

CHITTY ON CONTRACTS, COMMON LAW LIBRARY NUMBER 1. (25th Edition). VOL. I (GENERAL PRINCIPLES) & VOL. II (SPECIFIC CONTRACTS). London: Sweet & Maxwell. 1983. ccliv+1190 pp.+73 pp. (index) (Vol. I), ccix+1232 pp.+73 pp. (index) (Vol. II) £90.00]

REVIEWS of new editions of well-established reference works tend to be merely reportive of the changes made to the editors and the law since the last editions. This is especially the case when a new edition of such a well-known work as *Chitty* (now in its 25th edition) is concerned.

On reading the “General Principles” volume, one may detect that more attention is being paid to recent theories about the economic analysis of contract (in terms of allocation of risks), the declining influence of the “classical free market” model of contract and the basing of remedies on reliance and benefit rather than pure promise (Prof. Atiyah’s *The Rise and Fall of Freedom of Contract*). On the other hand, it must be reassuring for most practising lawyers that by

and large the new theories have not as yet overwhelmed the judges, the changes in the law being based on analogical reasoning using traditional concepts although a few new concepts such as "economic duress" and "reasonableness" of contractual terms have crept into the law.

Chitty documents and discusses these changes neatly and succinctly. It is admirable how consistent the quality of the writing is, given the number of editors. Perhaps the fact that the work is "the product of the members of the University of Oxford" partly explains this. Some editors of course seem to have stronger views than others as evidenced by, for example, Professor Atiyah in his chapter on "Duress and Undue Influence" where he made the point that certain decisions on economic duress (*Occidental Worldwide Invest. Corp., North Ocean Shipping Co. Ltd., Pao On and Universe Tankships*) must have been decided *per incuriam* for having ignored the House of Lords' decision of *Lynch v. D.P.P. of Northern Ireland*, a case on the defence of duress in criminal law. It remains to be seen whether the distinction between the 'overborne will' theory and the 'deflected will' theory is one which the judges will accept in the future. Meanwhile, it must be difficult, in practice, to dismiss confidently the approach taken in those four decisions.

There have been significant case-law developments since the last edition (1977) in the areas of Duress, Misrepresentation, Terms of the Contract and Exemption clauses. Outstanding among these must be the Unfair Contract Terms Act 1977 and the gradual irrelevance of the doctrine of fundamental breach (*Photo Production Ltd. v. Securicor Transport Ltd.*) in the area of exemption clauses. Subsequent case-law developments by the House of Lords in *Ailsa Craig Fishing Co. v. Malvern Fishing Co.* (1983)¹ and *Geo. Mitchell Ltd. v. Finney Lock Seeds Ltd.* (1983)² unfortunately appeared too late for inclusion.

Volume II (Specific Contracts) will most probably continue to provide a quick and authoritative reference on certain types of contracts although there are in most cases other reference works on them (including the Common Law Library series itself, e.g. *Bowstead on Agency, Benjamin's Sale of Goods*). Further, the volume is less useful in those jurisdictions where the law on certain specific contracts (e.g. Employment, Credit and Security, restrictive agreements) is different. It is a pity that one cannot purchase the volumes separately, given the rather hefty price for the two volumes.

This new edition of *Chitty* is most welcome in the light of statutory and case-law developments and there is hardly any doubt that it will continue to be an indispensable reference work in any library or lawyer's office.

CHIN TET YUNG

1 [1983] 1 W.L.R. 964; [1983] 1 All E.R. 101.

2 [1983] 2 A.C. 803; [1983] 2 All E.R. 737; [1983] 3 W.L.R. 163.