

Judge and jury are often called upon to settle the question whether a mentally disordered person could have controlled his action, on the basis of evidence of a kind which renders the whole debate unreal. But Hart objects to the proposal that once it has been proved in court that a person's outward conduct fits the legal definition of some crime, this, without proof of *mens rea* should be sufficient to bring him within the scope of compulsory measures, whether penal or medicinal. Such a reform, he maintains, involves an excessive interference with the freedom of the individual (even accidental blows would be punishable as criminal assaults) and leads to a Brave New World in which men have no chance of avoiding being used as means for the benefit of society, and in which the deterrent function of punishment is wholly lost to sight. Instead, he suggests that *mens rea* should continue to be a necessary condition of liability, to be investigated and settled before conviction, except insofar as it relates to mental abnormality; but such abnormality should henceforth be no bar to conviction, but only something to be investigated after conviction with a view to the most appropriate treatment of the criminal.

The second lecture begins by recapitulating the argument which Hart, as the heir of Mill has conducted against Devlin, as the heir of Stephen, concerning the dictum of the Wolfenden Report

that 'there must remain a realm of private morality and immorality which is not the law's business'. Hart does not here advance this argument, but considers the actual state of the law. Reformers inspired by Bentham and Mill have been successful in removing attempted suicide from the statute book by the Suicide Act of 1961. But in the case of homosexuality and abortion, Hart argues, the law still causes useless suffering through a misguided attempt to enforce accepted morality by criminal sanctions. Hart's argument in this area is perhaps weakened by the questionable accuracy of the statistics he cites. In other cases, by contrast, he argues that the law pays too little attention to moral considerations, as in the decision in Smith's case (which established an excessively objective test of intention) and in the general treatment of negligence, which regards morally undistinguishable offences with disparate severity according to their fortuitous outcome.

Since these lectures were written legislation has been introduced in a number of respects in accordance with their spirit. They are written with the clarity, charity, and chastity characteristic of Hart's style. One's only complaint is that the book is excessively expensive: the reader is charged 12s 6d for less than fifty pages of type, a rate of over 3d a page.

ANTHONY KENNY

CHANGE AND THE CATHOLIC CHURCH, by Jeremiah Newman. *Helicon*, Dublin, 1965. 35s.

There has been much talk recently about the need to think about the Church in sociological terms. A good deal of Dr Newman's wide-ranging book (whose general title is a little misleading) is concerned with approaching the Catholic Church with both theological and sociological perspectives. What he has to say about the origins of sociology, its conflicts with Catholicism, and the newer view of its relevance to the life of the Church today is clear and provides a useful introduction to the reading which is necessary to those who want to consider the subject for themselves. Such readers will find a great deal that is of value in the splendid documentation with which the book is provided.

It is perhaps inevitable in a general discussion that the description of conflicts and problems within sociological theory and research is oversimplified; the areas of debate could have been spelled out more. Dr Newman appears to reach his conclusions too quickly, even though there is much agreement with him.

A chapter is devoted to the contribution

which social research has made and could make to pastoral planning. The case is well argued, but I wish that Dr Newman had gone beyond the usual arguments and considered the more positive and creative role which increased understanding of social conditions can make to policy. Had he taken the discussion into a wider sphere, this might have resulted, but he deals only with problems of ecclesiastical administration.

While agreeing that there is a great need for more integration between Christian values and sociological thought and research, I cannot share Dr Newman's enthusiasm for 'constructing a body of knowledge which might receive the name "Catholic Sociology",' even as the author defines it. Although increasingly many sociologists would accept his insistence on the place of values in the study of society, it is a pity to reintroduce a term which has already caused considerable confusion, and which is likely to cause more when it is given another meaning.

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