working class—by then presumably nearly 100 per cent unionised as compared with the present less than 50 per cent—while obviously far advanced in its political thinking as compared with the present, is still likely to contain a fair degree of ideological diversity; and I find it difficult to square the idea of a Party based on Marxism with the practice of a Party whose decisions were dependent on the votes of affiliated trade unions. Unless, of course, we were to adopt precisely the same undemocratic practices now used by the right wing to maintain their position?—which is surely an untenable proposition!

And there is of course yet another angle to be considered. Given the unique historically-determined structure of the Labour Party, it is at least conceivable that its future development might take the line, not of so-to-speak 'narrowing down' to become a Marxist Party, but rather of 'broadening out' to bring into its affiliated structure some of the newer democratic movements.

All of this is of course speculation about the relatively more distant future; none of it is in the least realistic without a very much stronger Communist Party and left.

Review Articles:

The Sociology of Law

Stephen Sedley

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"The Sociology of Law" edited by Pat Carlen Sociological Review Monograph

We are badly in need of a systematic study of law and the legal system conducted by people other than lawyers. The shelves of law libraries groan with self-congratulatory studies and expositions written by practitioners on the inside looking out. We have one or two studies, such as Abel-Smith's and Stevens' *Lawyers and the Courts*, which really rank as high-grade investigative journalism, written from the outside looking in.

Such writers, together with the few insiders who have tried to expose some of the system's iniquities, provoke howls of anger from the Bar and the Law Society. So sensitive and defensive is the profession that the Chairman of the Bar Council not long ago, writing to encourage members to submit material to the Royal Commission on the Legal Profession, described as 'ill-informed' the anticipated criticisms of the Bar which nobody had yet submitted.

A Reactionary Closed Shop

Michael Zander, the most persistent public critic of the profession's workings, but politically a confirmed 'moderate', is widely regarded by lawyers as a dangerous Red. D. N. Pritt, who *was* a dangerous Red, and who stood professionally head and shoulders above most of his contemporaries, was deliberately starved by the profession of every distinction he had earned.

Yet it is this insensately reactionary closed shop, operating restrictive practices far tighter than any for which the 104 of them who are MPs sternly denounce the unions, which both controls access to and ultimately declares the law. For from the 2,500-strong Bar come practically all our judges; and the remaining few come from the ranks of established solicitors.

The questions of who declares the law and what the law is declared to be are therefore inseparable. And not only at the level of the Court of Appeal or House of Lords, where law is ordinarily thought to be laid down. Every local court or industrial tribunal is called on to declare what the law says about this or that person's claim, and to do so they have to decide what the 'facts of the case' are. At the hands of the lawyers who staff them, every tenant fighting for a home, every woman claiming equal pay, has to persuade to their side people who fundamentally do not believe in security of tenure or the equality of the sexes.

The object of a collection of essays under the title *The Sociology of Law* is, then, an important one. Not that sociology has all the answers any more than the law does; but every intelligent appraisal by outsiders, or by detached insiders, helps to break the stranglehold of lawyers on the law. No doubt there are conservative sociologies which would produce the same paeans of praise as lawyers award themselves. Equally a Marxist or a socialist sociology of law may provide valuable analyses both of our law and of the society it serves. This book sets out to be a contribution to the latter.

Intended for Whom?

Its first problem is that it is uncertain who its readership is to be. Its editor, Pat Carlen, writes in the language of the elect: "an idealistically-emergent paradigm", "an explication of the hermeneutics of pedagogy", "to ironicise the normative claims of legislators". Nobody but an educated sociologist can swim in that sea. Other contributors who, as readers of this journal know, can write lucid English, also seem to be talking to other sociologists. Alan Hunt, for example, spatters his useful article "Perspectives in the Sociology of Law" with problematics, models, reifications and normative expectations. Maureen Cain starts her useful and original article on the social organisation of the Bar with an off-putting (for me at least) sociological in-joke.

If this book is really intended simply for the sociology market, it is not only constricting and wasting material of much wider interest: it is falling into exactly the habit which characterises the legal profession, of privately resolving issues affecting many other people, on the assumption that only those who talk the language should be in on the discussion.

Some of the jargon does provide a genuine extension of vocabulary. To that extent, the journey through the prose is worthwhile. But mercifully for me, and for others who equally ought to be reading this book, much of it is written in language which, if less precise, is easier on the brain. Indeed, some of the contributions to the book are not analytical at all: for example, Judith Mayhew's quite elementary description of the legal position of working women. Other contributions by trained lawyers do embark on the task of looking behind the facades. Robert Spicer, for instance, in his useful essay "Conspiracy, law, class and society" follows much the same pattern of description with guiding comments as D. N. Pritt in his classic work *Law, Class and Society*.

Where Sociology Helps

But such articles could have been written if sociology had never been invented. It is when one comes to Albie Sachs' lucid and readable piece entitled "The myth of judicial neutrality: the male monopoly cases" that one begins to see what sociology has to offer to the study of law, and what a fruitful field the law may be for sociologists. Sachs has pulled one of the skeletons out of the judicial cupboard, one that law students never learn about: the line of cases in which British judges, right into the 1920s, steadfastly and fatuously obstructed electoral reform legislation by holding that women were not 'persons' within the meaning of the laws governing candidature. From here he proceeds to a general consideration of how assiduously the legal system protests its neutrality in those situations where its judgments are unavoidably riddled with prejudice, and of how neutrality is a myth in the real sense of that word—a fiction which has to be sustained to protect the system. The essay is full of good sense and perception.

