ideological acceptance of the economic structure existing in a given society.[2]

He concludes from this that the 'ideological conformism' of Rawls' theory to the capitalist economic structure limits its cognitive value.

The second paper written from a Marxist standpoint is devoted to a consideration of egalitarianism. Ferenc Feher and Agnes Heller, both members of the Budapest school who left Hungary in 1977 and are now resident in Australia, depict the drive to equality as a socially valuable monitoring system. They argue that egalitarianism cannot be consistently implemented, but must be recognized as a set of principles which have an indispensable function. The argument of the paper is a determined attempt to work out the conflicting considerations which need to be accommodated in a just society, but it is conducted at a level of theoretical abstraction which makes heavy demands on the reader.

Egalitarianism is viewed less sympathetically by Julius Stone, as his title "Justice not Equality" conveys. Stone also makes demands on his reader, mainly because his argument regularly relies on allusion rather than explicit presentation of his case. But his discussion of the cases of Bakke and De Funis is illuminating, successfully demonstrating some confusion in Dworkin's analysis of the latter. His concluding appeal that we must not "continue to seek shortcuts to justice through mirages hovering over the slough of equality" is memorable.

Alice Tay's paper has a slightly different character, but will be of especial interest to lawyers. Following F. E. Dowrick, she seeks to show that the common law is permeated with a sense of justice. Although there has been an attitude of suspicion towards comprehensive theories of justice, the common law is shown to have developed so as to embody a set of requirements which are recognizable as elements of that justice of which the theories aspire to give an account. The judgment of Lord Denning in *Dutton* v. *Bognor Regis Urban District Council*[3] is quoted extensively as a dramatic illustration.

Overall, there is much that is stimulating and illuminating in this collection. Its editors deserve our gratitude for their enterprise in producing it.

LES HOLBOROW*

The Modern Law of Copyright, by Laddie, Prescott and Vitoria, London, Butterworths Pty. Ltd., 1980, lxiv + 733 pp. $103.50.

It should be made plain that this work is destined to be the classic in the field. There has been nothing like it to date, and the eminence

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[2] At p. 146.
[3] [1972] 1 Q.B. 373 at 397-398.
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attained by the authors will daunt all hereafter who write on the subject of copyright.

The appearance of an authoritative examination of the current law of copyright has been much needed. It is an indication of the rush of events that since the authors of this book put down their pens in February 1980, the House of Lords has decided no less than three cases which will require close attention when the authors prepare the second edition of their work.[1]

The authors are all in active practice at the English Bar, and in their book there are manifest the fruits of their experience in advising clients, in marshalling evidence and in persuading judges to a correct view of the law. The plain fact is that a subject such as copyright can be tackled effectively only by an author who is both a scholar and a practitioner. Such a person would be hard to find. The publishers here have located three of them.

Thus, the reader can approach the discussion in this book of the *Anton Piller* order confident in the knowledge that one of the authors has been described by the Master of the Rolls as the true and first begetter of that remedy.[2] Where else is one to find as succinct a statement of principles governing the grant of interlocutory injunctions in the post-*Cyanamid* era? For Australian practitioners two points of particular interest appear from that statement. The first is the authors' view (at pages 430-432) that the 1975 decision of the House of Lords[3] did significantly depart from the basic approach previously taken in England in dealing with applications for interlocutory injunctions. In Australia, attempts have been made both by the New South Wales Court of Appeal[4] and by the Full Federal Court[5] to reconcile what was said by Lord Diplock with what had gone before, particularly in the High Court of Australia. But, as Sir Anthony Mason has observed, such attempts are as cogent as most efforts to prove that black is white.[6] The second point of local interest is the statement (at page 431) of the English practice on interlocutory applications as being one where evidence is given on affidavit "almost always" without the opportunity to cross-examine. In this country (at least in New South Wales and in the Federal Court) cross examination is the rule rather than the exception and, indeed, failure to cross-examine is likely to

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[1] *Chappell & Co. Ltd* v. *Redwood Music Ltd* [1980] 2 All E.R. 817; *Infabricks Ltd* v. *Jaytex Ltd* (1981) 7 F.S.R. 261; *Rank Film Distributors* v. *Video Information Centre* [1981] 2 All E.R. 76.

[2] *Rank Film Distributors Ltd* v. *Video Information Centre* [1980] 2 All E.R. 273 at 279, now reversed by the House of Lords [1981] 2 All E.R. 76.

[3] [1975] A.C. 396.

[4] *Shercliff* v. *Engadine Acceptance Corporation Pty Ltd* [1978] 1 N.S.W.L.R. 729 at 736.

[5] *Transport Workers' Union of Australia* v. *Leon Laidley Pty Ltd* (1980) 2 A.L.R. 589 at 593, 599-600.

