

# A Danger and a Nuisance Regulating the Automobile in Ontario, 1903-1912

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Article abstract

In the early twentieth century public opposition to uncontrolled automobile driving pushed successive provincial governments to construct extensive regulatory frameworks around cars. This article will analyze the extensive legislative and common law changes brought about in Ontario from 1903-12 as a window through which to view wider social attitudes towards technology, the state, and government regulation. At first glance restrictions on cars appear to be no more than reactionary measures to appease particular segments of the population. But they can also be seen as a form of opposition to rapid industrialization and the ever-increasing power of technology, and as examples of a growing faith in state power, and a desire to see anti-moral and anti-social behaviour more aggressively policed. Motor vehicle regulation was part of the complex social and political conflicts that characterized progressive-era Ontario.



# A DANGER AND A NUISANCE

## REGULATING THE AUTOMOBILE IN ONTARIO, 1903-1912

by Christopher Los

**O**n 11 April 1905, Jon Powles, clerk of the Township of Fenton, penned a letter to Ontario Provincial Secretary William Hannah. Powles was upset to have heard that the government was considering raising the speed limit for motor cars on country roads from ten miles-per-hour to fifteen. Like many rural residents, Powles blamed speeding automobiles for spooking hors-

es and causing accidents on his township's rural roads. "Is there not one friend of the farmer in all your legislature that will cry out against this curse of the country roads in the summer?" he demanded.<sup>1</sup> Powles was not alone in his opposition to the automobile. Widespread calls for automobile regulation were made throughout the early twentieth century, and legislators responded in turn. Between 1903

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<sup>1</sup> Archives of Ontario (hereafter cited as AO), RG-49, B397589, Powles to Hanna, 11 April 1905.

## *Abstract*

*In the early twentieth century public opposition to uncontrolled automobile driving pushed successive provincial governments to construct extensive regulatory frameworks around cars. This article will analyze the extensive legislative and common law changes brought about in Ontario from 1903-12 as a window through which to view wider social attitudes towards technology, the state, and government regulation. At first glance restrictions on cars appear to be no more than reactionary measures to appease particular segments of the population. But they can also be seen as a form of opposition to rapid industrialization and the ever-increasing power of technology, and as examples of a growing faith in state power, and a desire to see anti-moral and anti-social behaviour more aggressively policed. Motor vehicle regulation was part of the complex social and political conflicts that characterized progressive-era Ontario.*

**Résumé:** *Dans la première partie du XXe siècle, l'opposition du public à l'utilisation irresponsable de l'automobile poussa les gouvernements provinciaux successifs à établir un système extensif de régulation des voitures. Cet article analyse les changements législatifs et de droit commun introduits en Ontario de 1903 à 1912 comme lentille nous donnant un aperçu des attitudes sociales plus générales envers la technologie, l'État, et la régulation gouvernementale. À première vue, les restrictions de voitures peuvent sembler n'être que des réactions visant à apaiser certains segments de la population. Mais on peut les voir aussi comme une forme d'opposition à l'industrialisation rapide et au pouvoir toujours croissant de la technologie – ou comme exemples d'une foi grandissante dans le pouvoir de l'État et un désir de voir les conduites immorales et antisociales contrôlées plus énergiquement. La régulation des véhicules motorisés fait partie des conflits sociaux et politiques complexes qui caractérisent l'Ontario à l'époque progressiste.*

and 1912 the automobile became one of the most heavily regulated and restricted pieces of technology in the province.

This essay will analyze the extensive legislative and judicial changes brought about in Ontario during those years as a window through which to view wider social attitudes and opinions towards technology, the state, and government regulation. At first glance, the restrictions imposed upon automobile owners in this period appear to be no more than reactionary and populist measures meant to appease particular segments of the population. Yet the enacted regulatory regime tells us far more about the

types of conflicts and contestations that coloured life in early twentieth-century Ontario. Viewed in this light, automobile regulation can be seen as one form of opposition to rapid industrialization and the ever-increasing power of technology. It can also be seen as an example of what was then a growing faith in state power, and a desire to see anti-moral and anti-social behaviour more aggressively policed by the state. Automobile regulation represented not only increased favouritism towards state involvement in private life, but also a certain distrust of technological evolution. Early regulation was not a stubbornly inveterate reaction

of hostility to new technology. It was small part of the much more complex social and political conflicts characterizing progressive-era Ontario in the early years of the twentieth century.

The car was also a symbol of division—it emphasized social gaps in wealth, lifestyle, geography, and community structure. Early automobile owners were almost exclusively high-income individuals (the only people capable of affording these complex new pieces of machinery). Henry Ford, famous for dramatically increasing the availability of automobiles, did not begin to produce his Model T until 1908, and it didn't become universally affordable until well into the second decade of the twentieth century.<sup>2</sup> In addition to class antagonisms, divisions were drawn between urban and rural populations. The vast majority of automobiles belonged to city dwellers—in 1914 rural residents owned only 18% of the province's vehicles.<sup>3</sup> Many within the rural population were heavily critical of city drivers abusing country roads and causing accidents. Finally, foreign drivers, particularly Americans, were scapegoated as causing many of the problems associated with automobile use across southern

Ontario.<sup>4</sup> Given the importance of these fault lines in Ontario society, it is not surprising to see them reflected within the legislative debates over motor vehicles, and also within the judicial decisions relating to the subject that emerged at the time.

Many groups and individuals pressured their legislators to regulate the car, and there was rarely a legislative session between 1903 and 1912 that did not debate automobile regulation in some form. The year 1903 saw the enactment of Ontario's first automobile legislation—the twelve-section *Motor Vehicles Act*, which underwent significant expansion in the following years.<sup>5</sup> After 33 years in power the governing Liberals under George William Ross were replaced by James Whitney's Conservatives in the 1905 election. During his first years in office, Whitney and his provincial secretary, William Hanna, brought about major amendments to the Act. During the next seven years at least 19 bills were introduced to amend the Act, and the legislature passed amendments in 1905, 1906, 1908, 1909, 1911 and lastly under Whitney's leadership in 1912.<sup>6</sup> The legislation enacted in 1912 was, as Stephen

<sup>2</sup> Allan Levine, *The Devil in Babylon: Fear of Progress and the Birth of Modern Life* (Toronto: McClelland & Stewart, 2005), 233.

<sup>3</sup> Donald Davis, "Dependent Motorization: Canada and the Automobile to the 1930s" *Journal of Canadian Studies* 21 (1986), 123.

<sup>4</sup> As an example, in early 1903 Windsor's Police Magistrate, Alexander Bartlet, wrote to the Provincial Attorney General complaining of "persons from the City of Detroit coming over with those machines driving at a furious rate, more especially if the driver is under the influence of liquor." AO, RG 4-32, MS 7592, Bartlet to JW Gibson, 13 May 1903.

<sup>5</sup> *Motor Vehicle Act*, SO 1903, c 27.

<sup>6</sup> Ontario, Legislative Assembly, "Motor Vehicle Act—Amendments," in *Index to the Sessional Papers* (1920) at 234-35.

