to take effect with the next issue. The editor and his committee would like to receive more manuscripts from members particularly case notes of matters in which they have been involved and which they consider would be of interest to the Institute membership generally.

AUSTRALIAN CENTRE FOR INTERNATIONAL COMMERCIAL ARBITRATION

It is just two years since this Australian Centre was established. Already the Centres through the efforts of its Directors has earned for itself a high international reputation and it is pleasing to report that a number of international arbitrations have been held at the Centre and that forward bookings have exceeded the Directors expectations.

Much of the credit for this outstanding success is due to the fine leadership of the Centres foundation President Ronald Fitch, who, at the recently held second annual meeting of the Centre, retired from the position of President although he remains an Institute nominated Director of the Centre. Ronald Fitch has been succeeded by Toni de Fina as President of ACICA. Other Institute nominated directors of ACICA are John Dorter and Frank Shelton.

HONORARY MEMBER

I am pleased to record that during 1986 The Hon. Mr. Justice Andrew Rogers of the N.S.W. Supreme Court was elected an Honorary Member of the Institute in recognition of his fine contribution to the Institute and to the advancement of its objectives and arbitration generally.

LIFE MEMBERSHIP

Since our last Annual meeting Council has confirmed upon Mr. Emile Joseph McMahon Life Membership of the Institute. As a Foundation Fellow of the Institute and Council member for a number of years Joe made a substantial contribution to the development of the Institute and the advancement of arbitration.

RETIRING MEMBER OF COUNCIL

Mr. T. H. A. Cross has retired from Council and did not offer himself for re-election. Tom was a Foundation member of the Institute and has served on Council since 1979.

In this Report Council records its appreciation to Tom for the service he has given the Institute over the years.

FINANCE

The Institute's financial position is considered to be quite adequate for its needs although you will have noted a small operating loss for the year to 31st December, 1986 in the published accounts. Forward projections for 1987 are that, in the absence of any unforeseen circumstances, a small surplus will be achieved this year.

APPRECIATION

I would on your behalf, like to express to the Office Bearers and other members of Council and the members of the various Chapter Committees around Australia sincere appreciation for their continuing support and loyalty during the past year. It is deeply appreciated. I now move that this report and the published report which has been circulated to members be received.

Legislation Update

THE following is the status of Commercial Arbitration legislation in all States and Territories of Australia.

- New South Wales* – Commercial Arbitration Act 1984, No. 160 – operative from 25th November, 1984.
- Victoria* – Commercial Arbitration Act 1984, No. 10167 – operative from 1st April, 1985.
- Tasmania* – Commercial Arbitration Act 1986, No. 303 – operative 1st January, 1987 excepts Sections 1 and 2 which are still to be proclaimed.
- Australian Capital Territory* – Commercial Arbitration Ordinance 1986, No. 84 of 1986 – operative from 2nd March, 1987.
- Western Australia* – Commercial Arbitration Act 1985 No. 109 of 1985 – operative from 1st April, 1986.
- Northern Territory* – Commercial Arbitration Act, No. 50 of 1985 – operative from 1st November, 1985.
- South Australia* – Commercial Arbitration Act 1986, No. 102 of 1986 – Date of operation yet to be proclaimed.
- Queensland* – Arbitration Act 1973, No. 34 of 1973.*

* Note this is not the “Uniform” Act.

“The Arbitrator”

Council of the Institute has resolved to make available to members bound copies of Volume 5 of the Journal at a cost of \$25.

The four issues comprising Volume 5 will be bound in a dark blue hardback cover with the words “The Arbitrator Volume 5” printed in gold lettering on the spine.

Orders should be forwarded to the Chief Administrative Officer.

Remittance with order please.