

## SOURCES AND LITERATURE OF MALAYSIAN LAW\*

### INTRODUCTION

Malaysia is a federation of thirteen states consisting of the eleven states of Peninsular Malaysia, namely, Johore, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor, Trengganu, Malacca and Penang, and two states in Borneo, namely, Sabah and Sarawak.

The historical development of Malaysia will be briefly traced here, in order that the evolution of the legal literature of the country may be more clearly appreciated.

Malaysia is basically a common law country, English law having first been introduced into the country with the establishment of the Colony of the Straits Settlements by the British. Penang, the first of the three Settlements, was ceded by Kedah to the East India Company in 1786. Singapore was founded in 1819, and Malacca was acquired in 1824 under the Anglo-Dutch Treaty.<sup>1</sup> In 1826, these three Settlements were incorporated into a unified administrative unit called the Straits Settlements.

Another group of states called the Federated Malay States, comprising Negeri Sembilan, Pahang, Perak and Selangor, came into being in 1895 with the signing of the Treaty of Federation.<sup>2</sup> These states had, at various times between 1874 and 1888, come under British protection by concluding bilateral agreements,<sup>3</sup> and had undertaken to accept the advice of the British Residents on all

\*This article is a revised and updated version of the writer's "The Legal Literature of Malaysia" in *Malaysian Legal Essays* (1986), published with the kind permission of the editor, Professor M.B. Hooker and the publisher, The Malaysian Law Journal Pte Ltd.

<sup>1</sup>W.G. Maxwell & W.W. Gibson, *Treaties and Engagements Affecting the Malay States and Borneo* (London: J. Truscott, 1924), 8-12. Also reproduced in J. de V. Allen, A.J. Stockwell & L.R. Wright, *A Collection of Treaties and Other Documents Affecting the States of Malaysia, 1761-1963* (London: Oceana, 1981), vol. II, 288-93.

<sup>2</sup>Maxwell & Gibson, *ibid.*, 70-71; Allen, Stockwell & Wright, *ibid.*, II, 49-50.

<sup>3</sup>Maxwell & Gibson, *ibid.*, 20-70; Allen, Stockwell & Wright, *ibid.*, I, 232-327, 341-56, 372-92, 434-51.

matters except those pertaining to questions of the Islamic religion and the customary law of the Malays.

Five other states of Peninsular Malaysia which were not included in the Federated Malay States were, until 1941, referred to as the Unfederated Malay States. They comprised the States of Johore, Kedah, Kelantan, Perlis and Trengganu. The Rulers in these States had accepted British Advisers between 1910 and 1923.<sup>4</sup>

This situation subsisted until early 1942, when the Japanese Occupation began. When the Japanese surrendered in August 1945, the British Military Administration was set up.<sup>5</sup> The whole country was administered as a single unit until the establishment of the Malayan Union in April 1946.<sup>6</sup> The Malayan Union comprised the former Federated Malay States, the five Unfederated Malay States and the Settlements of Penang and Malacca. This arrangement was, however, only for a short duration, that is, until 1 February 1948, when the Federation of Malaya was established.<sup>7</sup> The Federation consisted of the same nine Malay States and the two Settlements of Malacca and Penang, which made up the Malayan Union. The Federation of Malaya was granted independence within the British Commonwealth of Nations on 31 August 1957.<sup>8</sup>

As stated earlier, Sabah and Sarawak are also part of Malaysia. The extension of British influence occurred in these two states too. Sabah was previously known as North Borneo. Although the British North Borneo Company was incorporated under Charter on 1 November 1881,<sup>9</sup> the British Government assumed a formal protectorate by agreement only on 12 May 1888.<sup>10</sup> In 1946, North Borneo was made a Crown Colony,<sup>11</sup> and, in 1963, became part of Malaysia and began to be known as Sabah.<sup>12</sup>

<sup>4</sup>Maxwell & Gibson, *ibid.*, 136, 104-05, 109-10, 112-14; Allen, Stockwell & Wright, *ibid.*, I, 72-74, 175-77, 220-72, 466-68, 492-93.

<sup>5</sup>Proclamation No. 1: Military Administration Proclamation, in *British Military Administration, Gazette of the Malay Peninsula*, vol. 1, no. 1, 1 Nov. 1945.

<sup>6</sup>By the Malayan Union Order in Council 1946, in *Malayan Union Government Gazette*, vol. 1, no. 1, 1 Apr. 1946.

<sup>7</sup>The Federation of Malaya Agreement 1948 (Gazette Notification no. 6 of 1948). Also reproduced in Allen, Stockwell & Wright, *op. cit.*, II, 100-221.

<sup>8</sup>See Federation of Malaya Independence Act 1957 (S. & 6 Eliz. 2 c. 60).

<sup>9</sup>Maxwell & Gibson, *op. cit.*, 160-71; see also Allen, Stockwell & Wright, *op. cit.*, II, 450-63.

<sup>10</sup>Maxwell & Gibson, *ibid.*, 178-79; Allen, Stockwell & Wright, *ibid.*, II, 484-86.

<sup>11</sup>North Borneo (Colonial No. 202) (London: H.M.S.O., 1946); also in Allen, Stockwell & Wright, *ibid.*, II, 542-50.

<sup>12</sup>Under s. 4(2), Malaysia Act 1963 (No. 26 of 1963).

Sarawak was originally a dependency of Brunei, and was ceded to James Brooke, the first Rajah of Sarawak, in 1841.<sup>13</sup> After the Second World War in 1946, Sarawak became a Crown Colony.<sup>14</sup> As in the case of Sabah, Sarawak became part of Malaysia in 1963.

On 16 September 1963, the eleven states of the Federation of Malaya and the States of Sabah, Sarawak and Singapore were united under the new Federation of Malaysia.<sup>15</sup> Singapore, however, left the Federation on 9 August 1965, and became an independent Republic.<sup>16</sup>

## LEGISLATION

### (a) STRAITS SETTLEMENTS

Before giving an account of the various compilations of the laws of the Straits Settlements, brief mention should be made of the reception of English law, and also of the fact that Indian Acts were applied in the Colony. According to Braddell,<sup>17</sup> the judges of the Straits Settlements had, in a series of decisions dating from 1835, held that the Second Charter of Justice, 1826, introduced English law into the Colony, as it existed on 26 November 1826, subject to such modifications as were necessary to prevent injustice and oppression to the local inhabitants.

All the three Settlements of Penang, Singapore and Malacca had, by 24 June 1824, become subordinated to Fort William in Bengal.<sup>18</sup> Thus, when the English Statute 3 & 4 Wm. IV c.85 (1833) was passed, and the Governor-General of India in Council was entrusted with legislative power for India, Indian Acts began to be applicable to the Straits Settlements, that is, from 1834 until

<sup>13</sup>Sarawak Document 1841. See Maxwell & Gibson, *op. cit.*, 184-85; Allen, Stockwell & Wright, *op. cit.*, II, 571-72.

<sup>14</sup>See Sarawak Document of 18 May 1946, and Instrument of Cession, 21 May 1946. Allen, Stockwell & Wright, *ibid.*, II, 668-70. Also in Laws of Sarawak (1958), vol. VI, 34-37.

<sup>15</sup>Provided under s. 4, Malaysia Act 1963 (No. 26 of 1963).

<sup>16</sup>See Constitution and Malaysia (Singapore Amendment) Act 1965 (No. 53 of 1965).

<sup>17</sup>R. St. J. Braddell, *The Law of the Straits Settlements: A Commentary* (Kuala Lumpur: Oxford University Press, 1982), 27. (Reprint of 1915 ed.).

<sup>18</sup>*Ibid.*, 8, 25.

1867,<sup>19</sup> These Acts were published in the Calcutta Gazette and the Straits Government Gazette, as well as the annual volumes on Indian legislation published by the Superintendent of Government Printing in India.<sup>20</sup>

The Straits Settlements, however, ceased to be part of India on 1 April 1867, when the Government of the Straits Settlements Act 1866<sup>21</sup> became operative. By Letters Patent dated 4 February 1867,<sup>22</sup> the Legislative Council of the Straits Settlements was empowered with legislative authority. Thus, annual volumes of the Straits Settlements Ordinances began to be published with the commencement of the Straits Settlements Government Gazette on 1 April 1867.

With the separation of the Straits Settlements from the Government of India in 1867, doubts arose as to which Indian Acts were considered to be still in force in the Colony. This resulted in the passing of the Statute Laws Revision Ordinance 1889 (Ordinance VIII of 1889), in the Straits Settlements, to determine those Indian Acts which were to continue to be applicable. The Commissioners appointed to undertake the task, under s. 3(1) of the 1889 Ordinance, produced a volume entitled *Indian Acts passed during the period extending from the 22nd day of April 1834 to the 31st day of March 1867, and now in force in the Colony of the Straits Settlements*.<sup>23</sup>

Apart from the aforesaid annual volumes of Straits Settlements Ordinances, there were altogether five compilations of the laws of the Straits Settlements from 1886. The first of such compilations was J.A. Harwood's *Acts and Ordinances of the Legislative Council of the Straits Settlements from 1st April 1867 to 1st June 1886*.<sup>24</sup> This was followed by Garrard's edition entitled *The Act and Ordinances of the Legislative Council of the Straits Settlements from the 1st April 1867 to 7th March 1898*, which was published in two volumes in 1898.<sup>25</sup>

<sup>19</sup>*Ibid.*, 31.

<sup>20</sup>For an account of the various editions of Indian Acts published, see G.W. Bartholomew's "Sources and literature of Singapore Law", in *Malaya Law Review Legal Essays* (Singapore: Malaya Law Review, 1975), 325-28; also in (1982) 2 *Lawasia* (N.S.) 1 at 22-24.

<sup>21</sup>29 & 30 Vic. c. 115. This Act is reproduced in Braddell, *op. cit.*, Appendix II, 187-89.

<sup>22</sup>Braddell, *ibid.*, 39.

<sup>23</sup>Singapore: Government Printing Office, 1890.

<sup>24</sup>London, 1886.

<sup>25</sup>London, 1898.

In 1910, a Commission was appointed to prepare a new revised edition of the laws of the Straits Settlements.<sup>26</sup> The result was the first revised edition entitled *The Laws of the Straits Settlements, Revised Edition, 1835-1919*.<sup>27</sup> This was published in five volumes in 1920, and was known as the Braddell Edition, as it was dedicated to the memory of Thomas Braddell, the first Attorney-General of the Straits Settlements.

A second revised edition of the laws of the Straits Settlements was published in 1926. It was prepared by William Murison, the Chief Justice then, and contained all the Ordinances of the Straits Settlements revised up to and including the last day of December 1925.<sup>28</sup>

The last compilation was *The Laws of the Straits Settlements, Edition of 1936*,<sup>29</sup> consisting of five volumes of the legislation in force on 31 December 1935. Section 5 of the Revised Edition of the Laws (Annual Supplement) Ordinance 1936 provided for the publication of annual cumulative supplements of the law right up to 1940. These cumulative supplements superseded all previous annual supplements. The supplements for 1941 and 1942 were not cumulative, however, as they contained only the legislation passed during those years.<sup>30</sup>

As for subsidiary legislation, annual volumes were published by the Government Printer from 1889 to 1940. There were however various changes in titles. The subsidiary legislation for the years 1889 to 1897 were published under the title *Ordinances and Rules and Regulations by His Excellency the Governor in Council during the years 1889-1897*.<sup>31</sup> The volumes for 1898 to 1907 were entitled *Orders, Rules and Regulations, etc., 1898-1907*.<sup>32</sup> From 1908 to 1914,

<sup>26</sup>Under the authority of the Statute Laws Ordinance 1910 (Ordinance XIII of 1910).

<sup>27</sup>London: Waterloo, 1920. 5 vols.

<sup>28</sup>*Laws of the Straits Settlements, (Edition of 1926)*. (London:) Pub. for the Government of the Colony of the Straits Settlements by the Crown Agents, 1926). 5 vols.: vols. 1-4 comprised Ordinances nos. 1-207, vol. 5 contained Private Ordinances (Ordinances nos. 208-239). Sir James William Murison was appointed Commissioner under s. 2(1) of the Revised Edition of Laws Ordinance 1925 (No. 25 of 1925).

<sup>29</sup>Singapore: Government Printing Office, 1936. 5 vols.

<sup>30</sup>This was decided upon as a measure of economy, and was provided for under the Defence (Annual Supplement) Regulations 1941.

<sup>31</sup>Singapore, 1890-98, 9 vols.

<sup>32</sup>Singapore, 1899-1908, 10 vols.

the volumes of subsidiary legislation were issued under the title *Orders of the Governor in Council, Rules and Regulations and Bye-laws*.<sup>33</sup> The subsidiary legislation of the Straits Settlements for 1915 to 1939 were entitled *Royal Proclamation Orders by the King in Council, Proclamations and Orders by the Governor in Council: Rules, Regulations and Bye-laws, published in the Government Gazette during the years 1915-1939*.<sup>34</sup> The volume for 1940 was published under the title *Proclamations and Orders by the Governor in Council: Rules, Regulations and Bye-laws published in the Government Gazette*.<sup>35</sup>

For an account of the various indexes and tables relating to the laws of the Straits Settlements, reference should be made to Professor Bartholomew's essays on *The Sources and Literature of Singapore Law*.<sup>36</sup>

#### (b) FEDERATED MALAY STATES

The Federated Malay States, as stated earlier,<sup>37</sup> was formed in 1895. Prior to 1909, that is, before the establishment of the Federal Council,<sup>38</sup> the Council of each of the four states passed its own legislation, many of which were similar.<sup>39</sup> From 1909, all laws common to the four states were enacted by the legislative body of the Federal Council, although the Council of each state continued to legislate on matters peculiar to its own state. Annual volumes entitled *Enactments Passed in the Federal Council* were published from 1910 to 1941.<sup>40</sup>

In addition, two compilations of the laws of the Federated Malay States were published. The first was A. B. Voules' compilation entitled *Laws of the Federated Malay States, 1877-1920*.<sup>41</sup> This was published in three volumes in 1921. The first volume was divided

<sup>33</sup>Singapore, 1908-15. 7 vols.