Davies argues, a major codification of existing motor vehicle laws, and the 1912 regime remained largely in force until another major overhaul in 1923. The regime enacted in 1912 represented an end to an “*ad hoc* informal system, which had characterized automobile legislation and enforcement from the automobile’s first appearance.”<sup>7</sup> The year thus marked a significant shift in motor vehicle regulation—it was the beginning of a more formalistic and accommodating approach to the automobile. It also coincides generally with the beginning of the car’s dramatic rise in popularity. Whitney died in 1914, and by then the car was well on its way to establishing itself as a permanent fixture upon the roads of the province. A legal history of the social and political elements behind Ontario’s early motor vehicle laws nonetheless remains absent from the historiography of the automobile, and it is this gap that this article seeks to fill.

As a legal history, this article focuses on identifying the social forces that produced the legislative and judicial outcomes relevant to early automobile regulation. In so doing, it adopts the concept of a ‘legal culture’ that develops alongside shifting social values and attitudes to produce changes to legal systems. According to legal historian Philip Girard, legal cul-

ture is an arena of conflict occupied by a number of historical forces and actors, collectively bringing about changes to the law, and being influenced by such changes.<sup>8</sup> In his legal history of gun control in Canada, R. Blake Brown points to the social, economic, cultural, legal and constitutional concerns that collectively defined Canada’s “gun culture” and in turn produced legislative consequences.<sup>9</sup> This approach to legal history seeks to identify the various external forces competing for a voice in the crafting of a normative legal order, which can ultimately take a variety of unpredicted and unintended forms.<sup>10</sup> Although historians have examined the rise in popularity of the automobile from the second decade of the twentieth century onward, an analysis of the historical forces that successfully produced tangible suppression of automobiles in the early years of their existence is missing from the historiography. By emphasizing the many successes of the early anti-automobilists, this article seeks to shine new light on an otherwise unexplored area of Ontario’s automotive history.

This article is divided into four parts. In Part I, the historiography of the automobile and of early twentieth-century Ontario will be explored and the historical circumstances within which automobile regulation first arose will be identi-

<sup>7</sup> Stephen Davies, *Ontario and the Automobile, 1900-1930: Aspects of Technological Integration* (Ph.D. diss., McMaster University, 1987), 233, 245.

<sup>8</sup> Philip Girard, *Lawyers and Legal Culture in British North America: Beamish Murdoch of Halifax* (Toronto: University of Toronto Press, 2011), 5.

<sup>9</sup> R. Blake Brown, *Arming and Disarming: A History of Gun Control in Canada* (Toronto: University of Toronto Press, 2012), 6.

<sup>10</sup> Hendrik Hartog, “Pigs and Positivism,” *Wisconsin Law Review* (1985), 899.



fied. In Part II, the first legislative steps taken to regulate the automobile will be presented and analyzed with a mind to identifying the parameters of the debate and the influence exerted upon the state by various actors. Part III will focus on the connections between public and judicial opinion in relation to automobile regulation through an analysis of contemporary court cases. Part IV will further discuss the legislative steps taken to regulate cars, particularly in the post-1908 period. Finally, the conclusion will reiterate the central thesis of this article: Automobile regulation was a symptom of broader societal trends, and it embodied widely held opinions towards increased bureaucratization, expanded state powers, and hostility towards dramatic technological change. Regulating the car was far more than a reactionary political manoeuvre—it was, in many respects, a widely accepted form of progressive-era social control.

### Part I:

#### *Historians, the Car, and Early Twentieth-Century Ontario*

Historians have long emphasized the dramatic changes, both legal and societal, brought about by the automobile. In her work on law and technology, B. Zorina Khan writes that the automobile brought major shifts in both the law

and in social patterns of work, crime, leisure, and residence.<sup>11</sup> Writing on the history of the automobile in Ontario, Stephen Davies calls the automobile “the most influential technological innovation in early twentieth-century Ontario,” and argues, “Ontario underwent a tremendous cultural and social reorientation with the automobile.”<sup>12</sup> In his work on the re-shaping of London, Ontario, to accommodate the car, Gerald T. Bloomfield emphasizes that no other technological innovation altered life as radically as the automobile.<sup>13</sup>

The general explanation for why the car was so tremendously influential is that, given the convenience of the automobile and its ability to travel faster and further than other forms of transportation, its popularity was ultimately impossible to stop. Increasing rates of vehicle ownership and lower costs of automobile production meant more and more people sought out this liberating new form of transport. Historians generally identify the second decade of the twentieth century as the key period in this respect. Rudi Volti, for example, argues that by 1914 “the automobile ceased to be a mechanical oddity and was well on the way toward becoming a key artifact of the new century.”<sup>14</sup> In his study on the motorization of Saskatchewan, Bloomfield identifies a tenfold increase

<sup>11</sup> B. Zorina Khan, “Innovations in Law and Technology, 1790-1920” in Michael Grossberg & Christopher Tomlins, eds, *Cambridge History of Law in America* (New York: Cambridge University Press, 2008), 521.

<sup>12</sup> Davies, *Ontario and the Automobile*, 1.

<sup>13</sup> Gerald T. Bloomfield, “No Parking Here to Corner: London Reshaped by the Automobile, 1911-61” *Urban History Review* 2:18 (1989), 140.

<sup>14</sup> Rudi Volti, *Cars & Culture: The Life Story of a Technology* (Baltimore: John Hopkins University

in the number of vehicles in that province between 1913 and 1918, despite being a period of international crisis. He identifies it as a period of “extraordinarily rapid transformation in motor-vehicle ownership and usage.”<sup>15</sup> The growth rate in Ontario was also indeed exponential between the same years—although in 1904 there were only 535 automobiles in the province, by 1914 there were 31,724, and in 1920 there were 155,861.<sup>16</sup> Such statistics certainly lend support to the thesis that the auto’s popularity was unstoppable.

However, one consequence of focusing the historical analysis upon the automobile’s rapid and dramatic expansion in the century’s second decade is that the widespread opposition to the automobile in its earlier years is routinely marginalized. Even if the car was indeed such a prominent feature of Ontario society by the 1920s, its position atop the transportation hierarchy was hardly universally endorsed. Opposition in the early years was strong, and it appeared on many fronts. H.V. Nelles and Christopher Armstrong have referred to the rise in political activism in the early twentieth century as “civic populism,” which they

characterize as resistance to a new liberal economic order based on monopoly and technological innovation.<sup>17</sup> Craig Heron, writing in a labour context, characterizes the era as experiencing serious resistance to growing corporatism and technological development.<sup>18</sup> As a new form of technology and representative of the innovations of the era, the automobile received its own fair share of criticism from numerous sources. Activism against an evolving economic order and its various representations was certainly a key part of the campaign to regulate the automobile. Stephen Davies identifies one of the inherent contradictions that resulted from the automobile’s popularity—a technology that was meant to bring personal freedom actually produced “a growing array of regulatory detail” that only further increased state restrictions on public movement.<sup>19</sup> Although Davies’ analysis is also centred on the second decade of the twentieth century, he nonetheless identifies the significance of the dizzying assortment of formal regulation that followed the introduction of the automobile. For Davies, the car, and legislative responses to it, ultimately brought about dramatic changes to urban landscapes and the use

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Press, 2004), 42.

