

Foreword

The Irish Branch of the Chartered Institute of Arbitrators

The early years 1981-1993

Peter E. O'Malley
FCI Arb, RIAI, RIBA.

Dip Arch Tech, BA (hons)Arch, PGDip UD, PGDip ID, PGDip
Arch,

PGDip (Construction Law & Contract Administration), MSc
(Construction Law & Dispute Resolution), Dip Adjudication,
Dip International Commercial Arbitration.

Chartered Architect, Urban Designer, Interior Designer,
Arbitrator, Mediator, Conciliator and Adjudicator.

I am honoured to have been asked by Peter O'Malley to write the Foreword for this retrospective on the early years of the Irish Branch of the Chartered Institute of Arbitrators (CI Arb). As Patron of the Irish Branch of the CI Arb, which this year celebrates its 40th anniversary, it is fascinating to be taken back to 1981 when myself and six of my fellow members, Max Abrahamson, Michael D'Alton, Gordon Aston, Wilfrid Cantwell, Ken McQuillan and Tim Sullivan, became founder members of the Irish Branch. Together we presided over the establishment of what has become a leading centre of excellence for arbitration and alternative dispute resolution on the island of Ireland. It has also become and continues to be one of the most successful branches of the CI Arb, worldwide.

Written using available minutes and memos retained over the years, this history of the Irish Branch, starting with its initial conception in 1977 and formal foundation in 1981, is an intriguing window into the world of the various industrious committees that the Branch owes its success to. Many of the events and key moments detailed in this history I remember well.

Peter is correct in saying that throughout its pioneering years, there were many junctures and cross-roads that sparked some controversy and much debate amongst its committee members. In particular, and captured perfectly in the text of this book, was the crisis of identity that the branch suffered for over three years. Resolved with the adoption of the branch Rules at the EGM in 1993 along with a formal endorsement of the name CI Arb Irish Branch, the issue was finally put to bed.

The many successes of the branch are also catalogued. From the hosting in 1988 of the first CI Arb Annual Conference held outside the UK to the enormously successful education programme that developed over the years and continues to this day. Also mentioned are the innovative

arbitration schemes drafted and operated for the Irish Travel Agents Association (ITAA) the Construction Industry Federation (CIF) and the Society of Chartered Surveyors (SCS).

By 1993, Peter notes, there were eight sub-committees working on various tasks for the branch from seminars and education to law reform and Northern Ireland. All these committee and sub-committee members gave their time and abundant energy voluntarily. Their dedication to the Institute was evident in the extent of activity in which they were engaged.

For me, one of the most important elements of this history is that not only does it charter the origin and initial development of the Irish Branch of the CI Arb, its successes and innovations, but it also sets out the maturing of arbitration as a method for dispute resolution. Another equally significant point documented though the branch minutes is the merging practice of conciliation and mediation which, as early as 1981, were becoming increasingly popular in their use as alternatives to arbitration. Given where we are today with the progress made in Alternative Dispute Resolution (ADR), this is most interesting.

A principal point to emphasise is the influence of the Irish Branch committee through these prevailing years in relation to law reform. Although the full changes to legislation did not come into force until the publication of the Arbitration Act 2010, their endeavours should not go un-noticed.

Finally, I would like to commend Peter O'Malley for his diligence and dedication in collating this impressive history of the CI Arb Irish Branch. I echo his disappointment at the apparent absence of documents and minutes post 1993 and trust that this publication will prompt those involved in branch activities over the years to be alert to past branch documents should they appear in the future.

Dr Nael G. Bunni
October 2021



Photograph courtesy of Bill McLaughlin

Chair Ciaran Fahy with past Chairs of the CI Arb Irish Branch

Back row: Johnny McCoy, Joe Behan, John O'Reilly, Bill McLaughlin, Dermot Roughan, Michael Moran.

Front Row: Dr Nael Bunni, Rowena Mulcahy, Ciaran Fahy, Roderick Murphy, Max Abrahamson.

A photograph from 2008 of the then Chair Ciaran Fahy and 10 past Chairs of the CI Arb Irish Branch, see Appendix A for the full list since founding. Dr Nael Bunni, as the present Patron of the branch, is the only surviving founding member. In reflecting the high profile of the branch there are three members who have held the honour of being past Presidents of the Chartered Institute of Arbitrators worldwide, Dr Nael Bunni, (2000) Joe Behan (2016) and Jim Bridgeman (2018) who is not in the photograph.

