the compass of this little book, it has the merit to serve as a firm base-line from which new research can safely depart.

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An Introduction to Law, by D. P. Derham, F. K. H. Maher and P. L. Waller, Sydney, The Law Book Co. Ltd., 1966, 226 pp. ($6.30 or $4.00).
Cases and Materials on the Legal Process, by F. K. H. Maher, P. L. Waller and D. P. Derham, Sydney, The Law Book Co. Ltd., 1966. xliii and 457 pp. ($9.50 or $7.50).
Legal Research: Materials and Methods, by E. M. Campbell and D. J. MacDougall, Sydney, The Law Book Co. Ltd., 1967. xi and 240 pp. ($6.30).

Cases on the Legal Process and *Introduction to Law* are the books promised to readers of this journal back in 1956;[1] the authors inform us (in their Prefaces) that planning began four years earlier, in 1952. A gestation of fourteen years (for these books appeared in late 1966) has produced two valuable tools for legal educators—specifically designed for (and, in my view, suited to) two separate functions.

Introduction to Law is intended as a "first-book" of Australian law, as preliminary reading for those about to undertake legal studies. (Or perhaps to "assist laymen to know something of what the law is about",[2] though the book's tone—it takes the legal profession, and legal education, very seriously—fits it more for the educational, or "induction into the mysteries", function.) It delves into (and presents to its readers) problems of both the abstract and the concrete—the theory of precedent (ch. 8), legal reasoning (ch. 11), and legal classification (ch. 4) stand alongside chapters on the legal profession (ch. 3) and the law library (ch. 12), and descriptions of the fundamentals of public law (ch. 5) and private law (ch. 6).

I claim to be a public lawyer, though the corollary of that statement is easier to justify: I make no claim to be (or I claim not to be) any other sort of lawyer. So I gladly hesitate to judge the accuracy and completeness of chapter 6 which discusses the scope and content of "Private Law". When reading that chapter I found it easy to regard myself as close to the intended reader: and applying the standards of a moderately intelligent and ingenuously interested reader I found that chapter both easy to read and comprehend, and stimulating of speculation.

Quite unfairly (yet naturally) I applied more rigorous standards to chapter 5—"Public Law". I cannot accept sweeping assertions such as: "In the United Kingdom most of the basic rules of constitutional law, called comprehensively 'the Constitution', were established in the period from 1689 to 1714."[3] What of Coke's *Case of Proclamations* (1611), what of *Entick* v. *Carrington* (1765)—decisions which establish or emphasize the courts' restricting attitude towards executive power? What of the foundation of Parliamentary supremacy during the Reformation period and its consolidation in the course of 1641? And the growth of that amorphous concept, "responsible government" (resting, as it does so heavily, on stable political factions)

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[1] D. P. Derham, "A First Course in Law" (1956) 2 *Sydney L.R.* 103 at 107-9.
[2] *Introduction to Law* vii.
[3] *Id.* 64.

during the period from 1700 to 1850? By 1714 it could, at best, be described as embryonic.

Again, there is a great deal of wishful thinking in the conclusion that "a terse survey of those rules classified as administrative law indicates the very real control which the ordinary courts of law exercise over the work of government".[4] Such a statement is justified only on a very narrow view of "the work of government" or betrays an eccentric view of "very real control".

But such objections are hardly crucial. Admittedly this book carries inaccuracies and misinterpretations: that is inevitable in such an all-encompassing yet brief work. Taken as a whole, this is an excellent contribution to legal education. Indeed, many of its individual chapters (while not breaking new ground) are valuable contributions in their own right. "The Facts and the Law" and "The Reasoning of Lawyers" provide sound insights into the dilemmas of legal decision-making, and the peculiarly English contributions to the solution of those dilemmas; and all this is presented in lucid language.

