

COMMON MARKET LAW: TEXTS AND COMMENTARIES. By Alan Campbell and Dennis Thompson. [London: Stevens. 1962. xxii + 487 pp. £3 10s.]

The discussions arising from Britain's application to join the Common Market have led to fears in some circles that the entire character of English law, both commercial and constitutional, is likely to be changed, and it cannot be said that the Lord Chancellor's statement in the House of Lords on 2nd August, 1962, has removed these fears. In fact, in his Foreword to Campbell and Thompson's *Common Market Law*, Lord Denning has gone so far as to say that 'our constitutional law must be rewritten to show that the sovereignty of these islands is not ours alone but shared with others'.

Should the United Kingdom join the Six, the supreme English law on matters falling within the scope of the Treaty, especially restrictive practices, will be the Treaty. The supreme court for interpreting and applying that piece of English law will be not the Supreme Court of Judicature but the European Court in Luxembourg, and it will be incumbent upon the authorities in England to give effect to its decisions as they would those of any English court. For this reason it is essential that, at as early a date as possible, English lawyers should be aware of the law of the Treaty so that they may see to what extent their own law will require amendment or adjustment. Thus, Messrs. Campbell and Thompson point out that although the Treaty ban on restrictive practices is much wider than that imposed by the Act of 1956, no major amendment to the English law will be necessary. On the other

hand, it must be borne in mind that on certain matters, *e.g.*, the contract of sale, the Council of the Community may issue instructions to a member state to amend its municipal law so that it 'approximate' to that of the others.

Among the criticisms that have been made of the prospective British entry to the Common Market, and of the recently enacted Commonwealth Immigration Act, is that the Treaty of Rome provides for the free movement of workers among the member countries. To some extent the criticisms have been emotional and the fruit of ignorance, for it may be questioned whether many of the critics had actually read the document involved. By the Treaty, workers enjoy the right to accept offers of employment actually made, and for this purpose to move freely within the territory of the member states. They have the right to move with their families to stay and work, and then live and 'perhaps' retire there after the employment ends. The free movement of workers is subject to overriding considerations of public order—presumably this would include the risk of racial riots—safety and health, but these considerations must not be used for economic ends. By Regulations made under the Treaty immigrant labour may only be employed if no suitable worker from the regular labour force is available, although this restriction does not apply if a particular worker is asked for by name. Problems may arise for the United Kingdom in view of the requirement that priority be given to the nationals of member states before employing those of third states.

By virtue of the Treaty of Rome the Community possesses international personality under international law and, as the learned authors point out, the Treaty constitutes an international convention, a constitution and a code of rules. The text is often vague, requiring interpretation by implementing regulations of one of the organs of the Community. Among these, one of the most important is the Court. The European Court cannot be compared to any existing international judicial or administrative tribunal, for it fulfils many roles: international as regards disputes between members; constitutional when defining the Treaty and the powers of the Community's institutions; administrative in its supervision of the legality of the acts of the Community; civil in respect of torts and breaches of contract on behalf of the Community; and domestic in determining the rights and duties of the Community's officials.

Apart from the analysis of the Treaty which is to be found in the first 200 pages, perhaps the most useful part of *Common Market Law* is the collection of documents in the appendices. Of these, undoubtedly the most significant is the annotated text of the Rome Treaty. Although Messrs. Campbell and Thompson have occasionally drawn attention to discrepancies between the law of the Treaty and English law, there is still ample scope for a work indicating the extent to which English law will require revision, both in principle and detail. For such a work, this volume will provide indispensable source material.