

CARTER v BOEHM

250th Anniversary Conference

REGISTRATION BROCHURE



This Conference is presented by:

- Dr Allan Manning of the LMI Group, Melbourne
- Greg Pynt, Barrister, Perth

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When:

The weekend of 1 and 2 October
2016

City:

Bengkulu City, Sumatra, Indonesia

Hotel Santika, Bengkulu

Fee:

A\$850 per person (no GST payable). The cost covers everything mentioned in the Conference program.

For a range of reasons there is a limit on the number of delegates. We have in mind about 35 delegates, so if you are interested, be quick to register for the Conference.

Visit www.cartervboehm.com to keep up with the Conference and the Conference program.

WHY ARE WE HOLDING A CONFERENCE IN BENGKULU THIS YEAR?



This year is the 250th anniversary of Lord Mansfield's seminal judgment on 'utmost good faith' in *Carter v Boehm*, delivered in London at Easter time in 1766. As Cory J remarked in the Canadian case *Coronation Insurance Co v Taku Air Transport Ltd*, *Carter v Boehm* was decided when:

... the world was a little different. It was a simpler if not, in some respects, a gentler place. The business of insurance was very different. Then policies of insurance were issued most frequently to cover a vessel, or its cargo. The contract was issued for the benefit of the insured. It was the owner as insured who would have the detailed knowledge of the vessel or its cargo. No one would know better than the owner of the incipient dry rot or the tendency of the ship to take on water in a fresh breeze. This was knowledge that the insurance company could not readily attain and it was appropriate to relieve the insurer of all responsibility for obtaining it. That principle held true in 1766. It can hold true today where the policy is for the exclusive benefit of the insured.

The insurance issues in *Carter v Boehm* arose out of a French attack on Fort Marlborough, a British trading post in Bengkulu (then known as 'Benkulen' or 'Bencoolen'), Sumatra in 1760.

As appears from the photograph on the heading in the memorandum, kindly supplied by Akadika Photography, Bengkulu, Fort Marlborough is presently in very good condition, thanks to restoration work completed by the Indonesian government in 1984.

Join us on our visit to Bengkulu City (population almost 400,000 people) on the weekend of 1 and 2 October this year. The weekend will be opened by the Governor of Bengkulu Province and will include presentations by Bengkulu locals and leading insurance academics, practitioners and industry personnel. It will also include a guided tour of the Fort and a visit to Kemumu (the jungle).

Bring your bathers to Kemumu as we will have the opportunity to swim at the foot of a waterfall. And with any luck, we will see the bud or bloom of the world's largest flower.

Attached is a Memorandum with some practical information about this part of the world.

This is a one-off Conference to acknowledge the origins of arguably the most important case in the law of insurance. We will not financially profit by the Conference. We intend to donate anything over and above incurred costs to the school SLB Amal Mulia in Bengkulu. The school has 60 students, of which 20 are orphans living on the premises.



FRIDAY

6.45PM Board a bus at the Santika Hotel for dinner at Sumpit Mas Restaurant.

SATURDAY

8.30AM Registration, tea, coffee and juices.

9.00AM Opening address: the Governor of the Province of Bengkulu, His Excellency Dr. H. Ridwan Mukti.

Chairperson: (Greg Pynt)

9.10AM 1. The history of Fort Marlborough. (Reco Serasi SS, MA University of Bengkulu, member of the Bengkulu Heritage Society, Bengkulu, Sumatra)

9.30AM 2. *Carter v Boehm*: Facts and context. (Prof. Robin Pearson)

10.10AM 3. Pre-contractual disclosure: Then and now (Peter Mann).

10.50AM *Morning tea*

11.15AM 4. Utmost good faith for claims' handlers (Dr Allan Manning).

11.55AM 5. In insurance law, is there a separately existing, independent general duty to act with the utmost good faith? (Dr Yong Qiang Han)

12.30PM Lunch at Bumbu Desa Restaurant (a couple of minutes walk from the Santika Hotel).

1.30PM Board a bus at the Santika Hotel for tourist activities in and around Bengkulu.

3.45PM Tour of Fort Marlborough and cultural performance at the Fort.

5.15PM Arrive at the Santika Hotel.

6.45PM Board a bus at the Santika Hotel for dinner at Malora.

