

articles

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KARL MARX, THE THEFT OF WOOD, AND WORKING CLASS COMPOSITION: A CONTRIBUTION TO THE CURRENT DEBATE*

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I.

The international working class offensive of the 1960s threw the social sciences into crisis from which they have not yet recovered. The offensive was launched in precisely those parts of the working class that capital had formerly attempted to contain within silent, often wageless reserves of the relative surplus population, that is, in North American ghettos, in Caribbean islands, or in 'backward' regions of the Mediterranean. When that struggle took the form of the mass, direct appropriation of wealth, it became increasingly difficult for militants to understand it as a "secondary movement" to the "real struggle" that, it was said, resided only in the unions and the plants. Nor could it be seen as the incidental reactions of "victims" to an "oppressive society," as it was so often by those organizations left flat-footed by the power of an autonomous Black movement and an autonomous women's movement.

This is not the place to elaborate on the forms that the struggles have taken in the direct appropriation of wealth, nor how these were able to circulate within more familiar terms of struggle.¹ We must note, however, that they thrust the problem of crime, capital's most ancient tool in the creation and control of the working class, once again to a prominent place in the capitalist relation. As the political recomposition of the international working class threw into crisis the capitalist organization of labor markets, so that part of traditional social science, criminology, devoted to studying one of the corners in the labor market, "criminal subcultures" and street gangs, had to face a crisis of its own.

George Jackson recommended burning the libraries of criminology. Young criminologists began to question the autonomous status of criminology as a field of study (Hirst, 1972:29; Phillipson, 1973:400; Melossi, 1976:31; Currie, 1974:113). Accompanying both the internal and external critique of criminology has been a recovery of interest in the treatment of crime within the Marxist tradition. Yet, that tradition is by no means accessible or complete and in fact contains contradictory strains within it, so that one cannot be completely unqualified in welcoming it.

In stating our own position let us try to be as clear as possible even at the risk of overstatement. We wish to oppose the view that fossilizes particular compositions of the working class into eternal, even formulaic, patterns. We must, in particular, combat the view that analyzes crime (or much else indeed) in the nineteenth century terms of a "lumpenproletariat" versus an "industrial proletariat." It is to be regretted that despite the crisis of criminology and the experience of struggle that gave rise to it, some militants can still speak of the "lumpenproletariat" *tour court* as though this were a fixed category of capitalist relations of power. When neither the principle of historical specification nor the concept of class struggle is admitted there can be no useful analysis of class strategy, howsoever exalted the methodology may be in other respects.²

In the rejection of various idealist interpretations of crime including their 'marxist' variants, there is, perforce, a revival of interest in the situation of the problem within specified historical periods, that is, within well constituted phases of capitalist accumulation. In this respect the recent work appearing in these pages that discusses the problem in terms of original accumulation must be welcomed (Melossi, 1976:26ff). At the same time we must express the hope that this analysis may be extended to the discussion of the appropriation of wealth and of crime at other periods of the class relation. The contribution of those whose starting point in the analysis of crime is the concept of "marginalization" (Crime and Social Justice Collective, 1976:14; Herman and Julia R. Schwendinger, 1976:7-26) leads us to an analysis of the capitalist organization and planning of labor markets, certainly an advance in comparison to those for whom capital remains de-historicized and fixed in the forms of its command. On the other hand one cannot help but note the unilateral

nature of the concept, the fact that it entails an approach to the question that must accept capital's point of view without adequately reconstituting the concept with working class determinants. One remembers that the life and works of Malcolm X and George Jackson, far from being contained within incidental, "marginal sectors," became leading international reference points for a whole cycle of struggle.

The recent publication of the English translation of Marx's early writings on the criminal law and the theft of wood provides us with a propitious moment for another look at the development of Marx's thinking on the question of crime.³ We hope that some suggestions for placing those articles within the context of the real dynamics of capitalist accumulation may not only allow us to specify the historical determinants of class struggle in the 1840s, but—what is of far greater importance—may make a contribution to the present debate, a debate which in its abandonment of "criminology" as traditionally constituted in favor of an analysis of the political composition of the working class has more than a few similarities with Marx's own development after 1842.



Lunch Hour: Käthe Kollwitz

II.

It would not be much of an exaggeration to say that it was a problem of theft that first forced Marx to realize his ignorance of political economy, or to say that class struggle first presented itself to Marx's serious attention as a form of crime. Engels had always understood Marx to say that it was the study of the law on the theft of wood and the situation of the Moselle peasantry that led him to pass from a purely political viewpoint to the study of economics and from that to socialism (Cornu, 1958:ii, 68). Marx's own testimony is no less clear. In the 1859 preface to his *Contribution to the Critique of Political Economy* he wrote,

In 1842-43, as editor of the *Rheinische Zeitung*, I found myself embarrassed at first when I had to take

part in discussions concerning so-called material interests. The proceedings of the Rhine Diet in connection with forest thefts and the extreme sub-division of landed property; the official controversy about the condition of the Mosel peasants into which Herr von Schaper, at that time president of the Rhine Province, entered with the *Rheinische Zeitung*; finally, the debates on free trade and protection, gave me the first impulse to take up the study of economic questions (Marx, 1904:10).

Faced with his own and Engel's evidence, we must therefore beware of those accounts of the development of Marx's ideas that see it in the exclusive terms of either the self-liberation from the problematics of Left Hegelianism or the outcome of a political collision that his ideas had with the French Utopian and revolutionary tradition that he met during his exile in Paris. The famous trinity (French politics, German philosophy, and English political economy) of the intellectual lineages of Marx's critical analysis of the capitalist mode of production appears to include everything but the actual, material form in which class struggle first forced itself to the attention of the young radical in 1842.

