

the best the Privy Council has done little more in this field than resolve deadlocks or quieten the dissents which had beset decisions of the High Court.

It would, however, not give a true balance to this book to make special claims for one chapter; its quality is uniformly sound and if, as has been predicted, the present body of constitutional doctrine remains reasonably static for a little time in the future, it should prove a most useful text book for students and lawyers for many years to come.

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A Multitude of Counsellors—A History of the Victorian Bar, by the Hon. SIR ARTHUR DEAN, Kt., Q.C., LL.M., Hon. LL.D. (Melb. and W.A.). (F. W. Cheshire Pty Ltd for the Bar Council of Victoria, Melbourne, 1968), Contents and Introduction (pages unnumbered), pp. 1-327; Index pp. 329-332. Price \$10.50.

'The dependency, in our system of law, of the Bench upon the Bar can hardly be exaggerated.' So spoke Sir Owen Dixon in Perth in 1952. It is in part that dependency which renders necessary the mention in the law reports of the names of counsel and of a summary of their arguments. (Why the practice of the Victorian Reports not to record any argument at all is tolerated by the Council of Law Reporting this reviewer cannot understand). For an appreciation of the precise weight to be accorded to any reported case a good deal must be known about the judge, including his professional life before he reached the Bench, and about the counsel by whom and about the way in which the case was argued. It is assumed, for example, that any dictum by Weigall A.J. upon a point of equity must be seriously regarded, for while he was only an acting judge of the Supreme Court of Victoria for little more than three years he was for about twenty years the undisputed leader of the Equity Bar. No argument by the late Stanley Lewis upon a point of practice, (and it is probable that every practice point that could be argued was argued at one time or another by Stanley), ever omitted any relevant consideration. Examples might be multiplied.

It is therefore not merely for entertainment that we lawyers seek to know something of those of our profession *qui ante nos in mundo fuere*, as the old student song has it. While judgments deemed worthy of reporting are preserved and with them something of the judges, little is known of Counsel after a generation or so. Their names and their deeds are entombed in the urns and sepulchres of mortality and all that their successors commonly may know of them is what may be gathered from brief mention in the law reports. The labours of such as Sir Arthur Dean are accordingly of far more importance than the casual reader would realize. Unless succeeding generations of counsel know of what manner of men their predecessors were, under what conditions their work was done and what the nature of the society in which they lived was, much of what is essential to a proper understanding of the law as stated in the authorities cannot be known. Moreover, the members of the Victorian Bar in particular, when they think of the future, need to know the history of their Bar as an institution. It has in remarkable fashion succeeded in preserving itself *de facto* as a separate entity despite the statutory amalgamation of the two branches of the profession in 1891 and various attempts in the succeeding years to make that amalgamation a fact.

Apart from Forde, *The Story of the Bar of Victoria* (1913) which professed to carry the story up to the amalgamation of 1891, nothing in the nature of an historical account of that Bar existed before Sir Arthur's work. Forde's book is interesting but he was a journalist and not a lawyer, and his volume suffers accordingly. The late P. A. Jacobs of counsel taught many of us in delightful fashion at bar dinners much about men of the early years of this century and some of this he published in newspaper articles and in three books of legal anecdote. Tradition preserved something; but with the relatively recent rapid expansion of the Bar it became probable that such tradition as existed might die out. And so the Bar Council entrusted Sir Arthur Dean on his retirement from the Bench in May 1965 with the compilation of materials for this history and ultimately with the writing of it.

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The result is a most valuable addition to local legal literature. It is no mere chronological record of an institution. While there is an account of the history of that institution which furnishes as it were the flow of the narrative, at appropriate intervals the flow is interrupted. The history of the Colony and State in which barristers played a great part cannot be and is not disregarded. And there are accounts of various causes célèbres which inform us of the types of litigation and of litigants with which our predecessors were concerned. Further, Sir Arthur has in each period selected a few leading counsel and of these he has given us, somewhat after the manner of John Aubrey, brief lives. The judges are not neglected—after all many of our most distinguished counsel did ascend and sometimes adorned the bench.

Now to say this is perhaps to say no more than that the book contains to a greater or less degree what one might expect it to contain. And indeed it does contain a very great deal of information. But some of its value lies in the fact that it does not fail to record many of those legends which gather round all leading figures at the Bar, and which, apocryphal or not, often tell more of the man than the formal records. Sir Arthur tells us of Aspinall who to the suggestion from the Bench that he was trying to show his contempt for the Court, replied that he was merely trying to conceal it. We learn of Maxwell's unshaken belief in his client's innocence despite the fact that at the committal proceedings he had pleaded guilty to an unnatural offence, for 'he didn't know the meaning of the word'. Will Lewers' verses read at bar dinners linger in the memory, and shed a flood of light upon their subjects. The irascible Sir James Macfarlan, designated by Lewers 'the gentle James', was thereafter almost always so referred to by one who soon became his judicial colleague and who long survived him. Sir Arthur Dean has judged wisely in deciding to include much material that a more austere author might have thought rather too light for inclusion in a serious history.

