

## **TABL2741 Quick Helpful Notes:**

### *Quick Case Directory:*

#### Corporate constitutions & contracting with a company:

- Gambotto – minority shareholder protection from majority, s232-234.
- Freeman v Lockyer – apparent authority (holding out, express authority (s198A), reliance)
- Turquand's case – indoor management rule (outsider can assume co. acts within its constitution, directors are valid, board approval obtained, s129)
- Northside case – limitations to indoor management rule (actual knowledge, failed to enquire (reasonable person test), s128)

#### Anti-avoidance for dodgy corporate fundraising, debentures:

- ASIC v Axis International Management – anti-avoidance measure for prospectus (cannot issue securities to sophisticated investors who on-sell them to persons who would require a prospectus, otherwise breach of Corps Act, s707. ASIC can ban, stop, publicity order, s739)
- Jesseron Holdings – debentures (secured interest created to a company officer 6 months before co. wind up is invalid. S588FJ, s588FP)

#### Director's power to raise share capital (director duties):

- Brisconnections case – share capital (shareholders partly-paid for their shares, rest payable in future. Macq bank recused small retail investors from bankruptcy)
- Glavanic case – directors duties to individual shareholders (in a closely held Pty Ltd co., cannot unfairly acquire minority shareholder interests, otherwise breach s180(1)(a) – act honestly).
- Howard Smith case – directors cannot issue shares when it is in their self-interest (i.e. to dilute a majority and create a new one, otherwise breach s181(1)(b) – use of powers improperly).

#### Director's duties:

- Hospital Products case – full disclosure + genuine consent = ok for conflict of interest (s183-183) – director defence.
- Regal Hastings – personal/secret profits (cannot make personal profits from director's sale of shares without being called upon to account. Defences of disclosure + consent / no co. losses / acted honestly failed, so breach of s182-183)
- Green v Bestobell Industries – using confidential information/competing with company (competed with own company to make tender offer for government contract. Made personal profit and didn't obtain consent = breach of s182-183. Corporate veil was lifted to hold Bestobell personally accountable (Salomon).