method has nowhere been more suggestively and succinctly indicated than in the key-sentence of perhaps the most celebrated case in English law, *Donoghue v. Stevenson*, the snail-in-the-bottle case. Lord Atkin there said: ' . . . And yet the duty which is common to all the cases where liability is established must logically be based upon some common element to the cases where it is found to exist . . . At present I content myself with pointing out that in English law *there must be, and is, some general conception* of relations giving rise to a duty of care, of which the *particular cases* found in the books are but *instances* . . .' (*italics mine*). Here is indicated the sort of starting-point for a reductive analysis which could then be continued along the lines laid down by the American so-called sociological school of jurisprudence. It is already over seventy-five years since O.W. Holmes stated the master-idea of this form of analysis: ' . . . The very considerations which judges most rarely mention, and always with an apology, are the secret root from which the law draws all the juices of life . . . ' (*The Common Law*, 1882, p. 35). And the application of this method seems particularly opportune at a time when comparative legal studies (especially perhaps in Africa) are progressing.

The chief merit of this book, then, is that in failing, on the whole, to achieve the task which it sets itself, it better defines one which a comparable group of English lawyers, philosophers and theologians should now attempt. The book ought not to be translated, but read by a few who might be stimulated to do better, from within the English tradition of law.

PASCAL LEFÉBURE, O.P.

LAW, LIBERTY AND MORALITY, by H. L. A. Hart, Oxford University Press; 15s.

Since the publication of the Wolfenden Report in 1957, its central contention that the private behaviour of consenting adults should not attract the notice of the criminal law has led to a vigorous discussion of the limits of a legal enforcement of morality. In particular, Lord Devlin, in his Maccabean Lecture, has given the weight of his authority to a severe criticism of the idea that morality can ever be 'private': for him, the preservation of a society's moral values is necessary for its very existence, and the countenancing of immorality (even when no harm to others is alleged) is analogous to treason and should be punished as such. Professor Hart's three lectures, given at Stamford University in 1962, are a reasoned rejection of Lord Devlin's thesis, and indeed of the whole tradition that sees the law as necessarily concerned with safeguarding, and, if need be, with vindicating the moral standards which the majority believe to be synonymous with society's health and very survival.

Professor Hart takes his stand with Mill and his unequivocal doctrine that 'the only purpose for which power can rightfully be exercised over any member of a civilised community against his will is to prevent harm to others'. He finds

that, in the particular context he is considering, the question of sexual morality conforms to Mill's thesis. Where no harm to the community can be shown, individual behaviour can only be morally judged by sanctions which 'do not restrict human freedom and inflict the misery of punishment on human beings, things which seem to belong to the pre-history of morality and to be quite hostile to its general spirit.' It would be unfair to Professor Hart's argument to say that it encourages any laxity in upholding moral standards. Rather does it maintain that immense inconsistencies—and many injustices—must arise if an exact equation is made between legal culpability and moral nonconformity. In an ideal state it might be otherwise, but Professor Hart is not at all convinced that the preservation of society requires the enforcement of its morality 'as such'. His lectures provide some valuable material for the consideration of moralists, who can sometimes too easily evade the agony of their occupation by passing the responsibility of analysing the true nature of moral choice and handing it over to the necessarily more arbitrary treatment of the law.

ILLTUD EVANS, O.P.

THE ROOTS OF EVIL, by Christopher Hibbert; Weidenfeld and Nicolson; 36s.

The gap between professional studies in criminology, with their statistics and prediction tables, and the popular newspaper cult of criminals, if not of crime, is a serious one. It means that a subject that is of the greatest concern to the community at large is too little considered at the middle level of informed but easily intelligible documentation. Mr Hibbert calls his book 'a social history of crime and punishment' and he disavows any expert knowledge of the wide range of subjects he covers. But he has in effect provided a serious and admirably organized survey of the experts' researches. His bibliography, and the quotations that occur on almost every one of his five hundred pages, bear evidence to immense industry, and—what is much rarer—to a capacity to single out what is significant in a study that is always humane in intention.

He begins with a historical study of law and its enforcement, and follows it with an account of the beginnings of reform, both of the law and of punishment, which characterized the eighteenth century 'enlightenment'. The nineteenth century reformers, who began the process of changing the unspeakable conditions of English prisons, can seem today to have had very limited objectives, with the Benthamite theory of the virtues of solitary confinement and the universal assumption that criminals should spend their captivity in conditions that emphasized the purely retributive character of their sentences. But at least something was accomplished to bring to an end the corruption and sheer brutality that marked a system that was in effect no system at all.

The serious consideration of the criminal himself—the attempts to establish some rational account of the incidence, if not the causality, of crime—was a later