<sup>15</sup> Gerald T. Bloomfield, “Motorisation on the New Frontier: The Case of Saskatchewan, Canada, 1906-1914” in Theo Barker, ed, *The Economic and Social Effects of the Spread of Motor Vehicles* (London: Macmillan, 1987), 165 at 167.

<sup>16</sup> Stephen Davies, “Reckless Walking Must Be Discouraged: The Automobile Revolution and the Shaping of Modern Urban Canada to 1930,” *Urban History Review* 2:18 (1989), 123.

<sup>17</sup> Christopher Armstrong and H.V. Nelles, *Monopoly’s Moment: The Organization and Regulation of Canadian Utilities, 1830-1930* (Philadelphia: Temple University Press, 1986), 141.

<sup>18</sup> Craig Heron, “The Second Industrial Revolution in Canada, 1890-1930” in Deian Hopkin & Gregory Kealey, eds, *Class, Community and the Labour Movement: Wales and Canada, 1890-1930* (Committee on Canadian Labour History, 1989) 48, 58.

<sup>19</sup> Davies, “Reckless Walking,” 123-24.

and perception of urban space. Davies' work illustrates the significance of the conflict between the promises of modernity and hostility to it—a conflict that undoubtedly appears in the early automobile debates as well.

Why did the province's legal institutions become prominent venues for producing a solution to the automobile problem? As Jamie Benedickson has demonstrated, the role of the state in governing personal conduct was contested in this era, and numerous controversies forced disputes into legislative and judicial settings.<sup>20</sup> Yet faith in a bureaucratic solution to many of society's problems remained a prominent feature of the period in question. Other major legislative initiatives, including the creation of a provincially owned hydro-electric system, ran concurrently with the automobile debates.<sup>21</sup> Prohibition and local option legislation were also prominent issues. Not coincidentally then, the rapid expansion of automobile regulation in the province coincided with the expansion of the civil service into other spheres of regulatory administration.<sup>22</sup> The legislature was taking on new economic and political causes and regulating new fields, and doing so with popu-

lar support. As Bernard Hibbits writes, "many people no longer believed in the possibility of voluntary self-restraint for the sake of the public good; where self-restraint failed, the state had to step in."<sup>23</sup> In such an environment, it is not surprising that Ontarians angered by the unrestrained automobilist would seek redress from their lawmakers.

In an era of growing regulation, automobiles were one of many political, moral and economic elements of society targeted for significant sanction from the state.<sup>24</sup> Ontarians had no objections to their legislature actively regulating this new form of technology. The types of regulations implemented illustrate a certain level of resistance and even open hostility towards this new mode of transportation. The remainder of this essay will discuss just how the process played out, who was involved, and why automobile regulation took the form that it did.

## Part II:

### *Group Formation and the Early Steps of Regulation*

Prior to 1903, no legislation specifically addressed automobiles on the roads of Ontario, and the lack of a regulatory framework was beginning to be-

<sup>20</sup> Jamie Benedickson, "From Empire Ontario to California North: Law and Legal Institutions in Twentieth-Century Ontario" in DeLloyd Guth & W. Pue, eds, *Canada's Legal Inheritances* (Canadian Legal History Project: University of Manitoba, 2001), 624.

<sup>21</sup> H.V. Nelles, *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941* (Montreal: McGill-Queen's University Press, 2005).

<sup>22</sup> J.E. Hodgetts, *From Arm's Length to Hands-On: The Formative Years of Ontario's Public Service, 1867-1940* (Toronto: University of Toronto Press, 1995), 110.

<sup>23</sup> Bernard T. Hibbits, "A Change of Mind: The Supreme Court and the Board of Railway Commissioners, 1903-1929" *University of Toronto Law Journal* 41 (1991), 64.

<sup>24</sup> Mariana Valverde, *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925* (Toronto: McClelland & Stewart, 1991), 166.



come worrisome. “Good luck or some special dispensation of Providence has prevented [motor vehicle] accidents in Toronto,” opined the *Toronto Globe* in early 1903. “But it will not do to trust entirely to such protection.”<sup>25</sup> The neighbouring state of New York had enacted motor vehicle legislation the year before, and the New York statute provided for the licencing and registration of drivers.<sup>26</sup> In the aftermath of the New York law’s passage, calls were made for Ontario to do the same, and the *Globe* would not have to wait long for the government to act.<sup>27</sup> The Liberal government of Premier George Ross introduced the first law regulating the automobile in Ontario in March of 1903.<sup>28</sup> The bill was a prudent effort to both accommodate automobile owners and placate its earliest opponents. Notable impositions were to be placed on the shoulders of operators—in an era preceding stop signs and traffic lights, drivers were mandated to slow down as they approached intersections and yield the right of way to horses and pedestrians at all times, including coming to a halt if signaled to do so. In the hierarchy of transportation technologies, the relative newcomer was at the bottom. A \$2 registration fee was to be imposed on vehicles, and a fine of \$50 was set for any

violations of the Act. One-inch numbers identifying the vehicle’s registration were to be placed on the backs of vehicles. Perhaps most concerning for automobile enthusiasts, however, was the imposition of speed limits. The Act initially set out to limit cars to a mere seven miles per hour within cities and towns.

One consequence of the 1903 bill seems to have been the formation and strengthening of a ‘pro-car’ lobby. The Toronto Automobile Club was organized in May of that year, just as the bill was coming up for discussion before the legislature.<sup>29</sup> J.C. Eaton, son of department store mogul Timothy Eaton and a well-known automobile enthusiast led the group.<sup>30</sup> Within weeks a number of other leading businessmen and car owners were coordinating efforts to persuade Attorney General (and future Lieutenant Governor) John Gibson to increase the speed limit under the Act to ten miles per hour. The Dunlop Tire Company’s J. Armstrong wrote to Gibson that “[a]s manufacturers of auto and motor carriage tires, we protest against such a limitation of the speed of these wagons... seven miles an hour is much too slow. We certainly consider that such a bill will injure our business, and we consider that ten miles an hour is a more reason-

<sup>25</sup> *Toronto Globe* (7 May 1903), 6.

<sup>26</sup> Herbert Delevan Mason, *Mason on Highways: New York Highway Law* (Albany: Banks and Company, 1902), 152-54.

<sup>27</sup> *Toronto Globe* (7 June 1902), 32.

<sup>28</sup> *Toronto Globe* (11 Mar 1903), 9.

<sup>29</sup> *Toronto Globe* (2 May 1903), 9.

<sup>30</sup> *Toronto Globe* (5 May 1903), 1. J.C. Eaton was also the recipient of Ontario’s first licence registration plate, bearing the number 1. *Toronto Globe* (1 September 1903), 11.



