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Book Review

Stanley E. Harper Jr.
Salmon P. Chase College of Law

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flourished several hundred years ago in the very citadels of learning.³ And today countries run amuck despite the availability of knowledge which renders their beliefs and behavior fatuous. The connection between knowing something and doing the same thing still needs extensive exploring.

³ The similarity between the "reasoning" of demonologists and the tortuous explanations of contemporary psychoanalysts is rather striking.

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*Reviewed by Stanley E. Harper, Jr.**

THE LAW SCHOOLS LOOK AHEAD, 1959 CONFERENCE ON LEGAL EDUCATION. Proceedings of the 1959 Conference on Legal Education and Contributions by the Participants. Foreword by Charles W. Joiner. Ann Arbor: The University of Michigan Law School, 1959. 328 pp. \$4.00.

This is a good book. I got the book kind of late, and maybe somebody else has reviewed it, but since I'm from a small law school, I thought I'd like to tell the teachers in the other small law schools that they ought to read it. Teachers in small schools don't have big libraries and so they don't read much except for *Reader's Digest* and *The Saturday Evening Post*. Teachers in small schools can get this book for \$4.00 in paperback. It may be more expensive than Shakespeare's tragedies in paperback, but it is worthwhile. The book is a little disturbing and confusing at times, and I didn't get the sharp focus that I get on Channel 5, but then I'm much closer to the television transmitters where I live. I'd like to say that we *should* be disturbed in these disturbing times.

The book is printed on good paper and printed with what looks something like a typewriter, but they make the lines come out even on the right hand margin so that it looks very neat. The type is clear.

But how did the book get written in the first place? The University of Michigan Law School sent out invitations to lawyers and law school teachers and other college teachers. These men got together from all over the country in Michigan at the law school. They were eager and sincere, and they had come

* Professor of Law, Salmon P. Chase College of Law, of Cincinnati.

to collectively see where the law schools were going and bring out the best thinking. This is hard to do. But businessmen do it at places like Nova Scotia and Colorado Springs. They are usually brought together by some other businessman who wonders where the world is going—to hell in a handcart—or where. We used to do that when I was a boy in Presbyterian Church, and we called it Retreat. There we wondered where we were going when we grew up, what with the depression and Hitler coming on.

At Presbyterian Retreat we divided down into boys and girls and then discussed the problems at hand. Someone later told me who had read Thurber that that kind of arrangement only magnified the war of the sexes and got in the way of what we were trying to do. At Michigan they did it differently. They divided up into colors. They had a red team, and a blue team, and a green team, and an orange team, etc. In short, they had solid colors without particular reference to the various pastels within the spectrum. This arrangement proved to be very good because when the different groups reported back you could see the different colors in their views. You might say that here was a picture of where the law schools are going or ought to go put together with bold strokes of imaginative realism that formed a subjective continuum.

But I didn't quite see it that way, perhaps because I do not have enough background to face the future. I saw the colors blending more into a kind of gray, more like the fog off Martha's Vineyard on a still, damp morning. Mind you now, I caught glimpses of the shore where the law schools are headed, but the sun just wasn't up high enough for me to get a good view.

But to get more specific, the groups had some general points. Such as that the law schools are not doing what they could or should be doing. For example, they should be educating men for where the world is going to be thirty years from now. And I agree because this is good American optimism. Also they thought that the law schools should turn out completer men, and I don't use the term completer lawyers. They should be completer men because lawyers lead the world. Take Lincoln for example. Look what legal education did for his completeness. He could trip up a witness by pointing out to the judge that the moon didn't shine that night or he could lead his country through disturbing times. Or take Tonybee or Freud or Darwin or Stalin or Schweitzer—these are the men who make the policy in the world

and provide its leadership just as lawyers are supposed to do. This was an awakening for me, and I know it will be for you too. It excites me and calls to mind Plato's philosopher kings. And here is the good part, all of us as law teachers have the tools at hand to make these complete-man philosopher-kings.

We simply come out of our common law shells and make these youngsters policy conscious through science! Too long, I say, have we followed the courtly muses of the common law! We must stand on our own legal feet!

Now let's take an example, and don't think I'm old fashioned just because I am making my example hypothetical. I will show what lawyers did a hundred years ago and what they do today, or what they ought to do tomorrow. Suppose a lady had a cow and she went out at night to milk it with a lantern in the city. She gets careless and the cow kicks over the lantern, and because the wind is in the right direction, the whole town burns. Now the damage is done. But what did the common law in its narrow little shell do about it? It drew a line somewhere around Clark Street or Jackson Boulevard (my example is in Chicago) and called it proximate cause. Everybody north of the line could recover, and everybody south of the line was out in the cold. And as a practical matter very few people north of the line could get much out of a burnt out lady even if they filed suit. That was how the law was in the old days.

But today, in preparation for tomorrow, we teachers would have a course called Tort Policy. In this course we would take the same example but handle it differently. Thus we would suggest to the students how to plan ahead on the problem and not wait until the damage was done—like waiting for someone to drop a dish and picking up the pieces after it fell when you could grab the dish and prevent it from falling. We would present it as a problem and ask them to solve it through group discussion. We would hint that there ought to be a plan-ahead law that would keep the cows in the stockyard without any lanterns around. And then we would go into greater depth on that and ask what the health and economics and sociology behind the law was. And then we would ask them why not plan ahead and have a law that would have buildings only made out of stone and other noncombustibles so that if a boiler exploded only a block would go instead of the whole town in spite of the wind. The students would have good ideas on that and get social insight into the whole problem. And then finally, suppose a block

went up, would the boiler man be able to pay for that? We would suggest that you look ahead on that too. A law would be passed wherein everyone in the city would pay so much into a fund handled by the city. If you burnt out, you would simply go to the fund and get the money and not worry about suing anyone. We call this social risk sharing without reference to fault. And then you might remind the students that in Chicago at Chicago Avenue and Michigan Avenue there is an old tower made of stone standing there. It was the only thing left standing after the great fire. And you might let that serve as an historic object lesson about a society that didn't have enough foresight to plan ahead through laws about cows.