Three chapters are by other hands. Sir Philip Phillips Q.C., contributes one on legal education and admission to practice. This is a most valuable contribution: he shows that legal education in Victoria has been for most of our history dependent on the University of Melbourne where until lately a great part of the teaching of professional subjects was done by practising barristers, (Sir Leo Cussen, Sir Frank Gavan Duffy and Sir John Latham were at different times of their number). The problems arising from modern developments whereby the teaching is now very largely done by academic lawyers are posed. They need close attention. Mr F. M. Bradshaw of counsel treats of the various buildings in which counsel have had their chambers since the fifties of last century. Temple Court, Selbourne Chambers, Equity Chambers and since 1961 Owen Dixon Chambers each in its own way has had a marked influence upon many aspects of the life of the Bar. Mr R. G. de Griffith Q.C.'s account of the buildings successively built to house the Supreme Court shows, as does much of the rest of the work, that the Irish Bar and its practices undoubtedly dominated the Victorian Bar in its formative years, and the influence persists.

A more careful proof reading would have corrected many irritating minor errors and indeed some inconsistencies in dates and the like. Surely the dates attributed to the Bar Cricket Teams in the photograph facing page 80 should be transposed? Walter Sproule, shown in the team said to be 'c. 1900' did not come to the Bar until 1904. The frontispiece—an excellent portrait of Sir Owen Dixon—is untitled except in the list of illustrations which appears on an unnumbered page, which according to the Table of Contents should be xv. None of the pages preceding Chapter 1 is numbered, and all are obviously bound in the wrong order. The publishers must bear the responsibility for this.

In the passages dealing with 'Men of the Law', one feels that less than justice has been done to those who in the late 19th and early 20th century practised principally in equity (surprisingly, for in this field Sir Arthur's own distinction was high). Little or nothing is said of the law reporters or of text books produced by members of the Victorian Bar. The name of William Paul merits mention both as reporter and as author. But what to include and what to omit, as the author states in his preface, present problems and so solution would satisfy all readers. Any other author than Sir Arthur would certainly have had something to say of the unique place at the Bar his knowledge of the law relating to industrial property gained for him.

On the first reading of any history the interest of the story should carry the reader on and here *A Multitude of Counsellors* succeeds admirably. When the book had been read through, this reader found himself returning to it time and again, to refresh his memory of something which had excited his interest and of which before his first perusal he had known little or nothing. Any young man proceeding to the Victorian Bar should read the book. Those already at the Bar will profit from doing so. Any Victorian lawyer will gain from it a greater understanding of the profession as it is in Victoria today. As the late Sir Charles Lowe said in the introduction: 'I cannot foresee the time when *A Multitude of Counsellors* will not be an inevitable and invaluable source of reference to the Bar and a source book for historians in the future'.

These are fitting words used by a most distinguished member of our Bar to characterize a most notable work.

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Divorce, Society and the Law, edited by H. A. FINLAY, B.A., LL.B., Senior Lecturer in Law, Monash University. (Butterworth & Co. (Aust.) Ltd, Sydney, 1969), pp. 1-127. Price \$3.25.

This book stems from a symposium sponsored by the Faculty of Law of Monash University. The immediate aim of the symposium was to introduce students of Family Law to the views of lawyers and workers in other professional disciplines on the problems arising from marriages which have broken down. Lectures were delivered by a psychiatrist (Dr G. Goding), an expert on marriage guidance counselling (Mr L. V. Harvey), a legal practitioner (Mr T. A. Pearce), a Judge of the Supreme Court of Victoria (Mr Justice Barber), a sociologist (Professor M. G. Marwick) and a social worker (Mrs Concetta Benn). The publication of the papers extends their usefulness beyond their original purpose. The book deserves a wide readership.

The symposium recognized a vital need in the teaching of Family Law. Important as it is for the student to study the framework of principles and rules erected by legislation and judicial decisions, knowledge of these alone can give him only a restricted and unreal view of many aspects of the subject. Because of the elusive nature of the human relationships with which this area of the law is concerned, legislation can often propound only vague, abstract formulae, which are meaningless to the student unless an attempt is made to show how they are applied in practice. Reported judicial decisions offer only limited insights into the general operation of the law, for they are usually concerned with highly abnormal situations.

Professor Kahn-Freund has argued that to teach Family Law in terms of 'case law' is 'to act like a professor of medicine who not only teaches pathology to students knowing nothing about the anatomy or physiology of the healthy body, but who teaches pathology in terms of the rarest diseases'.¹

In seeking to show students how the law works and to provide them with a basis for assessing its social efficacy, the research and experience of workers in the social and behavioural sciences can often provide more illuminating teaching materials than orthodox legal sources. There are, of course, difficulties for the teacher, both in finding non-legal materials which deal with the appropriate issues in a way which will be attractive and enlightening to the law student, and in using them effectively in his teaching. These problems have given rise to interesting differences of approach amongst the authors of American course books on Family Law, and teachers have discussed them at some length in American law journals.² They are now presenting themselves in Australia, where Family Law has only recently won a respectable place in the curriculum of most Law Schools.

Teachers will be grateful for the initiative of the editor of *Divorce, Society and the Law*. The book will certainly be recommended reading for Australian Family Law students. It must be admitted that the lectures are not of uniform quality; some are much better organized and more informative than others. Nevertheless, the law

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¹ Kahn-Freund, 'Observations on the Possible Cooperation of Teachers of Law and Teachers of Social Science in Family Law' (1956) 9 *Journal of Legal Education* 76.

² See, for example, Levy, 'The Perilous Necessity: Non-legal Materials in a Family Law Course' (1963) 3 *Journal of Family Law* 138, and other articles cited therein.