Property Law Cases and Materials, by R. Sackville and M. A. Neave (2nd ed., Butterworths, Australia, 1975), pp. v-lxi, 1-981. Australian price — hard cover $29.50; ISBN 0 409 43840 5; paperback $22.50; ISBN 0 409 43841 3.

This collection is a most valuable teaching aid and a mine of information about the law of property. The reviewer has used it for teaching purposes since its appearance in 1971. The present edition contains some new material. There is now a section on the rule against perpetuities. The first edition contained a fairly extensive discussion of future interests which stopped short of the perpetuity rule leaving the student enmeshed in the legal contingent remainder rules, the rule in *Purefoy v. Rogers*[1] and the Statute of Uses, and believing there was no worse to come. It is distinctly preferable that the area of future interests should be dealt with as a whole and the present edition achieves this, providing a clear statement of the common law rules and the statutory modifications effected for Victoria by the Perpetuities and Accumulations Act 1968.

A section on mortgages has also been introduced. This is welcome. It must however be recorded that the existence of the equitable mortgage in its various forms is barely acknowledged. This is surprising in view of the importance of this form of security both in practice and as a form of equitable interest for the purpose of priority disputes (cf. *J. & H. Just (Holdings) Pty. Ltd. v. Bank of New South Wales*[2]).

A very important addition is the chapter on Remedies: damages, specific performance and the injunction. There are three rather surprising omissions: there is no mention of the remedy of specific performance in favour of third parties (*Beswick v. Beswick*[3]), strange in a book which constantly and properly stresses the overlap between contract and property (*e.g.* chapter 5 Part V). Secondly, the discussion of specific performance of contracts for the sale of chattels, an area but slightly explored in the literature on the subject, could usefully have been supplemented by a reference to Treitel's article[4] on this topic. Thirdly, in the reviewer's opinion no treatment of the injunction, however concise, should fail to deal with the principles governing the question whether in the court's discretion an interlocutory injunction[5] should be granted in a particular case. Thus in *Beecham Group Ltd. v. Bristol Laboratories Pty. Ltd.* the High Court said: 'The Court addresses itself in all cases . . . to two main inquiries. The first is whether the plaintiff has made out a *prima facie* case, in the sense that if the evidence remains as it is there is a probability that at the trial of the action the plaintiff will be held entitled to relief . . . The second inquiry is directed to . . . whether the inconvenience or injury which the plaintiff would be likely to suffer if an injunction were refused outweighs or is outweighed by the injury which the defendant would suffer if an injunction were granted'.[6]

To some extent to offset these additions, the chapter in the first edition dealing with 'Problems of Planning and Conservation of Resources' has been omitted. This is a good thing *inter alia* for the reasons given by the editors: 'the general principles can be canvassed (only) superficially, but at the cost of ignoring the legislation that provides the cornerstone of planning law in each jurisdiction'. I hope that in the next edition the chapter on the 'Impact of the Federal Constitution upon the Law of Property' will also be excluded. The reasons given for its inclusion are quite artificial. There appears to be absolutely no justification for occupying space with

[1] 85 E.R. 1181.
[2] (1971) 125 C.L.R. 546.
[3] [1968] A.C. 58.
[4] Treital G., 'Specific Performance in the Sale of Goods' (1966) *Journal of Business Law* 211.
[5] See p.307.
[6] (1968) 118 C.L.R. 618, 622.

Jones v. Commonwealth (No. 2)[7] which deals with technical aspects of the 'acquisition' power and sheds no light at all on the concept of property.

One of the problems faced by students and practitioners alike (most of the latter having been brought up on English text books) is how to relate certain aspects of property law to the Torrens system. Two aspects of this would seem worthy of comment in the next edition. What is the position when an easement noted on the certificate of title relating to the servient tenement has been abandoned at common law but remains on the title?[8] Again, what is the position where land has been in a squatter's adverse possession for the statutory period so that at common law the landowner's title is extinguished, but he remains registered as proprietor?[9]

The above suggestions for the next edition should be construed in the light of the maxim *expressio unius est exclusio alterius.* I very much admire this casebook. It has, unlike some of its counterparts in other fields, ample commentaries to the cases extracted, and the percipient questions following each case or group of cases help bring out the point of the case or cases or point up the difficulties associated with it or them. A further valuable aspect of the book is that it can safely be used in all States of Australia. Attention is drawn to the differences in legislation between the various States. Only in the Capital Territory (we are told by the editors), need it be used with caution, because of the difficulty in determining what legislation is in force in that place.

