

BALANCE

OF THE NORTHERN TERRITORY

BALI CRIMINAL LAWYERS CONFERENCE 2001

Justice Mark Weinberg of the Federal Court of Australia presented the keynote address on day one of the week long eighth biennial criminal lawyers conference held at the Bali Hyatt Hotel, Sanur Beach from 25 — 29 June 2001. At the time of print delegates from around Australia were gathered to hear from members of the Australian judiciary, legal practitioners, policy makers, forensic experts and academics on criminal law issues. July edition of *Balance* will contain comprehensive coverage and photos of the event.



Justice Mark Weinberg

The conference, with the theme *The criminal justice system: serving the community or giving it a serve*, was opened by Northern Territory Solicitor General Mr Tom Pauling QC on behalf of the Attorney General Mr Denis Burke on Monday 25 June.

Justice Weinberg's paper, titled "Sentencing law and practice — a threat to judicial independence?", examined mandatory and discretionary sentencing practices throughout Australia, America and Canada and the impact of those practices on judicial independence and accountability.

"Recent developments in sentencing law and practice in Australia have raised questions as to whether State and

Territory governments have encroached too far upon judicial independence," Justice Weinberg told delegates.

His conclusion was that legislation in Australia which operates to provide a more structured sentencing discretion is not necessarily incompatible with judicial independence. Nor is the development of guidelines sentencing such as are used in NSW. Justice Weinberg argues that mandatory sentencing as exists in WeA and the NT, however, is different.

"It is plainly arguable that [mandatory sentencing] is incompatible with the principle of judicial independence. The removal of the courts' discretion is a matter in a profoundly important as the sentencing of individual offenders is a step not to be taken lightly," said Justice Weinberg.

The second keynote address of the week will be given by Chief Justice John Doyle of the Supreme Court of South Australia who will consider issues raised by the conference theme.

The conference, organised from Darwin by the Criminal Lawyers Association of the NT in conjunction with the Criminal Law Section of the Law Institute of Victoria, has become a prestigious event on the legal calendar. This year 120 delegates attended the week long event.

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