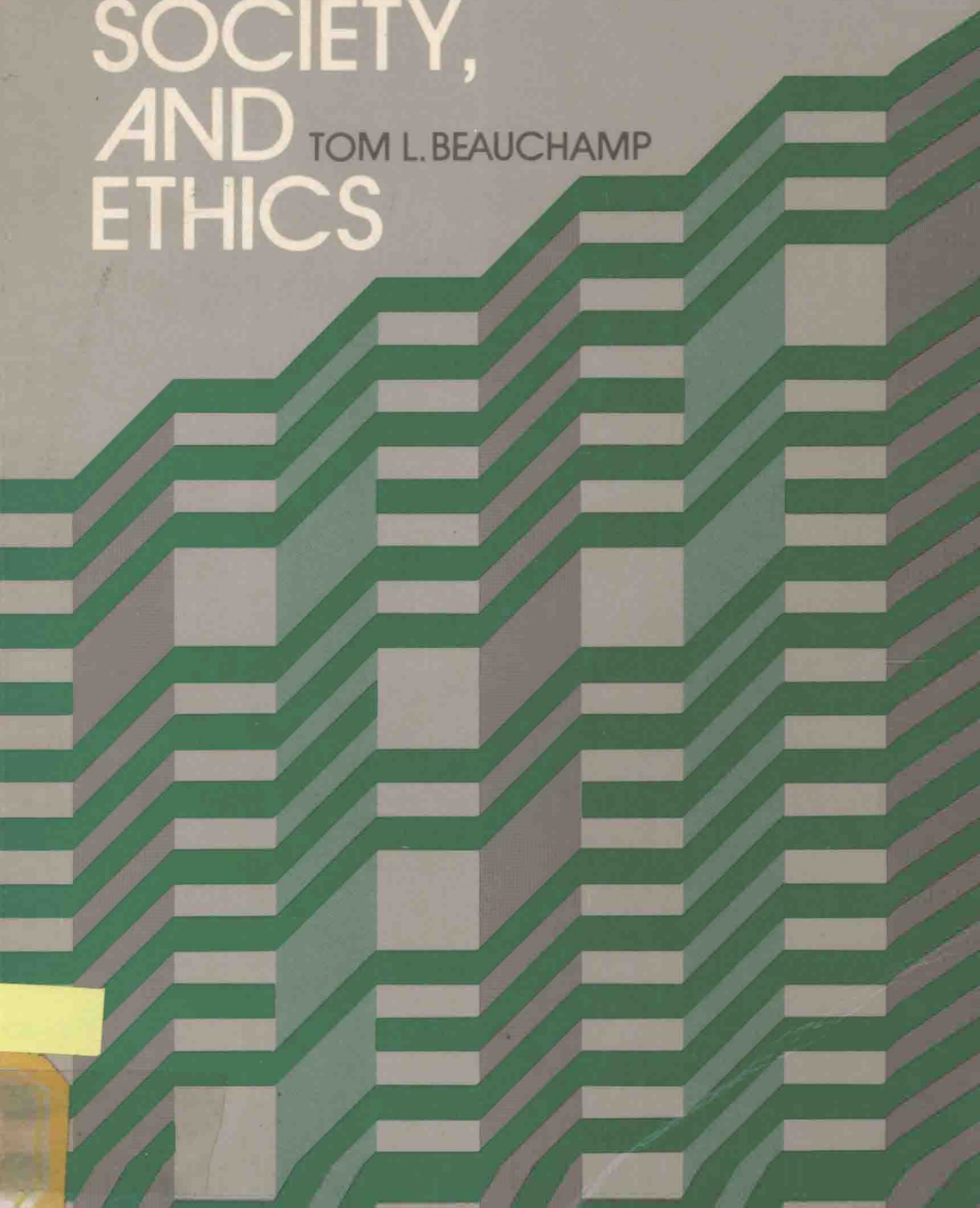


CASE STUDIES IN BUSINESS, SOCIETY, AND ETHICS

TOM L. BEAUCHAMP



Case Studies in Business, Society, and Ethics

Tom L. Beauchamp

Georgetown University

Library of Congress Cataloging in Publication Data

BEAUCHAMP, TOM L.