Our interest, however, is not to add the footnote to the intellectual biography of Marx that his ideas, too, must be considered in relation to their material setting. Our purpose is different. We wish to find out why, as it was his inadequate understanding of crime that led him to the study of political economy, Marx never again returned to the systematic analysis of crime as such. As we do this we shall also find that the mass illegal appropriation of forest products represented an important moment in the development of German capitalism, and that it was to the partial analysis of that moment that a good part of the work of some founders of German criminology was devoted. The same moment of struggle in German agrarian relations produced contradictory results among those attempting to understand it: on the one hand, the formation of criminology, and on the other, the development of the revolutionary critique of capitalism.

III.

Between 25 October and 3 November, 1842, Marx published five articles in the *Rheinische Zeitung* on the debates about a law on the theft of wood that had taken place a year and a half earlier in the Provincial Assembly of the Rhine.⁴ The political background to those debates has been described several times (Cornu, 1958: ii, 72-95; Mehring, 1962:37ff). Here we need only point out that the "liberal" emperor, Frederick William IV, following his accession, attempted to make good on a forgotten promise to call a constitutional convention, by instead re-convening the provincial assemblies of the empire. Though they had little power, their opening, together with the temporarily relaxed censorship regulations, was the occasion for the spokesmen of the Rhenish commercial and industrial bourgeoisie to stretch their wings in the more liberal political atmosphere. The *Rheinische Zeitung*, staffed by a group of young and gifted men, was their vehicle for the

first, hesitant flights against the Prussian government and the landed nobility. Characterized at first by "a vague liberal aspiration and a veneration for the Hegelian philosophy" (Treitschke, 1919:vi, 538), the journal took a sharper turn under Marx's editing and it was his articles on the theft of wood that caused von Schaper to write the Prussian censorship minister that the journal was now characterized by the "impudent and disrespectful criticism of the existing government institutions" (Marx, 1842:747).

Though containing passages of "exhilarating eloquence" (Wilson, 1940:124), the articles as a whole suffer from an uncertainty as to their central subject. Is it the appropriation of wood, legal or illegal? Is it the equity of the laws of property governing that appropriation? Or, is it the debates with their inconsistencies and thoughtlessness that took place in the assembly before the law was passed? Marx is least confident about the first subject; indeed, we learn little about the amounts and types of direct appropriation. He really warms to the second as it allows him to expound on the nature of the state and the law. On the third his characteristic wit and sarcasm come into full play. Despite these ambiguities, the articles as a whole are united by the theme of the contradiction between private self-interest and the public good. He objects, in particular, to nine provisions in the new law:

1. It fails to distinguish between the theft of fallen wood and that of standing timber or hewn lumber.
2. It allows the forest warden to both apprehend wrongdoers and evaluate the stolen wood.
3. It puts the tenure of the appointment of the forest warden entirely at the will of the forest owner.
4. Violators of the law are obliged to perform forced labor on the roads of the forest owner.
5. The fines imposed on the thief are remitted to the forest owner (in addition to compensation for damaged property).
6. Costs of defense incurred at trial are payable in advance.
7. In prison, the thief is restricted to a diet of bread and water.
8. The receiver of stolen wood is punished to the same extent as the thief.
9. Anyone possessing wood that is suspected must prove honest title to it.

Young Marx was outraged by the crude, undisguised, self-interested provisions of punishment established by this law. He was no less indignant with its substantive expansion of the criminal sanction. His criticism of the law rested upon an *a priori*, idealist conception of both the law and the state. "The law," he wrote, "is the universal and authentic exponent of the rightful order of things." Its form represents "universality and necessity." When applied to the exclusive advantage of particular interests—the forest owners—then "the immortality of the law" is sacrificed and the state goes "against the nature of things." The "conflict between the interest of forest protection and the principles of law" can result only in the degradation of "the idea of the state." We stress that this criticism applied to both the substantive and the procedural sections of the law. In the latter case, "public punishment" is transformed "into private compensation." "Reform of the criminal" is attained by the "improvement of the percentage of profit" devolving on the forest owner. The attack on the substantive part of the law rests on similar arguments. "By

applying the category of theft where it ought not to be applied you exonerate it." "All the organs of the state become ears, eyes, arms, legs, and means by which the interest of the forest owner hears, sees, appraises, protects, grasps and runs." "The right of human beings gives way to the right of trees." As he stated this, Marx also had to ask, which human beings? For the first time he comes to the defense of the "poor, politically and socially propertyless" when he demands for the poor "a customary right."

On what basis is the demand made? Some confusion results as Marx, only a few years away from his Berlin studies of the pandects and jurisprudence, attempts to solve the problem. First, he justifies it on the basis that the law must represent the interests of all "citizens," that is, he refers to the classical arguments of natural justice. Second, and not altogether playfully, he says that "human poverty . . . deduces its right to fallen wood" from the natural fact that the forests themselves present in the contrast between strong, upright timber to the snapped twigs and wind-felled branches underneath an "antithesis between poverty and wealth." Third, in noting that the inclusion of the appropriation of fallen wood with that of live and hewn timber under the rubric of the criminal sanction is inconsistent with both the sixteenth century penal code and the ancient "Germanic rights" (*leges barbarorum*), he suggests the greater force of these feudal codes.

It is true that Marx understands that these changes of law correspond, over the centuries, to changes in property relations: "all customary rights of the poor were based on the fact that certain forms of property were indeterminate in character, for they were not definitely private property, but neither were they definitely common property, being a mixture of private and public right, such as we find in all the institutions of the Middle Ages." Accumulation has in these articles no separate existence apart from the law which indeed determines it as Marx implies when he says that it was the introduction of the Roman law that abolished "indeterminate property." Powerless to resist, as it were, the tide of a millenium of legal development, Marx seeks to defend the "customary right" by fleeing the seas of history altogether and placing his defense upon the *terra firma* of nature itself. There are objects "which by their elemental nature and their accidental mode of existence" must defy the unitary force of law which makes private property from "indeterminate property," and the forests are one of these objects.

