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conundrums. It is amusing to see that we may have solved (or given up on) one matter still argued over there—Sunday observance. Perhaps they should consider our legislation. No matter, that is perhaps a minor question. Others will arise, and may well become divisive. Once we have established a constitutional system that makes either legislative or court challenge on the basis of “constitution/human rights” possible, militancy from many sides of the debate seems likely. Canada (not to mention the US) shows the possibilities. The humanistic approach shown by the Scottish Law Commission to such matters as family law, for example, may be challenged.

Professor Ogilvie acknowledges the different approach in Scots and English law to the constitutional question of church and state. For a start, Canada has no established church in either of the forms which we know it. There is also the readiness—or otherwise—of our courts and legislature to get involved in such questions. In a footnote she observes that the “diffidence of Canadian legislatures and courts to make law for religious institutions (which is now receding) is surely a reflection of Scottish attitudes of strict separation found when the Scottish influence on Canadian society was greater than it is today”. This is an interesting point to see made. As I say, I find myself wondering whether, notwithstanding the 1921 Church of Scotland Act, a devolved legislature in Edinburgh, or our courts with the tool of the Human Rights Convention to hand, may not be willing to overcome historic diffidence in such matters.

But that is for the future. When seeking models, possible solutions, and occasional warnings, Professor Ogilvie’s book will be a good one to turn to.

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Lilian Edwards and Anne Griffiths, FAMILY LAW

Edinburgh: W Green/Sweet & Maxwell, 1997. xxv and 444 pp (incl index).

ISBN 0 414 01113 9 (pb). £30.

While Scots family law is already well served by excellent and scholarly books, it has lacked a more critical or socio-legal treatment. This new addition to the Greens Concise Scots Law series makes an important contribution towards filling that gap. It marks a break with the traditional treatment of family law and introduces the reader to some of the social and theoretical issues and debates that abound in this area of law. As such, it is a welcome resource not only for those seeking practical guidance on a particular issue but also for those studying family law.

This book breaks with tradition in a number of ways. The authors themselves identify the “novel life cycle approach” that they have adopted as the structure for

the book: rejecting marriage as the central concept in family law and following instead the human life cycle of the individual. As a result, the book begins with the notion of legal personality and moves on through childhood and children's rights to adult relations. While some might argue, for example, that it is important to understand marriage and the concepts of void and voidable marriage before considering the issue of paternity, there is much to be said in favour of the chronological approach of the life cycle model. It provides both a coherent structure and a useful device for challenging the dominant position that marriage still holds in the theory of family law if not in the practice of family life.

Within this structure, initially, it seems surprising to find financial provision on divorce in chapter thirteen, before discussion of divorce itself in chapter fourteen. This order was presumably chosen to enable the grouping together of discussion of all property issues arising both during marriage and on breakdown. Certainly, the focus on the importance of property throughout the relationship is to be welcomed and this method of arrangement is in keeping with the thematic ordering of much of the material. It also then allows for the juxtaposition of chapter fourteen on the legal process of divorce and chapter fifteen, entitled "Private Ordering", which considers the use of privately negotiated agreements as a means of dispute resolution. The placing side by side of these two chapters enables the authors to emphasise the gap which they identify between the textbook image of "hotly-contested adversarial actions" and the reality of negotiated settlements.

The recognition of diversity in family life is a persistent theme. This concern, not only with family law, but with family form, also distinguishes this work from other, more traditional expositions of Scots family law. The most obvious example of the recognition of diversity is the incorporation, throughout the book, of discussion of cohabitation and its legal implications. This technique, rather than the confinement of cohabitation to a separate chapter, is a practical device for challenging the dominance of marriage. The first chapter, entitled "Legal Personality and Family Relations", is slightly disappointing in that, although its title suggests some discussion of diversity and family forms, in effect the chapter concentrates on issues of status and personality, with only some brief introductory paragraphs on the nature of families. This may have been a missed opportunity to emphasise theoretical and empirical issues relating to families with reference to further reading: an approach which has been used to good effect elsewhere in the book.

It is indeed difficult to consider family law and its operation without consideration of its social and theoretical context, and in emphasising law-in-context the authors once again signal their departure from more traditional textbooks. The authors describe themselves as having taken a practical approach to family law, drawing on empirical and statistical research "as to the state of modern families and the impact of family law". The reader is introduced to some of the major theoretical issues and debates: conceptions of childhood (chapter two); parental rights *versus* wishes of the child (chapter four); restrictions on entry to marriage (chapter nine). This is backed up with the inclusion of extensive reference to further sources in footnotes and a detailed bibliography. This is an approach to family law writing that, while prevalent in other jurisdictions, has been relatively unknown in Scotland. It is surely an approach that will make this book attractive to

students of family law and in particular to those studying the subject at "honours" level.

While those seeking the answer to a particular question may use this book as a point of reference, the style and structure suggest that it should be read from beginning to end. Most chapters conclude with an overview of the issues that have been raised and an indication of what is to follow. This technique contributes to the sense that this is not a collection of the various topics that go together to make up family law, but a co-ordinated and cohesive treatment of the whole. Underpinning the detailed analysis of legal rules and developments there are fundamental questions: who is a person? (chapter one); who is a child? (chapter two); who is a parent? (chapter three). While such questions may inform the treatment of family law in more traditional writings, their open expression in this book helps to focus the reader on the broader social and moral issues which are inherent in much of family law. If there is to be a criticism of this book, it is perhaps that it has been slightly cautious in its incorporation of theoretical analysis. The final few pages of the final chapter are given over to discussion of aspects of the feminist analysis of writers such as Olsen, Kingdom and Deech. This discussion is contained within the context of private agreements and debate surrounding marriage, status and contract, whereas there is a sense that these ideas are highly influential throughout family law and they could have been given greater prominence.

Scots family law has changed dramatically in recent decades and, as the authors themselves indicate, the time has come for academic exposition of the law to follow. The innovations in style and content of this book are to be welcomed. Its discursive and accessible style and its analytical approach should recommend it to all who have an interest in Scots family law.

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R A Duff, CRIMINAL ATTEMPTS

Oxford: Clarendon Press, 1996. Oxford Monographs in Criminal Law and Justice. xxvii and 420 pp (incl index). ISBN 0 19 826268 X. £50.

F M Kamm, MORALITY, MORTALITY VOL II: RIGHTS, DUTIES, AND STATUS

New York: Oxford University Press, 1996. Oxford Ethics Series. 398 pp (incl index). ISBN 0 19 508459 4. £40.

The contemporary engagement of philosophers with the criminal law, particularly over the last decade, has enriched criminal law theory to a very marked extent. There has even been a trickle down (or up?) effect which has resulted in philosophy's having its day in court. Both the High Court of Australia and the Supreme Court of Canada