The Australian Institute of
Judicial Administration Incorporated

Annual Report

for the year ended 30 June 2005

The Australian Institute
of Judicial Administration Incorporated

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Administrative Secretary and Publications Officer
Mrs Kathy Jarrett/Mrs Christine Crawford

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Ms Delwyn Gillan

Librarian (Part-time)
Ms Mary Young

Secretariat Office
1st Floor, 472 Bourke Street
Melbourne, Victoria, 3053
Telephone: (61 3) 9600 1311
Facsimile: (61 3) 9606 0366
Web site: www.aija.org.au
Email: aija@law.monash.edu.au

Public Officer
Mr Stephen Skehill
Special Counsel
Mallesons Stephen Jaques
GPO Box 388
Canberra City ACT 2601
Telephone: (02) 6217 6084
Facsimile: (02) 6217 6999

PRESIDENT'S MESSAGE

The Hon Justice John Byrne

Much of the AIJA's work depends on others. The governments of the Commonwealth, the States and Territories provide most of the funding that enables the Institute to promote excellence in judicial administration in Australia and its region. Financial assistance aside, the range of activities revealed in this report has been made possible through the generous support of institutions, as well as by the efforts of academics, administrators, judicial officers, tribunal members and practitioners.

The long list of supporters includes the Federal Court of Australia (especially in relation to the Case Management and Self-Represented Litigants seminars), the Family Court of Australia (Domestic Violence Workshop), the Supreme Court of Victoria (launch of the Courts Governance report), the Supreme Court of New South Wales (in facilitating the Sydney Council meeting and in providing support for redesigning our website), the County Court of Victoria (Judge O'Scannlain's address), and the New South Wales District Court and Attorney-General's Department (Child Witnesses – Best Practice seminar). In addition, many individuals have assisted in the design and delivery of educational events, and in overseeing research projects. The Institute is grateful for these tangible, valuable contributions to its work.

Co-operation with others has also been a feature of the Institute's activities throughout the year: as examples, its continuing association with Monash University, in conjunction with the Judicial Conference of Australia, working towards national standards for judicial professional development, with the Council of Australasian Tribunals in connection with creating its practice manual and in conducting the Tribunals Conference, with the Judicial Commission of New South Wales in distributing the DVD, the "Role of the Judge", and in the production of a DVD on Expert Evidence, with the Sir Zelman Cowen Centre for Continuing Legal Education in a Court Technology Update conference, with the National Judicial College of Australia through the Executive Director's participation in the National Judicial Orientation Program for new judges, and with activities of the Australian Court Administrators Group.

The education program has been extensive. Its emphasis this year has been more on events centered on specialised topics – such as best practice in taking the evidence of children – and on forums that facilitate exchanges of information and experiences – as with the Case Management and Self-represented Litigants seminars.

Tribunals and their decisions are increasingly important to the community, and to the AIJA. Among the research projects is one that involves the largest expenditure the Institute has committed to a single project: $35,000 towards the preparation of the practice manual for tribunal members. The Institute also held another well-attended Tribunals Conference – in Sydney, in June.

Suggestions for educational programs and research projects are always welcome; and members should not hesitate to contact the Secretariat with their ideas.

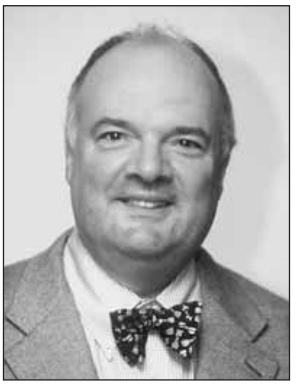
Despite the demands – particularly on the Secretariat – of the preparation and delivery of the education program and in overseeing the, largely complementary, research projects, the Institute continues to maintain and develop overseas connections. As our patron and Chief Justice of Australia, the Honourable AM Gleeson AC, pointed out in his State of the Judicature address in March, the Institute has a close relationship with New Zealand courts and tribunals which will be strengthened when the Annual Conference takes place in Wellington. Council member, John Gunson, has been working with the judiciary of East Timor. The Executive Director delivered courses in Papua New Guinea. The Chief Justice of the Solomon Islands attended the Case Management seminar. The National Judicial Education Committee of Fiji has joined the AIJA. Delegates from Malaysia, Singapore and Brunei attended the Annual Conference. In March, in Brisbane, the Executive Director and I made a presentation to the Chief Justices of Asia Pacific on opportunities for participation by their jurisdictions in our work.

The intensity of the activities has inevitably placed substantial burdens on the Secretariat, to which there has been a dedicated, energetic response. It has become apparent, however, that there is a need for additional administrative and IT support for the Secretariat. The Board of Management, which has met on a number of occasions during the year, is addressing this.

