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COMMENTS

The Charter’s effect on administrative decision-making – *Janina Boughey* 3

The jurisdiction of the Independent Commission Against Corruption after High Court challenges and legislative amendment in 2015 – *John Emmerig, Michael Legg, Holly Sara and Stephanie Stacey* 10

ARTICLES

Deliberative processes for administrative regulations: Unenforceable public consultation provisions and the courts – *Andrew Edgar*

Delegated legislation is subject to parliamentary scrutiny processes and judicial review in order to mitigate concerns that it lacks constitutional legitimacy. This article examines how unenforceable public consultation provisions relate to these checks and safeguards. It argues that public consultation should be regarded as a necessary addition to these supervisory mechanisms and that it should also be judicially enforceable. There are, however, institutional and historical reasons for thinking that enforceable public consultation provisions are not likely to be introduced at the Commonwealth level. Accordingly, the article argues that the courts could develop the principle of legality and unreasonableness review in ways that would encourage transparency and public participation in rule-making processes. These issues are examined with reference to the discretionary public consultation provisions in the *Legislative Instruments Act 2003* (Cth). 18

Out of step? The New South Wales Parliamentary Evidence Act 1901 – *Beverly Duffy and Sharon Ohnesorge*

The subject of this article is parliamentary privilege, focusing on two aspects of the inquiry power of the New South Wales Legislative Council: first, the applicability of the privilege against self-incrimination in committee inquiries, and secondly, committees’ power to deprive a person of his or her liberty under the *Parliamentary Evidence Act 1901* (NSW). These issues were raised in the context of the Council’s 2015 Select Committee inquiry into “Operation Prospect”. This article examines the appropriateness of these powers and explores potential reforms to ensure they are exercised in a manner consistent with contemporary views of the role of Parliament. 37

The taming of the charitable shrew: State roll back of charity tax concessions – *Ian Murray*

Charitable status is used as a key vehicle for the delivery of State tax concessions for matters such as transferring property, paying wages to employees and owning land. From a regulatory perspective, the concessions are intended to reward or influence a range of behaviours that might broadly be described as being for the benefit of the public. However, the untamed common law concept of “charity” that applies for State taxes has continued to expand, so reducing the behaviour-focusing effect of the concessions. Until recently, the States had done little to address the issue, but that has now changed with a flurry of amendments and proposals across various jurisdictions. This article examines and

critiques the reforms and proposals by, first, investigating how the broadening of charitable ends and means acted as an impetus, and secondly, by evaluating the efficiency with which the reforms seek to influence behaviour by restricting ends and means.	54
DEVELOPMENTS	76