

## 2006 President's Report – Year in Review

The 2005-2006 financial year has again been an active one for administrative law and for the Institute, as the attached activities of the Chapters indicate. The administrative law community has marked the thirtieth anniversary of the Commonwealth Administrative Appeals Tribunal, and the Administrative Review Council, both being celebrated in Canberra at events which were attended by many eminent practitioners in the field including Institute members. The first international Tribunals' Workshop was also held in Canberra, in April 2006 and the ANU College of Law's Annual Public Law Weekend had an administrative law theme for its November conference.

Evidence of the continuing interesting the activities of the Institute is provided by the membership figures which continue nationally to exceed 600. In the 2005/06 financial year there were 111 new members across all chapters as follows:

ACT	17	QLD	18
NSW	21	SA	8
VIC	28	NT	3
TAS	3	WA	12
NZ	1		

This level of interest is the more remarkable because of the increasing competition for people's time and commitment as other organisations representing specialist segments of the administrative law community establish separate organisations to cater for their particular interests. A challenge for the new Executive Committee and for the State and Territory Chapters is to present the Institute as the only organisation which focuses on the interests of all administrative law practitioners. Strategies to maintain the position of the Institute as the pre-eminent administrative law body require the monitoring of events to avoid any clash of timetables, co-operation with kindred bodies by co-badging activities, and where possible seeking accreditation for the grant of CLE points for attendees. A sub-committee of the National Executive has been established to produce an options paper on these and other strategies.

### National Forum

The annual National Forum this year entitled *Administrative Law: Protection of Individual and Community Interests* was held at Surfers Paradise on 22-23 June. The National Forum was co-hosted by the Northern Territory Chapter of the Institute, the final Chapter to organise the Forum, and by the Queensland Chapter. The Queensland Chapter hosted the first National Forum in 1994 and its co-hosting of the Forum in 2006 marks the commencement of the second cycle of State responsibility for running the national conference. The two chapters and in particular their Presidents and Committees are to be congratulated on a conference which was marked by its friendliness and relaxation.

The 2007 National Forum will be held in Canberra at the Australian Institute of Sport on 14-15 June 2006.

### National Lecture Series

The third of the biennial National Lecture Series was held in 2006. This year three National Lecturers were involved, all Solicitors-General. Mr Walter Sofronoff QC, the Queensland Solicitor-General presented his paper titled 'The Constitutional Writs' at the Queensland Banco Court, on 29 August 2006. The second National Lecture was given in Sydney at the Banco Court, on 30 August 2006 by the New South Wales Solicitor-General, Mr Michael Sexton SC on the topic 'Administrative Law: the New South Wales Landscape'. Commentary was provided Mr Keith Mason, President, Court of Appeal, NSW Supreme Court. The final of the three papers was given in Melbourne at the Victorian Banco Court on 13 September 2006 by the Commonwealth

Solicitor-General, Mr David Bennett QC on the topic 'Is natural justice becoming more rigid than traditional justice?' The three papers will be published in the special *AIAL National Lecture Series* journal, and will be the third of the series.

### **AIAL Forum**

This bumper year has seen the production of 5 editions of the *AIAL Forum*. This has largely been due to the efforts of Ms Alice Mantel, who replaced Dr Spry as co-editor and is now sole editor of the *Forum*. Early in 2006 Ms Mantel moved to Sydney and consequently resigned from the Executive Committee but has continued as editor of the *Forum*. Ms Mantel was responsible for the special 50<sup>th</sup> edition of the journal, a milestone in the relatively short history of the journal and of the Institute which was established as a Newsletter in 1989, becoming a journal only in 1994. Ms Mantel has also been active in promoting the *Forum*, both to State Chapters and to the wider administrative law community.

The Institute expresses thanks to Emeritus Professor Pearce, the longest standing editors of the *AIAL Forum*, who this year resigned having been a long-standing editor or co-editor of the journal, and to Dr Spry who resigned as co-editor on his return to Queensland.

The administrative law update segment of the *AIAL Forum* is to be provided by Mr Peter Prince, Commonwealth Department of Health and Ageing, a contribution which has been sponsored by that Department and for which the Institute is grateful.

### **Publication of Proceedings of National Forum**

It has been decided that no further hard copies of the proceedings of the National Forum will be published. The decision was prompted in part by financial constraints, but principally by the need to publish material after the conference quickly, on the website, thereby making it more accessible.

