

An Analytical Guide to Contract and Sale of Goods including Hire-Purchase Agreements and Bills of Exchange, by R. A. SAMEK, M.A., LL.B., M.LITT. (Cantab.), M.COM. (Melb.). (The Law Book Company of Australasia Pty Ltd, Sydney, 1963), pp. i-xiv, 1-198. Price £3.

In his preface Mr Samek describes his book as follows:

This book contains case and statutory materials, problems and questions. It has three main objects: first, to provide a body of materials suitable for an introductory course in Commercial Law; secondly, to train students in applying the materials to new fact situations; and thirdly, to stimulate analysis of the materials in depth. By such an analysis I mean a critical examination of the materials, and not merely a comparative study of judicial pronouncements.

Mr Samek's method is best illustrated by an example, his treatment of the incorporation of Standard Form Conditions. Mr Samek sets out the facts of three cases, *Parker v. The South Eastern Railway Co.*,¹ *Thompson v. L.M.S. Railway Co.*,² and *Chapelton v. Barry Urban District Council*.³ In each case he follows the facts by direct quotation of those parts of the judgments which indicate the essence of the court's reasoning. The extracts are followed by the following questions and problems:

Why is it important to know whether a given document is a contractual document or a receipt?

Is this a question of law for the court, or one of fact for the jury?

Does the legal nature of the document depend on the belief of the party who receives it, or is the test an objective one?

Is a party who has not read the document bound by its terms?

Do you agree with the view that the issue of a ticket constitutes the offer, and the taking of the ticket the acceptance of the offer? Does this view raise any difficulty?

A books into B's hotel and pays a week's board and residence in advance. On entering the bedroom allotted to him, he sees a notice on the wall which states that B is not responsible for articles lost or stolen unless handed to the desk clerk for safe custody. Are the terms of the notice incorporated into the contract between A and B?

A leaves his suit with B to be dry-cleaned. He receives a ticket bearing a date, a number, and a description of the suit. The ticket contains on its face a condition purporting to exempt B from liability for damage to the suit, however caused. Does this condition form part of the contract between A and B?

I would describe Mr Samek's guide as a do-it-yourself case book. As I understand the Socratic method of teaching law, students are required to study in advance a group of cases. The teacher then probes by careful questioning the students' understanding of the principles of law upon which the cases were decided. The teacher then tests the students' understanding of principle by requiring them to apply it to analogous but slightly different fact situations. Mr Samek's questions and problems appear to me to be such as teachers would ask in teaching by this method. But here the questions and problems are in cold print. The teacher using such a method has a final task in attempting to summarize the principles and to reconcile the difficulties which arise from asking the right analytical questions. Here Mr Samek points out that his guide is intended to be used in conjunction with textbooks and as part of a course of teaching.

¹ (1877) 2 C.P.D. 416.

² [1930] 1 K.B. 41.

³ [1940] 1 K.B. 532.

In my opinion Mr Samek's method is most successful in his treatment of certain areas in the law of contract, for example, mistake. Here the materials are reasonably complete and the questions perceptive and revealing. But in other areas the scope of the law Mr Samek has set out to probe in two hundred pages prevent the materials and analysis going beyond an elementary level. His treatment of hire purchase agreements is simply to reprint the Hire Purchase Act 1959 together with about eleven questions. Again, the treatment of the problems of sections 26-31 of the Goods Act 1958 dealing with Transfer of Title is to set out the sections together with the following three questions:

- (1) 'When are goods sold in market overt?';
- (2) 'A sells a piano to B. B pays for it and asks A to store it until he can collect it. Before the piano is collected A sells it to C. Does C get a good title to the piano?';
- (3) 'Why could not Huhn in *Weiner v. Gill* pass a good title to the jewellery under [section 31]? Would he have been able to pass a good title to the jewellery if he had been a mercantile agent?'

It hardly needs stating that there are problems of analysis in either of these areas upon which Mr Samek has not had the space to touch.

However as Mr Samek points out the materials are intended to be suitable for an introductory course in Commercial Law and in this light it is no doubt improper to criticize their limited scope. Thus the book is intended to fulfil a different need to that met by McGarvie and Donovan's *Cases on Contract* (reviewed in the last issue of this journal) which collects in five hundred and ninety-five pages the materials considered necessary by the authors to teach by case-study method a course in the law of contract alone for law students. For an introductory course Mr Samek's materials and questions are admirable.

Two misprints were noticed. On page 74 line 2 'time' appears to be a misprint for 'true'. On page 173 line 3 'A' appears to be a misprint for 'X'.

J. D. FELTHAM

The New Zealand Constitution, by K. J. SCOTT. (Oxford University Press, London, 1962), pp. 1-188. Australian price £2 6s. 6d.

This short study of the New Zealand Constitution was published posthumously. Professor Scott died in 1961 and the book was seen through the press by Professor Campbell of Reading University. It is described by the author as an essay in constitutional analysis, and deals not only with the legal powers of the various organs of government but also with the working of institutions and particularly with the conventional restraints on the exercise of legal powers. These are placed in the forefront throughout; the author takes as a title page statement the words of Lord John Russell: 'Every political Constitution in which different bodies share political power is only enabled to exist by the forbearance of those among whom this power is distributed.'

The book consists of chapters on the Constitution, Parliament, the Crown and the Governor-General, Cabinet, the Public Service, the Courts and Administrative Tribunals. Each chapter is followed by a useful bibliography.

In the eyes of an Australian reader, the New Zealand Constitution has a blessed simplicity with little case law and exegesis. Since 1947 the New

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