

## A Framework for Understanding the Interpretation of Corporate Law in Australia

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As Ian Ramsay has pointed out, Australian corporate law has 'been dominated by statutes since its earliest days'.<sup>1</sup> This history has been marked by a steady – at times dramatic – growth in the volume and the scope of corporations statutes.<sup>2</sup> Australian corporate lawyers and regulators have given some attention to this statutory growth. For example, in the early 1990s it was argued that the volume of the corporations statute could be reduced, with 'better' regulatory results, if there were fewer detailed prescriptive rules and more so-called 'fuzzy laws'.<sup>3</sup> In a separate development the federal government created the Corporate Law Simplification Task Force in the mid-1990s, which was given the task of reducing the complexity of the corporations statute.<sup>4</sup>

All of this might lead us to expect that corporate lawyers in Australia have given some attention to the related issue of the interpretation of corporate law. Moreover, given the practical, business orientation of this statute, we might expect some sympathy with an approach to statutory interpretation that makes 'a dynamic, pragmatic assessment of institutional, textual and contextual factors'.<sup>5</sup> I think that we would be disappointed if we were to test these expectations. That is, I am not sure that corporate lawyers have, as Suzanne Corcoran urges, tried to develop a

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\* My thanks to Simon Bronitt and Tony Connolly for comments on a previous draft of this essay.

1 Ian Ramsay, 'Corporate Law in the Age of Statutes' (1992) 14 *Sydney Law Review* 474, 474.

2 For example, in 1968 the *Companies Act 1961* (NSW) contained 385 sections. The current *Corporations Act 2001* (Cth) contains well over 2000 sections.

3 For example, John Green, "'Fuzzy Law" – A Better Way to Stop "Snouts in the Trough?"' (1991) 9 *Company and Securities Law Journal* 144.

4 Established by the Labor Commonwealth Attorney-General in 1993, and discontinued in March 1997 by the Liberal-National Party Government.

5 Suzanne Corcoran, 'The Architecture of Interpretation: Dynamic Practice and Constitutional Principles', Chapter 3.

This is a preview. Not all pages are shown.