Such anomalies may well be eliminated as a result of the breaking down of the remedial barrier which confined certiorari and prohibition as procedures for reviewing formal adjudications only. Since *Ridge* v. *Baldwin*[6] and *Durayappah* v. *Fernando*[7] a wider range of action will fall within the ambit of these writs and the old distinctions between *vires* and jurisdiction should crumble.

The nature and significance of the void-voidable distinction will also need fuller treatment in the next edition. By that time a clearer assessment should be feasible than at present.

There are one or two other matters I would like to see developed further. One is judicial review of action by private as distinct from public bodies. Trade unions, professional organisations and the like increasingly appear less like voluntary associations than like domestic governments, and their actions are quite as capable of prejudicing the individual as are the actions of public authorities. At present they are regarded as beyond the scope of the prerogative writs, but administrative law doctrines are asserted by the equitable remedies of declaration and injunction. The topic receives only sketchy treatment, but merits more.

Mandamus, too, might merit fuller treatment in future, especially in view of its surprising use in *R.* v. *Metropolitan Police Commissioner; Ex parte Blackburn (No. 1)*[8] at the suit simply of a concerned citizen to compel the police to enforce Britain's gaming laws. And the insistence that it is a remedy confined to the exercise of duties rather than discretions may have to be abandoned after the House of Lords' decision in *Padfield* v. *Minister of Agriculture*.[9]

Some of these comments merely go to matters of emphasis, and some of them are made only in the light of very recent decisions, for it is the curse of any work on administrative law to start to become out of date the moment it reaches the printer. It is an excellent book — thorough in its coverage, judicious in its selection, illuminating and suitably critical in its commentaries. It is, inevitably, long, but cross-references are made throughout, and indexes and tables facilitate reference. It is highly recommended for teachers of the subject and their students, for practitioners, and for judges.

R. G. NETTHEIM*

Sources of Family Law, by J. C. Hall. Cambridge, Cambridge University Press, 1966. xxiii and 514 pp. ($5.15 in Australia).

A textbook can be judged in terms of its legal scholarship. A casebook has to be judged on a different basis. Essentially it is a teaching device and it should be evaluated in functional terms. Of course, in the absence of any agreement as to how family law should be taught, any evaluation of a collection of materials is necessarily subjective. When I say, as I do, that I was discouraged and disappointed by this book, I must add the rider that this comment merely reflects my view of how the subject should be taught. Within his self-imposed limitations Hall has worked carefully and thoughtfully.

In some 507 pages Hall has abstracted some 200 cases, numerous statutory

[6] (1964) A.C. 40.
[7] *Supra* n. 3.
[8] (1968) 1 All E.R. 763.
[9] (1968) 1 All E.R. 694.
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provisions and extracts from various government reports and articles in legal periodicals. The author clearly expended a considerable amount of effort in selecting and editing the material. In fact I cannot recall another casebook so tightly edited.[1] The material is organized into four parts: I. Marriage (pp. 1-64), II. Husband and Wife (pp. 62-225), III. Parent and Child (pp. 226-367), IV. Dissolution (pp. 368-507). The author explains his organization in these terms:

> The arrangement of topics within the book may appear unorthodox, but the reason lies in a rooted though largely emotional objection to the treatment of divorce immediately after marriage. To banish the subject to the end of the book admittedly causes some practical difficulties, but it is hoped these will not prove too irksome.[2]

To this it must be replied that the practical difficulties raised by the organization are considerable. Concepts basic to family law — such as adultery, cruelty and desertion — are not considered until page 368! Surely this must inhibit any meaningful discussion of the questions of maintenance and custody? Moreover, and still on the question of organization, there seems no reason why the maintenance of spouses should be split into two sections (pp. 84-115 and pp. 218-225).

If we turn from the question of organization and consider the content of the book, the first pertinent comment that must be made is that there is an almost total absence of materials from other social science disciplines. Now in some law school courses an argument can be made for concentrating on legal concepts and legal reasoning to the exclusion of all else. But family law is not such a course. Without some regard to the contributions of psychology, psychiatry and sociology, the study of family law is likely to become an intellectual game unrelated to either real life or legal practice. Indeed it is doubtful whether some legal concepts can be made meaningful without some reference to extra-legal material. How useful is it to tell a student that the paramount consideration in custody disputes is "the infant's welfare" if you don't explain what considerations are comprised within that concept, and what sort of evidence should be placed before the court?

