



Irish
Branch

CI Arb

ARBITRATION NEWS

The Newsletter of the Irish Branch of The Chartered Institute of Arbitrators

May 2006

Issue 22

CHAIRMAN'S ADDRESS



The Chairman James Macken SC and incoming Chairman Dermot Roughan

This will be my last word to you as Chairman, since I am due to step down from that office. I wish my successor Dermot Roughan well in his year in office and I have no doubt that the Branch will continue to thrive.

The most significant change in my year of office has had little to do with me. It is the vibrancy of the Young Members Group and their enthusiasm for organising meetings, lectures and functions. I have been amazed in the last few months by the manner in which this group has created its own Spring Revolution within the Branch. I feel that many of our members have been taken by surprise, but attendances are growing and so, I think, is the feeling among younger members that they can contribute to the life of the Branch and that they will be listened to. Please take the

time to come to as many of these events as you can: you will be well rewarded by an interesting and informative evening and, above all, by an enjoyable opportunity to meet fellow members.

James Macken
Chairman

COMMITTEE 2005-2006



The Committee at the Annual Dinner 2005

Top left to right: James Bridgeman, Past Chairman; Ruth Farrell; Joe Behan, Hon. Secretary; Michael Moran, Hon. Treasurer; Ciaran Fahy; Bernard Gogarty, Past Chairman; Dudley Potter

Bottom left to right: Johnnie McCoy, PRO; Rowena Mulcahy, Past Chairman; Dermot Roughan, Vice-Chairman (deputising for the Chairman James Macken SC); Emily McCormack; Brian Anderson

Items of Interest in this Issue ...

- Chairman's Address
- Committee
- Editorial
- Membership
- Book Review
- Events
- Article "Sports Arbitration in Ireland—the Story of the DRA and GAA So Far"
- Legal Brief

THE FOLLOWING WILL SERVE AS BRANCH OFFICERS FOR THE YEAR 2006-2007:

Chairman: Dermot Roughan
Vice-Chairman: Joe Behan
Hon. Secretary: Dudley Potter
Hon. Treasurer: Ciaran Fahy

Public Relations Officer: Johnnie Mc Coy
A full list of the Committee and the Chairmen of the sub-committees for the year 2006-2007 will appear in the next edition.

Editorial

Welcome to the latest edition of Arbitration News. One of our members, Mr. Larry Fenelon has kindly contributed an article concerning the dispute resolution system of the G.A.A. It is always interesting to see how others seek to resolve their disputes. Similar contributions from members on topics of concern or interest are most welcome.

In *Marshall v. Capitol Holdings Ltd. trading as Sunworld*, a challenge to the package holiday scheme was heard by way of judicial review before Mr. Justice Murphy. The plaintiff was dissatisfied by an arbitration award on liability and costs. The arbitrator was under subpoena but was released by the Court as he was *functus officio*. The Court has reserved its decision. *A. N.* will bring you a full report on the decision after it has been rendered.

New Committee Members

A word of welcome to the new Committee Members - Mary O'Rourke, a quantity surveyor, and John O'Brien, a dispute resolution consultant. *A. N.* wishes them both well during their time on the Committee.

Contact us!

Do we have your e-mail address? If not, please send it to us at ciarb@arbitration.ie. This will permit us to keep in contact with you without the administrative burden of printing letters, folding them and posting them!

Congratulations

Recently appointed to the High Court, Mr Justice Brian McGovern had a distinguished arbitration practice while at the Bar and was a past Chairman of the Irish Maritime Law Association. *A. N.* wishes him well in his new office.

Tony Quinn, who so kindly provides our legal brief, has had his second book "Wigs and Guns - Irish Barristers in the First World War" published. This most detailed and well illustrated account of those who perished is available at all good book shops.

Elections for the post of 2007 Deputy President / Vice-President

The candidate nominated by the Irish Branch for the post of 2007 Deputy President / Vice-President of the Chartered Institute of Arbitrators is Mr. James Bridgeman. See the website for further details.

