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**Book review**

The mediation wisdom of John Haynes

Laurence Boulle

Review of John Haynes,
Gretchen Haynes and Larry Sun Fong,
Mediation – Positive Conflict Management
(State University of New York Press, US, 2004)

John Michael Haynes was known to many Australian mediators. He travelled to this country on several occasions, presented seminars and workshops, produced training videos, and, together with that other doyenne of mediation Stephanie Charlesworth, produced a local version of his family mediation text, Haynes and Charlesworth, *Family Mediation* (Federation Press, 1996). Sadly John is no longer with us but he has left behind his books on mediation going back to 1981, memories of his training courses, and his vibrant videos characterised by his elegance of attire and language and compelling body language, particularly his hand motions.

John Haynes also left us a valuable literature and the current book adds to it. *Mediation – Positive Conflict Management* is dedicated to John Haynes and comprises contributions from him and Larry Fong, with a foreword by Robert Benjamin, and it ends with the draft of a speech he prepared for delivery in Vienna shortly before he died. Among the topics covered are mediating business partnership disputes, mediating

employment issues where there are allegations of sexual harassment, mediating in relation to adoption and parent-teen problems, and managing teacher-parent conflicts. There is an appendix on the extensive publications and professional activities of John Haynes and a brief outline of his life from his birth in 1932 until his death in 1999.

John Haynes shared with mediators and the broader world much of his mediation wisdom and one of his unique contributions to the mediation community was his provision of full transcripts of his mediations, with annotations of the dialogue; in this book there are also summaries of interviews conducted with clients post-mediation. In sum this constitutes a wealth of mediation wisdom.

John Haynes' conceptual approach to mediation is significant in that he saw it as being derived from therapy and law but also as being independent of both in having its own theoretical foundations. While this is not a text on mediation theory, it is a theoretical text in that it draws principles from practice and adds these to a pre-existing set of values to constitute the Haynes intellectual framework.

In his chapter on mediating a business partnership dispute Haynes draws

implicitly on narrative theory to assist him in understanding the true nature of the dispute. In the dialogue the mediator shows considerable persistence in defining the dispute appropriately. His predominant intervention is the question, beginning with broad open questions and moving on to more probing, reflective and hypothetical questions. There is little stridency in his tone and considerable reliance on the business parties to undertake the hard work of defining the problem, understanding each other's needs and eradicating unproductive negotiating strategies.

During the adjournment the parties are each given the same four clear assignments relating to borrowing options, loan duration, production costs and market penetration. On resumption of the mediation the focus is on the future, mindful of the fact that the business is the goose that lays the golden eggs. The mediator assists the parties in determining which issues are central and which are marginal, and in the ensuing dialogue a new meta-story, involving modified roles for each side, emerges. Mediator questions on a future-with-a-difference help the parties to focus on their real long term interests. To assist him in providing a sense of direction, the mediator works with a series of hypotheses, which are discarded and replaced if they prove to be of no further utility.

In this mediation the participants subsequently identified the following factors as significant: the way the mediator maintained a sense of balance in his treatment of the parties, the division of the problem into manageable parts, the focus on the real issues affecting the parties, and the mediator's task-minded approach in the process.

In his chapter on mediating sexual harassment issues Haynes discusses the problematic question of how the mediator gains acceptance by the participants, even where the employer has chosen, and is paying, the mediator. Interestingly Haynes favours the counter-intuitive approach: he advocates against the mediator opening with a

statement of his neutrality because this could reinforce employee fears rather than allaying them. He suggests two other sources of reassurance, namely the maintenance of absolute confidentiality and parties' right to leave the process at any stage. One of six basic tenets of this

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kind of mediation is that mediation is not about finding the truth since these disputes are about perceptions not truth. In the pursuit of the truth the mediator will end up changing his or her role to that of judge, and face the possibility of losing the clients. In this context Haynes asks the 'offender' to speak first so that the mediation might start with an admission and avoiding the complainant playing the 'victim' from the beginning.

In his other chapters Haynes provides similar insights and ideas from parent-adolescent and teacher-parent mediations. It goes without saying that his views and principles are moulded by both his idiosyncratic approach to dispute resolution and the cultural context in which he works. They are all highly debatable. Many in Australia, for example, would disagree with his absence of pre-mediation contact and intake and while he does not discuss this issue he was known to have preferred the spontaneity and lack of preconception which derives from meeting the parties for the first time at the mediation room. This approach also allows for a greater emphasis on storytelling and avoids the over-analytical logic which can emanate from over-preparation.

For Haynes, the consummate professional, there was no simple dichotomy between the professional and

the personal, and the moral groundings of his Quaker background were manifested in both domains. In his training courses John used to urge mediators to find the goodness in their clients, something which is not always easy in practice. In practical terms this

amounted to a fundamental respect for the parties, a factor highly regarded by clients interviewed after having him act as mediator.

In the Viennese speech he could not deliver personally John Haynes commented on the ways in which mediation challenges and changes the lives of mediators. For him becoming a good mediator influences us to be better people and enhances our impact on social growth. For him one thing we can learn from mediation is to avoid judgment and promote understanding in our lives. Haynes also insisted that the great problem with human interaction is that so much of it is spent living in the past and staying focused on what happened and why. From mediation we can learn to live in the present, experiencing what happens when it happens. He had a sign on his desk which read, 'I'd rather succeed than win' – a wise slogan for the mediation fraternity.

For those who met John Haynes personally and fell under his spell this will constitute a lasting tribute to his ideas, insights and inspirations. For others this book will be a more prosaic reference-work on the noble ideals of mediation practice. ●

*Laurence Boule,
General Editor.*



diary and happenings

- **Creative Facilitation: A Manual for Group Leadership and Conflict Management** is an essential resource for managers, mediators, human resources officers, teachers and all those who regularly work in groups. It provides new ways of analysing and managing conflict as well as working with resistance. The author, **Peter Condliffe**, is a Barrister (Victoria), specialist mediator and facilitator, and Director of Mediate and Facilitate Australia. RRP is \$75 (GST and postage included). Contact the author at <pcmediate@bigpond.com> or 03 9225 6888 to order your copy.
- The **Australian Institute for Relationship Studies**, the professional training division of Relationships Australia, is offering a post graduate course in mediation. The **Graduate Certificate in Mediation** consists of four units and the first unit will be commencing in October 2004 and February 2005. This course provides opportunities for students to choose from two specialities – Workplace Dispute Resolution and Family Dispute Resolution. Please contact (02) 9806 3288 or visit <www.relationships.com.au> for more information.
- The **Institute for the Study of Conflict Transformation, Inc** at Hofstra University School of Law is hosting the **First National Conference on Transformative Mediation** entitled 'Looking Back, Looking Forward: Transformative Practice Ten Years after "The Promise of Mediation"' on 7-8 November 2004 in Philadelphia, PA. For more information visit <www.transformativemediation.org> or email <jenniferjorgens@earthlink.net>.
- The United States **National Centre on Dispute Resolution (CADRE)** is convening the **Third National Symposium on Dispute Resolution in Special Education** on 2-4 December 2004 at the Academy for Educational Development, Washington, DC. The registration fee is \$325 USD. Visit <www.directionservice.org/cadre/2004_conference.cfm> or email <cadre@directionservice.org> for more information.
- **LEADR** is holding its **8th Australasian Dispute Resolution Conference** on 10-11 March 2005 at the Swiss Grand Hotel, Bondi, Sydney. For more information, or to express interest, visit <www.leadr.com.au>.

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