Editor's commentary

by GRANT HOLLEY

Welcome to the first issue for the year 2000. Members will notice that this 'March' issue of *the arbitrator* is late. The Institute apologises for this. Members can expect further issues in July and November. It is a time of change and excitement for your Institute. The Institute executive is currently scouting for a new Chief Administrative Officer. In the meantime we are fortunate to have Graham Keen as our Acting Chief Administrative Officer.

The first year of the Professional Certificate in Arbitration and Mediation has been a success and there are new students doing the course this year. I welcome new members of the Institute and readers of *the arbitrator*. It is my hope that *the arbitrator* will provide you with a practical aid and valuable reference source. I invite you to contribute to the journal and you may do so by sending contributions to the editorial office marked to my attention. Contributions should be relevant to arbitration and/or mediation and be not longer than 4000 words.

This issue contains sufficient variety to provide everyone with some interest: George Golvan, QC, one of Australia's most experienced mediators, considers the evolution of mediation from "innocence... through experience... to a pragmatic stage" in asking the question 'A decade of mediation – the promise fulfilled?'. There is an interesting look at the range of Alternative Dispute Resolution methods in China by Craig Riviere which, as well as being of interest to arbitrators and mediators, is useful reading for anybody advising businesses that wish to operate in China. Of considerable practical relevance is Dr Clyde Croft's article, 'How pro-active should an arbitrator be?'. Arbitrators, quite rightly, are under pressure to provide a real alternative to litigation. However, the requirements of natural justice and the consequences of 'misconduct' under the *Commercial Arbitration Act* often leave the arbitrator wondering how pro-active he or she can be. In this lengthy and learned article Dr Croft examines the boundaries of pro-activeness both in the preliminary stages and at the hearing.

In addition to the articles there are case notes in the matters of *Liskeard Pty Ltd v. Stevens Constructions Pty Ltd* (1999) SASC 551, which was a successful application for leave to appeal from an arbitrator's award as to costs and *Leung v. Hungry Jack's Pty Ltd*, a decision of Mr Justice Hedigan of the Victorian Supreme Court in which an application for leave to appeal an arbitrator's interim award as to jurisdiction was not successful.

I thank the contributors to this issue of *the arbitrator*.

Comments from members as to what they would like to see in their journal are welcome.

Grant Holley, *Editor*