*The well-attired members of the Toronto Automobile Club on an outing in 1904. J.C. Eaton is driving the car second from left. (AO, Eaton's Archives, F 229-308-0-2432).*

able figure.”<sup>31</sup> The flamboyant T.A. Russell, president of the Canada Cycle and Motor Company and acting secretary of the new Toronto Automobile Club, took advantage of the opportunity to push the automotive agenda as well. “We are investing considerable amounts of money in the manufacture of these vehicles,” he wrote to Gibson. “We feel that unfriendly legislation such as that proposed would have a serious effect upon the industry and we write to ask your careful consideration of the question, so that the speed limit for towns and cities... of 10

miles an hour be accepted.”<sup>32</sup>

The newly formed Toronto Automobile Club also managed to make an appearance at an early meeting of the legislature’s Municipal Committee while the bill was being considered, pushing for a commitment to better roads and objecting to various parts of the legislation. The lobbying managed to bring about a number of changes. The group opposed the requirement that the registration numbers be visible on the vehicle, claiming that to do so would make vehicles too easy to identify in accidents.<sup>33</sup>

<sup>31</sup> AO, RG 4-32, MS 7592, J Armstrong to JW Gibson, 22 May 1903.

<sup>32</sup> AO, RG 4-32, MS 7592, TA Russell to JW Gibson, 21 May 1903.

<sup>33</sup> Toronto *Globe* (15 May 1903), 9.

The legislature rejected that request, but they did lower the fine for a violation of the Act from \$50 to \$25.<sup>34</sup> The final bill also adopted a major request of the club members and raised the speed limit to 10 miles per hour.<sup>35</sup>

The Automobile Club was well-funded and well-organized, although in its early years it was undoubtedly a localized group and did not include the major players who would later occupy prominent positions in the Canadian auto market. By 1910 for instance, the three biggest automobile sellers in Ontario were T.A. Russell's Canada Cycle and Motor in Toronto, Oshawa's McLaughlin Motor Car Company, and Gordon McGregor's Ford Motor Company of Canada operating in Windsor.<sup>36</sup> At the time of the legislation's passing in 1903, two of these major market players had yet to make an appearance. The McLaughlin Motor Company did not finalize its arrangement to manufacture Buick vehicles in Oshawa until 1907.<sup>37</sup> Similarly, McGregor had yet to present his idea for a Canadian branch plant to Henry Ford, and did not even manufacture a vehicle until October 1904.<sup>38</sup> Even after becoming a force in the Canadian automotive

industry, McGregor showed little interest in provincial automotive regulation.<sup>39</sup> Leadership of both companies focused their lobbying efforts on the federal government in an effort to influence tariff policies, and chose to offer limited input on provincial legislation.

Nonetheless, the absence of these key market players cannot detract from the activities of the early Toronto Automobile Club. In addition to their lobbying efforts, the group also staged public events in rural areas of the province in order to give farmers and others with horses the chance to familiarize their animals with automobiles.<sup>40</sup> They exemplified the class divide which automobile ownership represented in the early twentieth century. Eaton, Russell and Armstrong were all prominent capitalists, and various other members were pulled from the ranks of the wealthy as well.<sup>41</sup> Not surprisingly, class antagonism often played into the debates surrounding automobile regulation. It was the kind of class antagonism that led William Arnson Willoughby, Conservative MPP for Northumberland East, to remark that automobile owners "had more money than brains."<sup>42</sup> This was an element of the au-

<sup>34</sup> *Ibid.*

<sup>35</sup> *Motor Vehicle Act*, SO 1903, c 27.

<sup>36</sup> Hugh Durnford and Glenn Baechler, *Cars of Canada* (Toronto: McClelland and Stewart, 1973).

<sup>37</sup> Heather Robertson, *Driving Force: The McLaughlin Family and the Age of the Car* (Toronto: McClelland and Stewart, 1995), 112-13.

<sup>38</sup> David Roberts, *In the Shadow of Detroit: Gordon M. McGregor, Ford of Canada, and Motoropolis* (Detroit: Wayne State University Press, 2006), 33.

<sup>39</sup> *Ibid.*, 63.

<sup>40</sup> *Toronto Globe* (2 June 1905), 12.

<sup>41</sup> Davies, *Ontario and the Automobile*, 208-209.

<sup>42</sup> *Debates*, 27 March 1906.

tomobile debates that was manifested in the formation of the Automobile Club in 1903 and would carry on for many years into the future. This group of powerful and influential individuals worked hard to counter public opposition to the automobile, and certainly achieved some successes in doing so.

Also noteworthy of the 1903 debates is that automobile regulation did not appear to be a partisan issue. Although introduced by Liberal Thomas Hiram Preston, the bill received support from many key Conservatives, including leader J.P. Whitney himself.<sup>43</sup> Public opinion had yet to blossom into widespread antagonism towards the automobile—the number of vehicles in the province was estimated to be about 250.<sup>44</sup> The legislature was also hampered by the months-long investigation into the Robert Gamey corruption scandal. Gamey, a Conservative member of the legislature, had brought forward allegations that the Liberals had offered him bribes to support the government in the previous legislature, where the Liberals enjoyed a slim two-seat majority. A Royal Commission cleared the government of any wrongdoing, but the scandal nonetheless helped the Conservatives take the reins of power in the 1905 election.

Whitney raised a notable caution during the final debate on the 1903 bill.

He expressed concerns that the automobile bill would give rise “to a new class of officials,” a group of government appointees that would expand the bureaucratic state even further.<sup>45</sup> His comments do represent a contrast to the generally accepted idea that state expansion was widely endorsed in this period. Regardless of the need for regulation, Whitney was troubled by the possibility of an ever-expanding state bureaucracy to do something about it. Despite his comments, Whitney would oversee a dramatic expansion in automobile regulation once he took office in 1905.

By 1905 a debate which had begun to divide itself along class lines was now becoming one between urban and rural constituents as well, and the division was striking. According to the 1901 census, Ontario’s rural population was 57% of the total population of the province, compared to only 43% living in urban areas.<sup>46</sup> This demographic reality meant that rural opinions carried significant influence in the provincial legislature—and rural opinions were largely aligned against the automobile. Rural dwellers feared that cars predominantly owned by city residents were spooking horses on country roads, causing the ‘ditching’ of carriages and their occupants. Throughout the legislative session that year, a number of County Councils petitioned the legis-

<sup>43</sup> Toronto *Globe* (4 June 1903), 7.

<sup>44</sup> Toronto *Globe* (1 September 1903), 11.

<sup>45</sup> *Debates*, 10 June 1903.

<sup>46</sup> Canadian Census data, “Population, urban and rural, by province and territory (Ontario),” Statistics Canada, <<http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo62g-eng.htm>> (accessed December 15, 2013).

lature asking for the power to regulate and govern the speed of automobiles on rural roads, where horses were by far the primary means of local transportation.<sup>47</sup> Donald Sutherland, Conservative MPP for the rural riding of Oxford South, repeatedly addressed the concerns regarding risks posed to horses by automobiles in the legislature.<sup>48</sup>

It is also important to note that the period under examination coincides with a key moment in Ontario's demographic history—by the taking of the next census in 1911, the population of urban residents outnumbered the population of rural residents for the first time. The 1911 census reported that 53% of Ontarians lived in urban areas, compared to a minority of 47% for rural citizens.<sup>49</sup> Urbanization was undoubtedly a powerful force in Ontario during this period—between 1901 and 1911, Toronto's population alone increased by 80%, from 208,040 to 376,538.<sup>50</sup> This key demographic shift certainly represents an important historical development, but the numbers still highlight the powerful political influence held by rural areas during the period in question.

