

2. BOOK REVIEW - COMMERCIAL ARBITRATION IN THE AUSTRALIAN CONSTRUCTION INDUSTRY

Commercial Arbitration In The Australian Construction Industry, Ronald Fitch, 219 pages including Appendices and Index, The Federation Press, cloth \$45.00 or direct from The Federation Press 101A Johnston Street, Annandale NSW 2038 at \$43.50, if a cheque accompanies the order.

Ronald Fitch needs no introduction to the construction industry as an architect, practising arbitrator and past President of The Institute of Arbitrators, Australia. He is a Life Fellow of the Royal Australian Institute of Architects, a Fellow of The Institute of Arbitrators, Australia and a Fellow of the Chartered Institute of Arbitrators, (UK).

Mr Fitch's extensive experience in the industry and particularly as a practising arbitrator make this text an important addition to the material available on commercial arbitration. Unlike other texts, Mr Fitch's book is specifically addressed to the construction industry. As Mr Fitch states in his Preface:

"Dispute settlement between the parties to a construction contract has been in most cases a matter for arbitration. ... This book inquires into many aspects of private commercial arbitration in the Australian construction industry."

To borrow from Mr Fitch's own analysis of the structure and coverage of the book, it is broken into three main heads:

1. The nature and development of arbitration in Australia, the sources of arbitration law and the powers of the arbitrator.
2. The practicalities of an arbitration, where proper procedures are established and stated. Conciliation as an alternative in dispute resolution is also considered.
3. Miscellaneous matters:
 - (a) Australia's role in the development of international arbitration.
 - (b) The history and development of the Institute of Arbitrators, Australia.
 - (c) Perceptible trends.

The approach taken in Fitch Commercial Arbitration In The Construction Industry is descriptive and practical. Its Chapters cover matters such as "Starting An Arbitration", "The Preliminary Conference" and "The Hearing". It includes practical guides such as "The Arbitrators Kit", various ways of laying out the hearing room and the use of Scott Schedules. It is not a legal treatise on arbitration case law.

As John Dorter, President of The Institute of Arbitrators, Australia says in his Foreword:

Construction industry participants, be they the parties themselves, their consultants and advisers or arbitrators themselves, will all benefit immensely from Mr Fitch's valuable exposition."

- JT

3. LIST OF ENGINEERING ARBITRATORS

The Institution of Engineers, Australia, has recently updated its list of engineering arbitrators.

The new edition is dated January 1989. It contains biographical details of forty-seven engineering arbitrators who are graded as Grades 1 and 2, the two most senior grades. In addition to employment and contract details, career and experience details are provided on each entrant.

The Institution also maintains an in-house listing of experienced engineers who have been accorded Grade 3 status as arbitrators by the Engineering Arbitration Committee.

The published list is available at \$10.00 each, including postage, by contacting:

The Arbitration Officer
 The Institution of Engineers, Australia
 11 National Circuit
 Barton
 ACT 2600
 Telephone: (062) 706555

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4. AFCC POLICY ON NOMINATION OF ARBITRATORS

In accordance with the recommendations in the industry Report entitled "Strategies for the Reduction of Claims and Disputes in the Construction Industry" and recent judicial comments opposed to trade and professional organisations nominating arbitrators, particularly in disputes involving their own members, and proposing instead that independent organisations should perform this role, AFCC has developed the following policy on nomination of arbitrators:

AFCC Policy On Nomination Of Arbitrators

AFCC shall inform its members and the industry generally not to insert AFCC (or its President) in contracts as the nominating organisation, in the event of the failure of disputants to agree upon an appropriate person or persons to arbitrate a dispute. It is AFCC's view that this function should be performed by neutral organisations which have no connections with the parties, such as the Institute of Arbitrators, Australia or the Australian Commercial Disputes Centre.

Where the parties have contractually chosen AFCC as the nominating organisation, AFCC shall inform the disputants that it is opposed to trade and professional bodies nominating arbitrators particularly in relation to a dispute involving a member. AFCC shall suggest that the parties reach a supplementary agreement to substitute an independent organisation such as the Institute of Arbitrators, Australia or the Australian Commercial Disputes Centre as the nominating organisation.

Only where such a supplementary agreement is not possible and it is considered preferable to nominate, rather than to create an hiatus which may require the