

The architecture of modern anti-unionism in Canada: Class struggle and the erosion of workers' collective freedoms

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Charles Smith

St. Thomas More College, Canada

Andrew Stevens

University of Regina, Canada

Abstract

Over the past four decades, governments have backed away from the promotion of collective bargaining in Canada resulting in a tendency towards anti-unionism. Examining this new reality, this article investigates two interrelated trends in Canadian anti-unionism over the last two decades in an effort to conceptualize the role of the state in regulating labour relations. First, we investigate legislative attempts to undermine or eliminate the ability of workers to collectively bargain and strike. Second, the article unpacks the political economy of anti-unionism in the private sector by focusing on the role of lobby groups that have shaped labour legislation. These two interrelated threads allow us to expose the relationship between employers and governments, which has threatened the strength of organized labour in the private and public sector and shaped a uniquely Canadian anti-unionism. Finally, we conclude by examining both the strengths and limitations of the unique fight-back strategies used by the labour movement, which has sought to elevate aspects of Canadian labour law to be protected by the Charter of Rights and Freedoms. This, we argue, offers restrictive possibilities for advancing collective bargaining rights in the existing labour relations framework.

Corresponding author:

Charles Smith, St. Thomas More College, 1437 College Dr., Saskatoon, SK S7N 0W6, Canada.
Email: csmith@stmcollege.ca

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Introduction

In January 2015, Canada's labour movement won a rare victory when the Supreme Court of Canada rendered a historic decision on the constitutional right to strike (*SFL v. Saskatchewan* 2015). In *SFL v. Saskatchewan*, the Supreme Court of Canada deemed the province's *Public Service Essential Services Act* (commonly known as Bill 5) to be unconstitutional (Savage & Smith 2017; Smith 2017). Proclaimed in 2008, the openly conservative Saskatchewan Party's legislation effectively prohibited a cross-section of public sector employees and their unions from engaging in job action if government employers deemed the work 'essential'. Notwithstanding the government's ambiguous commitments to 'protect public safety' in the event of a public sector strike, it was clear that the government was utilizing the power of the state to legally undermine core union freedoms in the province.

Labour's legal and political battle in Saskatchewan is hardly unique in the Canadian landscape. Despite four decades of governments undermining labour's collective abilities to legally strike, recent events suggest that Canada is entering a new and complex phase of anti-unionism. At the federal level, unions faced off against the former Conservative government that introduced its own essential service legislation, along with a dismantling of card check certification (C-525), new union reporting standards (Bill C-377) and a string of back-to-work laws between 2009 and 2012 (Stevens & Nesbitt 2014). Similar legislative interventions have been thrust against unionized workers in Canada's provinces. In these cases, legislative tools have been utilized to undermine or eliminate the ability of unionized workers to bargain or strike, as well as inhibiting the capacity of non-unionized workers to successfully certify. Outside of the state, Canada is also witnessing the growth of newly constructed lobby groups, 'union avoidance' consultants and 'open shop' organizations that are taking formative roles in shaping new, anti-union labour legislation in Canada and its provinces. For these reasons, the political economy of anti-unionism in Canada over the past two decades is worth serious investigation.

How, then, do we understand contemporary anti-unionism in Canada? On one hand, Canadian anti-unionism in the advanced neoliberal period has been particularly defined by the state. Governments, primarily (but not exclusively), on the right have used the power of the state to legally undermine unions through regressive labour law changes and direct confrontations with large and powerful public-sector unions (Evans 2013; Rose 2004; Warskett 2013). Governments have also engaged in a series of privatizations and contracting out of core public services that has weakened unions in those sectors. On the other hand, the global forces of neoliberalism have intensified capital flight and deindustrialization in the country's once industrial heartland of Ontario and Québec, thus weakening the once influential private sector unions in those provinces. And across the country, the growth of non-standard and precarious forms of employment has worked to erode the footprint of unions and collective bargaining, even in the public sector (Procyk et al. 2017; Vosko 2006). All three of these trends have led to a growth in business-led

anti-union organizations throughout the country, determined to keep unions out of the sectors where union density is weak.

We argue that Canadian anti-unionism manifests itself in three interrelated ways: first, through direct government-led legislative interventions; second, through structural transformations of organizational structures, labour processes and management techniques (e.g. privatization, public-private partnerships, subcontracting, lean management systems); and third, through active interventions of consultants and legal expertise determined to disrupt the capacity of workers to organize and bargain collectively or to advance collective economic interests or workplace democracy through *and* outside of these institutional mechanisms. The article proceeds by unpacking the role of the state, class interests, the law and other institutional factors in framing Canadian anti-unionism. Using these theoretical models, the article examines the way anti-unionism has been portrayed in the federal arena and in the prairie province of Saskatchewan to illustrate the relationship between the state and disjointed class interests shaping anti-unionism across the country. We establish our argument by examining numerous primary sources pertaining to legislation and practices characterized as 'anti-union'. Saskatchewan is of significance in our account as the birth-place of Canada's socialized medical system, home of the country's first human rights legislation, and, most importantly, for having advanced the most progressive labour relations regime in North America following the election of the socialist Cooperative Commonwealth Federation (CCF) in 1944. For this reason, the province functions as a material and symbolic bell weather for trends shaping workers' rights across the country. Second, the federal and provincial case studies are revealing for two reasons: first, they both highlight how contemporary class forces are driving anti-unionism across the country's relatively fragmented labour relations regime. Both of these cases suggest that anti-unionism in Canada has been deliberately directed by particular forms of gradualism, in which national and provincial governments attempt to undermine the collective power of workers and their unions by chipping away at the core foundations of Wagnerism in the public sector – the stronghold of collective bargaining strength in the country.

Equally important, both jurisdictions call attention to one of the primary ways that unions are organizing against anti-unionism in the country: by using the legal system to constitutionally protect the existing labour relations system in the country. Recent victories in court suggest a partial stalling of anti-unionism in the country, revealing contradictory elements of the capitalist state and adding another dimension to the regulation of labour relations in capitalist economies (Panitch 1995). A shift towards constitutionalizing the three pillars of labour relations – collective bargaining, union representation, secondary picketing, and the right to strike – is a defining feature of Canada's recent political landscape, particularly as constitutionalization entrenches real limits to the forms of anti-unionism that can be legally deployed by governments and employers. Yet, as we conclude, those judicial victories are limited because the existing associational freedoms protecting unionized workers continue to only protect a minority of workers across Canada. And, where collective bargaining exists, unions have failed to leverage the gains achieved through these respective court victories by utilizing the tools they have secured to organize and engage in collective action.

