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ARTICLES

THE ANTI-DEPRIVATION RULE IN AUSTRALIA

Nishad Kulkarni

Whether the anti-deprivation rule that has recently been applied in England exists in Australia has not yet been judicially considered. The ground covered by the rule has traditionally been understood as a manifestation of the so-called *pari passu* principle. The English cases have, however, identified it as a separate rule with distinct operation. This article examines the English cases and seeks to identify the proper legal foundation of the rule. It asks whether a distinct anti-deprivation rule might exist in Australia consistently with the High Court's decision in *International Air Transport Association v Ansett Australia Holdings Ltd* (2008) 234 CLR 151. The article discusses the suggested operation in this context of the illegality principle recently applied by the High Court and considers whether it may supply a statutory footing for an Australian anti-deprivation rule.

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RESPONSE TO THE 2013 WHITMORE LECTURE BY THE HON WAYNE MARTIN AC, CHIEF JUSTICE OF WESTERN AUSTRALIA

Chris Wheeler

It has been argued in recent years by various commentators that consideration should be given to the concept of an "integrity" branch of government incorporating the various agencies that have been established in each jurisdiction to ensure the integrity of government. In the 2013 Whitmore Lecture (Martin W, "Forewarned and four-armed: Administrative law values and the fourth arm of government" (2014) 88 ALJ 106), the Chief Justice of Western Australia criticised this notion of an "integrity" branch in the context of a more general criticism of the legislative framework for integrity agencies in Western Australia and how they have exercised some of their functions. This article is a response to the views expressed by the Chief Justice, and argues that the criticism of the "integrity" branch concept appears to be based on the problematic premise that the historical arrangements between the existing three branches of government are still adequate to ensure an appropriate balance between them. This article also argues that some of the Chief Justice's criticisms of the Western Australian integrity framework and legislation are misconceived.

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