MEMBERSHIP

A word of welcome to the following who were recently admitted to the Irish Branch

Mr. D. McNulty (Dublin)
Ms. M. Smith de Bruin (Kilkenny)
Mr. M. J. Moloney (Dublin)
Mr. J. Dalby (Co Westmeath)
Ms. E. Barrett (Dublin)
Mr. J. P. Carlin (Dublin)
Mr. M. Duddy (Dublin)
Mr. S. J. O'Doherty (Dublin)
Ms. K. V. Lodge (Co Kildare)
Mr. J. G. Clarke (Dublin)
Mr. L. P. Kerin (Clare)
Mr. T. A. Mannix (Co Kerry)
Mr. J. P. Browne (Co Dublin)
Ms. E. L. Callanan (Dublin)
Ms. A. P. McCrystal (Dublin)
Mr. R. O'Brien (Co Wicklow)
Mr P. A. Henderson (Belfast)
Mr. M. G. Adam (Co Limerick)
Ms. S. Baker (Dublin)

Ms. C. Eccles (Belfast)
Mr. D. Redmond (Dublin)
Mr. P. Marray (Belfast)
Mr. C. Toland (Dublin)
Mr. W. P. Kennedy (Dublin)
Ms. A. Riordan (Waterford)
Mr. G. J. Needham (Mayo)
Ms. M. Buckley (Co Limerick)
Mr. J. M. Long (Co Dublin)
Mr. R. Bourke (Dublin)
Mr. J. McNally (Co Offaly)
Mr. R. G. Brennan (Co Dublin)
Mr. V. Styles (Dublin)
Mr. M. Casserly (Sligo)
Ms. S. Lehane (Dublin)
Mr. M. Waldron (Dublin)
Mr. C. O'Cleirigh (Dublin)
Mr. J. G. Murtagh (Longford)
Mr. M. S. O'Neill (Dublin)

Mr. L. Keane (Co Meath)
Mr. N. P. Pritchard (Co Wicklow)
Mr. P. Walsh (Co Dublin)
Mr. J. J. Collins (Co Dublin)
Mr. G. Carty (Dublin)
Mr. J. F. Kerr (Co Cork)
Mr. R. E. Jefferson (Dublin)
Mr. K. V. Mulcahy (Dublin)
Mr. B. W. Funke (Co Westmeath)
Mr. D. M. Wilkinson (Dublin)
Mr. J. J. Morrissey (Dublin)
Mr S. Lee (Galway)
Mr. M. Bruton (Dublin)
Mr. J. P. McKenna (Dublin)
Ms. S. M. Ryan (Dublin)
Ms. C. O'Callaghan (Dublin)
Ms. L. Dunne (Co Kildare)
Mr. J. Anderson (Belfast)
Mr. M. Blake (Wicklow)

Book Review

Arbitration World, Jurisdictional Comparisons. European Lawyer Reference, 2nd edition. General Editor: W. Rowley Q.C. This is a welcome addition to any international arbitrator's library. The arbitral procedures and the jurisdiction of the following are reviewed by practising arbitrators: I.C.C., I.C.I.S.I.D, L.C.I.A, N.A.F.T.A., S. A. I., U.N.C.I.T.R.A.L. and the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. 24 countries are analysed. The areas reviewed include: the use of commercial arbitration; the law on arbitration; principal institutions; the role of the national courts; *competence-competence*; agreements to arbitrate; arbitrability; separability of arbitration clauses; qualifications and liability of arbitrators; party representation, place of arbitration/procedures; evidence gathering; interim measures/role of tribunal; taxation of fees; default proceedings and the arbitral award. These entries list areas of concern to any practising arbitrator as well as offering an insight into how other jurisdictions achieve their desired results. A copy has been kindly donated to the Branch library by Mr. K. Reichert.

Johnnie Mc Coy

EVENTS

Annual Dinner 2005

The Annual Dinner took place on the 11th of November, 2005 in the Dining Hall, Trinity College. The guest speaker was Mr Max Abrahamson, the First Chairman of the Irish Branch. Among the guests were Alva Brangam QC, The Bar Council of Northern Ireland; Paul Campbell, Chair of the Eastern Centre of the Chartered Institute of Building; Paid Cassidy, Past President of the Association of Consulting Engineers; Michael Cullinan, First Vice-President of the Royal Institute of Architects of Ireland; Desmond Byrne, Past President of the Society of Chartered Surveyors; Elma Lynch, Past President of the Law Society of Ireland; Joan O'Connor, Vice President of the Irish Taxation Institute; Colm O'hOisin, SC, The Bar Council of Ireland; Terence O'Rourke, Past President of the Institute of Chartered Accountants; Attracta Wilson, President of the Law Society of Northern Ireland.