The Council has worked harmoniously and effectively. Council members participate in many ways: at Council meetings, in the three standing committees, in groups established to superintend educational programs, including the Annual Conference, and in other ways. I thank them all, and look forward to their continuing contributions

The Hon Justice John Byrne
President, AIJA

REPORT FROM THE EXECUTIVE DIRECTOR



Professor Greg Reinhardt

At times I am asked what changes, if any, I have noted in the justice system since my time as a practising solicitor. Having retired from practice in 1991 but in light of my AIJA experience, I claim to have no direct knowledge of what happens in legal offices, but it does appear to me that there have been four significant changes:

1. Litigation, both civil and criminal, seems to generate volumes and volumes of paper. To some extent this may reflect the greater complexity of litigation; it may also mean greater caution on the part of practitioners in relation to the discovery process. Photocopying and e-mail communication have no doubt added to the size of discovery. All this despite case management of most litigation with orders limiting discovery;

2. Alternative dispute resolution has been generally accepted in the legal community as a legitimate means of dispute resolution. ADR has been promoted by courts, tribunals and practitioners, despite an initial reluctance. Their clients have become comfortable with it. To some extent, however, the growth in ADR may reflect the high cost of litigation. Indeed, there would appear to be an ever increasing view that litigation is outside the resources of the average member of the public including those of moderate wealth. The growth and success of ADR may mean that those cases which ultimately need to be determined are the most complex and difficult;

3. The proliferation of tribunals has resulted in a significant amount of contentious business being dealt with in tribunals rather than courts. This need not be seen as a threat to the courts or to the practising profession. It does, however, provide challenges for the legal profession educated in the adversarial system of justice; and

4. All courts and tribunals have seen significant growth in the number of self-represented persons appearing before them. This reflects, to a large extent, the cost of litigation which has made access to justice through lawyers less and less of a reality.

I mention these matters because I believe that they have great relevance to the current work of the Institute both in its educational program and in its research. The 2004 Annual Conference in September 2004, having as its theme proportionality, raised many issues and challenges in relation to current practices in civil litigation. Many jurisdictions have sought to emphasise, whether in legislation or court rules, the just, quick and least costly resolution of the real issues in proceedings and the need to ensure that costs bear a proportionate relationship to what is involved in the dispute. I indicated in last year's report that the Annual Conference would inform further research by the Institute in relation to proportionality. Recent discussion within the Project and Research Committee would indicate that one of the significant matters that need to be studied is the cost of litigation. Importantly, the Research Committee of the Canadian Forum on Civil Justice (CFCJ) is looking at the cost of litigation in Canada. I understand that the CFCJ proposes to work collaboratively with the Canadian Bar in relation to that exercise. The AIJA, in 1992, published *The Cost of Civil Litigation for the Intermediate Courts in Australia*. Further work in relation to the cost of litigation would appear timely and the AIJA Education Committee and Project and Research Committee are looking at this. The matter is relevant generally to the administration of justice but specifically in relation to the proportionality topic and to an evaluation of case management which is something else that the Institute is pursuing. Litigation needs to be made more

affordable and the justice system more accessible. Costs will be an important topic at the forthcoming Masters' Conference in Wellington. The work being undertaken by the Committee on Harmonisation of Court Rules, a committee of the Council of Chief Justices, chaired by Justice Kevin Lindgren, emphasises the need, in a federation to ensure some degree of conformity in relation to court rules and procedures. Significantly, there have been steps taken within some state jurisdictions to achieve harmonisation as well. Mention might also be made of the project initiated by the Standing Committee of Attorneys- General to facilitate a national legal profession.

ADR remains a matter of continuing importance to the Institute. The former President of the Institute, Justice Murray Kellam and I were involved in a program for the Papua New Guinea Law Society in June designed also to promote case management. ADR is in its infancy in that jurisdiction but it is interesting to note that it is working successfully in some courts there and that active consideration is being given to its overall development and adoption within the court system. There is interest in ADR throughout the South Pacific region and certainly the Institute has much to offer in promoting it and providing education where appropriate. I am grateful to Justice Kellam and to Dr Greg Lyons, Senior Member and Mediator, Victorian Civil and Administrative Tribunal, for their ongoing assistance and interest to the Institute in this respect.

Justice Byrne in his report has commented upon the AIJA's work with tribunals. It is pleasing to see that the Institute continues its association with the Council of Australasian Tribunals. Planning is already underway for the 2006 Tribunals Conference at which it is hoped that there will be a number of overseas speakers. The nature of dispute resolution within tribunals, the adversarial and the non-adversarial nature of proceedings within tribunals is a matter of ongoing interest to the Institute and is the subject of commissioned research. The Institute continues to take a keen interest in issues relevant to self-represented persons.

The Institute has been active in working on educational activities around particular themes and these are identified elsewhere in the Annual Report. I would like to refer particularly to the work in relation to expert evidence which, to a large extent, was inspired by Justice McClellan's address at the Annual Conference in 2004. That has provided the incentive for a CD Rom in relation to the experience in the Land and Environment Court of New South Wales which has been jointly commissioned by the Institute and the Judicial Commission of New South Wales.