Setting the stage: class, capitalism, labour law and anti-unionism

Dundon and Gall (2013) have recently argued that 'anti-unionism' is the 'conscious, deliberate decision to undermine and erode hypothetical, potential and actual workplace collective unionization and union organization' (p. 1). In that volume, Dundon and Gall provide a survey of anti-union case studies and conceptual treatments of union busting and union avoidance from around the world. Noticeably absent from their book was evidence from Canada. Notwithstanding the absence of a Canadian case study, anti-unionism is certainly a coherent political force throughout the country. In fact, one of the defining features of Canadian anti-unionism is that it has taken on very specific and subdued forms when compared to other liberal market economies, like the United States or Britain. For instance, the most offensive iteration of former Conservative Prime Minister's Stephen Harper's labour legislation fell far short of the radical developments experienced in Australia and New Zealand, where the very framework of collective bargaining and collective representation has been undermined since at least the 1990s. Recognizing these differences, how should we approach anti-unionism in Canada and what is unique about anti-unionism and anti-union forces throughout the country?

Any serious investigation of anti-unionism must begin with a recognition that it is not simply a product of government policies in different jurisdictions, but instead a convergence of broader political economic pressures that enable states to confront labour – and the labour relations regime more broadly – in particular ways. To this point, the evidence in Canada and the advanced capitalist economies suggest that the active mobilization of class and class interests clearly guides the form and shape of labour laws and labour legislation. Thus, an examination of anti-unionism must combine characteristics unique to each jurisdiction while analysing the historical association between the state and the social relations embedded within different configurations of capitalism and capitalist development. The liberal democratic state, for instance, maintains a more precarious, semi-autonomous position to the direct forces of accumulation than authoritarian or fascist states. Moreover, anti-unionism will take on a much different form under neo-liberal conditions than during the formative years of Keynesian expansion when existing labour freedoms were codified and legally embedded. Acknowledging these important structural variances lays an important foundation to explaining the labour policies adopted by political parties and governments at different times, but it does not in and of itself explain why elected officials within different political parties will aggressively pursue anti-union laws or policies. Once certain political factions control the executive and legislative branches of the state, the degree to which anti-union labour laws and policies will be implemented will vary from specific demands made by segments of the capitalist classes or in response to a direct crisis of capitalist accumulation.

Another important factor is the question of how class relations shape the political, economic and ideological terrain in which political forces compete for state power. A class analysis anti-unionism thus must recognize that class itself shapes political and economic struggle within any economic system. Such an analysis must focus on several interrelated themes: first, it views power as conceptualized by people's relationship to property and production (Panitch 1995). Second, it defines class by the social relationships that people

enter (or are born) into vis-à-vis their relationship to the forces of production. As these relationships are inherently political and unequal, they represent the basis of class conflict within any economic system (Clement & Myles 1994). Third, it views social relations as historical and dynamic rather than static and fixed. Fourth, it recognizes the complex ways in which the state's relative autonomy from direct class power is reconstituted as a series of institutions whose primary function is to maintain the necessary social conditions of economic dominance. In mapping the linkages between the state and class inequality, a class analysis does not subscribe monolithic power to any specific fraction of a ruling class. Rather, a rigorous class analysis seeks to examine how the interposition of class power repositions the role of the state over time (Panitch 1977).

Focusing on the changing nature of class power seeks to expand on what Göran Therborn (1983) has termed the 'problematic of class capacity' (p. 39). For Therborn, classes derive their power from certain political and economic positions within a given 'regime of accumulation'. For business classes, power is derived from the capacity of capital to control and expand commodity production in the market. Working-class power, by contrast, derives from its capacity to act collectively inside and outside of the workplace. Within any given conjuncture, the capacity of any class fraction will be defined by their relationship to the productive forces of accumulation and the ability to influence state policy to benefit (or restrict) the capacity of other classes to act. Within these different forms of accumulation, there will be several constraints on working-class activity, which include the major source of wealth making; the kind of labour-force recruited and employed; and the class, gender and racial relations that make up the various components of the labour process. In other words, a rigorous class analysis of anti-unionism must begin as

an open-ended process with no fixed destination. Classes must be seen, not as veritable geological formation once they have acquired their original shape, but as a phenomenon in a process of formation, reproduction, reformation and deformation. (Therborn 1983: 42)

As classes take shape in any specific stage of capitalism, they must navigate the particular political and institutional terrains in which they are embedded. Such a reality implies that class power can only be understood within the organization of capitalist economies in different periods.

A focus on the political economy of anti-unionism, then, must also navigate the manner by which the direct exploitation of labour is regulated by the state in order to avoid mass workplace conflict. Understanding the regulation of workplace conflict, as Bartholomew and Boyd (1987) have argued, brings into focus 'the interrelationships between the particular capitalist relations and attributes of civil society on the one hand, and its law and legal institutions, on the other' (p. 213). Under all phases of capitalism, the laws of property ownership, copyright, contract, tort, conspiracy, defamation, libel, copyright and criminal punishment (to name only a few), have been used as tools by employers to both regulate and restrict the collective ability of workers to organize, to collectively bargain and to strike. When examining how closely the law interacts and shapes the circuits of capital, it is indeed impossible to understand how capitalist economies function without acknowledging the centrality of these legal 'rights' (Teeple 2004).

An important way to critically 'evaluate the impact of legal struggles', Judy Fudge (1991) has observed, is by locating the 'legal relations, institutions, and principles within the structure of social relations' (p. 161). Such an examination will unearth how the capitalist state has defined the concepts of individual rights and collective freedoms over time. In mapping this history, we can then determine that the relationship between workers' associational freedoms as defined by the state and the centrality of capital to expand has generally come with corresponding trade-offs that place legal boundaries on workers' collective action, while at the same time being far more open to state protection of individual rights, which includes statutory protection for property and the individual economic rights of anti-union workers and employers.

Given that both capital and labour will lay claim to specific individual rights, both groups inevitably

seek to establish their interests, ideologically and legally in terms of rights the state recognizes: the [individual] rights of property and managerial prerogative on the one hand, and on the other, the [collective] right of association and the right to strike. (Panitch & Swartz 2003: 10)

In other words, the structural tensions between workers and employers are contested through all levels of the state, including courts, legislatures and the formal content of the law. Acknowledging that there is an interconnection between the state, law and anti-unionism, however, does not suggest that the law is a simple instrument protecting the power of business. Rather, as Bryan Palmer (2003) has argued, the law and its regulation of workers' freedoms more closely resembles 'a malleable construct, a changing set of understandings that demands to be appreciated historically' (p. 466). The law's 'malleable construct' suggests that it is not fixed but rather a broader reflection of class forces. In its 19th-century form, the rule of law was premised on 'limited' government, the creation of a private sphere of individual market liberty and the rigorous defence of private property (Hutchinson & Monahan 2001: 344). Throughout this period, the law constructed rigid boundaries of constraint that limited workers' ability to collectively challenge employer power (Tucker 1991).

