

- 21 Ruth Finnegan, 'How to do things with words: performative utterances among the Limba of Sierra Leone' *Man*, N. S. Vol 4, No 4, December 1969, pp 537-552.
- 22 Ian Hamnett, 'Pelagianism and Idolatry' Paper read to the Sociology of Religion Conference of the British Sociological Association, Bristol, 1982.
- 23 Roy Rappaport, 'The Obvious Aspects of Ritual' *op. cit.* p 217.
- 24 Peter Berger and Hansfried Kellner, *Sociology Reinterpreted*, London, Penguin Books, 1982, p 13.

REVIEWS

JAMES FITZJAMES STEPHEN AND THE CRISIS OF VICTORIAN THOUGHT, by James A Colaiaco. Macmillan Press, pp 266. £20.00.

'Nothing of mine is ever popular', Stephen wrote in 1890, 'Indeed, I do not know how it should be, for my object has always been to show the weak side of all opinions which embody popular sentimentality of any sort'. His showings were generally made in newspaper and periodical articles. The habit of writing such pieces for the *Cornhill*, the *Saturday Review*, the *Pall Mall Gazette*, and *Fraser's Magazine*, had for him, his brother observed, the charm of a vice; 'it gave him the same pleasure that other men derive from dram-drinking'. In the hundreds of these trenchant articles Stephen declared his convictions that 'freedom depends on the political supremacy of the upper and middle classes', that Dickens enjoyed 'a very wide and pernicious political and social influence', and that the doctrine of eternal damnation was 'so wicked and so cruel that I would as soon teach my children to lie and steal as to believe in it'.

To identify Stephen's individual temper in time when our culture was under 'the threat of democracy', Dr Colaiaco institutes a set of contrasts and comparisons with acknowledged great men, with J S Mill, Carlyle, and Arnold, and with lesser persons, with J H Newman, Buckle, and Tom Paine. He is especially successful in showing how like were the liberalism of Mill and Stephen. Neither believed that 'a numerical aristocracy' would rise above mediocrity, except, as Mill said, in so far as they 'let themselves be guided (which in

their best times they always have done) by the counsels and influence of a more highly gifted and instructed Few'. Those who think Stephen's *Liberty, Equality, Fraternity* an attack against Mill's *On Liberty* are properly rebuked for their simplicity. 'Mill was the only writer on the subject with whom he agreed sufficiently to disagree profitably'. But Stephen did not care for that 'want of humour' which led Mill into a very mean view of contemporary British society. To Stephen it seemed that 'the commonplaces about the advantages of parliamentary government, a free press, and all the rest of it, are in the main true', and further that 'no nation is so logical as the English nation'. He pointed to the sequence of the nation's being converted to belief in political economy and its being the only nation in the world which established free trade. Such a social structure, inhabited by such persons was doing 'one of the greatest works that was ever done in the world'.

Stephen's enthusiasm is rebuked in the comparison with Matt Arnold. Dr Colaiaco starts from the odd assumption that Stephen was devoid of the finesse of the man who so roughly divided his contemporaries into 'Barbarians', 'Philistines' and 'Populace'. Stephen was certainly as concerned as Arnold for the enlargement of the nation's education. He was Secretary of that Newcastle Commission for which Arnold worked as a Schools' Inspector. And for the preservation of traditional

morality as traditional belief collapsed. 'If we should ever see a generation of men, especially a generation of Englishmen to whom the word of God had no meaning at all, we should get a light upon the subject which might be lurid enough'. Sir James Stephen had made it a rule not to disturb his children with his own doubts of Clapham orthodoxy, but Stephen had come to appreciate his father's revulsion from those who would maintain society herenow by a threat of hell hereafter. He could not suppose, however, that everyone in England had a share in his father's self-denying goodness.

Dr Colaiaico produces some competent reviews of the contents of Stephen's larger works, the *History of the Criminal Law* and *Liberty, Equality, Fraternity*, but he rarely suggests how Stephen came to hold his characteristic opinions, or engage upon his usual occupations. He does not, I think pay heed enough to the family context of Stephen's ideas and actions. That he relegates to the few lines of a backnote Stephen's suspicion that Tite Barnacle in the Circumlocution Office was a caricature of Sir James Stephen in the Colonial Office, does not merely impede a reader's appreciation of Stephen's remarks on the novelist. It makes it more difficult to understand what Stephen purposed in his effort for the codification of the law of India. Commenting upon *Little Dorrit*, Leslie Stephen implies that both brothers thought 'a more interesting and appropriate topic for art of a serious kind would be the problem presented by a body of men of the highest ability and integrity who are doomed to work a cumbrous and inadequate system'. Stephen's main hope in India was for the substitution of just such a cumbrous system as his father had been doomed to work by an efficient code of consistent practice. His sense of the difficulties his father had in administering colonies, and the proud memory of Sir James drafting in one weekend the legislation which abolished the British part in the slave trade, drove Stephen to attempt work for which he was not, perhaps, entirely suited. In his own time James Bryce, and in ours Sir Leon Radzinowicz, have thought Stephen's cap-