The Institute will continue to work co-operatively with other judicial education bodies and with courts and tribunals, in the provision of judicial education in Australia, New Zealand and the Pacific region.

I continue to edit the *Journal of Judicial Administration* which has produced several very high quality articles during the past year. The *Journal* is now refereed and this can only add to the quality of the articles which appear. I continue to speak to a number of organisations and to teach both at Monash University and the University of Melbourne.

I wish to thank my deputy Anne Wallace for her work during the year. Mrs Christine Crawford retired from her long-term employment with the Institute at the end of June. I wish her well in retirement. She has provided valuable service to the Institute over many years. Ms Delwyn Gillan has assumed the role of my personal assistant. She, Mrs Kathy Jarrett, Mrs Heather Sevald and Ms Mary Young are to be thanked for their ongoing work for the Institute.

Professor Greg Reinhardt
Executive Director, AIJA

COUNCIL

The AIJA is governed by its Council, which has 29 elected and appointed members. They are drawn from a broad spectrum across the field of judicial administration, including representatives of the judiciary (including the magistracy), tribunals, court administrators, the legal profession, academia and government service. In addition to attending four regular Council meetings each year, all Council members are expected to serve on at least one Committee. A list of Council members as at 30 June 2005 appears at the front of this report.

Joining Council this year were Jennifer Cooke, General Manager, Client Services of the Family Court of Australia, Tasmanian Magistrate, Peter Dixon, President of the Commonwealth Administrative Appeals Tribunal, Justice Garry Downes AM, Brisbane barrister, Bob Gotterson QC, Albury solicitor, John Gunson, Chief Judge Michael Rozenes of the County Court of Victoria and George Turnbull, Director of Legal Aid for Western Australia.

Council has also welcomed Justice Ron Young of the New Zealand High Court as a replacement for outgoing New Zealand representative on Council, Justice Tony Randerson.

Other retirements from Council this year have been Judge Jennifer Coate, President of the Melbourne Children's Court, Richard Coates, Chief Executive Officer of the Northern Territory Department of Justice, Justice Stephen O'Ryan, Administrative Judge of the Family Court of Australia, Mr Andrew Phelan, Director, Corporate Services of the Australian Crime Commission, Stephen Skehill, Special Counsel, Mallesons, Stephen Jacques and Justice Sally Thomas AM of the Northern Territory Supreme Court.

Following this year's Annual General Meeting, Council elected Justice John Byrne of the Supreme Court of Queensland as President of the AIJA. Justice Virginia Bell of the Supreme Court of New South Wales and Mr Laurie Glanfield, Director-General of the New South Wales Attorney-General's Department were elected as Deputy Presidents.

OVERSEAS REPRESENTATION ON COUNCIL

As a reflection of the close ties between the Australian and New Zealand judiciaries, there is a permanent position on the AIJA Council set aside for a judicial representative from that country, nominated by the Chief Justice. That position is currently held by Justice Ron Young of the High Court of New Zealand.

Under a special provision in the AIJA Rules, Council has also granted observer status on Council to the Papua New Guinea judiciary, another country with which the Institute has close ties. The current PNG representative is The Hon Sir Salamo Injia Kt, Deputy Chief Justice of the Supreme Court of Papua New Guinea.

BOARD OF MANAGEMENT

Supervision of the day-to-day management of the Institute is the responsibility of the AIJA Board of Management. The Board consists of the President and two Deputy Presidents, together with the Convenors of the AIJA's three standing committees – the Education Committee, the Project and Research Committee and the Communications Committee. The Board can also co-opt other members of Council to serve on the Board. As at 30 June 2005, the members of the Board of Management were Justice John Byrne, AIJA President, Justice Virginia Bell and Mr Laurie Glanfield AM, Deputy Presidents, Dr Andrew Cannon AM,

Convenor of the Education Committee, Ms Megan Greenwood, Convenor of the Communications Committee and Justice RD Nicholson AO, Convenor of the Project and Research Committee.

LIFE MEMBERS

The AIJA award of Life Membership is given to members, or others in the judicial administration community, who are judged to have made a significant contribution to the AIJA's work or to the administration of justice generally. Council recognised the efforts this year of Justice Bernie Teague of the Supreme Court of Victoria with an award of Life Membership presented at a function held in the Supreme Court Library last November.

Justice Teague served a lengthy term as a Councillor and Board member of the AIJA. He played a particularly important role as the inaugural chair of the Institute's Education Committee and in establishing the AIJA's Education Protocol. He also chaired several Project Advisory Committees for AIJA research reports and convened the AIJA Technology for Justice Committee's first conference in 1998. In presenting the award, AIJA President Justice John Byrne also noted that Justice Teague had made a significant contribution generally to the administration of justice, in addition to his work for the AIJA.