By the middle of the 20th century, however, the state's toleration of workers' collective activity had changed to support highly regulated forms of workers' collective rights to organize, bargain and strike. Yet, in accepting this new legal regime, workers also had to respect limits on their collective freedoms that prioritized employers' individual right to manage the workplace free from mass industrial conflict (Fudge & Tucker 2001). Tracing this history, it is clear that resistance to what the law tolerated was very much defined by workers' collective challenges to the form, content and structure of the law. This often occurred through broad and collective forms of worker civil disobedience, which sometimes included resisting labour law itself. In as much as these struggles are over economic and political power, workers' challenges regarding the law's limitations should be understood as

both imposed and internalized; [as] a wall of silence and an articulation of political economy's material and hierarchical ordering of society around its concepts of property and propriety, and expression of cultures that have, from antiquity to the present day, valued rank whatever the evolving rhetoric of equality. (Palmer 2003: 466)

In this way, the 'cobweb-like confinements' of the law act as barriers to furthering the collective rights of workers because it challenges society's core values of individual market rights.

Canada's terrain of labour law – and thus the institutional configurations that are always central in understanding contemporary anti-unionism – has never been without contest, as employers and industries as a whole have always resisted attempts to expand the power and influence of unions and collective bargaining. In the post-World War II period, the state's role in regulating economic forces was concentrated primarily on what Ralph Miliband (1969) has called the 'routinization of conflict' (pp. 74–75). Canadian labour scholarship has long explored the complex interplay between the state, class, law, policy, the courts and other agents like unions and management, in shaping the lived realities of industrial relations (Drache & Glasbeek 1992; Fudge & Tucker 2001). In Canada, the American-Wagner system of labour law was largely premised on the notion that the state would recognize the right to bargain collectively, but was primarily interested in limiting strikes by finding peaceful settlements primarily between industrial capital and large industrial unions.

Canadian Wagnerism's emergence in the 1940s and 1950s signified an uneasy compromise that regulated the power and influence of both capital and labour within a regime that tamed the absolutist notion of property rights and individualism within the capitalist labour process (Fudge & Tucker 2001). PC 1003 and later the *Industrial Disputes Investigations Act* of 1948 at the federal level, and Saskatchewan's Trade Union Act (1944) in different ways embodied this détente throughout the immediate post-War period with the entrenchment of Wagnerism as the pillar of Canada's labour relations framework – a framework Tucker (1991) and others have long characterized as containing conflict within a 'zone of legal toleration' (Palmer 2003; Smith 2012). Under the rules of post-war Wagnerism, the governments recognized that labour legislation should constrain employers from unilaterally dictating wages, benefits and workplace conditions. Supporters of the new model of labour law believed that it heralded a new era of 'industrial democracy' in which the class tensions of the past were replaced with balanced, state-mediated legal institutions to benefit both business and labour in a new era of Keynesian state-directed capitalism (Tomlins 1985: 19). Yet, for workers, these new legal freedoms came with very specific trade-offs. No longer were workers or unions free to strike for purposes outside of the collective bargaining process. In addition, if industrial conflict stepped outside of the new legal institutions, the state's coercive power to end workers' strike actions always lingered in the background.

Throughout this so-called 'golden-age' of industrial capitalism, anti-unionism and union avoidance took different forms than they had in the past. Whereas industrial conflicts of the past often descended into violent conflicts between workers and employers – defended by the state – the new rules bound workplace conflict with a new legal system designed to promote industrial peace and long-term capital accumulation. Even a conservative Supreme Court Justice like Ivan Rand came to recognize by the end of the War that the abuses of unconstrained capitalism and its tendency to treat labour as a community, as he articulated in his historic arbitration decision that ended the dispute between Ford and the UAW in 1946 (Kaplan 2009). Within this context, anti-unionism can be placed into two broad categories: employers, both public and otherwise,

challenging the boundaries of Canadian Wagnerism by pushing the administration of the system into the courts to be adjudicated by common-law trained judges (Smith 2008). For most of the post-war period, labour viewed the courts as notoriously pro-employer and thus struggled to keep disputes away from judges and lawyers, instead preferring disputes to be settled through the participants themselves. Second, anti-unionism and union avoidance strategies became growth industries in sectors where unions did not already have a large and established presence. While labour was successful in organizing large, vertically integrated male dominated firms, and later government work, it was far less successful in the broader economy, especially in the private service sector (McInnis 2012).

By the late 1970s and early 1980s, cracks began to emerge in the uneasy post-war détente between capital, labour and the Canadian state. The 1970s economic crisis witnessed federal (and later provincial) erosion of free collective bargaining as the state increasingly used its power to end legal strikes through back-to-work legislation and later through the imposition of wage and price controls (Panitch & Swartz 2003). If there was a symbolic end to the class compromise through the system of legalized collective bargaining, it was in the 1978 incarceration of Canadian Union of Postal Workers (CUPW) president John Claude Parrot for defying federal back-to-work legislation (Parrot 2005: 114–118). In fact, Parrot's incarceration demonstrated the extent to which the government and the legal system respected the collective right to strike when it conflicted with the political or economic objectives of the country's leaders. Criminalization has since given way to the disciplining of labour leaders and organizations through punitive financial measures for defying government imposed back-to-work legislation.

The increased use of back-to-work legislation and attempts made by federal and provincial governments in curtailing the capacity of workers to advance their interests through work stoppages and other ad hoc measures became a defining feature of Canadian neoliberalism. In fact, the theory of 'permanent exceptionalism' advanced by Panitch and Swartz (2003) is instructive when crafting a typology of anti-unionism in the current period. Here, the well-traversed theory holds that exceptionalism is defined by a coercive regime of industrial legality in which government-led policies allow and even promote the framework of so-called free collective bargaining while repressing the practice of these freedoms, especially through a curtailment of the ability of workers to strike. For Panitch and Swartz (2003), permanent exceptionalism is a particularly Canadian form of anti-unionism because while governments claim to respect the post-war institutions of Wagnerism they are simultaneously contained or repressed on an ad hoc basis in perpetuity. Although Panitch and Swartz pointed to the public sector as ground zero for exceptionalism's expansion, more recent treatments suggest that the tendency has further encroached on the private sector (Stevens & Nesbitt 2014).

