

CONFERENCES

2 October - 6 October 2002
8th International Criminal Law Congress
Melbourne
Jon Tippett
Tel: 08 8981 6833
Fax: 08 8981 6837
jcat@octa4.net.au
Suzan Cox
Tel: 08 8999 3000
Fax: 08 8999 3099
suzan.cox@ntlac.nt.gov.au

10- 12 October 2002
PIAA International Section Conference 2002
Sydney, NSW
Tel: 02 9954 4400
Fax: 02 9954 0666
PIAA@dconferences.com.au

17 - 18 October 2002
Detention, Decisions & Dilemmas
Melbourne, Vic
Tel: 03 9509 7121
Fax: 03 9509 7151
conorg1@optushome.com.au

20 - 22 October 2002
3rd AIJA Technology for Justice Conference
Sydney, NSW
Tel: 02 9241 1478
Fax: 02 9251 3552
techjust@icmsaust.com.au

26 October 2002
Medico-Legal Conference
Gold Coast, Qld
Tel: 07 3365 1492
m.moriarty@law.uq.edu.au

26 - 31 October 2002
Youth + Family
Melbourne, Vic
Tel: 03 9417 0888
Fax: 03 9417 0899
youthandfamily@meetingplanners.com.au

27 - 31 October 2002
Union Internationale des Avocates (UIA) 46th Congress
Sydney, NSW
Tel: 02 9241 1478
Fax: 02 9251 3552
uiasydney@icmsaust.com.au

13 - 17 April 2003
13th Commonwealth Law Conference
Melbourne, Australia
Tel: 03 9820 9115
Fax: 03 9820 3581
comlaw@mcigroup.com

29 June - 5 July 2003
Criminal Lawyers Association of the Northern Territory 9th Biennial Bali Conference
Bali
Tel: 08 8981 2549
Fax: 08 8981 2596
wildlyn@hotmail.com

1 - 5 September 2003
18th LAWASIA Biennial Conference
Tokyo, Japan
Tel: 61 9 8946 9500
Fax: 61 8 8946 9505
lawasia@lawasia.asn.au

NOTICEBOARD

Federal Court Notes October 2002

Prepared for the Law Council of Australia and its constituent bodies by Thomas Hurley, Barrister, Vic., NSW, ACT (Editor, Victorian Administrative Reports)

Migration - Validity and operation of s476 of Migration Act

In *NAAV v. MIMIA* ([2002] FCAFC 228; 15.08.2002) a Full Court of five justices considered the validity and operation of the privative clause enacted in October 2001 in s474 of the *Migration Act 1985 (Cth)*. All five justices concluded that s474 was not invalid for restricting access to the Courts or usurping judicial power. The Court generally observed the provision would protect a decision of the MRT which involved an error of law such as the definition of "special need relative" provided the Hickman principles were satisfied. However the Court, by majority, held that the provisions of the Act concerning cancellation of visas contained inviolable requirements which if not followed would not be protected from judicial review by s474.

Migration - Tribunal - Misapprehension of Applicant's case

In *W217/01A the MIMA* ([2002] FCA 892; 1.08.2002) Lee J concluded the RRT erred in concluding an Applicant had fabricated birth certificates without sighting them. He

concluded the RRT misunderstood the Applicant contended he had converted to Islam when the Applicant's case was that the authorities would regard him as such. Application allowed.

Procedure - Representative proceeding - Individual settlement offers

In *Courtney v. Medtel P/L* ([2002] FCA 597; 1.08.2002) Sackville J concluded the provision for representative proceedings in Part IVA of the *Federal Court Act* did not envisage the Court having a role in endorsing or approving any settlement offer made by a Respondent to an individual member of the representative group.

Income tax - Deduction - Compound interest in split loan

In *Hart v. Commissioner of Taxation* ([2002] FCAFC 222; 26.07.2002) the taxpayer financed the purchase of a new residence by a mortgage which capitalised interest on the former residence which was retained as an investment property. The primary Judge found that while the interest paid on the global mortgage was deductible the arrangement was subject to the anti-avoidance provision in Part IVA of the ITAA. This conclusion was reversed by the Full Court on appeal and the taxpayer allowed the full deduction.

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