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FOREWARNED AND FOUR-ARMED: ADMINISTRATIVE LAW VALUES AND THE FOURTH ARM OF GOVERNMENT

Hon Wayne Martin AC

This article examines whether the ideals of openness, transparency and accountability are embedded in the structure of what has been described as the integrity branch of government. Other commentators have analysed the difficulties of ensuring the transparency and accountability of those integrity agencies with particular responsibilities for maintaining national security or investigating corruption. Noting the proliferation of integrity agencies, their powers and functions, Chief Justice Wayne Martin AC uses the same analytic tools but applies them to integrity agencies more generally, using Western Australia as an example. The Chief Justice argues that the precise role of this developing “fourth arm of government” and its relationship to the traditional checks and balances of a Westminster system of government remain unclear. 106

FIDUCIARY REFLECTIONS

Paul Finn

This article contains the author’s personal reflections on the course of Australian fiduciary law since he first began to publish on it nearly 40 years ago. In the 1980s the High Court provided clear signposts for the future development of the law. Yet despite this we still remain no closer to agreeing upon a simple, intelligible and coherent account of the fiduciary principle and its rationale. It is suggested that we are heading, unnecessarily, in the opposite direction. Recent decisions, particularly of intermediate courts of appeal, have aided this process. Further, the province given the fiduciary principle is artificially small and distorted. Nowhere is this more obvious than in our treatment of our public officials (elected and appointed). 127

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