extremists and the rest. We are fighting for the weak as well as the strong. We are fighting for great and good causes" (Times, October 13, 1984).

As she went on, it became clear that the fight for "great and good causes" was not only to be waged against the IRA. For the past seven months her government, the state-owned National Coal Board (NCB), and the legal apparatus had been locked in protracted and violent dispute with Britain's most powerful union, the National Union of Mineworkers (NUM). As the Times reported it, Thatcher "was fierce in her linking of the IRA with the 'thugs' and 'bullies' in the miners' strike":

What we have seen in this country is the emergence of an organized revolutionary minority who are prepared to exploit industrial disputes but whose real aim was the breakdown of law and order and the destruction of democratic parliamentary government. We have seen the same sorts of thugs and bullies at Grunwick, more recently against Eddie Shah in Stockport, and now, organized into flying squads around the country.1

It seemed there were some who were out to destroy any properly elected government, to bring down the framework of the law. That was what had been seen in the strike. The law they sought to defy was the common law by fearless judges and passed down across the centuries. It was legislation scrutinized and enacted by Parliament of a free people.... No government owned the law. It was the law of the land, the heritage of the people.... (Times, October 13, 1984)

The 1984–1985 coal dispute has been mined for many meanings, yet the legal geographies of the strike remain largely unexplored, despite an extensive literature.2 With its snowstorm of claims concerning rights, democracy, justice, the rule of law, police powers, and civil liberties, the strike was very much a "legal" battle. Simultaneously, issues such as the centralization of police authority, the schisms between mining regions, the mass movements of police and pickets, the local mobilization of mining women, and the defense of local mining communities made the strike a thoroughly geographic affair. In making sense of the linkages of the two, it is important that the strike itself not be regarded simply as a material struggle (evidenced most clearly in the physicality of the picket line). Thatcher's speech, and her fluid suturing of "law and order," vis-

1The reference is to especially contentious labor disputes; the Grunwick strike in Brent (1976–77) and the strike of National Graphical Association members in Warrington (1983). See Scraton (1982a) for details.

lence and the “flying squads” of “thugs” and “bullies” also directs us to the vital and underexplored “battle of ideas” noted by Fine and Millar (1985) and Raymond Williams (1985).

This chapter offers one reading of the geographies of legal regulation and representation as expressed during the strike. As I shall suggest, space, or more specifically, movement through space, became an essential tactical concern for both union and antistrike forces. This occurred, as we shall see, not only in a material sense (most notably with reference to the mobility of pickets or police), but also in representational terms. The ideologically charged concept of “freedom of movement” in conjunction with the “right to work” became as much a strategic priority as did the picket lines themselves. If, as I argued in the previous chapter, space is a dilemma for the liberal state, then it is also clear that it can serve as a significant site of material and representational struggle. Such conflicts can often serve to further cement the hegemony of the powerful, by enforcing and reproducing normalizing and disciplinary power alike.

NOTTINGHAMSHIRE, PICKETS, AND POLICING

The miners’ strike began in March 1984, and ground to an unresolved halt almost exactly a year later. The direct and indirect cost of the strike has been estimated at over £5 billion (Hain, 1986, p. 139). A record-breaking 38 million working days were lost (Winterton & Winterton, 1989, p. 1). At the start of the strike, the NUM was the most powerful and self-confident union in the country, having inflicted humiliating defeats on previous governments—most notably in the early 1970s. By the end of the strike it was in disarray, its power shattered and divided, its financial resources spent or sequestered. The Thatcher government had achieved an apparently unambiguous victory, successfully facing down what it had presented as a profound constitutional challenge, slaying the giant among British unions, and securing the de facto right to make the coal industry—and by extension, any other nationalized industry—market oriented.4

I can only sketch in the long and complex background to the 1984–1985 dispute. The British coalfields have long been the site of important and occasionally violent confrontations, ranging from the Tonypandy incidents of 1911 to the Saltley Mass picket in 1972. To some, a confrontation between the NUM and the Conservative government seemed inevitable, given the Heath government’s humiliations in the coal strike of 1972, and the Tories “tactical retreat” in the face of union demands in 1981 (Hain, 1986, pp. 133–134). While in opposition, the Conservatives seemed to have prepared the ground for just such an encounter. An internal party report, leaked in 1978, suggested that the most likely labor battleground for an incoming Tory government would be in the coalfields. The accumulation of coal reserves, the preparation of contingency plans for coal importation, the recruitment of nonunion personnel to ensure the movement of coal, and the preparation of a “large, mobile squad of police” to prevent violent picketing were all advocated (Winterton & Winterton, 1989, pp. 146–151).

When the Thatcher government was returned to power in 1983, ebullient from its victories in the South Atlantic, one of its first acts was to transfer Ian MacGregor, then chairman of British Steel, to the National Coal Board. To Arthur Scargill, newly elected as NUM president, this act was seen as especially provocative, given MacGregor’s reputation as a union-buster in both the United States and Britain. Indeed, MacGregor wasted no time in removing the traditional corporatist model of labor-management relations by insisting on a series of market-oriented concessions from the union, including a cut of 4 million tons of productive capacity, 20 pit closures, and the loss of at least 20,000 jobs. The NUM charged that this was simply an overture to deeper cuts, designed to facilitate the ultimate privatization of the industry. The NCB and the government were seen as bent on the subordination of labor and the imposition of market imperatives upon a nationalized and socially important industry.

By early 1984, a rapid deterioration of relations and the eruption of a number of individual pit disputes made strike action seem unavoidable. The union had, in fact, maintained an overtime ban since November 1983. Finally, on March 1, 1984, the flash point came. Without prior notice, the NCB announced the closure of Cortonwood Colliery in militant South Yorkshire. The following day, it was announced that neighboring Bullcliffe Wood pit was slated for closure. Such an action was deemed intolerable by the local union, and a strike was called for Yorkshire. On March 8, the NUM National Executive endorsed the Yorkshire strike call, and went on to ratify strike action in other Branches. Instead of calling a national ballot of the membership, the national executive of

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4Some measure, perhaps, of the contemporary consequence of this “victory” can be seen in the recent (October 1992) proposal to close 31 of the remaining 50 mines, laying off 30,000 miners. Workers were warned that they would lose compensation payments if they protested or took part in strike action. After massive popular protest, the Major government now proposes to close “only” 10 mines by March 1994. Ironically, pit closures forced the National Coal Board to begin importing coal to meet domestic demand in 1993 (Manchester Guardian Weekly, October 17, 1993, p. 9).
the NUM opted for the "domino strategy." Rule 41 of the union rule book allowed individual areas to take industrial action, provided that the National Executive had endorsed such action. Strike action, it was hoped, would spread to other areas.4

However, the domino strategy would eventually fail, and with it the strike. This, in large part, was due to the persistence of entrenched divisions within the union. Backing for the strike was spatially uneven: support was solid in the coalfields of Yorkshire, South Wales, Kent, northeast England, and Scotland, but in the counties of Warwickshire, South Derbyshire and Nottinghamshire, only 15% of the workforce had struck at the start of the strike. In all-important Nottinghamshire, according to NCB figures, 87% of the workforce had returned to work by May 1984. The reasons for such variations in the geography of support are complex, and can be understood both in terms of the historical development of local "coalfield cultures" and the specific position of an area within cycles of geographically uneven investment. This helps, in part, to explain the resistance to strike action in a county like Nottinghamshire, with its cultural mix of labor "deference, self-interest and non-political association" (Griffiths & Johnston, 1993, p. 203) coupled with a "preferred investment position as the "jewel in the NCB crown" (Rees, 1985).

Whatever the reason, such geographies of difference were to become critical to the success of the strike, especially when Nottinghamshire delegates voted to return to work. Under these conditions, the county of Nottinghamshire emerged as the central battleground in the dispute. If the NUM were able to enforce the strike call in Nottinghamshire—through force or persuasion—the strike would be effectively total. Not

4 The constitutional basis for strike action became very controversial. Under Rule 43, a national strike can only be called with the support of 25 percent of the membership, voting in a secret ballot. The government seized upon the fact that no national ballot was called as indicative of the strike's illegitimacy. The use of Rule 41, which was within the union's rules, was motivated by the fact that three previous attempts to get a strike declared had failed, due to splits in the union. The rule itself dictates that industrial action called in any area of the union must be sanctioned by the national executive or by a local committee granted delegated power by the executive. Scargill's reasoning is outlined by Johnston (1991, p. 106): "[If] Scargill was satisfied that (a) Branch members would accede to a call for a strike by their local officials, (b) that those officials would call a strike, and (c) that the National Executive (over which he had a strong influence) would sanction such strikes, then he could achieve the equivalent of a national strike without submitting it to the membership at large. Furthermore, if some Branches struck and called on others to back them, that support could be ensured by picketing the workplaces of those who were to be "suspended". Scargill is strong in his insistence that miners do not cross picket lines formed by other miners." See also McCabe and Wallington (1988, pp. 24-26).

only would this be of vital symbolic importance, it would also constitute an economic victory, given the importance of the Nottinghamshire pits to national output and as suppliers of the power stations of the Trent Valley. Ian MacGregor, chairman of the NCB, recognized both political and economic factors: "The key to the whole strike was Nottinghamshire.... If we could keep this vast and prosperous coalfield going, then I was convinced, however long it took, we could succeed.... While the men there were working, their presence would act as a beacon.... [It would show that it was possible to defy the NUM and live. It would show that there was an alternative argument... to that being relayed by Scargill" (1986, pp.195, 196).

That the NUM was unprepared for the strike seems clear. It had not prepared the machinery of strike organization in advance, and was soon struggling with a wide range of logistical problems, themselves complicated by the spatial and temporal range of the strike and the union's fragmented and fractious federal structure.5 Nevertheless, the union did have one powerful weapon in its armory. The mobile, or "flying," picket, dispatched to "secondary sites" such as customers, suppliers, or other branches of the same company, represents a powerful combination of traditional unionist methods with the resources of the modern era. Flying pickets, especially when used in large numbers, had already been employed to powerful and, to the authorities, fearsome effect. Their use had been pioneered during the 1972 miners' strike by the Yorkshire NUM, under its then president, Arthur Scargill: "We launched from the coalfields here squads of cars, minibuses and buses, all directed onto pre-determined targets, with five, six, seven hundred miners at a time.... We had to declare war on them, and the only way you could declare war was to attack the vulnerable points" (Scargill, 1977, pp. 9-10, 13).

Flying pickets were dispatched to Nottinghamshire (mostly from Yorkshire) in the opening days of the 1984-1985 strike. By the first week, Yorkshire pickets were present at every pit in Nottinghamshire and Lancashire, and had succeeded in stopping work at half of them, despite police operations (Winterton & Winterton, 1989, p. 81). Pickets were withdrawn from the county following an NCB injunction but were
quickly redeployed following the rejection of the strike by a Nottinghamshire ballot.2

The response of the authorities was equally rapid and mobile. The police, it would seem, saw their duty as clear-cut: "To protect the ability of working miners to cross picket lines. They explained this in terms of 'upholding the law' and 'defending individual rights.'" (Lam, 1986, p. 191). As several commentators have noted (National Council for Civil Liberties, 1984), they chose to enforce these rights with a massive show of strength. By the first week of the strike, 20,000 officers from 43 different forces had been made available under "mutual aid provisions," by which individual county police forces can seek reinforcements from other counties (McIlroy, 1985b). Thousands of officers were dispatched to strike areas—up to a maximum of 8,100 on any one day (Policing the pits, 1984, p. 77). The police response—one that included a centralized command structure, para-military crowd dispersal tactics, and a massive system of roadblocks—has been described as "mass military-style policing intended not to regulate picketing... but clearly aimed at stopping all picketing" (McIlroy, 1985b, p. 107).

Under such conditions, problems of spatial coordination and control emerged as critical considerations for both police and pickets. It was here that the police had a decisive advantage. Although there were attempts at the national coordination of NUM picketing, these appear to have been confounded by localized problems of synchronization (Winterton & Winterton, 1989, pp. 79-108). Conversely, the police, although ostensibly a county-based force, moved rapidly to the centralization of authority with the mobilization of the National Reporting Centre (NRC), based in London (Kettle, 1985). The primary function of the NRC was to maintain full details concerning the availability of police in England and Wales, and to deploy operational units, or police support units (PSUs), of 23 men as required.

