

THE FAMILY, LAW AND SOCIETY

Cases and Materials

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Butterworths

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Preface

The aim of this book is to introduce the student of family law to a far wider range of material than is to be found in the statutes and law reports or even in a conventional law library. We believe that family law can no longer be studied through the conventional analysis of legal rules and principles alone, but must be placed in a broader context. During the past three decades, not only in this country but throughout the western world, the law has been abandoning the strict regulation of family relationships in favour of much greater, and usually discretionary powers of intervention should those relationships fail. Much of what the law is trying to do is highly controversial. We have therefore tried to select materials which will explain how the law came to be as it is, the context in which it operates, and what might be done to improve it. We have relied not only upon legal writings from this and other countries but also upon work in other disciplines, principally history, sociology and social administration.

The originator of the book was Stephen Cretney, sometime Fellow of Exeter College, Oxford and now a Law Commissioner. He withdrew from the project on his appointment to the Law Commission. We cannot pretend that he would have written the same book as we have done, but we hope that it has retained something of its origins, if only in that we have included many extracts from Law Commission publications both before and during his time. Many of our colleagues and friends have helped us in the preparation of the book, usually without knowing it, but we should particularly like to thank Kevin Gray, Larry Poos, Andrew Grubb and Jane Kenrick (none of whom, needless to say, is responsible for any errors which occur in the book). We had often heard stories of the wonders of the Butterworths staff, and we should like to express our considerable appreciation of them. Above all, however, we must thank our families, and particularly our children — Julia, Julian, Daniel and Marcus — for putting up with a great deal and contributing so much to their parents' understanding of a subject in which we are all involved.

We handed the manuscript to the publishers on 24 October 1982, but have been able to incorporate a number of recent developments at proof stage. Others, such as the consolidation of the matrimonial homes legislation and the numerous minor amendments to child care legislation contained in the Health and Social Services and Social Security Adjudications Bill, are still in the pipe-line. The text was written on the assumption that the remaining provisions of the Children Act 1975 relating to adoption would all have been implemented and replaced by the corresponding provisions of the Adoption Act 1976. We therefore refer to the provisions of the 1976 Act, although at present those which are in force are still contained in the 1975 Act. Subject to that, however, we have tried to state the law as at the date of this preface.

We have enjoyed writing this book and have learned a great deal in the process. We can only hope that those who read it will gain as much pleasure from it as we have done.

Brenda Hoggett, Manchester
David Pearl, Cambridge

24 March 1983

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