Case studies in business, society, and ethics.

Includes bibliographic references.

1. Industry—Social aspects—United States—Case studies. 2. Industry and state—United States—Case studies. 3. Trade regulation—United States—Case studies. I. Title.

HD60.5.U5B3 1983 658.4'08'0973 82-20453

ISBN 0-13-119263-9

Editorial/production supervision
and interior design: Chrys Chrzanowski
Cover design: Miriam Recio
Manufacturing buyer: Harry P. Baisley

© 1983 by Prentice-Hall, Inc., Englewood Cliffs, New Jersey 07632

All rights reserved. No part of this book may be reproduced, in any form or by any means, without permission in writing from the publisher.

Printed in the United States of America

10 9 8 7 6 5 4

ISBN 0-13-119263-9

PRENTICE-HALL INTERNATIONAL, INC., *London*
PRENTICE-HALL OF AUSTRALIA PTY. LIMITED, *Sydney*
EDITORA PRENTICE-HALL DO BRASIL, LTDA., *Rio de Janeiro*
PRENTICE-HALL CANADA INC., *Toronto*
PRENTICE-HALL OF INDIA PRIVATE LIMITED, *New Delhi*
PRENTICE-HALL OF JAPAN, INC., *Tokyo*
PRENTICE-HALL OF SOUTHEAST ASIA PTE. LTD., *Singapore*
WHITEHALL BOOKS LIMITED, *Wellington, New Zealand*

Preface

This book presents thirty-three case studies concerning social and ethical issues of contemporary concern to corporate officers, academics, government officials, and the broader public. The aim is to create an appreciation for the complexity of the circumstances and motives involved, as well as to make students aware of professional situations that require evaluative reflection and decision. The book was not produced to create a platform for moralistic criticism of the behavior of individual persons, corporations, or governmental agencies that play leading roles in the cases.

Of course, some cases do contain dramatic instances of professional irresponsibility, where it is reasonably clear that something went wrong or that some conduct is distinctly immoral, illegal, or unprofessional. It should not be inferred from these cases that conduct in the relevant profession generally follows this pattern. Irresponsible actions are occasionally featured because more can sometimes be learned from wrongful behavior than from rightful. However, learning through the study of wrongful or negligent behavior is *not* the orientation of this volume. The focus is on the complexities of circumstances in which hard choices must be made. More is to be learned, in my judgment, from reasoning under circumstances of controversy, personal quandary, and incompleteness of information than from paradigmatic cases of irresponsibility.

Some explanation of the length and structure of the cases is needed. Many cases that now circulate in the general literature of business, society, and ethics are either too short to contain enough detail for discussion or contain so much detail that discussion is retarded by the particulars and their connections. Living as we do in a society saturated by journalistic writing and rapid information dissemination, most of us encounter severe limitation regarding the amount of information we can study and remember about any sequence of events. We thus prefer tidy cases that come quickly to the essence of the matter. Most cases in this book conform to this model. However, any experienced executive

will rightly insist that the situations under which decisions are made in business are almost infinitely complex, and usually call for more information than can be obtained. Executives thus see cases as inherently complex, and are disappointed with quick summaries. This point of view certainly has its merits. It is important for every student to appreciate that cases almost always contain complexities far beyond the factors presented. This is so even when described at book length—as, for example, the Love Canal and Reserve Mining cases reported in this volume have been studied. Moreover, judgments about the cases become progressively more difficult as the description of the case is enriched by detail.

On the other hand, discussion of cases is facilitated by a reasonably tidy display of the pertinent materials. I have therefore tried to write and otherwise collect cases that contain sufficient detail to facilitate discussion in the classroom without becoming bogged down in detail. Cases of this length also make it possible to produce a book with a variety of issues at an affordable cost to students. At the same time, the problem of having far too many cases for use in a single course is avoided.

