

JOURNAL OF JUDICIAL ADMINISTRATION

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ARTICLES

Problems with expert evidence: Are single or court-appointed experts the answer? – *The Hon Justice Garry Downes AM*

There has been a good deal of criticism of the adversarial bias of expert witnesses. One solution offered is limiting expert evidence to one witness selected by the parties or appointed by the court. This article suggests that adversarial bias in expert witnesses is not so concerning. It is often no more than the very desirable practice of exposing different perspectives. It is a fallacy to consider that there is only one answer to a question of expertise. Single experts will give more weight to their own perspectives. Just as it is the role of a judge to resolve difficult conflicts of fact, so it should be the role of a judge to resolve conflicts in expert evidence. This is achieved by evaluating the different perspectives presented by the evidence. A better response to problems with conventional expert evidence is the use of concurrent evidence which preserves the advantages of evidence from different perspectives while avoiding some of its problems. 185

Meaningless versus meaningful sentences: Sentencing the unsentenceable – *Jelena Popovic*

Low-level offenders whose offences do not warrant a term of imprisonment and who are homeless, poor or mentally impaired regularly provide sentencing dilemmas for magistrates. Some offenders are not able to pay a fine or have lives which are too chaotic to enable them to comply with community corrections orders and suspended sentences, or to undertake to be of good behaviour. This article provides examples of offenders who are “unsentenceable”, examines existing sentencing options and their applicability to these offenders and considers alternative sentencing possibilities. 190

Defining judicial independence: A judicial and administrative tribunal member perspective – *Kristy Richardson*

In order for judges to apply the law impartially, it is essential that they be, and be seen to be, independent. This article outlines the results of a recent survey which explored how members of the judiciary and administrative tribunal members considered judicial independence could be defined. 206

Court TV: Coming to an internet browser near you (update, developments and current issues) – *Daniel Stepniak*

This article argues that the acceptability and success of audiovisual coverage of court proceedings is determined by the presence of a culture of rights, the availability of suitable technology, and courts’ acceptance of such coverage as being in the interest of the administration of justice. Rather than focusing on the effects of such coverage – which

cannot be conclusively established – the issue needs to become one of courts facilitating public access to recordings. Noting recent developments in Australia and comparable overseas jurisdictions, the article identifies the internet as a viable and proven means for such court involvement. Courts’ streaming of their own recordings removes the need for courts to rely entirely on the media, provides the public with convenient and unprecedented levels of access, eradicates concerns relating to disruptive, selective, sensationalist or misleading coverage, and importantly, enables court to retain control of recordings. 218

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