But not every chapter of this book can be hailed for its lucidity of language: for instance, much of the expression in chapter 4 ("Ordering the Law") is ponderous, and the language used may well be beyond the grasp of its potential readers. On page 56 the authors talk of the difficulty of putting rules (and problems) in categories (or classifications). They draw an analogy with a headmaster who must "be able readily to find the text of a rule which is apposite to a particular disciplinary problem under his present consideration". The analogy is certainly a good one, but the expression of it is deadening. Again, on page 57 (still discussing this problem of categories) the authors remark that "when a lawyer looks at a question, real or hypothetical, he should be able to cast his mind towards *a discrete part of the manifold rules of the legal system* within which he does his work". The emphasis is mine, but the authors of *Introduction to Law* must bear the responsibility for that phrase, which betrays a love of obscure polysyllables.

But I must repeat that in my judgment this is an excellent introduction to the Australian legal system, its operation and its problems. That view is supported by Professor Hamish Gray of the University of Canterbury, designated as the editor of the New Zealand edition of *Introduction to Law*.[5] In his Editor's Preface he applauds this book as "a first class introduction to legal method". In so far as most of the alterations in the New Zealand edition involve the substitution of the titles of local legislation for Australian statutes,[6] one must accept Professor Gray's comment as more than a mere exercise in tact. Of course, some of the chapters have been substantially altered. Chapter 3, on "The Legal Profession" carries four odd pages of new material—out of a total of fourteen pages. Indeed, the most intriguing aspect of the New Zealand edition is that its modifications represent the combined labours of six members of the Law Faculty at Canterbury, which seems to be spreading the work a little thin.

Nevertheless, the New Zealand edition shares the merits of the original *Introduction to Law*, and is a further positive contribution to legal education in the Antipodes.

The same can be said of *Cases and Materials on the Legal Process*, published simultaneously with *Introduction to Law*. This is a teaching book—not preliminary reading, but a collection of materials designed for class analysis and discussion (case-method style) in an introductory course in law. (This book is prescribed for such a course in the Law Schools at Melbourne, Monash, Tasmania and Papua and New Guinea Universities.) After simple

[4] *Id.* 70.
[5] Sweet & Maxwell (N.Z.) Ltd., Wellington, 1968.
[6] Or a reference to University of Melbourne now cites the University of Canterbury.

and necessarily superficial introduction to the importance of decided cases, the history of their reporting, the actual process of litigation (which concentrates on the Victorian forms of procedure and pleading) and the nature and function of courts, the authors throw their readers into the cases. (By this time, it is hoped, they will have read *Introduction to Law* as well as the first 60 pages of this book, and will be able to perform their expected function of legal analysis and problem solving.) The authors have wisely chosen a series of cases that are not too esoteric, which arise out of readily grasped human activities, but which demonstrate the dynamics of judicial decision-making—*Rylands* v. *Fletcher* and its successors. A close study of those cases (and of the following series built around *Donoghue* v. *Stevenson*) is meant to induct students into the mysteries of judicial law-making, and the problems of isolating the judically-made law.

Further cases are set out in chapters 6, 7, 8 and 9, to illustrate (and perhaps provoke the resolution of) a variety of problems associated with "precedent": the *ratio decidendi* and *obiter dicta;* persuasive and binding authorities; multiple *rationes* and problems of semantics. Any student who has been through the mill of these cases (and retained his sanity) should have a grasp of the nature of the common law. The cases are well chosen and arranged, and the textual comment and questions are to the point.

However, the arrangement of the material on "The Interpretation of Statutes" (chapters 10 to 16) is not so good. A useful dozen pages on the creation and nature of statutes is followed by 160 odd pages of cases demonstrating the application of (or failure to apply) that horrifying plethora of maxims. It is common ground that the maxims create categories of multiple reference, that they are contradictory and are often applied in an undisciplined fashion. This book brings that point out by necessary implication, for it makes little attempt to give statutory interpretation the form and intelligible symmetry that it arguably does have—the sort of form and symmetry given to it by Professor Willis in his outstanding study "Statute Interpretation in a Nutshell".[7] A positive attempt to arrange the cases along the lines of Professor Willis' model would almost certainly turn this part of the book into a genuine teaching instrument (that is, if the aim of this part of the book is to teach the interpretation of statutes, rather than to leave students with a cynical impression of judicial fumblings).

