

2009

New Governance in European Corporate Law Regulation as Transnational Legal Pluralism

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Recommended Citation

Zumbansen, Peer. "New Governance in European Corporate Law Regulation as Transnational Legal Pluralism." *European Law Journal* 15.2 (2009): 246-276.

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Who's Running the Road? Street Railway Strikes and the Problem of Constructing a Liberal Capitalist Order in Canada, 1886-1914

Eric Tucker*

Street railway strikes in the late nineteenth and early twentieth centuries were frequently the occasion for largescale collective violence in North American cities and challenged the capacity of local authorities to maintain civic order. However, this was only the most visible manifestation of the challenge that street railway workers' collective action posed to the order of liberal capitalism, an order constructed on several intersecting dimensions. Using the example of Canadian street railway workers from 1886 to 1914, a period of rapid urbanization and industrialization, this article explores the ways the collective action by workers and their community sympathizers challenged the workplace, marketplace, and "streetplace" orders of liberal capitalism. It discusses how those challenges were met through political and legal processes of resistance and accommodation, taking into account the fragmentation of state power, hostile public opinion toward the street railways, and conflicting views over the legitimate scope for workers' collective action.

Give us this road and we will run it. [Anonymous protester, 1899]

(Palmer 1976, 122)

The streets of a city are for business, not for demonstrations.

(*Toronto Globe*, 1902e)

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An earlier version of this paper was presented to the Toronto Labour History Group. Thanks to Barry Wright and Susan Binnie, and to the anonymous reviewers of this journal for their critical and constructive comments. Thanks also to Craig Heron for sharing some of his unpublished work. Funding for this project was provided by the Social Sciences and Humanities Research Council (SSHRC) (Grant Number 410-2002-1169).

INTRODUCTION: WORKERS' COLLECTIVE ACTION AND WORKPLACE, MARKETPLACE, AND STREETPLACE ORDER

Canadian street railway strikes between 1886 and 1914, a period of rapid urbanization and industrialization, are most remembered for the large-scale communal violence that frequently accompanied them. There were at least seventeen strikes by streetcar workers, and significant collective violence occurred in thirteen of them (Table 1).¹ On five occasions—London, Ontario, in 1899, Toronto in 1902, Winnipeg in 1906, Hamilton in 1906, and Saint John in 1914—the militia was called in to deal with the perceived threat to civic order. Yet the story of conflict is reflective of a more general phenomenon; workers' collective action has always fit uneasily in liberal capitalist societies, even though it has been present in one form or another, requiring a societal response and often being a force for social reform. This uneasy fit arises from the fact that workers' collective action potentially interferes with the paradigmatic order of liberal capitalism on at least three overlapping dimensions.² Most directly, workers' collective action challenges the ideal workplace order of liberal capitalism in which the owners of capital are free to decide how to use their wealth, with whom they will contract and on what terms, and how production will be organized, subject only to the constraints of a labor market in which individual workers compete in selling their capacity to work. The street railway workers' demands for union recognition and for a grievance procedure clearly challenged the workplace order their employers sought and claimed as a right to impose—employer unilateralism—and sought to replace it with a different regime, described by David Brody (1993) as "workplace contractualism" (221) characterized by collectively bargained contracts that governed labor-management relations. Collective action to realize this transformation in the workplace order and employer resistance were the underlying causes of most street railway strikes

during the period under consideration.

The outcome of struggles over workplace order partly depended on the marketplace and streetplace orders, which were also often sites of contestation between workers and employers. Workers' collective action threatened to upset the ideal marketplace or economic order of liberal capitalism, characterized by the freedom of individuals to pursue their self-interest in markets with a minimum of interference from third parties by counterposing the principle and practice of worker solidarity—a view expressed most clearly in the slogan of the Knights of Labor, "An injury to one is an injury to all."³ Most obviously, collective worker action aimed to disrupt the capitalist labor market through the creation of quasi monopolies over labor supply, but it also was liable to pose a broader threat by interfering with other market exchanges. For example, workers might attempt to convince suppliers or customers not to do business with their employer until a satisfactory agreement was reached. Workers employed by other firms might come to the assistance of striking workers by refusing to handle struck work, or they might strike against their own employers to enforce their fellow workers' demands. Collective action could also indirectly interfere with the operation of the marketplace when, for example, an industrial dispute interrupted the production or distribution of goods and services, such as fuel supplies, upon which a large number of other businesses or individuals depended. Street railway strikes challenged the economic order most directly by disrupting the urban transportation infrastructure that had facilitated the growth of cities, the creation of concentrated downtown business districts, and the dispersion of the population thereby making workers, shoppers, and downtown businesses increasingly dependent on their service (Olsen 1991, 251-52; Warner 1962, 15-29; Fogelson 2001, 9-43).

TABLE 1.
Canadian Street Railway Strikes, 1886-1914

Place	Date & Duration	Workplace Issues	Streetplace Events	State Responses	Strike Outcome
Toronto, ON	Mar. 1886 (3 days)	Firing of union members	Crowds blocked tracks; cars damaged; confrontations with police; police and citizens injured	Police attempted to keep tracks clear and protect co. property; arrests resulting in fines and imprisonment	Union members reinstated
Toronto, ON	May-June 1886	Firing of union members	Crowds blocked tracks; cars damaged; confrontations with police; police and citizens injured	Police and mounted police attempted to keep tracks clear and protect co. property; arrests resulting in fines	Strike lost, union disbanded
Hamilton, ON	Sept. 1892 (3 days)	Firing of union members	None	None	Compromise: improved conditions, discharged men paid off; strikers subsequently laid off
London, ON	Oct. 1898 (15 days)	Firing of union members; working conditions; union recognition	Cars pelted, operators taunted	None	Compromise: reinstatement, improved conditions, right to join union but no recognition
London, ON	May-Nov. 1899	Firing of union members; working conditions; union recognition	Escalating crowd violence (July 8)	Riot Act read; militia called up; arrests resulting in fines and imprisonment	Strike lost
Toronto, ON	June 1902 (3 days)	Firing of union members; working conditions; union recognition	Large crowds blocked cars; stones thrown; cars damaged	Militia called up but strike settled before they arrived; arrests	Union win: right to organize recognized; grievance procedure; wage increase
Montreal, PQ	Feb. 1903 (2 days)	Firing of union members; wage increase; union recognition	Minor crowd violence	Local police; few arrests	Union victory
Montreal, PQ	May 1903 (4 days)	Wages and working conditions; grievance procedure; union recognition; closed shop	Minor crowd violence	Local police; few arrests	Company victory; Feb. agreement restored; local association replaces AASRE

TABLE 1.
(*Continued*)

Place	Date & Duration	Workplace Issues	Streetplace Events	State Responses	Strike Outcome
Cornwall, ON	June 1905 (7 days)	Wage increase	None	None	No change in wages
Winnipeg, MB	Mar. 1906 (9days)	Union recognition, wages	Crowd violence; strikebreakers assaulted pickets	Riot Act read; militia called up; arrests resulting in fines and imprisonment	Compromise
London, ON	July 1906 (21 days)	Discharge of union members; working conditions	None	Local police; strike sympathizer arrested and fined for calling motorman a scab	Union loss
Levis, PQ	Sept. 1906 (2 days)	Discharge of union activists	None	None	Union loss
Hamilton, ON	Nov. 1906 (26 days)	Discharge of union president; failure to comply with prior arbitration award	Escalating crowd violence	Riot Act read; militia called up and deployed; arrests resulting in fines and imprisonment	Arbitration of disagreement by ORMB produces compromise
Winnipeg, MB	Dec. 1910 (15 days)	Discharge of union officers	Escalating crowd violence	Local police; arrests resulting in fines and imprisonment	Terms not disclosed; strikers rehired
Port Arthur, Fort William, ON	May-June 1913 (1 month)	Discharge of employees, wage increase	Crowd violence; one sympathizer shot and killed by police, another wounded	Local police; arrests	Union loss
Halifax, NS	May 1913 (4 days)	Wage increase	Crowd violence; car wrecking	Local police; arrests	Compromise
Saint John, NB	July 1914 (5 days)	Discharge of union officer and men	Crowd violence; sympathizer shot in leg by police officer	Riot Act read, soldiers charged crowd; troops requested; arrests	9 of 11 discharged workers reinstated

Legend: MB (Manitoba), NB (New Brunswick), NS (Nova Scotia), ON (Ontario), PQ (Province of Quebec).

The broader the scope for workers' solidarity in the marketplace, the better their chances to transform the workplace order. Finally, workers' collective action could interfere with the paradigmatic streetplace or civic order of liberal capitalism, which was characterized by the right of individuals to move freely on public streets and spaces without being threatened or impeded by other individuals, and by the protection of their property from invasions or obstructions.⁴ However, the idea expressed in the *Toronto Globe* editorial excerpted at the beginning of this article—that streets were places for business, not demonstrations—was opposed by older but evolving popular traditions of parading and protesting, sometimes peacefully and sometimes not.⁵ The legitimate use of public space was highly contested in nineteenth- and early twentieth-century North America, and collective violence was not uncommon (Goheen 1994, 430; Ryan 1997; Heron and Penfold 2005, 4-27; Lord 2005, 17; Fyson 2009). While disciplined parades of striking street railway workers on city streets stayed well within the legal boundaries of the streetplace order, raucous gatherings of strike sympathizers that prevented streetcars from running over rights-of-way granted by municipal authorities clearly did not; nor did those who committed violent attacks on street railway property or on replacement workers who operated the cars during a strike. Traffic across the normative and legal boundaries of the streetplace order, however, was two way. Street railway operators were also prepared to violate legal and normative standards by hiring private security guards who carried arms and threatened or used violence to keep the street cars running.

There is an implicit tension in the above formulation between an essentialist view of workplace, marketplace, and streetplace orders under liberal capitalism, and the claim made earlier that those orders were made and remade partly in response to workers' collective action. This can be resolved, however, by distinguishing between two levels of analytical abstraction: at the highest level of abstraction, it is both possible and useful to identify quintessential features of a liberal order, while simultaneously, and at a lower level of abstraction, recognizing that actually existing liberal orders are the

product of historical processes of social conflict and accommodation between classes and other forces.⁶ While this article draws on an essentialist baseline, I am not making a functionalist claim that an idealized version of order is or was necessary or functionally optimal for liberal capitalism. Rather, the claim is that a particular vision of order lay at the core of the project of imposing liberal capitalist rule but that such an ideal was always contested. The article's focus is on the making of actual liberal orders, and, more particularly, on the challenges collective action by street-car workers and their supporters in Canada created for, and the impact and it had on, the three dimensions of liberal capitalist ordering they confronted. While this study is local, the processes of constructing the liberal orders that it examines should be of general interest to North American legal and labor historians.