[6] "Declarations Injunctions and Constructive Trusts; Divergent Development in England and Australia" (1980) 11 *Univ. of Qld. L.J.* 121 at 128.

draw adverse comment from the Bench. On the other hand, there is continuing judicial complaint here that interlocutory injunction applications often consume too much time. This is true, but the answer lies in the hands of the judges who show little awareness of, let alone desire to emulate, the English practice in these matters.

Of course, not all interest in copyright is of a litigious nature. Many working in the field are occupied with consensual commercial exploitation of copyright. Licences and assignments in this field, as elsewhere, can be tricky things. Here again, the present work is of great value. Nowhere else is there to be found anything like the full treatment here of, for example, publishing agreements.

Use is made of Australian and other Commonwealth and United State authorities, although one would have wished to see references to the judgments of Windeyer, J. in *Pacific Film Laboratories* v. *Federal Commissioner of Taxation*,[7] and McLelland, J. in *Moorhouse* v. *Angus & Robertson (No. 1) Pty Limited*.[8] Further, some care will be necessary on the part of Australian practitioners in adapting to local conditions a good deal of the ground covered in this book. Interlocutory injunctions have already been mentioned. The Design Copyright Act 1968 was not followed here with the result that inter-action between the copyright and designs legislation is different from that in Britain. Indeed, a thorough revision of the Designs Act 1906 is only now before the Commonwealth Parliament in 1981.

It is only to be expected that on some aspects of the subject one would have wished from the authors either a fuller or a different treatment. For example, the attitude of equity to revocation of licences is dealt with (at pages 356-357) in a manner which one would hope any graduate of this Law School would regard as quite inadequate. Again, the concept of "authorization" of infringement (a topic of great practical importance in this age of widespread sale of home-taping devices) receives discussion (at pages 403-405) which stops short of grappling with the United States concept that "authorization" really is a form of vicarious liability for the infringement in question: *Gershwin Publishing Corp.* v. *Columbia Artists Management Inc.*[9] Further, the treatment (at page 74) of the question of whether there can be a fair dealing with an unpublished work does not put forward any guiding principle which would enable one clearly to decide that a dealing by a thief or the associate of a thief could never be fair; this has recently received the attention of the High Court of Australia (albeit on an interlocutory application) in *The Commonwealth* v. *John Fairfax & Sons Limited*.[10]

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[7] (1970) 121 C.L.R. 154.
[8] (1980) 6 F.S.R. 231.
[9] 443 F. 2d 1159 (1971); *RCA Corporation* v. *John Fairfax & Sons Ltd.* (1981) 34 A.L.R. 345.
[10] (1980) 55 A.L.J.R. 45.

The writing is clear and forceful. Thus, the High Court of Australia is taken to task for its treatment in *Time-Life International (Nederlands) BV* v. *Interstate Parcel Express Co. Pty Limited*[11] of the liability of a local importer of a book who claims under a chain of title that goes back to the foreign copyright owner but which does not include the local exclusive licensee. And there is much wit. Why wit is seen by many lawyers as inappropriate to legal writing is a mystery. Is it thought that ponderous expression will be taken as indicating profundity of thought? Here at last is an English text book which glides elegantly and epigramatically to the heart of the matter. Of course, one can't expect everything. The contraction of English vision, so apparent in recent times, affects even these authors. Who else but the English, locked into Europe, could look out to announce (at page 383) that Australia is a country "to whom (*sic*) international trade is comparatively unimportant"? And what will Victorian lawyers make of the assertion (at page 418) that "*Pollock* v. *J. C. Williamson* [1923] V.L.R. 225" is a South African decision?

W. M. GUMMOW*

Cases and Materials on Industrial Law in Australia, by R. C. McCallum and R. R. S. Tracey, Butterworths, 1980, xxviii + 652 pp. (including index). $45.00 (hard cover), $34.50 (limp.).

Books of cases and materials on various branches of the law have now become common in Law Schools. Even so, their usefulness, and their legitimacy, can still be the subject of debate. Their supporters say that they are almost indispensable for teaching by the case method (a method available only to those Faculties fortunate enough to have sufficient staff to teach in the small groups so essential for case method instruction); that they free students from time consuming clerical work and free them for intellectual activity; and that inadequate library facilities make them the only practical way to see that students have some access to the contents of the law reports. Detractors of case books might argue that they "spoon feed" students and that they deny them essential research experience in locating, wrestling with and digesting cases for themselves. (A judge also recently complained to the reviewer that case books were being misused, in that new practitioners were quoting from them in court, instead of from the law reports. The misuse is clear, but the fault, if any, lies with the branch of the profession responsible for the practitioner's practical training). The form and content of these books is also contentious. Should they

[11] (1977) 138 C.L.R. 534.

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