Given the broad spatial scale at which the dispute took place, and the importance of movement—whether of coal or combatants—detailed and reliable spatial information was of the first importance. Martin Kettle (1985) describes the use of police maps at the National Reporting Centre, detailing both the spatial deployment of PSUs and the distribution of

2The financial cost of such an operation, of course, was enormous. The South Wales NUM alone spent £80,000 per week on picketing. By August 1984, it had spent £1.3 million (Adeney & Lloyd, 1986, p. 95).

A sense of the disproportionate use of police resources can be gained from the fact that when the first Yorkshire miner returned to work at Greenwood colliery on November 9, he was accompanied by a force of between one and two thousand police.

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pickets according to location and "mood." Similarly, the union sought detailed spatial information (see Sunday Times, 1 April 1984, p. 4). Kim Howells, for example, describes the importance of "spatial intelligence" to the South Wales NUM in deciding "which power stations, in practice not in theory, were the important ones to isolate; which midlands pits were more open to debate; which communities might be cajoled into allowing us to put our case calmly and sensibly; which town councils might allow us to use their buildings to sleep, eat and wash in; which ports were likely to welcome coal imports and which ones would boycott them" (1985, p. 14).

Ultimately, however, no amount of union information or coordination could compensate for the sheer enormity and reach of the police presence. It was massive, sustained, and backed by the full weight of the law. By the end of the strike, 11,312 arrests had been made, and £192.3 million had been paid out by the Home Office to police authorities to cover additional costs (Percy-Smith & Hilliard, 1985). As many commentators have suggested, it appears to have been government policy not to deploy the civil law available for the regulation of trade disputes but, in Lord Denning's words, "to call out, instead, hundreds and thousands of police" (quoted in Staton, 1985b, p. 256).

STOPPING THE MINERS

Nowhere was this police presence so massive as in Nottinghamshire. By June 20, 1984, the Manchester Guardian reported "an air of permanence" surrounding "the substantial police presence" in the country (p. 2). There are many aspects of this presence that demand our attention. Much has been made, for example, of the controversial use of paramilitary policing at picket lines (Fine, & Miller, 1985). However, one other police tactic has not received the detailed examination and documentation that it deserves, given its importance to the policing of the strike. The so-called "interrupt"

Winterton and Winterton (1989, p. 177) also document the cartographic strategies of the National Coal Board in identifying potential stickbreakers: "A wall map showed the location of every miner's house, their attitudes towards returning to work indicated by coloured pins. When a small group of miners in one locality appeared ready to break the strike, arrangements would be made for their collection by armoured bus. Information would be gathered by management teams to build up a profile of each miner, identifying those who had regularly worked overtime before the ban, owned their own houses, had particular financial difficulties or were opposed to the strike. Those living in outlying areas or near to scale were targeted and a friend who had already broken the strike would be dispatched to discuss their problems."
or "turn-back" policy, initiated in the first days of the strike, entailed the construction of an extensive and elaborate system of police roadblocks, designed primarily to slow or halt the in-movement of pickets from outside the county, even to the extent of "immobilizing the militant miners in their home villages" (Geary, 1985, p.137). As Goodman notes, "the decision was taken, at the highest level in the Home Office, to give the police authority to seal off the Nottinghamshire coalfield" (1985, p. 118, emphasis added).

The roadblock policy was unprecedented in terms of its scale and permanence. Roadblocks had been considered, but not used, during the 1974 miners' strike, and were deployed briefly during the 1983 National Graphical Association dispute. According to Adney and Lloyd (1986), Charles McLachlan, who occupied a vital role as Chief Constable of Nottinghamshire, commander of the NRC, and chairman of the strategically important Association of Chief Police Officers, began preventing union busses from entering Nottinghamshire as early as the second day of the strike. By the first week-end, their use had been extended to cars.11

Any vehicle that appeared to be carrying pickets seemed to have been stopped and questioned. The Guardian noted that "most cars containing more than one male passenger have been stopped and questioned" (May 14, 1984). As the Guardian described it, "the fortunate driver is sometimes waved through, but for many inhabitants and visitors an obligatory identification check has become routine" (June 20, 1984, p. 2). Police at roadblocks demanded the destination and purpose of the journey. Unless sure that the occupants were not seeking to engage in picketing, police

Roadblocks did not serve just to deny access to Nottinghamshire, but had other effects on movement. East and Thomas (1985) describe the roadblock operation as also serving to delay pickets, especially at the times when working miners were coming on or off shift; as providing the police with the time to monitor pickets; as ensuring a tactical police advantage in the mobilization of forces; and as limiting the movement of pickets from pit to pit within the county. This policy of slowing, as well as halting, picket movement perhaps explains the widespread practice of stopping vehicles, yet allowing pickets to continue on foot. Peter Ham (1986, p. 193) notes that those stopped were instructed to present their driving documents to their local police station within five days. For non-local miners (for example, those from Kent) who were away from their homes for periods of up to three weeks, this raised special problems. Evidence also exists of the police confiscation of car keys, effectively preventing a vehicle. Some have noted that roadblocks were also used to prevent striking Nottinghamshire miners from picketing other pits in the area (Mansfield Guardian, June 20, 1984, p. 2). It has also been suggested that roadblocks were used to allow the unplanned out-movement of coal and coke (R.J. Johnson, 1991, personal correspondence).

11McLachlan—dubbed the "general of the coalfield command" by the Sunday Times—indicated that what he termed the "turn-back" policy was first floated at a Home Office discussion group held in February 1984 concerning inner-city policing (Sunday Times, November 25, 1984, p. 10).

The police interpretation of what constitutes obstruction or conduct likely to cause a breach of the peace, has been noted, is "of considerable scope" and somewhat "classic" (McCabe, 1988, pp. 31, 32). It is notable that 56% of all charges in England and Wales during the strike were for these two charges alone (McCabe, 1988, p. 163). The discretion that such officers afforded can be seen, anecdotally, in the following exchange, in which a car carrying a Times journalist and Yorkshire pickets was stopped outside Mansfield:

"We know you are peaceful pickets but if you carry on you will be arrested because you are liable to cause a breach of the peace," the policeman said.

The driver... checked again. "Is it true that if I just go to Mansfield, I will be arrested?"" "Yes," a sergeant replied. (Times, March 29, 1984, p. 2).

Not surprisingly, the policy raised allegations of arbitrariness. Peter Hain (1986) describes the following incident in such terms: "A policeman stopped a miner and a local union official as they were leaving the mine pit [at Orgreave], and when the miner demanded to know what laws gave the officer the right to stop him going home, the officer pointed at his blue uniform and said 'this law'." (pp. 192-193).

On another note, the concept of the "breach of the peace" has certain legal and spatial associations that seem appropriate given the militaristic associations that were frequently made by the government during the strike. Flying pickets, for example, were frequently presented as "shock troops," invading Nottinghamshire. To Peter Goodrich (1994, p. 242), "a breach of the peace" constitutes, to the powerful, a "breaching of a wall so as to invade a city... a manner of moving in, of invasion or intrusion, a breaking through. The breach itself is a wounded spot, a broken space, a disputed place, a gap or fissure in fortifications made by a battery... [T]he gap exists to closed... to make the wall whole, to make the city secure, to reintroduce order."

12Copy with author. It is not clear exactly when, during the strike, the martial dates from, although it is reasonable to assume that it dates from the first half of the strike, when attention was most heavily focused on Nottinghamshire. It is also not clear whether it represents a "snapshot" of police operations. It is likely that it could be changed as events warranted.
a survey of arrests collected by Janie Percy-Smith and Paddy Hillyard, partially published in their 1985 article. Both provide telling evidence of the scale, scope, and structure of an operation that has important implications not only for the strike itself, but also for consecutive police operations and civil liberties.

Attempting to restrict the movement of thousands of determined pickets, seeking access by both car and foot to a large number of target pits on an extensive road network, including two motorways, required the careful coordination and skillful spatial deployment of state resources. In that the intercept policy appears as a direct response to the flying pickets, police flexibility and mobility were the preconditions for success. A few days after the start of the strike, David Hall, chief constable of Humberside and controller of the National Reporting Centre, spoke confidently of the mobilization of the "most mobile and sophisticated police reserve yet assembled in Britain," promising that flying pickets would be "matched man for man by equally mobile officers. . . . If a problem moves from point A to point B we would assist local police forces as necessary" (Time, March 19, 1984, p. 1). The flying picket, it seems, was to be confounded by the "flying copper." Evidence of this spatial flexibility is provided by police reports to the Police Finance Committee of South Yorkshire County Council (see Figure 5.1). Forces from any given police area were allocated—often on a day-to-day basis—to a range of pits or roadblocks. Police Support Units, it seems, were both temporarily housed in South Yorkshire, or drafted in on a daily basis.

It was the roadblocks, however, that provided the essential regulatory check on picket movement. Figure 5.2, derived from the operational manual, reconstructs their distribution. Seventy roadblocks are indicated in the manual, and could presumably be deployed according to requirements. Up to 24 Police Support Units (a minimum of 552 officers) seem to have been deployed on roadblocks and observation posts.

The M1 Motorway and A1(M), giving fast and direct access to key pits, seem to have been of strategic importance to the road block net. Consequently, roadblocks were placed at motorway turn-offs, for example, at Junction 26 on the M1 or at the end of the A1(M) near Blyth. Also, rapid "A" roads were sealed off at key interchanges. Such roadblocks seem to have been designed to intercept pickets some distance from the coalfield. There are, indeed, many indications that the "front line" started even further from the coalfield. One controversial incident involved the use of roadblocks to halt Kent pickets in London's Dartford Tunnel, a hundred miles from Nottinghamshire. According to the arrest data, a number of pickets were also arrested at roadblocks in South Yorkshire, Leicestershire, and Humberside. Here again the main traffic routes seem to be a clear target, with roadblocks established at such places as the Humber Bridge, and on the M1 and M18 in South Yorkshire. There is also evidence of travel restrictions in South Wales and Staffordshire (East & Thomas, 1985a, 1985c).

Any resourceful picket who managed to evade this front line would come up against a second main group of roadblocks drawn more tightly around target pits. Judging by Figure 5.2, frequently picketed pits, such as Ollerton, Bevercotes, and Bleasby, were closely defended by a ring of roadblocks designed to deny access to pickets traveling either by car or on
foot. Of course, the very resourceful picket, even after slipping through the final ring of roadblocks, would usually confront a large police presence at the pit itself.

Detailed instructions were given in the instructional manual to ensure the effective coordination of roadblocks. Grid references were used to give the exact location of roadblocks, areas of special responsibility were noted to ensure that officers monitored the correct areas, and roadblocks were grouped by police call sign (see Figure 5.3). Detailed instructions were also given concerning the likely routes of pickets, with directives indicating procedure if picket targets changed. Clearly, careful observations had been made of the activity and movements of pickets. In a number of cases, the surveillance of pickets was recommended, and their likely points of congregation noted. Near Pleasley, just north of Mansfield, for example, the manual notes that "vehicles meet at Pleasley Miners Welfare for directions re picketing; observations can be kept by driving by at regular intervals and report build up" (p. 37). The extent of "local knowledge" is remarkable. Even the address of toilet facilities provided by a cooperative member of the public is noted, as is the home of a striking miner, it being warned that "he watches, photographs and complains about the police" (p. 37). Overall, operational instructions were detailed and comprehensive, and based upon detailed intelligence and direct field experience.  

Some idea of the area of origin of the police forces operating roadblocks can be gained by reference to the arrest data used in the survey of Percy-Smith and Hillyard (1985). Although 48% of all sampled roadblock arrests were made by Nottinghamshire police, 18 other forces are credited with arrests. The importance of the Metropolitan police force, from London, is notable, especially within Nottinghamshire (11% of roadblock arrests). The "Met", one of the most active forces under mutual aid, has

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14 The manual warns police, for example, that "vehicles park on A60, A616 and in Norton Village pickets walk over fields to Welbeck and Warsop Collieries. Main routes are through woods between A616 and pit yard and along disused railway line—Grid ref S67 696 to pit tip at Welbeck and either over or around it" (p. 12).