The role of law and the state was central to the construction and maintenance of order in liberal capitalism, but this does not mean that law and the state exercised a monopoly. Legal pluralists make the important point that social order is the product of multiple processes and that it should not be assumed that state law is always the most significant or influential (Merry 1988, 869). This perspective has been particularly influential in the labor field, where it has been applied both descriptively to explain how industrial relations-workplace orders-are negotiated and renegotiated on a daily basis, and normatively in defense of an approach to labor policy that leaves the workplace parties ample room to devise and implement their own arrangements through collective bargaining rather than by having the state directly impose terms and conditions of employment. While this perspective usefully draws our attention to the importance of nonstate ordering processes, under liberal capitalism it often fails to adequately address the centrality of law and the state in establishing the rules of the game, including the extent to which nonstate processes will be allowed to establish workplace, marketplace, or streetplace order. Additionally, the role of unequal power relations endemic in capitalist societies is undertheorized in pluralists' explorations of nonstate ordering systems, as are its implications for the process of determining whose vision of order becomes privileged in

state law (Kidder 1997). The approach adopted in this article places state law at the center but understands that the role of that law and its significance relative to other ordering processes will vary from sphere to sphere depending on a variety of factors. The article's approach also locates state and nonstate ordering processes within the context of a social formation, liberal capitalism-which is characterized structurally by unequal power relations-and it explores the often conflict- ing visions and practices of order that shaped and reshaped liberal order. Finally, the article takes care to emphasize that in the context of street railways, decisions about enforcing order were typically made at the lower levels of the legal and political system. There were, for example, no high court judgments to emerge from any of the prosecutions heard mostly in magistrates' courts, while decisions about when to use force were made by local officials.⁷

The distinction between high and low law leads to another dimension of pluralism: the importance of recognizing that the state ordering process itself is highly fragmented along several dimensions. First, in Canada there is the constitutional division of power between federal and provincial governments and a further statutory delegation of power to local authorities, all of whom share responsibility, to different degrees and in different ways, for enacting and enforcing law. State power is further fragmented at any particular level of government between its different branches as well as within branches. These divisions will become especially apparent in the context of the street railway strikes, which involved the federal and municipal governments; local and provincial police and the militia; police magistrates; federal criminal law; and federal, provincial, and municipal regulatory law, among others. Although it does not necessarily follow that a highly fragmented state cannot respond forcefully and with unity of purpose to maintain a given sociolegal order when it is perceived to be under attack, the possibility does exist that dis- agreements over what order requires and how to achieve it may emerge and be exploited to create more space than is normally available to actors who generally experience state law as a set of constraints rather than as a source of empowerment.

I. WORKING ON THE STREET RAILWAY: THE STRUGGLE TO CHANGE THE WORKPLACE ORDER

Street railways in the era prior to World War I were, with few exceptions, privately owned and operated.⁸ Unlike other private businesses, however, street railways enjoyed monopoly rights granted by municipalities to provide transportation services according to terms and conditions specified in the franchise. As private, for-profit, public service providers, they were under much greater public scrutiny and control than most other private businesses. The creation of a street railway system involved a large investment of capital, but it also came with an obligation to provide service at a specified fare. The switch from horse-drawn carriages to electrified streetcars in the 1890s further increased the capital cost of the system, as did its extension to suburban areas.

Labor costs were by far the largest variable cost, and thus street railway owners soon learned that the profitability of their operations depended to a great extent on their ability to keep labor costs under control (Davis 1979; Cheape 1980; Armstrong and Nelles 1986, 40-41). For the most part, street railways sought to achieve this objective by keeping wages low and hours long, imposing strict discipline on employees, and, if employees tried to organize a union to improve their conditions, fiercely fighting to keep their workplaces union free.⁹ One technique commonly deployed by street railways was to hire private detective agencies that spied on their workforces to uncover employee misbehavior and union activity.¹⁰ This attempt to create and maintain a private, unilateral, and authoritarian workplace order, however, often was contested by the largest group of street railway employees: conductors and motormen.¹¹

While craft workers historically had been able to exert a fairly significant degree of job control through their partial monopoly of key skills, most street railway workers, including the conductors and drivers with whom this study is chiefly concerned, found themselves in a different position because the skills involved in their work were either

widely held, particularly in the days of horse-drawn cars, or could be quickly learned. For many, therefore, the primary response to the unsatisfactory work conditions they encountered was to quit, so labor turnover was frequent among motormen and conductors. While this undoubtedly caused some difficulty for employers, it was usually not enough to spur them to improve conditions, although eventually some did embrace company-sponsored employee associations as means for retaining workers and avoiding unionization.¹² A sizable number of conductors and motormen, however, also engaged in collective action to contest and reshape the workplace order, notwithstanding the formidable obstacles they faced as semiskilled workers. Informal associations were established sporadically in the 1870s, and in the 1880s the Knights of Labor briefly succeeded in organizing street railway workers in Toronto. A more permanent union presence, however, only emerged after the founding in 1892 of the Amalgamated Association of Street Railway Employees (AASRE) by the American Federation of Labor, which began to organize locals in Canada at the end of the

nineteenth century (Schmidt 1937, 121-52; Armstrong and Nelles 1986, 225-29).¹³ In many ways, the AASRE was in the vanguard of the so-called new unionism that sought to organize skilled and semiskilled workers on an industrial basis with the goal of reshaping the workplace order to more closely conform to conditions previously available only to the most skilled (Palmer 1979, 199-216). This fact did not go unnoted at the time. For example, following the first Montreal street railway strike, which produced a partial victory for the union, the *Montreal Gazette* noted,

The success of the men in the street railway strike . . . will go far towards establishing a new standard of wages generally in lines of work where only ordinary skill is required . . . The new rates will enable them to earn yearly wages that heretofore have been only within the power of skilled craftsmen. (*Montreal Gazette* 1903a, 6)

Even more contentious than wage and hour disputes were demands for union recognition, the establishment of a grievance system to review management discipline, and changes in work rules. Street railway owners found these latter demands most unpalatable since they correctly viewed them as fundamentally

inconsistent with employer unilateralism, the workplace order they wished to maintain. The *Montreal Gazette*, which staunchly defended the Montreal Street Railway during a tumultuous strike in May 1903, articulated the employer's position in one of its strike-related editorials:

There are two sets of issues. . . . One affects hours and pay. . . . The other touches the control of the company over its property and those who it pays to operate it; and this is the serious side of the difficulty. . . . The men left their positions for the purpose of compelling the company to . . . recognize their union as its master. . . . That is why the present fight must be a fight to the finish—the finish of the union with its foreign affiliations which dares to demand the abolition of free labor and the control of the men who operate the leading public convenience of Montreal. (*Montreal Gazette* 1903b,6)

Workers, too, understood that their demands challenged what they increasingly viewed as an intolerably autocratic workplace order in which employers enjoyed nearly unlimited management prerogatives based on the combination of employee market dependence and employer property ownership. For street railway workers, unionization promised not only higher wages, but also a measure of personal dignity and a collective voice that would give them some control over the labor process. In short, they were seeking to establish a new workplace order—workplace contractualism—undergirded by the notion that terms and conditions should be settled by negotiation and that managerial authority should be reviewable (Brody 1993).

The legal regime under which workplace order was established and contested in the 1880s has been labeled "liberal voluntarism" (Fudge and Tucker 2001, 2). At its core were freedom of contract and the rights of property. Employers as owners of the means of production had the right to determine how their property would be used, and they enjoyed the freedom to choose with whom to contract and on what terms. Workers also enjoyed freedom of contract, which included the privilege of joining with other workers for the purposes of improving the terms

and conditions of their employment; but employers were free to refuse to hire or to fire workers who chose to join unions. Similarly, workers could collectively withdraw their labor (that is, to strike) in order to pressure their employer to agree to the terms and conditions they demanded; but employers, again, were free to hire other workers to take their place. Moreover, striking workers were restricted in the actions they could take to make their strikes effective by the employers' rights of freedom of contract (which, for example, required striking workers not to interfere with the hiring of replacement workers by their employers), as well as by their private property rights (which, for example, prevented striking workers from blocking access to their employers' premises). These restraints were embodied in both civil and criminal law. Finally, even when settlements were reached with trade unions they were not legally enforceable. Not only did trade unions lack legal personality (a situation that, much to the regret of employers, also made it difficult for employers to sue them), but also courts held that there was no intention to create legal relations. As a result, negotiated changes to the workplace order were potentially unstable since both employers and unions were legally free to ignore agreements when they thought it was to their advantage to do so. This often produced a second round of industrial conflict.¹⁴

The legal framework within which the workplace order was contested had changed in two respects by 1914, leading to a regime change labeled "industrial voluntarism" (Fudge and Tucker 2001, 16). The most significant modification was the Industrial Disputes Investigation Act (IDIA), enacted in 1907, which prohibited strikes and lockouts in industries that were considered public utilities until after the completion of a conciliation process. Although the principal justification for this legislation was to ameliorate the adverse effect of industrial conflict on the economic order, it affected to some degree the conduct of disputes over the workplace order. The other change was the introduction of limited minimum standards that made the determination of certain aspects of the workplace order a public matter for political and regulatory authorities rather than a private issue to be resolved by contract

between workers and street railway companies. This occurred most commonly when the workplace order had implications for the health and safety of workers and members of the public (Tucker 1990). In the case of street railways, turn-of-the-century efforts to impose apprenticeship requirements failed, but in 1912 an Ontario regulatory board was empowered to establish maximum hours of work for motormen and conductors; in no case were employees to be permitted to work more than six days a week or ten hours a day.¹⁵ Earlier, in at least one Ontario municipality (Hamilton), the franchise agreement between the city and the street railway established maximum hours and minimum wages.¹⁶ In Nova Scotia, legislation was enacted in 1911 requiring that motormen and conductors be protected against the weather. The realm of regulated work conditions was subsequently expanded in 1912 to include braking systems, seating, training, and working hours—all matters that touched on both worker and public safety.¹⁷

Overall, by the end of 1914, street railway workers and their unions had managed to make modest changes to the workplace order through a combination of collective bargaining, arbitration, and conciliation (see Part II of this article for marketplace order), strike activity (see Part III for streetplace order), and legislated minimum standards, although the picture varied markedly from city to city. Toronto workers were more successful than most. Although the first organizing effort by the Knights was resoundingly defeated in the second 1886 strike (Morton 1975, 44-56; Kealey 1980, 199-212; Tucker 1994, 295-308), the 1902 AASRE organizing campaign and strike won the right of employees to join a union without facing retaliation, access to a grievance procedure, and a wage increase (*Labour Gazette* 1902). A new agreement, reached the following year, provided for conciliation and binding arbitration of grievances, as well as provisions relating to working conditions such as stools and closed vestibules for motormen (*Labour Gazette* 1903b). Although management refused to formally recognize the union, always insisting that it was dealing with employee representatives and not the union, a reasonably stable collective bargaining relationship developed.¹⁸ Indeed, two subsequent arbitration awards began to elaborate

the framework that came to typify industrial legality in the post-World War II era (Palmer 1992, 278-84). In the first, involving a dispute over the dismissal of employees found interfering with three other employees who had scabbed in Winnipeg during an earlier street railway strike, the arbitration panel affirmed the employer's "inherent right" to manage its employees subject only to the terms of the agreement and applicable laws. In the second, the arbitrator recognized the right of employees to refuse work that endangered their or the public's health or safety without being disciplined beyond the loss of wages for the time they did not work (*Labour Gazette* 1906e, 1908a). Subsequent agreements, reached with the assistance of IDIA conciliation, introduced progressive discipline and additional work rules (*Labour Gazette* 1910, 1912b).