The other essay which comes close to successfully marrying up the book's two subjects is Maureen Cain's incisive piece on the social organisation of the Bar. It examines the way in which the Old Pals Act is operated so as to sustain the conventions and values which keep the profession, and the judiciary drawn from it, 50 years behind the rest of society. But it also affords an awful warning about the barriers of jargon, because the lawyers and would-be lawyers for whom it should be required reading are going to go reeling from 'the total object law' to 'the general object law' and on into 'the complete construct law', crashing on the way into a number of reified constructs and other sharp objects. It *must* be possible to do without this language.

There are many other good things in the book, as well as some dull ones. Perhaps the most adventurous and original is Frank Burton's essay "The Irish Republican Army and its community: a struggle for legitimacy". With some interesting first-hand material it explores the social and political dimensions of 'felon-setting', a local term for the familiar propaganda response of the authorities to resistance movements—to brand them criminal. Burton correctly identifies the effort to gain legitimacy in people's minds as a major area of conflict, recognised alike by the Provisionals and the counter-insurgency pundits.

The subject is on the fringe of law, and its treatment owes little to conventional sociology, or at least to its language. But it affords a study which is probably of use to both disciplines and which benefits by not belonging to either. Like the elephant and the Jewish question, it is sometimes better not to try to force the two together.

And Where it does Not

What happens, by contrast, when a subject is squashed into academic pigeonholes is well illustrated by Piers Beirne's article "Rent and rent legislation in England and Wales 1915-1946". The first half of it is an exposition of "the structural nature of rent", telling us in six solemn pages what any class-conscious tenant could tell you in a couple of sentences. It provides an unfortunate foundation for the gibe that sociology is the art of saying things everybody knows in language nobody understands.

Beirne then turns to an exposition of the theory that the gains made this century in achieving rent controls and public sector housing are "in practice minimal, and that the veneer of rent legislation has masked the reality of production relations in the general housing process". What is this supposed to mean? If it means that this is still a capitalist society,

we really do not need a sociologist to tell us. If it means—and eventually it does come round to this—that the supposed gains are a wasted effort and have in fact shored up the system, that is a one-eyed view familiar in ultra-left politics and unworthy of a serious collection of Marxist essays. Beirne describes public ownership of housing as a fiction masking the reality of capitalist housebuilding and finance (true, as far as it goes), and then has to explain what the labour movement has always regarded as major gains with this gem:

> "The continuing price of this fiction was the betterment of working-class living standards at historic cost rents."

You feel you can at least debate seriously with a polemical writer who gets his facts right. Beirne's piece is shot through with factual inaccuracies typical of writers who research the effect of tenants on legislation and of legislation on tenants without making any direct reference to either. Instead Beirne relies almost entirely on government reports and press reports. With such reliable assistance, he manages to write, for instance, that the rent restriction policy of the first Rent Act (1915) "was to be a major force in fixing of private and public sector rents until 1972". 1972? Wasn't there something called the Housing Repairs and Rents Act 1954? Didn't the Tories wipe out most rent regulation by their Rent Act in 1957? Didn't Labour introduce a quite different and inflationary 'fair rent' system in 1965?

Beirne's finest academic stroke is a footnote which reads:

> "It would seem that the British working class has resisted rent increases at only two periods, 1915 and 1972."

There is not a reader of this journal who could not give him the lie. Like the thirteenth chime of the clock, utterances like this are not just plainly wrong—they make you wonder about the accuracy of what has preceded them.

There is in fact an interesting and quite complex thesis to be derived from this century's rent and housing struggles, but Beirne only touches on it. It concerns the ability and willingness of the ruling class to let its minor sections, such as small landlords, fall as hostages to the working class in the struggle of the latter to make inroads into the economic power of capital, and of the former to hang on to what matters to it.

It also concerns something which Beirne leaves wholly out of account—the unwillingness of the judges (apart from the handful bright enough to understand the social policy of the Rent Acts) to act as executioners of the private landlord at the behest of a Parliament which, however cannily, was moving in response to working class demands. The Rent Acts bear more judge-inflicted scars than almost any other legislation. Today their security of tenure provisions are stronger than ever, and judicial hostility to them is proportionately stronger too. You cannot write off a complex and ongoing dialectical conflict of this kind with some simpleton notion that the system always wins.

This book is a beginning, and it is important that such an initiative has come from the left. May it grow.

Marxism and the Urban Question

W. Houghton-Evans

(The author of this review is a Senior Lecturer in Architecture and Planning at the University of Leeds. His book, Planning of Cities; Legacy and Portent, *was published by Lawrence & Wishart in mid-1975).*

"The Urban Question: A Marxist Approach"
by Manuel Castells
(translated from the French by Alan Sheridan)
Edward Arnold (paperback) £5.95; (hardback) £12.00

Readers of *Marxism Today* over the past five years will have seen editorial comments from time to time concerning various publications on 'urbanism'. These have been for the most part produced by French scholars, some of whose work owes much to recent interpreters of Marxism such as Althusser and Lefebvre. A parallel development has been the recent work by North American social scientists on urban questions.

In a pioneering effort to open up a new area of Marxist endeavour, Manuel Castells' book brings these two tendencies together, and we should perhaps not complain if he consequently finds it necessary to write in a language made doubly obscure by what it has borrowed from both. But to extract what is worthwhile from his 500 pages will need much patience—especially if (in our rough native way) we are used to calling a spade a *spade*