acity not equal to his fondness for the drafting of statutes. He arrived as Legal Member of the Viceroy's Council in 1869. By 1872 he had seen into law the Code of Criminal Procedure, codified the Evidence Act and Contract Act, consolidated the Indian Statute Book, expanded the Indian Penal Code, given legal foundation to the usages of the Punjab administrators.

'India. For years the word evoked the deepest sentiments in countless Englishmen', Dr Colaiaico announces, with a characteristic noisy change of gear at the start of a section of his book. Not all, at that word, experienced the same evocation. When, for example, Jowett considered the 1857 Mutiny by those whom, I suppose, the text books in our schools will soon be describing as the Calcutta Freedom Fighters, he took it as a challenge to look carefully at the character of Indian religions. The 1859 revisions of his great 1855 commentary on four Pauline Epistles evidence this study. When Stephen considered the Mutiny and its religious references, he took it as a further demonstration of the need for Britain to impose a set of religion-free regulations on the continent. 'One positive proof that we either cannot or will not do justice to all classes, races, creeds or no-creeds, in British India would, in the long run, shake our power more deeply than even financial or military disaster'. While, in India, as in England, religious allegiances were losing their old hold in society, marriages were still dependent for their legality on a fulfilment of the rules obtaining in the particular religious community of the groom and bride. Stephen wanted to regularize the marriages of those many who had not obeyed traditional religious usage. The Marriage Bill met with an amount of resistance from members of the Council who divined Stephen's wide-ranging principle: 'The real objection to the bill' he declared on presenting it, 'is simply that it recognizes the fact that many persons have abandoned their religion; and also recognizes the fact that they had a right to have abandoned it'.

On his return to England he set about establishing himself as the fit person to

put British law into some decent order. In November 1872 he delivered a lecture to the Social Science Association on 'Codification in India and England'. He stood for the Dundee constituency in the election of 1873 on the promise of Lord Coleridge that he would be appointed Solicitor General. He drew up an evidence code for England, modelled on his Indian Evidence Act, which was actually introduced by Coleridge on the last day of the 1873 Parliamentary session. He 'boiled down', as he delighted to put it, a text book account of homicide law from 232 to 7 pages. His penal code was considered by a Royal Commission from November 1878 to May 1879 and introduced in 1880. Nothing came of all these things. Not in Britain at any rate. His draft code was, however, adopted by Canada, New Zealand, Queensland, Western Australia and Tasmania. It is pleasant that Stephen should have inherited his father's talent for doing the right thing for the colonies.

Dr Colaiaco is properly nervous of impertinent speculation, but it is disappointing that one who has spent so much time and effort in the study of so interesting a man should have so little to suggest about the peculiarities of Stephen's temperament. He does not hint at the boy who had nightmares of a devil placing him in a burning iron cask, or the man who glanced demons in the more accommodated forms of day. Lord Westbury might have dismissed Hell with costs, but the Liberal Party and the Tory had accepted a situation in which 'two combinations of well-taught and rich men' should constantly offer to defer to the decision of a set of poor ignorant people, 'and compete for the office of executing it'; thus *Vox populi* became, Stephen thought, *Vox diaboli*. And the devil's men had several times rejected his codification of Law which would at least have ensured a frame of convention within which they might 'rightfully, deliberately, and in cold blood, kill, enslave, and otherwise torment their fellow creatures'. Stephen was amazed to see men of decent education asserting a 'certainty' in the midst of this chaos. Stephen thought Newman typical of those who 'pass their lives