The open attacks on organized labour have coincided with a retrenchment of the social capacities of the state. In order to accomplish this, federal and provincial governments have utilized the politics of austerity to weaken and undermine public redistribution of public goods and services (Albo & Fanelli 2014: 5–7; McBride 2014; Peck 2010). Such changes have tied workers even closer to the market, unleashing increased worker competition while transforming the way work is conducted. Throughout North

America, workplaces in both the public and private sectors have adopted so-called 'lean-production' methods and squeezed worker compensation, which has resulted in 'widening gaps between the share of value taken by capital and that taken by workers' (Crow & Albo 2005: 13).

Given this reality, an important component of anti-unionism throughout Canada's constellation of federal and provincial jurisdictions has been government attempts to weaken the collective ability of workers to resist the power of employers from dictating the conditions of work in both the public and private sectors. Among the numerous changes to workers' freedoms in the neoliberal era has been a restructuring of existing Wagner rules, often to the benefit of employers. This restructuring has included the eradication of card check certification in favour of mandatory elections, raising election thresholds to successfully unionize, eliminating the ability of supervisory employees to be included in collective bargaining units, and restricting or eliminating the ability of workers to strike. All of these elements of 'gradualism' – in which the institution of collective bargaining is weakened through gradual reforms rather than abrupt, radical changes – are found to weaken the ability of workers to form new unions and thus undermine the levelling potentials of collective bargaining (Jackson & Thomas 2017: 231–245). These top-down restrictions on the rights of labour have severely weakened the movement, especially limiting its influence in the private sector. Internally, neoliberal reforms have led to a crisis of worker solidarity, limiting the economic and political influence of unions in all Western capitalist states (Swartz & Warskett 2012). Restrictions on workers' freedoms have also extended to basic employment standards, making it more difficult for workers in non-unionized, non-traditional workplaces to be paid a living wage or to be protected from employer abuse (Fudge & Vosko 2001a, 2001b).

Anti-unionism: national trends

Although Canada's industrial relations regime is fragmented into federal, provincial and territorial jurisdictions, at all levels the system is based on the Wagner model first pioneered during the New Deal era in the United States. A vast majority of workers are also covered by employment standards, labour relations and human rights legislation crafted at the provincial level; 'national' industries, like telecommunications, banking, and transportation, meanwhile, are governed by the Canada Labour Code and the Canadian Industrial Labour Relations Board (CIRB) under federal government authority. Separate pieces of legislation also exist for public sector workers employed by the national government. This has resulted in distinct trends when it comes to the development of labour legislation and labour-relations practices throughout the provinces, despite the entrenchment of Wagnerism across borders. Accordingly, Canadian anti-unionism is defined by the unique – yet convergent – histories that constitute provincial and federal politics. It also suggests that the conditions impacting access to collective bargaining rights varying by jurisdiction based on industry and sector. In this section, we illustrate the national trends that characterize Dundon and Gall's (2013) threefold anti-union typology and the class relations that shape the contours of Canadian anti-unionism. To this point, both structural changes in the economy, legal changes to Canadian Wagnerism and workplace-specific interventions shape the character of anti-unionism. The most

successful and consistent tool in the anti-union repertoire has been the structure defining the securement of collective bargaining rights: the process of union certification itself.

Card check certification had been the legislative mainstay for workers and unions in their efforts to unionize specific workplaces since the inception of modern labour relations legislation. Since at least the 1970s, this mechanism has been under assault by business and their government allies, as forces antagonistic to collective bargaining rights have aimed to replace card check with mandatory secret ballot votes. Scholars have confirmed what businesses predicted early on, that such a process suppresses union certification success rates and opens attempts to secure collective bargaining rights to employer interference at various junctures (Riddell 2001, 2004); specifically, by amplifying other union avoidance strategies, like employers' usage of 'captive audience' meetings, and enabling managers to communicate 'facts and opinions' to workers at their discretion (Slinn 2004). Initially established in the provinces, federally regulated industries are now set to fall victim to this effective anti-union strategy as well (Blacklock's Reporter's 2017). An assault on card check also summons attempts by individual employers to broaden the scope of their workplace power and capacity to deploy union suppression tactics. As a policy, the mandatory ballot vote process was spurred by conservative governments who heeded the call of business lobby groups to construct barriers for workers seeking union recognition, without a frontal assault on the right to access collective bargaining.

In a story that received national attention, Ryan Albright, owner of the Covered Bridge Potato Chip Company, captured the character of anti-union animus perfectly when he said, in a meeting with UFCW National Representative, Carl Flanagan: 'screw you and your fucking Union' (Shea v United Food and Commercial Workers of Canada, Local 1288P). Albright made it clear to a captive audience of workers that he refused to bargain collectively, even saying that he would never provide meaningful improvements to working conditions as long as there was a union representing employees. Without access to first contract arbitration, negotiations dragged on. Firms, in this context, are empowered by the lack of both sectoral bargaining and the weakness of mechanisms that assist workers and unions in the early days of certification. Closed-door meeting with 'non-management' floor supervisors were used to 'communicate facts and opinions' with workers, sowing interest in decertification among the fragile bargaining unit. To this point, the Covered Bridge example corroborates comparative research of American and Canadian anti-unionism, which demonstrates that the labour relations playing field plays a more decisive role in shaping the outcomes on union certification and the efficacy of collective bargaining than managerial attitudes (Campolieti et al. 2012). The example is also indicative of the inadequacy of remedies imposed by labour relations boards (LRBs) in response to unfair labour practices (ULPs), even when such interventions are known to undermine a central tenant of Wagnerism: the right to *pursue* trade union representation in this compulsory regime.

As independent bodies tasked with enforcing provisions contained within labour relations legislation, LRBs are granted the authority to impose appropriate remedies that rectify ULP violations and 'restore injured parties to the position they would have been in had the breach not occurred' (Slinn 2008: 722). But as Slinn (2008) recognizes, penalties that might effectively confront the systemic power imbalances that persist between employers and employees during organizing campaigns, such as remedial certification,

are often the target of criticism among businesses who decry such impositions as 'undemocratic'. Still, the formal prohibition of ULPs in the compulsory model of union recognition affords workers greater protections when compared to the 'voluntaristic' regimes, where employers are not bound by a regulatory framework that demands 'fair play' (Gall 2004). Class interests, then, are contested at this critical level, as LRBs are governed by a tripartite model in which representatives from business, labour and government work to find balance in the conflicted employment relationship, taming otherwise important language that recognizes the rights of workers to seek union representation free from coercion, threats or intimidation. Both union avoidance and substitution strategies subsequently fall under jurisdiction of LRBs to regulate, with the fate of union organizing efforts and strategies dependent on the rigour through which the collective interests of workers and labour organizations are supported by these institutions (Laroche & Bernier 2016). The arms-length nature of Canadian LRBs has helped to buffer these bodies from ideological vicissitudes that come to bear upon labour relations upon the election of anti-labour governments, salvaging some semblance of their 'umpire' function and legitimacy in the practice of labour relations.