Appeal as he might to the "universal necessity of the rightful order of things" or to the bio-ecology of the forest, neither of these lofty tribunals could so much as delay, much less halt, the swift and sharp swath that the nobility and burgomasters in Dusseldorf were cutting through the forests of the Rhineland. Fruitless as such appeals had to be, Marx could not even understand, by the idealist terms of his argument, *why* it was that the rich Rhenish agriculturalists found it necessary to pass such a law at that time thus expanding the criminal sanction. Nor—and this was far dearer to his interests—could he analyze the historical forces that propelled the Rhenish cotters to the direct appropriation of the wood of the forests. To be sure, we know from passing remarks made in other articles of the 1842-43 period that Marx understood that the parcelling of landed property, the incidence of taxation upon the vineyards, the shortages of firewood, and the collapsing

market for Moselle wines were all elements of a single situation that he could, however, only see from the partial, incomplete standpoint of natural justice.

IV.

When looking at these articles from the standpoint of Marx's later works, we can see that he analyzes only the contradictory appearance of the struggle. Having no concept of class struggle or capitalist accumulation he treats the Rhenish peasantry with a democratic, egalitarian passion, but still as an object external to the actual forces of its development. Unable to apprehend the struggle as one against capitalist development, he assumes that a reasoned appeal to the agrarian lords of the forest, or to their sympathetic brethren in Cologne, will find sympathetic ears. Thus real development occurs, he thought, at the level of the state which only needed to be reminded of its own inherent benevolence to reverse the course of the law and of history.

Precisely this viewpoint, though in an inverted form, dominated the work of the early German criminologists.⁵ Like the young Marx, they separated the problem of the state and crime from the class relations of accumulation. They saw crime from a unilateral, idealist viewpoint. However, for them it was less a question of state benevolence than it was of the malevolence of the working class. They sought to determine the "moral condition of the people" by the classification, tabulation, and correlation of "social phenomena." The work produced in this statistical school sought to find "laws" that determined the relative importance of different "factors" (prices, wages, extension of the franchise, etc.) that accounted for changes in the amounts and types of crime. Like the young Marx, they were unable to ask either why some forms of appropriation became crimes at specified periods and others not, or why crimes could at some times become a serious political force imposing precise obstacles to capitalist reproduction.

The problem of the historical specification of class relations and in particular those as they were reflected in Marx's articles, can be solved only from the standpoint of his later work, especially the first volume of *Capital*. There we learn that in discussing the historical phases of the class relation it is necessary to emphasize the forms of divisions within the working class that are created by combining different modes of production within the social division of labor. This is one of the lessons of Chapter XV. The effect of the capitalist attack managed by means of the progressive subordination of living labor to machines is to extend and intensify "backward" modes of production in all of their forms. This is one of the weapons capital enjoys in establishing a working class articulated in a form favorable to it. Another is described in Chapter XXV of *Capital*, a chapter that is often read as a statement of a dual labor market theory, i.e., that capital in maintaining both an active and a reserve front in its social organization of labor power creates the mechanism for reducing the value of necessary labor. In fact, the "relative surplus population" is maintained in several different forms, forms determined precisely by the combination of different

modes of production. With the reproduction of capital and the struggles against it, that combination constantly changes. The chapter begins with a difficult, apparently technical, section on the value composition of capital that reminds us that the configuration of the working class cannot be analyzed exclusively in terms of its attachments to different "sectors" or "branches" of the social division of labor. Even while accounting for divisions in the class that rest upon its relation to capitals with variant compositions, the political composition of the working class must always be studied from the additional viewpoint of its ability to use these divisions in its attack upon capital. These are divisions whose determinations are not merely the relation to the labor process (employed or unemployed), but divisions based upon the quantitative and qualitative form of the value of labor power.

Lenin, in his analysis of the development of capitalism in Russia and, generally, in his polemics with the "legal Marxists" of the 1890s, was forced to cover much of this ground. "As for the forms of wage-labor, they are extremely diverse in a capitalist society, still everywhere enmeshed in survivals and institutions of the pre-capitalist regime" (Lenin, 1899:590). In contrast to the Narodnik economists who considered the size of the proletariat exclusively as current factory employment, Lenin was forced to remind militants that the working class must be considered only in its relation to capital and in its ability to struggle against capital, regardless of the forms in which capital organizes it within particular productive settings. From a quantitative point of view the timber and lumber workers of post-Reform Russia were next in importance only to agricultural workers. The fact that these belonged to the relative redundant population, or that they were primarily local (not migratory) workers, or that a proportion of their income did not take the form of the wage made them no less important from either the standpoint of capitalist accumulation or from that of the working class struggle against it. Although "the lumber industry leaves all the old, patriarchal way of life practically intact, enmeshing in the worst forms of bondage the workers left to toil in the remote forest depths," Lenin was forced to include his discussion of the timber industry in his section on "large-scale machine industry." He did so not on the grounds of the quantitative scale of lumber workers within the proletariat as a whole, but because the qualitative extension of such work remained a condition of large-scale industry in fuel, building, and machine supplies. Under these circumstances it was not possible to consider the two million timber workers as the tattered edges of a dying "feudalism." Forms of truck payment and extra-economic forms of bondage prevailed not as mere remnants from a pre-capitalist social formation, but as terms of exploitation guaranteeing stability to capitalist accumulation. This was made clear in the massive agrarian unrest of the years 1905-1907 when the illicit cutting of wood was one of the most important mass actions against the landowners (Perrie, 1972:128-129).

Let us return, at this point, to the development of capitalism in the Rhineland and, in sketching some elements of the class relation, see if we can throw some light upon the historical movement of which Marx's articles were a partial reflection.



The Meeting on the Haymarket: Mitchell Siporin

V.