15 The quality of police intelligence during the roadblock operation tallies with other evidence relating to the systematic surveillance and monitoring of picket movement. Winterton and Winterton (1989, pp. 159-160) document the phone-tapping of union officials and the use of undercover infiltration. The police also obtained further information concerning picket movement from "spotter cars" placed on major routes, and (possibly) from computer-controlled cameras placed on motorway bridges. The Secretary of State, Douglas Hurd, acknowledged in the House of Commons on June 20, 1984 that the car registration numbers of some of the vehicles used by pickets had been entered in the police national computer. Presumably, this information could be used to identify striking miners at a future date.
experience in “public order” disturbances (Lloyd, 1985, p. 72) and a reputation for aggressive policing.$^{16}$

SPATIAL CLOSURE

To observers, the overriding impression of the intercept policy was its unprecedented scale: “on every motorway intersection, roundabout, trunk-route and colliery approach road—not to mention village streets—it is impossible to avoid a police check point or road block” (Manchester Guardian, June 20, 1984, p. 2). Under these conditions, the disruption of the movement of “noncombatants” was inevitable. Anecdotal evidence abounds: Adeney and Lloyd (1986, pp. 104–105), for example, describe the case of the Rev. Rodney Marshall, a vicar at the Yorkshire pit village of Goldthorpe. Attempting to enter Nottinghamshire in a car driven by a NUM official, he was told to turn back or face arrest. On displaying his clerical collar, the police were alleged to have suggested that he “could be a miner in disguise.” Similarly, a Derbyshire football team sought compensation following a police refusal to admit them to Nottingham (Policing the pits, 1984, p. 78). Members of the Sheffield Police Watch, an independent police monitoring group, claimed to have been stopped 91 times at roadblocks, and threatened with arrest on 16 occasions (East & Thomas, 1985b, p. 78).

Such people were, of course, accidentally entangled. It was piquet that the police net was designed to ensnare. Some indication of its success in this regard can be obtained from figures quoted in a police affidavit submitted in the Sharkey case.$^{17}$ During the first 27 weeks of the strike, 158,099 “demonstrators” (the legal term for secondary pickets) were prevented from entering Nottinghamshire, according to police figures (see Figure 5.4), representing an average of over 5,800 people per week. The police operation was such that, by their own admission they were able to guarantee at least a 50% stop rate, regardless of the number of pickets (which, as Figure 5.4 shows, fluctuated considerably).$^{18}$ It is easy to un-

$^{16}$The arrest data also indicates that police forces appeared to change over time at any given roadblock, and also to collaborate. At a Blyth roadblock on March 27, 1984, for example, both the Metropolitan and Nottinghamshire police forces made arrests. This clearly indicates that combined operations occurred; mutual aid forces did not operate in isolation.

$^{17}$R v. Mansfield City Justices Ex Parte Sharkey and Others [1984] IRLR 496; see also Christian (1985, p. 131).

$^{18}$The NUM suggested that only 37% were, in fact, stopped. However, other evidence
understand the reports that Yorkshire pickets were “being increasingly frustrated” by “an elaborate system of police road checks” as early as the end of March (Times, March 27, 1984, p. 2).

However, many resourceful pickets did manage to struggle through the net (East & Thomas, 1985a). Indeed, for the first few months of the strike, the outcome of the “battle for Nottinghamshire” was uncertain, the National Coal Board only claiming victory in June (Adeney & Lloyd, 1986, p. 106). At Ollerton colliery, for example, between 60 and 70 determined Yorkshire pickets were reported to be on picket duty in late March 1984, having found their way past four “road checks” (Times, March 27, 1984, p. 2). Indeed, it has been suggested that the number of pickets actually increased in the late spring: “Using back roads, on occasions leaving their cars and walking across the border through country-

![Diagram showing numbers of "demonstrators" and numbers stopped by police road blocks over time.](image)

**FIGURE 5.4.** Numbers stopped at police roadblocks in Nottinghamshire and numbers of "demonstrators" at collieries, March–September 1984 (source: Police affidavit).

... they carried on. . . . There was no more daytime picketing with the advantage that picket’s cars were less obvious in the general mass of daytime traffic than in the isolated small hours” (Adeney & Lloyd, 1986, p. 106).

However, such was the ultimate strength of the Nottinghamshire security net that frustrated pickets were forced to opt for alternative tactics, including, ironically, their own form of transport disruption. On March 27, for example, 200 miners in a convoy of 50 cars on the M1 slowed traffic and then abandoned their vehicles in what was described as a “frustrated response to the success of the police in keeping mass pickets at bay” (Times, March 29, 1984, p. 2). Pickets also closed on other targets after being forced from Nottinghamshire. A month into the strike, the “saturation” picketing of other strategic sites was attempted, with thousands of pickets dispatched to a single target—such as the massed (and bloody) picket of the Yorkshire coke plant at Orgeave on June 18, 1984—in a desperate attempt to win at least one symbolic victory.

Many arrests were made at roadblocks during the strike, both within and outside Nottinghamshire. Percy-Smith and Hilliard (1985) note that 12 percent of their sample of arrests occurred at roadblocks. Assuming that this proportion holds, over 1,350 arrests may have occurred at roadblocks.\(^9\) Figure 5.5, derived from their survey data, plots the location and frequency of sampled roadblock arrests where known. The crucial importance of some key roadblocks, such as those at Blyth and Junction 27, is underscored.

Several points are important in relation to roadblock arrests. First, the majority of cases in the sample were dismissed or withdrawn on reaching the courts, as was the case with other arrests. This seems to substantiate the claim that arrests were used primarily "as a means of intimidating pickets and removing them, at least temporarily, from the combat zone" (McIlroy, 1983b, p. 110).\(^{20}\)

Second, over half of those arrested at roadblocks in the sample were given bail subject to conditions, the most common of which was that they not engage in secondary picketing. The use of "conditional bail" was widespread during the strike. Mansfield Magistrates Court, for example,

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\(^9\) One commentator noted 1,500 cases of obstruction pending as of late November 1984, the majority of which represented roadblock arrests (Manchester Guardian, November 23, 1984, p. 2).

\(^{20}\) It has also been noted (Christian, 1985, p. 130) that many final hearings of cases were transferred to Nottingham. Not surprisingly, defendants were often late or absent because of roadblocks. Nevertheless, this was accepted by the magistrates as constituting a failure to appear.
where many pickets were processed, adopted a standardized bail condition that miners not picket any site other than "peacefully to picket or demonstrate" at their usual place of employment. Again, the effect was to deny secondary picketing and effectively remove pickets from Nottinghamshire (Christian, 1985). Interestingly, Percy-Smith and Hillyard's (1985) survey reveals that the average length of time on conditional bail imposed for those of the sample arrested at roadblocks was 211 days, nearly twice that of the overall average.

It has been argued that the directives given at roadblocks constituted a form of entrapment (Percy-Smith & Hillyard, 1985). The manual indicates that all drivers on the M1 who were refused permission to continue in their intended direction were obliged to use the northbound route back on to the motorway. This instruction was given irrespective of the direction from which the car had approached the junction. Those traveling from the south were not permitted to turn around and return from where they had come. At Junction 25 of the M1, for example, the manual advises officers to cover all exits "to ensure vehicles turned exit onto Northbound carriageway and vehicles turned further south continue up Motorway." Other than serving to remove pickets from the "combat zone," this placed drivers forced to drive north in an impossible predicament. They had no idea how far they had to continue before being allowed to leave the northbound carriageway of the M1, and they did not know which exits were blocked. At the same time, they knew that if they did try and leave the motorway they could meet another roadblock and face obstruction charges, given their refusal to obey a police instruction.

**LAW, RIGHTS, AND MOVEMENT**

Britain had never seen policing like this—not on this scale, not for this duration. Effectively, the state closed down an English county for several months. As far as NUM pickets were concerned, it was as if Nottinghamshire had been erased from the map. It is not surprising, then, that the legality and legitimacy of roadblocks quickly became contentious. Even the authorities seemed uncertain. The Kent police, for example, felt the need to deny that they had prevented pickets from traveling through the Dartford Tunnel or threatened them with arrest, having simply "advised" them not to continue (Times, March 24, 1984, p. 2). Spokespersons from South Yorkshire, Nottinghamshire, and South Wales police all denied, at one stage, that they had turned back pickets (Times, March 24, 1984, p. 2).
of "close proximity both in place and time" was set by the court at a distance of one and a half miles—a drive of less than five minutes. Under such conditions, "it would be [the police's] duty to prevent the convoy from proceeding further" (p. 25).

It was held that the police had ample evidence to feel justified in their concern that the pickets were likely to commit a breach of the peace. Such evidence derived, in part, "from the widespread public dissemination of the news that there had been severe disruptions of the peace . . . at collieries within the Nottinghamshire coalfield." In this case, indeed, "the mere presence of such a body of men at the junction in question in the context of the current situation in the Nottinghamshire coalfields would have been enough to justify the police in taking preventive action" (p. 25, my emphasis).

The peculiar brevity and selective silences of the Moss decision begs many questions. What was it about pickets that rendered them a threat to public order? What was it that "trumped" their claim to freedom of movement and peaceful protest? Put another way, if the goal was to maintain order, why not also restrain the mobility of working miners who, by their presence, could be regarded as inflaming an already volatile situation? To make sense of the selective silences and "commonsense" assertions of the Moss decision and the roadblock policy that it sustained, requires us to seek the ideological foundation upon which both drew. And when we do so, it soon becomes clear that the regulation of the material spaces of Nottinghamshire rested on a complex constellation of spatial representations, themselves embedded within a set of claims concerning rights and law. In a permissive and persuasive move, the strike and police actions were presented in terms of the protection of fundamental "rights"—notably that of the "right to go to work"—of strikebreakers. In preventing the influx of pickets and allowing such rights to be freely

21Judging by Figure 5.2, many of the roadblocks were a good deal further from the pits than this.

22In this regard, paragraph 26 of the 1980 Code of Practice on Picketing, issued by the Secretary of State under the 1980 Employment Act, orders that the police are not "to take a view of the merits of a particular trade dispute. They have a general duty to uphold the law and keep the peace, whether on the picket line or elsewhere. The law gives the police discretion to take whatever measures may reasonably be considered necessary to ensure that picketing remains peaceful and orderly" (see McCabe & Wallington, 1988, p. 29). However, to many commentators, police discretion was far from partial: "The balance between the liberties of working miners to travel to work and that of striking miners to picket has been struck almost entirely in favour of the former, creating amongst the strikers an understandable impression that they were all assumed to be engaged in an enterprise of violence" (National Council for Civil Liberties, 1984, p. 23).
exercised, therefore, the police were simply discharging their legitimate function. Broadly put, the effect seems to have been a definition of the political and discursive terrain upon which the strike was fought. The miners’ strike, in this sense, was more than a battle over the material spaces of the picket line: more, indeed, than a struggle over investment and jobs in the coal industry. It was also a battle of ideas, including, as we shall see, those that related movement to rights. This battle must be seen as part of a longer campaign, linked to the ascendancy of the “New Right” (Green, 1987), in which the definition of social and political meaning has taken on added political urgency.

In Britain, New Right or Thatcherist ideology embodies a rejection of the corporatist and Keynesian practices of previous governments, whether Labour or Conservative. It is both radical and reactionary, melding, as Stuart Hall (1983, p. 29) argues, the vocabulary of traditional Toryism—“standards,” “discipline,” “nationalism,” “duty”—with a revived liberalism, grounded on individualism and anti-statism. In this, it rests on a peculiar paradox, one that Gamble (1988) refers to as the combination of “a traditional defence of the free economy with a traditional conservative defence of state authority” (p. 28). The conjonction of traditional Toryism, with its obsession with law, order, and discipline, and a neoliberal argument for the “free economy” means, Gamble notes, that the state “is to be simultaneously rolled back and rolled forward. Non-interventionist and decentralised in some areas, the state is to be highly interventionist and centralised in others. The New Right can appear by turns libertarian and authoritarian, populist and elitist” (p. 28). The vocabulary of the New Right, and its flexible and ambiguous free economy/strong state linkage, is central to an understanding of the state actions during the miners’ strike. On the one hand, deregulatory—given the “liberation” of “market forces”—the state and legal apparatus were simultaneously deregulatory, with the extension and intensification of control over organized labor. Put another way, the language and arguments deployed by antistrike forces to sustain the roadblock policy drew both from liberalism and Toryism.