<sup>34</sup>Singapore, 1916-40. 25 vols.

<sup>35</sup>Singapore, 1941.

<sup>36</sup>Bartholomew, *Malaya Law Review Legal Essays, op. cit.*, 334-37; also (1982) 2 *Lawasia (N.S.)* 1 at 34-37.

<sup>37</sup>*Supra*, I.

<sup>38</sup>The Federal Council was established under the Agreement for the Constitution of a Federal Council 1909. See Maxwell & Gibson, *op. cit.*, 71-73; also Allen, Stockwell & Wright, *op. cit.*, II, 53-55.

<sup>39</sup>This will be dealt with under the individual states, *infra*, 8-10.

<sup>40</sup>Kuala Lumpur: Government Press, 1910-41. 33 vols.

<sup>41</sup>London: Printed by Hazell, Watson & Viney, 1921.

into five parts: part 1 consisting of state laws prior to the Federation, and parts 2 to 5 containing the laws of each of the four States of Perak, Selangor, Negri Sembilan and Pahang.

When the Revised Edition of the Laws Enactment 1932 was passed,<sup>42</sup> s. 3(i) of the Enactment provided for the appointment of a Commissioner for the purpose of preparing a new and revised edition of the Enactments of the Federated Malay States. This resulted in the publication of the Revised Edition of 1935 entitled *Laws of the Federated Malay States, and of each of them in force on the 31st day of December, 1934*.<sup>43</sup> This edition was prepared by William Sumner Gibson, and consisted of four volumes.

Between 1937 and 1939, five Supplements were published. The 1937 supplement was entitled *1937 Supplement to the Laws of the Federated Malay States, containing the Enactments of the Federated Malay States enacted between the 1st January, 1935 and the 31st December, 1936*.<sup>44</sup> It was prepared under the authority of the Revised Edition of the Laws (Annual Supplements) Enactment 1936 (No. 7 of 1936). In 1938 and 1939, four supplementary volumes (loose-leaf) entitled *Supplement to the Revised Edition of the Laws of the Federated Malay States*,<sup>45</sup> were published by authority of the Supplement to the Laws Enactment 1937 (No. 23 of 1937). These loose-leaf volumes were updated by means of supplementary pages until 1941. A separate supplement of State legislation was also issued in 1940.<sup>46</sup>

In regard to subsidiary legislation, L.A. Allen compiled two volumes entitled *Reprint of the Rules, Regulations, Orders and By-laws, made under the Laws of the Federated Malay States*<sup>47</sup> in 1927. This was revised up to 31 December, 1926. Another revised edition comprising seven loose-leaf volumes was published in 1938. These volumes were entitled *Proclamations, Orders, Notices, Rules, Regulations, Declarations, Appointments, Forms and By-laws, in force*

<sup>42</sup>Enactments No. 15 of 1932 and No. 36 of 1935.

<sup>43</sup>London: C.F. Roworth, 1935. 4 vols.: vols. 1-3 contained Enactments (Chapters 1-221), vol. 4 consisted of Tables and a subject index to the Enactments.

<sup>44</sup>Kuala Lumpur: F.M.S. Government Press, 1937.

<sup>45</sup>Kuala Lumpur: F.M.S. Government Press, 1938-39. 4 vols.

<sup>46</sup>*Supplement to the Revised Edition of the Laws of the Federated Malay States: State Legislation*. (Kuala Lumpur: F.M.S. Government Press, 1940).

<sup>47</sup>Kuala Lumpur: Government Printer, 1927.

on the 31st day of December 1935, made under the Federated Malay States and of each of them.<sup>48</sup> Two supplementary volumes (volumes 8 and 9) were issued between the years 1939 and 1941. These volumes were kept up to date with supplementary pages.

In 1941, the Government Press published another volume under the title *State Subsidiary Legislation...Made under Principal Enactments which have been passed by the State Councils of Perak, Selangor, Negri Sembilan and Pahang since December 31, 1934*.<sup>49</sup>

There appeared to be at least three indices to the laws of the Federated Malay States. One was entitled *Chronological List of Federal Enactments, 1909-1934, with Rules*.<sup>50</sup> This volume had a note at the head of its title stating that the list was originally published in 1918 as a proof covering the years 1909-17, and that another edition was published in 1923. H.A. Forrer's *Chronological Lists of State and Federal Laws, 1877-1934, with Rules [No.13]*<sup>51</sup> also made reference to the 1923 edition in its Preface. Forrer's compilation was published in 1935. No further edition of this compilation was produced.

Before proceeding with an account of the legislation of the Unfederated Malay States, mention should be made of the laws of each of the States of Perak, Negri Sembilan, Selangor and Pahang, especially in regard to the state laws prior to 1909.

(i) *Perak*

In 1899, a volume entitled *Laws of Perak: Orders in Council and Enactments passed by the State Council* was published in Taiping. This compilation was by A.B. Voules, and contained legislation which were passed between the years 1877 and 1896. This was followed by W.G. Maxwell's *Laws of Perak from September 11, 1877 to December 31, 1903*.<sup>52</sup> A supplement for the year 1904 was also issued.

<sup>48</sup>Kuala Lumpur: F.M.S. Government Press, 1938.

<sup>49</sup>Kuala Lumpur: F.M.S. Government Press, 1941.

<sup>50</sup>[n.p., n.d.]. This List was probably published by the F.M.S. Government Press in 1935.

<sup>51</sup>Kuala Lumpur: F.M.S. Government Press, 1935.

<sup>52</sup>Kuala Lumpur, 1905. 2 vols.: vol. 1 covered the period 1877-1900, vol. 2, 1901-03.



W.H. Treacher also compiled a volume entitled *Orders of His Highness the Sultan of Perak in Council from September 11, 1877 to February 29, 1888, together with an appendix containing the Orders in Council passed in July 1888*.<sup>53</sup> This compilation also contained the Orders in Council for the years 1889 to 1892.

Apart from these compilations, the Enactments passed by the Sultan of Perak in Council from 1899 to 1909 were also published.<sup>54</sup>

Three indexes to the laws of Perak were compiled between the years 1904 and 1920. These were W.G. Maxwell's *Chronological List of the Laws of Perak, 1877-1903*<sup>55</sup> (1904); E.B. Williams' *Alphabetical and Chronological Indices to the Laws of Perak from the year 1877 till the end of the year 1908*<sup>56</sup> (1909); and lastly, *Chronological List of the Laws of Perak, 1877-1919, Orders in Council and Enactments*<sup>57</sup> (1920).

#### (ii) *Negri Sembilan*

In *Negri Sembilan*, the Enactments passed in Council during the years 1877 to 1909 were published in sessional volumes between 1888 and 1910.<sup>58</sup> Apart from this, there were three compilations of the laws of *Negri Sembilan*.

E.M. Desborough published the *Government of Negri Sembilan Orders and Regulations, Sungei Ujong (1883-1895), Negri Sembilan (1889-1895) and Negri Sembilan (1895) State Councils in 1896*.<sup>59</sup> In the following year, E.W. Birch brought out his compilation which was entitled *Laws of Negri Sembilan, 1887-1896*.<sup>60</sup> C.V. Dyson's *Laws of Negri Sembilan, Orders in Council, Regulations, 1883-1902*, was published in 1904.<sup>61</sup> It was revised up to 1 April 1904 by W.H. Dinsmore. This compilation also included the legis-

<sup>53</sup>Taiping, 1893. Bound with *Orders in Council, 1889-92*.

<sup>54</sup>The volumes for the years 1899-1903 were published in Taiping, while those for 1904-09 were published in Kuala Lumpur.

<sup>55</sup>Taiping, 1904.

<sup>56</sup>Kuala Lumpur, 1909.

<sup>57</sup>Kuala Lumpur, 1920.

<sup>58</sup>Kuala Lumpur: F.M.S. Government Press, 1888-1910.

<sup>59</sup>Kuala Lumpur, 1896.

<sup>60</sup>Kuala Lumpur, 1897.

<sup>61</sup>Singapore: Printed by Fraser and Neave, 1904. 2 vols.

lation of the different divisions of Sungei Ujong and Jelevu and the Negri Sembilan (Old) before their amalgamation in 1895.<sup>62</sup>

(iii) *Selangor*

In Selangor, two compilations of the laws of the state were published in 1896 and 1901. The first compilation was the *Laws of Selangor, 1877-1895*<sup>63</sup> by J.H.M. Robson and A.T.D. Berrington. The second was A.B. Voules' *The Laws of Selangor, 1877-1899, Orders in Council, Regulations and Enactments passed by the State Council, together with rules made thereunder having the force of law*.<sup>64</sup>

Two volumes entitled *Enactments passed in Council, 1897*, and *Enactments passed in Council with Rules, 1900-1909*, were also published in Kuala Lumpur in 1897 and 1910 respectively.

As for subsidiary legislation, C. Kemp compiled a volume entitled *Regulations and Rules and Orders from April 18, 1877 to December 31, 1889* in 1892.<sup>65</sup> There were also two publications, *Regulations passed in Council, 1890-1893*,<sup>66</sup> and *Regulations and Enactments passed in Council, 1896*,<sup>67</sup> both of which were published in Kuala Lumpur.

Only one index to the laws of Selangor appeared to have been compiled. This was the *Chronological List of the Laws of Selangor, 1877-1919*, also published in Kuala Lumpur, that is, in 1920.

(iv) *Pahang*

In Pahang, the Enactments passed in Council during the years 1896 to 1909 were published in sessional volumes, in Kuala Lumpur,

<sup>62</sup>The minor states of what is now known as Negeri Sembilan were amalgamated in 1895 with the signing of the second Confederation Agreement on 8 Aug. 1895. The first Confederation was constituted in 1889. It brought together the states of Sri Menanti, Johol, Tampin and Rembau, which came to be known as Negri Sembilan. The Agreement of 1895 included Sungai Ujong and Jelevu in the Confederation. Before 1895, Negri Sembilan was divided into two units for administrative purposes: Sungei Ujong and Jelevu as one unit, and the 1889 Negri Sembilan as the other. See Maxwell & Gibson, *op. cit.*, 63-65; Allen, Stockwell & Wright, *op. cit.*, I, 322-25.

<sup>63</sup>Kuala Lumpur, 1896.

<sup>64</sup>Kuala Lumpur, 1901.

<sup>65</sup>Kuala Lumpur, 1892.

<sup>66</sup>Kuala Lumpur, 1891-94.

<sup>67</sup>Kuala Lumpur, 1897.

from 1898 to 1910. The Enactments and subsidiary legislation for the years 1910, 1912, 1915-22 could be found in the Federated Malay States annual volumes.

In addition, there was a compilation entitled *Laws passed by the State Council between December 31, 1889 and January 8, 1896, with a Chronological Table and an Index to the Short Titles of the Laws*, published in Kuala Lumpur in 1897.<sup>68</sup>

(c) UNFEDERATED MALAY STATES

Of the five states of the Unfederated Malay States, only Johore, Kedah and Trengganu had revised editions of their laws. The other two states, that is, Kelantan and Perlis, published annual volumes of their state legislation. Kelantan, in addition, produced a compilation of selected laws.

(i) *Johore*

The Enactments of Johore from 1907 to 1942 were published annually by the Government Printing Office in Johore Bahru from 1908 to 1942. Apart from these annual volumes, there were two revised editions of the laws of Johore. The first of these was W. Pryde's *The Laws of Johore, Revised Edition*,<sup>69</sup> in three volumes, covering the period 1910 to 1927. These volumes were published in accordance with The Revised Edition of the Laws of Johore Enactment 1926.

The second revised edition was prepared under the authority of the Revised Edition of the Laws Enactment 1934. It was compiled by W.H. Thorne and M.C. Hay, and was entitled *The Laws of the State of Johore, in force on the 1st day of January, 1935*.<sup>70</sup> A 1941 Supplement covering the years 1935 to 1940 was also issued.

<sup>68</sup>Kuala Lumpur: Selangor Government Printing Office, 1897.

<sup>69</sup>Vols. 1 & 2, Johore Bahru: Government Printing Office, 1926-1927, Vol. 3, Singapore: Malaya Publishing House, 1928.

<sup>70</sup>London: Printed by C.F. Roworth, 1935. The 1941 Supplement was published in Johore Bahru and printed at the Government Printing Office, Johore, by K.C. David, Government Printer.

Subsidiary legislation were published as part of the Johore Government Gazette which commenced publication in 1907. In addition, two chronological tables of Johore Enactments were published. They were entitled *Chronological Table of Johore Enactments, together with appointments, rules and notifications thereunder in force on the 21st day of December 1919*,<sup>71</sup> and *Chronological Table of Johore Enactments, in force on October 31, 1938*.<sup>72</sup>

(ii) Kedah

*The Government of Kedah Enactments*, in Jawi and English, were published in Alor Star from 1906 to 1928. Between the years 1929 and 1938, ten further volumes entitled *State of Kedah Enactments* were also published.<sup>73</sup>

In 1934, G.B. Kellagher brought out a revised edition of the laws of Kedah entitled *The Laws of the State of Kedah, which contained laws in force on 30 Rabialawal 1353* [July 13, 1934].<sup>74</sup> This edition comprised six volumes, and included both the English and Jawi texts of the laws. Three supplements were also compiled by him from 1356-58 [1937-39] under the title *Supplement to the Laws of Kedah*.<sup>75</sup> This was prepared under the authority of the Revised Edition of the Laws (Annual Supplements) Enactment 1355 [1936].

As regards subsidiary legislation, C.W. Dawson compiled two volumes entitled *Rules, Regulations and Notifications made under the Kedah Enactments (in force on 1st Rabialawal 1355)* [22nd May 1936].<sup>76</sup> This was followed by two supplements compiled by S.N. King and I.W. Blleloch in 1939 and 1941 respectively.<sup>77</sup>

In addition, an index to the Kedah Enactments was also published in Alor Star in 1935, under the title of *Index to Kedah Enactments, actually in force on the 1st day of the year A.H. 1353 (April 16, 1934) together with rules, orders and regulations made thereafter*.