Many teachers of the subject matter found in this book prefer cases that take an “inside” view of a corporation or institution under investigation in the case. The reasons behind this preference for an inside-view are set forth in the Introduction to this volume. I endorse the importance of this form of pedagogy, and several cases in this book are so oriented. However, this approach incorporates only one profitable style of case study. An outside look at corporate activities is sometimes the only look that one can obtain, and moreover, it is usually the best approach to writing cases that require public-policy decisions. A spread of approaches to case writing is therefore used in this book, some taking the inside look, some the outside perspective, and some using a mixture of perspectives.

I also note a lack of enthusiasm for questions at the end of each case that focus students on particular features of the cases. I believe this is an editorial disservice rather than a service. A teacher may, of course, choose to provide questions to a class, but the problem with this approach in a text is twofold: (a) teachers teach the cases with very different approaches and purposes; (b) students can easily be impeded from novel approaches by being funneled in a particular direction. Thus, no questions or aids other than general introductions to chapters accompany the cases. (I discuss these problems of pedagogy further in the Introduction.)

A talented research staff assisted in the collecting and writing of these cases, and we were in turn generously supported by a grant from

the Exxon Foundation and the Landegger Program in International Business Diplomacy at Georgetown University. The Kennedy Institute of Ethics also supported this work. Special research was undertaken by R. Jay Wallace, Martha Elliott, Barry Smith, Nancy Blanpied, William Pitt, Barbara Humes, Sarah Westrick, Louisa W. Peat O'Neil, Andrew Rowan, Linda Kern, Cathleen Kaveny, and Sara Finnerty Kelly. Ted Moran and John Kline of the Landegger Program steered me in a number of important directions, as did Ruth Faden, Norman Bowie, Theodore Purcell, Carl Kaufman, Lisa Newton, Robert Cooke, William H. Hay, Thomas L. Carson, Archie B. Carroll, George Lodge, Henry W. Tulloch, Vivian Weil, Michael Hooker, Deborah G. Johnson, David P. Boyd, Richard E. Wokutch, Burton Leiser, Homer B. Sewell, and John H. Bubar. Some useful and substantive suggestions for improving the final draft of the Introduction were made by Terry Pinkard, Ruth Faden, Judith Areen, and Alex Capron. In the final stages Mary Ellen Timbol helped put the whole together, assisted by Tim Hodges, Fred Hoffman, Margaret Pumper, and Kyle Ward.

A number of corporations discussed in the cases in this volume also provided important materials and criticisms. A couple threatened law suits, but most were extraordinarily kind and patient in providing criticism, otherwise unavailable information, and data by telephone. Only Polaroid was fully convinced of the slant taken in the case as written in this book. This clearly evidences that most of these companies would not see the situation quite as the case-writer has depicted it. Nonetheless, almost every case in this book was aided by the contributions of representatives of the corporations, and I am pleased to be able to name the following constructive critics: Carol A. Boyd of Procter & Gamble, James M. Green of Hooker Chemical, Fred Shippee of the American Apparel Manufacturers Association, Leo J. Feuer of the William Carter Co., Robert Jeffrey of A.T. & T., Kathryn Ribbey of Ruder Finn & Rotman, Thomas J. Moore of Tampax, Robert M. Palmer of Polaroid, E. N. Brandt of Dow Chemical, Aracelia Garcia-Vila of Warner Lambert, John T. Sant of McDonnell Douglas, Frank Tomlinson of McDonnell Douglas, Craig Shulstad of General Mills, Susan K. Hartt of Kellogg Cereals, Carl Kaufman of Du Pont, Martha Beauchamp of the American Petroleum Institute, Barry F. Scher of Giant Food Inc., Don Price of the Lakewood Bank & Trust, Tom McCollough of Abbott/Ross Laboratories, C. L. Scarlott of Exxon, A. A. Gioia of Gulf Oil, J. Lee Bailey of the Cleveland Electric Illuminating Co., and Roger Shelley of Revlon.

