

WELCOME ADDRESS
TO THE ANNUAL CORPORATE LAW CONFERENCE
BY THE HONOURABLE T F BATHURST
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Good afternoon and welcome to the Annual Corporate Law Conference. It is a pleasure to have the opportunity to welcome you to the Banco Court, and I am pleased to see legal professionals from all areas of the profession here today, including judges, barristers, solicitors, academics, those who work for trading and investment corporations, those who work for regulators, and those who work for the Australian Securities Exchange itself.

There would not be too many annual conferences in the world that can boast having as many changes in the field from one year to the next as can the Annual Corporate Law Conference. Since the first signs of the GFC appeared, the area of corporate law – and specifically financial and economic regulation – has been subject to almost constant change. High-profile cases such as Opes Prime, Storm Financial Services and Tricom have shone the spotlight on the impact of short selling, stock lending and margin lending. Debates have raged over the appropriate response to insider

trading and breaches of continuous disclosure rules. In response to the developments of the post-GFC years, Australia has fundamentally altered the way in which the stock market is regulated. Switching from the widely used US model of self-regulation to government regulation by ASIC, Australia's changing regulations will no doubt be closely watched by foreign governments as a test for the effectiveness of alternative models of regulation.

Change has occurred in a wide variety of areas in an even wider variety of jurisdictions. As is the case in Australia, US trading rules and enforcement of those rules have been significantly toughened in the past decade. In 2009, a series of charges were laid against prominent hedge funds on the basis of information obtained through phone and wiretap evidence. Similar operations produced results in the UK in March last year when seven people were charged in the Financial Service Authority's biggest crackdown on insider trading. Given the developments of recent years it is difficult to believe that the UK had never filed a criminal case of insider trading before 2008.

It is the rapid development in this area of the law that makes conferences such as this one so valuable. This conference focuses on new trends in share market regulation, encompassing some very interesting and challenging topics. It is a reflection of the times that two of the conference's five topics have an international focus. In a world in which borders are no barrier to investment and where, through contagion, performance of investments in some parts of the world will inevitably affect share markets and investors in other parts of the world, it is crucial that practitioners keep abreast of developments not only in Australia but also overseas. Moreover, as they have done in the past, governments will undoubtedly continue to look at regulatory reform models from other jurisdictions as the basis for reforms at home. At the extreme, the international nature of business has led to discussion about a merger between the Australian Securities Exchange and an overseas exchange, and I am pleased to see that the regulatory implications of such a merger are being discussed at this conference today.

We are very fortunate to have Professor Donald Langevoort speaking at this conference. Professor Langevoort's career has spanned many areas of the profession: he was a practitioner in a firm, became Special Counsel of the US Securities and Exchange

Commission and then came to work at Georgetown University. He has published a number of books on securities regulation and is the author of a treatise entitled *Insider Trading: Regulation, Enforcement and Prevention*. Professor Langevoort has also testified numerous times before Congressional committees on issues relating to insider trading and securities reform. I have no doubt that the unique perspective Professor Langevoort will bring to this conference as a result of his experience in the United States will enrich our understanding of current US and international trends in this area. Those who have had the privilege of hearing him speak know how interesting, informative and entertaining he is.

I am also pleased to see that our speakers from closer to home will touch upon the vast array of insider trading and market law reforms that are occurring in our jurisdiction. Hearing from a variety of members of the profession including a barrister, Greg O'Mahoney, those charged with ASX compliance, Alan Cameron and Kevin Lewis, and a commissioner of ASIC, Shane Tregillis, will provide a variety of perspectives on the bigger picture. Finally, it is fitting that your day will conclude with remarks by Dr Austin, one of Australia's most experienced leaders in this field, with a career that spans acting as a solicitor, academic, member of the Takeovers

Panel and judge. As I am sure that all of the conference speakers today will attest, learning about the laws that have changed, those that will change and those that need to change is the essence of being a good legal practitioner.

I would like to thank the speakers today for giving up their time in order to assist the legal profession to perform its duty of continuing legal education. I would also like to thank the organisers of this conference for the work they put into bringing legal professionals together to discuss this important and dynamic area of law.

It is a privilege for the Supreme Court to be able to sponsor this conference in conjunction with the Law Society of NSW and the University of Sydney. The synergy between the interests of these three organisations is clear: we all have an interest in ensuring that our members are provided with up-to-date legal developments. We also have an interest in our members spending time together in an educative environment, as the cross-pollination of ideas that occurs as conferences such as this is what makes our profession cohesive despite its diversity. [I am sorry not to be able to stay but I have an

afternoon in Court to look forward to.] I hope you enjoy the intellectually stimulating afternoon ahead.