SUNDAY

Chairperson: (Fred Hawke)

9.00am	4. Early marine and property insurance in SE Asia through to 1914 (Prof. Robin Pearson)
9.40am	5. Utmost good faith for assessors, adjusters and investigators (Dr Allan Manning).
10.20am	6. Utmost good faith for insurance brokers (Greg Pynt).
10.45am	<i>Morning tea</i>
11.00am	Board a bus at the Santika Hotel for Kemumu (the jungle).
1.00pm	Arrive at Kemumu for a walk and then a picnic lunch. Bring bathers for a swim under a waterfall.
3.30pm	Return by bus to the Santika Hotel.
5.30pm	Arrive at the Santika Hotel.
6.30pm	Drinks at the Santika Hotel
7.00pm	Dinner at the Santika Hotel
8.00pm	Closing comments (Dr Allan Manning).

ABOUT THE SPEAKERS AND CHAIRPERSONS

FRED HAWKE, PARTNER, CLAYTON UTZ

Fred Hawke is a partner in Clayton Utz, based in Melbourne.

Fred has extensive legal and practical experience in insurance law, claims management and insurance company operations. Before joining Clayton Utz, he was directly employed in the insurance industry for more than 20 years and was responsible for negotiating and settling insurance and reinsurance disputes involving some of Australia's largest liability losses.

Since joining Clayton Utz, Fred has practised extensively in the field of insurance and reinsurance law, with special emphasis on regulatory and compliance issues, captive insurer arrangements, Bankers Bonds, crime and financial liability insurances, facultative and treaty reinsurance and retrocession arrangements. He has acted for policyholders in major claim disputes involving ISR (Fire & Perils), Marine (Hull, Cargo and Charterers' Liability), Public and Products Liability policies. Trade credit and insolvency and political risk insurance are also areas in which he has had considerable experience, both in the insurance industry and in legal practice.

Fred is a well-recognised and prolific writer and presenter on insurance law and insurance industry related legal matters and occasional lecturer in the Graduate Studies Program at Melbourne University.

PETER MANN, BARRISTER

Peter Mann is a barrister at Ground Floor Wentworth Chambers, Sydney.

Prior to the Bar he was a partner of three major law firms, most recently Clayton Utz. Prior to that, he was a partner of Deacons (now Norton Rose Fulbright) and a partner at Abbott Tout.

He has over 30 years' experience acting for clients in insurance and reinsurance matters, covering both general and life insurance.

A writer and presenter on insurance, Peter has authored various insurance publications including:

- *Mann's Annotated Insurance Contracts Act*, LawBook Co, 6th edition (6th edition published in 2014 [the first edition was published in 1994]). A 7th edition will be published in July 2016.
- *Mann's Annotated Insurance Law*, Thomson Reuters, an on line service that contains an annotation of various insurance statutes.
- A chapter in M. Legg, *Regulation, Litigation and Enforcement*, Thomson Reuters (published in 2011)

Peter is an Adjunct Lecturer of the Faculty of Law at the University of Sydney, and teaches "Insurance Law and Risk" at undergraduate level.

Peter was the recipient of the prestigious AILA Annual Law Prize in 2012.

DR ALLAN MANNING DBA, B.COM, MBA, FCPA, ANZIIF (FELLOW), FCII, FCILA, FEUDI ELAE, FCLA, FIICP

For over 45 years, Dr Allan Manning has managed large and complex losses all around the globe. Using his experience, he now acts as a client advocate on claims, acts as an expert witness, conducts policy program reviews and drafts insurance wordings.

He has developed knowledge based services to assist brokers and underwriters such as PolicyComparison.com, Bcalculator.com, RiskCoach and the business continuity management system, ContinuityCoach.com, now used in over 60 countries.

Allan is one of Australia's most academically qualified insurance professionals having lectured at RMIT, Melbourne, and Victoria Universities and has delivered over 1,250 papers on insurance and risk management topics. He holds the post of Adjunct Professor with Victoria University in the Faculty of Law and Justice, and is the author of 13 books on insurance, including *Business Interruption Insurance & Claims*; *Mannings Six Principles of General Insurance*, and *It May Happen to Me! The Essential Guide to General Insurance*. He is currently president of the International Institute of Claims Preparers and has been rated in the top 20 most influential people in Australian insurance for the past 6 years. He was awarded the Life Time Achievement Award at the 2012 Insurance Industry Awards and honorary life membership of the Australian and New Zealand Institute of Insurance and Finance.

