



Judicial Conference of Australia

Letter to the Editor of *The Australian*

5th July 2018

Dear editor,

The JCA would like your readers to be aware of the unjustified nature of the comments made by the NSW Minister for Police on The Ray Hadley Morning Show on 2GB radio on Wednesday 4 July, as reported in *The Australian* on 5 July. The minister is reported as having told 2GB Radio that he was “absolutely appalled at this sentence of Wilson” and that “everyone is so disgusted” because the Magistrate did not apply “section 25AA” .

Like anyone else, government ministers are entitled to criticise decisions of courts, including sentencing decisions, if they consider the criticism warranted. However, when it comes from a government minister, the expectation is that the criticism should be informed by a prior reading of the decision in question, and where reference is made to the law, it should be stated accurately.

The minister criticised the adequacy of the sentence handed down to Archbishop Philip Wilson in strong terms without any reference to the sentencing remarks in which the magistrate gave detailed reasons for the sentence imposed, setting out and discussing all of the relevant considerations, including the maximum sentence prescribed by the legislature which is imprisonment for 2 years.

The minister has also misstated the relevant law. The minister’s reference to “section 25AA, the sentencing of child sexual offences” can only be a reference to Section 25AA of the *Crimes (Sentencing Procedure) Act 1999* (NSW) as introduced by schedule 3 of the *Criminal Legislation Amendment (Child Sexual Abuse Bill 2018)*. The bill has been passed but it has not yet been proclaimed

to come into force. Not only that, the provision, when it does come into force, will not apply to the charge the Archbishop was convicted of. The Archbishop was not charged with a “child sexual offence” as defined by this legislation. He was charged with and found guilty of an offence under s 316 of the *Crimes Act* of concealing a serious indictable offence.

The Magistrate was required to apply law as in force at the time of the decision – and to sentence the Archbishop for the offence for which he was he was convicted.

Once again, it seems that a court, and an individual magistrate, has been unfairly used as a political football in a manner which can only harm public confidence in our system of criminal justice.

Yours faithfully

The Hon. Justice Judith Kelly

Vice-President