Angela Roughan; Dermot Roughan, Vice-Chairman; Colm O'hOisin SC, The Bar Council of Ireland, and his wife Mary-Rose



Elma Lynch, Past President of the Law Society of Ireland; Attracta Wilson, President of the Law Society of Northern Ireland; Dermot Roughan, Vice-Chairman; Angela Roughan



Max Abrahamson, Guest Speaker; Angela Roughan; Dermot Roughan, Vice-Chairman



Joan O'Connor, Vice-President of the Irish Taxation Institute; Terence O'Rourke, Past President of the Institute of Chartered Accountants; Dermot Roughan, Vice-Chairman



Angela Roughan; Dermot Roughan, Vice-Chairman; Alva Brangam QC, The Bar Council of Northern Ireland, and his wife Rosemary-Jayne

Joint Conference of the Irish and the European Branches



The Joint Conference of the Irish and the European Branches of the Chartered Institute of Arbitrators took place on the 21st-23rd of October, 2005 at the International Arbitration Centre. It was generously hosted by The Bar Council of Ireland and

Quigg Golden Contract and Dispute Resolution Consultants. Speakers included The Hon. Mr. Justice R. Murphy (Dublin), Prof. N. Bunni (Dublin), M. Carrigan (Dublin), E. Stewart SC (Dublin), S. Shackleton (London), J. Kuckenbug (Paris), B. Hutchinson

/Cont. on Page 4/

EVENTS

Joint Conference of the Irish and the European Branches

/Cont. from Page 3/

(Dublin), D. Scott (Edinburgh), E. Birch (London), M. E. Appel (Dublin), W. von Kumberg (London and Zurich), J. Sturrock (Edinburgh), R. Ryde (Paris), R. Mulcahy (Dublin), Her Hon. Judge F. Kirkham (Birmingham), Judge K.P. Puszkajler (Munich), Judge S. Vrendenbarg-Elsbeek (Zutphen).

A selection of conference papers were published in the Journal of the Chartered Institute of Arbitrators, Vol 72, No. 1, February 2006.



Herber Reinold, Press Counselor, German Embassy; His Excellency Mr. Frank Myksa, Slovenian Ambassador; James Macken SC, Chairman of the Irish Branch; Andrew Burr, Chairman of the European Branch



The Hon. Mr. Justice Declan Budd; Her Honour Judge Frances Kirham; James Macken SC, Chairman of the Irish Branch; The Hon. Mr. Justice Richard Johnson; Andrew Burr, Chairman of the European Branch; Judge Sophie Vrendenbarg-Elsbeek; The Hon. Mr. Justice Roderick Murphy



Ercus Stewart SC, Speaker; Caroline Eccles, Quigg Golden Contract and Dispute Resolution Consultants; Brian Eggleston, Past President CIARB; James Golden, Quigg Golden Contract and Dispute Resolution Consultants



The Hon. Mr. Justice Roderick Murphy provided a comprehensive summing-up in a "view from the Bench"

Annual Lunch 2006

The Annual Lunch took place on the 10th of March, 2006 in Trinity College, Dublin. The event provided a good opportunity to socialize with the members of the Branch Committee and fellow members.



Dudley Potter; Beata Butnoriute, Administrator; Joe Behan, Hon. Secretary; James Macken SC, Chairman; Johnnie McCoy, PRO



Zora Farrell; Mark Fielding, Chief Executive, ISME; Patricia Crisp, Chairperson, IPFMA; James Macken SC, Chairman; Edward Quigg, Quigg Golden Contract and Dispute Resolution Consultants

Annual Kenneth McQuillan Lecture

The Annual Kenneth McQuillan Lecture was delivered by Mr. Peter Wolrich, Chair of the ICC Commission on Arbitration, on 8th of May, 2006 in The Davis Theatre, Arts Building, Trinity College, Dublin. The lecture was on "The ICC Rules for ADR and Dispute Board Rules".

Mr Wolrich was previously the Chair of the ICC Working Party on ADR which drafted the ICC ADR Rules. He has lectured on arbitration law and practice at various academic institutions and conferences around the world. He is admitted to both the New York and Paris Bars.



The Annual Kenneth McQuillan Lecture was delivered by Mr. Peter Wolrich, Chair of the ICC Commission on Arbitration

EVENTS

Young Members' Group Lectures

The Young Members' Group has been very busy organising two very stimulating lectures. The first lecture "I'm an Arbitrator, Why Bother to Adjudicate?" was delivered by Tony Bingham BL (London and Oxford) in March. This lecture will be published shortly. Details will follow.



James Macken SC, Chairman; Emily McCormack, Chairman of the Young Members' Group Sub-Committee; Tony Bingham BL, Speaker; Roy Sherlock, European Trustee and Hon. Treasurer of the Chartered Institute of Arbitrators.

