



Judicial Conference of Australia

Media release by the President of the Judicial Conference of Australia 22nd March 2018

The following is the text of a letter sent on behalf of the President of the JCA, Justice Robert Beech-Jones, to the Editor of *The Australian* in response to the article “Don’t quarantine judges from criticism” published on page 2 of that newspaper on 20 March 2018. Part of this letter was published in the newspaper on 22 March 2018.

Various statements made in the article “Don’t quarantine judges from criticism” on page 2 of *The Australian* repeat the mischaracterisation of the statements made by the three Ministers of the Commonwealth Government, concerning the Victorian Court of Appeal in June of last year. The comments in the article overlook the distinction between criticism of Court decisions and the reasoning of

the judges who make them on the one hand and personalised sledging of individual judges on the other.

In June 2017, the three Ministers were reported as stating that the Victorian court system is “a forum for ‘ideological experiments’” and that three Victorian Court of Appeal judges hearing an appeal involving the Commonwealth were “hard left activists” and “divorced from reality”. At the time the Ministers’ comments were published, the appeal had not been decided. None of the statements attributed to the Ministers involved a comment on any identified decision or judgment of a Victorian court.

None of the contributors referred to in the article “Don’t quarantine judges from criticism” (including the author of the article on page 13) squarely confront the fact that the Ministers’ statements were not a commentary on Court decisions, but instead were co-ordinated personal abuse by Ministers of the Commonwealth directed at three judges who had heard but not yet decided an appeal which directly involved the Commonwealth. Abuse of that kind is capable of casting doubt on the legitimacy of the Court’s ultimate decision on the appeal because the perception may arise that, if it allows the appeal and

increased the sentence, the Court responded to the abuse but, if it dismissed the appeal, the Court reacted against the abuse.

The distinction between commenting upon and criticising the umpire's decision on the one hand, and personally abusing the umpire before (or after) they make a decision on the other, is well understood on sporting fields every Saturday morning across the country. It should not be difficult for it to be recognised and respected elsewhere.