ROBIN PEARSON, PROFESSOR OF ECONOMIC HISTORY

Robin is Professor of Economic History at the University of Hull, UK. He has a Masters degree from the University of Edinburgh and a PhD from the University of Leeds. He has published widely on British and international economic and business history, with a particular focus on the insurance industry. His books include, *Insuring the Industrial Revolution: Fire Insurance and the British Economy, 1700-1850*, which won the 2004 Wadsworth Prize for Business History; and *Shareholder Democracies? Corporate Governance in Britain and Ireland before 1850* (2012), co-authored with Mark Freeman and James Taylor, which was awarded the 2013 Ralph Gomory Prize for Business History by the US Business History Conference. His latest book, co-edited with Takau Yoneyama, is *Corporate Forms and Organizational Choice in International Insurance* (Oxford University Press, 2015).

GREG PYNT, BARRISTER

Greg is a barrister at Francis Burt Chambers, Perth.

Greg graduated from the University of Western Australia with a Bachelor of Laws in 1977 and moved to London in 1981 where he worked for Willis Faber & Dumas, Insurance Brokers. Between 1981 and 1983, Greg worked in the Litigation Department of Clifford-Turner (now known as Clifford Chance) in London. He then returned to Perth and in 1987 became a partner in Mallesons Stephen Jaques (now King & Wood Mallesons). Greg left Mallesons Stephen Jaques in April 1996 to set up Pynt + Partners. He left Pynt + Partners in October 2012. Greg was a Senior Claims Solicitor at Law Mutual (WA) between December 2012 and May 2013 and joined Francis Burt Chambers as a barrister in July 2013.

Greg won the Australian Insurance Law Association Insurance Prize in 2000 and is an AILA Honorary Life Member. He is a Visiting Fellow at the University of Western Australia where he has co-ordinated and lectured in insurance law in the Faculty of Law at undergraduate and postgraduate level since 1991. The 3rd edition of his book 'Australian Insurance Law: A First Reference' was published in November 2014. Greg is also the General Editor of the Insurance Law Journal, published by LexisNexis.

YONG Q HAN (BA, MPHIL, PHD)

Dr Yong Q Han is a Research Fellow at the Centre of Banking and Finance Law, Faculty of Law, the National University of Singapore. He was awarded the doctorate degree from the University of Aberdeen in November 2013. In August 2014 he joined the NUS Faculty of Law as a Post-Doctorate Fellow. In August 2015 he became a Research Fellow at the CBFL. His monograph *Policyholder's Reasonable Expectations*, stand-alone from his PhD thesis, is forthcoming by October 2016 with Hart Publishing. He is a member of the German-Swiss-Austrian research project 'Principles of Reinsurance Contract Law', and was a Corresponding Member of the research project 'Principles of European Insurance Contract Law'. During the years of his PhD programme, and based on his reading and understanding of relevant literature in English insurance law, he published three articles which reflected on the duty of disclosure and the principle of utmost good faith in Chinese insurance contract law.

DISTRIBUTION OF PAPERS

Full attendance at this event entitles a WA legal practitioner to 4 CPD points as follows:

Competency Area 3: *Ethics/Professional Responsibility (1)*

Competency Area 4: *Substantive Law (3)*.

Please sign the attendance sheet for continuing professional development auditing purposes.

This event may attract CPD points for legal practitioners from other parts of Australia. You may wish to check with your local Law Society about your CPD entitlement.

It may also attract CPD points for insurance industry representatives. Delegates should enquire from their local professional body about the availability of CPD points for the Conference.

DISTRIBUTION OF PAPERS

Papers and presentations will be provided to delegates on a USB memory stick on the day of the event.

CHANGES

All chairpersons and speakers are confirmed as at 30 June 2016. The presenters of this event reserve the right to change the chairpersons, speakers and other aspects of the program due to unforeseen circumstances.

CARTER v BOEHM

250th Anniversary Conference

Bengkulu, Sumatra, the weekend of 1
and 2 October 2016

REGISTRATION DETAILS

CONFERENCE MANAGER

Conference Images, professional conference organisers, are managing this Conference. All enquiries regarding Conference registration or arrangements should be initially directed to Craig Hassell of Conference Images via

Email : craig@cimages.com.au or
Telephone : +61 (0) 438 647 560.

