

INSOLVENCY LAW JOURNAL

Volume 29, Number 2

2021

EDITORIAL – *General Editor: Dr David Morrison* 57

ARTICLES

Heritage and Vitality: Whether the Rule in Antony Gibbs Is a Presumption – *Neerav Srivastava*

The Rule in Antony Gibbs provides that if the proper law of a contract is Australian, then a discharge of the debt by a foreign jurisdiction will not be a discharge in Australia unless the creditor submitted to the foreign jurisdiction. This article, first, argues that the Rule is a rebuttable Presumption. Second, the article defends the Rule. The Rule has been criticised by insolvency practitioners as being irreconcilable with modified universalism. But its net effect is not always appreciated. Even if the foreign discharge of debt is not recognised in Australia, comity means local and international creditors will be treated equally when it comes to enforcement. The consequence is a reasonably robust system. 61

Insolvency Practitioners: A Phenomenological Study – *Elizabeth Streten*

This study examines the impact of negative public perception and disruptions upon professional identity and practice: namely the impact upon the professional identity and the practice of corporate insolvency practitioners (hereinafter referred to as “practitioners”) who were registered liquidators in Australia during July 2017 to October 2017. A phenomenological study was conducted from July 2017 to October 2017 by way of in-depth qualitative interviews with 23 registered and practising liquidators across parts of Australia. The findings indicate that, among other things, negative public perceptions and disruptions: (1) made it more difficult for numerous interviewed practitioners to reconcile inherent conflicts in their practice of insolvency; (2) affected various interviewed practitioners’ ability to fulfil their roles and/or implement and comply with their various legal and ethical obligations; and (3) contributed to interviewed practitioners’ perception of a weakened professional identity. 83

RECENT DEVELOPMENTS – *Editor: Dr David Morrison*

Is a Statutory Demand a Document in a Legal Proceeding? A Surprisingly Vexed Definitional Issue Finally Coming to an End? – *Shane Campbell and William Porter* ... 104

BOOK REVIEW – *Editor: Dr David Morrison*

Reinventing Bankruptcy Law: A History of the Companies’ Creditors Arrangement Act, by Virginia Torrie – *Reviewed by David Morrison* 115

