



Judicial Conference of Australia

Comments by the Judicial Conference of Australia upon a reported speech by the Queensland Chief Magistrate Judge Carmody

The Judicial Conference of Australia certainly agrees that all judicial officers should be conscious of the limits of judicial power, ensuring that it is exercised always according to law.

Some of the language used by Judge Carmody is not familiar in the context of a discussion of the doctrine of the separation of powers and the principle of judicial independence. But if Judge Carmody, in referring to bail and sentencing cases, was meaning to say that courts should apply the relevant statutes and established case law, unaffected by their personal views of the merits of the law and uninfluenced by the views of the Executive branch of Government or some other interest, then the JCA would agree.

The issues surrounding judicial comment upon the merit of legislation are complex and, in fairness to Judge Carmody, cannot be explained shortly. However, where legislation goes to what Britain's senior judge, Lord Neuberger, has described in this context as "the heart of the functioning of the judicial branch of the State", some comment can be appropriate.

Justice Philip McMurdo
President
Judicial Conference of Australia
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The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.

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