COURSE, CONFERENCE AND SEMINAR PROGRAMS

The AIJA's education program includes conferences, workshops, lectures and seminars designed for judges, magistrates, tribunal members, court administrators, lawyers and others with an interest in judicial administration. It includes regularly scheduled events and additional seminars and conferences on particular topics. The program is overseen by the AIJA's Education Committee, convened by Dr Andrew Cannon AM, Deputy Chief Magistrate, South Australia.

All AIJA education programs are conducted on a fee-paying basis, which requires registration fees to be set at a level that covers costs. The Institute also attempts to achieve a 20% profit on each education activity which is channelled to our Research Fund and used to fund research into judicial administration.

2004-2005 programs included:

- **Child Witnesses - Best Practice for Courts, Sydney, 30 July 2004**

  This seminar arose from a proposal put to the AIJA Project and Research Committee that the AIJA develop a best practice benchbook in relation to the taking of evidence from child witnesses. The committee formed the view that any project concerned with a benchbook would be best informed by a seminar at which ideas could be exchanged regarding best practice.

  The seminar provided an opportunity to hear about the particular difficulties associated with taking evidence from children, particularly in sexual assault cases. Delegates also heard about developments in practices in a number of Australian jurisdictions that have adopted new procedures for the taking of children's evidence. These include the use of remote witness facilities.

  The seminar was hosted by the District Court of New South Wales and included a tour of the Child Witness special facility at the Parramatta Court. The AIJA would like to express its appreciation to the Court and to the New South Wales Attorney-General's Department for their assistance and support in hosting and supporting the event.

  The benchbook project is proceeding and further information about such is contained in the research section of this report.

- **Law and the U.S. Judiciary Post the Supreme Court Ruling on Detainees, Melbourne, 30 August 2004 - Lecture by Judge Diarmuid O'Scannlain**

  The AIJA (with Monash University Law School) co-hosted a lecture by visiting United States Federal judge, Judge O'Scannlain, a senior judge on the 9th Circuit Court of Appeals and a long time observer of the U.S. Supreme Court and Judiciary in August 2004. His address provided a timely perspective on the then recent Supreme Court ruling on detainees. The lecture was organised in conjunction with the United States Consulate General, Melbourne and the AIJA is grateful to the County Court of Victoria for hosting the event.

- **Self-Represented Litigants Forum, Sydney, 17 September 2004**

  Dealing effectively with increasing numbers of unrepresented litigants is an increasing problem for many courts and tribunals. This forum was designed to provide an opportunity for discussion about effective practices and procedures in dealing with litigants who are not legally represented, with a view to identifying useful innovations and further areas for discussion and research. It was organised by the AIJA and the Federal Court of Australia. The Institute is much appreciative of the Court's efforts (in particular, the contribution of Deputy Registrar Philip Kellow) in assisting with planning and hosting the event.

  The Forum was attended by invitees and observers from all Australian jurisdictions and New Zealand and the proceedings were summarised in a written report that is available on the AIJA website <www.aija.org.au>.

  Members will find further information and useful links on the AIJA's web page on self-represented litigants <www.aija.org.au/LIP.htm>.

- **22nd AIJA Annual Conference, 'Proportionality — cost effective justice?', Sydney, 17-19 September, 2004**

  The issue of proportionality - the value of the resources devoted to resolving disputes - has been identified by the AIJA Council as one of its key themes in the current AIJA Strategic Plan. With that in mind, it seemed a fitting theme for this year's AIJA Annual Conference.

  Held in Sydney on 17-19 September, 2004, the conference was attended by 148 delegates from all Australian States and Territories and overseas delegates from Malaysia, Brunei, Singapore and New Zealand.

  The Keynote address on the conference theme was delivered by AIJA Life Member Professor Ian Scott, Professor of Law, University of Birmingham, UK, and Senior Editor of the White Book Service. Subsequent conference sessions included:

  - The significance of the concept of proportionality on procedural law in Australia, New Zealand and Singapore;
  - Judicial Control over the trial process - focusing 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.

Papers and presentations from the conference are available on the AIJA Website at <www.aija.org.au>.

- **Court Technology Update Conference, Melbourne, 20-21 October 2004**

  A joint project with the Sir Zelman Cowen Centre for Continuing Legal Education, this conference was designed to provide an update on the use of technology in courts and tribunals in Australia. Over 100 delegates including judges, magistrates, tribunal members, court and tribunal staff, IT specialists, academics and legal practitioners from Australia, Brunei, New Zealand and Korea attended the conference.

  Topics discussed included:

  - The development of electronic filing;
  - Security of eCourt systems;
  - eCallovers and the use of technology in case management;
  - Technology and Court Room Design;
  - Costs Issues and Awareness of Technology in the Legal Profession;
  - Transcript Management and Productions;
  - Open Source v. Proprietory Applications; and
  - eCourt case studies.

  Papers and presentations from the conference are available on the AIJA website at <www.aija.org.au/CTC/CourtTechnologyConferenceProgram.htm>.

