

REVIEWS

JESUS ON TRIAL by A. E. Harvey *SPCK* 1976 pp. 140 £2.95.

It was Clement of Alexandria who in the second century first recorded the opinion that the Fourth Gospel was a 'spiritual' gospel—an interpretation which persists to the present day (John's gospel is so described by Geza Vermes in his book *Jesus the Jew*). I assume that the term 'spiritual' is applied to John's work because it is thought that this gospel is considerably less subject to historical control than are the Synoptic gospels and that it is mainly concerned with Jesus' inner experience of his relationship to the Father, to the Spirit and, through the Spirit, to his disciples.

Mr Harvey's book (subtitled 'A Study in the Fourth Gospel') convincingly shows that the gospel of St John is not simply concerned with the mystical life of Jesus but is firmly located in the Jewish legal traditions and practices which are thought to have been in force in the first century AD.

Harvey maintains that St John wrote the gospel to explain how a man who had been legally found guilty of blasphemy according to the Law of God and executed as a royal pretender by the Romans could possibly be the Messiah and Son of God that the Christians claimed him to be.

Legal terminology occurs frequently in the Fourth Gospel and it is Harvey's hypothesis that John faced the difficulty of preaching the crucified Jesus as Messiah by using as a literary device the form of the lawsuit. It is argued that John invites the reader of the gospel to pass the verdict that Jesus' judges did not take sufficient

evidence into account in their judicial deliberations, nor did they accept as valid the witnesses to his Messiahship.

Basic to all four gospels is the question as to the nature of Jesus' authority and power—is he from God or from the devil? Harvey shows how by the use of Jewish legal procedures John explores the judicial implications of Jesus' claims and of the conflicts with his opponents as to the nature of his authority.

Whereas the Synoptic tradition knows of one 'trial' of Jesus (beginning with Caiaphas and ending when he is brought to Pilate) this book presents Jesus on trial throughout his public life in his clashes with his co-religionists and, after his death, on trial still in the reaction provoked by his followers' witness to him as Son of God.

The points of difference between the Fourth Gospel and the Synoptic Gospels are carefully noted, but in a stimulating and perceptive use of scholarship Mr Harvey shows how John brings into sharp and developed emphasis the element of legal threat which remains unstressed in the first three gospels.

Much scholarly work has gone into this book but you are not beaten about the head by it; the learned footnotes are there for further reference but the burden of the book does not depend on reference to them. In presenting *Jesus on Trial* Mr Harvey writes as compellingly as any thriller writer.

ROGER CLARKE O.P.

ESSAYS ON FREEDOM OF ACTION, edited by Ted Honderich. *Routledge & Kegan Paul*, London, 1978. pp. viii + 215. £2.50.

This book, a collection of articles on freedom and determinism, is a paper-back reprint (with minor modifications) of a hard-back published in 1973. It includes essays by Mary Warnock, John Watling, David Wiggins, Harry Frankfurt, Anthony Kenny, David Pears, Donald Davidson,

D. C. Derrett and Ted Honderich.

Insofar as it is possible to make general comment on a diverse and professional collection of closely argued philosophical essays, three points can be offered with regard to the present one. First, some of the essays (notably that of Watling) are de-

pressingly unreadable. Iris Murdoch may be right to distinguish philosophy from literature; but there are limits to what a philosophical public can be expected to put up with. Second, the collection more or less ignores philosophically interesting and important historical texts. Freedom has been discussed by writers from Aristotle to Wittgenstein, but the present collection pays scant attention to the details of the resulting arguments, which is a pity because some of the arguments are really worth looking at seriously. Mrs Warnock, admittedly, discusses Sartre; but one is left unhappy about the thoroughness of her exegesis. Third, the collection displays an unsatisfactory, general tendency lightly to dismiss, or completely to ignore, the case for libertarianism based on the evidence of experience, of just seeing that one could have done otherwise. Wiggins says that "the conviction of freedom is not by any means the only conviction human agents experience." (p. 48) As an attack on the notion of experiencing freedom, this remark misses the point. It is not experience of convictions that is in question when people say that they experience their freedom. Wiggins says that people have experiences of being determined, and he concludes that "These feelings or pre-sentiments establish nothing either way." Feelings? The word begs too many questions. People have different experiences, but so what? Reports of different experiences are a challenge to inquiry, not a cue for stopping the argument. One can, of course, assume that it is always illegitimate for philosophers to appeal to experience. Unfortunately, however, this insistence would be philosophically self-defeating. Philosophy itself is based on experience. Any claim that something is the case, any assertion that a conclusion follows from premisses, has to be decided upon in the end by simply seeing. And seeing is an experience.