To what extent has Hall been successful in collecting the technical legal material relevant to a course in family law? It was noted earlier that most of the cases are severely edited. Many cases occupy less than a page. The case consists of a brief statement of the facts together with a few paragraphs from the judgment. The pitfalls are obvious. Editing as severe as this is likely to result in a misleading simplicity. In fairness it should be stated that the editing has been done very carefully. But there are exceptions. For example the extract from *Fender* v. *St. John-Mildmay*[3] consists of a few paragraphs from the judgment of Lord Atkin. Similarly, it might be argued that *Henderson* v. *Henderson*[4] deserves more than ten lines.

Some of the omissions are startling. There are no cases dealing with the definition and proof of adultery (other than *Blyth* v. *Blyth*[5] on the standard of proof). There are no cases illustrating the court's practice when it is asked, under s. 3(i) of the Marriage Act, to dispense with parental consent to a proposed marriage. The only mention of blood tests is in a six line note (p.230) to the *Banbury Peerage Case*.[6] And the cases dealing with custody give very little indication of what considerations are relevant to "the infant's welfare".

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[1] For a discussion of the editing of casebooks see H. A. J. Ford, "The Evolution of the American Casebook" (1956) 7 *Res Judicatae* 256 at 265-69.
[2] At v-vi.
[3] (1938) A.C. 1 (Hall at 5).
[4] (1944) A.C. 49 (Hall at 458).
[5] (1966) A.C. 643 (Hall at 370).
[6] (1811) 1 Sim. & St. 152; 57 E.R. 62 (Hall at 226).

No doubt many of these criticisms are of a minor nature. On matters of judgment and opinion it is rare to find any semblance of agreement. My last and most serious criticism of this casebook is that there is too little to stretch the student's mind. Usually the cases are so severely edited that the student is unable to see the conflicting arguments that produced the litigation. Rarely is the student faced with apparently contradictory decisions — and in all of these cases Hall, in his brief introduction to the case, has explained the inconsistency. The result is that this collection of materials resembles, more than anything else, a sophisticated and superior "nutshell". Such books have a useful purpose and this book can be recommended at that level. But as a collection of materials for a university course in family law it is inadequate.

D. J. MACDOUGALL*

The Choice of Law Process, by David F. Cavers. Ann Arbor, University of Michigan Press, 1965. 336 pp. ($8.50).

Over the last decade or so American conflicts law has been in the throes of a Great Cultural Revolution. The unfortunate Joseph H. Beale is cast in the role of President Liu. The scholarly Red Guards join in reviling him, but cannot agree on what, if anything, should be substituted for the vested-rights framework he so carefully construed in the First American Restatement of the Conflicts of Law.

The adherents of the vested-rights theory assumed that a proper solution to conflictual problems lay in the due apportionment of legislative jurisdiction. The rules which they devised were therefore directed to determining the governing law without regard to the contents of the laws ostensibly in conflict. Cavers was one of the first writers to protest against such jurisdiction-selecting rules and to argue that any solution of the conflict should proceed from an examination of the contents of the laws ostensibly in conflict.[1]

This reviewer had the privilege of attending the Thomas M. Cooley Lectures at the University of Michigan Law School in January, 1964, when Professor Cavers delivered the lectures now embodied in this book. At that time I was unfamiliar with American writings on the conflict of laws and I went away deeply shocked at his willingness to sacrifice the apparent security of existing rules to the will-o'-the-wisp of "justice in the particular case". He appeared to share with the Red Guards in China a desire to destroy the inherited framework in the hope that on the ruins a new and better structure could be built. In all fairness to him he did give us some guidelines as to how the new structure should be built.

Cavers proposes that a conflicts problem should be approached in two stages. At the first stage the court should examine the laws ostensibly in conflict in order to determine whether they are really in conflict. Obviously there is no conflict if all the laws which claim to be applicable to the situation are identical, if not in wording then in effect. An Australian example of such a situation is found in *Koop* v. *Bebb*[2] where a claim for wrongful death would have succeeded whether one applied the law of the forum,

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[1] D. F. Cavers, "A Critique of the Choice-of-Law Problem" (1933) 47 *Harv. L.R.* 173.

[2] (1951) 81 C.L.R. 629.