

CONSTITUTIONAL LAW IN MALAYSIA AND SINGAPORE (SECOND EDITION) BY  
KEVIN YL TAN AND THIO LI-ANN [Singapore: Butterworths, 1997. lix +  
1056 pp (including index). Softcover: \$200.85 (inclusive of GST)]

THE publication of the first edition of this cases and commentary book on Malaysian and Singapore Constitutional Law in 1991 was a major legal event. While there have been a number of similar attempts, they were decidedly “practitioner” oriented, faithfully reporting and excerpting the relevant statutory and case law. This, however, was the first scholarly effort (and, in my view, a very successful one) to explore the socio-political and theoretical underpinnings of constitutional law in this region. The advent of the second edition is another event of considerable significance. We are told in the preface that Kevin Tan have updated and reworked the material with a new collaborator, Thio Li-ann. We are also told that responsibility for the first half of the book (on constitutional structures) was retained by Kevin Tan, and the second half (on fundamental liberties) was under the charge of Thio Li-ann. It is beyond doubt that the two authors are the leading writers on constitutional law in Singapore, both in the volume of work and in the quality of research. This book gives a fascinating insight into their contrasting styles. Kevin Tan writes in the cast of a historian; solid, stately and comprehensive, chronicling the major events and presenting the available analyses. Of these there have been a few since the first edition, primarily Singapore’s continuing experiment with the Elected Presidency in the context of a “Westminster” style government, and Malaysia’s persistent difficulty with ascribing an appropriate role for its hereditary rulers. All of them are ably represented in the second edition. Thio Li-ann adopts the mantle of a reformer; critical, incisive and passionate. She has substantially revised the material on fundamental liberties to reflect her style. Most representative of this is her treatment of the freedom of religion (chapter 20), following Singapore’s first major decision on the subject

(*Chan Hiang Leng Colin v PP* [1994] 3 SLR 662). Her message is clear – the fundamental liberties are in the Constitution for a good reason and we must treat them seriously. Her target of reform is the prevailing view that the enumeration of the fundamental liberties in the Constitution does not substantially affect the common law position that broad democratic freedoms exist but interstitially, between the cracks and crevices of statutory and common law restrictions.

Let there be no mistake that the contribution of both authors are first rate. Yet one might quite naturally be curious to know how Kevin Tan would have presented the fundamental liberties and how Thio Li-ann would have treated the more “structural” portions in the first part of the books. The problem is that the logistics of writing for relatively small jurisdictions as that of Singapore and Malaysia often means that there is place only for one commercially viable work. This is sad because both approaches, the objective and the passionate, are equally important to the development of constitutional law. For too long academic study of the law of the region has been dominated by single monolithic works. We must look forward to a day when this is no longer so. This new book by Kevin Tan and Thio Li-ann is not simply a fresh edition, it is the germ of two books in one. We hope that its progeny will not just be two but many. Upon them, the maturation of constitutional law in Malaysia and Singapore depends.