I was also aided by a great many persons in organizations other than corporations. They too were exceedingly generous with their time and printed information. I thus also express gratitude to Alan Shakin of

PREFACE

the Consumer Product Safety Commission, Peggy Charron of Action for Children's Television (ACT), Robert B. Choate of the Council on Children, Media and Merchandising (CCMM), and unknown sources of The Coalition for Environmental-Energy Balance. (Persons who supplied information I was not able to use because of cases deleted from the volume include Craven Crowell of the Tennessee Valley Authority, J. Kenneth Clark of the Duke Power Co., Greg LaBrache of Mobil Oil, and Marc Covington of B. F. Goodrich.)

I am grateful for all of these sources of encouragement, support, and criticism.

T.L.B.

Contents

	Preface	xi
	Introduction: The Uses of Cases	1
chapter 1	The Employee	
	Introduction	17
	<i>Workplace Conditions:</i>	
	Polygraph Tests at Interscience Publishing	20 ✓
	Du Pont's Policy of Exclusion from the Workplace	24
	<i>Whistleblowing:</i>	
	The DC-10's Defective Doors	31 ✓
	Fumio Matsuda's Automobile Users Union	39
	<i>Conflicts of Interest and Obligation:</i>	
	Bethlehem Steel's Policy on Conflict of Interest	43
chapter 2	The Consumer	
	Introduction	48
	<i>Advertising:</i>	
	Kellogg Cereals and Children's Television Advertising	52 ✓
	Listerine Antiseptic, Colds, and Sore Throats	65
	<i>Marketing:</i>	
	Procter and Gamble's Rely Tampons	75
	Giant Food's Elimination of Item Pricing	82
	<i>Manufacturer Warranties:</i>	
	Henningsen v. Bloomfield Motors, Inc. and Chrysler Corporation	89
chapter 3	The Environment	
	Introduction	96
	<i>Human Health and Safety:</i>	
	Reserve Mining's Silver Bay Facility	100
	Hooker Chemical and Love Canal	107
	<i>Animal Health and Safety:</i>	
	Optical Distortion, Inc.	116
	The Cosmetics Industry and the Draize Test	122
	<i>Species and Wilderness Preservation:</i>	
	Acid Rain and the Uses of Coal	131

chapter 4 The Society

Introduction 137

Social Responsibility:

Dow Chemical Funding of Central Michigan 141

Lakewood Bank & Trust 145

Social and Economic Justice:

Dow Chemical Company and Napalm-B 151

Plasma International 157 ✓

Discrimination in Employment:

McAlee v. A.T. & T. 159

Dutchland Power and Light Co. 164

chapter 5 The Government

Introduction 170

Regulation and the Legislative Process:

Tris Sleepwear and Government Indemnification 174

The Manufacture and Regulation of Laetrile 179

Public Policy and Cost/Benefit Trade-offs:

The OSHA-Benzene Case 184

Air Bags and Automobile Manufacturers 189

Self-regulation and Professional Codes:

Aurora-Baxter Corporation 197

Hydrolevel Corporation and the ASME Boiler
Code 200

chapter 6 The Multinational

Introduction 205

The International Employee:

John Higgins: An American Goes Native in Japan 209

Polaroid In and Out of South Africa 215

The International Consumer:

Marketing Infant Formula 221 ✓

Parke, Davis, and Drug Warnings 234

Government Relations:

Italian Tax Mores 247 ✓

The Bribery Business 250

Expanded Contents

This alternative listing of cases is an expansion of the basic Contents. It is offered as a guide for teachers and students. It should be especially useful for teachers who plan a large segment of a course around a restricted range of topics. Thus, for example, a teacher who devotes a major part of a course to the topic of business and government can easily locate below the large number of cases relevant to this subject. (The headings in the basic Contents are unchanged, but a much larger set of cases is included under most headings.)

chapter 1 The Employee

Cases concerning workplace conditions:

- Polygraph Tests at Interscience Publishing 20
- Du Pont's Policy of Exclusion from the Workplace 24
- Fumio Matsuda's Automobile Users Union 39
- Reserve Mining's Silver Bay Facility 100
- McAleer v. A.T. & T. 159
- The OSHA-Benzene Case 184
- John Higgins: An American Goes Native in Japan 209
- The Bribery Business 250

