

EVIDENCE. By CHIN TET YUNG. [Singapore: Butterworths. 1988. xxiii + 243 pp. Softcover: S\$60.00.]

PROFESSOR Chin Tet Yung's book on Evidence is a landmark in several different ways. It is the first book by a leading local academic on adjectival law. It departs from the orthodox approach to the Evidence Act [Cap 97, 1985, (Rev. Ed.)] of analysing rules sectionally and in isolation but instead dissects the Act in terms of principles and policies. It is also the first commentary on the radical amendments introduced to our Evidence Act in 1976.

1 Charlesworth *The Principles of Company Law* (13th ed., 1987)

Many rules of evidence are anachronistic. Evidence is an euphemism for an amalgam of rules conceived from notions of fairness, natural justice, social prejudices, social conditions and peculiarities which are no longer relevant and as a response to requirements of expediency and consistency. Rules of evidence which had a close maturing nexus with jury trials need a radical overhaul. On reading the book, one cannot be but struck and stuck with an indelible impression that the sands of time have eaten into the viability of several procedural provisions and rules relating to for example, character evidence, corroboration, documentary evidence and similar fact evidence. The difficulties in weaving together the different strands of rules and principles sprouting irregularly in the Evidence Act into an intelligible textual rope cannot be overstated.

It will be axiomatic even to a law student that the provisions of the Evidence Act cannot be easily telescoped. There is little textual colouring or assistance to be obtained from the Act itself. The illustrations are sometimes a catalyst for confusion instead of being a tool for interpretation. Professor Chin has not merely succeeded in his objective of analysing the main rules and doctrines; he has done so admirably and succinctly. The book is more than an outline of the Law of Evidence. Professor Chin does more than summarise the law or expound or synthesise the ideas of others. He subjects most areas to critical scrutiny. This critical commentary, albeit brief at times, is one of the strengths of the text and enhances its value as a referential text.

The critical discussion has a number of differing dimensions. At times, it is an instance of indicating a particular area that has not been properly examined or considered by the Courts (e.g. reception of common law principles). On other occasions, he addresses penumbral issues like *res gestae* and highlights points that have yet to be addressed by our Courts (e.g. *Ratten v. R* [1972] A.C. 378 at pp. 127-128).

The book is also a succinct overview of the adjectival canvas which the author has painted with both broad and fine brushes. He has generously given his own views on areas that are crying for reform as well as gently chided the Courts in several instances for displaying a misconceived predilection for English cases and the common law over rules sanctified in the Act. Mindful of the boundaries of his mandate, the author does not speculate whether the English training of the earlier judges was instrumental for this approach. Dare we hope for a chapter, commenting on this and the current value of the earlier authorities, in the second edition?

This is not an obscure work meant solely for the academic or practitioner. Nor is it of value only to the student. It has been crafted systematically and takes the reader on a clinical and economical journey through the Evidence Act. The book is divided into eleven chapters beginning with an introduction to the Evidence Act and dealing separately with legal 'hot potatoes' such as hearsay, burdens of proof, privilege and corroboration. Each chapter is again helpfully sub-divided into sub-headings that will enable a reader to quickly zero in on his objective. There is an useful index. This though could have been improved with more independent headings and additional cross-references.

Chapter 1, which is the introduction, would be of particular interest to someone unfamiliar with the Evidence Act. It was clearly not an easy chapter to write. Bearing in mind the parameters of length and conciseness which must have hung like a millstone around the author's legal neck, this reviewer has to state that in a few short pages, Professor Chin has lucidly presented through a catenation of statutory provisions and cases, the origins of the Act and the rather ambivalent attitude towards the Act by the Courts. This ambivalent attitude by the judiciary towards the Evidence Act has often, as the author takes pains to point out resulted in the adoption of common law principles in preference to principles enshrined in provisions of the Act (see *e.g.* *PP. v. Tan Ah Tee* [1980] 1 M.L.J. 49. It is to be hoped that the gentle reminder by Professor Chin as to the presence and sanctity of our own statutory provisions will not go unheeded by judges and magistrates reading the book.

Professor Chin's chapters on hearsay, opinion evidence, proof, competency, compellability, privilege and corroboration are masterfully written. They are conspicuous for their clarity and scholastic content. He nimbly guides the reader through a legal labyrinth and attempts to inject rationality into the law. The *raison d'être* of the various rules like hearsay and privilege are explained. This Professor Chin patiently explains, should always be the guiding post in developing or extrapolating principles. It may seem an obvious point to some but after examining the plethora of cases from Singapore and Malaysia which Professor Chin has integrated into the text, it is clear that the integrity of principles have often been sacrificed for expediency born out of a lack of comprehension. The book may readjust some legal horizons.

The book should have a ready market. For the student, the understanding of Professor Chin's chapters should suffice for academic purposes. For both the Singapore and Malaysia academic and practitioner alike, Professor Chin's book is now an essential companion to the venerated commentaries on the Indian Evidence Act by Sarkar¹ and Woodroffe & Amir Ali². The book does not pretend to replace these commentaries and it of course cannot be a substitute for the detailed analysis to be found in those commentaries. He has given us the benefit of his years in academia by distilling the relevant principles and cases into some very tightly written chapters which are easily comprehensible. Gone are the days, this reviewer hopes, where a local practitioner had to commence his research with Mallal's Digest on Evidence. For this a large debt of gratitude is due from practitioners, particularly those at the Criminal Bar, to Professor Chin. Those practising at the Civil Bar would undoubtedly find the book useful but it would be fair to say a number of issues remain inadequately addressed (*e.g.* depositions, agreed bundle of documents). There are probably two reasons why Professor Chin has not devoted more space in discussing the principles of evidence peculiar to civil cases. First, the absence of authoritative local cases setting out definitive principles. Secondly, the failure of the legislature to carry out with the same zest the reform of the law relating to evidence in civil cases. Indeed, Professor Chin himself poignantly states in one instance: "It is difficult to explain why the legisla-

¹ Sarkar, *Evidence*, (13th ed.).

² Woodroffe and Amir Ali, *Law of Evidence*, (14th ed.).

ture in Singapore commenced with the reform of the hearsay rule in criminal proceedings and did not take similar action in civil cases”.

The value of a reprint or second edition of this book as a research tool would be further enhanced by the inclusion of a bibliography as well as an index of local articles and legal material on evidence and procedure. Be that as it may, undoubtedly, Professor Chin's book has filled a void in local legal literature in the area of adjectival law. The book is well researched. Comments and observations are closely argued. He has whetted the appetite of the academic ghost in all of us by drawing attention to the multifarious problems straddling the interpretation of the Act. His future publications on the law of evidence are keenly awaited. It is the reviewer's fervent hope that he will turn his attention to the conundrums bedevilling civil procedure and evidence, many of which are peculiar to Singapore.

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