Legal Research: Materials and Method does not claim as long a gestation as the first two books: but it is obviously the product of long and careful labour. Like *Legal Process,* its first publication was in the form of mimeographed foolscap pages issued to law students. Even in that form it was recognized as a significant and valuable contribution to legal education.

But this book is more than a student's guide to the library: it is a detailed study of the problems of legal research in Australia (obliged as Australian lawyers are to work with primary and secondary sources from England and from the various Australian jurisdictions). It is also an exhaustive survey of those sources, detailing the multitude of statute collections and law reports and the areas which each series covers. To my knowledge, no previous attempt has been made to collect and present all this information, which should reduce considerably the terrors of the Australian law library.

As well as surveys of traditional legal source-books, the authors discuss the accessibility and utility of Parliamentary and Government publications and of non-legal materials—geographical, medical, statistical, biographical and foreign-language references; a survey of Public Archives (their contents and

[7] J. Willis, "Statute Interpretation in a Nutshell" (1938) 16 *Can. B. Rev.* 1. The authors include the article in a reading guide (at the end of the relevant section—p. 411); but they give it the wrong title.

access) has been added (presumably as an afterthought) in an appendix. Other chapters carry advice on the mechanics of legal research and on the form and style of legal writing—in the form of opinions, correspondence and scholarly publication. A separate chapter is devoted to that pedant's delight, citation; here the authors recognize that there are no objectively correct citations—just those citations that make sense and efficiently convey information. I do not doubt that to many of its potential readers these concluding chapters will be superfluous, perhaps presumptuous. But they do represent the serious opinions of two experienced legal scholars on common (but often unresolved) problems of legal communication. As such, they make worthwhile reading; and no-one can gainsay the immense value of the earlier chapters of this book, and the real contribution they make to the practice of the "learned profession of the law".

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Cases and Materials on Administrative Law (2 ed.), by Peter Brett and P. W. Hogg. Sydney, Butterworth & Co. (Aust.) Ltd., 1967. 672 pp. ($11.00).

Britain today has many toilers in the vineyard of administrative law. This is in sharp contrast to the situation only a few years ago. Dicey had virtually denied that such a field existed, and claimed that the phenomenon in question, the rapid and diversified growth of governmental powers, was adequately kept under control by means of the doctrines, techniques and procedures employed by judges in other fields, notably that of torts. Dicey's great contemporary, Maitland, had a clearer view of events. He perceived that governmental powers were, in fact, growing like weeds and would need specialised cultivation. Dicey himself, in his later years, conceded that a problem existed. But the optimism he had engendered prevailed until Lord Hewart and others sounded desperate notes of alarm in the 1920's.

Since that time the investigations of *ad hoc* committees (Donoughmore, Franks) have been reinforced by the efforts of Parliament (the Statutory Instruments Act, 1946, the Crown Proceedings Act, 1947, the Tribunals and Inquiries Acts, 1956, 1966, the Parliamentary Commissioner Act, 1967), by the work of permanent institutions (the Council on Tribunals, the Parliamentary Commissioner) and, of course, by the continuing development of case law by the judges. Increasingly in recent years the profuse growth has been pruned and restored to some semblance of order.

But this crash programme has had little overall coherence. There are many varieties of governmental power. There are several possible forms of control — administrative and political as well as judicial. Judicial control itself works through a bewildering array of doctrines and procedures. When any one type of plant has suddenly appeared to present a threat to "rule of law" ideals, the cultivators have rushed in with whatever tool happened to be at hand to cope with that particular growth.

Thus the typical British book on administrative law follows the judges in highlighting the bewildering diversity of the subject. Perhaps the major work is S. A. de Smith's *Judicial Review of Administrative Action* (1959 — now published in a second edition). This monumental work is based mainly on an intensely detailed study of case law from the Year Books to modern times, from the courts of Britain to those of the Commonwealth and the United States. It thus perpetuates the diversity of the procedures and doctrines of judicial control. It emphasises what is special to administrative law. To