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.

J. G. NORRIS*

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.

student who reads this book will approach his study of divorce law with a broadened understanding of the origins and nature of the strains to which marriages are subjected, and a more realistic view of the impact of the law upon the parties to troubled marriages.

But the book is not to be judged only as a teaching implement. The authors have much to say which is of wider significance.

Two themes pervade the lectures. The first is the disturbing lack of basic information about the extent of marital disruption in Australia and its social and economic ramifications. We know the number of marriages which end in divorce or death, but little attention is paid to other forms of marriage breakdown. Little is known about the spouses and children who are deserted, separated or involved in *de facto* relationships. By the time the reader comes to the last lecture, he is ready to agree with Mrs Benn that it is an indictment of our society that 'social research in this area is practically non-existent. No only is society doing little to prevent or alleviate the effects of marriage breakdown but the exact size of the problem is completely unknown' (p. 121). It seems clear that persons affected by divorce are easily outnumbered by those involved in the other forms of disruption. It is plausibly argued by the lecturers that marriages which degenerate into desertion, separation or empty shells produce consequences which are personally and socially more disastrous than those which end in divorce. Indeed, divorce is regarded by the non-lawyers as a desirable means of release from a marriage which has clearly come to an end; it avoids the evils of other forms of marital disruption, and frees the parties to enter into legally recognized and socially fruitful second marriages.

The other theme which links the lectures is the contributors' dissatisfaction with the Australian law of divorce. Mr Justice Barber and Mr Pearce contend that it falls short of every element of the objective of a good divorce law as propounded by the Law Commission in England: 'the support of marriages which have a chance of survival and the decent burial with the minimum of embarrassment, humiliation and bitterness of those that are indubitably dead'.[3] The general trend of their arguments will be familiar to those who have followed the continuing debate on the reform of divorce law in England. These views have not previously been espoused so forthrightly by distinguished Australian lawyers. Mr Justice Barber calls for 'a complete re-thinking and re-drafting of the whole subject of family law' (p. 82) and he and Mr Pearce both advocate the establishment of specialist family courts.

The other lecturers make it clear that they also find that the law does not fulfil the social function they envisage for divorce. They see its adversary procedures and its preoccupation with matrimonial offences as superficial and prejudicial to a constructive re-adjustment of the relationship between the parties to a failed marriage. They see the parties as victims of social pressures and their own personality and behavioural inadequacies, and the law as exacerbating their plight: 'a considerable degree of psychological trauma to children and adults involved in divorce is due to a legal approach to divorce which is basically punitive' (p. 36). The provisions of the Matrimonial Causes Act which aim to promote reconciliation are 'virtually useless' (Mr Justice Barber, p. 75), 'futile and a waste of time' (Mr Pearce, p. 57). Counselling is hampered by the constant fear that attempts to revive a marriage will prejudice the legal position of the 'innocent' party (pp. 42-43). It is argued that the law 'forces people to choose ways out of the marital partnership which cannot receive legal sanction, and forbids them the fruits of a legal and more satisfactory second marriage' (p. 115).

Apart from their call for specialist family courts, the authors offer no recipe for reform. That was not their task. The immense complexities which beset attempts to devise a divorce law which satisfies the Law Commission's objectives are all too apparent. They are emphasized by Mr Justice Barber's cogent criticisms of the English Divorce Reform Bill, which, at the time of writing, is still under debate. His Honour argues persuasively that the Bill retains the worst features of adversary litigation and the need to establish matrimonial guilt, while adopting the more dubious aspects of the inquisitorial system proposed by the Archbishop of Canterbury's committee (pp. 79-82).

The Matrimonial Causes Act 1959 was rightly regarded as a great advance on the

3 *Reform of the Grounds of Divorce: The Field of Choice*, Cmnd. 3123, paragraphs 13-18, 120 (1966).

legislation which it replaced. It has been hailed as reaching 'a peak of legislative excellence unequalled in the countries which have inherited the English tradition as to marriage and divorce'.[4] Such exuberant acclaim cannot be sustained indefinitely. *Divorce, Society and the Law* gives considerable impetus to the view that much work needs to be undertaken now to provide a basis for an early review and remodelling of Australian divorce law. As Mr Justice Barber says (p. 77), any sense of satisfaction with the 1959 Act is only maintained by looking backwards.

DAVID HAMBLY*

No Peace—No War in the Middle East, by JULIUS STONE, the Challis Professor of International Law and Jurisprudence, University of Sydney. (Maitland Publications Pty Ltd, Sydney, 1969), pp. 1-40, Bibliography (including abbreviations) 41-42. Price $1.

On the 22nd November 1968, the material contained in this booklet was delivered by Professor Stone as an address to the annual meeting of the Australian Branch of the International Law Association. Appropriately, that day was the first anniversary of the November Resolution of the Security Council which called for 'a just and lasting peace in the Middle East'. It follows on from a lecture which he gave to that branch of the International Law Association on October 18 1967, and which has been published also as *The Middle East Under Cease-Fire*. The work now being reviewed is an interesting case study of an important and still current international legal problem which all students or interested observers of international law ought to read in order to see the difficulties surrounding the actual application of rules of international law. The author has looked at the 'Legal Problems of the First Year' and he begins with a short description of the factual background and an outline of those problems. He has concisely analysed the political and legal positions of Israel and the Arab States concerning the implementation of the November Resolution but not unnaturally he has been unable to cover the topic as completely as say, the very useful Symposium on The Middle East Crisis.[1]

The effect of Cease-fire agreements is examined and of course such agreements without more do not prohibit the States who consent to them from re-arming and building up their military forces so there can be no complaint from either side in respect of this type of activity. However, as the author quite rightly says, Cease-fire agreements 'mean exactly what their name conveys. They forbid all hostilities across the lines'; but the evidence adduced shows that the present agreements have been broken repeatedly by the Arab States. In fact, as is well known, those States openly claim 'credit' for certain of the breaches which have occurred. The Arab States have the most to gain from this sort of conduct both because of their refusal to recognize Israel and because Israel's defence problems have been magnified by the occupation of territory won during the 'Six Days War'. In addition one of the Super Powers is supporting the Arab States whilst there is no continuous support for Israel and in these circumstances Israel could find world public opinion marshalled against her if she took action in the territory of any of the Arab States. At the level of the United Nations one finds that the composition of the present non-permanent members of the Security Council is heavily weighted against Israel so that any Israel infringement of the agreements would lead to a severe censure by that body.

The Cease-fire agreements which terminated the 'Six Days War' took the form of Security Council Resolutions which were formally accepted by Israel and by only three of the fourteen Arab States which participated in that war. The point is made that it is legally curious that this situation has been allowed by the Security Council to continue, that is that insufficient pressure has been brought to bear by that body on the other eleven states to compel them to accept the Cease-fire resolutions. It is submitted by this reviewer that the reasons for this 'legal curiosity' are quite obvious and lie in the realm of power politics, albeit in disguise.

4 Toose, Watson and Benjafield, *Australian Divorce Law and Practice* (1968) vii.

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1 Halderman (ed.), 'The Middle East Crisis: Test of International Law' (1968) 33 *Law and Contemporary Problems* 1.