The second lecture "Arbitration –You Don't Deserve It! Alternatives from Across the Water" was delivered by John Riches earlier this month. Mr Riches was the author of the J.C.T. form of contract as used in England and Wales.



John L. Riches, Speaker; Emily McCormack, Chairman of the Young Members' Group Sub-Committee; Joe Behan, Hon. Secretary, Chairman of Mediation Sub-Committee

Article

"Sports Arbitration in Ireland — the Story of the DRA and GAA So Far"



LARRY FENELON B.A. MCI Arb

In April 2005 the Gaelic Athletic Association introduced an independent arbitration body, the Disputes Resolution Authority (DRA), to administer arbitration for members of the GAA who had disputes within the Association and who had exhausted all avenues of internal appeal.

Prior to the introduction of the DRA the only remedy available to aggrieved parties was to seek relief before the Courts. Not only were such applications rare, particularly for players seeking to overturn suspensions, but they were expensive and subject to intense public scrutiny in the press. Neither player nor Association was well served in such an inap-

propriate forum.

Former GAA President Seán Kelly pressed for the introduction of an independent arbitration process as an alternative to the High Court. And so it came to pass that the DRA was established, some commentators say somewhat prematurely, in April 2005. Almost immediately the DRA heard its first case, the now infamous *Mark Vaughan* case. The first case mirrors the typical dispute now coming before the DRA - a player is suspended by a disciplinary committee for the commission of a red card offence and the decision is upheld by an appeals committee, thus prompting the aggrieved player to bring his dispute to the DRA to challenge the legality of the decision(s) and/or the fairness of procedures used.

While the above is typical, there are a variety of other disputes being arbitrated before the DRA arbitral tribunals, for example: -

- (i) boundary disputes in respect of catchment areas for clubs
- (ii) eligibility to play for third level colleges
- (iii) transfers from clubs
- (iv) fairness of investigations
- (v) legality of competition formats
- (vi) fixtures of games

In its first year, the DRA heard thirty-five cases, the majority of which were held in Dublin. Some cases were also held as far afield as London and New York. At the time of writing DRA tribunals have heard twelve cases in 2006. There can be no doubt that the introduction of the DRA has dramatically increased the access of players, clubs and counties to independent arbitration. The prohibitive cost of High Court actions had effectively precluded such parties from having access to justice. Now at last there is a

/Cont. on Page 6/

/Cont. from Page 5/

dedicated sports arbitration body which is unique to the GAA.

The GAA rulebook, “the Official Guide”, lays down the contractual framework between members and the Association for the resolution of disputes. It provides as follows:

“Members and units shall be bound to resolve any and all disputes that arise, within the framework of the existing procedures, the Appeals System, and the Dispute Resolution Provisions as set out in these Rules. Members shall not resort to Court Proceedings in disregard of these procedures, the Appeals System and the Dispute Resolution provisions.”

The DRA Code, the procedural rules which govern the arbitration process, provides:

“In the event of any dispute or difference between any member or unit of the Association with any other member or unit of the Association, as to the legality of any decision made or procedure used by any unit of the Association in pursuance of the Rules and Bye-Laws of the Association, which cannot be settled by amicable means within the Rules of the Association, such dispute may be referred by either party to Arbitration under the Disputes Resolution Code annexed to these Rules, as initially approved by Congress and from time to time amended by the Disputes Resolution Authority with the approval of Central Council.

Such Dispute Resolution shall be conducted in accordance with that Code and the Arbitration Acts 1954 and 1980 or any statutory modification or re-enactment thereof. The Rules of the Association and the Laws of Ireland shall govern such Dispute Resolution.

No member or unit of the Association may issue proceedings relating to any such Dispute in any Court of Law in any jurisdiction.

No member or unit of the Association shall refer such Dispute to Dispute

Resolution until all available avenues of Appeal under the Rules of the Association have been exhausted.”

While the DRA is independent of the GAA, it is unique to the GAA, as it does not perform an arbitral role for any other sporting code. The secretary of the DRA maintains a panel of nearly one hundred persons from which to choose a three-man tribunal. One third of the panel is composed of solicitors, one third barristers and the remaining third are persons 'who, by virtue of their experience and expertise in the affairs of the Association, are properly qualified to resolve disputes relating to the Rules of the Association'.