Street railway workers in Hamilton (*Labour Gazette* 1908b, 1909, 1913c),¹⁹ Ottawa (*Labour Gazette* 1908c, 1912a, 1914b), Quebec City (*Labour Gazette* 1908d, 1913a), Saint John (*Labour Gazette* 1914a; Babcock 1982), and Vancouver (Roy 1972-73, 3-10; *Labour Gazette* 1913d) also seemed to have established relatively stable collective bargaining relations prior to World War I. Less successful were street railway workers in Winnipeg, despite two violent strikes. The first, in 1906, resulted in a wage increase but no form of union recognition. The second, in 1910, was called in response to the termination of union officers allegedly enticed by private detectives to violate company rules by entering a tavern while in uniform. The officers failed to obtain their reinstatement; the strike was instead settled on the basis that the striking men would be rehired as they were needed (*Labour Gazette* 1906a, 1906b, 1911a, 1911b; *Motorman & Conductor* 1911). Finally, street railway workers in Cornwall (*Labour Gazette* 1905), Halifax (Lambly 1983, chap. 3), Levis (*Labour Gazette* 1906f), London, Ontario (*Labour Gazette* 1906c, 1906d), Montreal (*Labour Gazette* 1903c, 1903e), and Port Arthur and Fort William (*Labour Gazette* 1913e, 1913f; Morrison 1974, chap. 9) lost strikes, and their unions either disbanded or barely hung on. To more fully understand these outcomes, however, it is necessary to turn our attention to the two other dimensions of liberal capitalist ordering that collective

action confronted: the economic order and the civic order.

II. PROTECTING THE MARKETPLACE ORDER AND ITS IMPLICATIONS FOR WORKPLACE REORDERING

The central ideological premise of early twentieth-century Canadian industrial relations policy was that the public had an interest in limiting harm to the economic order caused by workplace conflict. This goal was indirectly advanced by removing some causes of workplace conflict through the direct regulation of workplace conditions affecting health and safety, but the principal Canadian innovation was legislation that compelled conciliation prior to a strike or lockout (Fudge and Tucker 2001, 16-50).²⁰ This legislation, however, only applied to those sectors of the economy that were deemed public utilities, such as transportation, because they provided infrastructural support for the broader economy. Street railway strikes arguably fell within this category, although their actual impact on the local economy was more a matter of speculation than rigorous investigation.²¹ At the very least, street railway strikes caused much inconvenience because of the growing dependence of a more dispersed urban population on their service. Additionally, even though most street railways were privately owned, the fact that they obtained monopoly franchises from the city strengthened the popular view that they were public utilities that should be made subject to greater public and governmental regulation than would otherwise be justified. As the *Free Press* noted in an editorial after the settlement of the 1906 Winnipeg strike, "The civic car service is a public franchise and the public should have the right to have representatives of the public interest intervene, if necessary" (*Winnipeg Free Press* 1906h).

Legal intervention in labor disputes to protect the economic order, however, was problematic from the perspective of liberal voluntarism, which viewed the marketplace

as a realm of freedom of contract. The dilemma, then, was how to protect the marketplace order of liberal capitalism from the disruptive effects of labor conflict without subverting it. In the late nineteenth and early twentieth centuries, the common law was just beginning to develop economic tort doctrines that could be used to limit secondary actions directly aimed at third parties, but it had virtually nothing to offer when industrial conflict indirectly caused harm (Tucker and Fudge 1996). Strikes could be prohibited by legislation, but that was not seriously considered at the time. Rather, attention was focused on mediation and conciliation through the involvement of neutral third parties-practices that were common but that occurred almost entirely on an ad hoc and voluntary basis. For example, the Toronto civic railway strike of March 1886 and the Montreal strike of February 1903 were settled with the assistance of groups of aldermen, while the Toronto Board of Trade helped resolve the Toronto strike of June 1902, and the Winnipeg Ministerial Association mediated the March 1906 strike in that city. There was also some provincial trade dispute legislation enacted during this period, but with one exception it operated on an entirely voluntary basis: both parties had to agree to participate in the dispute resolution process, though findings or recommendations were not binding (British Columbia Legislative

Assembly 1895; Martin 1954; Mitchell 1990; McCallum 1991).²²

By the turn of the twentieth century, the federal government was becoming increasingly concerned about the impact of industrial conflict on the national economy and its development strategy, particularly when it affected the coal and transportation industries. In 1900 the federal government enacted conciliation legislation that operated on a completely voluntary basis (Conciliation Act 1900), but when this law failed to prevent strikes on the railways, the government considered introducing stronger measures. In 1902 it presented a bill making binding arbitration of disputes on steam and civic railways compulsory. The bill was abandoned due to lack of support, but the following year the government introduced a more modest alternative in the Railway Labour Disputes Act (1903) (RLDA). It allowed either of the

parties, an affected municipality, or the federal government to initiate a conciliation process before a tripartite board and, if that failed to resolve the dispute, the matter could be sent to an arbitration board, which was fortified with quasi-judicial powers of investigation and was required to publish a nonbinding report proposing terms of settlement. Although the RLDA created a legal power to investigate, it did not deviate far from the norms of liberal voluntarism: the act neither limited the freedom of the parties to engage in industrial action nor required them to accept the board's proposed resolution

(*Labour Gazette* 1903d; Craven 1980, 273-79; Russell 1990, chap. 2; Webber 1991; Fudge and Tucker 2001, 34-43).

The reluctance to use more legal compulsion to protect the marketplace economic order from the disruptive effects of industrial conflict not only sprung from inconsistency with the vision of liberal voluntarism, but also was the product of conflicting views between labor and capital and among their factions. The Knights of Labor favored arbitration of disputes not because of a concern about the adverse effect of industrial conflict on the economic order, but for both ideological and strategic reasons. Ideologically, the Knights envisioned an economic order based on mutuality and fairness, rather than the pursuit of self-interest, and arbitration was seen as a means of rationally establishing the facts upon which a just workplace order should be based. In addition, the Knights recognized that the less-skilled workers they organized faced greater difficulties winning strikes against hostile employers who could more easily hire replacements. Arbitration, they believed, would yield more favorable outcomes (Kealey and Palmer 1982, 330-39) than adversarial dispute. In its early years, the national labor federation, the Trades and Labour Congress of Canada (TLC), also supported compulsory arbitration but reversed its position in 1902 after it became dominated by international unions affiliated with the American Federation of Labor (AFL), a body firmly opposed to such measures.

Although the AASRE was an AFL affiliate, it departed sharply from the AFL's position. It not only supported compulsory arbitration of labor disputes, but its

constitution required local unions to demand it in contract bargaining as a condition of receiving international support for a strike. Like the Knights, who had a strong presence among street railway workers during the nineteenth century, the AASRE understood the strategic value of arbitration.

Unlike many of the established craft unions and the railway brotherhoods, which organized workers who exercised partial monopolies of skill, the members of the AASRE were more easily replaceable and so found it difficult to attain some level of union recognition. The agreement of an employer to accept arbitration was viewed as a step toward recognition. Moreover, the refusal of an employer to arbitrate outstanding differences played into the union's hands by strengthening its standing in the eyes of the community: the union's willingness to accept the verdict of neutral observers made its position seem reasonable, in contrast to that of recalcitrant employers who put their interests ahead of the community's (Harring 1986). For example, the *Toronto Globe* published an editorial prior to the June 1902 strike noting, "The company operating a profitable public service, which in these days refuses to arbitrate, necessarily and properly antagonizes reasonable public opinion" (*Toronto Globe* 1902a). In subsequent editorials published during and in the aftermath of the strike, the *Globe* reiterated its support for arbitration and complimented the union for its willingness to submit its demands to a process in which "the parties are to come together, lay aside all considerations of superior force or cleverness, and simply say about each proposition as it comes up: 'Is it fair? Is it reasonable?'" (*Toronto Globe* 1902b).²³ Similarly, the *Winnipeg Free Press* published an editorial following the settlement of the 1906 strike, regretting the absence of a formal arbitration clause in the agreement, while the Reverend Charles Stewart blamed the strike and the resulting troubles on the company because it had refused arbitration (*Winnipeg Free Press* 1906f, 1906g).

Community and AASRE support for compulsory arbitration of civic railway disputes, however, was not strong enough to overcome TLC, employer, and government resistance to such measures. This was reflected in the Ontario Railway and Municipal Board Act (1906) (ORMBA), which contained two provisions

directly related to labor disputes on railways and street railways. Section 58 of the act allowed the board to arbitrate street railway disputes that were submitted to it by the parties, provided the parties also agreed to abide by its decision, and so it was a purely voluntary measure; while section 59 permitted the board to conduct quasi-judicial hearings into a strike or lockout that harmed the public and to publish its findings with recommendations for settlement. The following year, the federal government enacted the above-mentioned Industrial Disputes Investigation Act (1907) (IDIA), which applied to the coal industry and other public utilities, including street railways. Although street railway strikes were not the government's primary concern, Minister of Labour Rodolphe Lemieux cited the bitter experience of the 1906 Hamilton strike when speaking in favor of the bill (Canadian House of Commons 1906-1907, 3010). The IDIA went a step further than previous legislation by requiring conciliation before the parties could legally engage in strikes or lockouts, but continued to refuse to compel the parties to accept binding arbitration to establish the terms of the disputed workplace order. As Jeremy Webber (1991) noted in his study of the origins of the IDIA, "Its purpose was to tame the exercise of economic power, not displace it. Its goal was to reproduce the kinds of results that an unconstrained ordering would have generated, but without the disruption of strikes" (46). In short, the government resolved the dilemma of protecting the liberal capitalist economic order without undermining it through mandatory conciliation, hoping that the IDIA would eliminate unnecessary conflict by fostering rational, self-interested bargaining constrained by the weight of public opinion.

It is difficult to assess the extent to which the IDIA protected the economic order by reducing the incidence and duration of street railway strikes. Data collected by Benjamin Squires (1918) indicates that from the time the IDIA came into force until the end of 1914 it was invoked eighteen times in street railway disputes, and strikes occurred in only two of those instances. His data also show that there were three street railway disputes for which boards were not constituted and in which there were strikes (Squires 1918, see Tables 3 and 5). It seems fair to conclude that the IDIA

was frequently invoked in disputes between street railways and the AASRE and that it facilitated settlements in some cases. Moreover, in the pre-World War I period, the act was strongly supported by AASRE officials, who viewed it as providing an opportunity for a weak union such as theirs to gain a foothold (Lambly 1983, 62-94; Fudge and Tucker 2001, 77-79).

It is somewhat easier to assess the impact of the IDIA and other forms of conciliation on the workplace order. In general, according to Webber (1988a), IDIA boards took the view that "employers remained masters of their enterprise, obligated to provide a decent living to their employees, but not to share the prerogatives of property" (232). This translated into a general refusal by boards to recommend union recognition, a step that interfered with management's right not to negotiate with outsiders. Instead, boards often recommended that an employer agree to meet with a delegation of its own employees and generally endorsed the right of employees to join a union without suffering discrimination. When, however, complaints were made that employees were discharged for union activity, boards were reluctant to contradict management's claim that it was disciplining workers for work rule infractions (Webber 1988b). In short, it generally endorsed only modest reforms to the predominant regime of employer unilateralism and market subordination.