- **AIJA Case Management Seminar, Sydney, 25 February 2005**

  This year saw the revival of the AIJA's Case Management Seminars, designed to provide an opportunity for the exchange of ideas and discussion of problems experienced by courts in managing their workloads. The seminar was attended by judicial and court administrator representatives from invited courts and tribunals in Australia. The AIJA was also pleased to welcome invitees from New Zealand and the Solomon Islands.

  The AIJA was particularly keen to explore at this seminar the evaluation of case management and current listing practices, possibly with a view to identifying future research activities. Other current issues explored in discussions at the seminar included the role and timing of alternative dispute resolution in case management, the cost of case management, methods of dealing with expert evidence and self-represented litigants, and resourcing and training.

  The case management seminar was revived at the suggestion of the Australian Court Administrators Group (ACAG) and its then chair, Mr Warwick Soden, Registrar and Chief Executive Officer of the Federal Court of Australia. The AIJA would like to acknowledge Mr Soden's assistance in planning and developing the seminar and the support of the Federal Court of Australia in providing the venue.

  A report on the seminar is available on the AIJA website <www.aija.org.au>.

- **AIJA Domestic Violence Workshop, Melbourne, 8 April, 2005**

  The difficulty experienced by courts in dealing with cases concerning violence in a family or domestic situation was the catalyst for a workshop held by the AIJA this year on this topic. The workshop which was designed to provide an opportunity for representatives of interested courts to:

- Exchange information on policies and strategies for handling family violence matters in courts; and
- Identify current issues and problems.

It was hosted by the Family Court of Australia and attended by representatives from the police, courts, government and support agencies.

The workshop was designed to be the precursor to a larger conference on domestic violence, which will be held in Adelaide on 23-24 February 2006.

A report on the seminar is available on the AIJA website <www.aija.org.au>.

- **8th AIJA Tribunals' Conference, Sydney, 9-10 June, 2005**

This annual event is organised by the AIJA with the assistance and support of the Australasian Council of Tribunals (COAT). The Conference is designed for tribunal members and administrators, with a focus on issues of current importance to tribunal administration. The increasing role and importance of administrative tribunals in the justice system was reflected in the theme of this year's conference, 'The Rise and Rise of Tribunals'. 180 delegates attended the conference, including overseas representatives from New Zealand, Brunei and Malaysia.

Topics discussed at this year's conference included:

- The Emergence of the Generalist Administrative Tribunal in Australia and New Zealand: Factors, Approaches and Prospects of Success;
- State Administrative Tribunal: Model Non-Adversarial Tribunal or Split Personalities;
- Facilitating the Resolution of Disputes before Tribunals;
- COAT Benchbook for Tribunals;
- Practical Application of Investigative Methodology in Tribunals;
- Some Recent Judicial Developments of Interest to the Work of Tribunals;
- The Value of Civil Claims – How Should Resources be Allocated?;
- The Use of Expertise by Non-legal Members of Tribunals – an Update; and
- Issues of Access and Equity in Tribunals.

The conference also provided a streamed session designed for tribunal members in the areas of discrimination claims, guardianship and administration matters, planning matters, and tenancy and consumer dispute to obtain an update on current issues and problems related to their jurisdictions.

Papers from the conference are available on the AIJA website at <www.aija.org.au>.
The 9th AIJA Tribunals Conference will be held on Canberra on 6-7 April 2006.

Other Education Activities

During the past year, the AIJA also contributed to a number of other education events run by other organisations. These included participation in the National Judicial Orientation Program in Sydney 18-22 October 2004 (the AIJA has three representatives on the Steering Committee for the Program, as well as the Executive Director), a Legal Technology Conference held by the Sir Zelman Cowen Centre for Continuing Education at Victoria University on 10-11 November 2004, the 3rd Annual Jury Research Conference, held in Melbourne on 19 November 2004 organised by Canberra University's Court of the Future Network, the LawAsia and Australian Legal Convention 'Law DownUnder Conference' held on the Gold Coast on 20-24 March 2005 and a seminar on ADR and case management organised by Papua New Guinea Law Society in Port Moresby on 2-5 June 2005.

STRATEGIC PLAN AND PROJECT THEMES

The AIJA Strategic Plan identifies provides for the AIJA Council to set the themes that will direct the Institute's work. The following are the current themes identified by Council in 2004 to guide the AIJA's activities:

- Proportionality;
- Caseflow management, including ADR;
- Courts and the public;
- Litigants in person;
- Diversionary programs;
- Indigenous cultural awareness;
- Information technology and the courts; and
- Uniform and harmonised procedure.

Council reviews these themes on a regular basis to ensure that new or emerging issues are quickly accommodated.

- **Proportionality**

  "Proportionality – cost-effective justice?" was the theme of the 22nd AIJA Annual Conference, held in Sydney on 17-19 September, 2004. That conference also provided an opportunity for a report from researchers at Monash University who undertook a literature review for the AIJA on this topic. Associate Professor Susan Campbell's paper has since been published in the *Journal of Judicial Administration* ((2005)14 *JJA* 144). The AIJA Project and Research Committee is currently determining how best to proceed with the project having regard to a proposal for a conference on costs in litigation which would also fall under this theme.