Of course, there are other courses besides torts to plan through science for the long range policy view. But now that you have the idea you can go out on your own. The narrow little common law was based on Adam Smith, and he was pretty much for letting things go along the way they were. But today things are different and we have economics, and sociology, and science, and we know how to plan things. The trouble is that the sociologists and economists and scientists haven't been doing a very good job. They have been planning things, but not very well. What they need is co-ordination, and the law—which is the center of the universe—can co-ordinate things. We have got to get our students to go out and lead and co-ordinate, and that roughly is where the law schools are going. Now don't mistake this sort of thing for socialism or that old bromide the welfare state. This is scientific planning ahead to preserve democracy as our forefathers knew it.

Some people in the groups must have dissented from what I thought the groups saw as to where the law schools are going.

But the group saw other things. For one thing, they thought the law schools were not getting their share of good students. This is so because the students in college don't hear much about law and because advisers are always sending the good students off into science and sociology. But the law schools don't want to dictate pre-law because that would interfere with the completeness of the men we want. Probably what we'll have to do is send out ivory hunters like business does and grab off good seniors provided that they get a good score on the LSAT. The students we want are the broad ones who are scholars and who can write.

Of course, almost everyone thought that we should have—and this is most important—people who can write, that is, who have what they call communication skills. This is important as we know because people in law use words. Take my own case. When I was in a large state law school, one of the professors got hold of my exam paper among others and wrote an article in a teachers' journal about how English "is wrote," as he put it. I got angry and quit because I thought he was making fun of me. But then I saw the seriousness of what he had to say, and that he had hit me where I live, and I swallowed my pride and bought a grammar book and improved myself. I later finished at a night law school and became a lawyer. My English got me through. Today I can see the trouble with law schools. Not only can the students not spell well but their syntax is bad and they do not put their ideas together well. I am highly in favor of more communication skills before students get to law schools.

I have saved the most important group conclusion to the last. The groups felt that the world is growing smaller! We have automobiles and trains and fast ships today. And we trade with other nations. Even as far inland as Cincinnati, where I live, we trade with other nations. It doesn't take sixty days to get to Europe any more as it did in common law days (unless you go in a rubber boat as some daredevils do to little purpose). And in the background is the hovering spectre of the hydrogen bomb! We have *just got to get together* and understand each other the groups concluded. And if we don't the groups concluded—WHOOM—the whole world goes, not just Chicago. This is impressive.

But fortunately we law school teachers can see it through if we follow the group conclusion. We should teach comparative law! This does not mean comparing the New York rule with the Ohio rule, or the majority with the minority. It means comparing *foreign* law with our law to see how they do it. How would they handle the Chicago fire in France or in Caesar's Rome? You see, heretofore only anthropologists have been concerned with other nations. And they are only interested in artifacts and potsherds and culture patterns, all of which hasn't brought the world into harmony. We will get true insight on how to get together if we study the law of other nations. We may think we understand the Russians if we know something about the Communist Dialectic, but we would have a much truer insight into the Russian mind if we knew what they do

in the event that a woman gets injured by indirect concussions from some exploding firecrackers in a Moscow subway station. Of course, we would have to limit our study of foreign law to nations with Indo-European language traditions. There are very few among us who have communication skills in Islamic tongues, or even Sanskrit for that matter. If there are some law teachers among us who have only modest language skills, then I suggest at least one Berlitz course. A short-cut Berlitz course will thus not interfere much with the time you are spending on your economic or sociological research which you are conducting.

Now in conclusion I will answer the question, do I recommend the book? Yes I do. But be careful of the arrangement of the book. The summary is in the front part, and thus the arrangement is deductive. Ordinarily we law teachers are familiar with the inductive approach where the summary or conclusion, if any, is at the back. The deductive approach is new. It avoids the limiting exactness and overweening specificity of the inductive approach, as they say.

Now lastly I recommend that you read the book all in one setting. This is a rather long task but that way you get a thread of an underlying theme: that these are disturbed times and that the world is pressing in on us. This theme of pressing is like the man in the ad on the back of *New Republic* Magazine in which he is being pressed by the extreme right and extreme left. Obviously he reads *New Republic* and is saved. Or perhaps the theme of pressing is like the TV commercial in which your head is locked in a vice and jagged lines go through your stomach. The announcer drops a pill in a glass of water and the victim drinks in depth and everything relaxes. In the same way you will be pressed in by the book in one sitting. But if you drink in depth what it has to offer, why then after some thought, you will relax, for you will know where you and your law school and your students are headed.

Now some of you teachers in the small law schools will think that the people who wrote this book are trying to drag you kicking and screaming to where the twentieth century ought to be. This is not so. The conference was like an artillery battalion. All of us in the law are on the attack. And the conference is firing a heavy barrage up ahead to clear a path for us. I don't think any of their shells will fall short and kill some of us off while they are trying to help us.