A single particular criticism. Kenny argues that it is unproven that libertarianism and determinism are incompatible. In defending this conclusion, he expresses the view that Leibniz's law cannot be relied upon. Although Kenny is in good company in rejecting Leibniz's law (Geach and Grice, for example, also reject it), I doubt whether his case for dismissing the law is cogent. According to Kenny, Leib-

niz's law states that if X is identical with Y, then whatever is true of X is also true of Y. By way of counter example, Kenny cites modal arguments such as 'The number of members in the Common Market is identical with the number six; the number six is necessarily smaller than seven; but the number of members of the Common Market is not necessarily smaller than the number seven, only contingently so at this time.' (p. 97) Does this modal argument refute Leibniz's law? I do not think so because, in saying that it does, Kenny misconstrues what the first two premisses of the argument are saying. The argument should be rewritten as 'There are now six members in the Common Market; the number six is necessarily smaller than seven etc.' On this reading, Leibniz's law holds, for 'the number of members in the Common Market' functions differently from 'the number six', and the modal argument just cited would not have to yield a conclusion incompatible with Leibniz's law, even if the truth of the law is assumed.

Does Leibniz's law therefore hold? Even if he abandoned the case against it based on modal arguments, Kenny would still say no. On p. 99, he finds a further restriction to the law. He explains that "If the detective knows that Mr Hyde is a murderer, and if Dr Jekyll is identical with Mr Hyde, it does not follow that the detective knows that Dr Jekyll is a murderer." Put like that, of course not. But if the detective knows that Mr Hyde is a murderer, he knows that the bearer of the name 'Hyde' is a murderer and, if Dr Jekyll is identical with Mr Hyde, the detective arguably knows that the bearer of the name 'Jekyll' is a murderer, even if he does not know either that Hyde is Jekyll or that there is a Jekyll. Leibniz's law is thus less vulnerable than Kenny suggests. And, if the law is actually binding, then part of Kenny's case against incompatibilism collapses. Given Leibniz's law, insofar as determinism maintains that all human actions are physically determined, and insofar as libertarianism denies this thesis, libertarianism and determinism are just not compatible. As Professor Anscombe has written, "My actions are mostly physical movements; if these physical movements are physically predetermined by processes which I do not control, then my freedom is illusory. The truth of physical indeter-

minism is then indispensable if we are to make anything of the claim to freedom."

Kenny has an answer to this argument. He holds that correct descriptions of determined events need not entail that human actions are determined, even if they are describable as determined events. In this context, he insists on the relevance of the problematic nature of arguments like 'I can (cannot) do X; doing X is doing Y; therefore I can (cannot) do Y'. Certainly, there are difficulties with this pattern of argument; but does its possible invalidity suggest the falsity of incompatibilism? I

think not. If a human action is completely physically determined, if it cannot be other than it is (except logically), it still fails to be free in the way most libertarians have asserted that some actions can be. I do not think that Kenny has adequately characterised the kind of libertarianism which the incompatibilist generally has in mind. A better account is provided by Wiggins. He may doubt the existence of what some people claim to see, but at least he manages to see what people claim to exist.

BRIAN DAVIES O.P.

A PASTORAL GUIDE TO CANON LAW, edited by G. J. Dyer. *Gill & Macmillan*, Dublin 1977 pp. 181 £3.50.

True to the promise in its title, this is a specifically pastoral guide to canon law. It does not form a neat compendium of the Church's existing canon law in a pastoral perspective, but rather attempts to present a practical synthesis of *recent* developments in the Church's legal theory and practice, and to indicate what the next Code will be like. The method is that of question and answer, a method which in a volume obviously aimed at seminarians could have certain disastrous consequences; a repression of moral creativity, of magnanimity even, and an obsession with detail. One recalls the concomitants of this method as practised of old. It dovetailed into a world needing to know, for example, that the eucharistic fast is not violated when such things as snow, rain, dust, insects are inadvertently swallowed in breathing, or that the habit of some children of biting their nails does not affect the fast, but biting off and swallowing pieces of finger skin might do so, if the particles were more than the smallest and mixed with saliva. In the past, the sheer mass of such baneful precision must have far outweighed any accompanying exhortation not to act too casuistically. Fortunately this method does not cramp the present guide but makes for concise information and ready reference.

Like the passing of any established *genre*, the collapse of the world of manuals represents a profound shift in theological culture. Law and morality will always intersect but henceforth they should

be less removed from the pressure of other sources of christian life. The authors want us to acquire a truly evangelical legal tact as well as information.

The co-authors are all distinguished, chiefly American specialists and their project is to deal with principles and detail by asking questions ranging in scope from 'Are the new laws of the Church binding in conscience?' to 'How often may communion be received on a given day?' Most of the detail given by way of answer is helpful and informative, although ecclesiastical penalties need more detailed treatment. To ask what are the rights of 'women and other minorities' is odd, while not to discuss the sacramental life possible for the mentally handicapped is a missed opportunity; but see David Wilson's sensitive analysis in *Clergy Review* (1975) 69-84. The high quality of the new law and of its exponents can be seen in the sections on marriage. Therein will also be found a balanced presentation of the internal forum solution to the clash between law and conscience; surely *the* area to watch as Catholicism recasts its sense of the sacraments of marriage and penance.

The merit of this project is not exclusively, or most emphatically, in the rejection of legalism or the fine theological assessment of canon law. It is above all in the difficult task of making canon law a viable constituent of the Church as sign and sacrament of God's reconciling love for mankind. In some areas fewer laws are an advantage, but elsewhere only *more*