<sup>71</sup>Johore Bahru: Government Printing Office, 1920.

<sup>72</sup>Johore Bahru: Government Printing Office, 1938.

<sup>73</sup>Also published in Alor Star, 1929-38.

<sup>74</sup>Alor Star: Kedah Government Press, 1934.

<sup>75</sup>Alor Star: Kedah Government Press, 1937-39. In English and Malay.

<sup>76</sup>Alor Star: Kedah Government Press, 1936. 2 vols. In English and Malay.

<sup>77</sup>The Supplements by King and Blleloch were both published by the Kedah Government Press in Alor Star in 1939 and 1941 respectively.

(iii) *Kelantan*

The Enactments of the State of Kelantan were published annually from 1904 to 1941, that is, until the start of the Japanese Occupation period. The Office of the Legal Adviser in Kota Bharu also produced *Legislation in Kelantan*, which contained Enactments, Proclamations and subsidiary legislation. It was also published in Malay (Jawi script) in a volume entitled *Kerajaan Kelantan*. So far only two volumes could be traced, that is, the volumes for the years 1938 and 1940.

There was also a compilation of the laws entitled *Selected Laws, 1911-1939 (including all amendments in force on 1st January, 1953)*.<sup>78</sup>

In addition, two indexes to the laws were published. These were entitled *Chronological List and Index to the Laws of Kelantan, 1322 A.H. to 1352 A.H. (1904 A.D.-1932 A.D.), revised to December 31, 1932*,<sup>79</sup> and *Index to the Laws of Kelantan in force on May 1, 1937*.<sup>80</sup>

(iv) *Perlis*

The Enactments of Perlis were published yearly by the Government Press, most of them in Jawi and English, from 1909 to 1942. There was also a listing of the laws of Perlis, which was entitled *Chronological List of the Laws of Perlis from the year 1326 A.H. (1909) till the end of the year 1334 A.H. (1916)*.<sup>81</sup> The subsidiary legislation of Perlis were all published in the Perlis Gazette.

(v) *Trengganu*

In addition to the annual volumes of Trengganu Enactments published from 1904 to 1914, a revised edition of the laws of Trengganu was also published by J. Calder, the State Legal Adviser. This was the *Laws of Trengganu, in force on the 20th day of*

<sup>78</sup>Singapore: Malaya Publishing House, 1954. It comprised one volume with various pagings.

<sup>79</sup>Kelantan, 1933.

<sup>80</sup>Kelantan, 1937.

<sup>81</sup>Kuala Lumpur: Government Press, 1917.

*Muharram, 1358 A.H., Revised edition.*<sup>82</sup> It comprised five volumes; volumes 1 and 2 contained the laws in English, whilst volumes 3, 4 and 5 consisted of the laws in Malay.

An index entitled *Provisional List with Index of the Laws of Trengganu in force on the 1st day of Muharram 1358 A.H. corresponding to the 20th day of February 1939 A.D.* was also published in Singapore in 1939.

(d) JAPANESE OCCUPATION

The Japanese Occupation lasted from 1942 to 1945. During this period, two publications have been recorded. The first was entitled *The Good Citizen's Guide: Handbook of Declarations, Orders, Rules, Regulations issued between February 2602 [1942] to 2603 [1943]*. This was printed and published by the Syonan Shinbun, English edition, in 1943.<sup>83</sup>

The second publication was entitled *Perak State Laws, Volume 1*.<sup>84</sup> It was compiled by the Perak Koto Hoin (High Court, Perak), and contained all the laws promulgated in Perak under the Japanese Military Administration, in force on 1st April 2604 [1944]. It is interesting to note that one of the Proclamations dated 23 July 2602 [1942] stated that all Federated Malay States and Perak Enactments and subsidiary legislation, as well as all unwritten laws in force in Perak on 8 December 2601 [1941] should continue to be in force, subject to modifications that might be made by the Japanese Governor of Perak.<sup>85</sup>

(e) BRITISH MILITARY ADMINISTRATION

The British Military Administration began the publication of its Gazette on 1 November, 1945. It was entitled *British Military*

<sup>82</sup>This edition was prepared under the authority of the Revised Edition of the Laws Enactment 1357 [1939]. Singapore: Printers Ltd., 1941.

<sup>83</sup>This handbook was issued by the Japanese Military Administration in Singapore and Johore, and was published in Syonan-to (Singapore) in 1943.

<sup>84</sup>Ipoh: Printed by C. Grenier, 2604 [1944]. Published by authority of the Japanese Military Administration in Perak.

<sup>85</sup>Proclamation dated 23 July, 2606 [1942], published in the *Perak Government Gazette*, 25 July 2602 as Notification No. 101. Reproduced in *Perak State Laws, Volume 1*, 10-11. For a review and commentary of the *Perak State laws, Volume 1*, see E.E. Sim, *Perak State laws, 2604* [1944] (Kuala Lumpur: Malayan Law Journal, 1982).

*Administration, Malaya, The Gazette of the Malay Peninsula*,<sup>86</sup> and contained all the Proclamations, rules, regulations and notifications of the Administration. It ceased publication on 1 April 1946 when the Malayan Union was established.

(f) MALAYAN UNION

Between 1 April 1946 and 31 January 1948, the Malayan Union Government Press in Kuala Lumpur published a Gazette.<sup>87</sup> In addition, two volumes of legislation were issued under the title *Ordinances passed during the years 1946-1947 and Rules thereunder*.<sup>88</sup> The Ordinances for 1948 were included in the *Malayan Union and Federal Ordinances and State and Settlements Enactments passed during the year 1948*.<sup>89</sup>

(g) FEDERATION OF MALAYA

The Federation of Malaya Ordinances, State Enactments and subsidiary legislation were all published as part of the Federal Gazette and the various State Gazettes. These Gazettes commenced publication in February 1948. Annual volumes of legislation were also produced. The first volume for the year 1948, as stated above, included the Ordinances of the Malayan Union as well. From 1949 to 1957, the volumes were published as *Federal Ordinances and State and Settlements Enactments*.<sup>90</sup> After that, that is, from 1958 to 1963, Federal laws and State Enactments were issued in separate annual volumes.<sup>91</sup> In 1959, the volume for Federal laws was entitled *Ordinances and Acts passed during the year 1959*<sup>92</sup> After that they were issued as *Acts of Parliament passed during the years 1960-1963*.<sup>93</sup>

<sup>86</sup>The Gazette was published in Kuala Lumpur from 1 Nov. 1945 to 31 Mar. 1946.

<sup>87</sup>The *Malayan Union Government Gazette* was published from 1 Apr. 1946 to 31 Jan. 1948. (Kuala Lumpur: Malayan Union Government Press, 1946-48).

<sup>88</sup>Kuala Lumpur: Government Press, 1947-48.

<sup>89</sup>Kuala Lumpur: Government Press, 1950.

<sup>90</sup>Kuala Lumpur: Government Press, 1951-59.

<sup>91</sup>The separate volumes for Federal laws and State Enactments were both published by the Government Press in Kuala Lumpur from 1959-63.

<sup>92</sup>Kuala Lumpur: Government Press, 1960.

<sup>93</sup>Kuala Lumpur: Government Press, 1961-64. 4 vols.

It will be seen above that Federal legislation was referred to as Ordinances up to 1959, although independence was achieved in August 1957. This was because Article 164<sup>94</sup> of the Federal Constitution expressly provided for the Legislative Council, established under the Federation of Malaya Agreement 1949, to continue to function until 1959. It was officially dissolved only on 27 June 1959.<sup>95</sup> Thus Federal legislation became known as Acts only after that date, that is, after the first Parliament was convened on 11 September 1959.

As for subsidiary legislation, separate volumes were published annually under the titles of *Federal Subsidiary Legislation, 1947-1963*,<sup>96</sup> and *State Subsidiary Legislation, 1957-1963*.<sup>97</sup> The subsidiary legislation of the States for the years 1951-56 were issued as *State and Settlements subsidiary Legislation*.<sup>98</sup>

Indexes to the laws of the Federation of Malaya were also published under the title *General Index of Acts, Ordinances, Enactments, Proclamations, etc.*<sup>99</sup>

#### (h) SABAH AND SARAWAK

Before dealing with the legislation of present-day Malaysia, it is relevant to give an account of the earlier laws of Sabah and Sarawak.

The earliest compilation of the laws of North Borneo was E.P. Gueritz's *Proclamations and Notifications of the State of North Borneo, 1883-1902*, which was published in 1902.<sup>100</sup> S.S. Cookson next compiled *The Ordinances of the State of North Borneo, 1881-1914*, in 1915.<sup>101</sup> This was revised by J. Maxwell-Hall in 1929<sup>102</sup> and C.F.C. Macaskie in 1937.<sup>103</sup> The next compilation was entitled

<sup>94</sup>This Article was subsequently repealed by the Constitution (Amendment) Act 1963 (No. 25 of 1963), s. 8.

<sup>95</sup>Proclamation by His Majesty, the Yang Di-Pertuan Agong, Federation of Malaya Gazette Notification No. 2279, 12 June 1959.

<sup>96</sup>Kuala Lumpur: Jabatan Cetak Kerajaan, 1951-65. 17 vols.

<sup>97</sup>Kuala Lumpur: Jabatan Cetak Kerajaan, 1960-65. 13 vols.

<sup>98</sup>Kuala Lumpur: Jabatan Cetak Kerajaan, 1951-56.

<sup>99</sup>Kuala Lumpur: Jabatan Cetak Kerajaan, 1960 & 1964.

<sup>100</sup>Sandakan: Government Printing Office, 1902.

<sup>101</sup>Singapore, 1915.

<sup>102</sup>Revised, 1881-1926. Singapore, 1929.

<sup>103</sup>Revised, 1881-1936. Sandakan: Government Printing Office, 1937.



*A Reprint of the Laws of that part of the Colony of North Borneo, in force on the 31st day of December 1946*, comprising three volumes.<sup>104</sup>

In 1954, a revised edition of the laws of North Borneo was published. It was prepared by G. Bannerman Kellagher under the authority of the Revised Edition of the Laws Ordinance 1951, and was entitled *Laws of North Borneo, in force on the 30th June 1953, Revised edition*.<sup>105</sup> It consisted of six volumes: volumes I-IV containing Ordinances, volume V, subsidiary legislation, while volume VI included a reprint of Imperial Statutes. Volume VII, a Supplement to the Revised Edition, was prepared by J.M. Maxwell-Hall, and comprised the Ordinances and subsidiary legislation enacted between July 1953 and the last day of December 1954.<sup>106</sup> Thereafter, annual volumes of *The Laws of North Borneo* were published,<sup>107</sup> in accordance with the Revised Edition of the Laws (Annual Volumes) Ordinance 1955 (No. 10 of 1955). From 1963-66, these volumes were produced as *The Laws of Sabah*.<sup>108</sup> From 1967 onwards, they became known as Sabah Enactments, and were issued as the First Supplement to the Sabah Government Gazette.<sup>109</sup>

The subsidiary legislation of Sabah are now issued as the Second Supplement to the Sabah Gazette, while local government matters and trade marks form the Fourth Supplement and Fifth Supplement respectively.

The earliest legislation of Sarawak were contained in the various volumes of the *Orders* issued by the Rajah of Sarawak, which covered the years 1863 to 1922.<sup>110</sup> *State Orders (the Green Book)* was

<sup>104</sup>Sydney. Printed by W.E. Smith, 1948. 3 vols.: vols. 1 & 2 contained Ordinances from 1884-1946, vol. 3 subsidiary legislation. This compilation was not a revision, but was a reprint of the laws of North Borneo which included amendments where applicable.

<sup>105</sup>London: Waterlow, 1954. 6 vols. This Revised Edition included the laws of North Borneo enacted up to and including 30 June 1953.

<sup>106</sup>Jesselton: Government Printer, 1955. This supplementary volume was authorised by the Revised Edition of the Laws (Supplementary Volume) Ordinance 1955 (No. 9 of 1955) and was published in two parts.

<sup>107</sup>Jesselton: Government Printer, 1956-63. 10 vols.

<sup>108</sup>Annual Volumes, 1963-1966. (Jesselton: Government Printer, 1964-67). 4 vols.

<sup>109</sup>The *Gazette* commenced publication in 1946. For the various supplements of the *Gazette*, see *infra*, 192.

<sup>110</sup>See M.B. Hooker, *Native law in Sabah and Sarawak* (Singapore: Malayan Law Journal, 1980), Appendix, 87.

published by authority in Kuching in 1933. *The Laws of Sarawak, 1927-1935* (the Red Book,) compiled by T.S. Boyd, was published in 1936.<sup>111</sup> From 1936 to 1941, six annual volumes of *State Orders* were produced.<sup>112</sup> It was only after the war that the next compilation of the laws of Sarawak was published. This was the *Laws of Sarawak, in force on the second day of July 1947, Revised edition*, which was prepared by R.Y. Hedges in three volumes in 1948.<sup>113</sup> In the following year, a Supplement was issued taking the law up to 31st December 1948. Two further volumes were published in 1949 and 1951 containing subsidiary legislation.<sup>114</sup>

In 1956, G.E. Strickland and G.B. Kellagher were appointed Commissioners to prepare another revised edition of the Ordinances and subsidiary legislation of Sarawak.<sup>115</sup> They brought out *The Laws of Sarawak, Revised Edition, 1958*,<sup>116</sup> together with G.V. Chichester Young, and the Attorney-General of Sarawak. This revised edition comprised nine volumes and included Ordinances, treaties, Imperial Statutes, subsidiary legislation and an index. In 1963, three more volumes were published, containing local government and other subsidiary legislation. These volumes were entitled *The Laws of Sarawak, Revised Edition of Local Subsidiary Legislation*.<sup>117</sup>

In addition, two reprints of Sarawak laws were published in 1967. *The Reprint of Sarawak Laws Declared to be Federal Laws*<sup>118</sup> contained the official reprinted copies of Sarawak laws, which had been declared to be Federal laws by virtue of the Modification of Laws (Declaration of Federal Present Laws) (Sarawak) Order

<sup>111</sup>London: Bradbury Wilkinson, 1936.