Whitney did not disappoint. Amidst the calls for action from rural areas, the new government introduced a number of

amendments to the *Motor Vehicles Act* in 1905. The new provisions imposed strict (or in other words, immediate and automatic) liability upon vehicle owners in the event of any loss or damage “incurred or sustained by any person through the frightening of a horse or horses or other animals by a motor vehicle.”<sup>51</sup> It would be irrelevant whether the owner was driving the vehicle at the time of the accident or not. In addition, the onus of disproving the negligence of the driver was now reversed, and carried by the owner himself. This was a dramatic shift in the law, as typically it would be a plaintiff's task to prove on the balance of probabilities that the defendant was negligent. Plaintiffs in automotive accident litigation involving frightened animals had suddenly been relieved of this burden. As if that wasn't enough, any violation of the Act whatsoever was now the direct responsibility of the owner of the vehicle—regardless of who was driving it or for what purpose.<sup>52</sup> The objective of the legislation was to deliberately hold vehicle owners legally responsible for the driving habits of their chauffeurs, employees, or anyone else in control of their vehicles.

The strong wording of the new Act meant that, theoretically at least, if one's chauffeur was involved in an accident

<sup>47</sup> *Sessional Papers*, 28 March, 4 May, 11 May 1905 (23, 109, 140).

<sup>48</sup> *Debates*, 20 May 1905.

<sup>49</sup> Canadian Census data, “Population, urban and rural, by province and territory (Ontario),” Statistics Canada, <<http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo62g-eng.htm>> (accessed December 15, 2013).

<sup>50</sup> George Nader, *Cities of Canada*, vol. 2 (Toronto: Macmillan, 1976), 203.

<sup>51</sup> *Motor Vehicle Act*, SO 1905, c 28 s 9.

<sup>52</sup> *Ibid.*, s 5.



involving the spooking of a horse, the owner of the vehicle would not only be responsible for paying any fines under the Act, but would also be personally liable for any civil damages claimed in a subsequent legal action. This extension of liability even went so far as to exceed that of traditional employer-employee liability at common law, making the rules for vehicle owners much harsher than they would have been if the courts were left to apply pre-existing legal rules to such situations. The heavy burden placed upon owners no doubt would have alarmed the Toronto Automobile Club. Dr. William Nesbitt, Conservative member for Toronto North, seemed to think that this was precisely the intent of the amendments. He emphasized that the bill would give the motor people “a severe scare” and would make clear the intentions of the House to restrict the “bucolic joker and the fool autoist,” both of whom were responsible for the trouble surrounding the automobile.<sup>53</sup>

Within a month of the passage of the 1905 amendments, Toronto experienced its first automotive fatality when a vehicle being driven by a chauffeur along College Street struck a man who died after losing consciousness due to a fractured skull.<sup>54</sup> Even the car-friendly Toronto *Globe* called for a careful investigation. “The speed, the momentum, and the silence of motor vehicles make them

specially dangerous, and the benefits of motor traffic must be weighed against the risks it involves,” they wrote.<sup>55</sup> The *Globe* saw the accident as an indication of the inherent dangers of the automobile. The editorial portrayed the car as a piece of technology even more difficult to control than a horse. “The law requires that the driver of a horse must keep the animal under his control at all times. But a motor vehicle moving at or near the legal maximum speed must necessarily be beyond control.”<sup>56</sup> The grim reality of the deadly capability of the automobile was a stark reminder that it was not to be taken lightly.

More amendments followed in 1906, and they were even less favourable to owners and operators—drivers were now required to stop at the scene of an accident and provide their name and address. Larger licence numbers were required on both the front and back of the vehicle, and their illumination by lamp. The Act also removed the requirement that damages be caused by the frightening of a horse in order to render a vehicle owner fully liable—damages caused for any reason whatsoever were now recoverable.<sup>57</sup> Reckless or negligent driving in a manner dangerous to the public became an offence under the Act, and intoxicated driving was also banned for the first time.<sup>58</sup> In addition, three convictions under the Act would bring an automatic

<sup>53</sup> *Sessional Papers*, 28 March, 4 May, 11 May 1905 (23, 109, 140).

<sup>54</sup> Toronto *Globe* (15 June 1905), 14.

<sup>55</sup> *Ibid* at 6.

<sup>56</sup> *Ibid*.

<sup>57</sup> *Motor Vehicle Act*, SO 1906, c 46 s18.

<sup>58</sup> *Ibid*, s 9.

licence suspension for a period of one year.<sup>59</sup> Only a few short years earlier, automobile owners had found themselves worrying about unnecessarily restrictive speed limits. By 1906 a long list of restrictions and regulations had been drawn up to govern the car—few of which seemed to provide any benefit to them. The comments of Conservative MPP Edward Little embodied the shift in attitudes taking place amongst legislators. Little stated that the legislature had been too generous in giving rights to automobilists a few years prior, and since then, they had been “running over the Province at their own sweet will.” Little even went so far as to suggest the restriction of automotive traffic after sunset.<sup>60</sup>

Hostility towards the car was also manifested in statements that endorsed rather extreme forms of violence towards drivers. James Duff, MPP for West Simcoe, remarked in the midst of the 1906 debates, “if any nabob...who happened to own an automobile injured members of my family or my neighbours, I would, if I could do nothing else to punish them, blow his brains out.”<sup>61</sup> The *Toronto World* reprinted a letter published in the *London Times* advocating for “a legalized use of the shotgun” for any pedestrian run down by a motor vehicle. The letter-writer proposed the use of snipe shot for such weapons, saying that the precaution for small rounds “is a neces-

sary one, in the interests of the motorists themselves. Otherwise, the enraged public would certainly load them with rusty nails, buckshot or dum-dum bullets.”<sup>62</sup> Some rural residents reportedly spread nails, tacks, or planks studded with spikes across roads to sabotage incoming vehicles, and there were even rumors of wires strung at neck level.<sup>63</sup> In regulating the automobile, the legislature played on class antagonisms and urban-rural divides to produce legislation that heavily restricted this new form of technology. With the government and legislature firmly supporting increased regulation, the next venue to approach the question was the courts, which were soon called upon to apply the newly minted legislative provisions.

### Part III:

*“The child with a new toy  
must shew how great a child he  
is” — The Car and the Early  
Common Law*

The 1906 legislation was the first to be judicially interpreted within the context of a civil lawsuit. Although the wording of the statutes had long appeared to impose significant liability upon the owners of vehicles, some doubts remained over whether the statute was in line with the common law of master-servant (employer-employee) liability.

<sup>59</sup> *Ibid.*, s 19.

