

If there is a criticism to make, it is that the balance between the text and the footnotes can sometimes be weighed too much towards the footnotes. It would have been good to read more of the detail in the text itself (not least because the current author found the small footnote text challenging). This criticism is levelled from an academic perspective, however: practitioners are likely to value the succinct style of the text itself.

This book is an essential companion to the law of partnership. It is comprehensive, readable and the author makes important contributions with his views on the merits and demerits of the current law. It would be nice to read the same entertaining style applied, for example, to the history of partnership, a topic not covered in the book. One suspects, however, that the author has enough to do in updating the 1,511 pages of this text between editions.

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Tan Cheng Han, THE LAW OF AGENCY

Singapore: Academy Publishing (<https://www.sal-e.org.sg/academypublishing>), 2017, 2nd edn. xlvii + 387 pp. ISBN 9789811128721. \$ 96.30 (Singapore).

This book, written by a leading expert on agency law, focusses principally on the law of Singapore. This review seeks to illustrate why the book is highly relevant for a Scottish readership.

Both agency law in Scotland, and agency law in Singapore, lie broadly within the Common Law tradition. Proof of this can be found in the fact that the English definition of apparent authority is often relied upon in the courts of both countries. Neither country benefits from a large flow of case law, and this is problematic given that both legal systems rely on precedent to develop the law. In both countries, therefore, a new development in English law is looked at with significant interest. If a solution is required to an agency problem in Scots law, it may be appropriate for the courts to look to English law for inspiration. The Scottish courts often do so, see, for example, *Gray v Braid Logistics (UK) Ltd* ([2017] CSOH 44), in which Lord Bannatyne developed the Scots law of ratification by reference to *Owners of the Ship "Borvigilant" v Owners of the Ship "Romina G"* ([2003] EWCA Civ 935, [2003] 2 All ER (Comm) 736). This book illustrates this process taking place in the context of the law of Singapore. In the book, the author weighs and considers developments in English law, at times recommending their adoption and, at others, suggesting their rejection. To this extent, therefore, there is a close parallel with Scots law. It need hardly be said, however, that this process should take account of the "mixed" nature of Scots law. The Scottish court must ask whether the English development is consistent with the overall structure of Scots law. A development in English agency law relating, for example, to the doctrine of consideration, should not be used as a model for Scots law.

Professor Tan's analysis of apparent authority provides a good example of the process described above. Apparent authority is an important part of any system of agency law, acting to protect third parties from the activities of unauthorised agents. The nature of the concept has been highly controversial, however. Orthodoxy, found in cases such as *Armagas Ltd v Mundogas SA* ([1986] AC 717), dictates that the representation of authority must come from the words or conduct of the principal. More recently, doubt has been introduced, firstly in *First Energy (UK) Ltd v Hungarian International Bank Ltd* ([1993] 2 Lloyd's Rep 194) and, secondly, in *Kelly v Fraser* ([2012] 3 WLR 1008). The requirement that the false representation

must emanate from the principal has not been removed. Nevertheless, judicial recognition that an agent can be authorised to communicate information on behalf of his principal, which information may include the extent of his own authority, has removed much of the rigour from the orthodox approach. Professor Tan has, through a thorough analysis of cases decided in the Singapore courts, shed important light on this highly controversial area. In doing so, he draws on cases decided across the Commonwealth. Scots law has not escaped his notice: he discusses *A F Craig & Co Ltd v A F & J C Blackater* (1923 SC 472), the facts of which allow him to discuss the agent's ability to recover damages on behalf of his undisclosed principal, including issues such as whose loss is relevant, and the quantification of damages.

Recently, in *Banca Nazionale Del Lavoro Spa v Playboy Club London Ltd and anor* ([2018] UKSC 43, [2018] 1 W.L.R. 4041), the Supreme Court refused to expand the undisclosed principal rule, deciding that such a principal is not liable for an agent's negligent misrepresentation. Lord Sumption described the concept (at 4048 to 4049) as "...an anomalous legacy of eighteenth and nineteenth century jurisprudence, which survives in the modern law on account of its antiquity rather than its coherence". It will be interesting to see whether such strident criticism emanating from such a high level will cause the concept to wither. Professor Tan's timely analysis of this area is, in the writer's opinion, the best analysis to be found in books on agency recently published across the Common Law world. Too often, authors narrate the legal requirements without pausing to consider whether the concept is justifiable on legal, economic and policy grounds. This book provides a comprehensive, thoughtful and interesting analysis. Professor Tan's ideas are sometimes controversial, for example, his contention that, where an agent acts for an undisclosed principal, a contract is formed between principal and third party from the outset. Adopting this stance certainly allows him to solve difficult problems, however. He states (325-326):

While it is true that the doctrine of the undisclosed principal has been described as anomalous, the apparent anomaly is reduced if the proper understanding of the doctrine is that the undisclosed principal is in truth a party to the contract, a proposition that has ample judicial support, and the agent is liable and entitled only because this is the outcome of the proper interpretation of the contract entered into.

The author has a beautiful turn of phrase, expressing his views in a highly memorable fashion. Explaining why the law will not permit an undisclosed principal to ratify, he states (298): "... the law's tolerance is exhausted where both doctrines intersect so that ratification is not allowed where it was not evident from the outset that the agent was acting on behalf of someone else".

The author has managed to produce a very thoughtful and accomplished analysis of the law of agency in a book of less than 400 pages. His extensive experience as an advocate in the Singapore courts (appearing in some of the leading agency cases) is used to excellent effect. Whilst the book could be used as a student textbook, it is much more than that, providing an illuminating perspective on theoretical issues in the law of agency. Most importantly, it reminds us to pause and reflect on whether a rule from another legal system is a suitable one before we decide to import it into Scots law.

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