

**July Fudge and Eric Tucker. *Labour Before the Law: The Regulation of Workers' Collective Action in Canada, 1900–1948.* Toronto: Oxford University Press, 2000**

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## Book Reviews / Comptes rendus

July Fudge and Eric Tucker. *Labour Before the Law: The Regulation of Workers' Collective Action in Canada, 1900–1948*. Toronto: Oxford University Press, 2000.

A great deal of recent scholarship in labour studies has focused on how legal developments have shaped and re-shaped trade unionism in Canada and the United States. Christopher L. Tomlins, William Forbath, Victoria Hattam, Don Wells, and most recently, Judy Fudge and Eric Tucker have argued that the labour struggles of the 1930s and 1940s produced a legal regime governing industrial relations that worked against trade union militancy. Unions gained compulsory bargaining rights and recognition from employers only in exchange for their agreement to act responsibly and within the law. As a result, the collective actions of trade unionists were, as Fudge and Tucker observe, “irretrievably enmeshed” with the law and the state (p. 5).

The focus of *Labour Before the Courts* is the legality of strikes and trade unions. It says little about non-unionized workers in the service or public sector. Nor is there much here about the day-to-day struggles over work process or technological change. Nevertheless, this book is a “must read” for anyone interested in working-class or legal history in Canada.

At one level, the book is about changing notions of “industrial legality.” The authors demonstrate that the history of labour law in Canada can be divided into three phases. A period of “liberal voluntarism” before 1900 was characterized by individual contracts of employment, the “open shop,” and a criminal law that narrowly defined the scope of trade unions. With the coming of the second industrial revolution, this situation gave way to “industrial voluntarism” wherein the federal and provincial governments played the part of conciliator in key economic sectors. This period nonetheless saw increased legal coercion of workers as employers turned to the courts and the state for assistance. As judges favoured public order and employers’ property rights, workers were faced with injunctions against picketing and criminal-code prohibitions on “watching and besetting.” Moreover, the militia was called out to quell strikes eight times between 1900 and 1904, four times in 1906 and on another ten occasions between 1909 and 1914. The general strikes of 1919 were also ruthlessly suppressed. It was only with the rise of worker militancy in the 1930s and 1940s—this time taking the form of industrial trade unionism—that federal and provincial politicians reluctantly agreed to intervene more directly. The essential components of post-war “industrial pluralism” were compulsory collective bargaining (in a closed shop) administered by independent labour boards as well as a system of grievance arbitration (p. 302).

At another level, this is a book about class conflict. One of the many surprises in *Labour Before the Courts* is the authors’ careful attention to local and regional context. Unlike those books that promise a study of “Canada” on the front cover only to deliver Toronto inside, this book is truly pan-Canadian in scope. In splendid detail, we learn about workers’ collective actions from across the country. It seems that place mattered. According to the authors, “Local officials were almost always in a position to affect significantly the course of a strike” (p. 14). Provincial politics also mattered; particularly after the Judicial Committee of the Privy Council (JCPC) ruled in 1925 that labour was primarily a provincial responsibility.

One of the many fascinating issues that this study raises is the federal government’s overriding interest in maintaining Canada’s regionally based wage structure. Regional differentials in wages were, according to Fudge and Tucker, at “the heart of the government’s compulsory collective bargaining policy” (p. 262). Unlike the more centralized system that emerged in the United States, the collective bargaining system that was erected in Canada during the 1930s and 1940s discouraged nationwide sectoral bargaining. Unable to negotiate industry wide, collective bargaining tended to accentuate regional inequality as well as wage differentials between union and non-union workers.

Overall, I came away convinced that the liberal state’s interest in maintaining industrial peace, has, above all else, determined its responses to class conflict.

The study of labour history through the prism of the law provides us with a remarkable synthesis of workers’ collective action in Canada between 1900 and 1948. To their credit, Fudge and Tucker do not fall into the trap of presenting this story as one of linear progression. For them, “new laws do not neatly supersede older ones, but often supplement them, producing a complex legal regime” (p. 4). It is their attention to this complexity that makes *Labour Before the Courts* such a compelling monograph.

This is an indispensable book for both labour specialists and historians more generally, and one that is accessible to their students.

Steven High, History,  
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Claire Poitras, *La cité au bout du fil*, P.U.M., Montréal, 2000, 325 p.

Le livre, *La cité au bout du fil*, de Claire Poitras présente les grandes lignes de sa thèse de sa doctorat en aménagement, thèse qui portait sur la construction du premier réseau téléphonique à Montréal au tournant du siècle. Disons le tout de suite, cette étude de la mise en place d’une infrastructure—à ce point importante qu’il serait difficile aujourd’hui de penser pouvoir sans passer—tombe à point nommé. Les objets techniques, seraient-ce ceux qui constituent de grandes infrastructures urbaines, n’ont pas souvent été privilégiés par les historiens. Les spécialistes de l’histoire urbaine, par exemple, se sont intéressés surtout aux institutions, au processus d’industrialisation ou encore aux problèmes sociaux liés à l’urbanisation. Or, depuis quelques années, l’histoire des techniques s’est dotée d’outils théoriques qui permettent de rendre compte de la construction des infrastructures techniques en la rapportant aux conditions économiques, bien sûr, mais également aux conditions sociales. L’étude que nous propose Claire Poitras tire merveilleusement profit de ces nouvelles perspectives. Pour comprendre comment, entre 1879 et 1930, prend forme le réseau de téléphonie à Montréal, elle s’est interrogée sur la nature des relations qui se sont tissées entre le développement du service téléphonique et les nouvelles pratiques de la planification urbaine, notamment celles qui étaient liées aux besoins de communication d’une métropole comme Montréal.

Plusieurs acteurs ont participé à la construction sociale du système téléphonique à Montréal, nous rappelle Claire Poitras. En effet, planificateurs privés du réseau, gestionnaires publics