

NOTES ON THE STYLE OF THE LAW

L and Non-L

by

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≈ linguistics ≈ comparative study ≈ dialect ≈
shibboleths ≈ Mitford Sisters ≈



THE most famous work on class in British English is a short essay by Miss Nancy Mitford called ‘The English Aristocracy’,¹ in which the author, inspired by the work of sociolinguist Alan S C Ross, advanced the concepts of U and non-U English. The former is the sociolect of the upper class, that is to say, the aristocracy, which instantly marks out status in the in-group. Non-U English, on the other hand, is epitomised by words which the middle class may see as ‘posh’, but in fact are considered naff by U-speakers. Miss Mitford’s entertaining examples illustrate this divide.

Cycle is non-U against U *bike*.

Dinner: U-speakers eat *luncheon* in the middle of the day and *dinner* in the evening. Non-U-speakers (also U-children and U-dogs) have their *dinner* in the middle of the day.

Greens is non-U for U vegetables.

Home:

non-U—‘they have a lovely home’; U—‘they’ve a very nice house.’

The legal professions, that fraternity of the ‘priests of the law’ (*per* Bracton), are a group arguably as insular and particular as the English nobility (even ignoring the not insignificant overlap between the nobility

¹ Collected, under the title ‘The English Aristocracy’, in N Mitford (ed), *Noblesse Oblige* (Harper & Brothers 1956), ch 1. Incidentally, the use of the honorific ‘Miss’ when introducing Miss Mitford is in keeping with her horror at the ‘unspeakable usage’ which involves ‘the horror of being introduced by Christian and surname without any prefix’ (*ibid*, p 27).

and the legal professions).² Consequently, there is a distinctly legal way of using the English language (let us call it L), which stands in contrast to the ways non-lawyers speak about the law (which we can call non-L). To a speaker of L, there are clear shibboleths marking even the most educated speaker as without the fellowship of the professions.

Let us consider some examples of this phenomenon. One of the most obvious is the pronunciation of case names; to a non-L speaker, *R v Smith* is ‘Arr Vee Smith’. To L-speakers, it is ‘the Crown against Smith’. In civil cases, ‘*v*’ is ‘and’ to L-speakers but not to non-L speakers. A non-L speaker hoping to impress with her knowledge of legal history might pronounce Sir Edward Coke’s surname like it is spelt (‘C-oak’), but in L it is pronounced ‘Cook’. Non-L homeowners might talk about taking out a mortgage, but ‘mortgagee’ and ‘mortgagor’ are signs of L. The correct distinction between a ‘firm’ and a ‘chambers’ is a sign of L, while mention of a (self-employed) barrister’s ‘salary’ (rather than earnings) is a trap into which non-L speakers can fall. Authority’ as a term for a case cited has the hallmarks of an L flourish, while while non-L speakers might freely use ‘precedent’ to describe the impact of a First-tier Tribunal decision (which has no precedential value). ‘Judicial titles, too, demarcate speakers; non-L speakers might omit the honorific from a judicial title. ‘Justice Steyn’ [sic] rather than ‘Mrs Justice Steyn’.

Sometimes, the non-L option is a former L term; just as the non-L speakers caught up, the L term changed.³ It is still common to hear non-L reference to ‘writs’ in a libel case or civil suit, when the cryptolectical changes of the Lord Woolf’s noble reforms mean that this word has been banished from the élitist L vocabulary. Similarly, ‘Your Worship’ may still technically be a permissible address for Justices of the Peace,⁴ it is (to the sincere and profound regret of your correspondent) now quite firmly non-L, used entirely by laypeople.⁵ ‘M’lud’, too, is non-L these days.⁶ The colloquial term ‘gaol’ (or ‘jail’) marks out non-L when applied to law, and (this again is to your correspondent’s extreme regret and horror) even the old stalwart ‘reasonable doubt’ is becoming non-L, with the courts snobbishly employing, like the best aristocrats did in U, a newly invented term that sounds too colloquial to non-L ears: ‘sure’.⁷

The distinction is sometimes enabled by government confusion. There is a Minister for Women and Equalities, which no doubt inspires the habit of non-L speakers of referring to the ‘Equalities Act’. Any L-speaker knows it is, in fact, it the ‘Equality Act 2010’. The British Transport Police and Transport for London plastered non-L posters all over London describing sexual touching, exposing, and so-called ‘up-

2 The overlap was greater historically, as once the nobility were required to study the law, some at the Inns of Court, as it was desirable for nobles to be educated in the law of the land. See 1 Bl Comm 25: ‘in the time of Henry the Sixth it was thought highly necessary, and was the universal practice, for the young nobility and gentry to be instructed in the originals and elements of the laws.’ This declined eventually but some notion of an obligation for patricians to be educated in the law remained (or at least Blackstone believed it did)—1 Bl Comm 13.

3 Cf a similar phenomenon, *mutatis mutandis*, in the dynamic between U and non-U.

4 CrimPD XII, B.2

5 This loss is a great shame, but I can only rage against the dying of the light, not prevent it.

6 I am not actually sure to what extent it was ever truly prevalent or if it was always a characteristic of fiction more than reality; erudite readers are encouraged to comment if they know the story of this term.

7 I really hate this development.

skirting⁸ all as 'sexual harassment'. An L-speaker would naturally call these (respectively) sexual assault,⁹ exposure,¹⁰ and voyeurism,¹¹ 'Exposure' is kept doubly out of the reach of non-L speakers because the old term (once again) of 'indecent exposure' remains in popular parlance even with members of Parliament.¹²

This is a fertile topic, and there are many examples yet to be had. Readers are invited to contribute either via the Comments section below, or via e-mail any suggestions for other L and non-L distinctions.



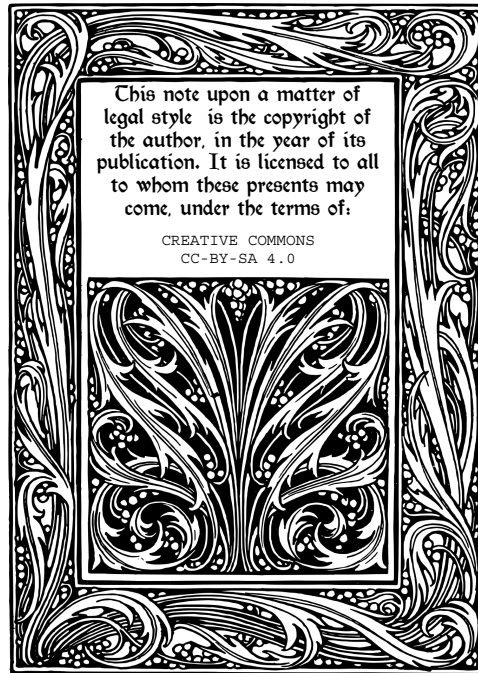
8 An awful slang term for an even more awful practice, thankfully now quite illegal.

9 Sexual Offences Act 2003, s 3

10 *ibid*, s66

11 *ibid*, s 67A (as inserted by the Voyeurism (Additional Offences) Act 2019)

12 See, *eg*, HC Deb 12 July 2021, vol 699, col 12, *per* the hon. Member for Birmingham Yardley



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