Cases concerning whistleblowing:

- The DC-10's Defective Doors 31
- Fumio Matsuda's Automobile Users Union 39
- Aurora-Baxter Corporation 197
- Polaroid In and Out of South Africa 215
- The Bribery Business 250

Cases concerning conflicts of interest and obligation:

- Bethlehem Steel's Policy on Conflict of Interest 43
- Polygraph Tests at Interscience Publishing 20

The DC-10's Defective Doors	31
Fumio Matsuda's Automobile Users Union	39
Lakewood Bank & Trust	145
Aurora-Baxter Corporation	197
Hydrolevel Corporation and the ASME Boiler Code	200
John Higgins: An American Goes Native in Japan	209
Polaroid In and Out of South Africa	215
Italian Tax Mores	247
The Bribery Business	250

chapter 2 The Consumer

Cases concerning advertising:

Kellogg Cereals and Children's Television Advertising	52
Listerine Antiseptic, Colds, and Sore Throats	65
Marketing Infant Formula	221

Cases concerning marketing:

Procter and Gamble's Rely Tampons	75
Giant Food's Elimination of Item Pricing	82
Fumio Matsuda's Automobile Users Union	39
Optical Distortion, Inc.	116
Plasma International	157
Tris Sleepwear and Government Indemnification	174
Air Bags and Automobile Manufacturers	189
Aurora-Baxter Corporation	197
Marketing Infant Formula	221
Parke, Davis, and Drug Warnings	234
The Bribery Business	250

Cases concerning manufacturer warranties:

Henningsen v. Bloomfield Motors, Inc. and Chrysler Corporation	89
The DC-10's Defective Doors	31
Fumio Matsuda's Automobile Users Union	39
Tris Sleepwear and Government Indemnification	174

chapter 3 The Environment

Cases concerning human health and safety:

Reserve Mining's Silver Bay Facility	100
Hooker Chemical and Love Canal	107
Du Pont's Policy of Exclusion from the Workplace	24
Acid Rain and the Uses of Coal	131

- Dow Chemical Company and Napalm-B **151**
- Tris Sleepwear and Government Indemnification **174**
- The OSHA-Benzene Case **184**

Cases concerning animal health and safety:

- Optical Distortion, Inc. **116**
- The Cosmetics Industry and the Draize Test **122**
- Acid Rain and the Uses of Coal **131**

Case concerning species and wilderness preservation:

- Acid Rain and the Uses of Coal **131**

chapter 4 The Society

Cases concerning social responsibility:

- Dow Chemical Funding of Central Michigan **141**
- Lakewood Bank & Trust **145**
- Bethlehem Steel's Policy on Conflict of Interest **43**
- Procter and Gamble's Rely Tampons **75**
- Hooker Chemical and Love Canal **107**
- Polaroid In and Out of South Africa **215**
- Marketing Infant Formula **221**

Cases concerning social and economic justice:

- Dow Chemical Company and Napalm-B **151**
- Plasma International **157**
- Fumio Matsuda's Automobile Users Union **39**
- Procter and Gamble's Rely Tampons **75**
- Henningsen v. Bloomfield Motors, Inc. and Chrysler Corporation **89**
- Reserve Mining's Silver Bay Facility **100**
- Hooker Chemical and Love Canal **107**
- Acid Rain and the Uses of Coal **131**
- Tris Sleepwear and Government Indemnification **174**
- Polaroid In and Out of South Africa **215**
- Marketing Infant Formula **221**
- Italian Tax Mores **247**

Cases concerning discrimination in employment:

- McAleer v. A.T. & T. **159**
- Dutchland Power and Light Co. **164**
- Du Pont's Policy of Exclusion from the Workplace **24**
- Polaroid In and Out of South Africa **215**

chapter 5 The Government

Cases concerning regulation and the legislative process:

- Tris Sleepwear and Government Indemnification **174**
- The Manufacture and Regulation of Laetrile **179**