THE RIGHT TO WORK

What function, then, did the language of the New Right play in the miners’ strike—specifically in an attempt to provide ideological certainty to a legally ambiguous intercept policy? At numerous political locations, including Parliament, the police, the judiciary, and the media, we can trace the rapid deployment of a set of arguments that were used, time and again, to legitimate this massive regulation of space. One central claim, drawn from the lexicon of the New Right, centered on the “right to work”—a “right” which, according to several commentators, came to occupy a decisive role (Francis, 1985; Wade, 1985).

As a concept, the “right to work” has deep resonances for the forces of both the Left and the Right. However, as the chairman of the NCB noted in his discussions with Arthur Scargill before the onset of the strike, it is capable of carrying several meanings. “It seems sometimes,” MacGregor commented, “as though we were using totally different dictionaries. . . . My idea of the ‘right to work’ was to emerge a few months later: it was the entitlement of a man to be able to go to his place of work and do a day’s work . . . without being subjected to violence and intimidation” (1986, p. 158).

Such a mutual incomprehension is to be expected. Whereas MacGregor used a neoliberal dictionary, Arthur Scargill’s terms of reference were radically different (Cox & Golden, 1977). During the coal dispute strikers argued that “the right to work. . . has been almost completely eroded” and that the “miners’ strike is a major attempt to defend this right” (Gudgin, 1984, p. 31). From a socialist perspective, the right to work is a positive right that empowers citizens with a claim upon the collective to provide them with some form of employment. However, given that the employment relationship under capitalism is viewed as exploiting and alienating, the “right to work” can be extended to a right to control over work itself (White, 1986, pp. 66–71). A socialist reading of the right to work regards the collective not as threat to that right but as the site wherein that right is both realized and made meaningful. For example, on the premise of “to each according to their needs, from each according to their abilities,” work may be read not simply as a right, but as an obligation to the collective (Campbell, 1983, pp. 171–192). Moreover, given a rejection of the characterization of work as a contractual relation between equals, collective action on the part of workers is treated as necessary and beneficial.

MacGregor’s interpretation of the right to work, with its stress on negative liberty, individual rights, and collective coercion, was very different. In broad terms, this neoliberal reading holds that an individual must be at liberty to freely contract with an employer. Such a right is assumed to be the inherent right of the individual, in much the same way that the individual is assumed to be free to dispose of his or her property. The centrality of the liberal individual to this right shapes the conception of the collective. By this account, the most serious threat to the exercise
of the right to work comes not from the withdrawal of employment on
the part of the employer—this being understood as an inevitable and
ultimately beneficial aspect of the privatized contractual relation that is
assumed to underpin free exchange in the labor market—but from collec-
tive action, and most notably, the collective action of fellow workers. The
right to work, in this sense, is seen as a fragile negative right. It is defined as
much more than an "economic right." In its resistance to (certain forms)
of compulsion, and in its corollary—an evocation of negative freedom,
defined here as the freedom of the individual to develop his or
her capacities within and under the law—it appeals to a liberalized lib-
erty.  

It was the liberal dictionary that would define the right to work.
Indeed, a similar reading has been used against organized labor in other
settings, including Canada (White, 1986) and the United States (Gall,
1988). In all cases, the right of the individual worker to "freely" contract
with employers under conditions of "his" own choosing has been juxta-
posed with the purportedly coercive or monopolistic actions of labor
unions. During the miners' strike, the "right to work" was repeatedly
invoked by the government and management, understood here as the
right of individual workers to choose whether or not to defy a strike call
and the picket line. The effect was ironic: Antistrike forces could now
present the right to work as "a fundamental freedom under threat, not
from the State, but from the National Union of Mineworkers and strik-
ing miners—it was they who were meddling with our rights" (Danby,
1985, p. 375).

THE RIGHT TO GO TO WORK.

This invocation, given its flexibility and potency, was a powerful one.
However, as the "right to work" was folded into another commanding
liberty—that of free movement—it received an intensified charge. Union
activity, according to the voices of authority, interfered not only with the
individual's right to work, but simultaneously with their right to move, free
from illegitimate constraint.

This linkage, in the context of the mass picket, had been made in

26Adeney and Lloyd note the significance of the rightist rhetoric of freedom—"forged for
conflict when tested, most effective when its blade caught the reflection of foes' confusion,
equivocation and internal struggle"—to the strike. "In that sense, the miners' strikes
provided a field in which the Thatcher government could deploy its best divisions" (1986,
p. 3).

earlier Conservative Party manifestos, wherein the "citizen's right to work
and go about his or her lawful business free from obstruction or intimidat-
tion" was asserted (Alderson, 1985, p. 126). The right to work thus
became the "right to go to work." The police, in preventing the influx of
pickets, were now protecting two fundamental rights. This powerful asso-
ciation between work, mobility, and rights was to be made repeatedly,
during the strike by the judiciary, the government, media, management,
and police in defending policing in Nottinghamshire. It was the attor-
ney-general, a few days into the strike, who said that it is "the fundamental
proposition of our law [is] that each of us has the right to go about his daily
work free from interference from anybody else. Each one of us is free, as
an individual, to come and go as he pleases to his place of work. . . . People have
no right to link arms or otherwise prevent access to the place that they are
picketing" (Hansard, March 16 1984, p. 279, my emphasis).

Inserting mobility rights into a claim concerning the "right to work"
was an important move at several levels. Most immediately, of course, the
effect was to double the stakes: the strike now became a struggle in
defense of two powerful personal rights. As the NUM became more
dangerous and threatening, so police action was further legitimized.  
Second, the inclusion of mobility rights also acted to focus attention upon
a specific location. Without a mobility component, an appeal to the "right
to work" in the context of the strike was somewhat vacuous, amounting
perhaps only to a condemnation of the generalized moral suasion applied
to strikebreakers by the union. Attaching the right to work to that of free
movement, however, served to direct attention to the space at which
conflicts over movement and access were most in evidence—specifically,
to the muscular and (given extensive media coverage) visible immediacy
of the picket line.

Finally, an appeal to individualized mobility rights had powerful
historical resonances within the imagined English community. As I shall
note in the next chapter, mobility (of certain forms) is central to the
liberal pantheon, to the extent that liberty and mobility are almost inter-

25The Home Secretary, Leon Brittan, for example, questioned the supposed right to
prevent "a fellow worker from going to work," and insisted that the police "have done their
duty for the rights and liberties and freedoms of democracy in this country. . . . Those of
us who have the responsibility of maintaining people's right to go to work should support
the work that is being done to protect that right" (Times, March 24, p. 1). In May 1984 he
reaffirmed the government's total support both of the rights of miners to go to work if they
chose to do so, and of the "efforts of the police . . . to uphold those rights" (Times, May 23,
1984, p. 2).

26Moreover, as Danby (1985) notes, unlike the right to work, "freedom of movement" has
some statutory basis under the Highways Act 1959, section 121.
changeable (Walzer, 1990, p. 12). An appeal to mobility, then, called up many powerful historical and national associations, especially given the frequent evocation during the strike of putatively "English" values and liberties. As Hall (1973, p. 124) notes, "[t]he right to walk and ride is of immortal antiquity," the Magna Carta providing certain guarantees of free movement (Street, 1982). Also, the right to move freely on the English transport system is an ancient one (at least for the privileged classes), certain roads being placed under the protection of the "king's peace" at an early date (Pound, 1939, p. 34). Such historical liberties were quickly repositioned during the strike. The national organizer of the strikebreaking "Back to Work" campaign, for example, demanded the protection of her "right to pass along the Queen's highway" (Times, October 10, 1984, p. 4). In supposedly opposing mobility rights, pickets were presented as not only unlawful but as "un-English." This threnody, coupled with that of the "enemy within" recited by Thatcher in her Brighton speech, is of course a powerful one (see Gamble, 1988, pp. 54-59; also see Hall, 1978). By this account, the strikers were not only breaking "our" law, they were also engaged in a massed assault on the individual rights of strikebreakers and, by extension, on all of "our" common law rights, with all this implied in its Cokean appeal to place (the nation) and history (the continuity of the common law).27

As with the "right to work," however, the appeal to mobility rights raises an immediate dilemma. On what grounds could a celebration of free movement be used to legitimate a police operation whose immediate effect was the restriction of movement for some? Put another way, how does the mobility of pickets differ from that of scabs? One way, perhaps, in which the two were separated was in terms of their respective relation to authority and control. The movement of the employee across a picket line constitutes a disciplined action that conforms to the stable and structured logic of the labor contract. Conversely, the massed flying picket threatens an alternate form of social power, premised on the alarming ability to move unpredictably, at will, en masse, beyond the disciplinary compass of the state. English legal history is replete with examples of anxiety raised by such unstructured movement; the long history of legislation relating to vagrancy is a case in point (Chalmbliss, 1969). Following the strike, it is notable that police roadblocks have been much in evidence during another episode of unstructured mobility—the "peace convoys" (mass movements through the English countryside of young, countercultural travelers, whose activities often coincide with the summer solstice)—whose trajectory and purpose continues to baffle and alarm the authorities. However, a liberal definition of mobility rights has a second implication. The act of crossing a picket line not only conforms to a disciplined ordering, but can also be seen as signifying the individualized rejection of the authority of the collective. As I shall argue in the next chapter, the liberal love affair with individual mobility reflects, in part, its implicit severance of ties to place and community. So too the "heroic" mobility of the strikebreaker authenticates and reinscribes the liberal ideal for the individualized employee.

27 A similar linkage between "extremism" and "the enemy within" was made in the context of violence. To Schwarz (1985), the reiterating condemnation of the alleged violence of pickets was "an abstract, dehistoritzed, fluid rendering, providing the means by which the stigma of 'extremism' could be transmitted this way and that, bringing together all those who dared to step outside the Thatcher consensus" (p. 60). In November 1984 Thatcher made the extension explicit, as she had at Brighton: "We are drawing to the end of a year in which our people have seen violence and intimidation in our midst: the cruelty of the terrorists; the violence of the picket-line; the deliberate flouting of the law of the land" (quoted in Schwarz, 1985, p. 60). Charles McLachlan, Chief Constable of Nottinghamshire, combined support for freedom of movement and the right to work with an opposition to the coercion of the picket line and a "fluid rendering" of criminality in claiming that "supporting the freedom of people who want to prevent people from going to work is not supporting freedom, but supporting anarchy, violence, riot and damage and everything else" (in Scruton, 1985b, p. 259).

REPRESENTING THE PICKET: "FASCIST," "THUG," AND "DEMONSTRATOR"

The intercept policy, and its "commonsense" legitimacy, must also be situated within the formalized legal understanding of picketing and union activity. When we come to look at this legal basis, we find a remarkably coherent and structured account of space and political action. Moreover, the "right to go to work," with its conditional account of individualized rights and disciplined mobility, emerges as pivotal to this account.

According to the dominant narrative, the picket line is the principal site at which the liberal "right to go to work" is both exercised and denied. In the opening moments of the strike, the Prime Minister assailed the picket line as an affront to the "right to go to work," asserting "the right of ordinary people to go to their place of work unhindered by unlawful picketing" (Hansard, March 13, 1984, p. 278).

The labor movement, conversely, has long regarded picketing, and the right to picket, as central to union thought and practice. For NUM President Arthur Scargill, the picket line was not only a tactical weapon, but also an evocative and powerful symbol of union commitment. Mellroy (1984) describes the purposes of picketing from this perspective as
threefold: to communicate with other workers concerning a dispute; to persuade and, if necessary, to halt work by "blocking premises through sheer weight of numbers" (pp. 167–168); and to give out a message of solidarity to wavering workers that a decision to strike will not go un-supported. Given the extended spatial scope of capital investment, secondary picketing has taken on an added importance in recent decades.

The forces of authority, however, have viewed picketing (especially massed secondary picketing) with alarm and hostility, especially since the labor confrontations of the early 1970s (Bercusson, 1977). The Heath government of the early 1970s placed the prevention of secondary and mass picketing at the core of its law and order program. In time, the police and the judiciary came to share in this condemnation. Robert Mark, the Commissioner of the Metropolitan Police, damned the mass picket as "the worst of all crimes," likening it to the conduct that engendered Nazism (quoted in Scraton, 1985a, pp. 153–154). During the 1984–1985 strike, one senior police officer felt able to claim that he had "yet to attend a mass picket where violence and intimidation of working miners has not been the sole intention of those present."28

This generalized opposition to the massed and secondary picketing rests on a recognition of its strategic effects, and also draws from a liberal reading of the relation between the individual and the collective. Picketing is regarded, first and last, as an intimidatory collective act that denies the exercise of individual rights. Hayek, the "high priest" of the New Right, condemns unions as necessarily coercive institutions, and the picket line as the n e plus ultra of duress.

