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Book Review

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operates and in turn how the legal process functions. We cannot rightly expect understaffed and overloaded law school faculties to perform a miracle and give future generations of lawyers requisite training within present budget and plant limitations. Lack of manpower has frustrated many efforts at law school reform. Given adequate funds and intelligent leadership, law faculties will make the necessary changes. This will, of course, involve reeducation and training of law school teachers. Law school teachers by and large can be no better than the lawyers they educate. They are a product of the same institutions. It will involve, of necessity, elimination of vested interests in particular courses and case books. It will also require reorientation and reeducation of State Boards of Bar Examiners. It will involve pretty complete reorganization of course content. Most important, it will involve bold and creative thinking about method.

There is much material of value in this book and in other publications that can be used in preparing a program of law school reform. We must then convince the legal profession itself that it must give full support to such a program. After that our skills as lawyers in presentation and advocacy can be relied on to convince the community and boards of trustees that the time has come for a new deal for the legal profession.

ALEX ELSON†

RELIGION AND PUBLIC EDUCATION. By V. T. Thayer. Toronto: Macmillan Co. 1947. Pp. xi, 212. \$2.75.

THE author of this book is afraid that what he calls the "principle of Separation of Church and State" in America is being undermined by the teaching of religion in our public schools. He believes that education to be real must be secular. "It is indeed a primary function of the school" he says, "to communicate values such as respect for personality, tolerance, fraternity, love of the truth and the disinterested search for it. . . . But why need we confuse the issue by calling education of this character religious education? All values mentioned can find acceptance—and in fact, generally do find acceptance—in an atmosphere of religious and philosophical neutrality." He is even afraid that such a basic common denominator of religious principle as "the fatherhood of God and the brotherhood of man" would offend "the children of parents rapidly increasing in number who hold firmly to ideals but conceive of the moral life as a strictly human enterprise." He adds significantly that "people of this persuasion constitute often the most intelligent members of a community."

Dr. Thayer's book is thus not merely a protest against religion in the public schools, but an argument against the essentiality of religion anywhere. It is interesting to observe that the strongest protests now being made against the offense that would be given to "Catholic or Jew, to Jehovah's Witnesses or Christian Scientist" by religious teaching in public schools comes from those who deny the social necessity of any religion whatsoever.

This doctrine of "the moral life as a strictly human enterprise" is the philosophical basis of Dr. Thayer's entire argument. It is so much more challenging than "released time," "compulsory bible reading" or the daily

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Lord's Prayer in public school routines, that the latter go into complete eclipse when this book is considered in perspective. For Dr. Thayer is not merely contending for the secularization of public education, he is arguing for the secularization of American Life with all of the revolutionary effects which such secularization would surely have upon our American social and constitutional order.

The "principle" of Separation of Church and State which Dr. Thayer uses as the anchorage of this discussion is, in historical and constitutional fact, no "principle" at all. Many years after the adoption of the First Amendment to the Constitution of the United States, the "policy" and "practice" of disuniting State Governments from particular and organized denominations of religious belief became universal in this country. All of our early American governments were officially "sectarian" in one form or another. This sectarianism became impractical and undesirable as religious differences multiplied in the population of all States. It was consequently abandoned, not because of any conviction that "the moral life" is "a strictly human enterprise," but to remove official discrimination against those sects of religion that were not united to the government. The idea of a "natural" as distinguished from a supernatural moral code of human conduct is an interesting and provocative one, but it certainly does not stem from the First Amendment or from any political, social or constitutional theory that merited serious public discussion in America from the discovery by Columbus to the War between the States. The Declaration of Independence united God, religion and government in America as firmly and as inextricably as clear language could be made to do it. The Founding Fathers unequivocally believed with Blackstone that the punishments of the law were aimed at "the abuse of that free will which God has given to man." With Tom Paine they likewise believed that human government "is, like dress, the badge of lost innocence, . . . for were the impulses of conscience clear and uniformly and irresistibly obeyed, man would need no other law giver."

Without the wholesome effect of the Ten Commandments upon individual conduct and thus upon the social order, none of the men who set up our constitutional and legal system would have had the courage to expect anything but chaos to result from their handiwork. Washington summed up their point of view on "natural" morality in his Farewell Address:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. Reason and experience both forbid us to expect that natural morality can prevail in exclusion of religious principles."

To present "natural morality" as an interesting and challenging proposal for the future guidance of humanity is one thing, but to brief it into an "American principle" amounts to a complete misrepresentation. If any one wishes more evidence on the subject let him read the opening sentence of his own State Constitution.

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