

NOTES AND NEWS

COLONIAL RESEARCH IN PROGRESS

The annual volume which reports the progress of research in the colonial territories¹ shows that, as far as the Colonial Social Science Research Council was concerned, the amount of research under these auspices into the social sciences in general, and into the law in Africa in particular, has shrunk somewhat in comparison with earlier years. This perhaps reflects in part the diminution in financial resources available, and in part the increase in the importance of regional research institutes established in Africa, which appear to be extending their scope. We trust, though, that the decline does not reflect any decrease in the interest now being shown in African customary law (the Rhodes-Livingstone Institute report, for example, that Gluckman's *The Judicial Process among the Barotse of Northern Rhodesia* is almost a best-seller); nor ought it to be the token of the decreasing importance of legal problems in Africa—on the contrary. It may be that, although the need for intensive and extensive research into the law in Africa has never been more pressing, the claims of technical and scientific research for a larger share of the cake (backed by the more obvious and definite character of the results which it can achieve) have diverted attention away from social studies.

Shortage of trained and suitable staff capable of carrying out research into customary law and related fields may also have something to do with this. We note with interest that the Government of Swaziland proposes to initiate a *Survey of Land Tenure and Land Usage* in that Protectorate, but that so far no progress has been made on the project because of the difficulty of recruiting a suitable staff of sociologists. This information underlines how necessary it is to press on immediately with an expanded programme for the study and teaching of African law, here and in Africa. But another point arises from this news: it is that wherever possible a person with legal qualifications ought to be included in a team which is investigating any topic in the field of, or closely connected with, the customary law. Investigations elsewhere into land tenure, or other branches of the customary law, have to a large extent been vitiated by failure to handle legal problems in a legal manner (we mention no names!). At the same time, of course, a Western legal training is not enough to qualify the investigator of customary law, and a grounding in customary law is of enormous help.

¹ *Colonial Research 1955-56*: 1956: H.M.S.O. Cmd. 52.

We also learn from the report of the Colonial Social Science Research Council that the first volume of Dr. C. K. Meek's long-awaited survey of *Land Tenure in British Africa* was, at the date of the report, printing, and may therefore be expected shortly. Vol. I relates to the land tenure of Nigeria and British Cameroons. We await the publication of this and succeeding volumes with a lively expectation that it will be an important event in the study of land tenure in Africa.

Incidentally, Sierra Leone is an almost virgin field so far as legal research of any kind is concerned. Apart from Fenton's slim compilation—*Outline of Native Law in Sierra Leone*—the second edition of which appeared in 1948, and which must be used with care, there has been practically no investigation into customary law in the Protectorate. Among other tasks an investigation of Sierra Leone land tenure is long overdue. The rather fragmentary political systems of the Protectorate, and the intrusion of Islam, make the investigation of customary law there more difficult than in other, more homogeneous areas. However, Mr. Michael Scott, of Fourah Bay College, tells us that he is engaged in research into the history of judicial institutions in Sierra Leone. This very necessary piece of research will fill in many gaps in our knowledge of West African legal history; as far as judicial institutions in Nigeria and the then Gold Coast Colony are concerned, we are now reasonably well informed, thanks to the labours of such as the late Sir William Brandford Griffith and Dr. T. O. Elias.

THE TEACHING OF LAW IN AFRICAN UNIVERSITIES

Further to our note on this subject at [1957] J.A.L. 6, we should of course add that law is regularly taught at the University of Khartoum in the Sudan. The Faculty of Law there comprises three departments: Civil Law, Islamic Law, and Public Administration. The Department of Civil Law offers a four-year course of study for the degree of Bachelor of Law.

Before becoming an independent university in July, 1956, the University College of Khartoum was in special relationship with the University of London, and students of the Civil Law Department sat for the London LL.B. This arrangement continues until March, 1958, when the Final Class will be sitting for the London LL.B., Part II.

In the 1956-7 session there were 65 students in the Department. The number is likely to increase to 80 in 1957-8 and to 100 in 1958-9. The standard of entry is a pass with at least six credits in the Cambridge Overseas School Certificate.

The teaching staff of the Department now consists of a Senior Lecturer and three Lecturers and is to be increased to six by July and seven by October, 1957. The University has recently invited applications for its Chair of Civil Law (the civil law of the Sudan being based on English common law), and for a Senior Lectureship, or Lectureship, or Assistant Lectureship, in Civil Law.

In Sierra Leone at Fourah Bay College (which is affiliated to the University of Durham) there is a Department of Law within

the Faculty of Economic Studies. The Department has at present 86 students, of whom 68 are reading for university examinations—the Durham B.A. in Economic Studies. The present lecturer in law—Mr. Michael Scott—is the first full-time holder of this post.

The University College of Ghana is proposing to create a Department of Law, and a Chair of Law at the College has just been advertised. The new Professor is to be charged with the task of building up the new Department, which should be both a challenge and an opportunity. We hope that the chance will be taken, whilst safeguarding academic standards and the future of the legal profession in this part of West Africa, to create a course of study that is distinctively West African and which takes into account the special needs and interests of the country and its inhabitants, more especially by giving some recognition to customary and other systems of law in force in Ghana at the present time.

As for East Africa, Mr. W. J. D. Wadley, the Kenya Director of Education, is reported by *East Africa and Rhodesia* (issue of January 10th, 1957) as saying:

“Seventy-two students from Kenya, twelve of whom are Africans, are now studying law in the U.K. I cannot agree that there is need at the moment for a law school at Makerere College, Uganda, or the Royal Technical College, Nairobi.”