<sup>60</sup> *Toronto Globe* (2 April 1906), 1.

<sup>61</sup> Davies, *Ontario and the Automobile*, 214.

<sup>62</sup> *Toronto World* (4 June 1903), 4.

<sup>63</sup> Davis, “Dependent Motorization,” 124.

This was particularly important for vehicle owners who employed chauffeurs to do most of the driving for them. According to judicial precedent, the vicarious liability of an employer was limited only to wrongs committed by employees who were acting within the scope of their duties.<sup>64</sup> This meant that employers could be sued directly for the wrongs of their employees only if the employees were acting within their employment duties when the accident occurred. Yet the automobile legislation seemed to change this standard. Would the courts interpret the Act in light of the old common law, and would accidents involving vehicles only implicate vehicle owners if the chauffeur driver were acting within the scope of his duties? Or would owners be liable for the conduct of anyone driving their vehicles, regardless of the circumstances? In seeking to answer this question the courts relied on popular opinions about the automobile as much as upon the legislation itself. Not surprisingly, the same antagonisms being confronted in the legislature and in the public debates surrounding the automobile appeared in the courts as well, and three key cases to reach the courts in this period continued the trend of suppressing the interests of automobile owners.

On 25 September 1907, Etta Smith was riding her horse and carriage at what Justice William Riddell called “a reasonable speed” in the village of Dorchester,

near London, with her son, thirteen-year-old Ernest. As a result of an oncoming automobile being driven by a chauffeur running an errand for his employer, the horse became frightened and Smith lost control. The carriage veered off the road and into some trees, throwing Smith from the carriage and seriously breaking her arm. The child suffered only minor injuries. The evidence given at trial was conflicting. According to Smith, the vehicle had ignored signals from her and refused to slow down. The three male occupants of the vehicle, none of whom was the owner, had testified that they not only slowed but in fact stopped long before the carriage was nearby.<sup>65</sup> Riddell, in his judgment, accepted entirely the testimony of Ms. Smith. The owner of the vehicle was subsequently held liable for damages despite not being in control of the car at the time of the accident.

A point of law was raised that the driver, who had been sent on an errand by the vehicle’s owner and was on his way back to the owner’s home, was not acting within the scope of his duties because he had taken a detour on the way back to his place of employment, and that therefore the owner of the vehicle should not be held vicariously liable for his employee’s wrong.<sup>66</sup> Riddell rejected this argument, but went on to acknowledge that in any event the 1906 Act placed automatic liability upon the owner and was thus beyond the reach of the common law rules

<sup>64</sup> John Munkman, *Employer’s Liability at Common Law* (London: Butterworth, 1950), 23.

<sup>65</sup> AO, RG 22-482, B232485, Bench Books of Justice Riddell, 1908.

<sup>66</sup> *Smith v Brenner* [1908] 12 OWR 9 (Available on WL Can) (Gen Div) at para. 7.

of labour and employment. “I think that the meaning of the statute is that every owner of a motor vehicle, having obtained a permit, must see to it that his motor shall be kept and managed as the statute provides,” wrote Riddell. “He, the owner, shall either manage it himself and keep within the Act, or see to it that those who get possession of it in any way shall obey the rules laid down by the Act.”<sup>67</sup>

Hence, the ‘scope of the duties’ test was effectively irrelevant in the context of automobile accidents involving chauffeurs. This decision was a serious blow to automobile owners throughout the province.

Riddell’s judgment erased any hope that automobile owners might have had to escape civil liability for actions that resulted from the use of their vehicles when operated by others. Adding a rare example of judicial social commentary, Riddell also penned his own understanding of the class antagonisms that had followed the introduction of the automobile, evidently suggesting that this case was one that represented the conflict all too well:

It is a matter of great regret that such a useful invention as the application of mechanical means to the propulsion of carriages upon the highway should be brought into dispute, too manifest, by the disregard—always silly and often malicious—by many of those in charge of such motor carriages, of the comfort and rights of others. Of course, the child with a new toy must shew how great

a child he is, and how great his toy—but it is to be hoped that if and when the “motor,” like the bicycle, ceases to be a plaything and becomes a business carriage, and the possession of a fine “motor” ceases to be a mark of distinction, all or at least most of those in charge of such vehicles (for the fool we have always with us) will act as many, to their credit be it said, act now, with a due consideration for others differently and perhaps less fortunately situated.<sup>68</sup>

The damages awarded to the plaintiffs were significant—a total of \$964 plus costs.<sup>69</sup> Riddell’s judgment very neatly captured the class antagonism that surrounded the automobile question. The judgment was endorsed by the *Globe*, who wrote that Riddell’s interpretation of the law “will heartily be endorsed by public opinion... to protect the general public against danger was the motive of the statute, and the judgment of Mr. Justice Riddell shows that the legislation has been so far effective.”<sup>70</sup> An appeal was quickly dismissed without reasons.<sup>71</sup> Riddell’s judgment, it seems, was well aligned with popular opinion on the issue.

A similar case came before the courts in Toronto around the same time. In *Mattei v Gilles*, a chauffeur had conducted an errand and afterwards taken three women for a ride, during which he struck and ran over a pedestrian.<sup>72</sup> The question arose as to whether he was acting in the performance of his duties, but much like

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid* at para. 16.

<sup>69</sup> The amount was roughly equivalent to \$22,000 in 2010 dollars.

<sup>70</sup> Toronto *Globe* (6 May 1908), 5.

<sup>71</sup> *Smith v Brenner* [1908] 12 OWR 1197 (CA).

<sup>72</sup> *Mattei v Gilles* [1908] 11 OWR 1083, 16 OLR 558 (CA).

Riddell had done, Chancellor John Boyd found the question irrelevant. “I am inclined to hold that—having regard to the provisions of the Act... as between the owner and the public, the chauffeur or driver is to be regarded as the alter ego of the proprietor,” wrote Boyd. “The owner is liable for the driver’s negligence in all cases where the use of the vehicle is with the sanction or permission of the proprietor.”<sup>73</sup> Boyd’s reasoning was identical to Riddell’s on the issue, and it meant that owners of vehicles would be accountable for their cars at all times.

The 1908 cases may have exemplified the rich-poor divide, but the urban-rural divide was reflected within the judiciary as well. A year later another case involving a horse and carriage reached the Court of Appeal, and liability was found against the owner of the vehicle, even though the car was parked at the side of the road with no one in it at the time of the incident.<sup>74</sup> While all three judges found that the Act imposed liability upon the owner, a separate judgment written by Chief Justice Meredith directly criticized rural opposition to the car:

It would be a regrettable thing if the rights of the owners and users of motor-cars, which have been considerably restricted by legislation, should be further restricted by the findings of juries based not upon an impartial consideration of the evidence, but influenced by the well known prejudices, especially of the farming community, and shared by

persons who are not farmers, against such vehicles.<sup>75</sup>

Meredith’s judgment thus acknowledged the dramatic and, in his words, ‘prejudiced’ views held in rural areas against automobiles. Such prejudices, however, were largely in line with the restrictive provisions in the Act. Together, these cases solidified the legal liability of automobile owners in the event that their vehicles were involved in accidents. In addition to being responsible for any fines under the Act levied against their chauffeurs, owners would also be sued for damages in the event of an accident in which they had no part. This legal approach embodied the attitudes held by the general public, legislators and even judges at the time—owners of automobiles should be held responsible for accidents caused or contributed to by their vehicles.<sup>76</sup> In the first decade of the twentieth century legislative intent, public opinion and judicial interpretation were all neatly aligned against the interests of the automobile owner.