### **Institute Home Page**

It is pleasing to report that the Institute Home Page has a new URL – [www.aial.org](http://www.aial.org) - although the site can still be reached using the previous URL <http://law.anu.edu.au/aial>. The move marks considerable work which has been done to update and upgrade the site and make it more informative and the links more useful for users. Work on this project has largely been the responsibility of Ms Kathryn Cole, Mr Peter Sutherland, Executive Committee members, and Mr Fabian Serena, the Institute's webmaster. The increased willingness of State Chapters to supply information about forthcoming events has also contributed.

### **Institute Bye-laws**

At the instigation of the Victorian Chapter, the processes were activated to amend the Institute Byelaws to enable an expansion of the membership of the Committees of State Chapters.

### **Honorary membership**

The proposal to make Emeritus Professor Dennis Pearce an Honorary Member of the Institute, on his retirement from the Executive Committee, was passed unanimously and with acclamation. The proposal was to recognise his service on the Committee over many years, including as President, and his contribution to activities such as the biennial essay prize competition and the *AIAL Forum*. Emeritus Professor Pearce is only the third person to be accorded this honour. The other two are Professor G Sawyer (now deceased) and Mr R Todd, also a former President and long-standing Executive member.

### **Other honours**

The Institute notes with considerable pleasure the awarding of an Order of Australia (AO) to The Hon Justice Margaret Beazley, the long-standing President of the NSW Chapter of the Institute.

### **Secretariat**

The Institute continues to be supported ably by its secretariat Mr Jenny Kelly and Ms Jessica. Despite some changes in staff, their professionalism and willing assistance, particularly in running the National Forum but also throughout the year enable this voluntary organisation to run efficiently and effectively for its members. Ms Kelly has recently undertaken to begin compiling a database of electronic addresses not only of members but also of others who have, by their attendance at Institute seminars or conferences indicated an interest in Institute affairs. This will enable a wider circulation list to be used to publicise forthcoming events for all Chapters.

### **Executive Committee**

This year has seen the resignation of several of the members of the Executive Committee. Ms Alice Mantel, moved to Sydney, but will continue as editor of the *AIAL Forum*, Dr Max Spry, a former editor of the *AIAL Forum*, to Brisbane, and Emeritus Professor Pearce retired. Ms McIntyre, the Treasurer, resigned to take maternity leave but it is hoped will return. At the annual general meeting, Ms Linda-Anne Griffiths, the Executive Committee's victualler, and participant on sub-committees, and Ms Hilary Manson, a former editor of the *AIAL Forum*, will be retiring from the Committee. Our thanks are due to them all for the support they have provided to the Institute and to the Committee.

I want to thank all the members of the Executive Committee for their support to the organisation and to me during this past twelve months. In particular, the AIAL would not function without the indefatigable work of its Secretary, Mr Stephen Argument and the excellent supervisory and practical input from its Treasurer, this year serially undertaken by Ms Amanda McIntyre and in her absence on maternity leave, Mr David Fintan.

I wish the new President and Executive Committee well for the forthcoming year.

Robin Creyke  
President, AIAL

## **AIAL CHAPTER ACTIVITIES 2005-06**

### **NATIONAL OFFICE CANBERRA**

17 November 2005 - Michael McKinnon, FOI Editor, The Australian and Madeline Campbell, Senior Executive Lawyer, AGS 'Information access: Still an accountability tool?'

December 2005 – Mr K Curtis, Commonwealth Privacy Commissioner "Current issues in privacy"

14 February 2006 - Dr Max Spry & Michael Will 'From Barratt to Jarratt: public sector employment, natural justice and breach of contract'.

12 April 2006 - Philip Coppel and Madeline Campbell 'Freedom of Information Act (UK) and Freedom of Information Act (Cth): Are there lessons we can learn from each other?'

2 May 2006 - Associate Professor France Houle, Visiting Fellow, ANU College of Law, Commentator: Stephen Argument "Reviewing the social & economic impact of regulations: are judges up to the task?" (with Centre for International & Public Law, ANU)

1 August 2006 – The Hon Simon Sheller AO QC, "Counter-Terrorism Legislation – Some Public Law Issues"

22 September 2006 – Ms Renee Leon, Chief Executive Officer, ACT Department of Justice and Community Safety, 'ACT Tribunals: Options for Structural Change', co-hosted with the ACT Chapter of the Council of Australasian Tribunals.

10 October 2006 – Prof John McMillan, Commonwealth Ombudsman and Mr Matthew Moore, FOI Editor, Sydney Morning Herald 'FOI after McKinnon v Treasury – dead or just rebalanced?'

24 October 2006 – Ian Govey, Deputy Secretary, Commonwealth Attorney-General's Department, Rayne de Gruchy, Chief Executive Officer, Australian Government Solicitor, Denis O'Brien, Partner, Minter Ellison Lawyers "Outsourcing Legal Services? Boon or Bane?"

