

**THE CHARTERED INSTITUTE OF ARBITRATORS
AUSTRALIAN BRANCH**

90th ANNIVERSARY DINNER

SPEECH OF WELCOME BY MICHAEL SHAND QC, CHAIRMAN

29 October 2005

Your honour, Justice Maxwell, Your Honour Judge Shelton of the County Court, guests and fellow members of the Chartered Institute of Arbitrators, I welcome you all this evening to this dinner at the Essoign to celebrate 90 years since the formation of the Institute. It is also the 10th anniversary of the formation of the Australian branch.

The president of the Institute Dr Eugen Salpius sends his apologies, as does our patrons, Chief Justice Murray Gleeson and Justice Gary Downes. Justices Byrne and Dodds-Streeton of the Supreme Court and Judge Anderson of the County Court also send their apologies. We are sorry that Mr Doug Jones a member of the Board of Trustees of the Institute can't be with us – at the last minute work commitments have prevented him being in Melbourne.

We are honoured by the presence this evening of Justice Maxwell of the Court of Appeal and I will be introducing him to speak after the main course.

This weekend, the Institute is conducting special members and fellowship courses at the Bar's Mediation Centre in Douglas Menzies Chambers and thanks to all involved in making that happen. You will understand therefore that I am a little preoccupied with matters of arbitration this weekend. This didn't stop casting an eye over the field for the Derby this afternoon. But there still seemed a hint of arbitration in what I read – No 3 was Duelled. No 4 Head Turner. I was concerned by No 2 Danger Looms but my mind was put at rest by No 10 Point Made. Finally the piece de resistance No 16 On the Knocker. I felt at home!

We wish the candidates in these courses well – giving up the weekend to undertake them says a great deal about their commitment and interest.

The Institute was born, with the aid of 2 solicitors, an architect and an accountant, as an unincorporated association, on 1st March 1915. The world was then of course a different place. It was wartime; almost 6 weeks before, three German navy Zeppelins had set out for Britain. One (L6) suffered a mechanical malfunction and returned to base. The others (L3 and L4) made it to their general target area but inflicted little damage and returned to base undamaged. They were to attack London itself on 31 May. I hasten to say, I don't mention the zeppelins as any symbol of the Institute but they may aptly describe some pieces of litigation!

Within a year, the Institute had attracted the following of 16 different professions. In 1925, it incorporated and in 1979, the Queen granted the Institute a Royal Charter. The Institute is now a registered charity with more than 11,000 members in over 86

countries and an international network of 31 branches. The Australian branch is soon to incorporate as a company limited by guarantee under the auspices of the Institute.

The principal objects of the Institute are the worldwide promotion of private dispute resolution as a genuine alternative to litigation in the courts and the provision of education and training. It has strongly promoted the use of international arbitration in the determination of commercial disputes when different legal jurisdictions are involved. The motto on its crest *celeriter ac diligenter* says it all (if you happen to know Latin!) – swift and careful.

This evening is also an affirmation of the significant role that alternative dispute resolution, in particular arbitration and mediation plays in our system of administration of justice in Australia.

In 1955, 50 years ago, the then President of the Institute made some remarks in a forthright speech which can still resonate with our contemporary society:

Today, however, the Courts are full of litigants, industry is burdened with disputes between employers and employees and internationally countries are at loggerheads, so I am quite sure we cannot sit back and say the Institute is functioning fully in accordance with its aims, for many of these disputes should and could be settled by arbitration; I firmly believe if the country had a strong body of arbitrators, widely known and respected, reference would be made to such a body to settle disputes and so avoid litigation, strikes or other action.....

His vision was to have arbitrators available around the world to deal with disputes expeditiously and at economic cost.

It is imperative that as a Body we should make ourselves known throughout the country and increase our membership if we are not to become moribund. This would tend to bring before the general public that in every corner of the British Isles and overseas experts are available in their localities to deal with disputes in any form expeditiously and at economic cost. The result would be less friction in all walks of life to the advantage of the community generally.

I acknowledge here tonight the presence of those with particular responsibilities in arbitration – Mr Ian Bailey SC, Treasurer and Mr Ian Nosworthy, national Councillor from the Institute of Arbitrators and Mediators Australia. Both are also members of the Institute. I also acknowledge Dr Clyde Croft SC, Treasurer of the Australian Centre for International Commercial Arbitration and Professor Leon Trakman, Dean of the Faculty of Law of the University of New South Wales, a member and Associate Professor of Law Richard Garnett of the University of Melbourne. I also acknowledge the support of distinguished practitioners present here tonight.

We have therefore much to celebrate and honour. Now to the toast – would you please charge your glasses and be upstanding and join with me as I propose a toast to the Chartered Institute of Arbitrators – happy 90th birthday!

Jim Creer

Before I wish you *bon appetit*, there is one further matter I am delighted to raise. But first I must explain. When I assumed office as chairman, my predecessor, Doug Jones sent me a parcel. I opened it up and found two boxes. The first he described in the covering letter as the *Jewels of Office* - you may have wondered what I was wearing – it is the badge worn by the Chairman from time to time.

But the second parcel contained what I might describe as the *Jewels of Past Office* for past chairmen. On a more serious note, I would like to invite the President of the Court of Appeal to present these to Mr James Creer in recognition of his invaluable contribution to the work of the Branch. Jim was the founding chairman of the Branch – he made it happen in 1994 and is still serving the Branch and this is a fitting occasion to mark his contribution and express our gratitude to him for all he has done.

Have an enjoyable evening