

**PRINTED AND BOUND IN SOUTH**

**AFRICA BY R L ESSON & CO LTD**

**JOHANNESBURG**

THE  
LAWS OF SOUTH AFRICA  
AFFECTING  
WOMEN AND CHILDREN

BY

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JOHANNESBURG: R L ESSON & CO LTD

1928

TO THE MEMORY OF MY FATHER,  
ABEL NEWMARK,  
THIS BOOK IS LOVINGLY INSCRIBED.

## FOREWORD.

Mrs. Geffen has kindly invited me to write a short preface to her work, and it is a pleasure to respond to the invitation. She is the first woman to have been called to the Bar in South Africa, and it is altogether appropriate that she should have devoted herself to the production of a work dealing with the law as it specially affects women and children in this country. This book will, I believe, apart from its professional value, prove of practical value to women. Hitherto they have been left to grope in the dark regarding their rights, and there are very many men who have the haziest notions about the law dealing with marital relations, the contractual rights of women, and responsibilities in relation to children.

The author, while supporting her statements of the law by adequate reference to authorities, has wisely embodied them in plain, simple language, so that any attentive reader may readily understand their purport. If the book is to be regarded as an introductory *hors d'oeuvre*, it will be by no means caviare to the general.

More than thirty years ago legal friends of mine published, in England, a work written in a somewhat satirical and cynical vein, entitled "The Legal Subjection of Men." They must have feared that their book might not commend itself

to those most interested in the subject, for they preferred to veil themselves in a decent guise of anonymity. At that period, many old-fashioned persons were alarmed at what was denominated "the rising tide of femininity"—a word still omitted from some dictionaries. Even "suffragette," since regarded in many quarters as a title of honour, had not been invented. The thesis of the writers in question was an admission that sex-injustice and sex-inequality existed, but "the facts show the said injustice and inequality to exist *wholly and solely* in favour of women as against men." This was a purely rhetorical and exaggerated statement. At that date, little more than a dozen years had elapsed since a woman, in England, had acquired contractual rights and the control of her own property. The position, as Mrs. Geffen shows, was much more advanced under Roman-Dutch Law. Nearly all the professions, too, were barred to women. Since that day, we have seen not only women doctors, but women advocates, women architects, women directors, and, as if women were not sufficiently skilled in dialectics, women preachers as well. England has advanced beyond South Africa in conferring the franchise on women; and it has been accepted as a principle of Government policy that it will be still further extended to them on the same terms as it is enjoyed (?) by men. In several countries women already possess the same voting rights as men. But the general mass of legislation affecting women which has been enacted during the last thirty years is testimony in itself that there was much to remedy, and that medieval conceptions of the position of women under the law were disappearing.

Still more important was the growth of a public conscience in regard to the care and treatment of children. It is unfortunately only too true that in many cases the dictates of natural affection have had to be replaced by the strong arm of the law. We shudder at the accounts of the exposition of children in Greek and Roman days, but the tales of fiendish cruelty which the records of modern police courts reveal indicate that there is still much room for improvement in human conduct. At the same time, much has been done of recent years. We have only to contrast the legal protection of children to-day with the position less than a hundred years ago, when Lord Shaftesbury and other humanitarians began their efforts on behalf of poor and ill-treated children.

Mrs. Geffen takes a generally favourable view of the law regarding women as it exists in South Africa at the present time. I am not sure, however, that it might not be improved in certain respects. A glaring instance which occurs to me is that, under the law as it stands, a woman cannot claim any share of her husband's property if he dies intestate, that is, without leaving a will. I have known several cases of hardship on this account.

Readers will find much in this work to enlighten and to guide them.

MANFRED NATHAN.

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