

# DCLS 2004 membership drive

Interested in law reform? Want to get involved? Do you want to see the law deliver justice? Put the red back in red tape? Why not join Darwin Community Legal Service! Membership is cheap and the rewards are priceless.

Darwin Community Legal Service Inc provides legal advice and casework to disadvantaged people in and around the Top End of the NT.

Generalist legal advice is provided at free legal advice sessions which are held weekly in Darwin, Casuarina and Palmeston. A number of outreach sessions are also held in and around town.

DCLS conducts some casework, focussing on human rights or public interest matters.

DCLS also provide specialist welfare rights, disability discrimination, legal services, and aged and

disabled advocacy.

And on top of all that we identify barriers to justice and seek to overcome them by way of law reform and/or community legal education

DCLS Inc is an incorporated association with a community-based Management Committee. It also has Advisory Committees that provide advice and assistance to our specialist services.

The Disability Rights Advisory Committee and Aged Care Rights Advisory Committees are permanent sub-committees of the Management Committee. Advisory committees are established from

time to time to oversee projects, undertake consultation, develop policy and so on.

Members have the opportunity (but there is no obligation) to participate in a range of DCLS activities. Or become a member of the Management Committee or an Advisory Committee and have say in priority setting and future directions for the organisation.

All this *and* a warm inner glow for just \$5 a year for individuals, \$10 for organisations.

For more information contact Caitlin on 8982 1111.①

## Advocacy far flung cont...

senior from the Auckland and Fiji Bars is off on a tangent. The trust can't be retrospectively validated, he says, because it is not a trust as incompletely constituted. He argues that the 10,000 shares the subject of the trust, out of 20,000 issued, of the same class, are not a fungible part of the whole (but see *Hunter v Moss* [1994] 3 All E.R. 215 (CA)). Que? If it's not a 'settlement', no EC approval is required and we win the appeal, but there's all sorts of other downstream complications and consequences to that one. The Court thinks so too, and won't let him go there as it was not raised below and involved evidence not called below.

As I sit there, nervously enjoying the judicial fire hose being directed at my learned opponent, and awaiting my turn, it becomes clear the Court thinks the trust deed, if a settlement or agreement under s.31 ECA, can't be invalid until retrospective validation is refused. As Rumpole might have said, "Precisely my point, my Lords". Just then, my junior, Babu Singh passes me a document. Sweet Charity. There, in my perspiring hand, signed

only this morning, is the Minister's retrospective validation. We're valid! Wow! There is a god!

When its my turn to speak, I'm deliberately, if uncharacteristically humble. "Your Lordships, I feel obliged to tell you I've just been handed a certificate of validation, signed just this morning." If I had blinked, I'd have missed it, but their Lordships actually laughed. The Court decides that the trust deed was a settlement which, absent prior approval, could be, and in this case was, saved from invalidity by retrospective validation. Honours are even so each party bears its own costs. I'm reminded, yet again, that so often in appeals, the issue is less how the Court below got there, but whether it was right or not.

I've really enjoyed my trips to Fiji. It's a bit third world, but it has English, Australian, New Zealand and home spun common law, which is taken very seriously. It's statutes are shorter and simpler, and by comparison with ours leave a lot to the imagination. Their Companies Act is ours of the late 70's for

example. There's a lot of expat Australian, New Zealand and English judges in their High Court, and serving and retired judges from Australia and New Zealand sit on their appellate Courts. Fiji doesn't have our luxurious courts, our computer and information systems, generous and up to date law libraries, our ongoing skills upgrading, advocacy training, all the trappings of modern Australian city legal practice. But it seems to work well. The practice of the law in Fiji is obviously interesting and dynamic. There, as all around the world, it is lawyers who stand up in the face of tyranny. Respect for the rule of law is palpable, and the independence of the judiciary is highly valued. One thing we especially share in common is friendly and dedicated Court and Registry staff.

The Fijian people are delightful.

Will I return. I'd love to.

As Rob Sitch might have said, there's always a judicial review somewhere.①