

OCCUPIERS' LIABILITY IN SINGAPORE AND MALAYSIA. By MICHAEL RUTTER. [Singapore: Butterworths. 1985. xxi+299 pp. Softcover: S\$85]

NATIONS which were part of the British Empire have frequently continued to apply English common law after independence. For those states with a small population, and hence a small jurisprudential base, this continuance is often beneficial. It allows local law students, lawyers and judges readily to take advantage of developments and jurisprudential writing in the United Kingdom. As a result, the study of the law of torts in Singapore and Malaysia is largely a study of the relevant English authorities, with English texts being the standard reference works. However, English development of the common law of occupiers' liability regarding lawful entrants to land ceased abruptly in 1957,¹ and likewise for trespassers, in 1984,² when Parliament stepped in and changed the law, imposing one common standard of care towards all lawful entrants to land, and a separate statutory standard for trespassers. The legal community here found that it was no longer able to look to the United Kingdom for guidance, and its tendency to do just that in the tort field left a lacuna when cases arose concerning occupiers. Happily, the lacuna has been more than adequately filled by this concise new text by Michael Rutter.

Occupiers' Liability in Singapore and Malaysia is not just an excellent, comprehensive text, but also a valuable research tool for lawyers. The Appendix provides a nutshell statement of the basic rules, followed by a short summary which can be used as a checklist in analyzing particular fact situations. Appendix B contains a short digest of the relevant Singapore and Malaysian cases on occupiers' liability. And Appendix C contains an exhaustive citation of common law authorities from Singapore, Malaysia, the United Kingdom, Canada, Australia and New Zealand, broken down by reference to specific types of premises. This detailed attention by the author, rarely found in academic works, can save practitioners many hours of research effort in isolating the most relevant authorities for the type of premises under consideration.

The text itself is designed in such a way that it can readily be used both by those unfamiliar with the basic rules of liability, and those who are completely familiar with the basic law and want to concentrate on a particular issue. The first two chapters, covering some 46 pages, provide a general discussion of the law which will quickly bring the uninitiated into the picture. Familiarity with the general scheme, gained through the first two chapters, or through practical experience, allows one to move to later chapters which consider in detail all of the particular issues which may arise.

Part I deals with situations where, notwithstanding the fact that cases touch on liability of occupiers, the law is willing to require compliance with a general standard of reasonable care. Part II deals with the traditional divisions of occupiers' liability, with separate chapters for the duties owed to contractual entrants, invitees, licensees, and trespassers. Part III is devoted to very specific problem situations, with chapters covering public and private premises, multiple defendants,

¹ Occupiers' Liability Act 1957 (5 & 6 Eliz. 2, c. 31).

² Occupiers' Liability Act (1984 c. 3).

the duties of landlords, and the troublesome concept of the law's treatment of children. Practitioners are again well catered for with a chapter on defences at the end of Part II, and a chapter entitled "Taking Steps to Avoid Liability" at the end of Part III.

The book is very readable, although if the work is read in its entirety, one may well be struck by a certain amount of repetition. However, this is to be expected in a text which provides a basic introduction followed by detailed examination of specific issues. The organized structure of the book and the writing style make for ease of comprehension. The only instance where easy comprehension breaks down is the flowchart on pp. 36-37 in which the author attempts to diagram the entire field under the title "Occupier's Liability at a Glance". Charts of this nature are only helpful when they can present facts quickly and understandably. The condensation of the book into one diagram is much too ambitious a task, and the diagram can only be understood after much study and analysis.

One could criticize the building of a two hundred page text on the law in Singapore and Malaysia from scant local authority — only fifteen local cases are digested in the Appendix. However, to be fair, the author lays a solid basis for his discussion by reference to English cases prior to legislative action in the United Kingdom, and provides in-depth analysis throughout the text of the limited local authority available. In addition, there is comprehensive discussion of the possible local application of the UK Unfair Contracts Terms Act³ in occupier cases, and ready reference to cases in other jurisdictions which have maintained and continue to develop the common law rules. The author and the publishers may have done themselves a disservice by restricting the scope of the text to the local situation, as a work of this nature could also have been of use in jurisdictions such as Canada and Australia.

The most annoying feature of the text is the errata. Upon opening the book, one is presented with a small sheet outlining no less than eighteen of these, and there are more that the reader himself discovers. The annoyance and inconvenience caused by these numerous printing errors are not insignificant. It is to be hoped that should the book go to additional printings or editions, these can be removed.

The danger with small jurisdictions relying heavily on English common law is that their law may be frozen at its then existing state in the United Kingdom should there be massive legislative intervention there. This danger is particularly significant where occupiers' liability is concerned since the English courts, prior to passage of the 1957 Act, had gradually been moving towards liberalization of the common law. Mr. Rutter clearly makes a case for continued liberalization locally, and his text will be an appropriate aid in ensuring that the law here will not remain as it stood in England in 1957. His book is a valuable addition to local jurisprudence, and is to be recommended highly.

KEITH R. EVANS

* Unfair Contracts Terms Act 1977 (c. 50).