

and runs in-house training courses within organisations and corporations. Drawing from the writings of Carl Jung and from Japanese Aikido techniques, it promotes the philosophy of resolving one's own conflicts first, through self-improvement and self-knowledge, thus enabling any violence or conflict from the environment or individuals to be resolved in a non-violent manner. Contact the Network on 02 419 9500 or 02 419 2720 for more details.

**The Mediation Association of Victoria (MAV)** was formed approximately three years ago to provide a forum for those involved, or having an interest, in mediation. Membership is open to interstate residents. Included in its activities are the running of workshops to share knowledge and skills among practitioners. Contact the Association at GPO Box 127A, Melbourne, Vic, 3001.

**Mediation Association of Queensland.** This organisation was formed in June 1989 by a group of lawyers, mental health therapists and conflict management practitioners. More formal developments are underway with plans for a constitution and implementation of the aims and objects of the Association. Contact Roslyn Lian, St Paul's Terrace, Spring Hill, Qld, 4004. Telephone 07 839 9144

**South Australian Dispute Resolution Association.** The inaugural meeting of SADRA was held in June 1989, its objects, among others, being the promotion of dispute resolution mechanisms in South Australia and the role of third parties in dispute resolution. Members include lawyers, academics, social workers, teachers, mediators, arbitrators, police and correctional service officers. Information can be obtained by contacting Dale Bagshaw, South Australian Institute of Technology, North Terrace, Adelaide, SA, 5000. Telephone 08 236 2399.

**The Conflict Resolution Service of the ACT** which offers mediation and conciliation services in interpersonal and intergroup disputes, initially operated from March 1989 on a trial basis. In July 1989, the ACT Government announced a provision of \$100,000 in the draft ACT budget for 89/90 to fund the Service. The first AGM in July 1989 ended with an invitation for people to become involved as members and to train as mediators. The first mediation training course has been undertaken and a second course is planned. Contact David Purnell, President, Conflict Resolution Service Inc, PO Box 337, Civic Square, Canberra, ACT, 2608. Telephone 062 54 1111.

**The NSW Community Justice Centres,** Department of the Attorney-General, are developing their training for outside organisations. Rather than providing an off-the-shelf training course, CJC personnel will develop an appropriate process and relevant training directed to the needs of the particular organisation, whether court-related or not. For further details contact Linda Fisher, Office of the Director, telephone 02 212 2526.

## **NSW LIBERAL GOVERNMENT SUPPORT FOR ACDC**

The Australian Commercial Disputes Centre was established by the Wran Labour Government and that Government indicated that it expected NSW Government Departments and Statutory Authorities to support the Centre by using its services in the resolution of disputes.

According to an article in the Sydney Morning Herald on 1 September 1989, Mr Nick Greiner, the Liberal Premier of NSW, "determined to slash the Government's estimated \$11 million-a-year litigation bill", has ordered his Ministers and their departments to steer clear of the courts in favour of the Australian Commercial Disputes Centre.

Whilst the newspaper article describes this support as a second setback for the legal profession since Mr Greiner came to power (the other being the failure to restore full common law rights in workers' compensation cases), the Premier's actions in "strongly advocating the use of the Australian Commercial Disputes Centre" is understood to have been intended really as no more than a statement of endorsement and support for the Centre by the Liberal Government along the same lines as the previous Government's support.

The Premier's memorandum states:

"The Centre places emphasis on the inexpensive and speedy resolution of commercial disputes with strict confidentiality being maintained at all times.

Procedures used, particularly in mediation and conciliation, are flexible and can be tailored to suit the needs of the parties. In mediation and conciliation, differences between the parties can be resolved by pragmatic, business-orientated means, rather than by strict adherence to legal principles.

All areas within your administration should be encouraged to use the facilities and services provided by the Centre wherever possible so as to achieve settlement of disputes ..... rather than by resorting to the court's system."

