

examine and explore. New risks are still being found, and with globalisation, new solutions are needed. None of the issues addressed have easy or easily resolvable responses. Readers and students are directed to further lines of enquiry, as they grapple with the issues of the day, and are asked to reflect on potential consequences and outcomes. Clear faults and gaps in the current regulatory framework are identified, as we are asked what type of society we want, and how we, as the wealthy and democratic West, want ourselves to be represented to the rest of the world.

This well referenced book is a must for readers interested in the shifting boundaries of modern society, who wish to engage in some original and challenging thinking. While the book is clearly designed for the third level student, it is highly accessible to the general reader. It will be interesting to see how society reacts to the issues posed in this book, and whether we can construct solutions which will give satisfactory outcomes.

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The Poor Had No Lawyers; Who Owns Scotland and How They Got It

Andy Wightman

£20.00, Birlinn, 2010

I had thought this book would be especially appropriate for review in the *SCOLAG Legal Journal* student edition as it seemed to promise an attack on lawyers for our role in facilitating the economic crimes of the ruling class. Whilst highly critical of the legal and political systems in place in Scotland over the last 900 years, and of the countless individual lawyers and politicians prepared to do their master's dirty work, *The Poor Had No Lawyers* in fact makes the case for more lawyers if they are in the mould of those at the Govan Law Centre or the Environmental Law Centre. Indeed, while some of the dirty work lawyers do is very dirty indeed, such as stringing out cases on behalf of tobacco companies or slum landlords or shareholders who have benefited from workers being exposed to asbestos, it is striking that many of Wightman's criticisms of the use the ruling classes have made of the legal system are backed up with critical comments from lawyers. The very title of the book is taken from the writings of Cosmo Innes who, as an advocate and very much an establishment figure, could not bring himself to admit that example after example of legalised robbery meant that legislatures and governments were motivated by "cruelty or injustice" in "favour[ing] the rich at the expense of the poor" but rather "the evil was for the most part attributable to the straining of the law by the lawyers". Of course, it was safer for Innes to criticise past, unnamed "lawyers" than parliamentarians or governments but even so his answer was not "the first thing we do, let's kill all the lawyers" but rather to lament that "the poor had no lawyers".

Wightman's case is that the introduction of feudalism during the late twelfth and early thirteenth centuries allowed a land-grab by Anglo-Norman colonists who displaced previous Celtic and Nordic landholding traditions. The trick was repeated in the sixteenth century when the Reformation allowed native magnates to seize the land formerly held by the Church and this time the law was implicated through the concept of "prescription" which "cured" the dodgy claims to ownership of these magnates (their ownership claims being "dodgy" because they were simply misappropriations). A further massive theft (sorry, "appropriation") of land was perpetrated when

common land was taken over and fenced in by big landowners with, again, lawyers on hand to argue the big landowner's case – it may have been a weak legal case but who among the dispossessed had the funds to fight the landowners in the Court of Session?

All of this is compelling. Just as compelling is Wightman's criticisms of the role of the law of tailzies or entail, especially in the eighteenth century, though I am less convinced by his arguments in relation to the law of succession as it has applied in more recent centuries. Nonetheless his case that the attitudes which allowed all this thievery are relevant to the massive disproportions in wealth even today is well made; the Poll Tax shifted the burden of paying local tax away from the landlord to the tenant; the Council Tax was carefully crafted to ensure that the wealthy pay a far smaller proportion of their income in tax that someone on minimum wage; the so called "right to buy" council property that the Tories brought in and that the LibLab Scottish Executives failed to repeal allowed tenants to buy their homes from social landlords at knock-down prices to undermine affordable social housing though, of course, this "right" was not extended to tenants of private landlords; even supposedly progressive policies such as "community ownership" of land under the Land Reform (Scotland) Act 2003 simply sees millions of pounds transferred from the taxpayer to the already super-rich (some people were sceptical that the New Labour government elected in 1997 would deliver on wealth redistribution but they did; the gap between rich and poor was increased!).

A couple of unfair criticisms could be made. First, in a book that covers such a vast amount of ground there are bound to be generalisations that an expert in one restricted field could quibble with (one can imagine an enthusiast for Protestantism complaining "I'm not sure the author has addressed the subtle dynamics of John Knox's theological journey in relation to the ownership of the *dominium utile* of the land of Eden as reflected in his diary in late May 1558"). Related to this first criticism, there is so much fascinating detail here about the regular and systematic misappropriation of land by the ruling class throughout our history that there is a danger, for example, of thinking that that was all the Reformation or the development of feudalism was about. But such criticisms could only be seriously made by someone who completely misunderstood the contribution Wightman attempts, and succeeds, in making.

Andy Wightman has written a remarkable polemic that should be read by every law students as it will open up and illuminate an area of law that some might see as rather mundane but also help develop a critical engagement with studying and practicing law (see also his blog at <http://www.andywightman.com/wordpress/?cat=26>). One of Wightman's strengths lies in him wearing his passion and partisan position on his sleeve but all writers on the law, even (indeed especially) those who produce the most apparently "straight", dispassionate and technical texts are promoting an agenda. If anyone suggests that what they have written is not political then you can bet they are committed promoters of the conservative status quo: if you have a critical reaction to *The Poor Had No Lawyers* then hold on to that feeling and use it to test other legal texts and even your lecturer's construction of the curriculum.

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