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Mark Curthoys' Governments, Labour, and the Law in Mid-Victorian Britain: The Trade Union Legislation of the 1870s (book review)

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the at least equally important questions of the extent to which his evidence might suggest, on the one hand, new or modified perspectives on Victorian values, and on the other, the limits of his theoretical paradigms themselves. For all that the chapter dealing with the circumstances and rituals of fist-fighting among working men is detailed and fascinating, it does not really seem to say much that one might not already have gathered from previous historical writing. And the chapter exploring the mixed "public" and "private" dimensions of domestic violence among working people, while dovetailing nicely with much of the analytical perspective advanced in the opening chapters, offers little of substance beyond what Shani D'Cruze explored in great detail and nuance in *Crimes of Outrage* (DeKalb, Ill., 1998). More broadly, however, the large-scale perspective offered here—that the early to mid-nineteenth century saw a new premium on orderly conduct and rigorous self-restraint among the propertied classes, followed at the end of the Victorian era by a new emphasis among working peoples themselves on "respectable" behavior—will come as little surprise to historians familiar with the work of such pioneering scholars as Peter Bailey, Brian Harrison, and Robert Storch, among many others. Foucault, Elias, and their ilk do not seem to bring much to the table here that imaginative historical scholarship has not already managed to explore and elucidate.

So as an exercise in historical analysis, this book seems frustratingly limited, though it bears repeating that younger scholars with an eye to making sense of abstract perspectives on the subject will be grateful for its opening chapters. This book was undoubtedly a very fine doctoral thesis. Its mixture of strengths and weaknesses testifies to a dilemma confronting many young scholars starting out in increasingly crowded and well-established fields of study. Four decades ago, Keith Thomas opened whole new worlds to our profession by suggesting his colleagues join him in consulting the social sciences for new "tools" for the "job" of conceiving and writing rigorous new histories of society and cultures. More recent "tools" of choice have been of an ever more abstract and linguistically self-conscious character. So immense a body of scholarship has now developed around the explication of these approaches, however, that there is a real danger that overly much time and energy may be devoted to what should—when all is said and done—only be preparation for the main task at hand.

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Mark Curthoys, *Governments, Labour, and the Law in Mid-Victorian Britain: The Trade Union Legislation of the 1870s,* Oxford: Oxford University Press, 2004. Pp. 284. $129.05 (ISBN 0-19-926889-4).

In this book, Mark Curthoys offers a new interpretation of the development of British trade union legislation over the course of the nineteenth century. Curthoys's political/legal history takes us from the passage of the British Combination law of 1825, which decriminalized the basic act of combining to withhold labor (but limited the grant of immunity to a very narrow set of union activities), to the pas-

sage of new trade union legislation in the 1870s, which offered unions a form of legal recognition, and, more importantly, decriminalized most non-violent forms of union activity.

Unlike many earlier studies, Curthoys's history is presented from the point of view, mainly, of the state, or, more specifically of senior policy makers, politicians, and judges who made state policy. It is a study, in large part, of the formation and re-formation of the "official mind" (7) that lay behind a series of "settlements" with labor over the course of the nineteenth century; "settlements" that were enshrined in the trade union legislation enacted at different times.

Passage of the Combination Act of 1825 marked the beginning of the first "settlement," whose broad terms structured relations between workmen, employers and the state, until a number of developments destabilized it during the 1860s. A period of tension and intense conflict ensued before a new "settlement" came to be put into effect by new trade union legislation passed between 1871 and 1875.

The "settlement" of 1825 had a number of distinctive legal features that Curthoys sees as emerging from a distinctive set of ideas that were widely shared in government at the time. Before 1825, British law had criminalized all worker combinations. By 1825, however, a consensus had emerged among senior officials and politicians that a flat prohibition on combinations was not consistent with "the broader policy of removing [older traditional] statutory interferences from the labour market . . . " and establishing a "new system of Free Trade" (16). Nevertheless, there was also wide agreement in these circles that the scope of the legal freedom to combine should be narrowly circumscribed.