-JT

## **QUEENSLAND BAR ASSOCIATION LAUNCHES DISPUTE RESOLUTION SCHEME**

**The Queensland Bar Association has announced the introduction of a Dispute Resolution Scheme, designed to help disputants settle commercial and personal disputes outside the formal court system.**

The President of the Queensland Bar Association, Mr Gary Crooke QC, said the initiative reflected the Association's belief that mediation and arbitration could play an important role, to complement the role of the courts which will continue to deal with most disputes.

The scheme is the first of its kind to be launched by any of the Australian Bars. It is a radical step for The Bar Association, which has never before advertised the serv-

ices of its members, or dealt directly with the parties to a dispute.

The scheme is being marketed, in particular, to Queensland's building and construction industry as a faster and more economical alternative to conventional litigation. The aim of the scheme is to provide the parties with the choice of resolving a dispute privately, quickly, cheaply, and with the least disruption to personal and business relationships.

Under the scheme, disputing parties have access to panels of experienced barristers and former judges, who are available for appointment as mediators to assist the parties towards settlement of disputes, which otherwise would go to court.

The range of procedures available under the scheme will vary according to the individual circumstances and complexity of the disputes in question. They range from the informal processes of mediation and conciliation, to arbitrations, where a binding award is made.

An appointment can be made in cases where the dispute requires access to specific expertise, in a particular area of law or practice. Mr Crooke said such areas could encompass matters as diverse as banking and finance, local government disputes, construction contracts, maritime dispute, or motor vehicle accidents.

He said that the scheme's hearings would normally be conducted in the private chambers of the barristers concerned. However, for larger or more formal cases, outside hearing rooms could be hired. It was expected that the disputing parties would seek the assistance of their own legal representatives.

Mr Crooke said that parties entering into contracts should consider the merits of inserting a specific clause, calling for an attempt at mediation prior to the arbitration or litigation of any dispute.

Further details of the services available under the scheme are available from the Queensland Bar Association.

Further information please contact:  
Mr Charles Brabazon QC  
Qld Bar Association  
Telephone (07) 229 2709

**AGREEMENT FOR APPOINTMENT OF FACILITATOR**

Issue #8 of the Newsletter, November 1989, included a draft Agreement by Sir Laurence Street for Expert Appraisal With Provision For Mediation. In this Agreement, the expert's determination is expressed to be final and binding upon the parties and the expert is not required to give reasons for the determination.

Whilst suitable for many disputes, there are likely to be circumstances where a non-binding determination, without prejudice to the parties' legal rights, is preferred by the parties. In such circumstances, in the event that attempts at a mediated settlement are not successful, it is likely that the parties would prefer a

determination with persuasive reasons, to ensure the greatest potential for resolution of the dispute on the basis of the determination.

The Agreement set out below provides for Mediation and non-binding Expert Appraisal; it was used recently with success in a major construction dispute. The Agreement has been reprinted with the permission of the parties, their solicitors (Westgarth Middleton, Sydney, contact Ron Finlay or Peter Smith and Morris Fletcher + Cross, Sydney, contact Doug Jones) and the Facilitator. It should be noted that, in this particular matter, the Facilitator was prepared to accept a provision for prompt payment instead of security for the Facilitator's costs and to forego a cancellation fee, in the event that the matter was settled prior to the conclusion of the time allocated for the process. The Agreement contains provisions which the Facilitator insisted upon for protection in relation to involvement in subsequent proceedings.

**Agreement For Appointment Of Facilitator**

X and Y requests Z to accept appointment as Mediator and Expert Appraiser ("Facilitator") in the dispute between the parties in respect of the ... project on the following conditions and Z accepts that appointment on those conditions:

1. The rules that shall apply are annexed.
2. Z's fees shall be:
  - 2.1 \$ ... per day (or part thereof) of any hearing day.
  - 2.2 \$ ... per hour (or part thereof) for preparation for the hearing, preparing an appraisal and any other time spent performing the function of Facilitator.
  - 2.3 Any reasonable out-of-pocket expenses including travel, accommodation and meals.
  - 2.4 Submitted monthly and paid equally by the parties within fourteen (14) days.

Dated .....1989

.....  
Signed for and on behalf of X

Dated .....1989

.....  
Signed for and on behalf of Y

Dated .....1989

.....  
Signed by Z