

THE BRITISH COMMONWEALTH, THE DEVELOPMENT OF ITS LAWS AND CONSTITUTIONS. Volume 5 — The Union of South Africa. By H. R. Hahlo and Ellison Kahn with specialist contributors. [1960, London : Stevens & Sons Ltd. £4.10.0. pp. 990 incl. index.]

Professors Hahlo and Kahn should be congratulated on producing this outstanding work on the Laws of South Africa. This volume on South Africa is the second in this series on the laws of the Commonwealth. The first ill-fated volume published in 1955 was withdrawn soon afterwards. The present volume has no relationship at all to the earlier volume. A comparison of the two volumes will show the incomparable superiority of the present volume in its scope, content and compilation.

Indeed the scope of this volume is wider than any volume already available in this series. For the first time, we have a chapter on the conflict of laws. This is a very welcome addition, for a series claiming to satisfy the requirements of a comparative lawyer, or a practitioner, who must have some knowledge of more than one legal system, can hardly omit this chapter. Another valuable addition is the chapter on economic and racial legislation. Apart from the current political interest in South African racial affairs, this chapter usefully discusses the specific 'legal' problems involved in carrying out such a comprehensive system of discrimination within the framework of laws. No branch of the law is omitted and we have, as a result, a comprehensive account of South African law.

The compilation of this book has proceeded on the assumption that no single author could provide a sufficiently adequate picture of the whole of South African Law. Consequently the editors sought the advice of specialist contributors, all of whom have had connections with the faculty of law at the University of the Witwatersrand. The editors readily concede the inevitable drawbacks arising out of differences of style. But this has been reduced to a minimum; perhaps because of the close collaboration and contact which has existed among contributors associated in one faculty. It has, however, led to some unevenness in the chapters. Some of the contributors have prepared their chapters with a meticulous attention to detail, so much so that to term their contributions "introductory" is a misnomer. On the other hand, others have limited their contributions to stating and explaining first principles. For instance, the chapter on contract falls into the former category while that on criminal law is decidedly in the latter.

However, these are minor, and perhaps inevitable blemishes. And they should not prevent this book from becoming the standard introductory work on South African Law. The book is well-indexed and has a complete and accurate list of South African statutes. Those interested in the historical angle are provided with a chronological table and the bibliography is a reliable and comprehensive guide to further reading.

It is this 'completeness' in the work which distinguishes this volume from others in the series. It can be said that most, if not all, the previous volumes contain little, if anything of interest to the lawyer working in the legal system described. This volume, however, will certainly prove to be a useful guide to South African academics and a companion to South African practitioners.

One of the purposes of this series, which is now commonly referred to as the 'Stevens Series' is to serve as an introduction to a particular legal system both to lawyers unacquainted with that system and to non-lawyers. Other volumes in this series have performed this twin-function with varying degrees of success. While this book is undoubtedly of value to those acquainted with the Roman-Dutch Law, the reviewer has some doubts whether this book will be easily readable by lawyers unacquainted with a Roman-derived legal system; the considerable attention to detail in many chapters, so valuable to Roman-Dutch lawyers, may be a barrier to 'foreign' lawyers and non-lawyers from appreciating the significance of basic principles.

This book will prove very useful for the comparative lawyer. The authors have on numerous occasions pointed out the similarities and differences between the Roman, Roman-Dutch and English Laws. This important feature of the book is no doubt due to the firm grasp of Roman and English legal principles which the authors, like so many South African scholars, have. For instance, Roman lawyers will find a valuable discussion on the meaning given to '*iusta causa*' in South African law and English lawyers will find an illuminating discussion on the implications of the maxim '*ex turpi causa non oritur actio*'. In this connexion, it is however regrettable that the authors have not paid much attention to the legal systems of the indigenous population. At page 318, there is one paragraph which scarcely does justice to native family and succession law, which the author himself claims is the most advanced branch of native law. As a result we are left with an inadequate account of native substantive law. This is in sharp contrast to the long account of the methods of native administration adopted by the European since his arrival in Africa.

These observations should not however detract from the considerable achievement of the authors. Within the short compass of a book of this nature, they have set out the main principles and the important decisions in each branch of the law. Reference has also been made to relevant contributions appearing in legal journals. And at the same time they have drawn attention to recent developments in the law. Often there are valuable suggestions regarding the solution of such problems. In

addition to all this we have the first systematic synopsis and analysis of the South African conflict of laws and the first detailed history of the administration of justice in South Africa.

As the publisher predicts, there is little doubt that this book will establish itself as an outstanding contribution to South African legal literature. It will certainly prove to be a noteworthy and useful addition to the "Stevens Series".

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