Trade agreements and international competition have further shifted the terrain on which employers and anti-unionism function. Here, anti-unionism is facilitated by the mobility of capital and legislation that empowers employers over the institution of collective bargaining. The case of electro motive diesel (EMD) offers an important example. In 2011–2012, EMD backed workers and their union, CAW Local 59, into a corner during negotiations by demanding massive concessions in pay and benefits. This followed shortly after the multinational giant, Caterpillar, consumed the locomotive manufacturer. Caterpillar had even announced record profits around that time. EMD ultimately mothballed the long-standing plant and set up shop in the right-to-work (RTW) state of Indiana shortly after. Notwithstanding a spirited effort by the CAW to resist the move, the company was ultimately lured by state money and a higher unemployment rate, not RTW legislation at its new US destination (Ross & Russell 2018). A similar fate was met by Heinz workers in Ontario's Lemington County when the company was purchased by the Berkshire Hathaway hedge fund. A profitable ketchup factory was swiftly closed and a staple of that region, shuttered. Seven hundred and forty full-time jobs and 500 seasonal positions were lost, along with the dissolution of the UFCW local representing these workers (Nesbitt 2013).

Developments at Canada's federally regulated and largest airline, Air Canada, summons an example of how corporate interests were assisted by legislative intervention. Examples from other liberal market economies, such as the United Kingdom and Australia, suggest that anti-unionism is a defining feature of the airline industry since the 1990s. Businesses situated in coordinated market economies, to be sure, have not been immune from these trends. This has been brought about through deregulation and competitive pressures (Howard & Smith 2012; Taylor & Moore 2015; Witt and Jackson 2016). Between 2010 and 2012, no less than three iterations of federal back-to-work legislation were proclaimed or threatened with the intent of stalling organized labour's capacity to make gains at the Air Canada bargaining table. Work stoppages were halted or pre-emptively curbed, prohibiting tens of thousands of airline workers from legally exercising what is now widely recognized as a constitutional right (Stevens & Nesbitt 2014).

In this example, federal legislation was used to bridge the structural conditions that impact the efficacy of labour organizations with an instrumental variation of anti-unionism under the Conservative government. It also signalled the expansion of this type of legislative intervention and exceptionalism's encroachment into the private sector. A qualitative and quantitative assessment of this case study suggests that the government's decisive allegiance with management interests weakened rank-and-file support both for the union and for the institution of collective bargaining (Stevens & Templeton 2016).

Other variants of anti-unionism, meanwhile, demonstrate a class-driven and purposeful animus against labour organizations in general, even though this vein of Canada's anti-union lobby invokes 'worker freedom' and 'choice' to steer public discourse on labour legislation reform. Such an approach reproduces an 'exceptionalist' framework, in which the institution of unionism and collective bargaining is maintained but the ultimate aim is to further empower businesses and management in the world of employment relations (Panitch 1995; Panitch & Swartz 2003). As an advocacy and lobby movement, efforts to confront the efficacy of collective bargaining and certification campaigns have largely avoided language that suggests an anti-union animus (Stevens & Tucker 2015). Interestingly, the message, and its intent, has failed to solicit a consensus among employers and industry groups. Modelled on the US National Right-to-Work Committee (Black & Silver 2012), the Canadian LabourWatch Association has been at the forefront of this movement for nearly 20 years. Formed in 2000 as a coalition of employer associations, namely, Restaurants Canada (then the Canadian Restaurant and Foodservices Association), the Canadian Federation of Independent Businesses (CFIB), Retail Council of Canada and the Merit Contractors Association of Alberta, LabourWatch operates under the guise of an 'informed employees' association (LabourWatch n.d.). Bill C-377 offered a concise illustration of LabourWatch's strategy.

Class mobilization: union transparency and RTW

Mortimer, and his coalition of industry groups, has been at the forefront of critical legislative interventions that aim to reshape the terrain of labour relations. LabourWatch worked with former Conservative MP, Russ Hiebert to advance Bill C-377 (*An Act to Amend the Income Tax Act – Labour Organizations*). C-377 was hotly contested and appears to have emerged from the results of a 2011 public opinion poll on union transparency commissioned by LabourWatch. Groundwork had been set a few years earlier by the Fraser Institute in a 2006 report, which argued for the adoption of similar reforms (Milagros et al. 2006). The US-styled legislation would have imposed unprecedented financial transparency standards on labour organizations, ostensibly to expose information that union opponents could use to shame organized labour (Stevens & Tucker 2015). What makes C-377 a noteworthy case is how unions were joined by large employers, representatives from the financial industry, and privacy to oppose an invasive proposal spearheaded by the most ideologically driven elements of Canada's anti-union movement. A movement, we add, that was inspired to undermine the electoral capabilities of organized labour using the discourse of transparency.

By invoking parallel language as that used to advance C-377, LabourWatch has also been part of a movement to summon RTW legislation in Canada. Mortimer partnered

with the US National Right to Work Legal Defense Foundation to discuss the prospects of bringing this type of labour relations reform to Canada (Taubman & Mortimer 2010). The Vancouver-based Fraser Institute has long been a member of this chorus, adding its weight as a conservative quasi-libertarian think tank, to the debate. But RTW has for decades cycled in and out of fashion as a discussion item on the right's agenda. In 1995, Alberta's then-Labour Minister, Stockwell Day, requested that the province's Economic Development Authority (EDA) investigate the feasibility of establishing RTW in Alberta. Ultimately, the EDA rejected the idea for reasons that it would generate conflict where none exists (Black & Silver 2012). In 2004, the Fraser Institute attempted to reframe the debate by calling RTW 'Worker Choice Laws' and not in any way 'anti-union' (Karabegovic & Clemens 2004).

