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Executive Detention in the Time of a Pandemic – *Anthony Gray*

The global COVID-19 pandemic has raised many important legal issues in Australia. One was the legality of proposed detention of an individual at the behest of an authorised person, on the basis the person was considered likely to breach the lockdown measures. Though the Victorian Government eventually abandoned this contentious proposal, it raised significant controversy, and is considered worthy of examination in this article. 198

Deference as Non-jurisdictional Error – *Charlie Rotondo*

Unlike in the United States and Canada, Australian administrative law does not recognise a doctrine of deference to executive interpretations of statute. Although the High Court has never been called to conclusively decide whether a doctrine of deference could exist in Australia, its obiter in *City of Enfield v Development Assessment Commission* and orthodox understandings of the separation of powers suggest that such a doctrine would be inconsistent with the Constitution. This article attempts to show that, while accepting a strict separation of powers, a doctrine of deference can operate alongside existing judicial review doctrine. By reviewing the distinction between jurisdictional and non-jurisdictional errors of law, I show that the validity of an administrative decision can be protected even where it is inconsistent with the construction a reviewing court would give to the relevant statute. 217

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