Workers should neither be free to attempt "to control the way in which masters ran their businesses" (17), nor should they be free to interfere with other workers who chose not to take part in their combinations (18). Accordingly, only a voluntary agreement among a group of workers peacefully to withdraw or threaten to withdraw their labor was exempt from criminal prosecution, and only if its objective was to pressure an employer into offering them higher wages or shorter hours. A peaceful threat by workers to withdraw labor for other purposes, say to pressure an employer into hiring only union members, continued to expose workers to criminal liability.

Workers generally acquiesced in this "settlement" until the 1860s because, for the most part, actual prosecutions under the law mainly involved violent deeds and words and not peaceful collective action. And this pattern of enforcement did not depart radically from worker views about what the law should be.

Three developments destabilized the 1825 "settlement" during the 1860s. First, the Court of Queen's Bench began to hand down decisions that interpreted the 1825 statute to allow summary proceedings against workers for non-violent collective action. Second, these decisions began to be handed down just as skilled workers were becoming better organized, and as they "were being drawn into a revived parliamentary reform movement" (43). In 1867, this movement led to the passage of a less harsh Master and Servant Act, but more importantly, to the passage of the Second Reform Bill, which extended the suffrage to great numbers of artisans. Finally, older ideas about freedom of trade upon which the 1825 settlement had

ultimately rested came under attack from several different directions, and were discredited in the eyes of important senior policy makers and politicians.

An initial attempt at a new "settlement" was made by a Liberal government in 1871, which passed the "Trade Union Act" to accord legal recognition to unions, and the Criminal Law Amendment Act to loosen criminal restrictions on collective activity. But union officials reacted with hostility to certain aspects of the Criminal Law Amendment Act. Its clause on picketing, in particular, became especially controversial. And the courts proceeded to inflame this situation by basing a criminal prosecution for conspiracy on a group violation of the Master and Servant act. In 1875 a Conservative government, which had recently replaced the Liberal government in an electoral upset, implemented a more stable "settlement" that endured for a number of decades. The new "settlement" was effected by the passage of two new pieces of legislation, the "Employers and Workmen Act," which eliminated criminal penalties for breaches of employment contracts in most cases, and the "Conspiracy and Protection of Property Act," which repealed the Criminal Law Amendment Act, revised the controversial picketing clause, and completely removed trade disputes between employers and workmen from the reach of the common law of criminal conspiracy. This legislation bestowed on unions broad freedoms (and greater power) to conduct the economic struggle for life in capitalist society.

The heart of Curthoys's re-interpretation involves the trade union legislation of the 1870s. Rather than cast the Liberal government of the of the period as villain, and the Conservative government of 1875 as hero, as many earlier histories have done, Curthoys argues that the Liberals fully anticipated much of what the Conservative government achieved in 1875. He has a larger point to make. After the suffrage was broadened in 1867, senior policy makers and a number of influential politicians in both parties came to the conclusion that to avoid the prospect of "class" government in an emerging mass democracy, it would be necessary to fully integrate the working classes. Fundamental reform of the labor laws came to be viewed as an integral aspect of the process of admitting the working classes to fully equal citizenship. A push from below certainly helped the process along, but in the end it was statesmanship across party lines that produced the significant new "settlement" with labor enshrined in the trade union legislation of 1875.

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William R. Casto, *Foreign Affairs and the Constitution in the Age of Fighting Sails,* Columbia: University of South Carolina Press, 2006. Pp. 202. $34.95 (ISBN 1-57003-629-2).

This book combines legal, economic, political, diplomatic, and military history with biography as William R. Casto of Texas Tech investigates the Washington administration's attempt to formulate a national foreign policy amid the turbulence of the French Revolution, the outbreak of war in Europe, and a divided administration that favored economic connections with Great Britain and a grateful country