Capitalist development in Germany, at least before 1848, is usually studied at the level of circulation as the formation of a national market. In 1818, 1824, and 1833, at the initiative of Prussia, a series of commercial treaties were signed creating a customs union, the Zollverein, that sought to restore the larger market that Napoleon's "continental system" had imposed. The treaties removed restrictions on communications and transport. They abolished internal customs, established a unified external tariff, and introduced a common system of weights and measures. "In fact," as a British specialist stated in 1840, "the Zollverein has brought the sentiment of German nationality out of the regions of hope and fancy into those of positive material interests" (Bowring, 1840:1). In 1837 and 1839 treaties with the Netherlands abolishing the octroi and other Dutch harbor and navigation duties established the Rhine as the main commercial artery of western Prussia (Henderson, 1939:129-130). Indeed, the Zollverein was only the most visible aspect of the offensive launched by German capital, providing as it did the basis for a national banking and credit market, a precondition of the revolutions in transportation of the 1830s and 1840s, and the basis of the expansion in trade that found some of its political consequences in the establishment of Chambers of Commerce, the consolidation of the German bourgeoisie, and the liberal initiatives of the young Frederick William IV.

The reforms in internal and foreign commercial arrangements, together with the reforms of the Napoleonic period that created a free market in land and "emancipated" the serfs, provided the foundations not only of a national market but laid the basis within a single generation for rapid capitalist development. Older historians, if not more recent ones, clearly understood that those changes "far from bringing into being the anticipated just social order, led to new and deplorable class struggles" (Treitschke, 1919:vii, 201). The expropriation of the serfs and their redeployment as wage laborers are of course logically and historically distinct moments in the history of capital. During the intermediating period the articulation of the working class within and without capitalist enterprises must present confusions to those attempting to analyze it from the framework established during other periods of working class organization. A consideration of the working class that regards it only when it is waged or only when that wage takes an exclusively monetary form is doomed to misunderstand both capitalist accumulation and the working class struggle against it. To consider our period alone, those who find class struggle "awakened" only after the 1839 strike of gold workers at Pfortsheim and the Berlin cotton weavers' and Brandenburg railway workers' strikes will not be able to understand why, for all their faults, Marx's articles on the theft of wood expressed an important moment in the dynamics of accumulation and class relations. In the following pages we can only suggest some elements of those dynamics.

The recomposition of class relations in the Rhineland during the 1830s and '40s was not led, as in England at the time, by the introduction of large-scale machinery. German manufacture was nevertheless deeply affected. From the point of view of class relations, manufacturing capital was organized in two apparently opposite ways. On the one hand the changes in transportation required massive, mobile injections of labor willing to accept short-term employments. Under state direction the great railway boom of the 1830s more than quadrupled the size of the railway system. River transport also changed—steam-powered tugs replaced the long lines of horses pulling laden barges on the Rhine. These changes provided, as it were, the material infrastructure to the possibilities made available by the Zollverein. On the other hand, the capitalist offensive against traditional handicraft and small workshop production met setbacks that were partially the results of workers' power in the detail of the labor process or of the obstacles remaining in the traditional, often agrarian, relations that engulfed such productive sites.

What Banfield, the English free-trader, wrote of the foremen of the Prussian-owned coal mines of the Ruhr applied equally well to most forms of Rhenish manufacture in the 1840s: "Their business they generally understand, but the discipline, which is the element by which time is played off against money, and which allows high wages to co-exist with large profits, does not show itself" (Banfield, 1848:55-56). Only a visitor from England with two or three generations of experience in the organization of relative surplus value, could have so clearly enunciated this fundamental principle of capitalist strategy. In Prussia the height of political economy stopped with the observation that the "state organization of the home market" could

guarantee accumulation. In the silk and cotton weaving districts of Elberfeld where outwork and task payments prevailed, workers' power appeared to capital as short-weighting of finished cloth, "defective workmanship," and the purloining of materials. The handworkers of the Sieg and Ruhr (wire-drawers, nail makers, coppersmiths, etc.) prevented the transition to large-scale machinery in the forge industries. Linen workers and flax farmers prevented the introduction of heckling and scutching machines. Alcoholism and coffee addiction were regarded as serious impediments to the imposition of higher levels of intensity in work. Of course, another aspect of this power to reject intensification in the labor process was a stagnation that brought with it low wages and weaknesses in resisting the prolongation of the working day which, in cotton textiles, had become sixteen hours by the 1840s. Such were the obstacles to accumulation throughout Rhenish manufacture—the Lahn valley zinc works, the sugar refineries of Cologne, the rolling mills and earthenware factories of Trier and the Saarbrücken, the fine steel trades of Solingen, as well as in coal, weaving, and forge work.

These apparently opposite poles of the labor market in Rhenish manufacturing—the "light infantry," mobile, massive, and sudden, of railway construction and the stagnant, immobile conditions of small-scale manufacturing—were in fact regulated by the rhythms of agrarian relations. The point needs to be stressed insofar as many tend to make an equivalence between agriculture and feudalism on one hand and manufactures and capitalism on the other, thus confusing a primary characteristic of the social (and political) division of labor under capitalism with the transition to capitalist dominance in the mode of production as a whole. Both the form of the wage and the labor markets of manufacture were closely articulated to agrarian relations. Remuneration for work in manufacturing was in part made either by the allotment of small garden plots or by a working year that permitted "time off" for tending such plots. Other non-monetary forms of compensation, whether traditional perquisites in manufacture or common rights in forests, provided at once an obstacle to capitalist freedom in the wage and, at the pivot of the capitalist relation, a nodal point capable of uniting the struggles of workers in both agrarian and manufacturing settings. This mutual accommodation between manufacturing and agriculture could sometimes present bottlenecks to accumulation, as in the Sieg valley, where village control over the woodlands guaranteed that timber exploitation would remain more an aspect of working class consumption than in industrial fuel in the metal trades. Macadamization of the roads to the foundries allowed owners to buy and transport fuels, at once releasing them from the "parsimony" of village controlled wood supplies and providing the basis for the re-organization of the detail of the labor process (Banfield, 1846:142). Thus we can begin to see that technical changes in transportation are as much a weapon against the working class as they are adjuncts to the development of circulation in the market.