- **Caseflow management, including ADR**

  As mentioned above, the AIJA this year agreed to a request from the Australian Court Administrators' Group that it reconvene regular meetings held to discuss comparative case management issues in Australia. The use of court-annexed ADR processes is now a common feature of many case management regimes and Council considered that ADR should be incorporated as part of this theme. The Institute is currently examining the feedback from that seminar with a view to identifying further issues for research or education programs. The topic of expert evidence is likely to be a particular area of focus in the future.

- **Courts and the Public**

  The AIJA's report on *Courts and the Public*, by Professor Stephen Parker in 1998, has served as a catalyst for a number of initiatives by courts designed to improve public access to the courts and quality of communication between the courts and the public in relation to aspects of their work. The AIJA continues to monitor these developments and to consider opportunities for future projects in this area. Part of this year's AIJA Annual Conference in Wellington, New Zealand (7-9 October 2005) will focus on communication between courts and the media, the issue of televising of court proceedings and the impact of developments in technology, particularly the Internet.

- **Litigants in Person**

  The increasing numbers of people using the courts without legal representation has given rise to a number of initiatives in courts and tribunals over recent years. The AIJA and the Federal Court of Australia jointly hosted a forum on self represented litigants in Sydney on 17 September 2004, with the aim of bringing together courts and tribunals for the purpose of identifying those initiatives and to promote an exchange of information on policy and strategies (see report above). The AIJA will be examining the outcomes of that event to identify further initiatives in this area.

- **Diversionary programs**

  Recent years have seen the introduction in a number of jurisdictions of programs that are designed to divert offenders from the mainstream criminal justice process and address the problems underlying their offending behaviour. The advent of problem-solving courts and the more general discipline of therapeutic jurisprudence which supports them is of increasing importance, particularly in the criminal justice system.

  A session at the 2004 AIJA Annual Conference considered the impact and effectiveness of some of these initiatives and their implications for court resources. In the coming year, the AIJA will run the 3rd International Conference on Therapeutic Jurisprudence which will be held in Perth from 7-9 June 2006.

- **Indigenous Cultural Awareness**

  This project was established to assist with the implementation of recommendation 96 of the report of the Royal Commission into Aboriginal Deaths in Custody by providing indigenous cultural awareness training for judicial officers. It is overseen by the AIJA's Indigenous Cultural Awareness Committee, currently convened by AIJA Council member Judge Mary Ann Yeats of the District Court of Western Australia.

  This year the project contributed funding for further programs for the South Australian courts, the Western Australian District Court, the Victorian courts and the Northern Territory courts. The Committee, and in particularly, Justice Bob French of the Federal Court, have also been actively involved in formulating and developing a project for the evaluation of indigenous cultural awareness training, in conjunction with the AIJA Project and Research Committee.

- **Information Technology and the Courts**

  The AIJA's Technology for Justice project held its last biennial conference in 2004. With an end to the government funding for that project, the AIJA will continue its involvement in the area of court technology, both by continuing to monitor developments in the area and involving itself in education programs that address technology issues. In the past year, the AIJA undertook a joint seminar with the Sir Zelman Cowen Centre for Continuing Legal Education, which provided a practical update on developments in court technology. The Institute's 2005 Annual Conference, to be held in New Zealand, will also take technology as one of its themes, but will focus more on policy, planning and issues associated with the use of technology in the justice system. The Institute also continues to contribute to the work of the Council of Chief Justices IT Working Group and its expertise and information on this topic has been sought on a regular basis throughout the year.

- **Uniform and Harmonised Procedure**

  AIJA Council continues to monitor the work being done, at national and state levels, in relation to harmonisation of civil procedure and uniform rules. A session discussing these developments was held at this year's AIJA Annual Conference and the Institute will continue to assist with these initiatives, including providing ongoing support to the Council of Chief Justices' Committee on Harmonised Procedures, chaired by Justice Kevin Lindgren. The most recent and current study of the Committee is Anton Piller orders.

RESEARCH

The AIJA Project and Research Committee considers proposals for funding research projects from the AIJA Research Fund and makes recommendations to Council for approval of new projects. The Committee, convened by Justice Robert Nicholson, has met regularly throughout the year. The Research Fund consists of profit earned on AIJA conferences and seminars.

New projects approved by the AIJA Council during the past year include:

- The preparation of a methodology for the evaluation of indigenous cultural awareness training for judicial officers;
- The production of an issues paper on the use of acting and reserve judges; and
- A contribution of $35,000 towards a project being conducted the Council of Australasian Tribunals to produce a practice manual for tribunal members.