CANCELLATION

We will refund half the Registration fee if cancellation is notified to Hazel Kerr of Conference Images via hazel@cimages.com.au on or before 31 August 2016. After that, the full registration fee will be forfeited.

A replacement person may attend in a registered delegate's place.

HOTEL SANTIKA

Hotel Santika is a 3 star Hotel in Bengkulu, located at Jl. Raya Jati No. 45, Sawah Lebar, Bengkulu.
Telephone: +62 736 25858.

We have reserved Superior rooms at the Hotel. Accommodation cost is about A\$60 a night including breakfast.

THE REGISTRATION FEE

Registration fee is AUD\$850 per person (no GST payable). The fee covers everything mentioned in the Conference program.

To register for the Conference visit:

<https://www.regonline.com.au/cartervboehm2016>

Payment may be made by direct debit, credit card or cheque.

Registrants will be given the opportunity to book accommodation when registering online for the Conference. The Conference Images' team will then contact you to confirm accommodation arrangements and to offer airport transfers and optional pre and post Conference tours, etc..

If there is sufficient interest, we will organise an overnight trip for Conference delegates to Bukit Kaba Volcanic Crater on 29/30 September. The trip is overnight because it revolves around a 3.00am climb up to the top of the Crater to watch the sun rise. This cost is in addition to the Registration fee. We will advise the fee as soon as we know it.

Visit www.cartervboehm.com to keep up with the Conference and the Conference program.

MEMORANDUM



HISTORY AND PLACE

In 1685, the English East India Company established a pepper-trading centre and garrison at Bengkulu (then known as Bencoolen).

Bengkulu is on the Indian Ocean, on the west coast of Sumatra, Indonesia. It is the capital and largest city of the Bengkulu Province, with a population of almost 400,000 people. The primary crops of the area are pepper, coffee, nutmeg and sugar cane.

Between 1713 and 1719, the British built Fort Marlborough (also known as 'Raffles Fort') in Bengkulu.

In 1817, Sir Stamford Raffles was appointed Lieutenant-Governor of Fort Marlborough.

GETTING THERE AND BACK

Getting to Bengkulu/Fort Marlborough from:

- Australia is via Jakarta. There are multiple daily flights Jakarta to Bengkulu - cost about A\$275 return;
- Singapore is either via Jakarta or by a 50 minute ferry ride from Singapore to Batam followed by a direct flight to Bengkulu. There are multiple daily ferry rides to Batam.

SIGHTS IN AND ABOUT BENGKULU

Here are the better known tourist places in Bengkulu and its surrounds (in addition to Fort Marlborough):

Residence of Sukarno

Sukarno (Soekarno) was the first President of Indonesia (1945 to 1967). He was replaced by one of his generals, Suharto. The Dutch exiled Sukarno to Bengkulu from 1938 to 1941. Today, his small villa is a museum, containing books, clothes, a few photos and his bicycle.

Bukit Kaba Volcanic Crater

The Crater is about 100 km from Bengkulu. There are 2 sulphuric calderas with 12 active craters. There are panoramic views and hot springs near Curup (less than 20 kilometres away).

Kemumu

Kemumu is about 40 km from Bengkulu. It is a good base for walking, hiking and swimming near a waterfall.

Enggano Island

Enggano Island is covered by dense rain forest filled with buffalo, pigs and cattle. The inhabitants have lived in virtual isolation for centuries. Boats go from Bengkulu to the island.

Tikus Islands

These islands are known for fishing, diving and snorkelling. Boats go from Bengkulu to the islands.

The tallest and the largest flowers in the world

The Bengkulu province rainforests are home to the world's tallest flower, a lily-like flower locally known as Kibut or bunga Bangkai (*Amorphophalus Titanum*). The flower is rich red with a yellow stamen and can grow more than 2 metres high.

The rainforests are also home to the world's largest flower, a parasitic plant known as *Rafflesia Arnoldi* (named after Sir Stamford Raffles who, with his medical assistant Joseph Arnold, discovered it in 1818). Its flower can attain a diameter of nearly a meter and can weight up to 7 kg.

Both flowers can be found in rainforests on the slopes of the Bukit Barisan Mountains, within 60km of Bengkulu.

MORE INFORMATION ABOUT BENGKULU

More details about Bengkulu appear at

<https://en.wikipedia.org/wiki/Bengkulu>.

Note: *Bengkulu is predominantly Muslim so dress accordingly.*

