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# Australian Law Journal

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# THE AUSTRALIAN LAW JOURNAL

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**ARTICLES****THE INTEGRITY BRANCH OF GOVERNMENT****Hon J J Spigelman AC**

This article proposes recognition of a fourth branch of government, an “integrity branch”. The integrity branch is concerned to ensure fidelity of government institutions to the purposes for which their powers are conferred. Each of the three recognised branches – legislative, executive and judicial – perform integrity functions in an accepted and distinct manner. Administrative law is appropriately categorised as the performance of an integrity function. Other integrative concepts sometimes advanced to categorise administrative law, such as “abuse of power” or “principles of good administration”, threaten to impermissibly blur the legality/merits distinction which remains at the centre of Australian administrative law. .... 724

**BROTHERS AT LAW: CHIEF JUSTICE FRANK GAVAN DUFFY AND GEORGE GAVAN DUFFY****Patrick O’Callaghan LLB (Dub) BCL (Oxon)**

The purpose of this article is to examine how the legal systems of Ireland and Australia were influenced by the presence of two half brothers, each of whom held high judicial office in their respective country: Chief Justice Frank Gavan Duffy of the High Court of Australia and George Gavan Duffy, President of the High Court of Ireland. The impact each had upon the nascent state brought into being, where they held the reins of power, is examined. So too, is the impact that the living environment in which each operated, had upon them. .... 738

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MATERIAL PREJUDICE AND FINANCIAL ASSISTANCE: THE FINANCIER'S  
VIEWPOINT

**Phillip Cornwell**

The financial assistance prohibition obstructs most leveraged acquisition financings. A recent article suggested that in some cases it may be appropriate for directors to form a view that a particular proposed transaction satisfies the “no material prejudice” exception. This article argues that the drafting difficulties with the exception, coupled with the onus of proof, mean the suggestion poses an unacceptable risk for a financier of being involved in a contravention, especially where the target is giving a guarantee or third party security. The prudent financier will view shareholder approval as a more attractive way to overcome the prohibition. .... 746

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  - 5. Austin, n 4, p 56.

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  - 7. Sheehy et al, n 6 at 221.

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