Kellogg Cereals and Children's Television Advertising	52
Listerine Antiseptic, Colds, and Sore Throats	65
Procter and Gamble's Rely Tampons	75
Giant Food's Elimination of Item Pricing	82
Henningsen v. Bloomfield Motors, Inc. and Chrysler Corporation	89
Reserve Mining's Silver Bay Facility	100
Hooker Chemical and Love Canal	107
The Cosmetics Industry and the Draize Test	122
Acid Rain and the Uses of Coal	131
The OSHA-Benzene Case	184
Marketing Infant Formula	221
Parke, Davis, and Drug Warnings	234
<i>Cases concerning public policy and cost/benefit trade-offs:</i>	
The OSHA-Benzene Case	184
Air Bags and Automobile Manufacturers	189
Giant Food's Elimination of Item Pricing	82
Reserve Mining's Silver Bay Facility	100
Tris Sleepwear and Government Indemnification	174
Italian Tax Mores	247
<i>Cases concerning self-regulation and professional codes:</i>	
Aurora-Baxter Corporation	197
Hydrolevel Corporation and the ASME Boiler Code	200
The DC-10's Defective Doors	31
Fumio Matsuda's Automobile Users Union	39
Procter and Gamble's Rely Tampons	75
Marketing Infant Formula	221
Parke, Davis, and Drug Warnings	234
The Bribery Business	250

chapter 6 The Multinational

<i>Cases concerning the international employee:</i>	
John Higgins: An American Goes Native in Japan	209
Polaroid In and Out of South Africa	215
Marketing Infant Formula	221
Italian Tax Mores	247
The Bribery Business	250
<i>Cases concerning the international consumer:</i>	
Marketing Infant Formula	221
Parke, Davis, and Drug Warnings	234
The DC-10's Defective Doors	31

Fumio Matsuda's Automobile Users Union	39
Acid Rain and the Uses of Coal	131
Plasma International	157
The Manufacture and Regulation of Laetrile	179

Cases concerning government relations:

Italian Tax Mores	247
The Bribery Business	250
Fumio Matsuda's Automobile Users Union	39
Acid Rain and the Uses of Coal	131
Aurora-Baxter Corporation	197
Polaroid In and Out of South Africa	215
Marketing Infant Formula	221

Introduction: The Uses of Cases

The cases collected in this volume emerge from the intersection of professional practice in business, economics, law, and government. The cases can be profitably read from all of these perspectives. There are, however, better ways to analyze the cases if the reader is to obtain a due appreciation of the questions and possible answers they present. The purpose of this first chapter is to explore: (1) how different perspectives can structure the problems located in the case; (2) the history of “case methods”; (3) whether there exists more than one case method; (4) pitfalls in case analysis; and (5) reservations about “facts” presented in cases.

DIFFERENT PERSPECTIVES ON CASE STUDY

Most students and teachers who profit from the study of cases agree that cases help focus and dramatize problems and, at the same time, locate problems in real-life situations. Beyond this initial point of agreement, diverse orientations and styles of case analysis are plentiful. For example, orientations provided by the disciplines of economics, management, and philosophy direct a reader to pick out different elements in the cases as problematic and deserving of careful reflection. This pluralism of approaches dominantly occurs in the general area of business, society, and ethics as a result of two fundamentally distinct, though not incompatible, orientations: (1) the perspective of *ethics*, and (2) the perspective of the professional in *business*.

The ethics orientation tends to categorize its endeavor as “business ethics,” and then proceeds to analyze cases in such ethical categories as justice, utility, and rights. Cases about reverse discrimination in hiring, for example, are studied in light of theories of justice and what these theories demand or permit. Moral decisions and quandaries found in cases are emphasized as fundamental to the case and to a proper understanding of it—although one’s ethical presuppositions and evalua-

tions in examining cases might be taken to be as important as the presuppositions and evaluations of the central figures. Ethical theories may not be studied in detail and may not be called on for the analysis of each case, but such theories are generally regarded as heuristically useful. A common presumption is that without some understanding of ethical theory one is ill-equipped for the critical examination of the cases.

