



Judicial Conference of Australia

**Media release by the Vice-President
of the Judicial Conference of Australia
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Disrespectful conduct legislation opposed by judges' association

On 5 July *Adelaide Now* reported that the South Australian Attorney General wants to introduce legislation creating a specific new offence for anyone who intentionally engages in disrespectful conduct before the court. She was reported as saying that the changes to the legislation would help preserve “the authority and dignity of the courts”.

“The proposed legislation would have the opposite effect,” the Vice President of the Judicial Conference of Australia, Justice Judith Kelly said today. “It risks impeding the ability of judges to manage their own courtrooms and to deal with inappropriate behaviour. Judges and magistrates already have the power to deal with people who are rude, refuse to stand, swear or otherwise engage in inappropriate behaviour.”

“Judges and magistrates can deal with such behaviour under existing contempt laws,” she said. “They can impose fines or prison sentences that are not limited in amount as would inevitably be the case under legislation. What the proposed legislation will do is to take away that power and give it to the executive. This impinges on the doctrine of separation of powers and threatens the independence of the judiciary. In other words, its main effect, if enacted, would be to detract from ‘the authority and dignity of the courts’.

“The power to control proceedings in the court room belongs to the judge, as does the power to punish those who do the wrong thing. That is where it should remain. For example, a judge of the Supreme Court may consider particular behaviour warrants a term of imprisonment for contempt. It would be totally inappropriate for the executive to pre-empt that by prosecuting the offender in the Local Court and seeking a fine.”

“The Judicial Conference of Australia does not normally comment on matters of policy or proposed legislation,” said Justice Judith Kelly, “But in cases such as this, where the proposed legislation adversely affects both the powers and the independence of judicial officers, the Judicial Conference of Australia is under an obligation to bring these matters to the public’s attention.”

The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.

For further information, contact Christopher Roper, Judicial Conference of Australia Secretariat: secretary@jca.asn.au | 0407 419 330

The President and Vice-President of the JCA are not available for broadcast or television interviews on this matter.