

ENGLISH FOR COMPANY LAW

INTRODUCTION

READING

The importance of the leading case of *Salomon v Salomon & Co Ltd* [1897] A.C. 22 is that the House of Lords held that a company duly registered under the Companies Acts is a separate legal entity, and a distinct person from the shareholders, even if it is what is commonly called "a one-man company".

READ AND DISCUSS

Before reading the case, discuss with a partner the meaning of the following terms:

- memorandum of association
- debentures
- outsider
- secured / unsecured loan
- assets
- trade creditors
- interest
- liquidation proceedings
- liability

In the case below, you will find groups of three prepositions, only one of which is correct in each case. Complete the text by choosing the correct preposition.

Aaron Salomon had **during/for/since** many years carried on business **as/like/by** a leather merchant and wholesale boot manufacturer, and the business had been very successful. In 1892 he decided to form a limited company to purchase the business, which was duly registered in the name of Salomon and Co Ltd. Mr Salomon wished to retain control **on/to/over** the running of the business, and so his plan was that the shareholders should be restricted **to/—/ by** himself and members of his family. The memorandum of association was signed by Mr Salomon, his wife, a daughter and four sons, thus making seven members.

After the company was formed, it bought the business **to/for/from** Mr Salomon for £39,000. **In/For/As** payment, Mr Salomon took 20,000 £1 shares in the company, and his wife and children one £1 share each. He also received an issue of debentures (a secured form of loan) for £10,000 and the balance **in/as/on** cash.

At the time of the transfer of the business to the company, the business was solvent but shortly afterwards the company went **into/across/through** a difficult time. **With/As/In** an effort to keep the business going, Mr Salomon arranged for a loan of £5,000 to be made by an outsider to the

English for Company Law

business. The company failed to pay interest **on/in/of** the loan, and so in 1893 liquidation proceedings were started to enforce the repayment of the loan. The sale of the company's assets raised enough money to meet the company's debt on the loan but not the debts owed to the company's trade creditors, who, unlike Mr Salomon, had no secured interest. Mr Salomon claimed all the remaining assets in priority **over/before/to** the unsecured creditors, because of the first debentures which had been issued to him, but the liquidator contended that the company (and the unsecured creditors) were entitled to be repaid personally by Mr Salomon. The liquidator claimed that the company's business was in reality still Mr Salomon's, and that the company was merely a sham designed to limit Mr Salomon's liability **on/for/of** debts incurred while carrying it on. The liquidator argued that in these circumstances, Mr Salomon should be ordered to indemnify the company **against/from/under** its debts, and that payment of the debenture debt to him should be postponed until the other creditors were paid.

Read the text again, and be prepared to discuss the following questions with a partner.

1. Why did Aaron Salomon decide to form a limited company and then sell his business to it?
2. What two roles did Mr Salomon have with regard to the company after the sale of the business?
3. Why did the company have to borrow money from an outsider?
4. Why were liquidation proceedings started in 1893?
5. Which of the company's debts were repaid by the sale of the assets? Why?
6. Why did Mr Salomon bring an action against Salomon and Company Limited?

EXERCISES

1. Working with a partner, orally read and finish these sentences without looking back. Pay attention to the structure as well as to the content.

- (a) Before forming Salomon and Company Ltd, Aaron Salomon had
- (b) The membership of Salomon and Company Ltd. was limited
- (c) Mr Salomon sold his company for £39,000. He and his family received 20,006 £1 shares and £10,000 in debentures, leaving a balance
- (d) Shortly after the transfer of the business, the company
- (e) Liquidation proceedings were started because
- (f) The liquidation of the company's assets raised only enough money to
- (g) Mr Salomon claimed he had a right to be paid before the unsecured creditors because
- (h) The liquidators contended that

2. Make a word from the word in brackets to complete the following sentences.

- (a) The company was _____ registered as Salomon and Co. Ltd. (due)
- (b) The _____ were restricted to himself and his family. (share)
- (c) Mr Salomon received shares and debentures in _____ for the business. (pay)
- (d) Shortly _____, the company went through a difficult time. (after)
- (e) The company's _____ to pay interest on the loan led to liquidation _____ being started. (fail, proceed)

- (f) Mr Salomon claimed he had _____ over the _____ creditors. (prior, secure)
- (g) The liquidator contended that the creditors were _____ to be _____ personally by Mr Salomon. (title, pay)
- (h) The trial court held that the _____ of the company had been carried out for an _____ purpose. (corporate, law)

POINTS TO REMEMBER

- Mr Salomon's liability for debts incurred.*
You *incur* losses/ debts/ someone's displeasure by the way you act. The verb *incur* is not followed by a preposition.
- Mr Salomon was under no liability to the company.*
A formal and stylish way to express the idea of being free from liability or obligation is to use the verb *to be* + *under no obligation/liability*.
I am under no obligation to disclose those facts.
- A sum sufficient to meet its liabilities in full.*
Meet (met, met) can be used in many expressions with the meaning of *to satisfy*. You can meet needs/bills/ standards/ approval/ demands, etc.
What other words can you find to follow *meet*?

VOCABULARY

To help you understand the judgment in the Salomon case, match the following terms with their definition.

1. relief	a. a person with legal title to property that he/she holds for the benefit of another, who holds an equitable interest.
2. subscriber	b. a doll with strings, a person whose actions are controlled by another
3. nominee	c. a trial of a case before a court
4. attain	d. to change a judgment on appeal
5. agent	e. arrive at, reach, gain, accomplish
6. trustee	f. a remedy for a legal problem
7. hearing	g. a person who has signed the memorandum of association of a company.
8. reverse	h. a company member who holds the shares registered in his name for the benefit of another.
9. puppet	i. a person appointed by another (principal) to act on his behalf