It cannot be stressed enough that the coercion which unions have been permitted to exercise is contrary to all principles of freedom under law. It is primarily the coercion of fellow workers. Whatever true coercive power unions may be able to wield over employers is a consequence of this primary power of coercing other workers. . . . The present coercive power of unions rests chiefly in the use of methods which . . . are opposed to the protection of the individual's private sphere. In the first place, the unions rely on the use of the picket line as an instrument of intimidation. . . . [E]ven so-called "peaceful" picketing in numbers is severely coercive. . . . It represents a kind of organized pressure upon individuals which in a free society no private agency should be permitted to exercise. (1960, p. 269, pp. 274–275)29


29In a similar vein, Lord Denning claimed that striking was not a question of "rights" but of "power" (quoted in Scraton, 1985b, p. 255).

The effect of this line of thought, of course, is to ignore the communicative, persuasive, and mobilizing functions of picketing. Also absent from this reading is any recognition of the rights of strikers, such as those relating to freedom of association, freedom of speech, or freedom to work; also invisible is a recognition of the "private" coercion exacted by a corporate enterprise—for example, through plant closure or layoffs.

This deep-seated liberal hostility helps to explain why English law does not provide any statutory right to strike or picket. It must always be remembered that unions, from their very inception, have been forced into the legal shadows, obliged to rely on certain hard-won liberties or "immunities." Such protections do not constitute a positive right to combination, bargaining recognition, and the withdrawal of labor, but merely provide that such actions are not necessarily unlawful. Past political struggles have provided for certain restricted legislative immunities, of which the 1871 Trade Union Act, the 1875 Conspiracy and Protection of Property Act, and the 1906 Trade Disputes Act are important.

However, even these immunities, including those relating to picketing, were to come under direct legislative attack with the election of the Thatcher government. To McIlroy (1985a), the Conservatives saw their election to office in 1979 as "an affirmation of their historic mission to restore order, avenge Heath and exorcise the ghosts of Saltley. Trade unionism needed to be transformed. It needed to be brought within the law." (p. 102). This disciplinary impulse rested on the belief that unions enjoyed "excess" power. Hayek had asserted, unequivocally, that "there can be no salvation for Britain until the special privileges granted to the trade unions three-quarters of a century ago are revoked" (quoted in Green, 1987, pp. 205–206). Consequently, Tory policy sought to demote the supposed "special status" of the union to that of a voluntary association operating within "ordinary law."

The legislative assault on union immunities, including those relating to picketing, was fought on several fronts. The Employment Acts of 1980 and 1982 and the Trade Union Act of 1984 involved a full-scale attack on picketing and union activity. This entailed a removal of the protection against common law civil liability in cases involving "secondary action" and a redefinition of the meaning of the "trade dispute" to include and protect only those disputes between workers and their own employer that related expressly to the workers' own conditions. Picketing was also curtailed, with "peaceful" picketing restricted to "attendance at or near" a workers' own place of work. The effect was to prevent picketing on a work site, and to restrict secondary pickets, who were downgraded to the status of "demonstrators" in support of a picket under the 1980
Further, the government issued a code of practice on picketing, setting the maximum number of pickets at six. The 1980 Act obliged courts to take this into account.

The immediate effects of the legislative assault on secondary picketing are important. Not only does it constitute an erosion of the legal status of a union and its activities, it also remaps the spaces of legitimate union activity. Lord Wedderburn's comments bear repeating, identifying as they do the political geographies of Thatcherite labor legislation.

The collective strength of workers is to be limited by the boundaries of their employment unit. These boundaries are of course set not by the workers of their unions, but by capital in the private sector, and on the public sector by the state and capital together. Industrial action across the boundaries is unlawful; the concept of a trade dispute is not to flow over them; each subsidiary company in a small national or giant multinational group is to retain its own boundaries. . . [T]he policy element is now clear: the restriction by law of workers organised in unions to the strength that they can acquire within their own employment unit. In today's labour market in which a work force dreads unemployment . . . face employers increasingly buttressed by transnational connections, that represents a massive legal intervention against the "collective power" which . . . is the only reality of workers' power. (1985, p. 43, original emphasis)

Having said this, it should be noted that the legislative restrictions on secondary picketing were not directly used by the state in the 1984-1985 miners' dispute. The state preferred, for several reasons, to let private parties use the new laws to seek injunctions against, and damages from, the NUM. Nevertheless, commentators have pointed to their central importance in the formation of police policy:

The police plainly had regard to the civil law in determining what a trade dispute was; who should, therefore, be regarded as in dispute, and who should be allowed to peacefully picket at any particular pit . . . . [T]heir strategy was only to permit the attendance of miners at their own pits . . . . The policy appears to have been formulated well in advance of the actual picketing . . . . It was enforced within a few hours of the strike commencing . . . . Having formulated a policy as to who they would allow to picket, the police took steps to prevent numbers accruing in contravention of this policy. (Blake, 1985, p. 111)

At a deeper level, the legislative assault on secondary picketing is again explicable in terms of certain liberal-legal presumptions that bring us back to the underpinning of the "right to work." By this account, the employment relation is understood as a contractual undertaking between employer and employee. In its purest form, such a relation is assumed to be both individualized, with each contracting party treated as a separable entity disposing freely of his or her own assets, and privatized, centered upon a free market that serves to coordinate and optimize the distribution and allocation of goods, capital, and labor. For such a contractual relation to work efficiently, either individual party must be allowed to withdraw either his or her labor power or the offer to purchase such labor power. Consequently, given the individualized nature of the contractual relation, collective action on the behalf of either party (through monopolies or unions, for example) is suspect by definition. Indeed, where that collective action extends beyond the locus of one's own contractual relation (the "private workplace") it could be regarded as not only extrac contractual, but even as "political." Hence the designation of secondary pickets as "demonstrators." That which a union member might regard as a necessary act or as a token of solidarity with fellow workers is, from the liberal perspective, an illegitimate interference in a private individualized relation.

Such considerations were also much in evidence on the occasions when the courts considered the legal status of picketing during the strike. These include the Thomas decision, which deprived pickets engaged in secondary picketing from traditional immunities; the Shanker decision, which found lawful the use of bail conditions; and the Mott roadblock decision referred to above. Several judicial dispositions emerge from these, and other related decisions. First, the individual strikebreaker is generally favored to the extent that collective action—in the form of a picket—is viewed with considerable suspicion and hostility: "Confronted by an individual employee [the judiciary] will frequently respond with sympathy. They may draw the conclusion that he needs protection. They do not draw the conclusion that he needs to combine in order to be protected from his subordination . . . Protection from the union is more

30 Thomas and Others v. National Union of Mineworkers (South Wales Area) and Others [1985] WLR 2. 881.

31 Taylor v. Mansfield City Justices, Ex Parte Shanker and Others [1984] IRLR 496.


33 Note that this does not render secondary picketing unlawful, but rather removes civil immunity from such forms of activity (McCabe, 1988, pp. 28-29).
readily understood by judges than protection through the union” (Weddberburn, 1985, p. 29).

Second, such a reading is evident in the curious interpretation given the picket and its function. From one perspective, picketing is confinedly regarded as tantamount to a mild form of public nuisance. A famous decision in 1974, for example, likens picketing to hitchhiking. Although the “right to picket”—given its triviality—is therefore insubstantial, the courts usually manage to view picketing as coercive in its effects upon scabs. Justice Scott, in Thomas, saw mass picketing as a form of “unreasonable harassment” (p. 1108). In Sharkey, it was held that “any suggestion of peaceful picketing was a colourable pretence” and that mass picketing had become a form of “intimidation and threat.” In a remarkable passage, picketing was cast as a form of assault:

One of the first requirements of any civilised society is that bullying should not succeed, that mere physical strength of numbers should not be permitted to coerce the weaker or the fewer in number. This requirement is exemplified inter alia by the common law offence of assault. An assault is any act by which the defendant, intentionally or recklessly, causes the victim to apprehend immediate unlawful violence. There is no need for it to proceed to physical contact… (p. 1339)

Similarly, as noted in Mass, “the mere presence” (p. 25) of a body of pickets in Nottinghamshire is seen as a threat to order given their propensity to “bullying.” In this paradoxical demotion and demonization of the picket line, the courts seem to slip into the confusion identified by Bercusson (1977), in which picketing is viewed in effective isolation from the political and social context within which it occurs. Picketing, viewed as an isolated act, is thus rendered either trivial (comparable to other minor acts of nuisance, such as hitchhiking) or senseless and arbitrary (and thus a form of assault). However, such a reading ignores the rationale behind picketing (which is neither trivial, arbitrary, nor necessarily coercive) and the unequal power relations that often present picketing as the only option to strikers.

Finally, it is clear that in advancing the rights of the individual, the effect is to sustain the right to “strikebreak.” This affirmation, in turn, is legitimated by the scab’s supposed “right to go to work.” As Justice Scott comments in Thomas, “the working miners are entitled to use the highway for the purpose of entering and leaving their respective places of work….

34 Lord Reid in Broome v. DPP (Hunt v. Broome) [1974] ICR 84, at 89.

They are, in my judgement, entitled under the general law to exercise that right without unreasonable harassment by others” (pp. 1107, 1108, my emphasis).

ALTERNATIVE READINGS

It is dangerous and inaccurate to impute too much coherence to the discursive strategies of the state. Nevertheless, it is hard to deny the potency of the “right to go to work.” Most striking is the inversion that it allowed. The right to work and the right to free movement were implicated in a management strategy designed to deny work to miners, and served to sustain a police operation that curtailed the movement of pickets and nonparticipants alike. From the perspective of a striking miner, the irony is total. Not only are certain rights both appropriated and redefined, but those new rights are then turned around and deployed in opposition to the very original rights against which they acquire their meaning.

How was such an inversion achieved? Perhaps the comments of Stuart Hall (1983) on Thatcherism are useful in this context. He sees the power of New Right ideology as resting on its formative ability to translate policy initiatives into the “language of experience, moral imperative and common sense” (p. 28). Hall argues that this process is, in Gramscian terms, transformist, serving to absorb, appropriate and neutralize certain ideological codes. A “popular rupture” can thus be replaced by a putative “populist unity” (p. 31). Moreover, the power of Thatcherism, according to Hall, extends beyond its definitional abilities to its selective appeal to the lived experience of working people: “Thatcherism, far from simply conjuring demons out of the deep, operated directly on the real and manifestly contradictory experience of the popular classes” (p. 31). The success of Thatcherism—and the challenge that its presents to socialists—rests on these two planks: “It works on the ground of already constituted social practices and lived ideologies. It wins space there by constantly drawing on these elements which have secured over time a traditional resonance and left their traces in popular inventories. At the same time, it changes the field of struggle by changing the place, the position, the relative weight of the condensations within any one discourse and constructing them according to an alternative logic” (p. 39).

In these terms, the evocation of an individualized right to go to work has, it would seem, a potentially powerful appeal not only within wider English society, but also within the working class, at least to the extent
that it resonates with certain aspects of daily experience. To an extent this relates to the "imagined community" within which these rights were situated. The fundamentally decent Englishness of the right to go to work—especially as expressed in the county of Robin Hood, the original patriot—was positioned against the alien Other of the NUM (the enemy within, enthralled to their Libyan and Soviet "paymasters"). Tony Lane (1983) identifies another consideration, noting the way in which an attention to the "coercive" power of the union "touches the nerve of philosophical anarchism" which runs so strongly in the British working class wherein all forms of compulsion are deeply resented; it comes at a particular point in history where just about every institution has lost its legitimacy" (p. 183). It might also be suggested that an appeal to the rights of the individual may have an added localised purchase in the context of Nottinghamshire, precisely because of the individualized political culture of the coalfield (Griffiths & Johnston, 1991) coupled with the "widespread sense of a denial of individual rights" (Sunley, 1990, p. 44) in the county due to the lack of a national ballot during the strike.  