Following a renewed interest in the United States during the wake of the 2008 crisis, the RTW trend surfaced again in Canada around 2012. Leader of the Ontario Progressive Conservatives, Tim Hudak, had made RTW part of his ambitious labour relations modernization project during the 2012 provincial election. These changes, Hudak hoped, would help rejuvenate that province's ailing manufacturing industry (Stevens 2013). Meanwhile, Ontario Tory MPP and labour critic, Randy Hillier, sought to entrench the policy through Bill 64 (*Defending Employees' Rights Act [Collective Bargaining and Financial Disclosure by Trade Unions]*), which would have prohibited unions from using dues for purposes other than collective bargaining. Federal Conservative MP, Pierre Poilievre launched a campaign that same year against the mandatory dues provisions in the federal labour code (Hoogers et al. 2012). In Saskatchewan, Premier Brad Wall briefly similarly toyed with the idea through social media, but the prospects for RTW quickly dissipated. Again, businesses did not see any need to confront the established convention of dues check-off during the 2012 consultation period (Rankandfile.ca 2013). Hudak's method of confronting organized labour, meanwhile, was blunt and failed to inspire confidence of employers. This experience suggests that the established norms of Canada's labour relations regime yield sufficient outcomes for employers and that union influence in the liberal market economy is tolerable from the perspective of capital accumulation.

Recognizing the uneasy détente that exists between the many segments of the capitalist classes and the altered forms of Wagnerism that currently exist across the country, why does anti-unionism among centre-right governments and political parties persist? The answer to this question is reflective of the continued influence of public sector unions to challenge governments and their policies. In almost every province, public sector unions maintain the ability to finance movements to challenge the austerity agendas of governments, which takes the form of supporting social democratic political parties, financing public information campaigns critical of the government, and just as importantly, using collective bargaining tools to oppose reform agendas of governments. This reality has constructed a structural tension between centre-right political parties and many of their private sector allies who oppose government taxation to offset good-paying public-sector jobs. In order to challenge the power of public sector unions, centre-right Governments have embraced the politics of austerity, which combines tax reductions and cuts to the social welfare state. In addition, these same governments undermine the collective strength of workers in the public sector by chipping away on the margins of Wagnerism, grouping more workers as 'essential' (and thus unable to strike) or imposing public sector

wage freezes to help finance tax reducing measures. The end result is a leaner and more austere public sector, which weakens the ability of unions to fight back against such long-term structural changes. Over the past decade, this form of government-union conflict has been a defining characteristic of politics in the small prairie province of Saskatchewan whose embrace of gradualism is characteristic of anti-unionism in nearly all the jurisdictions in the federation.

Western Canadian anti-unionism: a beachhead of conservative reforms

The election of the Saskatchewan Party in 2007 set the stage for a shift in the province's typically contentious labour relations climate. Two anti-labour bills were tabled shortly after the Party took power under the leadership of Premier Brad Wall. Further sweeping reforms were introduced in 2012 when the government launched a comprehensive review of employment standards legislation. The discourse surrounding the earliest changes was cloaked in public interest, balance and competitiveness. As then-Minister of Labour, Nob Norris, stated

There must be a vision of industrial relationships broader than that which seeks to exclusive advance of special interests. As a government we have chosen to do what is prudent for the people of this province and which will help the people of this province continue to enhance an agenda of security and prosperity. (Hansard 2008b, April 16)

What makes Saskatchewan of importance from a national vantage point is the sweeping nature of the proposed changes, and the province's history as a beachhead of labour relations reform. In 1944, the socialist CCF government introduced the *Trade Union Act*, arguably the most progressive labour relations legislation in North America (Sass 1985), extending the right to unionize to civil servants decades in advance of other jurisdictions. It also entrenched automatic dues check-off and sharp penalties for employers who denied workers the right to seek collective bargaining rights through acts of coercion or intimidation (Warren & Carlisle 2005). By the early 1980s, many of the advances were curbed by Premier Grant Devine, who fashioned his politics on the ultra-conservatism of Margaret Thatcher; the most egregious of his reforms, like permitted double-breasting in the construction industry, were subsequently reversed upon the return of a centre-left government to power in 1991. Ironically, a miscalculation by a right-wing government in 2008 ultimately gave way to a constitutional right to strike, jeopardizing the anti-labour efforts of Premier Brad Wall. In this regard, Saskatchewan has been at the vanguard of both labour rights and anti-unionism in Canada. By the late 2000s, some of Saskatchewan's employer-driven reforms provided templates for governments in other jurisdictions, like the Nova Scotia Liberal's Bill 1 (Bush 2014) or the Manitoba's Conservative government's reforms to its labour relations acts alongside wage freezes for provincial public servants (Bill 28). Not coincidentally, as we will see below, both of these government decisions have been challenged by unions in their respective jurisdictions as a violation of the Charter of Rights and Freedoms and are currently before the court (Canadian Foundation of Labour Rights 2018).

Six months after the 2007 election, the government used its majority mandate to turn Bills 5 and 6, known respectively as *The Public Services Essential Services Act* and *The Trade Union Amendment Act*, into law. These changes made Saskatchewan one of the most difficult provinces in which to unionize and placed incredible constraints on the right of public sector workers to strike, without commensurate access to binding arbitration and a constricted right to appeal essential service designations. Labour relations experts characterized this legislation as an attempt to re-establish managerial unilateralism in the province's industrial relations environment (Muthu 2007). Employers were also granted greater influence in the practice of labour relations, by expanding their right to 'communicate facts and opinions' during negotiations and in the course of certification. Card check certification was also replaced with a mandatory secret-ballot regime, a reflection of the government's ideological character. As a member of the New Democratic Party (NDP) opposition claimed during the debate, the 'motives for this amendment are clouded and steeped in bias and lack of understanding of labour relations law' (Hansard 2008a). But the government did so not by dismantling Wagnerism or the enshrined right of workers to seek union representation, but by tilting the legislation in favour of employers during the organizing and bargaining processes.

In 2009, the government took aim at the *Construction Industry Labour Relations Act*, which since 1992 has governed the fabric of labour relations in the province's now-tranquil and arguably conservative construction industry. Nowhere has the struggle between employers and labour been more acute than in this industry. Labour relations here is unique, in that the craft unions and their members exercise a great deal of power over the labour market; large construction firms, and their political allies, have long contested this relationship. Under Conservative rule in the 1980s, legislative changes allowing for spin-off companies and double-breasting had devastated union density in construction, which collapsed to 14% from 74% in just 1 year. This was part of a widespread assault on social democracy in the province, and the long-standing strength of organized labour in Saskatchewan (Warren & Carlisle 2005). The *CILRA* was forged by the NDP in 1992 as a means of restoring stability to the sector (Hansard 2009b). Bill 80 amended the *Act* to allow for unions to organize a company on a multi-trade and 'all employee' basis and the 16 named craft-based trade unions would effectively lose their monopoly status in construction. Ultimately, this would unsettle the influence of craft unions over wage rates and the capacity to control labour market conditions.