in a passionate effort to work out a result which at the bottom of their hearts they know is not true'. What Kingsley had said about Newman and the Roman clergy was, therefore, correct but Kingsley had gone the wrong way about proving the accusation. Newman's deployment of 'probability' in the *Apologia* and 'illative sense' in the *Grammar of Assent*, and Stephen's dislike of such ways with 'evidence' brought him to do Bishop Butler's work again. Dr Colaiaco might have made much more of this. Stephen had no need to reconstruct Butler. His declaring that 'all the facts with which we are acquainted, visible or invisible, internal or external, are connected together', shows that he shared the bishop's analogical hope. He shared, too, Butler's intimations of an insanity in the world. There were evidences for Stephen in the Home Rule debates of the House of Commons having gone mad, in the murder trials of the Queen's Bench of men not simply misunderstanding the nature of their actions, as the M'Naughton Rules allowed, but of their being driven by irresistible impulse, and, most feelingly, in the engine's stroke at the Felixstowe pumping station of his once-brilliant son being fated to die in a lunatic asylum. When, after his summing-up in the Maybrick case, malicious persons in Parliament raise doubts of his mental competence Stephen resigned. Dr Colaiaco, whose thesis generally concerns Stephen's Thought rather than his thoughts, says nothing of them here. It may be Stephen suspected that he might himself indeed be prey to an universal madness.

The threat of democracy was for Stephen but an epiphany of the larger forces of disruption waiting upon our society. His observing that 'the criminal law stands to the passion of revenge in much the same relation as marriage to the sexual appetite' suggests that he not only knew more than Matt Arnold about civilization, but that he had glimpsed those discontents that Freud was to expose. He had foreseen also something of the confusion that the exposure would stir among us. 'I feel alarmed', he wrote to Lytton in 1880, 'at the spread of my own opinions. I do not

doubt their truth, but I greatly doubt the capacity of people in general to bear them'. Stephen was, more truly than Dr

Colaïaco seems to have conceived, a significant inhabitant of the Victorian crisis.

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THEOLOGICAL INVESTIGATIONS. Vol XV: Penance in the Early Church by Karl Rahner, trans. by Lionel Swain. DLT, London, 1983. £25.00 net.

This volume gathers together eight essays on the history of penance in the early Church. Seven of the chapters are revised and expanded versions of articles published between 1938 and 1955. Here they have been ordered geographically: Part II The Roman Tradition (Hermas and Irenaeus); Part III The African Tradition (Tertullian and Cyprian); Part IV The Tradition of the East (*Didascalia Apostolorum* and Origen). Part I is introductory and includes a study of "Sin as Loss of Grace in Early Church Literature" and a more general and methodological chapter entitled "The History of Penance". This last alone has not appeared before and is perhaps the unpublished outline referred to by Rahner in "Reflections on Methodology in Theology" (*Theological Investigations* XI, p 68).

In the preface to this volume, Rahner foresees two lines of criticism of his inclusion of these studies in the series *Theological Investigations*. Firstly they are old; secondly they are historical and hitherto this series has "contained explicitly only systematic studies" (p viii). He might have added that in his preface to the first volume of the series he had stated the intention of *not* including studies such as these, mentioning by name six of the chapters of this fifteenth volume. With full justice, Rahner replies to the first of these charges that though old, these studies are not outdated, that they have in any case been revised, and that their bibliographical information has been brought up to date. Rahner blusters a little against the second charge before telling us the real (or, as he says, "yet another") reason for republishing these essays: "I am suspected by many people of being only a speculative theologian who works without reference to history and who, in some circumstances,

attempts to dispel difficulties which arise in understanding statements of the Church's magisterium by the merely speculative interpretation of such statements" (p viii). At first glance, one might be rather saddened at the spectacle of a venerable theologian being moved to republish his *juvenilia* in order to hush the twittering of his critics. But there is more at stake here than one theologian's *amour-propre*. No one could doubt the genuineness of Rahner's claim that he is "absolutely convinced that genuine Catholic theology must always proceed on the basis both of exegesis and of the history of dogmas and theology . . ." (*ibid.*). Similar statements could be found in the writings of every period of Rahner's career. When in the present volume he reflects on Origen as a theologian he is surely sketching his own ideal: "Origen does not wish to be anything other than a man of the Church. Consequently, what is prescribed by the gospel and taught by the Church are, for him, the inviolable and self-evident norm of the whole of his thinking. Although he offers a more profound explanation and understanding (*gnosis*) of the transmitted teaching of the faith and of the Scriptures which must remain inaccessible to the majority of ordinary Christians, he does not do so by appealing to a secret tradition, after the manner of the Gnostics" (pp 246f).

Not one of the essays in this volume could be described as a purely historical study. Each of them is transparently the work of a theologian whose interest in the Church's past is inseparable from his interest in the Church's present and future. This does not mean that Rahner merely ransacks the past for support for his own views, or that his method is not properly historical. On the contrary, he shows