

CONCISE
COLLEGE
TEXTS

FAMILY LAW

JUDGE
BRIAN GRANT

THIRD EDITION
JENNIFER LEVIN



SWEET
& MAXWELL

CONCISE COLLEGE TEXTS

FAMILY LAW

by

HIS HONOUR

JUDGE BRIAN GRANT

A Circuit Judge

THIRD EDITION

by

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FOR JEANETTE

AUTHOR'S PREFACE TO THIRD EDITION

MANY substantial changes in our *Family Law* since the publication of the second edition in 1973 have made a third edition necessary, and all readers will therefore be grateful to Mrs. Jennifer Levin, as I am, for bringing this book once more up to date skilfully and reliably.

Although of only minor interest to students, the extension of the "special procedure" to virtually all undefended divorces, which came into effect on April 1, 1977 and is briefly described on p. 124 is perhaps the most far reaching change in this branch of the law not only to petitioners for a divorce—some 125,000 annually—but to the public generally.

The coming of the "postal divorce," as it is popularly known with greater intuition than accuracy, is liable not only to shape significantly society's attitude to marriage and divorce but it points to further reform of the law. Divorce by post is incompatible with the strict statutory method of proving the "irretrievable breakdown" of a marriage and requires the establishment of an effective procedure for attempts at reconciliation and for reaching agreement regarding children and financial matters. The provisions to this end of the existing legislation are a dead letter and the situation is aggravated by the partial withdrawal of legal aid from divorce proceedings.

In the meantime it is welcome that the new procedure emphasises the importance of the court's approval of the arrangements for the children of broken homes.

Reconsideration of our laws concerning matrimonial breakdown and fresh legislation are therefore again urgently necessary and already foreshadow a fourth edition of this book. Its publication will be in the public interest.

BRIAN GRANT

HASTINGS
1977

EDITOR'S PREFACE TO THIRD EDITION

THE centre of interest in family law has shifted from the grounds for divorce and nullity, and is now concentrated on financial and other provision for the spouses and on the protection of children. The changes that have been included in this edition illustrate this new emphasis. Since 1973, when the last edition was published, there have been few important cases on divorce apart from *Cleary*, *Carr*, and *Rukat*. The chief change of interest in divorce is the extension of the "postal" procedure. There have been many cases, however, on the financial consequences of divorce, in particular *Wachtel*, *Cuznor v. Underdown*, and *Reiterbund*, and on the problems of protecting a spouse's right to occupy or retain the home, such as *Williams*, *Thompson*, and *Brent*. There has also been enacted the Domestic Violence and Matrimonial Proceedings Act in 1976. Financial provision after death has been affected considerably by the Inheritance (Provision for Family and Dependents) Act 1975. Recent developments in the law concerning those who live together without the benefit of matrimony have necessitated a separate discussion of the topic.

Matrimonial law in the magistrates' courts has remained unreformed despite the fundamental changes made in the divorce courts in 1969. There is hope of reform, however, in that the Law Commission have produced a draft bill to bring the law in the magistrates' courts up to date, and it is hoped this will be enacted in the next year or so. Accordingly the section on the magistrates' courts has been rewritten and an account of the main provisions of the bill is included.

The law relating to children has been substantially changed by the enactment of the Children Act 1975, although many of its provisions are not yet in force. New concepts, such as custodianship and orders "freeing" a child for adoption are

introduced by this Act and an account is given of them in the text even though they are not yet in operation.

Family law is never static. It has to reflect changing social conditions and ideas. More changes can be envisaged in the next few years. Not only will the law in the magistrates' courts be reformed, but reform of the law on matrimonial property and on illegitimacy is hoped for. Perhaps one day we will have a properly constituted and expert Family Court to deal with all the matters that are the subject matter of this book.

The law is stated as at March 20, 1977.

LONDON
1977

JENNIFER LEVIN

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