This particular reform witnessed an alliance of construction industry groups, employers and an allegedly pro-business union, the Christian Labour Association of Canada (CLAC), who rallied in support of Bill 80 (Tufts & Thomas 2017). What is remarkable about industry's intervention is its supposed concern for workers' rights. Then-president of the Saskatchewan Construction Association, Michael Fougere, claimed that the legislation would 'rebalance the industry' and offer 'employees greater choice' in their selection of union representation. 'Competition', he argued 'brings out the best in everyone'. And, like many of proponents of the Saskatchewan Party's labour reforms, he referred to the changes contained in Bill 80 as 'modernizing' the labour environment. The Saskatchewan Chamber of Commerce, Saskatchewan Business Council, Canadian Home Builders Association, echoed these sentiments during debate. By emphasizing the

need for 'balance', 'fairness', 'growth' and 'competitiveness', these respective industry groups avoided mention of anti-union animus (Hansard 2009a). They also cited the need to attract investment and overcome labour shortages, even though no evidence was summoned to support the claim that Bill 80 would accomplish any of these objectives. An appeal to free market principles and competitiveness, then, was deployed to justify the undermining of collective bargaining strength in construction.

Although the Saskatchewan Party's return to power in 2011 was backed by a strong mandate, the sweeping reforms that soon followed this victory hit labour by surprise. In 2012, just after the Court of Queen's Bench overturned the essential services legislation, the government embarked on a comprehensive review of the province's labour relations and employment standards legislation. Some business lobby groups took this opportunity to make overtures calling for an end to the dues check-off system and even questioned the relevance of the *Wagner Act*-model as a basis for industrial relations in the province. Labour scholars even pondered if the labour law 'renewal' being proposed by the Saskatchewan government was a part of the broader erosion of Wagnerism in Canada, namely, elements of the model that support collective bargaining (Tucker 2014). Unions justifiably feared that Saskatchewan might be the setting for a Wisconsin-style assault on labour rights, which had witnessed a populist Republican Governor, Scott Walker, systematically dismantling Wagner style protections for public sector workers in that state (Judis 2011). However, the *Saskatchewan Employment Act*, proclaimed in 2014, fell short of making radical changes to the province's labour relations laws. But the slow and gradual erosion of Wagner protections particularly defined the character of anti-unionism in the province.

Leading up to the new legislation, the government launched a comprehensive review of labour and employment standards legislation in 2012. At that time, members of the public, unions, businesses and industry groups had been invited to submit their perspective during the 3-month consultation process (Saskatchewan Ministry of Labour and Workplace Safety 2012). Here, the efforts of businesses to summon long-abandoned anti-union provisions within the *Trade Union Act* became clear. The CFIB was by far the most radical, aiming to see the institution of RTW legislation and the requirement that public-sector unions re-certify on an annual basis (Canadian Federation of Independent Business 2012). The North Saskatoon Business Association (NSBA), meanwhile, went so far as to advocate for the abandonment of the Wagner model because of its recognition of unions as performing a 'social good' (North Saskatoon Business Association 2012). Meanwhile, critics suggested that the new labour laws were being crafted by employer-side lawyers rather than the government itself (Hansard 2008b). Ultimately, the more restrained demands, like the creation of a new supervisory class of employee, were embraced over RTW-style legislation. Employer groups were reticent to advance more aggressive anti-labour reforms in this resource-based economy, a reflection of their satisfaction with the current regime. Interestingly, most employers engaged in the consultation phase, as well as those who had been appointed to the Minister's Advisory Committee, urged policy makers to demonstrate constraint in any reforms to existing labour legislation. Class interests, in this regard, were divergent and lacked a dedicated consensus on the union question, even though the balance of labour relations legislation was being tilted towards the interests of business and government. In this regard,

anti-unionism was subtle, as the government favoured gradualism over an outright assault on the capacity of workers to organize and bargaining collectively. A growing demand for skilled craft labour and manufacturing workers in heavily unionized industries subdued ideological interests as economic growth, trade and exports accelerated in a province boasting one of Canada's highest union density rates. Private sector unionism, in other words, was hardly an obstacle to profit accumulation, and large employers understood that changing a system that satisfied their interests made little sense.

Unions on the defensive and the role of the courts

Labour's fight-back strategy against contemporary anti-union governments has also been shaped by its relationship to Wagnerism. In fact, perhaps the most predominant fight-back strategy over the past two decades has been to enshrine Wagner freedoms into Canada's Charter of Rights and Freedoms (Savage & Smith 2017). This was certainly the case in Saskatchewan, when the Saskatchewan Party's restructuring of provincial labour laws took direct aim at the collective power of the province's unions. Its interventions also sparked a Supreme Court challenge that subsequently changed the legal landscape of labour relations in Canada. Public-sector unions responded to the government by claiming that the unilateral withdrawal of employees' ability to strike in the *PSESA* (Bill 5) substantially interfered with their right to a meaningful process of collective bargaining and therefore was a violation of section 2 (d) of the Charter. The Saskatchewan Federation of Labour (SFL) added to the challenge when it insisted that amendments to the *Trade Union Act* (Bill 6) also violated the freedom of association provisions in the Charter. The decision to challenge these reforms reflected a trend in union fight-back strategies across the country since the Supreme Court of Canada issued its landmark decision in *Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia* (2007) (*BC Health Services*). It also signalled an unanticipated tendency towards securing collective bargaining rights through the courts, acting as a brake on anti-union legislation directed at public sector workers. Entrenching the right to a process of collective bargaining, to strike, and to union recognition has decisively curbed the scope of anti-unionism in Canada, a stark comparison to the country's Wagner model cousin, the United States. There, the Supreme Court of the United States' *Janus* decision has all but outlawed automatic dues collection – a matter that was set aside by the Canadian Supreme Court in the early 1990s (*Lavigne v. Ontario Public Service Employees Union* 1991). An examination of these rulings helps to elucidate the often-contradictory role of the courts in shaping the legal elements of labour relations – and thus anti-union – legislation in Canada.

In *BC Health Services*, a coalition of health care unions argued that freedom of association in the Charter safeguarded their right to collectively bargain. The case originated from a 2002 decision by the British Columbia Liberal government to hastily enact Bill 29, *The Health and Social Services Delivery Improvement Act*. Bill 29 was introduced with little consultation with the province's health care unions and unilaterally transferred to the employer numerous powers to restructure the workplace free from existing (or future) collective bargaining agreements. Among the many changes, Bill 29 allowed for the contracting out of work, changed the status of employees under

contracting-out arrangements, weakened or eliminated current job security programmes, eased the ability of employers to layoff existing workers and undermined seniority provisions (Camfield 2006).

