

Judge rues 'personal baggage' of colleagues

A RETIRED High Court judge has accused fellow judges of carrying "personal baggage" when giving decisions.

Ian Callinan, who was appointed to the High Court in 1998 and retired a day before his 70th birthday in September, was critical yesterday of some of his colleagues and aspects of the legal system.

His comments came as he was appointed an honorary fellow of the Institute of Arbitrators and Mediators Australia at a function in Brisbane.

"If a judge is bringing to a constitutional question his philosophical baggage, and he or she probably will have some sort of philosophical baggage, there is an obligation, I think, to make it clear what that philosophy is, and to be absolutely candid about it," Mr Callinan said.

"When I was at the bar, I sometimes thought, and not just in constitutional cases, that judges were not always as candid about their real reasons for deciding a case as they might have been."

Mr Callinan, who heads the national commission of inquiry into the equine influenza outbreak, criticised High Court judgements as "too long, too wordy and too numerous".

Judges often strayed beyond issues, there was too much citation and quotations, and a trend to "rubber stamp" the findings of facts, he said.

"There has also been, in my opinion, a collective defensiveness on the part of some judges about reversing other judgements," Mr Callinan said.

He pointed to deficiencies in the adversary system, such as cases taking too long and costing too much. "We have to be careful in the admirable endeavour of making litigation more efficient," he said.

He also reflected on retired life, describing himself as a "free spirit", and his time as a High Court judge as "onerous and constraining".

"In retirement I do feel something of a sense of liberation," he said.

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