#### Part IV:

### *‘Imprison the Scallywags!’ — Further Amendments to the Legislation*

Further amendments to the Act were made concurrently with the court actions in 1908. The amendments made that

<sup>73</sup> *Ibid* at para. 9.

<sup>74</sup> *McIntyre v Coote*, 13 OWR 1098, 1909 Carswell Ont 285 (CA).

<sup>75</sup> *Ibid* at para. 44.

<sup>76</sup> A few years later in *Lowry v Thompson* [1913] 15 DLR 417 (Available on WL Can) (Ont CA), an automobile owner was sued for damages from an accident in Toronto involving a car bearing a licence



year reflected a compromise from a wide spectrum of proposals. They also demonstrated the conflicting viewpoints of different groups who sought recognition of their rights to the roads of the province. During the early discussions, the problem of reckless driving in the rural parts of the province was blamed on the wealthy, on urban residents from Hamilton and Toronto, and on American tourists simultaneously.<sup>77</sup> Everyone seemed to have an idea as to who was responsible for the automobile problem, and how to solve it. Various proposals brought forward included a ban on cars during evenings and weekends, reductions in the speed limit on country roads, licencing of chauffeurs, requiring motorists to stop 100 yards from carriages, and stiffer fines for foreign drivers.<sup>78</sup> Only a number of these were eventually adopted—notably the licencing of chauffeurs and an age restriction which prevented anyone under 17 from operating a motor vehicle.

The debates also produced arguments that proffered solutions to the problems brought by the automobile based on accepted social norms and laced with gender standards. At one public meeting in 1908 the Reeve of Innisfil Township,

Henry Grose, went so far as to allege that a fear of automobiles kept women from taking their carriages onto the roads, preventing them from getting out to make basic purchases and thus driving up the prices of consumer goods.<sup>79</sup> This element of gender played into the debates in a variety of ways—Grose also criticized “so-called ladies in the cars” who mocked at countrywomen being thrown into ditches by spooked horses.<sup>80</sup> Consistent with ideas of moral regulation, there were calls to include punishments for impolite or ungentlemanly behaviour. The chivalrous Whitney said that the main feature of the automobile problem was the fact that women were frequently the drivers of carriages on country roads, and that motorists—typically male in this period—should, on meeting them, always stop and alight to assist if necessary.<sup>81</sup> The automobile issue was thus one that brought out not just rich-poor and urban-rural divides, but embodied contemporary perspectives towards gender as well.

An additional amendment brought by MPP Henry Bowyer was also added to the Act, requiring anyone in an automobile meeting a funeral procession to turn out into an intersecting street.<sup>82</sup>

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plate registered to him, although the owner was certain that the car was in Hamilton that night. The case was the first to consider whether an owner should be liable for an accident caused by a vehicle that had been stolen or taken without the knowledge of the owner. The defendant avoided liability on a technicality, but whether the Act imposed such a high level of strict liability was a point that remained in contention for many years.

<sup>77</sup> *Toronto Globe* (1 April 1908), 7.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Toronto Globe* (23 March 1909), 5.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*



This 1905 Toronto News drawing, entitled 'The Joy Riders', shows an aggressive James Whitney pursuing a speeding vehicle. The caption reads: "Oh mercy! They've got Sir James after us." (AO, Newton McConnell Fonds, C 301 Envelope 19).

Stephen Davies suggests that this provision was in line with the belief that automobiles were disrespectful to the sombre occasion of a funeral.<sup>83</sup> Perhaps an additional explanation was that most funeral processions were horse drawn, and the possibility of a spooked horse ditching a funeral carriage may have been morally unacceptable to lawmakers of the time. The provision demonstrates a small ex-

ample of utilizing state power to restrict new technologies in order to preserve the integrity of traditional social practices. The enactment did not go entirely unused—at least three charges were laid under it in 1908 alone,<sup>84</sup> although the provision had disappeared by the time the Act was consolidated into the *Highway Traffic Act* in 1923.<sup>85</sup>

Additional statistics from 1908 dem-

<sup>83</sup> Davies, *Ontario and the Automobile*, 230.

<sup>84</sup> AO, RG 49-19, B394268, File 69, Records of Provincial Secretary, 1909.

<sup>85</sup> *Highway Traffic Act*, SO 1923, c 48.

onstrate that some of the divides characterizing the issue of the automobile may have been more imagined than real. That year, 395 convictions were achieved under the Act, with 223 of them involving infractions in the City of Toronto.<sup>86</sup> This urban-rural disparity suggests that either enforcement in rural areas was difficult, or that the country areas were not the victims of automotive insolence that they claimed to be. In addition, the argument that non-residents committed the vast majority of infractions appears to have been weak at best. Of the 395 convictions that year, only 22 were against non-residents.<sup>87</sup> Perhaps unsurprisingly, 15 of those prosecutions were in Welland County, which included Niagara Falls and no doubt a large number of American motorists.<sup>88</sup>

By 1909 the car was becoming a fixture on the roads. Four thousand permits were issued that year alone, compared to just over 1,700 the year before.<sup>89</sup> Law-makers also began advocating for stronger punishments whenever the Act was breached. MPP J.J. Craig suggested that the car be banned on country roads on weekends, and proposed an automatic prison sentence for anyone convicted

of a third speeding offence.<sup>90</sup> “What we want,” he said to the legislature, “is a penalty of imprisonment for the scallywags who drive their machines recklessly. A fine is no good.”<sup>91</sup> Liberal Alexander MacKay concurred that the rural districts had serious and real complaint over the abuse of privilege by some motorists, and argued that the only way to handle the law-breaker was to do so in a drastic manner.<sup>92</sup> Even Whitney advocated stiffer penalties. “I would like to see the third offenders dealt with even more seriously,” he argued. “They should be prohibited permanently from running any moving vehicle.”<sup>93</sup>

The rural counties, for their part, kept up the petitioning. The County Councils of Haldiman, Grey, Dufferin, Renfrew, Kent, Victoria, Leeds, Grenville and Wellington all petitioned the legislature asking that it be made illegal to run motor vehicles on Sundays and at least one other day of the week.<sup>94</sup> Their efforts proved fruitless, but new amendments did end up bringing harsher punishments. The year 1909 saw the introduction of possible jail time to second and third-time offenders.<sup>95</sup> In the event of a third offence, vehicles would be

<sup>86</sup> AO, RG 49-19, B394268, File 69, Records of Provincial Secretary, 1909.