In ruling in favour of the unions, the court specified for the first time that s. 2 (d) of the Charter protects the 'capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues' (para 19). In arriving at this conclusion, the court leaned heavily on Canada's international commitments to protect collective bargaining and the evolving concept of 'Charter values', which enhanced 'the human dignity, liberty and autonomy of workers giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work' (para 82).

Building on the decision in *BC Health Services*, the Saskatchewan Federation of Labour (SFL) along with many of its affiliated public-sector unions took the position that the right to strike was a stand-alone right that remains an essential element of a democratic and free society. Eliminating the right, many of the intervenor unions argued before the courts, is simple oppression and an affront to free society. Perhaps surprisingly given the court's historical opposition to collective union freedoms (see Savage & Smith 2017), the Supreme Court agreed. Furthermore, the court stated in *SFL v. Saskatchewan* that the ability to strike was 'the "powerhouse" of collective bargaining' because it 'promotes equality in the bargaining process' (para 55). In other words, while strikes do not guarantee a specific outcome it does promote a process based on equilibrium between the participants (para 57). The court then determined that the ability to strike was a stand-alone freedom, but nevertheless was also 'vital to protecting the meaningful process of collective bargaining within s. 2(d)' (para 24). To which the court affirmed that without a freedom to strike, the constitutional right to collective bargaining is essentially 'meaningless' (para 24).

Having connected the associational freedom to meaningful collective bargaining with the ability to strike, the court performed a rudimentary historical analysis to demonstrate that strikes had occurred in Canada long before the establishment of Wagnerism in the 1940s (para 38–46). In so doing, the court made clear that constitutional acceptance of strikes was nothing more than a reflection of collective action that had been occurring since employers first hired groups of workers. Yet, workers' ability to strike and maintain their employment is tightly regulated by Wagner style labour laws. In fact, under the pillars of Wagnerism, strikes by responsible unions can only legally occur after the expiration of collective agreements and after a break down in the collective bargaining process. Even then, numerous jurisdictions restrict workers' capacities to strike by imposing mandatory conciliation or cooling off periods before strikes can occur. The statutory curtailment of workers' collective freedoms allowed the court to determine that strikes were a weapon of 'last resort' and was therefore a 'critical components of the promotion of industrial – and therefore socio-economic – peace' (para 47; 48).

In many ways, the history of workers' strike activity prior to Wagnerism demonstrates a contradictory freedom: while workers were free to strike over virtually any workplace issue, employers were under no corresponding legal duty to rehire striking workers. Under the Supreme Court's logic, this history demonstrates a universal acceptance of strikes as a democratic tool in the workplace while seemingly ignoring the corresponding legal trade-offs that unions made to win Wagner freedoms in the 1940s (Fudge & Tucker

2001). The court's constitutional decision in *BC Health Services* and *SFL v. Saskatchewan* on freedom of association has certainly shifted the terrain in how government interacts with its workers. No longer can government legislate away workers' ability to effectively bargain or strike in the public sector. But within the context of the current labour relations environment, it is the existing restrictions on workers' ability to strike that have not been answered by the court and thus continue to linger in the aftermath of *SFL v. Saskatchewan* (Fudge & Jensen 2016: 104–105). Within this context, labour's core Wagner freedoms are now both legislatively and constitutionally entrenched. Yet the manner in which anti-unionism has manifested itself in Canada – as governments and businesses chip away at the corners of Wagnerism while never expanding unionization to new sectors – continues to plague the Canadian labour movement.

Conclusion

Anti-unionism, we have shown, is both a purposeful and incidental consequence of legislative interventions, organizational restructuring and the mobilization of class interests. For Canada, this can be summarized as attempts to subordinate labour relations and the process of collective bargaining to market forces. Class interests coalesce into groups like Merit, the CFIB and LabourWatch, which have become more active in the last decade; their aims are instrumental, seeking to undermine the political and economic strength of organized labour in Canada. Saskatchewan's experience is of importance because it demonstrates a convergence of all of these respective factors. But despite the ideological propensity of certain governments to weaken the existing labour relations regime, class interests did not manifest as a unified political force. Instead, a decline of that Saskatchewan's oil-fuelled boom, for instance, has permitted the government to amplify its public sector austerity agenda, which involves challenging unions to accept wage rollbacks and health care region amalgamation (Smith & Stevens 2017). Similar trends have surfaced throughout other jurisdictions in Canada. Here, anti-unionism is channelled towards particular sectors, industries and workforces, as dictated by the broader economic climate. The prairie case, along with a series of back-to-work orders at the federal level, has prompted labour scholars to question the stability of Canada's Wagner model (Tucker 2014). But as the cases highlight, principles of the Wagner regime remains intact, just as governments chisel away at its efficacy for unions and unionized workers. Still, austerity-drive governments have had to alter their discourse and strategy when it comes to policies that might be perceived as conflicting with the now-constitutionally entrenched right to a process of collective bargaining.

Meanwhile, exceptionalism has been extended to the private sector, as illustrated by the use of back-to-work legislation at Air Canada and other federally regulated industries since at least 2010. Here, policy and business interests were aligned for the purpose of supporting an airline's restructuring efforts and collective bargaining objectives. Union transparency legislation, captured by C-377, offers a more instrumental engagement with anti-unionism and involved a cohort of lobby groups like LabourWatch and Merit. In this instance, not unlike the RTW narrative, worker choice and accountability were invoked to justify the reform. What makes C-377 noteworthy is the movement that formed to contest the legislation. An eclectic coalition of unions, business groups and

representatives of the financial industry joined to oppose LabourWatch's initiative, illustrating the transient nature of class relations, as Therborn (1983) describes. Meanwhile, anti-unionism in the Air Canada case was articulated as a wedding of ideology and employer interests, servicing the agenda of an industry leader and its objective of maximizing shareholder value and executive compensation (Thomas & Tufts 2016). Fragmented jurisdictions – federal and provincial, public and private sector – have helped to buffer against a national assault on the Wagner model. For these reasons, the Canadian anti-unionism is worthy of further exploration.

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Author biographies

Charles Smith is an Assistant Professor of Political Studies, St. Thomas More College, University of Saskatchewan. He is the co-author of *Unions in Court: Organized Labour and the Charter of Rights and Freedoms* (2017).

Andrew Stevens is an Associate Professor in the Faculty of Business Administration at the University of Regina.