Taken on Oath
A Generation of Lawyers

by Jon Faine; Federation Press, Sydney, 1992; paperback; 249 pp.; $35.

Jon Faine's book is a fascinating compilation of his radio interviews with 30 'old lawyers'. As Faine says in the introduction, anything vaguely resembling a contemporary history of the legal profession is one of the more startling 'omissions from the menu at most law schools'. Yet his interviews reveal an 'enormous stockpile of know-how waiting to be used'. Faine's particular interests in the interviews were the practice of law day to day, the pace of change over the last century, and the changes and developments in the role of women in the profession. However, his questions are broadly based and focus on the particular expertise or interest of the person in this oral history.

There are a range of interesting examples about legal education. Hal Wootten comments on his experiences at law school as the impetus for his subsequent involvement (as foundation Dean) in establishing the University of New South Wales Law School. Wootten states that the law he was taught was devoid of context, being 'just something that you found in the statutes and in the cases'. Tom Molomby recalls the camaraderie among the law students of his vintage, and the many lectures that did not change from year to year. He comments 'Perhaps the "year" altered from year to year, but the lecturers didn't. If you had the notes from a couple of years previously, they were still relevant to the exams that you would be sitting for, years later'. How many legal academics can now recall what they taught last year or the year before as they prepare for this year, let alone know what they will probably teach next year!

On the practical side, John Wheatley's interview reveals that back in 1930 there were no requirements for supervision and trust accounts or for paying a deposit into a common account. Leycester Meares, reminiscing on his time as president of the Bar, and as the first president of the Australian Bar Association, suggests that the profession remains 'entrapped in its own conservatism'. Dame Roma Mitchell recalls her law school days when all moots were done through the University Law Students Society, from which women were excluded. Elizabeth Evatt observes that in her experience with so few women in the law school, there was a feeling of being the somewhat select exception. Competition within the law was very much on 'the terms that are established'. Noting also the significant overlaps and interchanges between men's and women's values in the law, Elizabeth Evatt suggests that 'it is possible, perhaps probable, that women who have had experience of family life may have a more concerned approach to the problems that other women are facing in the legal system, and are more attuned to the fact that the law itself does not yet fully acknowledge the values and needs of women.

On the political side, David Aronson offers some fascinating insights into the Royal Commission into the Communist Party in Victoria. Sir John Starke assesses his involvement in the *Power Without Glory* criminal defamation trial and in the sentencing of Ronald Ryan (the last man to be executed in Australia). These are equally memorable reading.

Throughout the book Faine's knowledge of the person he is interviewing and ability to set him or her at ease is evident. The interviews reveal a breadth of practical experience of legal, historical, social, political and personal interest for all involved in, or simply interested in, the law. In interviewing this cross section of the legal profession who practised some time ago, Faine presents a picture of the legal profession's development, change and impact on society. This approach to the understanding of law challenges the traditional emphasis which law schools have placed on learning doctrinal law devoid of a broader social, political and above all personal context. As Anne Thacker noted in her book review (1992) 17(6) *Alt.LJ* 306, this emphasis on 'learning the law' has, at its most extreme, excluded 'learning the process of the law as it affects clients'.

Faine's argument concerning oral history is timely, given the expanding role and questioning of legal education in Australia. Commenting on the function of oral history, Faine sees its essence as 'subjective, impressionistic and inexact. So be it. It is also human, compassionate and entertaining'. Faine has shown us one means of writing these values into our legal education.

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Environmental Law in Australia

by G.M. Bates; 3rd edn; Butterworths 1992; $59.95.

Late last year some 1575 of the world's leading scientists delivered a blunt warning to the United Nations General Assembly in New York. In their four-page report they stated:

> We hereby warn all humanity of what lies ahead. A great change in our stewardship of the earth and life on it is required if vast human misery is to be avoided and our global home on this planet is not to be irretrievably mutilated.

The report went on to argue that only a few decades remain before the chance to avert the threats of destructive human activities will be lost and the prospects of sustaining life in the manner that we know immeasurably diminished.

There is now little doubt as to the scientific evidence of environmental degradation. The warnings of scientists together with the rapid evolution of general environmental awareness have precipitated new legal approaches to the issues. Governments across Australia have enacted legislation and established numerous authorities and departments in response to the evident problems. There is nothing particularly unusual about this, except that, unlike other areas such as family and company law, the volume of Australian legislation on the environment is vast. A glance at the Table of Statutes of *Environmental Law in Australia* reveals that over 300 Acts, many of which have emerged since the last edition, deal directly with environmental issues. In addition there is relevant common law, international environmental law and the enormous volume of regulations and subordinate legislation.

Dr Gerry Bates is able to pull all this material together and analyse the issues of both law *and* policy. This makes certain the place of his work on the book shelves of those in the environmental field. This book has been, and is des-

tined to continue to be, the most authoritative work on environmental law in Australia. No other text purports to cover the topic. Accordingly, it will continue to feature as the standard text for the increasing number of legal practitioners and students of environmental and natural resources law.