This pattern was clearly evident in the street railway disputes that were considered under both the ORMBA and the IDIA. For example, in the first application of the ORMBA, arising out of a strike by street railway employees in London, Ontario, over the discharge of three union members, a majority of the board could not find evidence that the men were discharged "simply" because of their union activity (*Labour Gazette* 1906d, 318). Similarly, over the dissent of the union nominee, the first IDIA board involving street railway workers also upheld the dismissal of the union president in Hamilton for work rule violations one year after a bitter strike (*Labour Gazette* 1908b).²⁴ Later boards often sought a compromise, on the one hand "supporting the authority of the manager to preserve discipline," while on the other recommending reinstatement without back pay based on the employee's long record of loyal service.²⁵

Similarly, on the issue of union recognition, boards were reluctant to directly challenge management rights and instead sought a compromise with which both sides could live. For example, in the London, Ontario, conciliation referred to above, the board rejected the men's demand for union recognition but supported their right to join a union without discrimination: "There is no law compelling the company to treat with the union. That is a matter that will have to go on as it has done heretofore. Let them treat with the union as they see fit, just as the men can form a union if they see fit" (*Labour Gazette* 1906d). There were, however, some exceptional cases when union recognition was advised, but even when a contract with the union was signed, employers often continued to resist. For example, to resolve a heated and violent strike in Hamilton in 1906, the parties agreed to submit their dispute to binding arbitration by the ORMBA, which awarded the union formal recognition. A year later (as mentioned above) the employer fired the union president who had led the strike, allegedly discriminated against other union members, and supported the formation of a rival union. The dispute was referred to an IDIA board for conciliation, where the majority rejected the union's complaints. Their comments about the conduct of the international officer who had presented the local union's case reflected the prevalent attitude of conciliation boards toward management rights and union recognition:

The attitude of this gentleman toward the officers of the employing companies was such that even had the latter been inclined to make a compromise, they could not well have done so with proper self respect and due regard to the discipline of their employees, and it is submitted that better results would be obtained by employees in industrial disputes, and there would be fewer of such disputes if the foreign element were eliminated from them. (*Labour Gazette* 1908b)

The union, weakened by internal divisions and operating in a generally hostile climate toward unions, was not in a position to pursue its grievances through strike action (*Labour Gazette* 1907a, 1908b).²⁶

Finally, compulsory conciliation made a modest contribution toward changing other

dimensions of the workplace order. Although boards were, in principle, committed to the idea that male workers should be paid a living wage that would enable them to support a family, an IDIA board report, issued in relation to a dispute between Vancouver street railway workers and their employers, declined to recommend a wage increase despite finding that the existing wage scale fell considerably short of this ideal. It concluded that "wages under the present constitution of society are governed in the last analysis by the law of supply and demand" (quoted in Lambly 1983, 75). Thus, while IDIA boards from time to time recommended wage increases and endorsed some modest changes in work rules, to a great extent they accepted that the workplace order was to be determined according to market forces, as the norms of liberal voluntarism dictated. As a result, street railway unions also sought to make some aspects of workplace ordering a public issue, particularly as it related to matters of the health and safety of both workers and the public. As noted earlier, legislation was enacted in Ontario and Nova Scotia establishing minimum standards related to hours of work, training, seating, and braking systems.

III. STREET RAILWAY STRIKES AND THE CHALLENGE TO STREETPLACE ORDER

Street railway strikes commonly started with an orderly parade of the motormen and conductors through city streets, where they received wide-spread community support.²⁷ The slogan "We Will Walk" appeared on badges worn by the public and in newspaper advertisements placed by local merchants, while local politicians and civic leaders expressed their support for the workers' right to organize and earn a fair day's pay. None of these actions, however, altered the street railway company's plan to defeat the union by operating with hardened strikebreakers and private guards obtained from detective agencies. Crowds of strike sympathizers gathered around

the car barns and on the streets to express their displeasure at the railways' efforts to continue operating with scab labor. Often these expressions became quite boisterous and pushed the boundaries of legality. In addition to insults, rocks and other missiles might be hurled at the cars and their scab drivers as they drove along their routes. Cars might be physically impeded or lines sabotaged. Eventually, more widespread collective violence might occur, which was characterized by low levels of coordination and moderately low salience of violent interactions.²⁸ The challenge to the streetplace or civic order was often substantial and posed significant problems for public authorities who had to decide where the boundaries of toleration should be drawn and what measures should be taken when those boundaries were crossed. As discussed below, the answers to these questions varied considerably, although in all cases where the salience of collective violence increased beyond scattered attacks, coercive state power was mobilized to bring it to an end.

To better understand what shaped these "repertoires of contention" (Tilly 1993, 264),²⁹ it will be helpful to examine the strategy and tactics of unions and employers, the law under which they operated, the identities of the participants, and the motivations for challenging civic order. Broadly speaking, the strategy of the street railway unions was to force employers to agree to its demands by disrupting business as usual. Its principal tactics were the withdrawal of labor and the encouragement of riders to boycott the railway. The strategy of street railway companies was to maintain service by hiring replacement workers and running the cars regardless. American detective agencies got into the business of providing professional strikebreakers, and their services were widely used in Canada (Levinson 1935; Norwood 2002, 45-63; Smith 2003, 39-54). This was perfectly legal as long as the strikebreakers were not imported under contract in violation of the Alien Labour Act (1897).³⁰

The tactical dilemma for striking workers was how to make their strike effective when the law governing streetplace order severely limited their ability to disrupt their employer's operations. It was clearly illegal for striking workers or their sympathizers to physically interfere with their employer's property or to impede the streetcars, to assault

or intimidate strikebreakers, or to interfere with members of the public who wished to use the service.

Striking workers could lawfully withdraw their own labor and attempt to persuade other workers not to take their places. Moreover, apart from legalities, it was also important for street railway workers to maintain as much public support for their cause as they possibly could. This required them to behave respectably, which for the most part they did, limiting themselves to orderly parades that were clearly legal and to consumer boycotts whose legality was uncertain but that were widely viewed as legitimate despite condemnations by editorial writers in the business press.³¹

The same could not be said for the crowds of sympathizers that gathered both outside the car barns and on the streets and engaged in raucous and at times illegal and violent behavior. Sometimes strikebreakers instigated violence too, drawing their guns and attacking striking workers or individuals in the crowd. Much of this behavior was clearly criminal, but often the boundaries of legal toleration were stretched, and the law was not strictly enforced. The picture changed, however, when collective violence escalated and became more salient, to include the destruction of streetcars, attacks on railway offices, and assaults on scabs. Police who intervened were often mobbed and persons under arrest freed. At that point, the enforcement effort would be stepped up. The mayor might read the Riot Act, requiring all persons to leave the area immediately, and the Canadian militia might be called up in aid of the civilian power.³²

What accounts for the unusual frequency and level of collective violence in street railway strikes? A variety of views have been offered to explain crowd violence, some of which focus more on the breakdown of normal constraints, while others emphasize the sources of discontent and the cultural and ideological factors that legitimized the use of violence in particular contexts (Torrance 1986). More recently, Tilly (2003, 5-12) has emphasized a relational analysis that focuses on the social interactions that lead to and shape collective violence. Our focus here is primarily on the interaction between social relations, the sources of discontent, and

popular beliefs.

It is helpful to begin by asking who was in these crowds. It is important to reiterate that the striking workers were not the main participants; indeed, union officials distanced the union from the crowd and denounced the violence. By all accounts, the crowds comprised a cross section of the working-class population of the community in which the strike occurred. The press did not generally comment on the ethnicity of participants except in the Port Arthur and Fort William strike, where it emphasized the role of Finnish and Hungarian immigrants (*Morning Herald* (Fort William) 1913b),³³ who, according to a government observer, were "inflamed by socialist agitation" (Public Archives of Canada). In that strike's aftermath, the *Ottawa Journal* (1913) commented that the "'bad actors' in the industrial world in America almost invariably are foreigners, men who do not seem to understand to the full what law means in this country." Women and girls were also present, as were some members of the more respectable classes. This led Hamilton Police Chief Smith to express his disappointment "that so many respectable citizens and their wives were seen on the streets" during the 1906 violence (*Hamilton Spectator* 1906a).³⁴ However, it was young men who took the lead in the more aggressive crowd actions, which is consistent with the observation that young, single men figure disproportionately in collective violence (Courtwright 1996).

Yet a narrow focus on the role of young men fails to explain why street railway strikes were the occasion for collective violence so much more often than other types of strikes. Certainly one factor was that in street railway strikes there was a much greater opportunity for strike sympathizers to directly confront the employer than in most other contexts, simply because so much of the work was performed on public streets rather than on private property from which the public could be readily excluded. Gatherings of excited crowds, often on a Friday night or Saturday afternoon, provided a more permissive environment for displays of youthful rebelliousness and bravado. The *Toronto Globe* picked up this psychological and behaviorist theme in an editorial published after the sentencing of some of those

arrested for their involvement in the Hamilton confrontations. "The conscious personality of the individual was absorbed and lost in the unconscious personality of the crowd" (Toronto *Globe* 1906). A narrow focus on crowd psychology, however, is not enough. It needs to be supplemented by an examination of the underlying reasons for the hostility toward the street railway, without which the likelihood of communal violence would have been quite low, despite the opportunities that were available.

One factor noted in many studies about the street railway companies' unpopularity was that, with few exceptions, they were private businesses providing a public service pursuant to a monopoly franchise obtained from the city. The franchise contained provisions regarding service, road maintenance, and fares, all issues that regularly became contentious. As Babcock (1982) noted, "The location of lines, the efficiency of service, and the fares charged were a constant concern of the citizenry" (6), and street railway companies' owners were commonly portrayed in the press as rich monopolists exploiting the public (Armstrong and Nelles 1986, 38-55; Kostal 1999, 289; Heron forthcoming).

This characterization of the street railway fed into a populist worldview that allied the beleaguered community with street railway workers who also were easily seen to be the monopolist's victims and who were well known to the passengers who rode the lines regularly (Molloy 1996, 35-38). There was, as well, widespread working-class community support for many of union's basic demands: a right to collective representation, a grievance procedure, a living wage, reasonable hours of work, and basic amenities.³⁵ The fact that the union was prepared to put its demands before impartial arbitrators strengthened the public's view of their reasonableness. And finally, the street railway companies' choice of tactics, particularly the use of scab labor and the hiring of professional strikebreakers, violated the "moral economy" of the crowd (referred to as "a false moral code" in the *Montreal Gazette* (1903e)). All of this hostility was like kindling, awaiting a spark or two to set it off; and when it did, a significant number of people were prepared to draw on older traditions of rough

justice that justified violations of the current legal norms governing streetplace behavior (Thompson 1971; Palmer 1992, 66-69; see 1997). Phillips Thompson, a lawyer turned labor journalist (writing under the pseudonym of Enjolras), captured this sentiment in a comment on the disturbances surrounding the 1886 Toronto street railway strike:

Whenever there is long continued and deep-seated injustice-wherever human rights are defied and trampled upon, there will be aroused a spirit of resistance which sometimes may overpass its legitimate bounds.