The **unique aspects** of this arbitral procedure include: -

- All avenues of appeal within the existing appeals system must be exhausted prior to proceeding to arbitration before the DRA.
- A claim before the DRA must be made within seven days of the last decision of the appeal committee.
- Any party requesting arbitration must submit an administration fee of €1,000 and a generic Request for Arbitration form. The Respondent will then have seven days to file a Response.
- Preliminary meetings occur quite often in order to narrow the issues, arrange a timetable for the exchange of witness statements, legal submissions, discovery documentation and documents to be relied upon.
- Mediation is provided for, but at the initiative of the parties.
- An arbitral tribunal of three persons hears the dispute. The members of the tribunal give their time on a voluntary basis however reasonable expenses are reimbursed.
- The tribunal is inquisitorial and it

is common at the hearing that the tribunal will present a number of questions to the parties and their legal representatives.

- The typical timeframe for the whole process from a Request for Arbitration to the Hearing is two to three weeks.
- There is special emphasis in the DRA Code on interim relief to facilitate for example a suspended player whose appeal has just been heard, but which is within days of a crucial championship match.
- To date, no applications have been made to the High Court seeking to set aside any decision of the DRA.

The DRA has established its own jurisprudence as all awards are recorded and set out on its website www.sportsdra.ie. Many decisions have been controversial. Indeed it is fair to say that the DRA has acted as a catalyst for change not only in the content of the Rulebook but also in respect of the application of the Rules of the Association. The unprecedented legal scrutiny on the GAA Rulebook has led to the establishment of a Rules Task Force Review Group, which has culminated in the reform of the disciplinary structures of the GAA in Congress 2006. Furthermore the bodies, which administer discipline within the Association, must now be acutely aware of rules of natural justice and fair procedures.

In summary, arbitration under the auspices of the DRA has revolutionised access to an independent justice system for GAA members. This is reflected in the huge numbers seeking to have disputes arbitrated. It has provided the long needed impetus to update disciplinary rules and to educate internal tribunals and committees in the administration of justice. The DRA is attempting to bring justice and fair play both on and off the field for all members of the Association. ■

FORTHCOMING EVENTS

Breakfast Briefing “Recent Developments in Irish Construction Law”

A Breakfast Briefing / Conference “Recent Developments in Irish Construction Law” will be held in association with the Institute of Civil Engineers and Surveyors (ICES) and Matheson Ormsby Prentice.

Solicitors from Matheson Ormsby Prentice will give presentations on the following three topics:

Outline of the New Strategic Infrastructure Bill

The Minister for the Environment, Heritage and Local Government has published the Planning and Development (Strategic Infrastructure) Bill 2006 which will amend the Planning and Development Act 2000 and provide for the introduction of a streamlined planning consent procedure for developments of strategic economic or social importance. Rhona Henry will outline the provisions of the proposed legislation.

Challenging Awards of Public Procurement Contracts

Relevant EU law regulating the Public Procurement process in Ireland can operate very strictly and require a pub-

lic authority to comply very closely with the prescribed processes. In this session Damien Keogh will detail some of the recent case law in respect of challenges to the award of contracts under the public procurement process.

A Legal Perspective on the New GCC Forms of Contract for Public Works

The GCC has for the last year or more been formulating new standard forms of contract for public works. Versions of the suite of documents were released (on a limited basis) in May 2005. Revised forms were issued in December 2005. Richard Stowe will review the changes made in the latest issue of the documents and will outline some of the issues that are concerning the industry from a legal perspective.

Venue: Engineers Ireland, 22 Clyde Road, Ballsbridge, Dublin 4. Date: Tuesday 13th June 2006. For details—see the Diary below.

Seminar in Mediator Training

Chairman of the Mediation Sub-Committee of the Irish Branch, Joe Behan, will be holding a CPD seminar in mediator training on the 7th July 2006, 2.30 pm—6.30 pm and on the 8th July 2006, 9.30 am—4.30 pm in Mont Clare Hotel, Dublin 2. The seminar is suitable for trainee and practising mediators.

The seminar will comprise the following:

- ◆ Four role plays to explore and analyse difficult situations in mediation
- ◆ D.V.D. mediation footage of a leading Mediator in

session

- ◆ General discussion forum

Topics

- ◆ Co-mediation / Assistants
- ◆ Advertising / P.I.
- ◆ Panels
- ◆ Peer Groups
- ◆ Current activity

Venue: Mont Clare Hotel, Dublin 2. Fee: €390 to include lunch on Saturday. Limited number of places still available.