<sup>112</sup>Published by authority. Kuching, 1937-41. The volume for 1941 was published in 1946.

<sup>113</sup>Kuching: Government Printing Office, 1948. This edition was prepared in accordance with the Revised Edition of Laws Ordinance 1946, and replaced both the Green Book and the Red Book.

<sup>114</sup>Kuching: Government Printing Office, 1949-51. These three additional volumes were published by virtue of the Revised Edition of the Laws (Annual Volumes) Ordinance 1948 (No. 2 of 1948).

<sup>115</sup>Under s. 3(1), Revised Edition of the Laws Ordinance 1956. (No. 4 of 1956).

<sup>116</sup>Kuching: Government Printing Office, 1958. This Revised Edition contained Ordinances enacted before 30 Sept. 1958 and included all amending Acts enacted in 1958.

<sup>117</sup>Volumes X, XI and XII. Kuching: Government Printing Office, 1963.

<sup>118</sup>Prepared by D.W.B. Good and published in 3 loose-leaf volumes. Kuching: Government Printing Office, 1967.

1965,<sup>119</sup> as at 1 June 1966. The laws were those which were in force on Malaysia Day, and which the Federal and State Governments had agreed should be treated as relating to matters on the Federal List of the Federal Constitution.<sup>120</sup>

The other reprint was the *Reprint of State Laws of Sarawak*,<sup>121</sup> which was prepared in accordance with the provisions of the Reprint of State Laws Ordinance 1967,<sup>122</sup> and was published in two loose-leaf volumes.

The laws of Sarawak are currently published as Part I (Ordinances), Part II (Legislative Supplement) and Part IV (Local Government Matters) in the Sarawak Government Gazette.<sup>123</sup>

#### (i) *Malaysia*

Malaysia was established on 16 September 1963, by the Malaysia Act 1963.<sup>124</sup> As stated earlier,<sup>125</sup> it is a Federation of thirteen states, that is, the eleven States of the Federation of Malaya as well as Sabah and Sarawak.

Malaysian statutes comprise Federal Acts, Ordinances and subsidiary legislation, as well as the Enactments, Ordinances and delegated legislation of the thirteen States. These are all published in the Federal Gazette and the various State Gazettes.

The law on the Federal Gazette is set forth in s. 18(1) of the Interpretation Act 1967.<sup>126</sup> It provides that the Gazette shall be

<sup>119</sup>Federal Legal Notification 200 of 1965. This Order was made by the Yang Di-Pertuan Agong with the concurrence of the Governor of Sarawak under s. 74 of the Malaysia Act 1963. There was a similar Order for Sabah: Modification of Laws (Declaration of Federal Present Laws) (Sabah) Order 1965 (F.L.N. 199 of 1965), which listed, in its Schedule, the laws of Sabah which were declared to be Federal laws.

<sup>120</sup>See *Federal Constitution*, Ninth Schedule, Legislative Lists - List I: Federal List; List II: State Lists; List IIA: Supplement to State List for States of Sabah and Sarawak; List III: Concurrent List; List IIIA: Supplement to Concurrent List for States of Sabah and Sarawak.

<sup>121</sup>Kuching: Government Printing Office, 1967-. 2 vols., loose-leaf.

<sup>122</sup>Although Sabah also has a similar legislation entitled Reprint of State Laws Enactment 1967, no compilation of its reprinted laws appears to have been produced as yet.

<sup>123</sup>The Sarawak Government Gazette began publication in 1946. See *infra*, 192 for the various parts which make up the Gazette.

<sup>124</sup>Under s. 4, Malaysia Act 1963 (No. 26 of 1963).

<sup>125</sup>*Supra*, 3.

<sup>126</sup>No. 23 of 1967. The Malaysian Federal Government Gazette, New Series, began publication with vol. 7, 1963. Vols. 1-7, 1957-63, were published under the Federation of Malaya.

published in five parts: the Acts Supplement, the Legislative Supplement A, the Legislative Supplement B, the Bills Supplement and the fortnightly Gazette.

The State Gazettes of each of the eleven States of Peninsular Malaysia are published in four parts, as follows: the Gazette, the Enactments Supplements, the Bills Supplement, and the Legislative Supplement.

The situation in Sabah and Sarawak is slightly different. In the case of Sabah, the Sabah Gazette consists of six parts: the Gazette, the First Supplement (Enactments), the Second Supplement (Subsidiary legislation), the Third Supplement (Bills), the Fourth Supplement (Local Government Matters) and the Trade Mark Supplement.

The Sarawak Gazette, on the other hand, is divided into the following parts: Part I (Ordinances), Part II (Legislative Supplement), Part III (Bills), Part IV (Local Government Supplement), and Part V (Sarawak Government Gazette).

With the exception of Sarawak,<sup>127</sup> all parts of the Federal and State Gazettes are now published in both English and Bahasa Malaysia, in accordance with the provisions of the National Language Act 1963/1967 (Act 32).<sup>128</sup> The Act also provides that the national language text is authoritative, unless otherwise prescribed by the Yang di-Pertuan Agong.<sup>129</sup>

Furthermore, the system of numbering of Federal Acts has also been revised as of 1 January 1969, when the Revision of Laws Act 1968 came into effect. Since that date, all Acts are issued under the *Laws of Malaysia* series and are given a continuing series of numbers.<sup>130</sup> Amending Acts and Acts which are intended to have

<sup>127</sup>Section 1(2) of the National Language Act 1963/1967 (Act 32) provides that the Act shall not apply to East Malaysia, that is, Sabah and Sarawak. Article 161 of the Federal Constitution also provides that no Act of Parliament terminating or restricting the use of the English language in the Parliament, Courts and Legislative Assemblies of Sabah and Sarawak, including official purposes of the Federal Government, shall come into operation until ten years after Malaysia Day. Sabah, however, began publishing its Gazettes and Supplements in both English and Bahasa Malaysia as from October 1973, with the passing of its National Language (Application) Enactment 1973, (No. 7 of 1973) and the Constitution (Amendment) Enactment 1973 (No. 8 of 1973). Recently, the National Language (Amendment and Extension) Act 1983 (Act A554) was passed by Parliament to provide for the extension of the operation of the National Language Act 1963/1967, as amended, to all parts of Malaysia.

<sup>128</sup>Under s. 6, Act 32.

<sup>129</sup>*Ibid.*

<sup>130</sup>Under s. 16 of the Revision of Laws Act 1968, the said Act forms Act I of the "Laws of Malaysia" series.

effect for a short duration only, are given a different series of consecutive numbers with the letter "A" prefixed to them.

The Revision of Laws Act 1968 also provides for the revision as well as the reprinting of individual laws, from time to time, by the Commissioner of Law Revision.<sup>131</sup> The *Federal Constitution of Malaysia* has, in fact, been reprinted and brought up to date by the incorporation of all amendments up to 15 May 1981. It was issued as Reprint No. 10 of 1982.<sup>132</sup>

The Federal Gazette, as stated above,<sup>133</sup> has two supplements. The Legislative Supplement A contains rules, regulations, orders and by-laws, new or amended, while the Legislative Supplement B consists of notices of appointments, registration of trade marks and other notifications. These two Supplements are given a new series of numbers each year, and are identified by the prefixes P.U.(A) and P.U.(B) respectively.<sup>134</sup>

It should also be mentioned here that following the Proclamation of Emergency in Malaysia on 15 May 1969,<sup>135</sup> a total of ninety-two Ordinances were promulgated between that date and 20 February 1971, when Parliament was reconvened. These Emergency Ordinances were all published in the Legislative Supplement A. In the years that followed, some of the Ordinances were repealed. Of the remainder, several of them were repealed and re-enacted as ordinary legislation, while a few still remain in force.

Whilst annual volumes are no longer published for Federal Acts and subsidiary legislation, the Government Printer produces annual index pages for the two Federal Legislative Supplements, as well as the Enactments of the States and their subsidiary legislation. From time to time, a general index to the laws of Malaysia is also published. The last issued is the *General Index of Acts, Enactments, Ordinances, etc.* (As at June 1985).<sup>136</sup> It contains an alphabetical listing of Acts published in the National Language, and an alphabetical list of short titles of Acts, Ordinances and Enactments in force as at June 1985.

<sup>131</sup>Revision of Laws Act 1968 (Act 1), ss. 3 & 14.

<sup>132</sup>Kuala Lumpur: Jabatan Percetakan Negara, 1982.

<sup>133</sup>*Supra*, 17.

<sup>134</sup>"P.U." stands for "Pemberitahuan Undangan" (Legal Notification).

<sup>135</sup>See P.U.(A) 145/1969.

<sup>136</sup>Kuala Lumpur: Malaysian Law Publishers, 1985.

In 1986, an index of Federal legislation was published by S.S. Management. The work was entitled the *Federal Statute Referencer* and brought up the listing of laws in force as at 31 July 1986.

#### LAW REPORTS AND DIGESTS

Law reporting in the country began in the second half of the nineteenth century.<sup>137</sup> The first Court of Judicature was established in Penang in 1807,<sup>138</sup> and its jurisdiction was extended to cover Singapore and Malacca in 1826.<sup>139</sup> In the Federated Malay States, the Court of the Judicial Commissioner was formed in 1896.<sup>140</sup> It was however abolished in 1906, when the Federated Malay States Supreme Court and the Court of Appeal were established by the Courts Enactment of 1905.<sup>141</sup>

The first law report to be published was *Wood's Oriental Cases: A Selection of Cases Decided in the Supreme Court of the Straits Settlements, 1842-1869*.<sup>142</sup> This was followed by Stephen Leicester's *Straits Law Reports* in 1877, which contained cases decided in the Court of the Straits Settlements, as well as a few Indian and English cases.<sup>143</sup>

It was eight years later, in 1885, that the next law report was published. This was James William Norton Kyshe's *Cases Heard and Determined in Her Majesty's Supreme Court of the Straits Settlements, 1808-1884*.<sup>144</sup> In 1886, two further volumes were added to Kyshe's series, culminating in 1890 with the fourth volume. Kyshe's Reports contained, for the first time, a large number of cases collected from the various Court Records and Note Books of the Recorders and Judges of the Supreme Court.

<sup>137</sup>For a detailed account of the development of law reporting, see Bashir A. Mallal, "Law and Law Reporting in Malaya", (1959) *Malaya Law Review* 71.

<sup>138</sup>Under the First Charter of Justice, which was granted by the Crown on 25 Mar. 1807.

<sup>139</sup>The Second Charter of Justice was granted on 27 Nov. 1826.

<sup>140</sup>In accordance with the Judicial Commissioner's Regulations and Orders in Council. See also Mallal, *op. cit.*, 71 at 78; and R.H. Hickling, "The Origins of the Malaysian Bench" in *Malaya Law Review Legal Essays, op. cit.*, 32-37.

<sup>141</sup>This Enactment came into force on 1 June 1906.

<sup>142</sup>Penang: Printed for Private Circulation, 1869. Reprinted by Sweet & Maxwell, London, 1911.

<sup>143</sup>Penang: Commercial Press, 1877.

<sup>144</sup>Singapore: Singapore & Straits Printing Office, 1885-90.

Meanwhile, in 1888, Walter Makepeace started the publication of a monthly legal newspaper entitled *The Straits Law Journal*.<sup>145</sup> Besides articles and legal notes, the Journal also contained full reports of cases which were of exceptional interest to the legal profession. Five volumes of the Journal were published between 1888 and 1892, the fifth volume being entitled *Straits Law Reports, New Series*.

In addition to the above reports, a volume under the title *Magistrates Appeal Cases* was published in Penang.<sup>146</sup> It contained the judgments of the Straits Settlements Court from 1884-93, as well as magistrates' appeals.

The first official law reports, the *Straits Settlements Law Reports*<sup>147</sup> began publication in 1893, under the direction of the Committee of the Singapore Bar, with the approval of the Judges. In all, fifteen volumes were published between the years 1893 and 1931. They contained reports of cases from 1867 to 1923. A new series of the Reports, the *Straits Settlements Law Reports, New Series*,<sup>148</sup> commenced with the volume for 1926. It was published in Singapore from 1927 to 1950 and comprised seventeen volumes, the last of which reported cases which were decided during 1941 and 1942.

Another publication entitled *Quarterly Notes of Cases Decided in the Supreme Court of the Straits Settlements, 1926-1927* appeared in 1927.<sup>149</sup> It was edited by F.G. Stevens, and was made up of five numbers.

Apart from these law reports, three treatises containing previously unreported cases of the Straits Settlements were published between 1911 and 1933. Two of them were by Sir Roland Braddell: *Common Gaming Houses* and *The Law of the Straits Settlements*. The first edition of *Common Gaming Houses*<sup>150</sup> was published in 1911, and the second edition in 1932. *The Law of the Straits Settlements*<sup>151</sup> also appeared in two editions, the first in 1915, and the

<sup>145</sup>Singapore: W. Makepeace, 1888-92.

<sup>146</sup>Penang [n.d.].

<sup>147</sup>Singapore: Committee of the Singapore Bar, 1893-1931. 15 vols. Reprinted by Oceana Publications, Dobbs Ferry, N.Y., 1970.

<sup>148</sup>Singapore: Government Printing Office, 1927-50. 17 vols.

<sup>149</sup>Singapore: Government Printing Office, 1927.

<sup>150</sup>Singapore: Kelly & Walsh, 1911. 2nd ed., 1932.

<sup>151</sup>Singapore: Kelly & Walsh, 1915. 2nd ed., 1932. 2 vols.

second edition, in two volumes, in 1932. The first edition of this work has been reprinted recently.<sup>152</sup>

The third treatise was De Mello's *A Manual of the Law of Extradition and Fugitive Offenders Applicable to the Eastern Dependencies of the British Empire (the Straits Settlements, Hong Kong, India, Ceylon and the Protected States of Malaya and Borneo)*.<sup>153</sup> This work was first published in 1915, and a second edition brought out in 1933. It included an appendix of cases decided in the Straits Settlements.

