

NULLITY OF MARRIAGE IN CANADA WITH A SIDEWAYS GLANCE AT CONCUBINAGE

By H.R. Hahlo
Toronto: Butterworths, 1979
67 pp., \$14.50, Softcover.

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Considering the fact that in Canada today a divorce is easily obtainable, and indeed on the way to becoming as popular as marriage itself, of what value is a book on nullity of marriage? Theoretically speaking, it is true that divorce and nullity are designed to deal with different situations, but in practise they seem to be complementary. "Actions for annulment thrive when divorce is difficult or impossible to obtain. They wither away when divorce is easy."¹ Support for such a statement can be found in statistical evidence that illuminates the insignificance of nullity in the marriage dissolution scene.² Yet, nullity actions have not been rendered obsolete, and thus they remain to be of potential concern to practitioners and students of law.

Once faced with the issue of nullity of marriage, where does one look for the pertinent substantive law? This is where Professor Hahlo's book is an useful tool. In a clear, fluent, and succinct manner he reviews the common law and Canadian legislation relating to nullity of marriage. The bulk of his book deals with the various grounds of nullity, the effect of nullity (including the distinction between void and voidable marriages), and the defenses to a nullity action. Particularly helpful for purposes of quick reference and review is his Table of Impediments and Defects and their corresponding effect on the marriage.³ This work also includes a brief discussion on the corollary relief available in nullity actions, and on the historical, comparative, and constitutional aspects of this area. Finally, his "Sideways Glance at Concubinage" simply entails a look at the future of nullity actions in the light of its close kinship to common law marriages and the developments of the law in this regard.

Professor Hahlo's book is especially useful when one considers the lack of other Canadian materials in this sphere of Family Law. With the exception of Mendes Da Costa's *Studies in Canadian Family Law*,⁴ relatively little can be found on this topic. Da Costa, in Chapter 10 of his work, deals with most of the issues discussed by Professor Hahlo. However, Da Costa's chapter is not quite as complete as Professor Hahlo's work, notably in relation to void marriage. Couple this with the fact that the book under review was published in 1979, whereas the most recent supplement to *Studies in Canadian Family Law* only incorporates cases and amendments to December 31, 1976, and Professor Hahlo's book stands as the most up-to-date resource on nullity of marriage in Canada.

Because the orientation of this book is more of a survey, or overview, than an indepth analysis of the law of nullity of marriage in Canada, and

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1. H.R. Hahlo, *Nullity of Marriage In Canada With A Sideways Glance At Concubinage* (1979), 4.

2. *Id.*, at 5. See footnote number 6.

3. *Id.*, at 43-44.

4. Mendes Da Costa, (ed.), *Studies in Canadian Family Law* (1972). See also the 1977 supplement to this work.

because Quebec law, though referred to for purposes of comparison, is not dealt with, this work can not be said to be definitive. However, it is an up-to-date, well written and fairly complete discussion of this topic, and would be a valuable asset to any practitioner's or law student's library, but for the fact that this slim book is far too costly.