

BOOK REVIEW

EVIDENCE

by

Chin Tet Yung

(Malaya Law Review & Butterworths, 1988)

This book by Mr Chin Tet Yung, Associate Professor at the Faculty of Law, National University of Singapore is the second volume in the Singapore Law Series which aims to provide introductory surveys of the main areas of the law of Singapore.

The author's approach has been to discuss the basic concepts and principles of evidence law in a systematic fashion rather than a section by section commentary on the Evidence Act, a style highly favoured by the Indian authors. The book is divided into eleven chapters ie. 1) Introduction, 2) Hearsay, 3) Statements by accused persons, 4) Opinion evidence, 5) Character, 6) Res gestae, 7) Judicial notice, presumptions and estoppel, 8) The burden and standards of proof, 9) Competency, compellability and privilege, 10) Course of evidence and corroboration and 11) Documentary evidence. Chapter 3 on "Statements by accused persons" is especially useful inasmuch it links up the relevant provisions in the Evidence Act together with the Criminal Procedure Code and one thus sees the interaction between these two very important statutes.

The lack of "local" textbooks alone on the law of evidence must make this book very welcome to lawyers, law teachers and students alike but the book is to be recommended for more than that one reason alone.¹ Written in a clear and concise style and prose it is a book which is a pleasure to read. It discusses most of the leading "local" cases including Malaysian decisions and this together with the close similarity

¹The only other "local" (Singapore and Malaysia) textbook on evidence is Awther Singh's *Law of Evidence in Malaysia and Singapore* (1983) which with due respect to the late author is inadequate in some respects.

between the Singapore Evidence Act (Cap. 97) and the Malaysia Evidence Act 1950 (Act 56) makes the book almost as useful to a Malaysian lawyer as to his Singapore counterpart.² Although meant primarily as a textbook for students (and law teachers) the extensive footnoting makes the book a valuable addition to a practitioner's library as well.

If the book is to be criticized, it must be for the lack of discussion on the concept of relevancy and the relevant sections in the Evidence Act. As pointed out by the author, the Evidence Act itself is arranged into three parts, "Relevancy of Facts", "Proof" and "Production and Effect of Evidence".³

That being so relevancy is very important as no proof can be given of facts unless they are declared to be relevant.⁴ It is thus a point for regret that the book only discusses very briefly the concept of relevancy and sections 7, 8, 9 and 10 and that only in the "Introduction".⁵ Section 6 is however extensively dealt with in the chapter on "Res gestae" and sections 11, 14 and 15 in the chapter on "Character". Chapter 7 on "Presumptions" is also rather brief and again there is no detailed discussion on the relevant sections in the Act.

Another point is that perhaps too much emphasis has been placed on criminal cases for eg., there is very little discussion on the burden and standard of proof on the parties in a civil case in Chapter 8. Then again the dictum of Murray-Aynsley CJ. in *Kartar Singh & Anor v R.*⁶ quoted at p. 13 of the book as to the standard of proof on the prosecution where the evidence adduced is only circumstantial

²The Malaysian lawyer must bear in mind however that there are significant differences in the two Acts. Act 11 of 1976 especially made some drastic amendments to the Singapore Act.

³See p. 9 of the book. Actually the Singapore Act is divided into four parts, the last being on "Bankers' Books".

⁴See section 5 of the Evidence Act (Malaysia & Singapore).

⁵C.f. Woodroffe & Ameer Ali's *Law of Evidence* (14th. edn.) where the discussion on relevancy spans two volumes and some 1300 pages.

⁶(1952) 18 MLJ 85.

could be misleading, at least to Malaysian lawyers.⁷

A last point of regret again from the viewpoint of a Malaysian lawyer is that the Table of Statutes should have provided for the Malaysian equivalent of the Singapore Evidence Act and Criminal Procedure Code as the numbering of the sections in the two statutes are not the same in the Malaysian statutes. A consolation however is that the indexing is very well done, something we have come to expect from books published by Butterworths.

These comments do not diminish the significant contribution of the author to the "local" jurisprudence on the law of evidence which has long been a neglected area of research and study. All in all this book by Mr Chin is to be strongly recommended as an introductory text for any "local" lawyer and particularly so for law students who will find it a refreshing and useful change from the complex English texts and the prolix Indian ones.

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⁷*Kartar Singh & Anor v R.* held that where the evidence is only circumstantial, the standard of proof required of the prosecution is such that there is no reasonable alternative to the guilt of the Accused ie. the "irresistible conclusion" test. However the Federal Court in *Jayaraman & Ors. v P.P.* [1982] 2 MLJ 306 and *Dato Mokhtar bin Hashim & Anor v P.P.* [1983] 2 MLJ 232 has held that there is no difference in this respect between direct and circumstantial evidence and in either case the standard of proof required of the prosecution is the traditional "proof beyond reasonable doubt".