This is not to say, however, that the "right to go to work" was uncontested. The liberal language of rights, although powerful, is not entirely seamless. The validity of the claims upon which the right to go to work was based, its appeal to "Englishness," and the consequences of other rights: all were questioned by commentators. Although such oppositional voices are hard to trace, they serve to remind us, in combination, of the contingency and the conditional hegemony of the liberal rendition of mobility, work, and rights.  

Most immediately, there can be little doubt that many of those pickets (and of course nonpickets) whose movement was restricted by police operations felt aggrieved not only because of the restrictions this placed upon their activities, but also because of the affront to their perceived rights. Two of the pickets involved in the Mas case, for example, expressed their disappointment at the decisions, noting that "we believe in the freedom of movement and our right to travel round the country." (Manchester Guardian, November 23, 1984, p. 2). Larry Gostin, general secretary of the National Council for Civil Liberties, went further, linking the constraint on the "right of individuals to travel the country uninhibited" to the denial of another liberty, "the fundamental right of individuals to dissent, demonstrate and picket" (Gostin, 1984, p. iii).

Similarly, the circular link—picket/violence/crime—was challenged on several occasions, it being noted both that such crimes as did occur on the picket line were often of a minor nature, and that the presumption of picket criminality severed the connection between policing and picketing such that the commission of offences could not be divorced from their intrusive and aggressive policing (National Council for Civil Liberties, 1984).

We can also find more complex challenges to the orthodoxy and all that it claimed. A commentary by Pauline Stafford (1984), ostensibly describing a holiday in the English Midlands during the summer of the strike, poses some unsettling questions:

We stayed not far from Meriden, with its cyclists memorial, and its claim to be the centre of England, and it certainly felt like the idyllic heart of England we all mythologize. It was St George's Day, and the birthday of the Bard and the "Englishness" was palpable. What a pity about the roadblocks.

We saw them all the way down the M1. [Roadblocks which were a rather disturbing sight on the exit roads on the motorway were especially shocking at the entrance to the lane . . . in rural Warwickshire . . . leading to a perfect fourteenth-century church on the site of a lost abbey. But it also led to the local pit.

[Roadblocks are not part of the Noddy world we fondly idealize and it has not been PC Pid who has massed against the sniping lines of Yorkshire pickets. They are a reminder that authority is Janus-faced, turning a very different expression depending on the end of the social spectrum of the set of social beliefs it is inspecting. The bluff images of foaming pints by the village green belie a society in which freedoms are not as sacrosanct and cherished as we care to believe. (p. 12)]

Her reading not only challenges the legitimacy of the roadblock operation, it also provides an alternative reading of "Englishness" and rights, centered on the dissonance between a evocatively English place, replete with Shakespearean images of bucolic rurality, and the naked visibility of state authority.

But we can take another cut. Can it not also be argued that the strike

35In appealing to "rights," the authorities were also on firmer ground. As many commentators have noted, the economic basis for pit closures and downscaling was both insecure and morally ambiguous. Far better, in this context, to evoke a set of rights that struck complex resonances with broad sections of English society—especially when combined with the language of Englishness.

36Of the 11,312 arrested in England and Wales during the strike, the majority (69%) were charged with offences relating to a breach of the peace, unlawful assembly, or the obstruction of either a highway or a police officer. Conversely, only 10% of arrests were made for criminal damage, 3% for assault on the police, and 0.4% for grievous bodily harm (McCabe & Wallington, 1988, p. 163).
itself was, in certain ways, an attempt to construct an oppositional reading of rights, mobility, and jobs? By this, I mean that the motivation for the strike was not simply a defence of the "right to work." The strikers also advanced the "right to stay at work" that is, to remain at work in their chosen communities. The defense of work was, it seems, often also seen by strikers as a defense of community (Winterton & Winterton, 1989, pp. 68–69). In that sense, the strike might be thought to embody a popular resistance to the mobility of "nomadic capitalism" (Williams, 1985, p. 8) and to the "mobility right" of management to shift investment, coupled with a resistance to the "forced mobility" that would be visited upon working people with the closure of a pit. Like Stafford's contestation of Englishness, Raymond Williams's comments on the misappropriation of "community" by the forces of authority during the strike are useful in this regard, underscoring the divide between a Thatcherist imagined community and the material communities of social life: "What the miners, like most of us, mean by their communities is the places where they have lived and want to go on living. . . . I however, there is another use of community, to mean not these actual places and people but an abstract aggregate with an arbitrary general interest. Any wider community—a people or a nation—has to include, if it is to be real, all its actual and diverse communities. To destroy actual communities in the name of "community" or "the public" is then evil as well as false" (1985, p. 8).

Here again the right to work again connects with mobility rights, although the terms of reference are markedly different to that used by the authorities. That such an association seems, in contrast to that of the antistrike forces, unfamiliar and tentative speaks perhaps both of a failing on the part of the union, ill-equipped in the battle of ideas, and of the powerful means by which the alternative reading of jobs and movement was constructed.

CONCLUSION

For the police, the ideological and instrumental success of the roadblock policy signaled a strategic watershed. Since the end of the strike, roadblocks have become an almost routine component of the police repertoire. They were much in evidence in the disciplinary policing of a 1986 labor dispute at the News International Plant in Wapping, East London, during street disturbances in many British inner cities in the late 1980s, in the continued policing of the "peace convoys," and, more recently, in the attempts at intercepting the IRA in Britain, long a tactic within Northern Ireland. The legal authority for such action, in fact, has been clarified somewhat by the sweeping Police and Criminal Evidence Act (1984) which extends the power of the police to set up "road checks." This has led a number of writers to identify a drift to "public order" or paramilitary policing, with its attendant dangers of oppression, police centralization, and nonaccountability.37

However, the intercept policy was much more than a regulatory intervention. The claims upon which it rested marked an important representational shift. The legitimacy of the policy was sustained at a number of levels, including a legislative assault upon the geography of union activity, and a series of decisions that cast picketing in a largely negative light. All these discourses, however, must be situated with reference to a neocorporative narrative of rights, movement, and jobs. The effect was to criminalize the pickets and erase their rights. By their actions, they were preventing the individual exercise of employment and mobility rights.

The linkage between the discursive and the regulatory is, I think, important in a wider sense. One danger of recent scholarship has been its emphasis on normalizing and discursive power at the expense of a recognition of the continued importance of coercive and disciplinary power. An attention to the former, of course, is long overdue. The writings of Gramsci have been influential in this reorientation: his emphasis on the ideological and concensual underpinnings of hegemony have been widely invoked. However, there is a danger, as Crenshaw (1988) notes, in drawing selectively upon his account—so influential to many critical legal scholars. To Gramsci (1971), in fact, hegemony entailed a combination of both normalizing and disciplinary power, being made up of:

1. The "spontaneous" consent given by the great masses of the population to the general direction imposed on social life by the dominant fundamental group. . . .
2. The apparatus of state coercive power which "legally" enforces discipline on those groups who do not "consent" either actively or passively. This

37It is also notable that police roadblocks, and other forms of restrictions on movement, have been used—perhaps more frequently—in both the United States and Canada. A searing indictment of the generalized "militarization of space" in 1980s Los Angeles—of which roadblocks are merely one component—is given by Davis (1991, pp. 221–322). In Canada, in an interesting recognition of the symbolic and material importance of movement, First Nations across Canada have used roadblocks in furtherance of land claims, most famously at Oka, Quebec (York & Pindara, 1991).
During the miners’ strike, as elsewhere, the two cannot and should not be uncoupled.

A critical geographic sensibility alerts us to the vital connections between the regulation and representations of space, a combination that has both instrumental and ideological implications. Police roadblocks, in this sense, did not serve simply to stop the miners: they also acted to close down the terrain within which rights could be mapped by offering only one “commonsense” (yet contingent) reading of mobility and employment rights. While the union might have been fighting in the material spaces of pit communities and picket lines, the authorities were also fighting in the symbolic spaces of representation. As several commentators have noted, the NUM was “oldfashioned” in its reliance upon the mass picket to the exclusion of the battle of ideas. As Francis notes, “[T]he miners and the democratic movement have to accept that there is a political struggle behind the miners’ strike, and they must engage in that struggle in the broadest possible way” (1985, p. 35). Unpacking the politics of that struggle is an urgent task. It is one, moreover, which is facilitated by a critical interrogation of the politics of law and space.

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Moving, Leaving, and Arriving

When he enters the territory of which Eutropia is the capital, the traveller sees not one city but many, of equal size and not unlike one another, scattered over a vast, rolling plateau. Eutropia is not one, but all these cities together; only one is inhabited at a time, the others are empty; and this process is carried out in rotation. Now I shall tell you why. On the day when Eutropia’s inhabitants feel the grip of weariness and no one can bear any longer his job, his relatives, his house and his life, debts, the people he must greet or who greet him, then the whole citizenry decides to move to the next city, which is there waiting for them, empty and good as new; there each will take up a new job, a different wife, will see another landscape on opening his window. . . . So their life is renewed from move to move. . . . Thus the city repeats its life, identical, shifting up and down on its empty checklist. The inhabitants repeat the same scenes, with the actors changed; they repeat the same speeches with variously combined accents; they open alternate mouths in identical yawns. Alone, among all the cities of the empire, Eutropia remains always the same.

—Italo Calvino (1974, pp. 64–65)

In previous chapters began to explore the legal geographies of place and mobility, tracking their implication in both spatial practice—the ways in which societies organize and structure space—and spatial representation—the manner in which space is apprehended and presented. Clearly, the two are interconnected: while spatial representations are grounded in material spatial practice, representations can in turn structure practice. The development of property as a form of spatial representation, for example, was shaped by spatial practices linked to the evolving economy.
In turn, emergent conceptions of property generated changes in spatial practice, such as the partition of space into privatized sites.

This chapter attempts to be a little more ambitious. I hope to explore the legalities of both place and mobility, with specific reference to the linkages between practice and representation. As before, I will argue that the legal construction of both can be of profound political importance. Again, however, I want to suggest that such geographies are made, not found, relying upon a number of powerful liberalized claims concerning social and political relations under law. This mapping is, however, partial and political, and as such, open to a geographically informed critical scrutiny.

One influential commentator on spatial representation is Henri Lefebvre (1991), who makes a suggestive distinction between what he terms “representations of space” and “representational spaces.” While the former “instantiates the dominant space in any society” (p. 39), and are expressed in the conceptualized representations of those such as planners, designers, academics, and policymakers, the latter present space as “directly lived through [the] associated images and symbols . . . of ‘inhabitants’ and ‘users’” (p. 39). Representations of space, he suggests, are highly systematized and abstract, shot through with a formalized knowledge (or savoir) that usually implies the exercise of institutionalized power. Space itself is frequently depicted in absolute terms, as an external “thing” to be coded, divided, and ordered. Representational spaces, however, operate as more loosely structured and localized “connaissances.” Space here emerges in relativised terms, as inseparable from the play of local social relations. Such representational spaces, he argues, can depart significantly from the orthodoxy, serving as sites of symbolic opposition and resistance. When we distinguish between the “spatial science” of the architect and the planner and the inchoate sense of place of the local community, for example, we are distinguishing between representations of space and representational spaces.

For Lefebvre, the modern history of Western society can be seen as one involving the ascendency of formalized representations of space. Indeed, we could trace the rise of those disciplines concerned with space, such as planning, architecture, and geography, in precisely these terms. The danger of these hegemonic geographies, he argues, is that we buy into the claim that such formal representations are “technical” and objective, and thus miss their implication in social practice, ideology, and power relations. This political instrumentality is often concealed from us, precisely because of the dominance of an absolute conception of space. The construction of racism and sexism through the division and encoding of urban space (into suburbs, for example, or ghettos) can easily be obscured: spatial boundaries and differences can easily appear as natural or simply accidental.

Reflection reveals the multiplicity and the politics of such representations. Cities and city spaces, for example, are conceived and mapped in many ways, all of which can be politically consequential. This can occur formally, as within urban geography, sociology, and political science, or more informally. Whenever a newspaper reporter characterizes an inner city neighborhood as crime-ridden, for example, or a forestry company casts its investments in a small single industry town as “assets” in a larger portfolio, urban geographies are being drawn. Such representations are not only the prerogative of the powerful, of course, but circulate throughout society. Indeed alternative and oppositional geographies—many of them closer to representational spaces, in Lefebvre’s terms—can also be found, many of them opposed to the orthodoxy. If the residents of poorer downtown areas resist their own invisibility, or insist on alternative “maps” of their neighborhoods (refusing to be cast as “beyond hope,” or as simply “in the way” of proposed redevelopments, for example, they are engaging in an important form of political struggle.