As for the Federated Malay States, the first publication which contained cases decided in the states was J.R. Innes' *A Short Treatise on Registration of Title in the Federated Malay States, with Reports of Cases under the Land and Mining Laws from 1907-1913*. It was published by the Federated Malay States Government Printing Office in 1913. *Taylor's Cases*, which formed part of E.N. Taylor's *The Customary Law of Rembau*, was published in 1929. The work contained reports of cases on the customary law of Rembau, one of the states of Negri Sembilan, from 1903 to 1928.<sup>154</sup>

The first series of official law reports for the Federated Malay States was the *Federated Malay States Law Reports*.<sup>155</sup> It began publication in 1922, and was edited by Innes and McLean. The first series reported cases from 1906. It ended with volume 7 in 1933. A new series under the editorship of H.C. Willan commenced in 1932. Cases decided in the courts of Kedah and Johore were also included. The series ended with the volume for 1941, which was published in 1947.

The system of law reporting on a pan-Malayan basis was introduced by the late Bashir A. Mallal in July 1932, when he launched the *Malayan Law Journal*.<sup>156</sup> The Journal was issued monthly, and contained not only cases decided in the Courts of the Straits Settlements and the Federated Malay States, but also articles on various

<sup>152</sup>Kuala Lumpur: Oxford University Press, 1982 (With an introduction by M.B. Hooker).

<sup>153</sup>Singapore: Government Printing Office, 1915. 2nd ed., 1933.

<sup>154</sup>(1929) 7 J.M.B.R.A.S. 1 at 56-267.

<sup>155</sup>Kuala Lumpur: F.M.S. Government Printing Office, 1922-47. 15 vols.

<sup>156</sup>Singapore: Malayan Law Journal Office, 1932-. The Journal stopped publication for a few years during the Japanese Occupation period, that is, between February 1942 and 1945.



aspects of the law. The *Malayan Law Journal* still remains as the major law reporting publication in Malaysia and Singapore today.<sup>157</sup>

In addition to the *Malayan Law Journal*, Bashir Mallal also produced *Malayan Cases* in 1939.<sup>158</sup> It contained reports of older unreported cases. So far, four volumes have been published: volume 1 in 1939, volume 2 in 1958, volume 3 in 1964, and volume 4 in 1980.

Of the Unfederated Malay States, Johore was the only state which published its own series of law reports. This was entitled *The Law Reports of the State of Johore*, or the *Johore Law Reports*,<sup>159</sup> as it was commonly known. The series was edited by J.B. Weiss. The advent of the Second World War hindered the publication of the *Johore Law Reports*, as a result of which only two volumes were published. Volume 1 covered cases decided from 1915 to 1937, and volume 2 covered the period 1938 to 1940.

During 1946 and 1947, two volumes of the *Law Reports of the Malayan Union*<sup>160</sup> were brought out by the Malayan Union Government Press. These volumes contained the case law of the Malayan Union, and were published in 1948 and 1950 respectively.

The *Malayan Law Reports*<sup>161</sup> began publication in 1950, and comprised five volumes, with a supplement for the year 1952. The first volume was entitled *The Law Reports of the Federation of Malaya*. The subsequent volumes were entitled *Malayan Law Reports*, and contained reported cases from both the Federation of Malaya and Singapore, by agreement between the Chief Justices of the Federation and Singapore, as well as the Bar Council.

*The Supreme Court Reports*,<sup>162</sup> which began publication in 1955, was the only series which covered cases decided in the States of Sarawak, North Borneo and Brunei. Its title was later changed to the *Sarawak, North Borneo and Brunei Supreme Court Reports*.

<sup>157</sup>The *Malayan Law Journal* has also started to include cases which have been translated into Bahasa Malaysia from Jan. 1982. These reports, however, do not appear regularly in the monthly issues of the Journal.

<sup>158</sup>Singapore: Malayan Law Journal Office, 1939-. (4 volumes have been published to date; vol. 4 was compiled by Al-Mansor Adabi in 1980).

<sup>159</sup>Singapore: Published by Authority, 1939-41.

<sup>160</sup>Kuala Lumpur: Malayan Union Government Press, 1948-50.

<sup>161</sup>Kuala Lumpur: Government Press, 1951-54.

<sup>162</sup>Kuching: Government Printers, 1955-64.

Eight volumes were produced covering cases decided in these states from 1928 to 1963.

Mention should also be made of Lee Hun Hoe's two publications on the native customary law in Sabah and Sarawak. They are entitled *Cases on the Native Customary Law in Sabah*<sup>163</sup> and *Cases on the Native Customary Law in Sarawak*.<sup>164</sup>

Currently, there are five other publications, apart from the *Malayan Law Journal*, which contain reports of cases in Malaysia. The first of these is the *Malaysian Labour Law Reports*,<sup>165</sup> which as its title implies, covers the decisions of the Industrial Court. It also includes cases on industrial relations reported in the *Malayan Law Journal*. To date, four volumes have been published: the first containing the awards for the years 1965-67, the second the awards of 1968-69, the third volume covering the awards for 1970-72, and the latest volume containing awards for the first half of 1982. The publishers hope eventually to bring out the volumes for the years 1973 to the end of 1982, in order to complete the series.<sup>166</sup> The *Malaysian Labour Law Reports* is, in fact, continued by *The Industrial Law Reports*,<sup>167</sup> which commenced publication in 1983. It contains the awards of the Industrial Court from January 1983 onwards.

The third current publication is *Jernal Hukum*<sup>168</sup> [Islamic Law Journal]. It began publication in 1980, and contains articles on Islamic law, as well as cases decided in the Syariah Courts of the states of Malaysia. The Journal is in Bahasa Malaysia, and is under the editorship of Professor Ahmad Ibrahim.

Fourthly, the *Malaysian Current Law Journal*<sup>169</sup> was launched in 1981. It is organised on the lines of the *Malayan Law Journal*. At first, the Journal published only digests of Malaysian cases, but from January 1983, it has begun reporting full judgments of the High Courts and the Federal Court of Malaysia. Lastly, the

<sup>163</sup>Kota Kinabalu: Jabatan Cetak Kerajaan, 1973.

<sup>164</sup>Kuching: National Printing Department, 1981.

<sup>165</sup>Kuala Lumpur: Industrial Court, 1976.

<sup>166</sup>See Acknowledgement on verso of the half title [Jan.-June 1982] *Malaysian Labour Law Reports* [ii].

<sup>167</sup>Kuala Lumpur: Malaysian Current Law Journal Sdn. Bhd., 1983.

<sup>168</sup>Kuala Lumpur: Bahagian Ugama, Jabatan Perdana Menteri, 1980.

<sup>169</sup>Kuala Lumpur: Malaysian Current Law Journal Sdn. Bhd., 1981.

same publisher has also brought out the *Malaysian Tax Cases* in 1985.

In addition to the law reports described above, English reports, such as the *Law Reports* and the *All England Law Reports*, also include some Malaysian appeals to the Privy Council.

There are also several digests which have been published to aid in the retrieval of Malaysian case law. The first of such digests was Pallonjee's *Digest of Cases, 1808-1911*,<sup>170</sup> which was published in 1915, and covered cases decided in the Straits Settlements and the Federated Malay States. McCabe Reay's *Digest of Reported Cases, 1897-1926*<sup>171</sup> followed in 1929, and H.C. Willan brought out his *Federated Malay States Digest* in 1936.<sup>172</sup> The latter comprised cases decided by the Supreme Court of the Federated Malay States, as well as Johore and Kedah, from 1907 to 1935. A Supplement was issued in 1941 covering cases decided from 1935 to 1940. Withers Payne also compiled the *Malayan Digest, 1808 to 1933* in 1937, with two supplementary volumes in 1937 and 1941.<sup>173</sup>

The late Bashir Mallal's indispensable *Digest of Malayan Case Law* commenced publication in 1940.<sup>174</sup> The first edition contained digests of cases decided in the Courts of Malaya from 1808 to 1939. A second edition was published in 1953, and a Supplement issued in 1958, which also included a digest of Sarawak, North Borneo and Brunei case law from 1928 to 1956.<sup>175</sup>

In 1967, Mallal realised that "changes in the law in the last decade were so numerous and complex in character that finding the law had become an increasingly difficult problem, and a new edition was considered desirable".<sup>176</sup> Thus, the third edition of the *Digest* was launched in that year. Volume 1 covered the topics 'Administrative law to Customs and Excise'. Volume 2, which was published in 1969, contained cases from 1808 to 1967 on the subjects 'Damages to Housing and Development Board'. This was followed

<sup>170</sup>Singapore: Methodist Publishing House, 1915.

<sup>171</sup>Kuala Lumpur: F.M.S. Government Press, 1929.

<sup>172</sup>Kuala Lumpur: F.M.S. Government Press, 1936. Supplement, 1941.

<sup>173</sup>Singapore: Malayan Law Journal Office, 1937. Supplements, 1937 & 1941.

<sup>174</sup>Singapore: Malayan Law Journal Office, 1940.

<sup>175</sup>Singapore: Malayan Law Journal, 1953. Supplement, 1958.

<sup>176</sup>Mallal's *Digest of Malaysian and Singapore Case Law*, 3rd ed. (Singapore: Malayan Law Journal, 1967- ), vol. 1, i.

by volume 3 in 1971, covering the topics 'Identity Cards to Local Government'. However, Mallal passed away in 1972 before completing the third edition of his projected five-volume *Digest*. The onerous task of compiling the two remaining volumes now rests on the shoulders of Professor Ahmad Ibrahim. Volume 4, which was edited and updated by Professor Ahmad, was published in 1978.<sup>177</sup>

*The Malaysia and Singapore Case Citator* was published in 1983 by the Malaysian Law Publishers. It covered cases from 1966 to 1982 arranged under broad subject headings.

The High Court, Malaya, has also started compiling and publishing a digest of its recent judgments. The first volume was entitled *Digest of Recent Judgments on Commercial Cases* which covered cases emanating from the Commercial Division of the High Court from July to September 1985. From January 1986, the title was changed to *Malaysian Digest*. The Digest covers all recent decisions of the Supreme Court, as well as recent judgments of the High Court, Malaya, and the High Court, Borneo. The *Malaysian Digest* is under the editorship of Dato' Dr. Zakaria M. Yatim.

In May 1987, Butterworths (Asia) began the publication of the *Butterworths Law Digest : Malaysia, Singapore and Brunei*. It is a monthly journal which also includes a limited number of relevant English and Australian cases. In addition, recent statutes and subsidiary legislation from Malaysia and Singapore are noted.

Of special importance is the compilation of all judgments of His Royal Highness, Sultan Azlan Shah of Perak entitled *Judgments of HRH Sultan Azlan Shah : With Commentary*, edited by Professor Visu Sinnadurai. This compilation was published by the Professional (Law) Books Publishers in 1986.

Lastly, reference should be made to M.B. Hooker's *A Source-book of Adat, Chinese Law and the History of the Common Law in the Malayan Peninsula*,<sup>178</sup> which is an invaluable guide to those researching on the topics mentioned in the title. It contains summaries of judicial decisions on *Adat* law and Chinese law, as well as the early Indian decisions relating to the English East India Company and cases on the common law.

<sup>177</sup>Singapore: Malayan Law Journal, 1978.

<sup>178</sup>Singapore: Malaya Law Review, University of Singapore, 1967.

## TREATIES

The early treaties and agreements were concluded mainly between the individual Malay States and the Colonial powers, namely, the Dutch and the British. The earliest publications on the treaties entered into by the Malay States and the British were Colonel Cavenagh's *Report on the Treaties and Engagements with the Native States of the Malayan Peninsula anterior to 1860*, and his *Treaties and Engagements with the Native States of the Malay Peninsula*,<sup>179</sup> which were both published in 1884. These treaties were mainly agreements concluded between the British and the states of Kedah, Malacca, Perak, Selangor and Johore, as well as the Confederate States of Sungei Ujong, Rembau, Johol and Sri Menanti. They related mainly to commerce and British protection, which eventually led to British control over the states.

The next collection of treaties was published in 1888 entitled *Treaties and Other Papers Connected with the Native States of the Malay Peninsula*.<sup>180</sup> This was followed by another compilation brought out by the Straits Government in 1889 under the title *Treaties and Engagements Entered Into With or Affecting the Native States of the Malay Peninsula*.<sup>181</sup> This volume also included Cavenagh's Report mentioned above.

All these earlier treaties were included in *Treaties and Engagements Affecting the Malay States and Borneo*, which was edited by Sir William George Maxwell and William Summer Gibson, published in 1924.<sup>182</sup> This compilation also contained the treaties concluded between the British and the Federated Malay States, the Unfederated Malay States, Borneo and Sarawak, as well as the Netherlands and Siam.

Maxwell and Gibson's compilation was the only source for all the pre-1924 treaties of Malaysia for well over half a century. In fact, this compilation formed the basis of the recent two-volume work edited by J. de V. Allen, A.J. Stockwell and L.R. Wright entitled *A Collection of Treaties and Other Documents Affecting the States of Malaysia, 1761-1963*.<sup>183</sup>

<sup>179</sup>London: Jas. Truscott, 1884; Singapore: Government Printer, 1884.

<sup>180</sup>Singapore, 1888.

<sup>181</sup>Singapore, 1889.

<sup>182</sup>London: Jas. Truscott, 1924.

<sup>183</sup>London: Oceana, 1981. 2 vols.

Apart from the publications mentioned above, two other collections of Johore treaties can be found in the holdings of the University of Malaya Law Library. One is an undated compilation containing the early treaties between the British and Johore from 1818 to 1915.<sup>184</sup> The other is a compilation of Johore treaties from 1819 to 1927, in Jawi, by Haji Mohd Said bin Haji Sulaiman. The latter collection entitled *Buku Treaty Johore dengan Pertambahannya*<sup>185</sup> (Johore Book of Treaties with Supplement) was commissioned to be printed by the Sultan of Johore, and was published in 1941.