. . . But we do say that however misled or inconsiderate or even criminal some actions done in the heat of the conflict between Labor and capitalism may be, the responsibility for those actions rests on the individuals, and the system which provoked them. (Enjolras [Thompson] 1886)

Most public commentators, however, did not empathize with the moral economy of the working-class crowd and were highly critical of the violence. For example, the *Halifax Herald*, which only recently had portrayed the street railway owners as corrupt monopolists, splashed a headline across its front page the morning after the violent confrontations, freely mixing news with editorial comment: "Rioters For Time In Partial Control At Halifax But Law And Order Must Be Maintained" (*Halifax Herald* 1913). Union officials understood that there was very limited public tolerance for violence in their communities and were quick to condemn it. Speaking to the press after collective violence during the 1906 Winnipeg street railway strike, Fred Fay, an AASRE representative, promised that "everything possible will be done to prevent the destruction of property and the injury of the cars" (*Winnipeg Free Press* 1906a). In short, there was no organized group seeking to expand the violence or exacerbate further divisions between street railway companies and their employees or the communities they served, and this undoubtedly helped to prevent the collective violence from escalating.

However, even without further escalations, once the violence intensified beyond

sporadic individual actions, local officials were pressed to regain control of the streets. In Montreal, for example, after collective violence significantly reduced the ability of the company to provide service, the board of trade called an emergency meeting at which it passed a resolution calling the mayor's attention to the fact that the law was being "systematically and openly violated" and demanding that the police be instructed to vigorously enforce it (*Montreal Gazette* 1903c). In the same paper, an editorial (*Montreal Gazette* 1903b) decried the laxity that some police officers had shown. Similarly, the *Toronto Globe*, which earlier had expressed some sympathy with the union's position, strongly denounced the violence on Toronto streets in its editorial titled "The Strike and Public Order": "In British communities we do not plead for the preservation of the peace and the recognition of the law. We compel respect for the law and due submission to public authority" (*Toronto Globe* 1902b).³⁶ Respect for the official rule of law was presented as a paramount value for "British" society.³⁷ Indeed, one legal commentator, reflecting on recent street railway strikes, reified the law to make his point: "The law is bound to protect itself. It cannot be violated on any pretext without injury to society at large, and to the weakening of its legitimate and necessary authority" (O'Brien 1905, 732).

Yet it was public authorities who had to determine when and where to draw the line and how to enforce it, and on these questions there was often considerable disagreement. On the one hand, the street railway was often unpopular, and local officials were sometimes wary of being seen to be taking their side. On the other hand, civic order was clearly being disturbed, and the rights of the streetcar owners were being violated. Typically, as the level of disorder escalated so did the enforcement effort; the imperative of maintaining civic order increasingly trumped other considerations. Still, the question of how far to go remained.

Often the first response was to make better use of local police by deploying more officers or instructing them to enforce the law more strictly. Intensification of the enforcement effort at this stage, however, usually did not involve greater use of force; guns were rarely drawn, the exception being when crowds attacked police officers in an

effort to free a demonstrator who was being arrested or detained. The bloodiest confrontation took place during the 1913 street railway strike in Port Arthur and Fort William, when a crowd estimated at some two thousand attempted to storm a local police station where a rock-throwing demonstrator was being held. Warning shots failed to stop the attack, and police fired into the crowd, killing one man and wounding another (*Morning Herald* 1913a; Morrison 1974, 241-43).³⁸ This was the only fatality out of all Canadian street railway strikes. The local press blamed the "foreigners" and "agitators" for the violence, and local labor leaders did not protest the police reaction; but *Cotton's Weekly*, the official organ of the Socialist Party of Canada, asked, "How long will this beastly law stand which allowed a uniformed savage to haul out guns and blaze away into a crowd of toilers?" (*Cotton's Weekly* 1913).

Even the most committed police force lacked the resources to keep unruly crowds from disrupting streetcar operations. On some occasions, municipalities temporarily increased the size of their forces by swearing in special constables.³⁹ This became quite contentious during the 1906 Winnipeg strike when a provincial magistrate, Alexander McMicken, was alleged to have sworn in one hundred strikebreakers at the railway company's request. This action uncomfortably blurred the boundary between public and private spheres of power, and the provincial attorney general suspended McMicken a few days later pending an investigation (*Winnipeg Free Press* 1906b, 1906d).

As noted earlier, street railway companies often hired professional strike-breakers and private security forces to protect their property and continue their operations. The precise limits on the power of private security forces were not clearly defined, but, as a general matter, they would have been permitted to use reasonable force to protect private property. But how much force was reasonable? Private detectives were on occasion charged with assault, but they typically left town before they could be tried (*Winnipeg Free Press* 1906c). Fortunately, their power to use lethal force to protect private property never had to be legally determined.

The two strongest measures that municipal officials could take were to read the

Riot Act, which required all those present to disperse and authorized the use of force if they did not, and to call up the militia in aid of the civil power (Morton 1970). There was no legal test that determined when the Riot Act could be read, but rather it depended on a judgment by municipal officials about the need for such action. Generally, they were reluctant to take this step, in part because they did not want to incur the financial cost of the militia, but more importantly because mayors generally did not wish to be seen as taking the side of the street railways against their employees. The tipping point was usually reached when collective violence became more widespread.⁴ For example, the militia was first called out several weeks into the 1899 strike in London, Ontario, after escalating sabotage turned into collective violence on a Saturday afternoon. Arrests by local police and pleas from the mayor convinced many of the estimated twenty-five hundred people present to disperse, but when a large crowd reassembled that evening and attacked more streetcars, the mayor gave in to pressure from the company and read the Riot Act. Police were still unable to disperse the crowd, and so the militia was called out. A small squad of thirty-two soldiers arrived early Sunday morning and dispersed the last of the crowd. Soldiers remained on duty for twelve days before returning to their barracks. Even under these circumstances, the actions of local officials were sharply criticized. London, Ontario, workers staged a procession mocking the company's lawyer and a local director for their role in having the militia called out, while the AASRE journal proclaimed, "If President Everett thought that by getting the militia out he could scare Johnny Canuck into submission, he was very badly mistaken" (*Motorman and Conductor* 1899). Some local newspapers also criticized the decision to call in the troops, both because of the expense and because the action tarnished the reputation of the city (*Industrial Banner* 1899; Palmer 1976, 120-22; Kostal 1999, 302-03). The decisions to use troops in Winnipeg (1906), Hamilton (1906), and Saint John (1914) were not as controversial, but this may be because officials waited longer before acting.

The response to the presence of the militia very much depended on the role they were called upon to play. In Toronto, "the moral effect" of the troops' presence, as Toronto's Chief Constable H. J. Grasett put it, was sufficient to put an end to the disturbances, and so there was nothing in their conduct to criticize (*Toronto City Council Minutes* 1903, 51). Similarly, the troops called up in Winnipeg largely remained in the background. Where troops played a more active role, they were more likely to meet resistance or to be criticized for their conduct. In Saint John, for example, eight members of the Royal Canadian Dragoons who charged through the crowd were met by a barrage of stones and other missiles and forced to withdraw and await reinforcements (*Saint John Globe* 1914). In Hamilton, the sheriff read the Riot Act and police, backed by the troops, stormed into the crowd, the police swinging their batons while the mounted soldiers used the flat sides of their swords to move anyone who resisted. Afterwards, Colonel Septimus Denison, the commander of the troops, expressed surprise at the antagonism they encountered from "seemingly good citizens" (*Hamilton Spectator* 1906b; Morton 1970, 424-25). Those citizens, including several aldermen, were just as quick to condemn the actions of the police, accusing them of being overly zealous in their use of force. In contrast, the troops did not attract much criticism, although some merchants refused to sell them provisions or found their teamsters unwilling to deliver to them (*Hamilton Spectator* 1906c; Weaver 1990, 115; Heron forthcoming).⁴¹

Courts also became involved in maintaining civic order, largely through their treatment of those charged with crimes arising out of the demonstrations. Police magistrates heard the bulk of the cases, but county court judges also became involved when the charges were more serious or if the accused elected to be tried by judge and jury. However, no cases went to higher courts, and thus there are no reported judgments arising out of these prosecutions. The severity of the sentences imposed upon convicted participants in the collective violence varied considerably, depending on the predilections of the individual judge as well as the judge's assessment of the seriousness of the individual act, the level of disorder, and the need to send a clear

message that unlawful behavior was unacceptable. For example, Magistrate Denison dealt quite harshly with those that were brought before him for their actions in the 1886 Toronto street railway strike (Tucker 1994, 298-301), while Magistrate Daly in Winnipeg was far more lenient with those charged with strike-related offenses in 1906 and 1910 (Winnipeg *Free Press* 1906e, 1910a). Accused strikebreakers usually slipped out of town before their cases came to trial.

In sum, streetplace or civic order during street railway strikes was imperfectly maintained. Large crowds sympathetic to the aims of strikers repeatedly violated the law, and, for periods of time, local officials and police lacked both the commitment and the resources to fully protect the property and contract rights of street railway companies to operate with scab labor on public streets. Yet there was a breaking point, however imperfectly defined, which if crossed triggered the use of coercive force to suppress collective violence and restore streetplace order, the effect of which was also to help sustain workplace and marketplace orders within a range that kept the liberal order of Canadian capitalism "on track."⁴²

CONCLUSION

As this case study of collective action by Canadian streetcar workers demonstrates, the project of constructing and maintaining a liberal capitalist order took place at a number of sites, each of which was, at different times and places and to different degrees, contested by workers and working-class communities acting collectively to achieve their vision of a legitimate workplace, marketplace, and streetplace order. Employers and state officials understood that these three dimensions of liberal ordering overlapped and that challenges in one could have spillover effects in another. For that reason, for example, employers and officials made efforts to prevent collective action that contested the workplace order from harming the marketplace economic order, both by compelling conciliation in those sectors of the

economy where workers' capacity to disrupt was particularly great and by limiting broader labor solidarity. Similarly, the impact of workplace conflict on the streetplace order was also to be contained, whether the source of the disruption was collective action by striking workers or, in the case of the street railways, by sympathetic members of working-class communities. In turn, limitations on the ability of workers' collective action to disrupt the marketplace or streetplace order limited their power to challenge and transform the workplace order.

Yet, while worker collective action clashed with the project of constructing the order of liberal capitalism, it could not be suppressed entirely; nor could the space for workers' collective action in the workplace, marketplace, and streetplace order simply be confined by fixing legal limits on what was acceptable according to the ideal of liberal ordering. Rather, actual orders were created through processes of conflict and accommodation that reflected shifting balances of power and changing ideas about the scope of legitimate conduct, which developed within the context of the historical legacy of constitutional, political, legal, and institutional arrangements. Moreover, as this study of Canadian street railway strikes demonstrates, the actual operation of liberal orders at any given time and place was, within a certain range, determined by local conditions, individual predilections of legal and political officials, and other contingent factors. Although the frequency and severity of the challenge to the streetplace order posed by street railway strikes was exceptional compared to strikes by most other workers,⁴³ and the responses were so variable, it is precisely these features that make collective action by street railway workers such a rich illustration of the complexity surrounding the construction, maintenance, and development of liberal orders.