Current research projects on hand include:

- **Jury Charges**

  This project, begun in 2003, is supervised by a Project Advisory Committee consisting of experienced trial court judges from all Australian jurisdictions and New Zealand, convened by Justice Geoff Eames of the Victorian Supreme Court. The project aims to examine jury charges and communication with the jury and to assist in developing procedures and policies that will enhance judicial communication with the jury. The principal researcher is Professor James Ogloff of Monash University.

  This year saw the conduct of the first stage of the project; a survey of trial court judges concerning their communications with juries. A report on the findings of the survey is now being finalised and will be published during the coming year. The Project Advisory Committee will then consider further options to take the project forward.

- **Proportionality**

  A review of the literature on the topic of 'proportionality' has been conducted by Professor Sue Campbell, Law School, Monash University. Associate Professor Campbell spoke on this topic at the 2004 AIJA Annual Conference. Her report is to be considered by the Project Advisory Committee once the Project and Research Committee has considered the precise scope of the project.

- **Child Witnesses in Sexual Offence Cases**

  The project was begun as a follow up to the seminar on Child Witnesses which took place in July 2004. An Advisory Committee chaired by Judge Helen O'Sullivan of the Queensland District Court has been engaged in scoping the project and identifying a researcher. The objective is to produce a benchbook to assist judicial officers in this difficult area.

- **Inquisitorial Processes in Australian Tribunals**

  This project is being conducted by Professor Robin Creyke, of the Australian National University, who has spoken in relation to the topic at the last two AIJA Tribunal Conferences. The project aims to explore the legislative indicators and best practice directions which ensure that a tribunal operates in an inquisitorial fashion, and what it means for a tribunal to operate in an inquisitorial fashion. The final report is due shortly and should be published during the coming year.

- **Legal Thesaurus Project**

  The project is intended to provide assistance in the task of retrieval of computerised information and to complement the AIJA publication *Guide to Uniform Production of Judgments.* The project is being undertaken by a team from the South Australian court libraries, under the supervision of the project Advisory Committee headed by The Hon Trevor Olsson. A draft report was finalised this year and circulated to courts for comment. As a result of feedback to that report, it is anticipated that a working group will be formed to explore how the project might best be taken forward.

- **Other research activities**

  The AIJA has also been participating in a project conducted by the National Judicial College of Australia to establish national standards for judicial professional development. The Institute also agreed to involvement as a project partner in a number of Australian Research Council Linkage Grant applications this year.

COMMUNICATIONS

The AIJA Communications Committee was formed as a result of strategic planning process that was finalised as advised to members in last years Annual Report. The Committee's terms of reference are to:

- Enhance the AIJA's profile in the Asia/Pacific region;
- Develop an international focus through liaison with international bodies sharing common objectives;
- Develop a closer working relationship with court administrators to encourage greater exchange of information and ideas;

- Develop a communications strategy for members and non-members to deliver information about the AIJA, its services and projects;
- Develop strategies to target member groups such as magistrates, court administrators, tribunal members and the legal profession;
- Develop a services strategy that makes effective use of technology and encourages non-members to join the AIJA; and
- Involve members in AIJA activities by:
  - seeking ideas for, or opinions about AIJA projects;
  - forming interest groups; and
  - holding specific conferences and workshops.

The Committee is convened by AIJA Board and Council member Ms Megan Greenwood, Chief Executive Officer of the Supreme Court of New South Wales.

This Committee has been very active during the past year. Its work has included a focus on the AIJA work in the Asia Pacific Region and liaison with other bodies working in that region.

It has also been developing strategies for various membership groups and giving extensive consideration to the Institute's communication strategy, including the development of the AIJA's website and an updating of its brochure and membership material. This is an area that will receive further attention in the coming year.

The Committee is also anxious to receive feedback from members as to ways in which the Institute can involve members in its activities. If you have an idea or opinion about an AIJA research project, a suggestion about an interest group or a conference or workshop the AIJA could run please feel free to transmit those ideas to Megan, her email is <megan.greenwood@agd.nsw.gov.au>.

PUBLICATIONS

Each year, the AIJA issues a number of publications. These include published reports from research projects, our newsletter, *AIJA News*, and papers from conferences and seminars, including the AIJA Oration. The Law Book Company publication, the *Journal of Judicial Administration,* edited by the Executive Director, also provides an opportunity to publish lengthier articles in the field. Information about recent publications, and general information about the Institute's work, is available on its web site <www.aija.org.au>.

The following are the main publications produced in the year under report:

- **'The Governance of Australia's Courts: A Managerial Perspective'**
  This report was the outcome of a project conducted by Dr Philip Williams, formerly of the Melbourne Business School, the University of Melbourne and now of Frontier Economics Victoria, and his colleagues Professor John Alford of the Melbourne Business School and Dr Royston Gustavson of the Australian National University. The project was designed to examine the potential conflict between the principles of judicial independence and accountability for resource management, the advantages and disadvantages of different models of external and internal governance, and supporting mechanisms to enhance the capacity of court governance models to strike a balance between the different principles.