In 1986, two compilations of ASEAN treaties were published. The ASEAN Secretariat in Jakarta issued its *ASEAN Documents Series, 1967-1986*. Apart from treaties, the Series also include statements made by the Foreign Ministers of the ASEAN countries, as well as joint communiques. The other compilation, entitled *Multilateral Treaties Between ASEAN Countries*, was published by Butterworth (Asia) under the editorship of Professor Visu Sinnadurai.

Currently, there is no treaty series in Malaysia. Some treaties are published in the Legislative Supplements of the Federal Government Gazette, namely, double taxation agreements. There is, however, a Treaty Division in the Ministry of Foreign Affairs, which acts as the custodian of all treaties concluded between Malaysia and other countries after independence or 'Merdeka' day. Listings of treaties concluded are also published in the quarterly issues of *Foreign Affairs Malaysia*, which is a journal brought out by the Ministry of Foreign Affairs from 1968.

#### PERIODICALS

As has been stated above,<sup>186</sup> the *Malayan Law Journal*, *Jurnal Hukum* and the *Malaysian Current Law Journal* also contain articles and notes of interest to lawyers. It should also be mentioned here that the *Malaya Law Review*,<sup>187</sup> although published in Singapore, includes articles on Malaysian law, as well as an ASEAN Section.

<sup>184</sup>Probably published in Singapore.

<sup>185</sup>Johore Bahru: Lembaga Malaya Press, 1941. The volume contained a total of 22 treaties and agreements.

<sup>186</sup>*Supra*, 196-198.

<sup>187</sup>Singapore: Faculty of Law, University of Singapore, 1959.

Two other legal periodicals, which could not have commenced publication if not for the untiring and dedicated efforts of Professor Ahmad Ibrahim, are *Jernal Undang-Undang: Journal of Malaysian and Comparative Law* and *Survey of Malaysian Law*.

*The Journal of Malaysian and Comparative Law* is published semi-annually by the Faculty of Law, University of Malaya, from 1974.<sup>188</sup> It contains scholarly articles, not only from the members of the academic staff of the Faculty of Law, but also from foreign academics and members of the Malaysian legal profession. The Journal also has sections on shorter articles, and notes on legislation and cases, indexes to Malaysian Federal Acts and State Enactments, as well as book reviews.

The other periodical publication of the Faculty of Law, University of Malaya, is the *Survey of Malaysian Law*<sup>189</sup> The first volume for the year 1977 was published in 1979. As its title implies, it is a survey of legal developments in Malaysia, and is brought out annually.

In addition, the Bar Council of the States of Malaya publishes its own journal called *Insaf*, as from 1967.<sup>190</sup> It includes articles, comments, and notes on current developments which are of interest to legal practitioners, as well as notices of forthcoming conferences and seminars. The frequency of the journal varies from year to year. In 1985, the Bar Council also brought out another journal, which is its monthly newsletter entitled *Infoline*.

The Judicial and Legal Officers Association also has its own journal entitled *Adil*.<sup>191</sup> It was originally intended to be a quarterly publication, but, owing to the dearth of contributions, it now appears irregularly. Besides articles, the journal also publishes digests of Acts, administrative law reports, and listings of legal officers in the Government service. From 1981, *Adil* has also started to include a section on legal terminology in Malay.

Two other periodical titles may also be mentioned. They are the *Malaysian Tax Journal* and *The Writ*. The *Malaysian Tax Jour-*

<sup>188</sup>Kuala Lumpur: Faculty of Law, University of Malaya, 1974.

<sup>189</sup>Kuala Lumpur: Pub. for the Faculty of Law, University of Malaya by Malayan Law Journal, 1979.

<sup>190</sup>Kuala Lumpur: Bar Council, States of Malaya, 1967.

<sup>191</sup>Kuala Lumpur: Judicial and Legal Officers Association, 1972.

nal began publication in August 1974.<sup>192</sup> It is published twice a year by the Inland Revenue Officers Union, Peninsular Malaysia, arising out of the need for income tax literature. The Journal contains articles, recent tax legislation and cases on taxation.

*The Writ* is an annual publication of the Sabah Law Association.<sup>193</sup> It includes not only articles, but also the judgments of the Sabah Court, and a directory of legal and judicial officers, as well as legal practitioners in Sabah.

Since the inception of the International Islamic University, two additional journals have been published. These are the *Syariah Law Journal* which began publication in 1984 and the *Law Majallah* in 1985. The latter is in fact an annual publication of the Law Society of the University, but its publication of articles is not limited to students only, but is also extended to include those written by members of the academic staff.

Apart from the journals mentioned above, researchers on Malaysian law should also refer to the *Journal of the Straits Branch of the Royal Asiatic Society*<sup>194</sup> and, its successor, the *Journal of the Malaysian Branch of the Royal Asiatic Society*.<sup>195</sup> The latter is still in progress, and contains many scholarly articles on the history, literature and customary laws of Malaysia, Singapore and Brunei. The Society has published a number of monographs and reprints of the articles in its Journal. An index to the Journal entitled *Index Malaysiana*<sup>196</sup> has also been brought out.

#### REFERENCE WORKS

From 1983 to date, various reference works on Malaysian law have been published. These include the writer's *Law Reports in the Law Library, University of Malaya: A Guide*<sup>197</sup> (1983); *Statement of Recommended Holdings on Malaysian Legal Materials*<sup>198</sup> (1983);

<sup>192</sup>Kuala Lumpur: Inland Revenue Officers Union, Peninsular Malaysia, 1974- .

<sup>193</sup>Kota Kinabalu: Sabah Law Association, 1978- .

<sup>194</sup>Singapore, 1878-1922.

<sup>195</sup>Singapore, 1923- . (Suspended 1941-45).

<sup>196</sup>Compiled by Lim Huck Tee and D.E.K. Wijasuriya Kuala Lumpur: Royal Asiatic Society, Malaysian Branch, 1970. A supplement was issued in 1974. These two volumes covered the entire run of JSBRAS and JMBRAS from 1878 to 1973.

<sup>197</sup>Kuala Lumpur: University of Malaya Library, 1983.

<sup>198</sup>(1983) 25 *Malaya Law Review* 238; also published in (1984) 11 *Journal of Malaysian and Comparative Law* 219.



*Malaysia: A Bibliography*<sup>199</sup> (1984); *Malaysia: A Select Legal Bibliography, 1982-1983, and 1984-1985*<sup>200</sup>; and *Malaysian Legal Source Materials in London, Oxford and Cambridge*<sup>201</sup> (1985). A comprehensive legal bibliography of Malaysia is being compiled and is expected to be published in 1988.

The Law Library, University of Malaya, has also brought out a listing of dissertation materials in its holdings. It is compiled by Chan Sai Noi, Molly Chuah and Sharipah Hanon Bidin in 1986 and is entitled *Dissertations, Theses and Project Papers in the University of Malaya Law Library* (as at 31 December 1985).

In 1986, the National University of Singapore published the *Index to Singapore/Malaysia Legal Periodicals, 1932-1984*. The index was edited by Molly Cheang, Sng Yoke Fong and Carolyn Wee, and comprised two parts: an alphabetical subject index of periodical articles and an author index.

Two law dictionaries have also been published. The first is the *Malaysian Law Dictionary: a Definition of Statutory Terms* issued by the Malaysian Law Publishers in 1985. The second is the *Istilah Undang-Undang*, a legal terminology in English-Bahasa Malaysia and Bahasa Malaysia-English, which was published by the Dewan Bahasa dan Pustaka in 1986.

#### MONOGRAPHIC WORKS

It is proposed in this part to deal with the more significant monographic works on the law of Malaysia, including those relating to the former Federated Malay States and the Unfederated Malay States. For an account of the books and commentaries on the Straits Settlements, reference should be made to the essays written by Professor Bartholomew.<sup>202</sup>

Although the earlier monographs from 1886 to 1922 were mainly commentaries on various Ordinances of the Straits Settlements, some works relating to the laws of the Malay States were also

<sup>199</sup>In *Constitutions of the Countries of the World*, editors: Albert P. Blaustein and Gisbert H. Flanz, Dobbs Ferry, N.Y.: Oceana Publications, 1984, pp. 237-337.

<sup>200</sup>(1983) *Survey of Malaysian Law* 374. The 1985 volume is in press.

<sup>201</sup>Kuala Lumpur: University of Malaya Library, 1985.

<sup>202</sup>Bartholomew, *Malaya Law Review Legal Essays, op. cit.*, 341-45; also (1982) 2 *Lawasia (N.S.)* 1 at 46-49.

published. The first of such works appeared to be Martin Lister's *The Negri Sembilan: Their Origin and Constitution*.<sup>203</sup> This book, which contained footnotes by D.F.A. Hervey on the meaning of the various Malay terms used by Lister, was published in 1889. It first appeared, in fact, as an article in the *Journal of the Straits Branch, Royal Asiatic Society*.<sup>204</sup> Lister also wrote another book entitled *Mining Laws and Customs in the Malay Peninsula in 1889*.<sup>205</sup>

Six years later, W.E. Maxwell wrote his *Memorandum on the Introduction of a Land Code in the Native States in the Malay Peninsula*,<sup>206</sup> which included Perak laws and land regulations from 1875-94, as well as the Resident's minutes.

In 1907, Richard James Wilkinson began the publication of the series *Papers on Malay Subjects*<sup>207</sup> which was a collection of studies on the Malays. The *First Series*, published between 1907 and 1911, contained sixteen papers, including Wilkinson's *Introductory Sketch* and J. Rigby's *The Ninety-nine Laws of Perak* in the section on 'Law'. In the *Second Series*, seven studies were published between 1912 and 1927. Many of the papers from both series were subsequently reprinted before the Second World War. In 1971, Oxford University Press reprinted the papers relating to history in its 'Oxford in Asia Historical Reprints Series'.

Reference has already been made to J.R. Innes' *Registration of Title in the Federated Malay States*, which was published in 1913.<sup>208</sup> Apart from the appendix of reported judgments, the seven chapters of the treatise dealt with the main features of the scheme of registration of title in the Federated Malay States, charges and mortgages, trusts and settlements, caveats and other miscellaneous matters, such as joint tenancy, co-proprietorship and customary tenure.

In the early years of the 1930s, two works relating to the British administration in the Malay States were published. Sir Roland Braddell brought out *The Legal Status of the Malay States*<sup>209</sup> in 1931, in which he expressed concern over the rights of the Malay

<sup>203</sup>Singapore: Government Printer, 1899.

<sup>204</sup>(1887) 19 JSBRAS 35.

<sup>205</sup>Singapore: Government Printer, 1889.

<sup>206</sup>Singapore: Government Printing Office, 1895.

<sup>207</sup>First Series, Kuala Lumpur: Government Printer, 1901-1911; Second Series 1912-1927.

<sup>208</sup>Kuala Lumpur: F.M.S. Government Printing Office, 1913.

<sup>209</sup>Singapore: Malaya Publishing House, 1931.

Rulers, which appeared to have been diminished as a result of the British protectorate system. This book was in fact translated into Malay by Mohd. Zain Haji Ayob, and was published in the Jawi script in 1935.<sup>210</sup>

In 1932, Terrell published a monograph entitled *Malayan Legislation and its Future*. He was concerned over what he termed as the "legislative chaos" in the Malay States. Malayan legislation, according to him, suffered from "the twin defects of a want of co-ordination, and to a lesser extent, of a want of efficiency in drafting".<sup>211</sup> Terrell also wrote the *Jurisdiction of the Courts of the Federated Malay States in 1936*.<sup>212</sup>

In the year 1932, Withers Payne published his two books relating to the administration and succession of estates. They were entitled *The Law and Administration of and Succession of Estates in the Straits Settlements*,<sup>213</sup> and *The Mohamedan Law of Inheritance According to the School of Shafii*.<sup>214</sup>

The years between 1934 and 1941 saw the publication of various manuals for the use of magistrates and prosecutors in the Malay States. The first of such works appeared to be W.S. Gibson's *Handbook for Magistrates in the Federated Malay States*,<sup>215</sup> which was published in 1934. Three years later, C.W.A. Sennett, the Legal Advisor of Trengganu, brought out a book entitled *Trengganu Magistrates Handbook*.<sup>216</sup> In 1940, J.B. Weiss published the *Manual for Magistrates in Malaya*,<sup>217</sup> whilst in the following year, J.L. McFall produced his *Handbook for Prosecutors in Malaya*.<sup>218</sup>

There was also a volume on the land law of Terengganu which was published in 1938. It was entitled *A History of Land Laws and Land Administration*, and was written by C.T. Husband.<sup>219</sup>

<sup>210</sup> *Martabat (atau Taraf) Negeri-Negeri Melayu pada Sisi Undang-undang*. Ipoh: Yahya, 1935. Reprinted 1938.

<sup>211</sup> A.K. aB. Terrell, *Malaysian Legislation and its Futures*. Singapore: Malaya Publishing House, 1932, 22.

<sup>212</sup> Kuala Lumpur: Government Printer, 1936.

<sup>213</sup> Singapore: Printers Ltd., 1932.

<sup>214</sup> Singapore, 1932.

<sup>215</sup> Kuala Lumpur: Government Printer, 1934.

<sup>216</sup> Singapore: Printers Ltd., 1937.

<sup>217</sup> Singapore: 1940.

<sup>218</sup> Kuala Lumpur: Government Printer, 1941.

<sup>219</sup> Trengganu: 1938.