The progressive parcelling of arable and forest lands in the Rhine, the low rates of agricultural growth, as well as the mixed and sometimes sub-subsistence forms of compensation provided a dispersed and extensive pool for the intensive and concentrated labor requirements of the

railway and metallurgical industries, and concurrently established (what was well known at the time) a form of agrarian relations wherein political stability could be managed (Palgrave, 1912:ii, 814-816; and Lengerke, 1849). The "latent" and "stagnant" reserves of proletarians were regulated, in part, by the institutions designed to control mendicity and emigration.

The emigration of German peasants and handicraft workers doubled between 1820 and 1840. Between 1830 and 1840 it actually tripled as on average forty thousand German speaking emigrants a year jammed the main ports of embarkation (Bremen and Le Havre) awaiting passage (Droz, 1957:78). The areas with the most intense emigration were the forest regions of the upper Rhine (Milward & Saul, 1973:147). A lucrative business existed in Mainz for the factors who organized the shipping of the peasants of the Odenwald and the Moselle across the Atlantic to Texas and Tennessee. Pauperization records are no less indicative of active state control of the relative surplus population than they are of the magnitude of the problem. Arrests for mendicity increased between 1841 and 1842 in Franconia, the Palatinate, and Lower Bavaria by 30 percent to 50 percent (Mayr, 1867:136-37). In the 1830s one in four people in Cologne were on some form of charitable or public relief (Milward and Saul, 1973:147).

Emigration policies and the repression of paupers alike were organized by the state. The police of western Prussia were directed to prevent the accumulation of strangers. The infamous Frankfurt Assembly of 1848 devoted much of its work to the encouragement and regulation of emigration. What early German criminologists were to find in the inverse relation between the incidence of emigration and that of crime had already become an assumption of policy in the early 1840s. The agrarian proletariat of the Rhine was thus given four possible settings of struggle during this period: emigration, pauperization, the immiseration of the "dwarf economy," or the factory. Its history during that period is the forms of its refusal of the last, the least favorable terrain of struggle. Of course to many contemporaries these problems appeared to be the result of "overpopulation" whose solution might have been sought in Malthusian remedies were it not for the fact that the struggles of the Rhenish proletariat for the re-appropriation of wealth had already forced the authorities to consider them as a major problem of "crime and order."

The organization of agriculture in the Rhineland during the 1830s and 1840s was characterized by the open-field system regulated by the *Gemeinde* or village association on the one hand, and by the progressive parcelling (or even pulverization) of individual ownership on the other (Ibid.:82). Friedrich List called it the "dwarf economy" (Ibid.). Since the time of the French occupation of the Rhine when cash payments replaced labor dues, the first historic steps were taken in the "emancipation of the peasantry." The two forms of agrarian relations were complementary: the *Gemeinde* tended to encourage parcelling, and thus one would be mistaken to consider the property relation of the *Gemeinde* opposed to the development of private property. Parcelling and the concurrent development of a free land-market in Rhenish Prussia wrought "devastation among the poorer peasantry" (Treitschke, 1919:vii,301).

The village system of farming, still widespread in the 1840s, was the "most expensive system of agriculture" according to one of its nineteenth century students. It was argued that the distance separating the individual's field from his dwelling caused a waste of time, and that the tissue of forest and grazing rights and customs caused a duplication of effort, constituting an impediment to "scientific" farming. Similarly, common rights in the mill were an inefficient deployment of resources and an obstacle to innovations. Side by side with the *Gemeinde* existed the enormous number of small allotment holders who, living at the margin of subsistence, were intensely sensitive to the slightest changes in prices for their products and to changes in interest rates at seeding or planting time. On ten million arable acres in the Rhineland, there were eleven million different parcels of land (Cornu, 1958:ii, 78-79). As a result of the opening of the Rhineland to competition from east Prussian grain and the extension of the timber market, small allotment holders could neither live on the lower prices received for their products nor afford the higher prices required for fuel. Under this progressive erosion of their material power, a life and death struggle took place for the re-appropriation of wealth, a struggle that was endemic, highly price sensitive, and by no means restricted to timber and fuel rights.

"In summer many a cow is kept sleek on purloined goods" (Banfield, 1846:157). In the spring women and children ranged through the fields along the Rhine and its tributaries, the Mosel, the Ahr, and the Lahn, cutting young thistles and nettles, digging up the roots of couch-grass, and collecting weeds and leaves of all kinds to turn them to account as winter fodder. Richer farmers planted a variety of lucerns (turnips, Swedes, wurzel), but they had to be ever watchful against the industrious skills of their neighbors, skills that often "degenerated into actual robbery." It must be remembered that a good meal in the 1840s consisted of potato porridge and sour milk, a meal that depended upon the keeping of a cow and on access to fodder or grazing rights that had become increasingly hard to come by.

The terms of cultivation among the orchards were similar to conditions of grazing and foraging—operose work and a suspicious eye. The size of orchards was determined not by the topography of the land but by the walking powers of the *gardes champêtres* who provided "inefficient protection against the youth or loose population of the surrounding country." At harvest time cherries, apples, pears, walnuts, and chestnuts were guarded by their owners who rested on beds of straw during evening vigils. The expansion of the field police in the 1830s did nothing to reduce the complaints of depredations. A "man of weight" in the Moselle valley provides us with this description:

The disorderly habits that have such an influence in after life, it may safely be asserted have their root in the practice of sending children to watch the cattle on the (uninclosed) stubbles. Big and little meet here together. The cattle are allowed to graze for the most part on other people's lands; little bands are formed, where the older children teach the younger their bad habits. Thefts are discussed and planned, fighting follows, then come other vices. First, fruit and

potatoes are stolen, and every evening at parting the wish is entertained that they may be able to meet again the next. Neither fields, gardens, nor houses are eventually spared, and with the excuse of this employment it is scarcely possible to bring the children together to frequent a summer day-school, or to attend on Sundays to the weekly explanation of the Christian doctrines (quoted in Banfield, 1846:159).