The business orientation tends to categorize its endeavor as “business and society,” and then proceeds to analyze cases in terms of various relationships between business and industry, on the one hand, and government and society, on the other hand. Cases about environmental pollution, for example, are studied by detailing empirical facts about pollution and disease and by examining social processes that have tended to diminish the scope of decisionmaking in business and have created new responsibilities through government requirements. The economic aspects of pollution control are central to any such discussion. The responses of corporations to changing legal and regulatory situations as well as the importance of skillful management are often heavily emphasized, as are the considerations of what has been and may become public policy. Tax policies and the economic consequences of proposed public policies may be studied in detail, and almost certainly will be taken as central to the analysis of cases. The difference between political interests and business interests too are taken as fundamental for a proper understanding of cases. This orientation somewhat deemphasizes the importance of both one’s ethical presuppositions and the ethical presuppositions of persons featured in the cases. Ethical principles may not be mentioned at all—just as those who examine the cases with an ethical interest may wholly ignore questions of good and bad management.¹

There is no reason to suppose that these different orientations are mutually exclusive or that one orientation is preferable to another. A more constructive approach is to admit that cases invite multiple forms of analysis. This judgment reflects a general truth about good cases: They can be analyzed from many points of view, and increased complexity increases the possibilities for different forms of analysis.

THE CASE METHOD IN LAW

Just as different *perspectives* on cases lead to different conceptions, so different *strategies* in analyzing cases yield different outcomes. This fact of life is not to be deplored. Something can be learned from cases only

¹An instructive example of this approach is found in the Introductions and cases in *Business and Society*, eds., Robert D. Hay, Edmund R. Gray, and James E. Gates (Cincinnati: South-Western Publishing Co., 1976).

if a framework of questions is brought to the cases; otherwise a case merely offers a sequence of events and thoughts. The oldest and most extensive body of thought on strategies for analyzing cases (apart from religious traditions) is found in law, where the case method has long been a staple of legal training and where “case law” establishes precedents of evidence and justification. It is instructive to look first to the history of and problems in legal case analysis.

The single most important development in the history of the case method in law occurred shortly after 1870, when Christopher Columbus Langdell became Dean of the Law School at Harvard. Upon his ascending he immediately proceeded to revolutionize previous academic standards and teaching techniques by introducing “the case method.” He intended this method to replace the prevailing textbooks and lecture methods, which he condemned as promoting rote learning and worthless acumen for passing examinations. Langdell’s idea was to use casebooks, rather than textbooks, for the entire law school curriculum. The casebooks were composed of cases selected, edited, and arranged to reveal to the student the pervasive meanings of legal terms, as well as the “rules” and “principles” of law. This approach used a dialectical or Socratic manner of teaching to reveal how concepts, rules, and principles are found in the legal reasoning of judges, as exhibited in the cases. The skillful teacher presumably could extract these fundamental principles, in the way a skillful biographer extracts the true principles of a person’s reasoning by studying his or her considered judgments over a lifetime.

Langdell was no mere disenchanted teacher who disliked conventional methods of lecturing. He had theoretical reasons for his reforms. In his view the law was no perfunctory profession that any clerk could learn by boning up on textbook wisdom. Langdell believed that the law was a science, resting on an inductive method modeled on the “scientific method” of the natural sciences. Teachers and students developed hypotheses in their dissection of cases, and landed on principles just as any scientist did. In law, he argued, one extracts from cases a select body of principles that frame the English common law.² Even though the many particulars in cases vary and their judicial conclusions are sometimes at odds, the principles of judicial reasoning need not vary. Also, one could study by this method exactly how far a principle extends, including where its employment is invalid. In the process the student presumably acquired a facility and sophistication to move from particular circumstances to generalizations and back.

²Langdell’s first casebook, *Contracts*, is treated in Lawrence M. Friedman, *A History of American Law* (New York: Simon and Schuster, 1973), pp. 531f. The general account of the case method in this section is indebted to this source, and also to G. Edward White, *Tort Law in America: An Intellectual History* (New York: Oxford University Press, 1980).