

apparently, provoked him to emulation.

The most interesting parts of the book are those devoted to the discussion of the views of Wittgenstein and Strawson. What Mr Locke has to say here is clearly expressed, but I think that at certain locatable points it can be shown that he has misunderstood the authors he is criticizing. For instance, on p. 72 he lists four possible senses of 'private language', No. 4 being the one which is relevant to the argument of Wittgenstein which he claims to refute. No. 4 reads, 'A language in which terms refer to "private objects", items of which only one person is and can be aware, e.g. bodily sensations'. This would be an accurate interpretation of what Wittgenstein meant by a 'private language' only if the phrase 'refer to' were replaced by 'are defined ostensively by referring to'. It is at most a secondary object of Wittgenstein's argument to dispute the possibility of referring to private objects: his primary aim is to show the absurdities into which philosophers are led when they maintain that sensation-words get their whole meaning from being made the names of private objects. Again, Mr Locke misunderstands Strawson in a way in which I had occasion to complain that he was understood by Professor Coval whose book I reviewed recently in these pages. He attributes to Strawson the view that we have 'two sets of logically adequate criteria' for the ascription of predicates involving consciousness. It is implied that one of these sets is what we use when we apply these predicates to other people, one when we apply them to ourselves. It is, however, an important

feature of Strawson's doctrine that when we apply a predicate like 'feeling sick' to ourselves, we do so without the aid (or hindrance) of any criteria whatsoever.

Mr Locke's own view of the role of behavioural criteria in the ascription of the predicate 'is in pain', for instance, seems to be that these provide the *differentia specifica* for a definition whose *genus* is the notion of *feeling* or *sensation*. Thus 'pain' would be defined by Locke as 'the feeling a person is having when he groans, writhes, and in general exhibits what we should call pain-behaviour'. What this seems to me disastrously to ignore is that the *genus* of this definition is itself a word for which the need of public criteria arises in exactly the same way as it does for 'pain'. Locke has, in fact, missed a warning which Wittgenstein himself issued on this matter. 'Sensation', he remarks, 'is a word of our common language' (*Philosophical Investigations* I, 261).

This is a book which contains too many mistakes, but at least the detection of these mistakes is made easy by an admirable clarity and directness of style. Once in a way this directness can lapse into brashness: 'So Strawson's argument is a complete muddle', he writes on p. 144. But despite such obstacles to one's sympathy with the author, it is proper to acknowledge that compared for instance to the book by Coval mentioned above, the clean-limbed, straightforward and lucid manner of Mr Locke's writing encourage us to hope for better things from the books that he has yet to present to us.

G. F. J. WILLIAMS

THE ETHICS OF PUNISHMENT, by Sir Walter Moberly. *Faber and Faber*, London, 1968. 386 pp. 84s.

The first two parts of this book consist of a very thorough account of the evolution of the concepts of deterrence, retribution and reform in the history of penal theory. These are subjected in turn to careful critical scrutiny. On the basis of what he regards as their psychological and indeed theological shortcomings, Sir Walter Moberly then attempts to construct his own theory of the moral justification for punishment. He seeks to refine the idea of retribution by excluding its grosser elements derived from the basic human instinct for revenge. He tries to isolate the rational moral element in the universal feeling of even the most civilized and sane men that deliberate delinquency is rightly met by society with retribution in some form. He has no difficulty in showing that earlier attempts to rationalize

retribution with concepts of 'annulment' or 'just desert' are inadequate.

He regards the administration of punishment as the symbolic expression of the moral beliefs and needs of a society concerned not only with its own protection but with the moral welfare of all its members including the offender. The author summarizes his ideas in these words: 'A punishment is thus a dramatic form of expression. In some appropriate ritual action, it represents and embodies two spiritual processes, the wrongdoing and the counter-action. It is a peremptory inroad on the wrongdoer's freedom and comfort, which signifies rebuke, thwarting and ultimate transmutation of evil will. It foreshadows the pain of conscience which must be his, if and when he comes to appreciate the meaning of his deed.

... Persons in authority then will punish wrongdoers because they detest wrongdoing, appreciate its ruinous character, and are determined to withstand and to overcome it. They will desire (1) to deepen and consolidate this attitude in themselves, (2) to promulgate it to the world, (3) to bring it home to the apprehension of the evildoer. These three aims are properly inseparable, and each is indispensable' (p. 219).

Stern and moralistic as this theory of punishment may sound, Sir Walter combines it with a most humane and enlightened attitude to the reformatory treatment of offenders. He is well aware of the relative and even arbitrary character which the actual forms of punishment may take, and that as a symbol punishment is much less 'momentous' than the moral reality which it signifies.

This symbolic theory of punishment as social ritual is best seen as a theological investigation of the universal practice of punishing radically anti-social behaviour. It emphasizes that the human dignity and individuality of the offender, with his power of moral choice and eternal destiny, demand a more profound understanding of the meaning and purpose of punishment than is evident in the mechanistic theories of the utilitarians and of some contemporary social scientists.

As an analysis of the proper ethical basis of society's right to punish, this theory has much to commend it. However, it tends to overlook, or at any rate to underplay, the practical issues which raise the crucial problems of moral choice for judges and legislators alike. For them the question is not usually 'have we the right to try and convict offenders for certain alleged anti-social behaviour?', but 'in what way and for how long should we sentence them once they have been convicted?'. The element of social symbolism is taken for granted and instead attention is given to calculations as to the likely effect of a particular sentence on the offender and on other possible offenders. It is in this light that the contemporary theories of reformation and deterrence should be understood. How far is it possible either to deter or to reform are pre-

eminently empirical questions to which penological and criminological research is still attempting to provide tentative answers.

In Part III of the book Sir Walter applies his theories to 'Some Practical Issues'. A chapter on 'Prisons and Prison Reform' rightly condemns the nineteenth-century notions of deterrence and reformation as aims of penal policy. Their methods were unquestionably harsh and inhuman. The author commends the attempts of the prison officials and penologists of today to make prison life as constructive, or at least as little destructive, as possible, and more hopefully to find effective deterrent alternatives to detention. It is difficult to see what precise contribution this symbolic concept of punishment can make to the work of penologists and prison reformers except to stress the need to respect the personality of the offender in any attempt at reformation. The Christian conscience has a proper suspicion of psychological conditioning and manipulation of those under compulsion.

The author's theories have a much more immediate relevance in his chapters on capital punishment and the concept of eternal punishment. It is no surprise that the author comes to the same conclusion as would most enlightened Christians today: that we have outlived the need to believe (in two different causes of that word) in either. In both cases his theory is put to very persuasive use in demonstrating that the humane conclusion is the only one possible for a Christian today. As elsewhere he gives careful critical treatment to the usual arguments pro and con. The chapter on the Nuremberg trials tends to blur the requirements of formal legality, under the then existing state of international law, with the moral qualities required of states seeking to administer criminal justice. Although some of the legal arguments debated by international lawyers as to the exclusively belligerent composition of the court, and as to the charge of 'crimes against peace', have some validity, it is difficult to agree with the author's strictures on the Nuremberg trials on purely ethical grounds.

A. J. BOYLE

RACE, JOBS, AND THE LAW IN BRITAIN, by Bob Hepple. *Allen Lane The Penguin Press*, London, 1968. 256 pp. 55s.

Racial prejudice is a phenomenon with which those who are free from it find it hard to come to terms. The overwhelming temptation is to rationalize it away by attributing it to some

other comprehensible feeling. Hence it is put down to economic fears, competition for employment, and sweated labour; or it is the British dislike of foreigners, or part of the class-