We note that in these observations no fine distinction can be drawn between the struggle to retain traditional common rights against their recent expropriation and the endemic depredations that were executed without cover of that appeal to legitimacy. Nor should we expect it. In viticulture, garden, and orchard farming the transformation of the market, the fall of prices, the stringencies of credit, especially during the period of 1839-1842, intensified the immiserations of the Rhenish agrarian population which still accounted for about 73 percent of employments.

Traditionally, one of the most important cushions to natural and cyclical disaster was the widespread existence of common rights in private and corporate forests. Despite the relatively high levels of population density and manufacturing development in western Prussia, the proportion of forest to arable lands was three to four, in contrast to Prussia as a whole where it was about one to two. The riches of the forests could provide not only fuel, but also forage, materials for houses, farm equipment, and food. The crisis hitting the Rhenish farming population made these riches all the more necessary to survival. At the same time, access to them was becoming progressively restricted with the inexorable expropriation of forest rights.

The forest, one knows, had supported a complex society both within its purviews and in the neighboring terrain: woodcutters, charcoal burners, coopers, sabot makers, basket makers, joiners, tanners, potters, tile makers, blacksmiths, glass makers, lime burners—the list is limited only by the limits of the uses of wood. Particular use-rights in the traditional forest economy had a social life of their own prescribed in a "tissue of customary rights" that defy the norms and clarities of private property. All rights were governed by two principles. First, that "no Man can have any Profit or Pleasure in a Forest which tends to the Destruction thereof," in the words of a sixteenth century treatise (Manwood, 1717:2). Second, the forms of human appropriation were designed to guarantee and preserve the stability and hierarchy of class relations which guaranteed to the lord his liberty in the hunt and mastery of the chase and to the poor particular inalienable usages. Assart of the forest, rights of agistment, rights of pannage, estovers of fire, house, cart or hedge, rush, fern, gorze and sedge rights, rights to searwood, to windfalls, to dotards, rights of lops and tops—in all, the overlapping vocabulary of natural and social relations recall a forgotten world, easily romanticized by those first criticizing the simplicities of *meum et tuum*. Indeed such romanticism is provoked by the harshness of the opposite view that said the existence of such rights "hindered intensive sylviculture, disturbed the progress of orderly cutting, prevented natural regeneration of the forest and depleted the fertility of the forest soil" (Heske, 1938: 241).

Forest relations in the Rhineland had already changed considerably by the time that Karl Marx took up his angry pen in 1841. The parcelling off of large forest estates, the buying and selling of woodlands, the expropriation of forest usufructs had all well progressed by the 1840s. The movement to abolish forest rights really began with the French Revolution. The Prussian agrarian edict of 1811 removed all restrictions that encumbered the free, private exploitation of forest properties.

The first forty years of the century were characterized by a secular appreciation in the value of timber relative to the value of other agrarian products. This may be attributed to the markets encouraged by the Zollverein, to the demands of railway construction, to the increasing demand for machinery (oak was still widely used), and to the burgeoning market for both individual and productive fuel consumption, itself the result in part of the expropriation of forest usufructs. Dutch shipbuilding, traditionally dependent on the wide rafts of oak brought down the Rhine, remained active. British shipbuilding relied in part on Rhenish hardwoods—oak, elm, cherry and ash—for its supply of spars, masts, yards, staves, and knees (Bowring, 1840:137). Industrial and commercial building in Cologne and the Ruhr was dependent on Rhenish timber. The discovery of the deep seams in 1838 that launched the great expansion of the Ruhr coalfields brought with it an equally sudden rise in the demand for mining timbers (Henderson, 1975:54). Timber prices rose no less in the fuel market where beech was extensively used as an industrial firing fuel, and where timber remained the main source of working-class fuel consumption despite the growing importance of coal. The price of beech tripled between the beginning of the century and 1841. Between 1830 and 1841 it doubled, rising in part due to the demand for railway ties (Banfield, 1846:109). Constructional timber prices rose by 20 percent during the same period.



The Strike: Frans Masereel

This secular trend in forest prices and the struggle of the "peasant proletariat" against it (Noyes, 1966:23) brought about a real crisis in legitimate appropriation that required the active intervention of the state. That which exports to Belgium and Holland started, the wind and the sun completed, and hundreds of years of soil and mulch in the Rhenish broadleaf forests were destroyed in the first part of the century (U.S. Government, 1887:74). The free alienation of forest lands, their subdivision and parcelling, and the violent, unplanned clearing of the woods threatened both part of the livelihood of an entire class in the Rhineland and sound principles of sustained yield management. Without succumbing to the romanticism of the forest which seems everywhere to accompany its destruction (e.g., Chateaubriand—"forests preceded people, deserts followed them"), we must note that on the vanguard of the movement to "preserve" the German woods was the Prussian state anxious to socialize the capital locked up in private forest acres.

