

BOOK REVIEWS

CASE ANALYSIS AND STATUTORY INTERPRETATION: CASES AND MATERIALS
BY RC BECKMAN. [Singapore: National University of Singapore. 1992. xxiv
+ 482 pp. Softcover: S\$55.00]

MR Beckman informs us in the *Preface* to his book that: “The materials in this book were developed in the first year course in ‘legal method’ in the Faculty of Law of the National University of Singapore.” He adds, somewhat enigmatically, that: “The materials are designed for the use of the ‘Socratic’ style of lecturing”.

The difficulty in reviewing a book of this kind is that one does not really know whether one is reviewing a book or a course, which are two rather different things. In fact the book reveals a rather conventional, not to say old fashioned, course on legal method divided essentially, as is made explicit in the title, into problems of case analysis and problems of statutory interpretation.

There is an introductory chapter dealing with, among other things, courts, including the Judicial Committee of the Privy Council, and here one misses any reference to the fact that the Judicial Committee has now abandoned the old assumption of the universality of the English common law as it made clear in *Australian Consolidated Press v Uren* [1969] 1 AC 590 (see also *Geelong Harbour Trust Commissioners v Gibbs Bright & Co* [1874] AC 810) and even more recently and closer to home in *Jamil bin Harun v Yang Kamsiah* [1984] AC 529 (see also *Lim Yam Teck v PP* [1972] 2 MLJ 41). On the other side of the coin, as it were, one also misses any reference to JW Hams’ article “The Privy Council and the Common Law” (1990) 106 LQR 574 which takes the well known passage of Lord Diplock in *Cassell & Co Ltd v Broome* [1972] AC 1027 as its text, not only for its intrinsic interest but also because it was based upon a lecture delivered at the National University of Singapore in 1987, and might on that score alone have justified inclusion.

Case analysis is spread over three chapters thus: Chapter III “The Principles of *Stare Decisis*”; Chapter IV “Common Law Reasoning”, and Chapter V “Common Law Development”. In Chapter III, after a few pages of exposition of the basic principles of precedent, we are given seven cases together with the 1966 Practice Statement. The cases selected are all English and are all fairly traditional in legal method case books. The problem of *stare decisis* in Singapore is disposed of by re-producing an article (which is in fact the only article included in the entire book) by Andrew Phang, VK Rajah and Kenneth Tan entitled “The Case for a Re-appraisal and Re-statement of the Doctrine of *Stare Decisis* in Singapore – An Overview” ((1990) 6 Law Society’s Journal 22, which was based on a longer article by the same authors published in [1990] 2 MLJ lxxxi *et seq*).

Chapter IV is concerned with the problem of how to analyse cases and how to prepare case summaries. There are a few introductory pages of advice which might sound acceptable when orally delivered in the classroom but which are rather excruciating to read in cold print. Six cases follow, from the traditional field of

liability under *Rylands v Fletcher* (1866) LR 1 Ex 265; (1868) LR 3 HL 330. Five of the cases are English, with one, *Ang Hock Hai v Tan Sum Lee* [1957] 23 MLJ 135 from Singapore.

Chapter V draws on the traditional series of cases from *Langridge v Levy* (1837) 2 M & W 519; 150 ER 863 to *Donoghue v Stevenson* [1932] AC 562. Of the seven cases selected six are English with one from the United States. These cases seem first to have been used for this purpose by Levi in his article "An Introduction to Legal Reasoning" (1948) 15 *U of Chicago L Rev* 501, which was first published in 1948 and has been used by editors of legal method textbooks ever since. Mr Beckman, indeed, somewhat disarmingly, justifies his use of this line of cases on the ground that: "it has been analysed by several scholars over the years". The students will therefore, he argues, be able to supplement their study of the primary materials "with these secondary readings" (at 219). Surely, however, there is little point in requiring the law students of today solemnly to dissect cases some of which are over one hundred and fifty years old, especially as Mr Beckman himself recognises that: "These older cases are difficult to understand without some background as to the state of the existing law in 1816" (at 220). Surely there must be other illuminating sequences of cases which could be used and which might be even more relevant to legal study in this day and age. To be sure five post-*Donoghue v Stevenson* cases (all of them English) are also added for discussion although even here one misses the more recent decisions such as *Hill v Chief Constable of West Yorkshire* [1989] AC 53 or *Murphy v Brentwood District Council* [1990] 2 All ER 908. One appreciates that Mr Beckman is not concerned to teach the substantive law of tort (as he stresses at iii) but perhaps the more recent cases would better exemplify the judicial method of today rather than those of yesteryear.

Statutory interpretation is allocated only one chapter, Chapter VI, together with a brief "Introduction to Statute Law" in Chapter II. As with all case books on legal method, the chapter on statutory interpretation is the most unsatisfactory chapter in the book if only because statutory interpretation does not lend itself well to the case approach for reasons spelled out by Lord Diplock in *Carter v Bradbeer* [1957] AC 65, namely, that the doctrine of precedent has only limited application thereto.

In Chapter VI, eighteen cases have been selected of which three are from Singapore and one from the Federation of Malaya: the remaining fourteen cases all being English. The cases are discussed in four sections thus: "Ratio Decidendi of Cases Interpreting Statutes"; "Approaches to Statutory Interpretation"; "Unified Approach, Extrinsic Aids and Presumptions", and "Legislative Materials as Extrinsic Aids". This is an awkward arrangement since the student is thrown straight into the deep end in Section 1, having to consider a line of cases from *Neale v Del Soto* [1945] KB 144 to *Goodrich v Paisner* [1957] 1 WLR 1204 which are concerned with the interpretation of rent control legislation, and it is not until Section 2 that he is introduced to the various so-called approaches to statutory interpretation as classically established by Willis in his article "Statutory Interpretation in a Nutshell" ((1938) 16 Can Bar Rev 1) (which, incidentally, is still well worth a read today).

In Chapter VI, one misses any reference to problems such as that of determining whether statutory offences are offences of strict liability or not. Surely cases such as *Lim Chin Aik v R* ([1963] AC 160), *Warner v Metropolitan Police Commissioner* [1969] 2 AC 256 and *Sweet v Parsley* [1970] AC 132 have a higher claim to inclusion than some which have been included. One misses also any reference to some of the more recent academic work in the field of statutory interpretation such as the seminal article by WA Wilson "Questions of Interpretation" (1987) 8 *Statute Law Review* 142, with its discussion of the distinction between vagueness and ambiguity,

and also the wider horizons to be found in the J Evans, *Statutory Interpretation* (1988).

As is now traditional in legal method case books, each case is followed by the inevitable series of "Notes and Questions". Some of the notes may be useful, but most of the questions are jejune in the extreme. When teachers are practising the "Socratic" style of teaching such questions may appear even searching by those to whom they are addressed: but is it necessary to print them?

Since this book is avowedly based upon a collection of class materials, it would hardly be reasonable to expect that it would provide much in the way of new insights into either the problems of precedent or those of statutory interpretation. But one does miss any more general reflections on the problems, and in this context one thinks of AWB Simpson, "The Common Law and Legal Theory" in *Oxford Essays in Jurisprudence* (2nd series) (1973, AWB Simpson ed, Ch IV) or *Legal Theory and Common Law* (1986, W Twining ed) as providing a wider perspective.

The students of the Faculty of Law of the National University of Singapore will doubtless appreciate having the course materials for legal method available in such a handy form, but the range of materials presented could, perhaps, be rather wider than the rather conventional collection that is presented here.

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