Diary

Event	Details
Breakfast Briefing / Conference “Recent Developments in Irish Construction Law” in association with the Institute of Civil Engineers and Surveyors (ICES) and Matheson Ormsby Prentice	13 th June 2006, 8.00 am-10.30 am, Engineers Ireland, 22 Clyde Road, Ballsbridge, Dublin 4. Full Irish Breakfast will be served from 08:00 am to 8.30 am. Presentations will commence at 08:30 am. Fee: €50 per person. To book places please contact the Branch office.
C.P.D. Seminar in Mediator Training. Facilitator—Joe Behan, FCI Arb, Chairman of the Mediation Sub-committee	7 th July 2006, 2:30 pm—6:30 pm. 8 th July, 2006 9:30 am—4:30 pm, Mont Clare Hotel, Dublin 2, fee €390 incl. lunch on Saturday. To book places please contact the Branch office.
Golf Outing	8 th September 2006, Greystones Golf Club, Co. Wicklow. Further details will follow.
Introduction to Mediation. An Entry Course for Health Care Professionals. Successful candidates will qualify for Associate membership of the Chartered Institute of Arbitrators (ACI Arb)	15 th -16 th September, The Grand Hotel, Malahide. Further details will follow.

LEGAL BRIEF

Notes on cases and materials

Redahan v Minister for Education & Science and eleven others and by order, Michael MacNamee, High Court, Gilligan J 29 July 2005 (2001 no. 1434P), 2005 IEHC 271. Noted in *Bar Review*, legal update, vol 11, issue 1, February 06

Background

The thirteenth defendant, Michael MacNamee a barrister, was appointed arbitrator in a dispute about appointing a school vice-principal. The plaintiff was the successful applicant for the position, subject to Ministerial sanction and approval. Unsuccessful applicants named as eleven of the defendants appealed the appointment decision and the arbitrator allowed the appeals.

The Minister, named as the first defendant, instructed the school's management board to terminate the provisional appointment of the plaintiff who then issued court proceedings. The main basis for his claim was that the arbitrator exceeded his jurisdiction, and he sought a declaration that the decision was made without jurisdiction and /or was *ultra vires*. The plaintiff complained about delay and his exclusion from the oral hearing and breach of contractual and constitutional rights.

By notice of motion the arbitrator, the thirteenth named defendant, sought reliefs:

1. An order discharging the arbitrator from the proceedings.

2. Further or in the alternative

(a) an order under the Superior Court Rules, O19 R.28, striking out the plaintiff's claim against the arbitrator for damages and negligence on the ground that the plaintiff had no such cause of action against the arbitrator as defendant and that the said claim was frivolous and vexatious or

(b) an order directing that there was a question of law arising which should be tried as a preliminary issue for the Court's opinion.

3. Further and other relief and an order for costs

Issues included: Whether the arbitrator in a domestic case was immune from suit; immunity in absence of bad faith; joining the arbitrator as party to proceedings to set aside or remit award; *functus officio* and its consistency with joining arbitrator as party to proceedings.

Cases and textbooks referred to: *functus officio* -McClatchy Newspapers v Central Valley Typographical Union no 46, 686, F, 2nd 731, 733-34 (9th Cir), 459 US.1071 (1982); Hogan v St Kevin's Co [1986] IR 80; McStay v Assicurazioni Generali SPA [1980] IR 248; *Arbitration Law and Procedure*, Forde, 1994. Arbitration clauses binding by way of incorporation: Sweeney v Mulcachy [1993] ILRM 289. Arbitral immunity from suit and quasi-judicial nature of functions: *Arbitration Commentary and Sources*, Stewart, 2003; *Russell on Arbitration*, 22nd ed 2003 at p 154; Sirros v Moore [1975] QB 118; Manning v Shackleton [1996] 3 IR; Sutcliffe v Thackrah [1974] AC 727; Arenson v Casson Beckman Rutley & Co [1977] AC 405; Cahn v International Ladies' Garment Union, 311 F 2d, 113, 114-15 3rd Cir, 1962; Corey v NY Stock Exchange 691 F 2nd, 1205; 6 Cir 1982; Mond & anor v. Berger & ors [2004] VSC 150 citing Lendon v Keen [1919] KB 994

Held: The thirteenth named defendant was acting as arbitrator under the 1954 Act as amended. He was acting in a quasi judicial capacity sufficient to attract immunity from suit at common law in the absence of having acted in bad faith, which was conceded not to have been the case. Plaintiff did not satisfy the Court that he had a valid cause of action against the arbitrator who was discharged from the proceedings.

ANTHONY P QUINN, Barrister, FCI Arb

These notes are not intended as a legal opinion which should be sought if necessary.