  The report is the first attempt to examine the most effective way of running the courts from a management perspective. It examines the criteria and principles of court governance; the appointment, payment and removal of judges; court finances; court staff and infrastructure; and the role of the Chief Judicial Officer in court governance.

The AIJA's Education Committee is planning a seminar on Court Governance in the coming year, which would provide an opportunity to discuss and debate some of the issues raised by the report.

A copy of the executive summary of the report is available on the AIJA's website <www.aija.org.au>. The full text is available for purchase from the AIJA (financial members of the AIJA receive a free copy of each AIJA research report).

- **AIJA News**

  The Institute's newsletter, *AIJA News,* is designed to keep members informed of the Institute's activities and also to bring its work to the attention of a wider national and international audience. It is published three times a year in the months of February, June and October. The news is also published electronically on the AIJA website and emailed to members who prefer that form of delivery.

- **Journal of Judicial Administration**

  Published by the LBC Information Services (Thomson Legal & Regulatory Group Pty Ltd), the *Journal of Judicial Administration* (JJA) acts as a focus for the description, discussion and analysis of developments in the field of judicial administration. As editor of the journal, the Executive Director endeavours to include material which focuses on current issues in relation to the role and operation of the judicial system and related institutions. The JJA is now a refereed journal.

AIJA INFORMATION COLLECTION

The AIJA library contains a collection of materials relating to judicial administration from Australian sources, but supplemented by other jurisdictions: mainly the United States, the United Kingdom, New Zealand and Canada. Our Librarian, Mary Young, is happy to take reference inquiries from members and researchers.

AIJA FUNDING AND ACCOUNTS

The AIJA receives the major part of its funding from contributions by all Australian Governments through the Standing Committee of Attorneys-General (SCAG). This is supplemented significantly by the Institute's income from membership fees. The AIJA Research Fund is constituted by means of a 20% contribution levied on its education programs.

The Institute's accounts are annually audited by Mr Jeff Knott, of the firm BDO, Chartered Accountants and Advisers. Copies of the Annual Financial Statements will be available for the Annual General Meeting, to be held in October.

AIJA AND MONASH UNIVERSITY

The AIJA has an affiliation arrangement with Monash University Law School which enables it to occupy premises in Monash Law Chambers at 1st Floor, Equity Chambers, 472 Bourke Street Melbourne. The arrangement provides the Institute with a range of services, and the AIJA is grateful for the assistance provided to it by the university during the year. The Dean of the Law School, Professor Arie Freiberg, is a member of the AIJA Council.

MEMBERSHIP

The Institute's membership as at 30 June 2005 was 1019. That figure included 'trial' memberships, extended to non-members who attended AIJA conferences during the past 12 months.

The membership was made up as follows:

MEMBERSHIP	By State/Territory	MEMBERSHIP	By Category
New South Wales	**265**	Judges	**372**
Victoria	**235**	Magistrates	**82**
Queensland	**128**	Tribunal Members	**88**
South Australia	**85**	Court Administrators	**80**
Western Australia	**95**	Legal Practitioners	**154**
Tasmania	**40**	Academics	**42**
Northern Territory	**18**	Librarians	**16**
Australian Capital Territory	**47**	Corporate	**83**
Overseas	**104**	Trial Members	**35**
		Others	**67**
TOTAL	**1019**	**TOTAL**	**1019**

LOCAL CHAPTERS

The AIJA Rules provide for the development of local chapters.

Currently there is an active Local Chapter of the AIJA in South Australia, chaired by AIJA Council Member Judge Christine Trenorden. The membership of the Local Chapter is 82.

In November 2004, the local chapter convened a very successful seminar on *Bail or Remand in Custody? Issues and Developments,* presented by researchers David Bamford (Flinders University) and Sue King (University of South Australia). The presentation was followed by a panel discussion. The seminar enjoyed better and greater audience participation than any other seminar previously held by the Chapter. It was repeated during Law Week in May 2005.

The Magistrates Court has been conducting a pilot Adult Conferencing program. A seminar is proposed in the near future addressing the outcomes of the program. Once the e-lodgement system in the Supreme and District Courts is on line, a seminar on the use of technology by courts is planned. A seminar on the approach to debt collecting in the Magistrates Court is also planned for the near future.

The Local Chapter will be also be involved supporting a national conference by the AIJA on court responses to domestic violence, which will take place in Adelaide on 23-24 February 2006.

COMMUNICATION WITH THE AIJA

The Institute welcomes and encourages inquiries about its work, about membership and judicial administration generally. Inquiries can be directed to:

The Executive Director
AIJA
1st Floor, 472 Bourke Street
MELBOURNE VIC 3000
Telephone: (03) 9600 1311
Facsimile: (03) 9606 0366
Email: gregory.reinhardt@law.monash.edu.au

WEB SITE

The AIJA web site is located at http://www.aija.org.au and provides information about the Institute and its research and education programs.