How we represent space matters, for it affects our understandings and actions. More specifically, the dominance of formalized representations of space shapes what might be called the “universe of political possibilities,” making some forms of collective response and action seem inevitable and unnatural, while legislatively others as implausible, impossible, and even invisible.1 In challenging this closure, representational spaces offer us the alternative geographies of the city that can provide the grounding for an oppositional politics.

Opposing geographies seem much in evidence in a wider struggle over the geographies of the city, characterized by Langdon Winner (1992) as that between the increasingly “hyperspatial” forces of capitalist investment, and the place-bound contexts of community life. Driven by the development of flexible forms of transnational capital, and mediated by

1 In her study of turn-of-the-century Vancouver, for example, Kay Anderson (1987) documents the manner in which white society came to construct and represent one specific urban space, designated “Chinatown.” Chinatown, she insists, was made, not found, reflecting and structuring hegemonic notions of race and difference. This representation—which was expressed both formally and informally—offered a material justification for the adoption of various discriminatory forms of spatial practice, ranging from policing strategies to racist assault. In a contemporary context, Mike Davis (1993) offers a searing indictment of the “militarization” of space in contemporary Los Angeles, noting the way in which the homeless and the disempowered have been corralled, regulated, and disciplined through the adoption of a number of spatial strategies and representations.
new forms of communication and spatial coordination, this emergent "ethereal reality" operates with scant regard for the place-bound, situated geographies of working people. Put more prosaically, urban spaces have become increasingly subject to external forces of capital investment and disinvestment. The urban history of a country such as Canada, like that of any capitalist space-economy, can usefully be cast as one of "creative destruction." Massive and ongoing regional economic restructuring has meant not only the continual production of urban space, but also its annihilation, as today's boomtown becomes tomorrow's ghost town. The effect continues to be massive economic dislocation, as people are forced out of work at specific locations and forced to move in pursuit of a living.

These spatial practices are not only inscribed upon space, but bound up in the very spatial diversity of social life. For capital, geographic variations in resources and labor costs allow for continued profitability. Moreover, capital's greater command over space (its ability to relocate investment, for example) can be used to discipline a recalcitrant work force. However, the same spaces simultaneously form the context within which people live out their daily lives, serving as a setting for the locally constituted community. The subsequent tension between Friedmann (1983) terms the "economic spaces" of capitalist production and the "life spaces" of social reproduction are nowhere more evident than in the city which, to Mollenkopf (1981), "concentrate and contain two kinds of relationship: those of production and economic accumulation and those of social interaction and community formation. . . . Each of these aspects of city life presupposes each other, yet each operates by a distinct, unequal, and ultimately opposing logic. The ensuing tension deeply permeates urban institutions, urban form . . . and urban life."

Our political response to this tension—indeed, whether we cast it as a tension at all—depends largely on how we conceive the relation between mobility and urban space. Put crudely, two urban representations offer themselves. An orthodox "representation of space" sees the city as merely a gathering of individuals and, as such, a fragile and transitory thing. Movement in and out of the city is cast not only as frictionless and cost-free, but in itself, as an unqualified good, allowing for economic efficiency and individual liberty. Space here emerges in absolute terms, as a surface upon which atomized agents freely move. However, a surprisingly pervasive "representational space" casts mobility as profoundly frictional. By this account, there are real costs to out-migration that are not simply economic but also emotional, reflecting the severance of community and familial ties that go with leaving. Urban spaces are valued not as temporary nodes in a continual migratory process, but as "life spaces," rich with personal and cultural meaning. Whereas the first geography is a formalized one, that reoccurs throughout economic policy and legal and political discourse, the latter is more "community-based" and, as such, often weakly articulated. Whereas the hegemonic rhetorics of urban development and gentrification might be an example of the former—in which poor people are often "in the way"—the language of community resistance—in which people struggle to retain place and community—offers an example of the latter.

In this chapter, I want to consider two such contending representations of mobility and urban space. The first relates to the experience of a small, resource-dependent town—Kimberley, in southeastern British Columbia, Canada—which, like many such communities, has resisted the forces of dislocation and economic exile. Articulated, I suggest, are certain Lefebvrian "representational spaces" of the relation between community, capital, and place. More specifically, certain arguments—encapsulated perhaps in the notion of rights of mobility—seem to be powerfully advanced. Since 1982, section 6 of the Canadian Charter of Rights and Freedoms has claimed to protect mobility rights in a manner that seems, prima facie, to give hope to the small town. This seems affirmed by recent judicial decisions that have advanced similar geographies of mobility and rights. These relate to my second set of "representations," involving the claims of medical doctors to practice in their chosen city, without government restrictions on their personal mobility. This, however, raises a striking question: does an urban community have a Charter right to place, to resist forced mobility? Is capital's "right" to mobility illegitimate?

To understand why this is not so requires us to think of the judicial account in the case of the doctors as a formalized "representation of space" that relies on a structured treatment of space, law, and society, the effect of which is to force a distinction between the two cases. Like an academic discipline, it legislates certain moral claims (such as those of the residents of Kimberley) as inappropriate and illegitimate. This is doubly significant. First, it calls up very different political responses to the two cases, allowing us to regard the demise of the small town as unavoidable, if regrettable, hence debilitating political action. Second, the judicial representation is itself implicated in a wider set of representations and spatial practices—manifested in debates concerning economic integration—that are ultimately inimical to the "claim to place" of a town such as Kimberley. The formalized representation of space, in other words, with its powerful
claims of neutrality and spatial objectivity, has direct and alarming implications for spatial practice in the Canadian capitalist space-economy. Spatial practice and spatial representation seem mutually implicated.

ECONOMIC EXILE AND THE CLAIM TO PLACE

The town of Kimberley, B.C., some 900 kilometers east of Vancouver, is a place that has seen its share of creative destruction. For 130 years, periodic waves of capitalist investment have coursed through the surrounding Kootenays region, first centered on gold, then other precious ores and coal. Kimberley's fate has long been linked to the local Sullivan Mine—reputedly containing one of the world's largest deposits of silver, lead, and zinc—and with one company, Cominco Ltd. (Mountain treasures, 1979). The mine itself dates from 1896. In 1906 the then Consolidated Mining and Smelting Company of Canada took over the mine in combination with a zinc and lead smelter at nearby Trail. Cominco, as it became, grew to be one of the world's largest producers of zinc and lead, acquiring interests in the United States, Spain, and Australia. By 1989, company revenues had reached $1.59 billion, with profits of $214.6 million.

In January 1990, with only a few hours' notice, Cominco announced an "indefinite shutdown" of the mine and laid off seven hundred workers (see Figure 6.1). Six months later, however, the company reopened the mine, following an agreement with the local union, the United Steelworkers of America. The rationale for this closure is opaque, and has generated much controversy. Although Cominco cited falling zinc prices, the mine operated profitably in January 1988, when the price of zinc was even lower than it was in 1990. Others have suggested that the rationale may well have been one of labor control rather than market criteria. One critical factor, by this account, rests with the changing ownership of Cominco. Until 1986, the company was owned by a Montreal-based conglomerate, Canadian Pacific (C.P.). According to many analysts, C.P. regarded Cominco simply as a cash cow. Labor relations were generally good, with only five days lost in labor disputes since 1980. In 1986, however, Cominco was acquired by Teck Corp, with the backing of West Germany's Metallgesellschaft AG and Australia's MIM Holdings Ltd. Teck has taken a much more aggressive—and, by some accounts, confrontational—approach to its holdings, including the Sullivan Mine. One of

3During the closure, Ken Georgetti, the president of the B.C. Federation of Labour, claimed that "we're dealing with a company that has the worst industrial relations record

the most important issues, it appears, was the demise of the Contract Miners Incentive Program, which provided productivity incentives to a section of the Sullivan work force. Following a failure to renegotiate the bonus, the workforce was placed on "day's pay" on November 1, 1989, which led to a drop in productivity to one-third that of previous levels. It was this, quite possibly, which led to the mine's operating losses in November and December 1989, following a profit in the first ten months of the year. Robert Halbrauer, Teck's chief executive, promised to bring costs in line, and the mine was closed. Although the mine has ten years of useful life, Halbrauer commented that "there's no way we have ten years of life under conditions we have here. . . . What we have to accomplish is to see if we can get conditions to get maximum ore out of the ground at a profit.

in B.C. if not in Canada. Every major set of negotiations they have been in have either totally shut down the operation or had a prolonged strike with their workers" (quoted in Hunter, 1990, p. 9). This would seem to have been borne out by previous experience. Cominco was locked in a 17-week strike at its Highland Valley mine in 1989. Teck, according to some, will show "no squeamishness about clamping a padlock on money losing operations" (Lindsay, 1990, p. 1).
To do that, there have to be a lot of changes at Kimberley" (quoted in Howlett, 1990, B9, my emphasis) The pressure associated with closure appears to have been successful. A new 27-month contract was ratified by the union, with ground being given on the incentive agreement, resulting in an annual saving for Cominco of about $2 million.∗

Whatever the rationale, the closure proved a matter of grave concern for a small town (with a population of some 6,700) long dependent on the mining industry. Apart from employing a sizeable portion of the local labor force, Cominco paid $2 million in annual taxes to Kimberley, half of the city’s tax revenues. During the closure, estimates were made that at least 700 other workers in the local service economy would be affected. According to the mayor, "[T]his will be the straw that breaks the back of quite a few other businesses. The fallout of this announcement will be devastating, mainly because we’re a one-industry town" (Rose, 1990, p. 1). Even following the reopening of the mine, the prognosis is still worrying.∗ Lengthy attempts to diversify the economic base of the town have proved lackluster, despite vigorous local efforts and some government support. As early as 1972, local merchants had adopted a “Bavarian” motif for the commercial district of the town. At the center of Kimberley, for example, is the Platzl, "home of the world’s largest operating cuckoo clock, where every hour Happy Hans [the town mascot] steps out to yodel" (see Figure 6.2). Given the tension between urban destruction and community persistence, the representation of Kimberley as another place is especially arresting. More recently, a proposed $100 million Japanese investment in a neighboring ski resort has lifted some spirits. However, the substitution of one externally owned industry for another has generated some criticism (Hanna, 1992).

∗The negotiated pay increase, although ahead of private sector settlements overall, was in line with other mining companies. Moreover, the union failed to obtain indexed pensions and parity with other industrial workers. The company also managed to negotiate simultaneous contract expiry dates for the workforce at Kimberley and the neighboring smelter at Trail, thus preventing a dispute at one site from spilling over to the other.

∗The instability of Cominco’s local investment was subsequently evidenced in the nearby company town of Trail. On January 16, 1992, the company announced a sweeping program of layoffs at the town’s lead-zinc smelter. The mining economy upon which the whole region depends, indeed, seems increasingly to be at risk. A series of coal mines, which sustain the neighboring towns of Fernie, Sparwood, and Elkford, have recently faced closure (Vancouver Province, August 26, 1992, p. A3). In September 1992, the town site and three million tons, including grocery store and cinema, of the mining town of Cassiar in northern B.C. were auctioned off, following “production difficulties” at the province’s second oldest mine. Recently, Robert Halleauser has gone so far as to suggest that only 4 of the province’s 24 mines will be in operation by the end of the century, largely due to a shift of investment overseas.


