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ARTICLES

RECOMMENDATIONS TO ALLEVIATE GENDERED, RACIAL AND SOCIO-ECONOMIC INEQUALITIES IN THE ADMINISTRATION OF THE BAIL SYSTEM

Catherine Bugler and Alice Muir

Decades of reactive amendments to bail legislation have estranged bail from its purpose: to protect personal liberty and the presumption of innocence. These politicised changes have undermined fundamental criminal justice principles and contributed to an incarceration crisis. Disadvantaged groups – particularly women, people experiencing homelessness and Aboriginal and Torres Strait Islander people – disproportionately bear the brunt of this injustice. We examine the court's role in administering an inflexible system that traps vulnerable offenders in a cycle of stringent bail conditions and escalating tests which worsen existing inequalities. We make eight recommendations as to how court administrators can ameliorate these systemic inequalities. We propose court administrators proactively communicate with bailees, adopt flexible bail conditions, use court processes to avoid show cause situations, change how bail listings are managed, accommodate social services within court houses, engage in community-led cultural education and gather data about bail applications. 249

THE LAW OF RECAPTION AND THE PPSA

Anthony Duggan

Section 123(1) of the *Personal Property Securities Act 2009* (Cth) provides that if a debtor is in default, the secured party may repossess the collateral "by any method permitted by law". The quoted words incorporate into the statute by reference the common law rules governing the recaption of chattels as modified by other applicable statutes. The purpose of this article is to survey the current state of Australian law on recaption in the context of secured transactions, to identify the extent, if any, to which force against either a person or property is permissible in the repossession process and to explore the secured party's options in cases where the debtor resists an attempted repossession. 264

TRIBUNAL JUSTICE AND POLITICS IN AUSTRALIA: THE RISE AND FALL OF THE ADMINISTRATIVE APPEALS TRIBUNAL

Matthew Groves and Greg Weeks

The Administrative Appeals Tribunal (AAT) was a landmark reform designed to provide a streamlined form of tribunal review that was a quicker and simpler alternative to judicial review. The defining power of the AAT is its ability to conduct review on the merits by an independent agency. That independence has come under challenge through the dramatic rise of appointments to the AAT of members with close political connections to the government of the day. The number and timing of these appointments have caused considerable public controversy. The AAT was so beleaguered by political appointees that it will be abolished. This article explains how institutional reforms made in the name of public sector efficiency laid the groundwork for the controversial appointments that followed. The article also argues that, while independence and suitability of members are important, the standing of institutions such as the AAT depends on other institutional factors. 278

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