For a start, the state reduced the clearing of its own forests and expanded the proportion of forests it owned relative to private, corporate and village forests. By the summer of 1841 more than one half of the Rhenish forests were Prussian owned or controlled. Under state encouragement an apparatus, independent of particular capitalists, was developed for the scientific study and management of timber. G. L. Hartig (1764-1837), organizer of the Prussian Forest Service, and Heinrich Cotta (1763-1844), founder of the Forest Academy at Tharandt (the oldest such school in the world), pioneered the development of scientific silviculture. Partially under their influence, the free assart and clearing of the forest was subjected to state supervision in order to prevent the further depredation of the woods. The schools established in this movement produced a forest police expert in soil rent theory, actuarial calculations, afforestation scheduling, and cutting according to age-class composition. Not until the end of the century had the Germans lost their pre-eminence in sustained yield management.⁶

Enforcing the plans developed by these specialists in sustained yield and capital turnover against a working population increasingly ready to thwart them, stood the cadres of the police and the instruments of law. "No state organization was more hated," a Prussian silviculturist wrote, "than the forest police" (quoted in Heske, 1938: 254). At the end of the 19th century the mere listing of the manuals and books of the Prussian forest police filled 61 pages in a standard bibliography (Schwappach, 1894). The law that these cadres enforced, in state and corporate and village forests, was the result of some centuries of development. Nothing could be more misleading than to regard the legislation criticized by Marx as law that with a single stroke cut through the thicket of feudal rights in order to establish the property law of the bourgeoisie. That process had been going on for a long time, at least since the forest ordinances of 1515 which, more than anything else, had abolished the unwritten, communal norms of the Carolingian period. The revisions of the law which Marx criticized were modifications of the main legal instrument concerning Prussian forests, the Forestal Theft Act of 1837 (U.S. Government, 1887:53). Several other German states had recently reorganized their forest police and revised

their written codes. That of Baden, for example, enacted in 1833, contained 220 sections establishing rules and punishments for nearly every detail of forest appropriation. In Thuringia and Saxe-Meiningen similar codes were established. Written permits were required for berry and mushroom gathering. Dead leaves and forest litter could be gathered for fodder only "in extreme cases of need." The topping of trees for May poles, Christmas trees, rake handles, wagon tongues, etc., was punishable by fine and prison. By the 1840s most forests of Prussia had become subject to the police and deputies of the *Forstmeister* of the Ministry of Interior in Berlin (Banfield, 1846:115). The moment of class relations reflected in Marx's articles was not that of the transition from feudalism to capitalism or even one whose reflection in the law marked a transition from Teutonic to Roman conceptions of property. Each of these had occurred earlier. Nevertheless, it was an important moment in class relations which is to be measured not only by its intensity for which there is ample evidence, but also by its victories, an aspect of which must be studied in the obstacles placed upon the creation of a factory proletariat in the 1840s.



Workmen in the Snow: Edvard Munch

The countryman had a tenacious memory. "The long vanished days when the in the teeming forests anyone who wished might load his cart with wood, remained forgotten throughout Germany" (Treitschke, 1919: vii, 302). Of course, *anyone* could never have loaded his cart with wood. That some could think so is testimony to the power of the movement in the 1830s and 1840s that was able to confuse the issue of lost rights with the direct appropriation regardless of its ancient legitimacy. Lenin in a similar context warned against accepting those "honeyed grandmothers' tales" of traditional "paternal" relations, a point that must be stressed even while we note that such tales have a way of becoming a force in themselves.

One need not be a specialist in 19th century German folklore to recognize that much of the imagination of the forester expressed hostility to the forces transforming the forests and their societies. In these imaginary worlds the trees themselves took sides with the cotters against their oppressors. Michael the Woodman roamed the forests of the Odenwald selecting trees destined for export on which to place his mark. Such trees were fated to bring misfortune upon their ultimate users: the house built of them would burn, the ship would sink (Hughes, 1910: 36). Knorr in the Black Forest played pranks on travellers. The wild Huntress in the same place gave strangers wrong directions. Particular trees were endowed with marvelous powers. A cherry whose loose boughs provided the cradle of a lost infant, a walnut that withstood the sieges of tumultuous gales, these could confer unexpected generosity upon neighboring peasants. Others exercised capricious malevolence against wayfarers, travellers or others strange to the woods. The legends and stories of the forests testified to the fact that poor woods-people and the peasants of the purlieus could find friends in the densest regions of the forest against the oppressions not only of princes and seigneurs but also of their more recent enemies—the tax collector, the forest police, and the apostles of scientific forest management.

By the end of the 1830s the forests of the Rhineland were haunted by more effectual dangers than the evil spirits of popular imagination. Thus in 1842 a Prussian guidebook warned travelers:

Keep as much as possible to the highways. Every side path, every woodway, is dangerous. Seek herbage in towns when possible, rather than in villages, and never, or only under the most urgent necessity, in lonely ale-houses, mills, wood-houses, and the like. ... Shouldst thou be attacked, defend thyself manfully, where the contest is not too unequal; where that is the case, surrender thy property to save thy life (quoted in Howitt, 1842:89-90).

The real dangers in the forests before the revolution of 1848 were not those that Michael the Woodman might effect upon wayfarers but those that a mass movement for the appropriation of forest wealth placed upon capitalist accumulation. In 1836, of a total of 207,478 prosecutions brought forward in Prussia, a full 150,000 were against wood pilfering and other forest offenses (Cornu, 1958:ii, 74; Wilson, 1940:41). In Baden in 1836 there was one conviction of woodstealing for every 6.1 inhabitants. In 1841 there was a conviction for every 4.6 inhabitants, and in 1842 one for every four (Banfield, 1846:111).

