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INTERPRETING STATUTES AND CONTRACTS: A DISTINCTION WITHOUT A DIFFERENCE?

Jacinta Dharmananda and Leon Firios

The intuition felt by many legal practitioners is that the process of interpreting statutes is somehow different to the approach taken to interpreting private agreements. In a paper delivered over a decade ago, then Justice Michael Kirby of the High Court of Australia noted the dearth of comparative analysis of the two disciplines, and went on to sketch what he perceived to be the similarities and differences. This article takes up Justice Kirby's cause and explores the extent to which contractual interpretation and statutory interpretation really do differ. On closer inspection it seems that there is, in fact, little difference of major significance. The article concludes with some reflections on the variables at play in interpretation beyond the nature of the instrument being interpreted. .	580
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