The monographic literature of the post-war period began with Bashir Mallal's book, *Double Tenth Trial*,<sup>220</sup> which dealt with Japanese war crimes. It was published in 1947. In the following year, Mallal brought out the third annotated edition of his commentary on the Code of Criminal Procedure entitled *Mallal's Criminal Procedure*.<sup>221</sup> The fourth edition of this work was published in 1957.<sup>222</sup>

With the attainment of independence by the Federation of Malaya in 1957, a number of works on the Constitution of the Federation emerged. Professor R.H. Hickling compiled *Malayan Constitutional Documents*<sup>223</sup> in 1958. A second edition of this compilation was published in 1962. Professor Hickling also wrote *An Introduction to the Federal Constitution*<sup>224</sup> in 1960. This book was subsequently reprinted in 1982.<sup>225</sup>

Professor L.A. Sheridan published *The Federation of Malaya Constitution: Texts, Annotations and Commentary*<sup>226</sup> in 1961. In the same year, he also edited the book entitled *Malaya and Singapore, the Borneo Territories: The Development of their Laws and Constitutions*<sup>227</sup> which formed volume 9 of the series 'The British Commonwealth; the development of its Laws and Constitution'.

Before giving an account of the monographic works after the establishment of Malaysia, mention should be made of some of the titles which were published between 1960 and 1963. These include *Japanese Occupation and Ex Post Facto Legislation in Malaya*<sup>228</sup> by S.K. Das (1960); *Gaming in Malaya* by Choor Singh<sup>229</sup> (1960); and *The Torrens System in Malaya*,<sup>230</sup> also by S.K. Das (1963). In addition, Mallal published his other great commentary entitled *Mallal's Supreme Court Practice*,<sup>231</sup> in two volumes, in 1961 and

<sup>220</sup>Singapore: Malayan Law Journal, 1947.

<sup>221</sup>Singapore: Malayan Law Journal, 1948.

<sup>222</sup>Singapore: Malayan Law Journal, 1957.

<sup>223</sup>Kuala Lumpur: Government Printer, 1958, 2nd. ed., 1962. 2 vols. : Vol. 1 contains Federal Documents and the Federal Constitution; Vol. 2 includes the Constitutions of the 11 States.

<sup>224</sup>Kuala Lumpur: Federation of Malaya Information Services, 1960.

<sup>225</sup>Kuala Lumpur: Malaysian Law Publishers, 1982.

<sup>226</sup>Singapore: University of Malaya Law Review, 1961.

<sup>227</sup>London: Stevens, 1961.

<sup>228</sup>Singapore: Malayan Law Journal, 1960.

<sup>229</sup>Singapore: Malayan Law Journal, 1960.

<sup>230</sup>Singapore: Malayan Law Journal, 1963.

<sup>231</sup>Singapore: Malayan Law Journal, 1961-1963.

1963. This work replaced his *Straits Settlements Practice*<sup>232</sup> of 1937, and contained not only commentaries on the rules of the Supreme Court of Singapore, but also those of the Federation of Malaya. A second edition of Mallal's Supreme Court Practice has now been brought out. This edition is by Tan Sri Chang Min Tat and is published by the Malayan Law Journal in 1983.

A.J.N. Richards also published two works relating to Sarawak between years 1961 and 1964. *Sarawak Land Law and Adat: Report to the Sarawak Government*<sup>233</sup> was brought out in 1961. The second book entitled *Dayak Adat Law in the First and Second Divisions*<sup>234</sup> was published in two volumes in 1963 and 1964.

The period from the formation of Malaysia in September 1963 to date saw the publication of a number of casebooks and source books, as well as studies on the substantive law on various subjects.

In the field of constitutional law, the first book to be published on the new Constitution of Malaysia was Professor H.E. Groves' *Constitution of Malaysia*<sup>235</sup> in 1964. This was followed in 1967 by Sheridan and Groves' joint work entitled *The Constitution of Malaysia*,<sup>236</sup> which was a completely rewritten and augmented edition of Professor Sheridan's earlier work, *The Federation of Malaya Constitution*. A third edition of this book was published in 1979, and recently a fourth edition has been brought out.<sup>237</sup>

There were also quite a number of other works on the Malaysian Constitution which were subsequently published. Among these were *Constitutional Law Cases from Malaysia and Singapore*<sup>238</sup> by S. Jayakumar (1971); *An Introduction to the Constitution of Malaysia*<sup>239</sup> by Tun M. Suffian (1972; 2nd ed. : 1976); *Our Constitution*<sup>240</sup> by Tan Sri Hashim Yeop Sani (1980); *Perkembangan Perlembagaan*

<sup>232</sup>Singapore: Malayan Law Journal, 1937.

<sup>233</sup>Kuching: Government Printing Office, 1961.

<sup>234</sup>Kuching: Government Printing Office, 1963-1964.

<sup>235</sup>Singapore: Malaysia Publications, 1964.

<sup>236</sup>Dobbs Ferry, N.Y.: Oceana, 1967.

<sup>237</sup>Singapore: Malayan Law Journal, 1987.

<sup>238</sup>Singapore: Malayan Law Journal, 1971.

<sup>239</sup>Kuala Lumpur: Jabatan Cetak Kerajaan, 1972. 2nd. ed., 1976. This book was also translated into Bahasa Malaysia by Dewan Bahasa dan Pustaka, Kuala Lumpur, 1974. 2nd. ed., 1984.

<sup>240</sup>Kuala Lumpur: Law Publishers, 1980. Justice Hashim has also written a slim volume entitled *How Our Laws are Made* to acquaint the Malaysian public with the law-making procedure. (Kuala Lumpur: Dewan Bahasa dan Pustaka, 1974).

*Malaysia*<sup>241</sup> [The Development of the Malaysian Constitution] by Mohd. Aris Osman (1983), and, recently, the *Federal Constitution of Malaysia: A Commentary*<sup>242</sup> by K.V. Padmanatha Rau (1986). Tun Suffian has also written another work on the Constitution of Malaysia entitled *Reflections of the Constitution*.<sup>243</sup>

*The Constitution of Malaysia, Its Development : 1957- 1977*<sup>244</sup> edited by Tun Suffian, H.P. Lee and F.A. Trindade (1978) has been followed with another volume entitled *The Constitution of Malaysia : Further Perspectives and Developments : Essays In Honour of Tun Mohammed Suffian*<sup>245</sup> edited by F.A. Trindade and H.P. Lee in 1986.

Finally, mention should be made to the four books written by Tun Mohamed Salleh bin Abas on the Constitution. Three of these were in Bahasa Malaysia : *Prinsip Perlembagaan dan Pemerintahan di Malaysia*<sup>246</sup> [Principles of Constitutional and Administrative Law in Malaysia] (1968); *Sejarah Perlembagaan Malaysia*<sup>247</sup> [History of the Constitution of Malaysia] (1968); and *Unsur-unsur Tradisi Dalam Perlembagaan Malaysia*<sup>248</sup> [Traditional Elements in the Malaysian Constitution] (1985). Tun Mohamed Salleh's *Selected Articles and Speeches on the Constitution, Law and Judiciary* was also published in 1984.<sup>249</sup>

Professor Ahmad Ibrahim first published his authoritative work, *Islamic Law in Malaya*,<sup>250</sup> in 1965. The work was the result of a research project of the Malaysian Sociological Research Institute. In it, Professor Ahmad Ibrahim dealt with the sources and development of Muslim Law in general, as well as the Muslim family law, the law of property, offences, evidence and procedure in Malaysia. A useful glossary of terms in Malay and Arabic, with definitions in English, was also included.

<sup>241</sup>Petaling Jaya: Fajar Bakti, 1983.

<sup>242</sup>Kuala Lumpur: Malaysian Current Law Journal, 1986.

<sup>243</sup>Kuala Lumpur: Sosio-Economic Research Unit, 1983.

<sup>244</sup>Kuala Lumpur: Oxford University Press, 1978. This work has also been translated into Bahasa Malaysia by Penerbit Fajar Bakti in 1983.

<sup>245</sup>Singapore: Oxford University Press, 1986.

<sup>246</sup>Kuala Lumpur: Dewan Bahasa dan Pustaka, 1968.

<sup>247</sup>Kuala Lumpur: Dewan Bahasa dan Pustaka, 1968.

<sup>248</sup>Kuala Lumpur: Dewan Bahasa dan Pustaka, 1985.

<sup>249</sup>Kuala Lumpur: Malaysian Law Publishers, 1984.

<sup>250</sup>Singapore: Malaysian Sociological Research Institute, 1965. Reprinted 1975.

In addition to this work, Professor Ahmad Ibrahim also wrote two books on Islamic law in 1965. His book entitled *Sources and Development of Muslim Law*<sup>251</sup> traced the development of Islamic law from the earliest period before 'Hijrah' to the year 1965. Its scope covered the Muslim countries of the East, including India, Pakistan, Indonesia and Malaysia. His other work, *The Status of Muslim Women in Family Law in Malaysia, Singapore and Brunei*<sup>252</sup> was originally prepared for a seminar organized by the United Nations Secretariat in Tokyo in 1962. It was also published as a series of three articles in the *Malaya Law Review* from 1963-64.<sup>253</sup> The monograph published in 1965 included some additions and corrections to the original paper. A volume compiled by Professor Ahmad Ibrahim, Sharon Siddique and Yasmin Hussain entitled *Readings on Islam in Southeast Asia*<sup>254</sup> was published in 1985.

Two other works on Islam are by Professor M.B. Hooker. They were published in 1983 and 1984 respectively, and were entitled *Islam in Southeast Asia*,<sup>255</sup> and *Islamic Law in Southeast Asia*.<sup>256</sup>

In addition to these publications, M.B. Hooker also wrote the following books: *Readings in Malay Adat Laws*<sup>257</sup> (1970); *Adat Laws in Modern Malaya*<sup>258</sup> (1972); *Legal Pluralism: An Introduction to Colonial and Non-Colonial Laws*<sup>259</sup> (1975); *The Personal Laws of Malaysia: An Introduction*<sup>260</sup> (1976); *A Concise Legal History of South-east Asia*<sup>261</sup> (1978); *Native Law in Sabah and Sarawak*<sup>262</sup> (1980); and recently the *Laws of South-east Asia*<sup>263</sup> (1986).

Professor Ahmad Ibrahim also published a number of books on other subjects. In 1970, his inaugural Braddell Memorial Lecture was published as a monograph entitled *Towards a History of Law in Malaysia and Singapore*<sup>264</sup> Between 1977 and 1985, five other

<sup>251</sup>Singapore: Malayan Law Journal, 1965.

<sup>252</sup>Singapore: Malayan Law Journal, 1965.

<sup>253</sup>(1963) 5 *Malaya Law Review* 313; (1964) 6 *Malaya Law Review* 40, 353.

<sup>254</sup>Singapore: Institute of Southeast Asian Studies, 1985.

<sup>255</sup>Leiden: E.J. Brill, 1983.

<sup>256</sup>Singapore: Oxford University Press, 1984.

<sup>257</sup>Singapore: Singapore University Press, 1970.

<sup>258</sup>Singapore: Oxford University Press, 1972.

<sup>259</sup>Oxford: Clarendon Press, 1975.

<sup>260</sup>Kuala Lumpur: Oxford University Press, 1976.

<sup>261</sup>Oxford: Clarendon Press, 1978.

<sup>262</sup>Singapore: Malayan Law Journal, 1980.

<sup>263</sup>Singapore: Butterworths, 1986.

<sup>264</sup>Singapore: Stamford College, 1970.

works were written by him : *Law and Population in Malaysia*<sup>265</sup> (1977); *Family Law in Malaysia and Singapore*<sup>266</sup> (1978, 2nd ed., 1984); *Legal Education in Malaysia*<sup>267</sup> (1980); *Income Tax Case Law of Malaysia and Singapore*<sup>268</sup> (1984); and *Sistem Undang-Undang di Malaysia*<sup>269</sup> [The Legal System of Malaysia] which is a joint effort with Ahilemah Joned (1985).

Several studies on the commercial law of Malaysia have also been published. The first work was Professor Bartholomew's *Commercial Law in Malaysia*<sup>270</sup> in 1965. Myint Soe, a former lecturer at the National University of Singapore, published a total of five books on the subject. They were *The Insurance Law of Singapore and Malaysia: Cases, Materials and Comments*<sup>271</sup> (1975); *The Banking Law of Singapore and Malaysia*<sup>272</sup> (1975); *A Sourcebook on Banking Law in Singapore and Malaysia*<sup>273</sup> (1977); *The Law of Banking and Negotiable Instruments in Singapore and Malaysia*<sup>274</sup> (1977; 2nd ed., 1983); and, lastly, *The Insurance Law of Malaysia*<sup>275</sup> (1979). Wu Min Aun and Beatrix Vohrah have also brought out a general textbook entitled *The Commercial Law of Malaysia*<sup>276</sup> in 1979. A new book entitled *Central Banking in Malaysia : A Study of the Development of the Financial System and Monetary Management*<sup>277</sup> by Lee Hock Lock has also recently been published.

Wu Min Aun has also published two introductory texts : *An Introduction to the Malaysian Legal System*<sup>278</sup> (3rd. ed., 1982), and *The Industrial Relations Law of Malaysia*<sup>279</sup> (1982).

<sup>265</sup>Medford, Mass. Fletcher School of Law and Diplomacy, Tufts University, 1977.

<sup>266</sup>Singapore: Malayan Law Journal, 1978. 2nd. ed., 1984.

<sup>267</sup>Singapore: Maruzen Asia, 1980.

<sup>268</sup>Singapore: Malayan Law Journal, 1984.

<sup>269</sup>Kuala Lumpur: Dewan Bahasa dan Pustaka, 1985.

<sup>270</sup>Singapore: Malayan Law Journal, 1965.

<sup>271</sup>Singapore: Singapore Insurance Training Centre, 1975.

<sup>272</sup>Singapore: Law Book Co. of Singapore and Malaysia, 1975.

<sup>273</sup>Singapore: Institute of Banking and Finance, 1977.

<sup>274</sup>Singapore: Quins, 1977; 2nd. ed., 1983.

<sup>275</sup>Singapore: Quins, 1979.

<sup>276</sup>Kuala Lumpur: Heinemann Educational Books (Asia), 1979.

<sup>277</sup>Singapore: Butterworths, 1987.

<sup>278</sup>Kuala Lumpur: Heinemann Educational Books (Asia), 1982. 1st. ed., : 1975; 2nd. ed., 1978. The 2nd and 3rd. editions have also been published in Bahasa Malaysia: *Pengenalan Kepada Sistem Perundangan Malaysia*.

