Reflections on Fiduciary Law

Wednesday 19 March 2014  5.30 – 6.30 pm

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This lecture will contain the lecturer’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. Recent decisions, particularly of intermediate courts of appeal, suggest we are heading, unnecessarily, in the opposite direction. Additionally the province given the fiduciary principle is artificially contrived. No more is this so than in our treatment of our public officials, both elected and appointed.

Former Judge of the Federal Court of Australia, Paul Finn, is currently a Professorial Fellow at the University of Melbourne. A Fellow of both the Australian Academy of Law and the Academy of Social Sciences in Australia, Paul Finn was also a Goodhart Professor at the University of Cambridge and a Professor of Law at the ANU College of Law.

RSVP by Monday 17 March: law.secretary@utas.edu.au
Launched on 17 July 2007 by Her Excellency, Ms Quentin Bryce AC CVO, in her then capacity as Governor of Queensland and a Foundation Fellow of the Australian Academy of Law (AAL), the AAL is the fifth learned Academy in Australia and is the culmination of a process begun with the Australian Law Reform Commission’s landmark report, Managing Justice: a review of the federal civil justice system (ALRC 89, 2000). The Foundation Patron of the AAL was The Hon Murray Gleeson AC (former Chief Justice of Australia).

The AAL is a broadly-based and permanent body, comprising individuals of exceptional distinction from all parts of the legal community—elected from the judiciary, legal practitioners and legal academics—united in a common goal of advancement of the discipline of law and the justice system. A distinctive feature of the AAL is that its Fellows and therefore the AAL itself, provide a ‘bridge’ linking, indeed uniting, the judiciary, academia and the legal profession in Australia. Information about the AAL may be found on its website: www.academyoflaw.org.au.

Managing Justice traced the rapid growth, diversification and fragmentation of the Australian legal profession, and the serious challenges these present to the maintenance of a coherent professional identity and traditional collegiate approaches. Without positive action the single ‘legal profession’ could become a multiplicity of ‘legal occupations’, none of which sees itself as part of a larger whole.

The objects of the Academy, set out in the AAL Constitution, include:

> To establish and advance funds to provide scholarships and research grants which advance legal education and the discipline of law and promote ethical conduct and professional responsibility.
> To promote the highest standards of legal scholarship, legal research, legal education, legal practice, and the administration of justice.
> To promote the continuous improvement of the law and of the operation of the legal system.
> To promote the highest standards of ethical conduct and professional responsibility amongst all members of the legal community, including the use of legal skills not merely for material personal reward but also in the service of society.
> To enhance understanding and observance of the rule of law, and community understanding of the role and function of law, lawyers, the legal profession, and the judiciary.
> To provide a forum for cooperation, collaboration, constructive debate and the effective interchange of views amongst all branches of the legal community on all matters relating to the achievement of these objects.

Under Cl 11 of the Academy of Law’s Constitution, the Directors may appoint by invitation the Chief Justice of the High Court of Australia to be Patron of the Academy. The Foundation Patron of the Academy was the Hon Chief Justice Murray Gleeson AC, whose term expired on his retirement on 29 August 2008. The Hon Chief Justice Robert French AC also accepted the invitation to be the Patron of the Academy.