NOTES

1. Following Charles Tilly (2003, 18), I have avoided using the word "riot" to categorize collective violence, since it imports a normative judgment made by public authorities about the nature of the conduct.
2. For an insightful discussion of the multiple dimensions of capitalist social ordering, see de Sousa Santos (2002, chap. 6).
3. The Knights of Labor was a nineteenth-century union established in Philadelphia that grew rapidly in the 1880s and equally as rapidly declined. It was distinguished by its inclusiveness, in contrast to more traditional craft unions. On the Knights of Labor in Ontario, see Kealey and Palmer (1982). On the Knights of Labor in the United States, see Fink (1983).
4. I have intentionally avoided usage of the more common term "public order" because it reinforces a common assumption I wish to challenge, namely, that workplace and marketplace orders are private.
5. For a brief discussion of this history, see Tilly (2008, 62-87).
6. I draw on McKay (2000), who makes the important analytical distinction "between the liberal order as a principle of rule and the often partisan historical forms this principle has taken through 150 years of Canadian history" (623).
7. On the distinction between the "high law" of the judges and the "low law" of the magistrates, see Hay (1992) and Karsten (2002, 1-18).
8. The Toronto Street Railway was briefly owned and operated by the municipality in 1891 after one franchise elapsed and before another was granted, while the Calgary and Port Arthur and Fort William street railway systems were municipally owned from their inception (Sinclair 1891; Armstrong and Nelles 1986, 241-43; High 1997).
9. For an overview of working conditions, see Lambly (1983, chap. 1). The Toronto Railway Company provided motormen and conductors with a detailed rulebook governing their conduct (see Toronto Railway Company 1902).
10. For example, the Toronto Railway Company kept their employees under close surveillance, and their Records of Suspensions of Motormen 1899-1903 (Toronto Archives) contain voluminous reports of employee misconduct ranging from serious matters like "being in liquor" or causing a collision to relatively minor ones like gossiping with passengers, missing a fare, or running ahead of time. No reports of trade union activity are entered on the records. The widespread use of private detective agencies to spy on street railway employees led the Trades and Labour Congress to pass a resolution calling for a law to make it a criminal offense to discharge an employee based on evidence furnished by a private detective (*Labour Gazette* 1914c). For a study of the practice in the United States, see Jennifer Luff (2008).
11. Other groups of street railway employees included laborers, shop workers, and office workers. Of these, the only ones that are likely to have unionized are craft workers engaged in the shops, but they had major conflicts with the street railway companies during this period.
12. On paternalism and welfarism in Canadian street railway operations, see Roy (1972, 19-73); Lambly (1983, 39--40); Armstrong and Nelles (1986, 227); *Labour Gazette* (1903c, 1903e). For the United States, see Emmons (1911) and Molloy (1996).
13. The union later changed its name to the Amalgamated Association of Street and Electric Railway Employees to reflect the change in technology.
14. For examples of second strikes after the collapse of a prior agreement, see Table 1 (Toronto, 1886; London, 1899; and Montreal, 1903).
15. In 1899 the Trades and Labour Congress (TLC) passed a resolution calling for a law that would require street railway drivers to serve a thirty-day apprenticeship and pass an examination (Trades and Labour Congress of Canada 1899, 27). No legislative action followed. For the Ontario hours of work legislation, see An Act to Amend the Ontario Railway and Municipal Board Act S. O. 1912, c. 37. In response to complaints made by street railway companies, the original Ontario bill was amended to also specify that "whenever practical and reasonable" the ten hours should be performed within twelve consecutive hours (Toronto *Globe* 1912). A delegation of the TLC had requested legislation for the protection of workers on street railways as early as 1903 (*Labour Gazette* 1903a).
16. The Hamilton street railway interpreted the clause as allowing voluntary overtime at a rate of pay less than the minimum stipulated, a matter disputed by the men (see Motonnan *and Conductor* 1899, 577-78). For a discussion of other pro-labor measures enacted by Hamilton City Council, see Heron (forthcoming).
17. For the Nova Scotia legislation, see An Act "Of Street Railway Companies" S. N. S. 1911, c. 11, and An Act to Amend Chapter 11, Acts of 1911, entitled "Of Street Railway

Companies," amended by S. N.S. 1913, c. 52. Most protections did not come into force until deemed necessary or feasible by the Public Utilities Board. An application by the union to have these provisions brought into force was rejected by the board in 1914 (*Labour Gazette* 1915). Later that year, the legislature amended the law to make air brakes and instruction mandatory.

18. New contracts were successfully negotiated without resort to strikes or lockouts using the agreement's conciliation process in 1904 and 1907 (*Labour Gazette* 1904, 1907b).

19. The Hamilton case has been studied in more detail by Palmer (1979, 209-16), Lambly (1983, 59--60), and Heron (forthcoming). The union barely hung on in the aftermath of the 1906 strike. The president of the union that led the strike was sacked a year later, allegedly for union activity, and there were charges of discrimination against union members. A majority of

an IDIA board dismissed the union's complaint. In subsequent years, street railway management signed agreements with the union that included, among other provisions, a recognition clause and a grievance procedure. This was an accomplishment in an era when most Hamilton employers were becoming even more fiercely antiunion (Heron forthcoming).

20. The other innovation was increased judicial involvement in limiting the tactics of strikers through the use of injunctions. This development will not be addressed here because injunctions were rarely sought in street railway strikes. One exception was during the 1910 strike in Winnipeg, when garment and cap makers were locked out as a result of their refusal to make uniforms for the street railway during the strike (*Labour Gazette* 1911b, 1911c).

21. For example, the *Winnipeg Free Press* (1906i) estimated the cost of the three-day 1906 strike to the company (\$40,000), the men (\$21,000), and the public (\$21,000), but this was mostly based on guesswork.

22. The one exception was a legislative scheme in Nova Scotia that only applied to coal mines. Workers and employers faced sanctions for engaging in strikes or lockouts prior to making a request for arbitration; either party could apply for arbitration, and the other could be compelled to participate; and arbitration awards, which could establish wage rates, were binding (McCallum 1990). This law, as well as the others, proved to be ineffective and was rarely invoked.

23. As noted above, a compulsory arbitration clause was subsequently agreed to and relied upon to resolve a number of disputes. See *Toronto Globe* (1902c; 1902e) for further editorial comments on the strike.

24. For other instances in which IDIA boards upheld management discipline against union officials, often over union nominee dissents, see *Labour Gazette* (1911a) (for Winnipeg) and *Labour Gazette* (1913b) (for Port Arthur).

25. The quote comes from the board's report on the Saint John dispute arising, in part, over the termination of the union president, Fred Ramsey. Ultimately, to resolve the dispute, Ramsey was offered and accepted a lifetime position with the city's public works department (*Labour Gazette* 1914a; Babcock 1994, 24).

26. In another dispute an IDIA board also called for recognition of the AASRE union in Saint John, but the employer refused. A violent strike followed that ended without union recognition being gained (Lambly 1983, 75-77).

27. I treat this topic at greater length in Tucker (2009).

28. These criteria, "level of coordination" and "salience of violence," are used by Tiily (2003) to construct a very helpful typology of collective violence. Collective violence in street railway strikes tended to range between Tiily's categories of "scattered attacks" and "brawls," both of which are characterized by low levels of coordination but that differ in regard to the salience of violence.

29. The broad similarities over time and place in the distinctive practices of street railway unions, crowds of sympathizers, street railway owners, and state officials fit nicely into Tiily's (1993) concept of repertoires of contention as "learned cultural creations" that "emerge from struggle" (264) and shape the behavior of all those involved in the conflict. Tiily (2008) subsequently elaborated on these ideas.

30. For background and discussion of this act, see Atherton (1972, chap. 9) and Riddell (1921).

31. On the question of the legality of boycotts at the time, see Tucker (1994, 308--29) and Tucker and Fudge (1996, 107-10). No legal actions were brought against street railway unions for organizing boycotts despite expressions of concern, such as the following that appeared in the *Monetary Times* (1899, 171): "The boycott is being used as an instrument of tyranny, affecting people absolutely innocent of any connection with the strikers or the company. That it is possible to so expand the limits of a dispute is evidence of the power which labor now exercises in its contest with capital."

32. On history of the Riot Act, see Gilmour (1993, 135-36).

33. On the hostility of local elites in the Port Arthur and Fort William to foreigners, see Morrison (1974, 242-50; 1976).

34. The chief's reflexive use of the phrase "citizens and their wives" captures the dominant understanding that women, who were still denied the vote, were not themselves full citizens (Strong-Boag 2002). More generally, his disappointment was rooted in the expectation that the respectable classes, above all others, would comport themselves along bourgeois norms of legitimate behavior on public streets. For other sources identifying the presence of women in the crowd, see Palmer (1976, 121) and Babcock (1982, 18).

35. The linkage between the working class and wider community support originated with Gutman (1976), who is cited by many of the scholars writing about street railway strikes. For example, see Palmer (1979, 216), Henry (1991, 352), Babcock (1994, 372), and Ziegler (1977, 71).

36. The *Monetary Times* (1886a) expressed a similar concern about the police department's failure to control mob violence during the March 1886 strike, but it complimented the police commissioner's more forceful response to the May 1886 strike-related violence (*Monetary Times* 1886b).

37. In the context of Toronto at the turn of the twentieth century, the identification of the community as British would not have been viewed as particularly controversial, although the meaning of being "British" was contested by workers who sometimes invoked the historic rights of freeborn British subjects to support their workplace demands (Reimer 1993; Komeski 2007).

38. There were two other reports of police discharging firearms. During the 1913 Saint John strike, a police officer fired his gun and wounded a demonstrator (Babcock 1982, 18), and during the 1910 Winnipeg strike, a police officer fired a gun at a window breaker (Winnipeg *Free Press* 1910b). During the 1906 Hamilton strike, a police officer drew his gun but did not fire it (*Hamilton Spectator* 1906a).

39. For example, during the May 1903 street railway strike in Montreal, firemen were sworn in as special police (*Montreal Gazette* 1903d).

40. The exception was during the 1902 Toronto street railway strike when local officials hastily called in the militia at the first sign of disorder, an action for which they were widely criticized both by the labor movement and the local press (Toronto *Globe* 1902d, 1902e).

41. There is some suggestion in the newspaper accounts that the troops were reluctant to use force and that the ground troops refused to make a bayonet charge after being ordered to do so by Colonel Denison (*Hamilton Spectator* 1906b).

42. Kostal (1999, 310) makes a similar point.

43. The closest comparison is mining strikes, which often involved the entire mining community and tended to occur in isolated towns populated largely by miners and their families.