<sup>279</sup>Kuala Lumpur: Heinemann Educational Books (Asia), 1982.



Two other works on industrial law which should be mentioned are C.P. Mill's *Industrial Disputes Law in Malaysia*<sup>280</sup> (2nd. ed., 1984) and Dunston Ayadurai's *The Employer, The Employee and The Law in Malaysia*<sup>281</sup> (1985).

In the field of company law, reference should be made to Philip N. Pillai's *Sourcebook of Singapore and Malaysian Company Law*,<sup>282</sup> which was first published in 1975. The second edition of this work was brought out in 1986. He also wrote *Companies and Securities Handbook, Singapore and Malaysia*<sup>283</sup> in 1984, with a Supplement in 1985. Apart from these works, Peter Koh Soon Kwang published a second edition of his *Law of Partnership in Singapore and Malaysia*<sup>284</sup> in 1984.

As for land law, several books deserve mention. They are A.F. Porter's *Land Acquisition in Sarawak*<sup>285</sup> (1968); David S.Y. Wong's *Tenure and Land Dealings in the Malay States*<sup>286</sup> (1975), and Judith Sihombing's *National Land Code : A Commentary*<sup>287</sup> (1981). Of late, four other titles have been published : N. Khublall's *Law of Compulsory Purchase and Compensation*<sup>288</sup> (1984); M.F. Rutter's *Occupiers' Liability in Singapore and Malaysia*<sup>289</sup> (1985); R.R. Sethu's *Rent Control Legislation in Malaysia*<sup>290</sup> (1986); and more recently, Teo Keang Sood and Khaw Lake Tee's *Land Law in Malaysia : Cases and Commentary* (1987).<sup>291</sup> In the same year Teo Keang Sood also published his *Strata Titles in Malaysia : Law and Practice*.<sup>292</sup>

Arjunan Subramaniam has written four books on taxation. The first entitled *The Law of Personal and Business Taxation*<sup>293</sup> is now

<sup>280</sup>Sydney: Butterworths (Australia); Singapore: Malayan Law Journal, 1971. 2nd ed., 1984.

<sup>281</sup>Singapore: Butterworths, 1985.

<sup>282</sup>Singapore: Butterworths, 1986.

<sup>283</sup>Singapore: Butterworths, 1984; Supplement, 1985.

<sup>284</sup>Singapore: Professional Publications, 1984.

<sup>285</sup>Kuching: Government Printer, 1968.

<sup>286</sup>Singapore: Singapore University Press, 1975.

<sup>287</sup>Kuala Lumpur: Malayan Law Journal, 1981.

<sup>288</sup>Singapore: Butterworths, 1984.

<sup>289</sup>Singapore: Butterworths, 1985.

<sup>290</sup>Singapore: Butterworths, 1986.

<sup>291</sup>Singapore: Butterworths, 1987.

<sup>292</sup>Singapore: Butterworths, 1987.

<sup>293</sup>Kuala Lumpur: C.R. Dasaratha Raj, 1983.

in its third edition and is a four-volume work. Two other works by him in 1982 are *Introduction to Real Property Gains Taxation in Malaysia*<sup>294</sup> and *Petroleum Income Tax in Malaysia*.<sup>295</sup> His latest publication is *Principles of Malaysian Revenue Law : Cases and Commentary*<sup>296</sup> in three volumes published in 1987.

There are several other works on revenue law. Leo D. Pointon wrote his *Revenue Law in Singapore and Malaysia : Cases and Commentary*<sup>297</sup> in 1986. The CCH Australia and Malayan Law Journal brought out the loose-leaf volume of *Malaysian Revenue Legislation* in 1987. Brij S. Soin also published the fifth edition of his *Malaysian Master Tax Guide*<sup>298</sup> in 1987.

There is a dearth of monographic works in the fields of administrative law, contract and tort. The only book on administrative law which has been written so far is *The Administrative Law of Malaysia and Singapore*<sup>299</sup> by Professor M.P. Jain, published in 1980. For contract, there is *The Law of Contract in Malaysia and Singapore: Cases and Commentary*<sup>300</sup> by Professor Dato' Dr. Visu Sinnadurai, which was first published in 1979, with a second edition in 1987. K.S. Dass brought out his book entitled *Quantum in Accident Damages Claims*<sup>301</sup> in 1975. He expanded it with a second volume in 1980.

Dass has also published two other works: *The Subordinate Courts Practice*,<sup>302</sup> which he co-authored with Abdul Hamid bin Haji Mohamed, in 1981, and *Mareva Injunctions*,<sup>303</sup> which was released in 1982.

For criminal law, there is a two-volume publication entitled *The Penal Codes of Singapore and the States of Malaya : Cases, Materials and Comments*,<sup>304</sup> volume 1 of which was written by Koh Kheng

<sup>294</sup>Kuala Lumpur: Malayan Law Journal, 1982.

<sup>295</sup>Kuala Lumpur: Malayan Law Journal, 1982.

<sup>296</sup>Singapore: Malayan Law Journal, 1987. 3 vols.

<sup>297</sup>Singapore: Butterworths, 1986.

<sup>298</sup>North Ryde, N.S.W. : CCH Australia, 1987.

<sup>299</sup>Singapore: Malayan Law Journal, 1980.

<sup>300</sup>Kuala Lumpur: Oxford University Press, 1979. 2nd ed., Singapore: Butterworths, 1987.

<sup>301</sup>Batu Pahat, Johore: New Law Publishers, 1975. Vol. 2 was published by Asian Book Co., Batu Pahat in 1980.

<sup>302</sup>Batu Pahat, Johore : Asian Book Co., 1981.

<sup>303</sup>Batu Pahat, Johore : Asian Book Co., 1982.

<sup>304</sup>Singapore: Law Book Co., of Singapore & Malaysia, 1974-1976.

Lian and Myint Soe in 1974, and volume 2 by Koh Kheng Lian and Molly Cheang in 1976. Mimi Kamariah Majid has also recently published the *Malaysian Law on Bail*<sup>305</sup> in 1986, and *Criminal Procedure in Malaysia* in 1987.<sup>306</sup> For civil procedure, there is Puan Sri Grace Chang's *Introduction to Civil Procedure in Malaysia and Singapore*,<sup>307</sup> published in 1986.

Of late, three general works on Malaysian law have been published. A.J. Harding edited a book entitled *The Common Law in Singapore and Malaysia: A Volume of Essays Marking the 25th Anniversary of the Malaya Law Review*<sup>308</sup> in 1985. M.B. Hooker was responsible for the editing of *Malaysian Legal Essays In Honour of Professor Emeritus Ahmad Ibrahim*<sup>309</sup> which was published in 1986. The most recent work is Professor R.H. Hickling's *Malaysian Law*<sup>310</sup> in 1987.

Mention should also be made to three works which were published between 1984 and 1985. These are *Breaches of Trust in Singapore and Malaysia*<sup>311</sup> by W.J.M. Ricquier (1984); *Customs Offences*<sup>312</sup> by Andrew Chew (1985); and, lastly, *The Law of Charities: Cases and Commentary*<sup>313</sup> by Ter Kah Leng (1985).

In the field of international law, there is a casebook under the title *Public International Law Cases from Malaysia and Singapore* by S. Jayakumar<sup>314</sup> (1974). M.O. Ariff has also published a monograph, *The Philippines' Claim to Sabah: Its Historical, Legal and Political Implications*<sup>315</sup> in 1970. This slim volume is based on his dissertation for the Diploma in International Law at the University of Cambridge. More recently, there is a treatise entitled *Straits in International Navigation: Contemporary Issues*<sup>316</sup> by Koh Kheng Lian (1982). Chapter IV of her work deals with the controversies over some straits in East Asia, including the Straits of Malacca.

<sup>305</sup>Kuala Lumpur: Malaysian Law Publishers, 1986.

<sup>306</sup>Kuala Lumpur: Dept. of Publications, University of Malaya 1987.

<sup>307</sup>Singapore: Malayan Law Journal, 1986.

<sup>308</sup>Singapore: Butterworths, 1985.

<sup>309</sup>Singapore: Malayan Law Journal, 1986.

<sup>310</sup>Kuala Lumpur: Professional (Law) Books Publishers, 1987.

<sup>311</sup>Singapore: Butterworths, 1984.

<sup>312</sup>Kuala Lumpur: Malaysian Law Publishers, 1985.

<sup>313</sup>Singapore: Butterworths, 1985.

<sup>314</sup>Singapore: Singapore University Press, 1974.

<sup>315</sup>Singapore: Oxford University Press, 1970.

<sup>316</sup>Dobbs Ferry, N.Y.: Oceana, 1982.

In addition, the Institute of South East Asian Studies in Singapore has also published several studies on the law of the sea, including *Some International Law Problems Regarding the Straits of Malacca* by C.V. Das and V.P. Pradhan (1973), *Asean and the Law of the Sea: A Preliminary Look at the Prospects of Regional Cooperation* by P. Polomka (1975), and *ASEAN and the Law of the Sea* by P. Tangsubkul (1982).

Apart from the above-mentioned monographic works, a considerable amount of legal writings on Malaysia can be found in the local legal journals, which have been mentioned earlier in this essay. There are also unpublished materials in the form of dissertations and conference proceedings relating to Malaysian law.

The Faculty of law, University of Malaya, which is the first law school in the country, has, since its establishment in 1972, encouraged both its teaching staff and students to undertake research on various areas of the law. The students of the Faculty have produced numerous academic exercises, or project papers, on subjects of their choice, with emphasis on Malaysian law. In addition, postgraduate students of the Faculty have also submitted various dissertations and doctoral theses, all of which have raised the level of research work on Malaysian law.

There are of course other unpublished dissertation materials on Malaysian law submitted to universities abroad. These may be found in the various published reference works for such materials.

The academic staff of the Faculty of Law, University of Malaya, have brought out a number of compilations of local cases and materials on various subjects, in mimeograph form, to meet the needs of the curriculum for the four-year LL.B. course. Many of the law teachers are also engaged in research projects funded by the University, apart from the articles they have written in the local legal journals, especially the Faculty of Law publications, *Journal of Malaysian and Comparative Law* and *Survey of Malaysian Law*.

In recent years, many conferences and seminars have also been held locally on various legal topics. The proceedings of these conferences have, however, mainly remained unpublished. Special mention should be made of the regularly held ASEAN Law Conference,<sup>317</sup>

<sup>317</sup>Organised by the ASEAN Law Association which was formed in February 1979 at the Jakarta Conference on Legal Development in ASEAN Countries. The first ASEAN

and the biennial Malaysian Law Conference organised by the Bar Council of the States of Malaya. The last mentioned Conference has been held since 1971, and have produced many papers on various aspects of Malaysian law.

#### CONCLUSION

From the above account, it will be seen that a fair amount of Malaysian legal literature have generally been produced over the last two hundred years. Local literature in the form of legislation, law reports and periodical articles have been reasonably well covered. Valuable work have also undoubtedly been done by the authors of the legal books which have been published so far.

However, further development of a local secondary legal literature is still needed, as there seems to be a predominance of current publications in certain areas only, such as constitutional law, Islamic law, personal laws and commercial law. There is a need for planned research programmes on a long-term basis to foster the development of legal writing and publishing to cover all areas of Malaysian law. The provision of adequate funding, good library facilities and time for research is, of course, imperative.

The main deficiencies in the legislation in force in Malaysia today are the delay in the publication of a revised edition, the inconvenient updating system and the inadequate indexing of the laws.

A revised edition of Malaysian Acts and Ordinances is long overdue, as the last compilation of laws was produced about fifty years ago, that is, the Revised Edition of 1935 of the *Laws of the Federated Malay States*. Although it is gratifying to note that a number of Acts and Ordinances have been revised and updated by the Commissioner of Law Revision,<sup>318</sup> in accordance with the Revision of Laws Act 1968, the fact, however, remains that the laws have been revised piecemeal. The rapidly growing number of Amendment Acts alone have rendered the task of updating the

Law Association Conference and General Assembly was held in Manila in 1980; the second Conference was held in Kuala Lumpur in 1982, the third in Singapore in 1984, and the fourth in Manila in 1986.

<sup>318</sup>The Commissioner of Law Revision was appointed under s. 3, Revision of Laws Act 1968 (Act 1).

law to be a formidable and laborious one. This has, in fact, resulted in a couple of commercial publishers reprinting updated editions of numerous pieces of legislation.<sup>319</sup>

It would be ideal if Parliament could legislate a new Act, as soon as possible, to provide for the appointment of a Commissioner of Law Revision for the purpose of preparing and producing a new and revised edition of all the laws of Malaysia. The new revised edition could perhaps be produced in a loose-leaf format, so that updating could be effected speedily by the removal of the relevant pages and the insertion of new ones with the amendments added. If a bound revised edition is preferred, the interval between the publication of the revised edition should be ten years, at the most. In the interim period, annual bound volumes of laws, properly indexed, should be produced.

Singapore, for example, has passed an Act to provide for the publication of another revised edition of its laws, that is, the Revised Edition 1985.<sup>320</sup> The last edition published was the Revised Edition of 1970.

There is also a need for regularly published indices to legislation and cases to facilitate the quick retrieval of information from the primary sources of Malaysian law.

Another form of source material which needs attention is treaties. There is, at present, neither a treaty series nor an index to Malaysian treaties. It is hoped that the Treaty Division of the Ministry of Foreign Affairs, which acts as the depository of treaties concluded between Malaysia and other countries, will publish a compilation of such treaties, or at least, an index to Malaysian treaties and agreements.

The suggestions above are made in the hope that they may result in a further improvement of the legal literature of this country,

<sup>319</sup>Under s. 14(1) of the Revision of Laws Act 1968, any reprint of the law, other than a reprint by the Government Printer, is not authentic, unless authorised by the Commissioner.

<sup>320</sup>The Revised Edition of the Laws Act 1983 (No. 9 of 1983). The Act came into force on 15 April, 1983.

and the establishment of a corpus of literature covering all areas of Malaysian law.

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