So widespread was this movement that it would not be much of an exaggeration to say that German criminology cut its teeth in the tabulation of this movement. From the standpoint of later bourgeois criminology their works appear crude methodologically and in their substance, so many trivialities. Dr. G. Mayr, for instance, one of the first academic statisticians of criminology and the Zollverein, discovered that the more difficult it is to gain a livelihood in a lawful manner, the more crimes against property will be committed. Hence property crimes will vary directly with the price of provisions and inversely with the level of wages. He discovered that wood pilfering was likely to be greater in regions where privately owned forests prevailed

over corporate and communal forests (Mayr, 1867: chapter 4). W. Starke studied the theft of wood in Prussia between 1854 and 1878. He concluded that the theft of wood was greater during the winter than the summer, and greater in cold years than in warm ones (Starke, 1884:88). L. Fuld made painstaking calculations to show that in Prussia between 1862 and 1874 there was a significant positive correlation between the price of rye and the number of convictions for the theft of wood. Valentini, the director of prisons in Prussia, discovered that within the eight districts of Prussia that he studied, the amount of crimes recorded varied according to the forms of land tenure prevalent in each. He found that in the "dwarf economy" of the Rhineland, where the parcelling of land had been carried to its extremes, pauperism was highest and the pilfering of wood the greatest, though these high rates did not hold for other types of crimes "against property" (Valentini, 1869:58). However, objectionable as such work may appear to the more sophisticated calculators of crime, one must stress that it reflects in part a real social analysis of the wage, or a decisive form of income, for a large part of the western Prussian proletariat. It is just as much an indication of that struggle as the "honeyed grandmothers' tales." In fact, we could say that the development of scientific sylviculture and of positivist criminology were two sides of the same coin: one studying sustained yield and the other the endemic ("moral," as they would say) obstacles to that yield.

If we take a glance forward to the revolution of 1848 a number of our problems become clarified. First, the great rural jacqueries of March that swept southwestern Germany were in part united by their common attempts to reappropriate the wealth of the forests, sometimes under the slogan calling for the recovery of lost rights and other times not. The attempts were geographically widespread and common to several juridically distinct sectors of the agrarian population—feudal tenants, day laborers, crofters and cotters alike (Droz, 1957:151-155). Second, this movement defies a rigid separation between a class of "rural peasants" and "urban workers," as the coordination and leadership of them was the responsibility of itinerant handworkers, loggers, rivermen, bargemen, teamsters, and wagoners, precisely those categories of workers with a foot both in the "country" and the "city." Furthermore, the working class that was locked within "backward" settings of manufacture and domestic industry burst out in flashes of destruction against factories and machines, a movement that paralleled the struggle against the forest police, enclosures, functionaries, tax collectors, and forest owners, a movement that in the Rhineland certainly was often united by the same personnel (Adelmann, 1969: *passim*). This is not the place to consider the strengths and weaknesses of the revolutionary working class of 1848 as a whole, nor do we mean to replace as its revolutionary subject the eastern textile workers or the Berlin craftsmen with the south German agrarian masses. We only wish to indicate that the relation between the "latent" and "stagnant" labor reserves to capitalist development in the Rhineland, some of whose unities we've tried to suggest, had their political analogues in 1848. The Frankfurt Assembly of 1848 found that the work of its Agriculture and Forestry Commission overlapped with that on Workers'

Conditions and that the problems of repression of autonomous rural and urban movements were similar (Noyes, 1966: chapters 9 and 13).

The defeat of these movements, more than anything else, paved the way for the advanced assault of German industrialization. Only after 1848 do those familiar indices of capitalist power against the working class (spindles per factory, number of steam engines employed, output of pig iron, etc.) begin to "take off." In light of that it is especially poignant to find that it was not until late into the Nazi period that the full expropriation of forest rights was completed, a time, in other words, when they had long ceased to be a principal terrain of struggle (Heske, 1938: 240ff.). It is a fact worth considering nevertheless by those who consider the final expropriation of such rights as the decisive moment in the birth of capitalism!

VI.

In sketching the dynamics of the class struggle in western Prussia during the 1840s, we've tried to show that the problem of the theft of wood should be seen neither as a problem of Primary Accumulation in the expropriation of a feudal peasantry nor as a problem of an anarchic, individualized "lumpenproletariat." Instead, we've attempted to present the elements of an analysis that cast the problem in a different light. In particular, we've seen in it a struggle to maintain and increase one of the forms of value of the working class, a form that enabled it for a time to reject those terms of work and exploitation that German capital was seeking to make available in the factory. We recall that the detonators of the working-class explosion in the spring of 1848 were precisely various categories of workers, agrarian and urban, within different forms of the relative redundant population. Marginal, to be sure, from the point of view of Siemens or Krupps, but an historic mass vanguard nevertheless. Other recent examples come easily to mind. We may end by noting that the author of *Capital*, the work that is the starting point of the working-class critique of the capitalist mode of production and that provides us with the concepts for at once analyzing the forms of the divisions within the working class and the conditions for using these within the revolutionary struggle against capital, dedicated his work to a Silesian peasant, Wilhelm Wolff, "the brave, noble fighter in the vanguard of the proletariat."



Farmers Revolt: William Gropper

FOOTNOTES

1. I have found the article by Paolo Carpi gnano, "U.S. Class Composition in the Sixties," *Zero work* 1, December 1975, invaluable in the development of this theme.

2. One thinks here of those "deviancy specialists" influenced by Althusser (see, for example, Hirst, 1972:28-56). It may be that Marx "never developed an adequate philosophical reflection of his scientific discoveries." However, some account of those discoveries is in order, especially when by Marx's own account one of his most important contributions over the advances made by Adam Smith and David Ricardo was that of the principle of historical specification of the categories of political economy (Marx, 1867: 52-54).

3. I would like to thank E. J. Hobsbawm and Margaret Mynatt at Lawrence and Wishart who kindly assisted me in making available the English translation of these articles before their publication.

4. There does exist a small literature on Marx's articles (see, for example, Cornu, 1958:ii, 72ff., and Vigouroux, 1965:222-233) but its chief interest is in the intellectual passage of Marx's thought from Kant, Rousseau and Savigny to Feuerbach and Hegel.

5. These works will be discussed in more detail below; see section V. See Fuld, 1881; Mayr, 1867; Starke, 1884; and Valentini, 1869.

6. Even at the end of the nineteenth century the Italian, French and English literature on forestry subjects presented a dearth in comparison to the German. This is the conclusion of the American sylviculturist Bernard Fernow (1902:492).

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