REFERENCES

- Armstrong, Christopher, and H. V. Nelles. 1986. *Monopoly's Moment*. Philadelphia: Temple University Press.
- Atherton, James J. 1972. The Department of Labour and Industrial Relations 1900-1911. MA Thesis, Department of History, Carleton University, Ottawa, Ontario.
- Babcock, Robert H. 1982. The Saint John Street Railwaymen's Strike and Riot, 1914. *Acadiensis* 11 (2): 3-27.
- . 1994. "Will You Walk? Yes, We'll Walk!" Popular Support for a Street Railway Strike in Portland, Maine. *Labor History* 35:372-98.
- British Columbia Legislative Assembly. 1895. *Report of the Commission of Labour Enquiry, Board of Conciliation and Arbitration*, 589-94. Sessional Papers. Victoria, BC: Government Printing Office.
- Brody, David. 1993. *In Labor's Cause*. New York: Oxford University Press.
- Canadian House of Commons. 1906-1907. *House of Commons Debates*. Ottawa: Queen's Publisher.
- Cheape, Charles W. 1980. *Moving the Masses*. Cambridge, MA: Harvard University Press.
- Cotton's Weekly. 1913. Masters Shooting Their Slaves in Port Arthur. *Cotton's Weekly*, May 22, 3.
- Courtwright, David T. 1996. *Violent Land: Single Men and Social Disorder from the Frontier to the Inner City*. Cambridge, MA: Harvard University Press.
- Craven, Paul. 1980. *An Impartial Umpire: Industrial Relations and the Canadian State 1900-1911*. Toronto: University of Toronto Press.
- Davis, Donald F. 1979. Mass Transit and Private Ownership: An Alternative Perspective on the Case of Toronto. *Urban History Review* 3:60-98.
- de Sousa Santos, Boaventura. 2002. *Toward a New Legal Common Sense*, 2nd ed. London: Butterworths.
- Emmons, C. D. 1911. The Relations of the Electric Railway Company with Its Employes [sic]. *Annals of the Academy of Political and Social Science* 37 (1):88-92.
- Enjolras [Phillips Thompson]. 1886. Labor Outbreaks. *Palladium of Labor*, April 3, 1.
- Fink, Leon. 1983. *Workingmen's Democracy: The Knights of Labor and American Politics*. Urbana, IL: University of Illinois Press.
- Fogelson, Robert M. 2001. *Downtown: Its Rise and Fall, 1880-1950*. New Haven, CT: Yale University Press, 2001.
- Fudge, Judy and Eric Tucker. 2001. *Labour before the Law: Workers' Collective Action and the Canadian State, 1900-1948*. Toronto: Oxford University Press.
- Fyson, Donald. 2009. The Trials and Tribulations of Riot Prosecutions: Collective Violence, State Authority, and Criminal Justice in Quebec, 1841-92. In *Canadian State Trials*, Vol. III, ed. Barry Wright and Susan Binnie, 161-203. Toronto: University of Toronto Press.
- Gilmour, Ian. 1993. *Riot, Risings and Revolution: Governance and Violence in Eighteenth-Century England*. London: Pimlico.
- Goheen, Peter G. 1994. Negotiating Access to Public Space in Mid-Nineteenth Century Toronto. *Journal of Historical Geography* 20 (4): 430-49.
- Gutman, Herbert G. 1976. *Work, Culture, and Society in Industrializing America*. New York: Knopf.

- Halifax Herald. 1913. "Rioters for Time in Partial Control at Halifax but Law and Order Must Be Maintained." *Halifax Herald*, May 17, 1.
- Hamilton Spectator. 1906a. Wild Mob Was in Complete Control. *Hamilton Spectator*, November 24, 1.
- —. 1906b. Mob and Military Clash. *Hamilton Spectator*, November 26, 1, 3-4.
- —. 1906c. The Police. *Hamilton Spectator*, November 26, 6.
- Harring, Sidney. 1986. Car Wars: Strikes, Arbitration, and Class Struggle in the Making of Labor Law. *New York University Review Law & Social Change* 14:849-72.
- Hay, Douglas. 1992. Time, Inequality and Law's Violence. In *Law's Violence*, ed. Austin Sarat and Thomas R. Keams, 141-73. Ann Arbor: University of Michigan Press.
- Henry, Sarah M. 1991. The Strikers and Their Sympathizers: Brooklyn in the Trolley Strike of 1895. *Labor History* 32 (3): 329-53.
- Heron, Craig. Forthcoming. *The Workers' City: The Remaking of Working-Class Hamilton, 1880-1940*.
- Heron, Craig, and Steve Penfold. 2005. *The Workers' Festival: A History of Labour Day in Canada*. Toronto: University of Toronto Press.
- High, Steven. 1997. Planting the Municipal Ownership Idea in Port Arthur. *Urban History Review* 26 (1): 3-17.
- Industrial Banner. 1899. Terrorism! *Industrial Banner*, July 1.
- Karsten, Peter. 2002. *Between Law and Custom*. Cambridge: Cambridge University Press.
- Kealey, Gregory S. 1980. *Toronto Workers Respond to Industrial Capitalism 1867-1892*. Toronto: University of Toronto Press.
- Kealey, Gregory S., and Bryan D. Palmer. 1982. *Dreaming of What Might Be: The Knights of Labor in Ontario, 1880-1900*. Cambridge: Cambridge University Press.
- Kidder, Robert L. 1997. Justice and Power in Studies of Legal Pluralism. In *Justice and Power in Sociolegal Studies*, ed. Bryant G. Garth and Austin Sarat, 194-232. Evanston, IL: Northwestern University Press.
- Komeski, Kurt. 2007. Britishness, Canadianness, Class, and Race: Winnipeg and the British World, 1880s-1910s. *Journal of Canadian Studies* 41 (2): 161-84.
- Kostal, R. W. 1999. Conservative Insurrection: Great Strikes and Deep Law in Cleveland, Ohio and London, Ontario, 1898-1899. In *Essays in the History of Canadian Law*, Vol. 8, ed. G. Blaine Baker and Jim Phillips, 289-334. Toronto: Osgoode Society.
- Labour Gazette. 1902. Strike of Toronto Street Railway Employees. *Labour Gazette*, July, 35-39.
- —. 1903a. *Labour Gazette*, May, 828.
- —. 1903b. Agreement between the Toronto Railway Company and Its Employees. *Labour Gazette*, June, 1020-23.
- —. 1903c. Strike of Montreal Street Railway Employees. *Labour Gazette*, June, 1029-31.
- —. 1903d. The Railway Labour Disputes Act, 1903. *Labour Gazette*, August, 136-39.
- —. 1903e. Montreal Street Railway Mutual Benefit Association. *Labour Gazette*, October, 343-45.
- —. 1904. Agreement of the Toronto Railway Company with Its Employees. *Labour Gazette*, July, 71-73.
- —. 1905. Settlement of Street Railway Strike at Cornwall, Ont., under Conciliation Act. *Labour Gazette*, August 174-75.
- —. 1906a. Strike of Street Railway Employees at Winnipeg, Man. *Labour Gazette*, April, 1155-56.
- —. 1906b. Trade Disputes during the Month of April. *Labour Gazette*, May, 1265-66.
- —. 1906c. Strike of Street Railway Employees at London, Ont. *Labour Gazette*, September, 297.
- —. 1906d. Opinion of Ontario Railway and Municipal Board. *Labour Gazette*, September, 318-19.

- 1906e. Recent Industrial Arbitrations and Agreements. *Labour Gazette*, October, 430-32.
- -. 1906f. Strike of Street Railway Employees at Levis, Que. *Labour Gazette*, November, 561.
- -. 1907a. Award of Ontario Railway and Municipal Board re Strike of Street Railway Employees, at Hamilton, Ont. *Labour Gazette*, January, 794-99.
- -. 1907b. Recent Industrial Agreements. *Labour Gazette*, August, 211-12.
- -. 1908a. Arbitration of Dispute between Toronto Railway Company and Employees. *Labour Gazette*, January, 836-37.
- -. 1908b. The Hamilton Street Railway Dispute-Text of Board's Report-Mr. O'Donogue Dissents. *Labour Gazette*, May, 1336-41.
- -. 1908c. Settlement of Differences between the Ottawa Electric Railway Company and Its Employees. *Labour Gazette*, July, 51-53.
- -. 1908d. Settlement of Differences between the Quebec Heat, Light & Power Company and Its Street Railway Employees. *Labour Gazette*, November, 504-06.
- -. 1909. Agreement between Hamilton Street Railway Co and Its Employees. *Labour Gazette*, April, 1126-27.
- -. 1910. Report of Board in Dispute between the Toronto Street Railway Company and Its Employees. *Labour Gazette*, September, 320-25.
- -. 1911a. Condition of Local Industries. *Labour Gazette*, January, 736-37.
- -. 1911b. Disputes of Garment Workers and Cap Workers at Winnipeg, Man. *Labour Gazette*, January, 808.
- -. 1911c. *Labour Gazette*, February, 899-900.
- -. 1912a. Settlement of Dispute between the Ottawa Electric Railway Company and Its Employees. *Labour Gazette*, July, 34-38.
- -. 1912b. Toronto Street Railway Employees. *Labour Gazette*, September, 262-64.
- -. 1913a. Report of Board in Dispute between the Quebec Railway, Light, Heat and Power Company and Street Railway Employees. *Labour Gazette*, January, 731-32.
- -. 1913b. Report of Board in Dispute between the Cities of Port Arthur and Fort William and Employees in Street Railway Service. *Labour Gazette*, January, 733-35.
- -. 1913c. Agreement between the Hamilton Street Railway Company and the Amalgamated Association of Street and Electric Railway Employees of America, Division No. 107 of Hamilton, Ontario. *Labour Gazette*, January, 770-71.
- -. 1913d. Reports of Board in Dispute between the British Columbia Electric Railway Company and Employees, Members of the Amalgamated Association of Street and Electric Railway Employees of America. *Labour Gazette*, September, 268-302.
- -. 1913e. Street Railway Employees, Halifax. *Labour Gazette*, June, 1420.
- -. 1913f. Street Railway Employees, Port Arthur and Fort William. *Labour Gazette*, July, 90.
- -. 1914a. Report of Board in Dispute between the St. John Railway Company and Its Motormen, Conductors, Linemen, etc. *Labour Gazette*, August, 199-200.
- -. 1914b. Settlement of Dispute between the Ottawa Electric Railway Company and Its Employees. *Labour Gazette*, August, 201.
- -. 1914c. Private Detective Agencies. *Labour Gazette*, October, 480-81.
- -. 1915. Electric Street Railway Legislation. *Labour Gazette*, June, 1420-22.
- Lambly, Peter D. 1983. Working Conditions and Industrial Relations on Canada's Street Railways, 1900-1920. MA Thesis, Department of History, Dalhousie University, Halifax, Nova Scotia.
- Levinson, Edward. 1935. *I Break Strikes!* New York: Robert M. McBride.
- Lord, Kathleen. 2005. Permissible Boundaries: Negotiation, Resistance, and Transgression of Street Space in Saint-Henri, Quebec, 1875-1905. *Urban History Review* 32 (2): 17-30.

