

Starting and building a new law library

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It is stating the obvious to say that a well-stocked legal library is an essential tool for advocates, attorneys and academics alike.

In the real world, legal quandaries do not come in subject-specific pigeon-holes, and even the practitioner or academic who endeavours to specialize in a particular area may therefore be confronted with a brief or a legal problem requiring reference to the principles of disparate branches of the law. For this, he or she will need access to a diversified and comprehensive collection of law reports, legal journals and textbooks. A collection of this kind is, however, not accumulated in a day, except in the case of the tiny number of lawyers who are fortunate enough to inherit a law library from a relative; indeed, it takes many years of effort to build a law library of a significant size and range. The advocate who is starting out at the Bar should not, therefore, be daunted by the fact of his or her being armed with no more than a minuscule collection of law books - often confined to a handful of prescribed works purchased for purposes of university study.

Law reports

The starting point for the pupil advocate, I would suggest, is to take out subscriptions to the major law reports and the most important legal journals upon entry into practice. If you can afford only one law-report subscription, *The South African Law Reports*, published monthly by Juta & Co since 1947, is the one to get. For those who can afford a second subscription, I recommend the *All South African Law Reports*, published weekly by Butterworths since 1996. Although there is obviously a certain amount of overlapping between the two series, each contains cases not reported in the other, and experience over the past four and a half years has shown that one cannot operate on the assumption that one of these two ge-

neral series of reports on its own will be sufficient. Indeed, in a recent decision of the Court of Appeal in England, *Copeland v Smith & another* [2000] 1 All ER 457 (CA), a junior barrister and a solicitor advocate were berated by the court for having overlooked a governing precedent reported in both of the two main series of general reports published in the United Kingdom, the *All England Law Reports* and the *Weekly Law Reports*. A solicitor's firm or barrister's chambers which takes only one of these two series, said Brooke LJ (at 462g-j), must have systems in place to keep track of cases which have been considered worthy of reporting in the other series. 'If this is not done,' the Lord Justice added, 'judges may be getting the answer wrong through the default of the advocates appearing before them.' Those practitioners who find themselves being briefed frequently on areas of law in which specialized reports exist should, of course, take out subscriptions to those reports as well. (The available series include the *Industrial Law Reports*, published by Juta & Co as part of the *Industrial Law Journal*, *Butterworths Constitutional Law Reports*, the reports of judgments in bodily-injury cases published annually in loose-leaf form as part of the Juta work *The Quantum of Damages in Bodily and Fatal Injury Cases* by M M Corbett and D P Honey, *The South African Criminal Law Reports* published monthly by Juta & Co, and various sets of tax-law reports released by different publishers.) Your current law-report subscription will enable you to keep up to date with the law; once you accumulate a sufficient amount of spare cash, you can purchase back copies of the law reports either directly from the publishers or, occasionally, second-hand. (A consi-



*Prof Mervyn Dendy is a practising attorney and the editor of the fourth edition of *Herbstein and Van Winsen The Civil Practice of the Supreme Court of South Africa* (1997).*

derable saving can be achieved by acquiring complete or incomplete sets of law reports second-hand. Those willing to buy used law reports should keep an eye on the 'yellow pages' advertising section published each month as a supplement to the attorney's journal *De Rebus*, where second-hand law reports and legal textbooks are advertised on a regular basis.) Also essential is the most up-to-date and comprehensive available subject and case index to the law reports; *Gracie's Index and Noter-Up* published by Butterworths (updated annually by means of cumulative supplements and consolidated every five years as a set of bound volumes) is the best on the market.

Academic writings

Advocates cannot safely ignore academic writing in South African legal journals, since these generally afford writers on the law the opportunity to explore difficult and controversial issues in far greater detail than can be fitted into the limited space available in general textbooks. In recent years, there has been an unfortunate proliferation in the number of legal journals published in this country, and it has become (for reasons of expense as well as time constraints) virtually impossible to keep up with the deluge of academic writing on the law published in this country each year. Subscriptions

to the most prominent legal journals are, however, invaluable. The two I regard as essential to any collection worthy of being called a law library are the *South African Law Journal (SALJ)* published quarterly by Juta & Co, and the *Tydskrif vir Hedendaagse Romeins-Hollandse Reg/Journal of Contemporary Roman-Dutch Law* published quarterly by Butterworths. Traditionally, the former used to be the leading English-language legal journal in South Africa, whereas the *Tydskrif* contained the most important writing in Afrikaans. In recent years, however, the percentage of English contributions to the *Tydskrif* has increased to the point at which roughly half of each issue is in English. If one wishes to keep abreast (as advocates must) of leading academic thinking on the law in this country, both journals are indispensable. For the neophyte advocate, I therefore suggest subscriptions to both from the time of entering practice; you can catch up on back copies later, when you are able to afford them. This is not to suggest, though, that all the other legal journals can safely be ignored, for articles and notes in such general journals as the *Tydskrif vir die Suid-Afrikaanse Reg* (published quarterly by Juta & Co) and *De Jure* (published twice a year by Butterworths) have also been relied upon on various occasions by the High Courts. Other, more specialized, journals will also be of value to practitioners who take on work in the fields in question: the *South African Journal on Human Rights*, published four times a year by Juta & Co; the *Industrial Law Journal*, now published monthly by Juta & Co; the *South African Mercantile Law Journal*, normally published three times a year (four times in 1999) by Juta & Co; and the *South African Journal of Criminal Justice*, also published three times a year by Juta & Co. The legal journals I have listed above are, of course, by no means the only ones available, although they are the journals most likely, in my view, to be of help to the practitioner. Others to watch out for are *Acta Juridica*, published in book form annually by Juta & Co, each issue consisting of a series of essays on a particular legal theme (revenue law, children's rights, the limits of the law of obligations, meaning in legal interpretation, and envi-

ronmental justice being among the most recent); and *Juta's Business Law*, published four times a year, principally for the lay business community.