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[7] (1965) 112 C.L.R. 206.
[8] See *Webster v. Strong* [1926] V.L.R. 509 and *Riley v. Penttila* [1974] V.R. 547.
[9] See *Riley v. Penttila* [1974] V.R. 547, 574 and *cf. Belize Estate & Produce Co. Ltd. v. Quilter* [1897] A.C. 367.

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Casebook on the Law of Contract, by J. G. Starke, Q.C., P. F. P. Higgins and J. P. Swanton (Butterworths Pty. Ltd., Australia, 1975), pp. i-xxviii, 1-524. Recommended Australian Price, Hard cover $21.00, Soft cover $16.00 ISBN 0409 43847, ISBN 0409 43846.

The creation and development of the casebook method of instruction can be traced to one man, C.C. Langdell, the first Dean of Harvard Law School. Langdell prefaced the first casebook ever written, namely *A Selection of Cases on the Law of Contracts* (1871) with the following remarks:

> Law, considered as a science, consists of certain principles or doctrines. To have such a mastery of these as to be able to apply them with constant facility and certainty to the ever-tangled skein of human affairs, is what constitutes a true lawyer; and hence to acquire that mastery should be the business of every earnest student of law. Each of these doctrines has arrived at its present state by slow degrees; in other words, it is a growth, extending in many cases through centuries. This growth is to be traced in the main through a series of cases; and much the shortest and best, if not the only way of mastering the doctrine effectually is by studying the cases in which it is embodied. But the cases which are useful and necessary for this purpose at the present day bear an exceedingly small proportion to all that have been reported. The vast majority are useless and worse than useless for any purpose of systematic study. Moreover, the number of fundamental legal doctrines is much less than is commonly supposed; the many different guises in which the same doctrine is constantly making its appearance, and the great extent to which legal treatises are a repetition of each other, being the cause of much misapprehension.[1]

The casebook method of instruction has a great many advantages. By forcing students to distill principles by a purely analytical process from actual cases, the casebook method prevents the *a priori* acceptance of any doctrine or rule of law. Most importantly, it constitutes an empirical method of teaching which heightens and refines a student's ability to think logically and systematically. Each student must independently evaluate and assimilate the cases.

Before Langdell's innovation, legal education was characterized by the dogmatic enunciation of a unified and fixed body of rules. In contrast, the casebook method perceives and emphasises the fluidity and flexibility of legal doctrines. Moreover, not only does the casebook method teach students to think, it also instils life and meaning into dry legal principles. As Thayer once said, it rouses students and engages 'as its allies their awakened sympathetic and co-operating faculties'.[2]

Of course, it would be wrong to exaggerate the importance of the casebook method. The orthodox lecture, text-books and learned articles are all important teaching aids which should be utilized.[3] But it seems to me that, initially, while a student is being trained to think logically and analytically, and while he is studying basic subjects such as Contract and Property, the overwhelming emphasis should be on the casebook method. Once a student has been taught to think, the text book, learned article and orthodox lecture become increasingly valuable.[4]

[1] C. C. Langdell: 'A Selection of Cases on the Law of Contracts: With References and Citations, prepared for Use as a Text-Book in Harvard Law School,' Boston, 1871.

[2] James Bradley Thayer, 'Cases on Constitutional Law', Cambridge 1865 p. vi.

[3] Some commentators have been critical of the tendency to over-exaggerate the importance of the casebook method: Llewellyn, 'Some Realism about Realism — Responding to Dean Pound' (1931) 44 *Harvard Law Review;* Radin, 'Scientific Method and the Law' (1931) 19 *Calif. Law Review* 164. These criticisms have not gone unheeded. The casebook method is no longer practised as a narrow scientific approach to teaching. Most law teachers make extensive use of secondary authorities. The study of cases, however, remains the fundamental characteristic of legal education in the United States: Merryman, 'Legal Education There and Here: A Comparison' (1975) 27 *Stanford Law Review* 859.

[4] Professor Karl Llewellyn expressed a similar view in the introduction to his 'Cases and Materials on Sales' (1st ed., 1930), xvii.