### **NSW CHAPTER**

21 July 2005 - Justice J Basten, Supreme Court of NSW and Professor C Harlow QC, FBA London School of Economics, 'State Liability in Tort: Administrative Law Aspects' a seminar conducted in conjunction with the Administrative Law Section Group, NSW Bar Association.

August 2005 – The Hon Justice P McClellan, Chief Judge, Land & Environment Court and Ms Linda Pearson 'The Executive and the Judiciary: A Potential for Conflict' a seminar conducted in conjunction with the NSW Chapter of the Council of Australasian Tribunals.

9 November 2005 – Ms Kate Morgan, Barrister, Ms Penny Musgrove, Office of the Commonwealth Director of Public Prosecutions 'Procedures for Protecting Legal Professional Privilege in the face of the Commonwealth's search and seizure powers'

22 May 2006 – Mr Stephen Legomsky 'Administrative Decision Making: the War on Independence' and Ms France Houle 'The use of guidelines by administrative tribunals'.

30 August 2006 - Hosted one of the three National Lectures, Sydney, presented by the NSW Solicitor-General, Mr Michael Sexton SC 'Administrative Law, the New South Wales Landscape', with commentary by Justice Keith Mason, President Court of Appeal, NSW Supreme Court.

26 October 2006 - Dr James Renwick 'Public Law: Recent Developments in the War on Terror'.

#### NORTHERN TERRITORY CHAPTER

Co-organiser of the National Forum, Administrative Law: Protection of individual and community interests, Surfers Paradise, 22-23 June 2006.

P Shoyer, NT Information Commissioner, Joint Presentation with the NT Law Society 'Your dog bit my car! Freedom of information as an access tool for lawyers and clients'.

#### QUEENSLAND CHAPTER

Seminar on 'Natural Justice' by Dr Max Spry attended by about 30 people.

22-23 June 2006 - Co-organiser of the National Forum, Administrative Law: Protection of individual and community interests, Surfers Paradise.

29 August 2006 - Hosted one of the three National Lectures, Brisbane, presented by the Queensland Solicitor-General, Mr Walter Sofronoff 'The Constitutional Writs'.

#### SOUTH AUSTRALIAN CHAPTER

2005 – Mr E Biganovsky, SA Ombudsman, "Reflections on 20 years in the Ombudsman's Office"

2005 – Professor J McMillan, Commonwealth Ombudsman 'Lessons from the Palmer Report'

4 August 2005 - Marten Kennedy, from the AGS 'The Administrative Law role of the Australian Government Solicitor', 30 attendees

October 2005 - Annual Students' Forum.

2 December 2005 - Christmas function - Dr Stephen Churches, Law School, University of Adelaide - 20 attendees.

5 April 2006 - Ms Leena Sudano, SA Health & Community Services Complaints Commissioner 'Health & Community Services Complaints: Tell someone who cares! - An introduction to the Office of the Health & Community Services Complaints', 40 attendees.

9 May 2006 - Ms Kath McEvoy and Ms Wendy Eyre 'Tribunals and Courts: The shifting role of the Advocate', 25 attendees

#### TASMANIAN CHAPTER

2005 - Ms J O'Grady, outgoing Tasmanian Ombudsman, reflected on her role. 50 attendees.

#### VICTORIAN CHAPTER

13 September 2006 - Hosted one of the three National Lectures, Melbourne, presented by the Commonwealth Solicitor-General, Mr David Bennett QC 'Is natural justice becoming more rigid than traditional justice?'.

28 September 2005 – The Hon Justice R Finkelstein, 'Crossing the Intersection: How Courts are navigating the 'public' and 'private' in judicial review', subsequently published in 48 AIAL Forum. 85 attendees.

17 November 2005 – Mr G Brouwer, Victorian Ombudsman and Director of Police Integrity addressed the AGM of the Victorian Chapter.

March 2006 – Seminar on immigration law.

April 2006 – Professor R Douglas 'Intersection of administrative law and the criminal law'.

24 May 2006 – Professor J McMillan, Commonwealth Ombudsman .

18 October 2006 - Mr Justice Chris Maxwell " Appeals from Discretionary Decisions: Is Sentencing a Special Case?", commentary by Mr Paul Holdensen QC.

#### WESTERN AUSTRALIA

July 2005 – "Hot Topics' from the National Forum"

September 2005 – re-run of presentation on administrative inquiries made to the National Forum by Ms L Warbey and Ms H Simpson

February 2006, seminar on sporting tribunals

March 2006, seminar on anti-terrorist legislation.

April 2006, seminar on the first year of operation of the State Administrative Tribunal.