LAW REPORTING

Further developments in law reporting in Africa, additional to those noted at [1957] J.A.L. 10, have taken place recently. A new series, the Eastern African Law Reports, has been announced. These Reports will commence as from the beginning of 1957, and the first part is in active preparation. The series will cover not only cases decided in the Court of Appeal for Eastern Africa, but also the superior territorial courts in East Africa. The annual subscription is ten guineas. The Reports are published by Messrs. Butterworth & Co. (Africa) Ltd. in Durban, but copies are obtainable from London. This series will fill an undoubted gap in what is otherwise now becoming a satisfactory picture.

The reports of the Court of Appeal for Eastern Africa for the year 1954 have been recently published. They are obtainable from the Government Printer, Nairobi.

Parts I and II of the Northern Region of Nigeria Law Reports for the year 1956 ([1956] N.R.L.R.), and Part I of the Reports for 1957 ([1957] N.R.L.R.), have so far appeared. The Reports are published by the Government Printer, Kaduna.

From the Western Region of Nigeria, we have so far received Part I of the Law Reports for 1955-1956 ([1955-1956] W.R.N.L.R.).

The Rhodesia and Nyasaland Law Reports, of which the first volume—for 1956—has recently been issued, are now in publication. The reports cover decisions of the Federal Supreme Court, the High Courts of the several territories (Southern Rhodesia, Northern Rhodesia, Nyasaland) and special courts. The reports are published by Messrs. Byland (Pvt.) Ltd., of Salisbury.

THE STUDY OF ISLAMIC LAW IN BELGIUM

The extent to which the Belgian Congo has been penetrated by Islam and Islamic institutions is not great; nevertheless, the programme of a six-months course on Islam which was offered by the Institut de Sociologie Solvay in the Free University of Brussels reveals that the Belgians are taking a deep and lively interest in Islamic studies (and particularly Islamic law). The second such course, which was held recently for the benefit of twelve of their administrative officers, included, on the one hand, regular series of lectures on "The Principles of Islamic Law" (by Professor Abel) and "African Customary Law in Islamicised Areas" (by M. Brausch), and, on the other hand, a number of separate lectures by distinguished foreign scholars on aspects of Islam and the Islamic world. Among these latter were two lectures by Professor Anderson on "Islamic Law and Customary Law in British territories in Africa." Apart from these, the regular and special lectures ranged over a very wide field, including such topics as geography, history, religion and institutions of Islam, the Arabic language, and sociological and political problems raised by the presence of Islam in Africa and elsewhere.

The example of the Belgians in thus providing a course of study which was at the same time intensive and far-ranging, in a subject which is at present mainly of peripheral interest to them, deserves to be followed by other countries perhaps more directly concerned with Islam. Islam and Islamic law are of considerable, and growing, importance in many parts of British Africa; and it would be well if both we in this country and the colonial governments concerned were alive to the legal and other problems which are engendered thereby.

LAND TENURE IN WESTERN NIGERIA

The Western Region of Nigeria is better served than most parts of tropical Africa in its descriptions of indigenous land law and tenure. In the mid-1930's H. L. Ward Price wrote a sociological analysis of Yoruba land tenure; in the past ten years this work has been considerably amplified by the reports of C. W. Rowling (based largely upon case-material from native courts), and by the books of T. O. Elias, which give the substance of Supreme Court and W.A.C.A. judgments.

Yet these admirable works do not provide the answers to many current problems. Much of the development of the country will depend on the ability of the people to raise capital on the security of their houses and cocoa-farms, and of businessmen to get a secure title to land in order to develop it. Transactions in land are at present recorded either by quaintly worded letter-writers' documents or by conveyances drawn up by English-trained lawyer-solicitors, in which the grantor is usually described as "being seised of an estate in fee simple . . .". English legal phrases inaccurately describe a situation where a hierarchy of persons—*oba* (king), chief, lineage head, lineage members corporately and

individually, non-members of the lineage—hold rights in the same piece of land, and where the distribution of those rights varies according to the category of land concerned. To a rapidly increasing degree modern contracts are between persons who are neither kin nor neighbours and for whom knowledge of a common customary law or the sanction of public opinion no longer forms a protection against sharp practices.

The Regional Government has recently appointed Mr. P. C. Lloyd to undertake research into land tenure in the Region. Mr. Lloyd was, prior to this appointment, a Research Fellow in the West African Institute of Social and Economic Research, and has already spent seven years studying the social and political institutions of the Yoruba people, who form four-fifths of the Region's population. His primary task is to clarify the rights held in land, so that the rights held by an individual or by a body of persons may be precisely expressed and hence capable of registration in a Register of Titles, and capable of conveyance to other parties.

Mr. Lloyd plans to spend three months in each of five or six towns (in three of which he has already spent many months) recording local customary law as expressed by informants and in native court judgments and evinced by case-studies, and comparing this with the law expressed in the judgments of administrative officers, magistrates and Supreme Court judges. Although directed towards definite practical ends, the project is conceived as a work of "academic research". The aim is not so much to produce a codified law as to show how customary law is developing with the modern changes in traditional social and political institutions and with contact with English legal ideas, and also to suggest how future development can be guided by legislation.

[*Communication from Mr. Lloyd*]