However, this is not to suggest that Bates has catered solely for legal tastes. Rather, this book reflects the multidisciplinary nature of environmental law by avoiding the encyclopaedic dryness common to law texts. The form, content and style should continue to appeal to environmental managers, engineers, scientists, town planners, conservationists and government officers who often require a comprehensible reference text.

The 3rd edition of *Environmental Law in Australia* is well overdue. While the structure essentially remains the same, Bates has extensively revised and updated most of the 11 chapters to incorporate new material.

Legal practitioners will welcome the comprehensive analysis of new pollution laws in Chapter 10 and in particular those provisions aimed at reforming corporate behaviour by exposing directors and managers to liability for corporate wrongs. Environmental managers will likewise value the discussion on contaminated lands and hazardous substances and the scope of environmental auditing to identify potential liabilities and minimise exposure to risk.

The complex relationship between planning and heritage controls and their administration by relevant authorities is detailed in Chapters 4 and 8 and will give town planners and developers an invaluable understanding of the area. Indeed, Chapter 8 has virtually been rewritten to comprehensively analyse the new heritage legislation in Queensland, Western Australia and South Australia as well as covering the substantial case law on the Commonwealth's powers in respect of World Heritage Areas and the National Estate.

Undoubtedly the entire book would interest conservationists keen to quickly grasp the nature and scope of the obligations imposed by relevant statutes.

In the next edition I would welcome a separate chapter on the development of international environmental law and the significance of its role in Australia. Given that Australia is a party to some 76 multilateral treaties and that many of these profoundly affect domestic law and Commonwealth/State relations, an overview of international material and a prognosis of likely treaties (it has for example been suggested a treaty on forest is not too distant) would be of interest and value. So too would be a chapter on environmental ethics. Though referred to in the introduction, substantial literature on ethics now exists and a review of its contribution and importance in a separate chapter would highlight its significance.

I am disappointed with the deletion of the bibliography in this 3rd edition, a tool often invaluable to research.

Environmental Law in Australia is comprehensive. The author's early UK research has ensured that it extensively details relevant common law controls. Later, as an academic and now as the Green Independent MHA in the Tasmanian Parliament, Bates has been at the forefront of the recent growth in environmental legislation.

The book is not without its faults, usually in minor footnoting and out of date legislation. But then again, even Blackstone was guilty of minor errors. Unlike Bates, however, Blackstone did not convince his publisher to print on recycled paper.

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Male victims of sexual assault

Gillian Mezey and Michael King (eds); Oxford University Press, Oxford, 1992; $A85

In February 1993 it was reported that a 28-year-old New South Wales man was convicted on eight charges including sexual intercourse without consent, inflicting actual bodily harm with the intent to have sexual intercourse, and stealing. The first victim, a 21-year-old man, was forced to submit to oral and anal sex with the accused after threats were made against his life and those of his family. The second, two weeks later, was beaten with a rock and forced to have oral and anal sex performed on him. The third, also attacked with a rock, was forced to submit to anal sex. Men, once characterised only as offenders, are increasingly coming to be recognised as victims of sexual assault.

With the growing awareness of the incidence of male rape comes a new book, *Male Victims of Sexual Assault*. It is edited by British forensic psychiatrists Gillian Mezey and Michael King. The book is the first attempt to bring together research on the historical, psychological, cultural, legal and treatment issues associated with the sexual assault of adult males. While this book does not seek to cover new ground in quantifying the incidence of male rape, it is one of the first books to broaden the agenda in analysing and preventing sexual assault in the community. (Another book well worth reading in this area is McMullen, R., *Male Rape: Breaking the Silence on the Last Taboo*, GMP Publications, London, 1991.)

King's analysis of the impact of rape on men in the United Kingdom in Chapter 1 'Male Sexual Assault in the Community' reinforces earlier studies by researchers such as Groth and Burgess, and Goyer and Eddlemen in the United States.[1] Masculine aggression, and the need for affirmation through domination of others is characterised as the main motivating factor in the sexual assault of men.

King also analyses the responses of male survivors of rape confirming previous studies that men are often unable to report the crime due to an expectation that men should be able to defend themselves. Moreover, men who could not defend themselves, either through fear or threat of harm, often question their own sexual orientation; such a perception is reinforced by the popular image of this crime as 'homosexual rape'. As a consequence, Turner contends in Chapter 5 'Surviving Sexual Assault and Sexual Torture' that:

> . . . a failure to repel a sexual assault becomes a mark of masculine inadequacy and therefore may be an injury too threatening to reveal. [p.80]

There is a tendency, however, to understand male and female sexual assault as congruent. Yet there is a need for caution in accepting such small sample surveys of male rape as typical of male rape survivors generally, particularly where it is understood that the majori-