

All in all, Associate Professor Poh can be proud of his new edition. Minor shortcomings are to be expected in every book and in no way detracts from the value of the book. He is to be sincerely congratulated for a job well done and there is no doubt that both practitioners and students alike will find it both informative and useful.

MYINT SOE

THE APPLICABLE LAW IN SINGAPORE AND MALAYSIA. By MICHAEL F. RUTTER. [Singapore: Malayan Law Journal. 1989. xlv + 748 pp. (including index). Hardcover: S\$320.00].

OUTSIDERS are apt to be surprised that such a basic matter as the question of what law applies in Singapore and Malaysia today, is far from being a clear-cut and straightforward one. The short reason for this state of affairs lies in the complicated political and constitutional history of the territories that comprise present-day Singapore and Malaysia. To borrow the author's analogy, the legal systems of Singapore and Malaysia today may be likened to a river fed by several tributaries of different laws. The bulk of the river water is indigenous, but significant portions are traceable to feeder streams that originated elsewhere (*e.g.* England, India). From the eighteenth century onwards, British colonialism gradually superimposed the common law on pre-existing customary and indigenous laws in the region. Thus, over a period of time, English law was "received". However, as local legislative institutions developed, and particularly after Independence, local legislation became an increasingly important source of law. In addition, under the common law doctrine of precedent, the decisions of English courts, and the predecessor courts of present-day Singapore and Malaysian courts, also lay claim to application as sources of law. Thus, to answer the question what law is applicable in Singapore and Malaysia today, one cannot stop at the statute book, but must go on to grapple with questions of reception and precedent. This exercise is an essential one for every local law student and practitioner, and Michael Rutter's book offers a valuable guide for navigating the choppy seas involved.

The book begins with a general examination of the doctrines of reception, precedent and sources of law. The main body of the book is then divided into three parts: Part I deals with the Singapore position and Part II, the Malaysian one. The general approach for each of these two Parts is to begin by outlining the political and constitutional history of the country concerned. This provides an essential backdrop for understanding the diversity in the sources of applicable law in Singapore and Malaysia. There are two main sources of applicable law: legislation and case law. Applicable legislation may be English, Indian, Malaysian or Singaporean in origin. Applicable case law may come from England, India, Malaysia,

Singapore or other jurisdictions. Parts I and II are devoted to a detailed examination of each of these sources of applicable law, scrutinizing their nature, and extent of influence or applicability. Thus, in Part I (Singapore), for example, the extent of applicability of English law (statute and case law) under the Second Charter ("general reception"), Imperial Acts, section 5 of the Civil Law Act (Cap. 43, 1985 Rev. Ed.) and other specific reception provisions is closely analysed, as is the legal influence of Indian and Malaysian legislation. The legal authority of decisions by past and present Singapore courts, English, Malaysian and Indian courts also comes under close scrutiny. As the author points out, much more space (about twice as much) is devoted to Singapore than to Malaysia. This is due to various reasons: firstly, the author was based in Singapore; secondly, the operation of the doctrines of reception and precedent has given rise to more acute problems in Singapore than in Malaysia; thirdly, where the position was the same in both countries, it has been stated in full in Part I (Singapore), and Part II (Malaysia) has merely referred to Part I in order to minimise repetition. Part III of the book examines the future prospects of the Singapore and Malaysian link with English law. In addition to the above, the book contains 21 illustrative diagrams, 6 appendices (among them digests of selected cases on reception and precedent), and 4 select bibliographies (on general matters, reception, precedent and common law principles). The book also contains a "route-map" and plentiful sub-headings to steer the reader through its ample contents and facilitate speedy location of the desired information - "user-friendly" features which will be especially appreciated in view of the book's size.

In his preface, the author very modestly states that his book is intended as "just ... a guide" or "overview" of the topic, and that it "passes lightly over many areas of difficulty and does not purport to present an exhaustive account". While it may be true that some areas could indeed perhaps have been elaborated upon, it is, as Dr. Molly Cheang, writer of the Foreword, rightly pointed out, quite obvious that the book goes far beyond being just a guide or overview of the topic. It does not simply lay down mechanical rules and principles, but also covers the main grey or problem areas involved (and there are many), discussing the relevant cases and the different scholarly views concerned, as well as adding the author's opinion thereon. The book is also in some respects, a sourcebook. For example, it reproduces the text of important legal historical documents (such as Sir Stamford Raffles' agreement of 30 January 1819, and the Treaty that accompanied it); extracts of important cases and articles; a valuable list of cases that considered the application of various U.K. statutes in the Straits Settlements, found in the Tables of Written Law, 1808-1898, by E.R. Koek (a work that has long been out of print, and is therefore not readily accessible). Although, as the author himself acknowledges, some parts of the book (*e.g.* Chapter 13: Extent to which Singapore courts are influenced by decisions of courts

in Malaysia) draw heavily from other writings, it is nevertheless very obvious that the author has put in a tremendous amount of effort and research of his own. The book demonstrates an impressive and remarkable grasp of detail and of the subject matter, and the author deserves high commendation for fulfilling a long-standing need in our legal community for a "single text" on the applicable law in Singapore and Malaysia - an accomplishment that is no mean feat in view of the complexity of the area involved.

This book then is the most comprehensive and largest single work in its field, and a most welcome addition to the store of local legal literature. It will be a useful tool not just to law students and practitioners who need to ascertain the laws applicable in Singapore and Malaysia, but also to those with an interest in understanding local legal history and development.

HELENA CHAN Hui MENG

MALLAL'S DIGEST OF MALAYSIAN AND SINGAPORE CASE LAW 1808-1988. (Fourth Edition). Volume 1. By MALAYAN LAW JOURNAL AND VARIOUS SPECIALIST EDITORS. [Singapore: Malayan Law Journal. 1990. Ivii + 489 pp. Hardcover: S\$400.00 per volume].

MALLAL'S DIGEST was the brainchild of the great Dr. Bashir Ahmad Mallal, and his brother Nasir A. Mallal. Coming to Singapore sometime during the First World War, Dr. Mallal began working as a clerk of the firm of Battenberg and da Silva in 1918, eventually rising to the position of managing clerk. He had no law degree; indeed he never had a university education. Nonetheless, Dr. Mallal became so totally absorbed in the law that he published his first book *Mallal's Criminal Procedure Code* in 1931. The following year, he founded the Malayan Law Journal which is probably his most lasting and prominent legacy.

In the first edition of the *Digest* published in 1940, the editors wrote:

As there was a general demand from the profession for a digest of cases reported in the Malayan Law Journal the Editors undertook the task of preparing such a digest.

This was typical of Dr. Mallal's modesty and absolute devotion to the legal profession, to which he was never a real member, but was, at the same time, its "Godfather" and greatest benefactor.

When Dr. Bashir Ahmad Mallal died in 1972, he had only completed the third volume of the Third Edition of his *Digest of Malaysian and Singapore Case Law*. He was working on the fourth volume when he suffered his fifth and final heart attack. Six years later, Professor Ahmad Ibrahim and the then editor Encik Al-Mansor Adabi completed that ill-