- Luff, Jennifer. 2008. Surrogate Supervisors: Railway Spotters and the Origins of Workplace Surveillance. *Labor: Studies in Working-Class History of the Americas* 5 (1): 47-74.
- Martin, William. 1954. A Study of Legislation Designed to Foster Industrial Peace in Common Law Jurisdiction of Canada. PhD Thesis, University of Toronto.
- McCallum, Margaret E. 1990. The Mines Arbitration Act, 1888: Compulsory Arbitration in Context. In *Essays in the History of Canadian Law*. Vol. 3, Nova Scotia, ed. Philip Girard and Jim Phillips, 303-25. Toronto: Osgoode Society.
- . 1991. Labour and Arbitration in the Mowat Era. *Canadian Journal of Law and Society* 6:65-90.
- McKay, Ian. 2000. The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History. *Canadian Historical Review* 81 (4): 617-45.
- Merry, Sally Engle. 1988. Legal Pluralism. *Law and Society Review* 22 (5): 869-96.
- Mitchell, Richard. 1990. Solving the Great Social Problem of the Age: A Comparison of the Development of State Systems of Conciliation and Arbitration in Australia and Canada, 1870-1910. In *Canadian and Australian Labour History*, ed. Gregory S. Kealey and Greg Patmore, 47-80. Sydney: Australian Society for the Study of Labour History.
- Molloy, Scott. 1996. *Trolley Wars*. Washington, DC: Smithsonian Institution Press.
- Monetary Times. 1886a. The Street Railway Troubles. *Monetary Times*, March 12, 1040-41.
- . 1886b. The Situation. *Monetary Times*, May 14, 1293.
- . 1899. The Street Railway Strike. *Monetary Times*, August 11, 171.
- Montreal Gazette. 1903a. A General Movement. *Montreal Gazette*, February 9, 6.
- . 1903b. The Police. *Montreal Gazette*, May 25, 6.
- . 1903c. Much Rioting. *Montreal Gazette*, May 25, 11.
- . 1903d. Strikers Quiet. *Montreal Gazette*, May 26, 5.
- . 1903e. Lessons of the Strike. *Montreal Gazette*, May 29, 6.
- Morning Herald. 1913a. Mike Smorak Falls with Bullet through Head. *Morning Herald*, May 12, 1.
- . 1913b. The Riot. *Morning Herald*, May 13, 2.
- Morrison, Jean E. 1974. Community and Conflict: A Study of the Working Class and Its Relationships at the Canadian Lakehead, 1903-1913. MA Thesis, Department of History, Lakehead University, Thunder Bay, Ontario.
- . 1976. Ethnicity and Violence: The Lakehead Freight Handlers before World War I. In *Essays in Canadian Working Class History*, ed. Gregory S. Kealey and Peter Warrian, 143-60. Toronto: McClelland and Stewart.
- Morton, Desmond. 1970. Aid to the Civil Power: The Canadian Militia in Support of Social Order, 1867-1914. *Canadian Historical Review* 51 (4): 407-25.
- . 1975. *Mayor Howland*. Toronto: Hakkert.
- Motorman & Conductor. 1899. Company Seeks to Evade the Law. *Motorman and Conductor* April, 577-78.
- . 1911. Winnipeg Strike. *Motorman & Conductor* 19 (2): 21-22.
- Norwood, Stephen H. 2002. *Strikebreaking and Intimidation*. Chapel Hill: University of North Carolina Press.
- Olson, Sherry. 1991. The Evolution of Metropolitan Form. In *Canadian Cities in Transition*, ed. Trudi Bunting and Pierre Filion, 240-62. Toronto: Oxford University Press.
- O'Brien, W. E. 1905. Labour Legislation. *Canada Law Journal*, 41 (20): 729-33.
- Ottawa Journal. 1913. Mob Violence at Fort William. *Ottawa Journal*, May 13.
- Palmer, Brian D. 1976. "Give Us the Road and We Will Run It": The Social and Cultural Matrix of an Emerging Labour Movement. In *Essays in Canadian Working Class History*, ed. Gregory S. Kealey and Peter Warrian, 106-24. Toronto: McClelland and Stewart.

- . 1979. *A Culture in Conflict*. Montreal: McGill-Queen's University Press.
- . 1992. *Working-Class Experience*. Toronto: McClelland & Stewart.
- Reimer, Chad. 1993. War, Nationhood and Working-Class Entitlement: The Counter-Hegemonic Challenge of the 1919 Winnipeg General Strike. *Prairie Forum* 18:219-37.
- Riddell, William Renwick. 1921. Labor Legislation in Canada. *Minnesota Law Review* 5:83-93.
- Roy, Patricia. 1972-1973. The B.C.E.R. and Its Street Railway Employees. *BC Studies* 16:3-24.
- Russell, Bob. 1990. *Back to Work?* Toronto: Nelson.
- Ryan, Mary P. 1997. *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century*. Berkeley: University of California Press.
- Saint John Globe. 1914. Soldiers Are Coming Here from Halifax to Maintain Order. *Saint John Globe*, July 24, 1.
- Schmidt, Emerson P. 1937. *Industrial Relations in Urban Transport*. Minneapolis: University of Minnesota Press.
- See, Scott W. 1997. Nineteenth-Century Collective Violence: Toward a North American Context. *Labour/Le Travail* 39:13-38.
- Sinclair, Arthur H. 1891. The Toronto Street Railway. *Quarterly Journal of Economics* 6 (1): 98-105.
- Smith, Robert Michael. 2003. *From Blackjacks to Briefcases*. Athens: Ohio University Press.
- Squires, Benjamin. 1918. *Operation of the Industrial Disputes Investigation Act of Canada*. Washington, DC: Government Printing Office.
- Strong-Boag, Veronica. 2002. The Citizenship Debates: The 1885 Franchise Act. In *Contesting Canadian Citizenship*, ed. Robert Adamoski, Dorothy E. Chunn, and Robert Menzies, 69-94. Toronto: Broadview Press.
- Thompson, E. P. 1971. The Moral Economy of the English Crowd in the Eighteenth Century. *Past and Present* 50:76-136.
- Tilly, Charles. 1993. Contentious Repertoires in Great Britain. *Social Science History* 17 (2): 253-80.
- . 2003. *The Politics of Collective Violence*. Cambridge: Cambridge University Press.
- . 2008. *Contentious Performance*. New York: Cambridge University Press.
- Toronto City Council Minutes 1903. 1904. Appendix C: Annual Report of the Chief Constable for the Year 1902. Toronto: Carswell.
- Toronto Globe. 1902a. The Railway Trouble. *Toronto Globe*, June 20, 6.
- . 1902b. The Strike and Public Order. *Toronto Globe*, June 23, 6.
- . 1902c. The Street Car Settlement. *Toronto Globe*, June 24, 6.
- . 1902d. Meet Force with Force. *Toronto Globe*, June 27, 10.
- . 1902e. Police and Militia. *Toronto Globe*, June 28, 6.
- . 1906. The Crowd-Spirit and the Man. *Toronto Globe*, December 22, 8.
- . 1912. Street Railways Would Be Inconvenienced. *Toronto Globe*, April 5, 9.
- Toronto Railway Company. 1902. *Rules and Regulations for Motormen and Conductors*. Toronto: Imrie Graham & Co.
- Torrance, Judy. 1986. *Public Violence in Canada*. Montreal: McGill-Queen's University Press.
- Trades and Labour Congress of Canada. *Proceedings*. Annual Convention of the Trades and Labour Congress, Toronto. 1899.
- Tucker, Eric. 1990. *Administering Danger*. Toronto: University of Toronto Press.
- . 1994. The Faces of Coercion: The Legal Regulation of Labor Conflict in Ontario, 1880-1889. *Law and History Review* 12 (2): 277-339.
- . 2009. Street Railway Strikes, Collective Violence and the Canadian State, 1886-1914. In *Canadian State Trials*, vol. 3, ed. Barry Wright and Susan Binnie, 257-93. Toronto: University of Toronto Press.

- Tucker, Eric, and Judy Fudge. 1996. Forging Responsible Unions: Metal Workers and the Rise of the Labour Injunction in Canada. *Labour/Le Travail* 37:81-120.
- Warner, Sam B., Jr. 1962. *Streetcar Suburbs*. Cambridge, MA: Harvard University Press.
- Weaver, John C. 1990. Social Control, Martial Conformity, and Community Entanglement: The Varied Beat of the Hamilton Police Force, 1895-1920. *Urban History Review* 19 (2): 113-27.
- Webber, Jeremy. 1988a. Living Wage and Living Profit: Wage Determination by Conciliation Boards under the Industrial Disputes Investigation Act, 1907-1925. In *Canadian Perspectives on Law and Society: Issues in Law and History*, ed. W. Wesley Pue and Barry Wright, 207-42. Ottawa: Carleton University Press.
- —. 1988b. Standards of Industrial Justice: Ideology and the Reports of Conciliation Boards under the Industrial Disputes Investigation Act, 1907-1925. LLM Thesis, Osgoode Hall Law School, York University, Toronto, Ontario.
- —. 1991. Compelling Compromise: Canada Chooses Conciliation over Arbitration 1900-1907. *Labour/Le Travail* 28:15-57.
- Winnipeg Free Press. 1906a. Men Deplore Violence. *Winnipeg Free Press*, March 30, 11.
- —. 1906b. Our Disorderly Special Constables. *Winnipeg Free Press*, March 31, 4.
- —. 1906c. Christiansen Arrested. *Winnipeg Free Press*, April 2, 1.
- —. 1906d. Magistrate M'Micken Summarily Suspended. *Winnipeg Free Press*, April 2, 7.
- —. 1906e. Received Heavy Sentence. *Winnipeg Free Press*, April 3, 7.
- —. 1906f. Blames the Company. *Winnipeg Free Press*, April 3, 11.
- —. 1906g. Street Cars in Britain. *Winnipeg Free Press*, April 6, 4.
- —. 1906h. The Settlement of the Strike. *Winnipeg Free Press*, April 9, 4.
- —. 1906i. Cost of Strike! *Winnipeg Free Press*, April 9, 11.
- —. 1910a. Striker Fined. *Winnipeg Free Press*, December 19, 17.
- —. 1910b. Strike Riot at Fort Rouge Barns. *Winnipeg Free Press*, December 21, 1.
- Ziegler, Robert E. 1977. The Limits of Power: The Amalgamated Association of Street Railway Employees in Houston, Texas, 1897-1905. *Labor History* 18:71-90.

STATUTES CITED

Federal:

- Alien Labour Act*, S.C. 1897, c. 11.
- Conciliation Act*, S.C. 1900, c. 24.
- Railway Labour Disputes Act*, S.C. 1903, c. 55.
- Industrial Disputes Investigation Act*, S. C. 1907, c. 20.

Nova Scotia:

- An Act "Of Street Railway Companies"* S. N.S. 1911, c. 11.
- An Act to Amend Chapter 11, Acts of 1911, entitled "Of Street Railway Companies"* S. N.S. 1913, c. 52.
- An Act to Amend Chapter 11, Acts of 1911, entitled, "Of Street Railway Companies"* S. N.S. 1914, c. 58.

Ontario:

- Ontario Railway and Municipal Board Act* S. O. 1906, c. 31, ss. 58-59.
- An Act to amend the Ontario Railway and Municipal Board Act* S. O. 1912, c. 37.

ARCHIVAL DOCUMENTS

Public Archives of Canada. Strike and Lockout Files. RG 27, Reel T-2690, Vol. 302, File 73. Untitled memorandum, on Port Arthur and Fort William, Ontario strike.

Toronto Archives. Records of Suspensions of Motormen 1899-1903. Fonds 16, Series 114, Files 2, Toronto, Ontario.