

To informed British readers the title of this book will instinctively recall the long and fruitful debate between Lord Devlin ('Real crimes are sins with legal definitions . . .') and Professor Hart ('There is no evidence that the preservation of a society requires the enforcement of its morality "as such". . .'). Basically a set of public lectures, this American book by a professor of law moves along different lines, however, and it is designed to stimulate and challenge rather than to demonstrate by proof. If the author's tone strikes us as 'enthusiastic' or 'exalted' we might remember that in present conditions this may be the price required of any attempt to restore to law its human worth and imaginative possibilities. It is symptomatic that one of the most ambitious and acclaimed of recent theories of justice should aim at being 'a kind of moral geometry' (Rawls).

Given an ample definition of religion (man's sense of the holy) and of law (man's sense of the just), the present social crisis we find ourselves in is attributed in part to a too radical separation of these two factors and a general loss of confidence in them. The now prevalent secular-rational view of law is said to be inadequate because law involves man's whole being, 'including his dreams, his passions, his ultimate concerns' (p. 31) and anthropological studies are said to demonstrate that law shares with religion the four elements of ritual, tradition, authority and universality. This gives legal values their 'sanctity' and makes them part of our yearning for transcendence. Law, then, has a religious dimension. While retaining the ample definitions of religion (democracy and socialism are 'secular religions') the above generalised statements are to be given sharpness by looking at the varying contributions made by Christianity and its derivatives to Western law. An interesting crop of items sprouts on the way: the number of different legal systems under which at any one time we have lived and live; the contribution of the Reformation and its aftermath to positivism, to the emergence of a more individualistic view of social and legal relations, and to the notion of government by consent with protected rights. Here, as elsewhere, the author's deep knowledge of the Soviet system is evident; see

his excellent *Justice in the U.S.S.R.*, 1963. From this flows a special awareness of the educational and symbolic potentials of the legal process, the closeness of law to morals and the contribution law can make to fundamental change.

The lawyer rejects religion and the believer retaliates in kind. Chapter 3, therefore, sets out to show that 'the concept that grace excludes law no more withstands analysis than does the concept that law is dissolved in love or made irrelevant by faith' (pp. 98-9). Put graphically, what is objected to is the turning of religion into the private affair of individuals seeking to be unburdened of their loneliness, a cult of personal peace of mind. The concluding chapter is to take us beyond law and religion and it is one more attack on the narrow conception of knowledge and the 'I' so many still have. Visions of a new synthesis emerge beyond the surpassing of crippling dichotomies: subject and object, consciousness and being, individual and society, religion and law.

The book generates sufficient points and perspectives to make it a successful venture and the interlocking of theoretical concerns with practical detail gives it a strength familiar to those within the Common Law tradition. The sweeping nature of the enterprise and the occasional randomness of the issues touched on are reflected in the 32 pages of notes and bibliography. The inevitable generalisations do not normally risk being caricatures quite so much as do those on Thomism on page 113. But by the end, Berman should have engaged us to the point of leaving us feeling that law and religion and their dialectical interdependence matter vitally. And while we wrestle with our ambiguities and dilemmas we can remember Augustine of Hippo who, amid religious and political strife and acutely conscious of the precariousness and limitations of all earthly achievement, was brought to ask if in the darkness of social life a wise man could sit as judge or if he would not dare. The answer was: 'Of course he will sit. For the claims of human society bind him and draw him to this duty; to abandon it he would reckon wicked' (*City of God*, XIX, 6).

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