Legislation

It is also necessary for the practitioner to keep abreast of the more important legislative developments. Every law library should, at the very least, contain a full set of the statutes passed by Parliament which are currently in force. Fortunately, these are now available in a format which is sufficiently compact and cheap for the average practitioner: a set of six bound volumes plus an index volume published annually by Juta & Co (the innovators of this format) under the title *Juta's Statutes of South Africa*, or the Butterworths counterpart, *Butterworths Statutes of South Africa*. To keep up to date with the latest developments in national legislation, one can subscribe to the *Government Gazette* in printed form or (preferably) in electronic format. A most useful way of keeping in touch with new legislation is a subscription to *Juta's Weekly Statutes Bulletin*, which is sent out each week by e-mail and/or by fax, and which is free of charge to subscribers to *Juta's Statutes of South Africa*. As a permanent record of what has appeared in the *Government Gazette*, I find the *Juta-State Library Index to the Government Gazette*, published annually by Juta & Co, invaluable. (Copies of *Juta's Weekly Statutes Bulletin* in respect of the year in question can be discarded once the *Juta-State Library Index* has been received.) The *Juta-State Library Index* has, however, been available only since 1990. In relation to earlier issues of the *Gazette*, the book to acquire and consult is *Juta's Index to the South African Government and Provincial Gazettes*, by E J Godwin (formerly known as 'The Windex').

Legal developments

There are two major publications which provide a more or less exhaustive overview of developments of different types (legislative, judicial and academic) in all areas of South African law, and I strongly recommend that practitioners acquire one or both of them. The first is the *Annual Survey of South African Law*, published in book

form by Juta & Co since 1947. The second is the Butterworths publication *Current Law*, published monthly and consolidated annually in book form under the title *Butterworths Survey of South African Law*. From the point of view of keeping up to date, the latter is by far the better publication, for the *Annual Survey* tends to lag behind; at the time of writing (mid-May 2000), for instance, the 1998 *Annual Survey* had yet to appear. The *Annual Survey* is, however, more valuable than its Butterworths counterpart, for it includes comment by experts - mainly academic - on the more important developments in each field of law. If you can afford both *Current Law* and a subscription to the *Annual Survey*, you will be up to date (via *Current Law*) and also have a first-class synopsis of this country's legal developments (in the form of the *Annual Survey*) as a permanent record of what has gone before.

Textbooks

This brings me, finally, to the subject of legal textbooks. As in the case of South African law reports and legal journals, the number of available works has greatly multiplied in recent years. Many are written specifically with the needs of students in mind; these should, as far as possible, be avoided by practitioners, who will generally require works which contain a more extensive and scholarly exposition than a student text can provide. As a general rule, if you are financially constrained in your choice of textbooks, the trick is to avoid, where possible, textbooks which are long out of date (they may be replaced by new editions soon after you buy them, before you have had an opportunity to derive your money's worth of assistance from them), and to acquire only the leading work(s) in each relevant field. Keep an eye out for the leaflets and advertising brochures which are sent out by the major publishers together with issues of the law reports or of legal journals, and ask local representatives of the leading legal publishers to send you their latest catalogues and price lists as and when these are published. (They will be supplied free of charge.) Alternatively, if you have access to the


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Internet, you should visit the websites of the major publishers from time to time, where you will find information on the proprietor's newest legal publications. You will generally be able to tell which are the leading books from the information available in publishers' catalogues and advertising pamphlets; if unsure which to buy, seek the advice of a senior colleague. Buy new editions of the major works as and when they are published; since all of the leading textbooks appear periodically in fresh editions, you can, in this way, avoid spending money on super-

annuated material and in time build up a diversified and comprehensive legal library.

Finally, a word of solace to the young practitioner who despairs of being able to afford all of this material on top of the many other costs associated with starting a practice, especially at the Bar: it is not as expensive as might appear at first blush. This is because everything you spend on building a law library for your practice is tax-deductible, since it constitutes expenditure incurred in the production of income. Your current subscriptions to the law reports, to legislative mate-

rials and to legal journals may be set off in full against your income in the tax year in which the expenditure is incurred. In addition, the SA Revenue Service will allow you to write off your expenditure on legal textbooks on a straight-line basis over three years. Your expenditure on back copies of sets of law reports can be written off (also on a straight-line basis) over five years. Computers acquired for the purpose of affording access to electronic publications may likewise be written off against income over a five-year period. 

Prizes for contributions to *Advocate*

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- A panel of advocates nominated by the editorial committee will consider contributions for the prizes and award the prizes.
- The decision of the panel will be final.
- Queries and correspondence should be addressed

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Juta offers the following annual prizes:

1. A prize for the best contribution to *Consultus*. The prize winner will receive a book credit of R1 000.
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The prize will consist of either a year's subscription to the *South African Journal of Human Rights*; of a year's subscription to the *South African Law Journal (SALJ)*; or a copy of the looseleaf title *Constitutional Law of South Africa* by Chaskalson, Kentridge, Marcus, Spitz and Woolman with 2 revision services provided free of charge.

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