

# THE CHARTERED INSTITUTE OF ARBITRATORS

## Irish Branch

### NEWSLETTER

Issue No. 5, June 1998

#### EDITORIAL

It is gratifying to see the arbitral process being reinforced over and over again when attempts are made to by-pass arbitration and seek litigation instead.

This judicial reaction applies to all forms of arbitration but I suspect that in the case of building disputes a further element is involved. When Judge Thomas Finley was in office he made the following comment. "Anybody who would remove from me the diligent and I hope patient consideration of damp-proof courses, the depth of foundations, armstrong junctions and I regret to say even the quality of door knobs on built-in wardrobes, is my friend not my enemy". In more general terms McCarthy J. commented "Arbitration is a significant feature of modern commercial life. It ill becomes the court to show any readiness to interfere with such a procedure. If policy considerations are appropriate, as I believe they are, in a matter of this kind then every such consideration points to the desirability of making an arbitration award final in every sense of the term".

This attitude is continued in some of the recent cases outlined in the arbitration case notes compiled by Anthony P. Quinn (*Carroll V Budget Travel* and *Manning V Shackleton* and *Cork County Council*).

Further signs of the vigour that remains in the arbitral process (despite some valid criticisms) are the inclusion of an arbitration centre in the new Bar Council headquarters in Church Street and the determination which is being shown by the Government in enacting the Arbitration International Commercial) Bill 1997.

But we must be vigilant to ensure that the criticisms that are being made of arbitration are not founded on substantial evidence. Too often arbitrators do not do all in their power to move the process along. While not possessing the specific power of the courts, there is no reason why parties submitting to arbitration, and their solicitors, should not be compelled by arbitrators to abide by pleading timetables particularly if these

have already been agreed by the parties. And the threat of proceeding *ex parte* could also be used to greater effect.

#### COMMITTEE

Chairman:	John E. O'Reilly.
Vice Chairman:	Michael Moran.
Honorary Secretary:	James Bridgeman.
Honorary Treasurer:	Ken McQuillan.
Branch Regional Representative on Council:	Bernard Gogarty.
ICC Irish National Committee:	Roderick Murphy / Nael Bunni. John E. O'Reilly / Ken McQuillan.

#### Sub-Committee Chairmen

Seminars & Functions:	Anne Bunni.
Schemes:	Roy Sherlock.
Law Reform:	Roderick Murphy.
UCD Diploma:	Michael Moran.

#### Committee Members

Brian Hutchinson, David Keane, Adrian Kearney, John McCoy and Vincent Martin

#### NEW HANDBOOK

The launch by the President of the High Court, the Hon. Mr. Justice Frederick Morris of Michael Carrigan's book, *A Handbook on Arbitration in Ireland* will take place on Tuesday the 16th of June at the Law Society, Blackhall Place.

This book will be an essential accessory for everybody engaged in the business of arbitration. While obviously being relevant to the work of members of the Institute, it is the kind of reference book that will be very useful to both sides of the legal profession. The experience of most members of the Institute is such that it is obvious that this book will fill a very much needed gap.

## NEW FELLOWS AND ASSOCIATES

### New Fellows

Sean Bagnall, James Bridgeman, Gerardine Connolly, Charles Corcoran, Brian Devaney, Paul Fogarty, William Holohan, Joseph Kelly, Gordon Mawhinney, Declan McGovern, and Thomas O'Donnell.

### New Associates

Fergal Altman, Kenneth Arlow, Christopher Callan, Gerald Comber, Mark Dunne, Michael Farry, Samuel French, James Gilhooly, James Golden, Colman Horgan, Damien Keogh, Martin Johnson, Brian Kearney, Daniel McCrystal, John Minihane, John Moran, Jimmy Muyanja and Ronan Rooney.

Congratulations to the new Fellows and Associates. They will be very welcome at all functions of the Branch. This group now brings the numbers in the Branch to 132 Fellows and 338 Associates

## TRAVEL ARBITRATIONS / COLLOQUIUM

A very successful and very well attended colloquium was held in the new premises of the Bar Council in Church Street on the 13th of May 1998.

The format consisted of presentations by Roderick Murphy and Roy Sherlock followed by a general question and answer session. If it might be suggested, without offence, the need for the colloquium was evident by some of the questions asked. It is proposed to hold further such events, as the continuing success of the "holiday schemes" is dependent on the service being operated by arbitrators who have an adequate and appropriate knowledge of the different emphases which arise from differing aspects of this form of arbitration as opposed to the more formal "court room" type references.

Under consideration at the moment is the establishment of a panel of suitable members from which appointments will be made for this scheme. Members would be asked to complete an application form and to engage, as in other professions, in a programme of continuing professional development.

## MICHAEL d'ALTON

The Annual General Meeting in April saw the end of Michael d'Alton's 17 year service on the committee of the branch. Michael, who became a member of the Institute in 1973, has been a member of the committee since the foundation of the Irish Branch in 1981. The thanks of all the members of the Irish Branch are due to Michael for these many years given to the service of the branch, and to the incisive questioning that he invariably directed at anything that he felt might not be quite in accord with the ideals of professional behaviour. The sympathy of all the members of the Branch is extended to Michael on the recent death of his wife Mabel.

## FORTHCOMING COURSES

**Entry Course:** Sept 11/13, 1998

**Fellowship Assessment Course:** Oct/Nov, 1998  
*(date to be confirmed)*

This course is for those who have successfully completed the Diploma in Arbitration Law.

**Special Fellowship Course:** Nov 6/8, 1998

This course is for practising lawyers and experienced arbitrators who wish to transfer from Associate membership to Fellowship. Those lawyers who wish to attend this course should have at least 10 years litigation experience. Non-lawyers must be experienced arbitrators and must have acted as an arbitrator within the past 3 years. Please note that acceptance of applications is entirely at the discretion of Headquarters in London.

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