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ARTICLES

Judicial Education in Australia: A Contemporary Overview – Gabrielle Appleby, Jessica Kerr, Suzanne Le Mire, Andrew Lynch and Brian Opeskin

The Veil of Judicial Appointment in Australia: Why Opaque Selection Promotes an Independent Judiciary – *Sebastian Mazay*

The opaque judicial selection process in Australia theoretically maintains an independent and impartial judiciary. Application of game theory modelling from the field of economics reveals that opaque selection is more likely to result in the selection of non-partisan judges in the long run. Partisan judges pose a significant risk to judicial independence as they are beholden to political parties. In Australia, consultation, shortlisting, conventional considerations and selection of judges are protected through Cabinet confidentiality as well as broadly defined administrative discretions. This article compares Australian processes to the public selection and scrutiny processes of the United States. It finds that the publication of judicial selection increases the likelihood of retaliatory partisan court appointments. ... 207

Making Judges in a Recognition Judiciary – Jessica Kerr

Judiciaries in Commonwealth jurisdictions like New Zealand are still constituted through the "recognition" of pre-existing merit within the pool of senior lawyers. The state does not take proactive responsibility for the generation of competence to judge in advance of appointment. That is, increasingly, a pressure point for the long-term maintenance of justified public confidence. This article considers the ongoing sensitivity in discussing judicial professional competence, and the value in confronting that sensitivity prior to the moment of "recognition", when the veil of judicial independence descends. Developments in judicial appointments, oversight and post-appointment education speak to mounting pressures on the inherited model but cannot wholly relieve those pressures. To do so requires the embrace of specialised professional preparation for judging. In exploring the scope for legitimacy-enhancing change within the existing New Zealand system, the article advocates greater academic engagement with the professional lives of future judges. 217

Reform to the Law of Consent: A Tale of Two States – Anthony Gray

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