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THE JUDICIAL HERD: SEDUCED BY SUAVE GLITTERING PHRASES?

Hon Peter Heerey AM QC

Should appellate judges confer between themselves about cases they are hearing? Should they circulate draft judgments? Should each judge give a separate judgment? In an article in the Law Quarterly Review, former High Court justice, the Honourable Dyson Heydon AC QC expresses views on these topics which the present author disputes. 460

COMPANY DIRECTORS AS “SUPER-FIDUCIARIES”

Michael Pearce SC

This article traces the development of the law of directors’ duties, from its early formulations by the judges of the Court of Chancery, through its successive statutory formulations to the present provisions of the Corporations Act. It considers how, in a series of recent decisions, the courts have used s 180(1) of the Corporations Act to impose liability on company directors for the wrongs of their companies in circumstances where the director has done no more than cause or permit the company to break the law irrespective of any dishonesty or conflict of interest of the director. 464

THE CATEGORIES OF WAIVER

Jeremy Stoljar

The term “waiver” is often used in legal discourse. Generally it denotes an abandonment or extinguishment of a right of some kind. How and why the abandonment is effected, and its legal consequences, depend on the particular circumstances of the case and the principles responsive to those circumstances as developed in the authorities. In this article 11 different categories of waiver are identified and discussed. Each category is different, each engages different legal principles. There is no overarching independent doctrine of waiver which unifies and explains every use of the term. 482

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