<sup>87</sup> *Ibid.*

<sup>88</sup> For a history of Niagara Falls, motoring and honeymoon tourism, see Karen Dubinsky, *The Second Greatest Disappointment: Honeymooning and Tourism at Niagara Falls* (Toronto: Between the Lines, 1999).

<sup>89</sup> AO, RG 49-19, B394268, File 69, Records of Provincial Secretary, 1909.

<sup>90</sup> *Toronto Globe* (17 March 1909), 5.

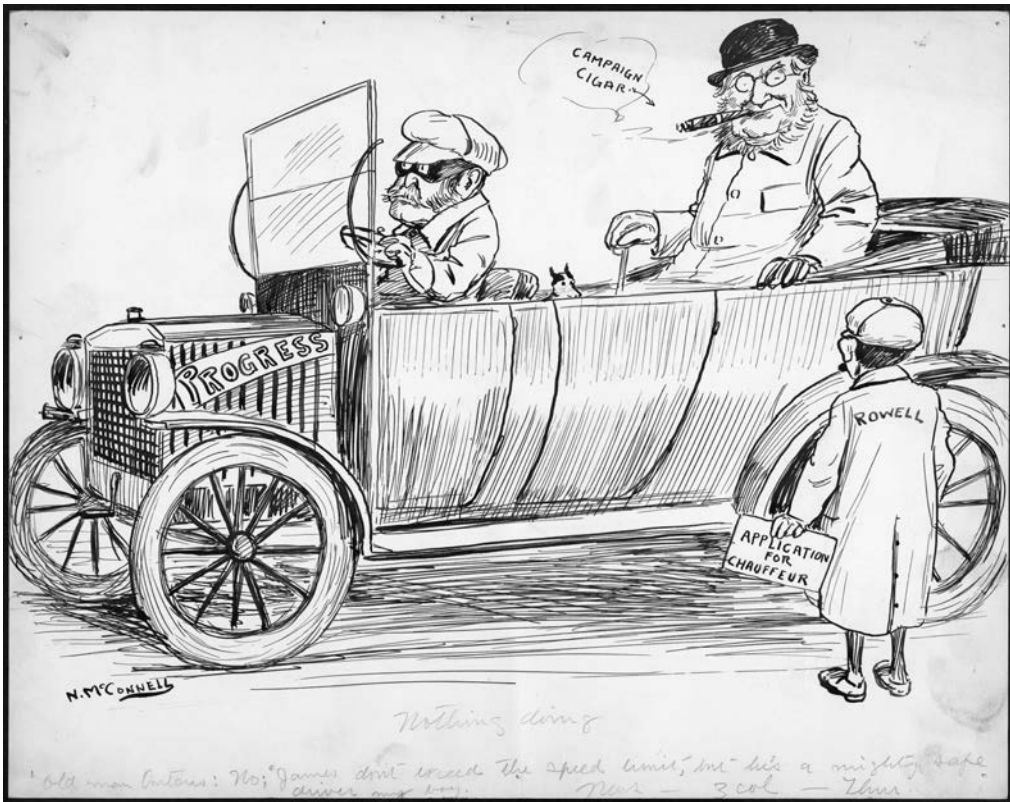
<sup>91</sup> *Toronto Globe* (23 March 1909), 5.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

<sup>94</sup> Ontario, Legislative Assembly, *Sessional Papers*, 1909.

<sup>95</sup> *Motor Vehicles Act*, SO 1909, c 81 s 19.



This 1911 Toronto News election-themed cartoon demonstrates the pervasiveness of automotive imagery towards the end of the period under study. Whitney is now acting as chauffeur to Old Man Ontario, who turns to Liberal leader Newton Rowell and says: “No; James don’t exceed the speed limit, but he’s a mighty safe driver my boy.” (AO, Newton McConnell Fonds, C 301 Envelope 19).

automatically impounded.<sup>96</sup> With the growth in numbers of automobile ownership, the legislature was shifting away from further restraining its operation in favour of more strictly punishing any existing violations.

It was another three years after the 1909 amendments before the Act was again significantly altered, and by then the car was more firmly embedded with-

in the province’s transportation culture. Even the scallywag-hating Craig recognized that the motor had come to stay.<sup>97</sup> Other members of the legislature echoed the same sentiment.<sup>98</sup> The 1912 act raised speed limits to 15 miles per hour in the city and 20 on country roads. With the introduction of section 285 of the federal *Criminal Code* that year against wanton or furious driving, the provincial

<sup>96</sup> *Ibid.*

<sup>97</sup> Toronto *Globe* (23 March 1909), 5.

<sup>98</sup> Toronto *Globe* (25 March 1909), 2.



legislature's commitment to continued suppression of the car began to give way to the federal policing of serious automotive misconduct, as well as wane in the face of the car's growing popularity. The early legislative victories that had arisen amidst popular antagonism against the car gave way to a more systematic and accommodating approach to regulating motor vehicles.<sup>99</sup> The automobile age had begun.

### Conclusion

This article has examined the social and political aspects that surrounded early automobile regulation in the province of Ontario from 1903 to 1912. Historians to date have tended to focus on the second decade of the twentieth century as the period when automotive enthusiasm took off across the country. Yet to do so marginalizes the debates that surrounded the automobile in its first several years, and neglects those voices which sought to restrain this powerful new form of technology. Given the significance of the restrictions placed on the car by the Ontario legislature and its courts, such voices were not peripheral—in fact they managed to bring about significant change.

As historians have demonstrated, progressive-era Ontario was experiencing a wide variety of economic, demographic and social shifts. The legislature was a powerful venue for promoting reform. Restraints placed upon the auto-

mobile were symptoms of wider societal trends—faith in bureaucratic institutions, a desire to utilize the powers of the state to sanction unwelcome behaviours, and resistance to rapid technological development. In Ontario, these social factors combined to produce a strong regulatory approach to the automobile. Other jurisdictions produced different and often dramatic results—Prince Edward Island, for example, banned the automobile outright in 1908 for “the safety of the travelling public.”<sup>100</sup> The ban was in effect until 1919.

Also noteworthy is the fact that there remain in Ontario's current *Highway Traffic Act* traces of the century-old debates surrounding the automobile.<sup>101</sup> The strict liability of a vehicle owner in the event of any accident involving her vehicle remains in place (although the effects of such a provision are made slightly less onerous by the requirement for mandatory insurance). Owners remain obligated to stop at the scene of an accident and identify themselves. And just as the legislature mandated in 1905, the onus for disproving negligence in the event of an accident lies upon the vehicle's owner. It appears, then, that the car (‘the curse of the country roads’ which Mr. Jon Powles so decried in 1904) remains to this very day affixed with the legacy of Powles and his contemporaries, although such vehicles are hopefully not operated by quite as many ‘bucolic jokers and fool autoists’ as they once were.

<sup>99</sup> Davies, *Ontario and the Automobile*, 233, 245.

<sup>100</sup> *An Act to prohibit the use of Motor Vehicles upon the public highways of this Province*, SPEI 1908, c 13.

<sup>101</sup> *Highway Traffic Act*, RSO 1990, c H-8s 192-193.