Introduction

The Institute of Arbitrators was established in London in 1915. The primary aim of the Institute was *'to raise the status of a professional arbitrator to a distinct and recognised position among the learned professions'*¹ specifically, by means of the *'study of the law and practice of arbitration.'*² However, it was not until 1979 that a Royal Charter was granted to allow the Institute to be known as the Chartered Institute of Arbitrators (CI Arb). In 1990 the Institute was registered as a charity in the United Kingdom (UK) with the objective of promoting and facilitating the determination of disputes by arbitration, and other methods of dispute resolution, as an alternative to determination by the courts. The origins of the Irish Branch of the Institute can be traced back to 1977 when there were fifty-seven members of the Institute of Arbitrators in Ireland,³ in addition to an unknown number of members in Northern Ireland. The Irish Branch was formed in late 1981 where after an invitation to members many expressions of interest were received.

This brief history seeks to record the early years of the Irish Branch of the CI Arb which, at the time of writing in 2021, is now celebrating its 40th anniversary year. As with many charitable and volunteer organisations, where immediate day to day concerns must take priority, the records of past activity are vulnerable to loss, and the Irish Branch is no exception. The branch has never had the benefit of premises of its own. The various relocations of branch records over the years, and the once extensive library, has resulted in much of this material being misplaced or lost. It therefore seems fitting in this 40th year that some of the branch records that have now been rediscovered can be made more accessible through

¹ The Right Hon. Lord Headley, first President of the Institute, Annual meeting of the Institute (1915) J. Inst.Arb.8.

² n.1.

³ Handwritten notation on a letter from the Institute of Arbitrators to John O'Reilly, 18 November 1977.

this retrospective. It is incredibly fortuitous that the activity of the early years of the branch was assiduously recorded by two of past Honorary Secretaries, William (Bill) McLaughlin and Anne Bunni, both of whom would later become Chairs of the Irish Branch. These extensive paper records, that now form part of the branch archive, are not easily researched without time and patience. They have now been arranged in chronological order and form the primary source from which this history has been prepared.

Although it was tempting to seek to identify and discuss individual themes in structuring this history, it was felt that, apart from possibly disorienting the reader by way of chronology, this approach would allow too much latitude for interpretation. Instead, the structure is in the form of consecutive years, from the inception of the branch in 1977 through to the end of the present records in 1993. This approach allows the reader to orient chronologically through the correct sequence of past events. The papers themselves, and the direct quotes from them, are the basis upon which the industry, activity, challenges, controversy and development of the early years of the Irish Branch, are recorded. I hope that with the benefit of reading this history the extraordinary breadth of progress made and increasing influence during the early years of the branch can be fully appreciated.

From modest beginnings the Irish Branch of CI Arb was to become the preeminent organisation in the promotion of arbitration and various other formal processes to resolve conflict, that today are referred to as Alternative Dispute Resolution (ADR).⁴ The branch, with a core of

⁴ The term ADR is credited to Professor Frank Sander who in 1976, at the Pound Conference in the United States, coined the term 'Alternative Dispute Resolution' (ADR) to account for the use of 'alternative ways of resolving disputes outside the courts.' Sander in promoting ADR advised that *'the goal is to reserve the courts for those activities for which they are best suited and to avoid swamping and paralyzing them with cases that do not require their unique capabilities.'* 'Varieties of Dispute Processing' (1976) *Federal Rules Decisions: Addresses delivered at the National Conference on the causes of Popular Dissatisfaction with the Administration of Justice.'*

experienced and considered, yet enormously enthusiastic, members quickly established itself as a centre of expertise and learning that was to become respected internationally. The branch sought to bring reform to the area of dispute resolution through a full reconsideration of the prevailing legislative context, with access and influence at the highest levels of the government.

But the branch was not without its problems, the breadth of differing opinion across its membership naturally created debate and sometimes controversies. Through its ambition and commitment to create positive change the branch faced challenges, some of which were described as grave in having far-reaching consequences. However, the measured approach of the committee and its members in having the courage to address and resolve these challenges is very much part of the firm foundation on which the branch exists today.

It is unfortunate that there appears to be no substantive records after December 1993 to allow a continuation of this history. It could be that these records do exist and are simply awaiting discovery, to allow the next chapter to be written. As for this chapter, the Irish Branch owes an enormous debt of gratitude to Bill McLaughlin for retaining the early branch records of the procedural, organisational and social history of the branch in its formative years. I owe a special thanks to Bill McLaughlin for making these irreplaceable records available as the basis of this history. I would also like to acknowledge the contribution of additional letters and documents donated by the family of John O'Reilly.

If there are any mistakes of fact or errors, they are of my own making where I trust they will not be significant enough to distract from the overall understanding.

Peter E. O'Malley
October 2021

For a copy of this book

Please contact Peter O'Malley at

peter@peteromalley.ie

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+353 (0)83 020 3000

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