One local reaction to the closure is of special note. As with workers in many other small towns in crisis, many of those laid off by Cominco felt that they would have no choice but to move in order to survive. However, there appeared to be a marked reluctance to abandon the town. There seemed a striking commitment to Kimberley and a resistance to the threat of “economic exile.” The words of the mayor during the closure, for example, combine this attachment to place with a sense of shared history: "We don’t believe [Kimberley] is in the wrong place. Kimberley is not a typical mining community. Kimberley results from the fact that the mine has been here 80 years and has evolved as a permanent community. . . . People have settled in the community and put their heart and soul in the community" (interview with author, June 11, 1990). In the spare, but eloquent words of a local resident, “I don’t want to lose the house. I don’t want to move. I like the area. I grew up here. My dad worked in the mine. Almost everyone in the street works for Cominco” (Rose, 1990, p. 1). Interesting, in this regard, is that one common problem of the town in crisis, that of declining property values, did not appear to
be an issue. In fact, rather than crashing, it appears that real estate values actually increased slightly during the closure (Simpson, 1990).²

This tenacious attachment to place in the face of economic restructuring appears as a recurrent theme elsewhere, played out again and again in different settings. At the same time as the Kimberley crisis, for example, residents of many small towns in the Canadian Atlantic provinces, such as Canso, North Sydney, Grand Bank, Trepassey, Gaultois, Bear Point, Digby, and St. John's, faced dislocation and economic exile following a series of plant closures by several large fish-processing corporations. Again, there seemed to be a reluctance to leave. One commentator noted, "Newfoundlanders are not nomadic. They are fiercely rooted to their places of birth, so much so that the local term for 'where are you from' is 'where do you belong?" Many live in the same communities as their forefathers. They tend not to have mortgages, building their homes themselves. . . . Selling a home is an unusual concept" (Yaffe, 1990). In particular, the mobilization of the residents of Canso, Nova Scotia, proved especially powerful as a symbol in the struggle to save single-industry towns. After emotional and skillful lobbying, a deal was patched together in July 1990 to save the Canso fish plant. A local councillor commented that "we couldn't let a corporation knock out a fishery that has been here for 400 years. . . . People were united here from day one to keep the fishery here; it's our history" (Cox, 1990).

MOBILITY, LIBERTY, AND RIGHTS

Let me pose the question that seems implicit in these claims. Do the residents of Kimberley, and other single industry towns, have a "right to remain in place," or put differently, a right to legitimately resist the economic exile that would be their lot if Cominco were to pull up stakes? Perhaps one way of encapsulating their claim is to think of the residents' "mobility rights," defined as their right to mobility under conditions of their own choosing: not only to move, if desired, but to resist mobility. Since 1982, the Canadian Charter has provided some protection of "mobility rights." Section 6 of the Charter holds, in part, that:

6(1) Every citizen of Canada has the right to enter, remain in and leave Canada.

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
(a) to move to and take up residence in any province; and
(b) to pursue the gaining of a livelihood in any province.

Is this not the very thing sought by local residents, that is, the right to "remain," to "take up residence," to work, to resist those "hyperspatial" forces that would destroy their town? Does Kimberley then have a "mobility right" under the Charter?

The judiciary is, for better or worse, the institution entrusted with divining the meaning of section 6. British Columbia's courts have been charged with this job on a number of occasions, most notably in relation to disputes over health policy. In July 1983, in an attempt to curtail costs and to ensure the equitable spatial allocation of medical services, the provincial government placed restrictions on the allocation of "billing numbers," which allow doctors to charge the provincial health plan for their medical services. A doctor without a billing number would find it effectively impossible to earn a living in the province.

In 1985, a successful legal challenge to this scheme was made by a physician, Razia Mia, partly on the grounds that it discriminated unfairly against out-of-province applicants and was thus a violation of section 6 of the Charter.7 Despite consequent amendments, however, section 9(1) of the provincial Medical Services Act continued to steer doctors to areas of underprovision. In allocating billing numbers, the authorities were authorized to consider whether any area was "oversupplied" by resident physicians. Consequently, it would prove harder for a doctor to work in a large city, such as Vancouver, than in a remote town with a deficit of medical resources.

Six physicians who had left the province, yet were all either natives of British Columbia or had trained, interned, or previously practiced in the province, were denied numbers in their chosen areas under this scheme, and challenged these restrictions before the Supreme Court of British Columbia, seeking relief under sections 6 and 7 (guaranteeing the right to "life, liberty and security of the person") of the Charter.8 The Supreme Court, however, decided that neither applied. Section 6, it was argued, did not extend to intraprovincial mobility, and section 7 did not protect the "economic rights" claimed by the doctors.

7Razia Mia and Medical Services Commission of British Columbia [1985] 17 DLR (4th) 385.
An appeal from this decision was heard by the federal Court of Appeal in April 1988 in the Wilson decision.9 The court posed itself two questions. First, did section 6 guarantee the right of a person to move within a province in order to gain a livelihood? Second, did the “right to liberty” extend to the right to practice medicine without constraint as to time, purpose, or place? In contention were competing definitions of liberty, the nature of work, and, as we shall see, geography. The Court of Appeal was to ultimately agree with the doctors, adopting an expansive and liberal definition of sections 6 and 7, treating them as interpenetrating and mutually defining.

The Wilson court begins with section 7, and seeks to establish whether the right to liberty extends to the right of a doctor to practice his or her profession without restraint as to place, time, or purpose. Unlike the B.C. Supreme Court, which held that section 7 dealt only with physical liberty and physical security, and did not guarantee an “economic” right to work, the Court of Appeal claims to seek a “generous” rather than a “legalistic” interpretation, arguing that the concepts of “life, liberty and security are capable of a broad range of meaning” (p. 14). The Morgentaler decision is approvingly quoted in support of the claim that the right to individual liberty must be sought not only in physical freedom, but in human dignity: “To be able to decide what to do and how to do it, to carry out one’s own decisions and accept their consequences, seems to me essential to one’s self-respect as a human being, and essential to the possibility of that contentment... If a person were deliberately denied the opportunity of self-respect and that contentment, he would suffer deprivation of his essential humanity” (p. 41 in Morgentaler, p. 15 in Wilson. Emphasis added by Wilson).

Central to the Wilson court’s account is the claim that work is central to this “essential humanity.” Quoting a dissenting opinion of the Canadian Supreme Court, it is argued that

Work is one of the most fundamental aspects in a person’s life... A person’s employment is an essential component of his or her sense of identity, self-worth and emotional well being... Employment is seen as providing recognition of the individual’s being engaged in something worthwhile. It gives the individual a sense of significance. By realizing our capabilities and contributing in ways society deems to be useful, employment comes to represent the means by which most members of our community can lay claim to an equal right of respect and of concern from others.


It is this institution, through which most of us secure much of our respect and self-esteem.11

The Wilson court can now argue, contrary to the claims of the B.C. Supreme Court, that work is both constitutive of individual identity and provides a means by which an individual can lay claim to the recognition and respect of other individuals.12 This broader reading of the nature of work allows the Court of Appeals to rhetorically “trump” the B.C. Supreme Court, by claiming that the case was first heard on “too narrow a basis” (p. 18).

What, then, of mobility? In arguing that provincial policy will restrict their movement within the province, section 6 is central to the doctors’ case. They claim not only the right to obtain a billing number (and thus pursue a livelihood), but also the right to choose the place within the province at which to work. A geographically restricted billing number, they claim, will determine their place of residence, while a roam number will provide only temporary employment and will thus necessitate continued movement from place to place (pp. 18-19). The B.C. Supreme Court had no time for this argument. Section 6, it was claimed, was only designed to deal with barriers to interprovincial movement. Further, it was claimed that section 6(2)(b) (the right “to pursue the gaining of a livelihood in any province”) did not create an independent right to work but had to be read, in the context of section 6 as a whole, as necessarily involving some element of mobility.

Conversely, the Court of Appeal seeks an expansive definition of section 6.13 “[M]obility is a fundamental right,” it insists, “and the right to ‘liberty’ bears directly on the right to free movement” (p. 25). Moreover, it holds that section 6, when read in conjunction with section 7, covers intraprovincial as well as interprovincial mobility.14 Wilson’s con-
struction of mobility draws heavily from the 1985 Mia decision, authored by Chief Justice McEachern. Similarly expansive, McEachern claims that "mobility and liberty, especially in connection with employment, are more than close neighbours in the constitutional house" (p. 402). Again, there is a rejection of the claim that liberty is exclusively related to physical liberty. At minimum, it is held that:

Liberty must include those freedoms of lawful conduct always enjoyed by Canadians and by our predecessors in the Anglo-Saxon heritage. If we have enjoyed a right for many centuries then it must surely be included in "liberty" whether specifically stated in the Charter or not.

Rights we have enjoyed for centuries include the right to pursue a calling or profession for which we are qualified, and to move freely throughout the realm for that purpose. These are rights our people have always taken for granted. Who would question them now? (p. 412).

In a Cokician twist, McEachern goes so far as to provide a brief account of the geography of English feudalism, it being claimed that, historically, "restrictions on movement for purpose of employment, were short of imprisonment, the most severe deprivation of freedom and liberty" (p. 413). It was the sad fate of the English serf to be tied to the soil, he notes, unable to move in pursuit of employment elsewhere. This tied status only disappeared with the rise of the cash economy. Now able to pay rent instead of service, the farmer becomes able "to move away from the manor to which he was tied so as to improve himself and his family" (p. 414). It is Canada, however, which embodies the final summation of the holy trinity of mobility, liberty, and work:

In more recent times most of our people, or their parents or grandparents, moved to this country and to this province. They came here for many reasons, but principally to improve themselves economically. Until now, it has never been suggested that options of location within a province could be restricted. After all, this is Canada where freedom of movement for any lawful purpose has always been one of the hallmarks of liberty.

In view of this history, I have no doubt that freedom of movement within the province for the purpose of lawful employment or enterprise, of [sic] for the practice of a profession, trade or calling by qualified persons in any community, is indeed a right properly embraced within the rubric of liberty. Practices which purport to limit or restrict that right are invalid and must be struck down unless permitted by the Charter. (p. 414)

The Mia interpretation clearly influences the Wilson court, who also hold that liberty "may embrace individual freedom of movement including the right to choose one's occupation and where to pursue it, subject to the right of the state to impose, in accordance with the principles of fundamental justice, legitimate and reasonable restrictions on the activities of individuals" (p. 18, emphasis added). Sufficient to say that the governmental constraints are held to be both unfair and in contravention of principles of fundamental justice. The court approvingly quotes the comments of counsel for two of the doctors: "It certainly amounts to less than fundamental justice when at issue is a person's livelihood and ability to reside in his own province. The effect on a young doctor in BC is devastating. Young physicians are kept out of their hometowns or even out of the province" (pp. 28-29).

At the core of Wilson, and of the Mia decision upon which it rests, then, are two powerful and principled claims about liberty and the geography of employment. First, it is held that individuals must be free to choose their own geographies, subject only to reasonable restraint. Second, given that the choice of location is a vacuous liberty in a capitalist economy, it is held that an individual must be free to pursue a living in the place of his or her choice.

Policing Boundaries

The concerns of the medical profession might seem far removed from those of the residents of a small town, such as Kimberley. However, let me suggest that the arguments that both advance are, at first reading, strikingly similar. Both seem to consider work as more than a pecuniary and narrowly economic activity, but as bound up in self-worth and some sense of community recognition and esteem. Both also define mobility with reference to charged concepts of geography and of liberty, asserting...
a normative vision that regards the choice of place as an essential right. There is an ostensible difference between the two, to the extent that the courts are concerned with the right to move to a place, while Kimberley residents seem more concerned with the right to remain. Ultimately, however, both presuppose a right to the choice of residence, unrestricted by illegitimate constraint. Indeed, the central claim of Wilson—the “right to choose one’s occupation and where to pursue it”—could have come from the mouth of a Kimberley resident.

This raises an explosive question. Where does the Wilson interpretation end? Can it include the case of a town like Kimberley? Using Wilson and Mia, can we not claim a radically extended account of social justice that would include the implied claim to place of a small town’s residents? Comino’s closure, perhaps, could be defined as a practice that violates the right to “choose one’s occupation and where to pursue it” (Wilson, p. 118), given its devastating economic effects on the local economy and the town, and could thus be deemed a violation of the Charter. It needs hardly be said that the consequences of such an interpretation would be profound. Most immediately, it would have a radical effect upon capital’s right to “close up shop,” defended by writers such as McKenzie (1982). It seems that Kimberley’s claim to place has, like many representational spaces, an explosive and subversive potential.

However, it has never reached the courts and it is unlikely ever to do so. Indeed, it would be a foolish lawyer who attempted to make such a legal argument. As a consequence, doctors enjoy mobility rights that are denied the miners and residents of Kimberley. This raises a question: what might be the basis for such a distinction? The difference has less to do with the normative validity of Kimberley’s “mobility rights” as such—which I find substantial. However, if we were to ask the courts, it would have little problem in judicially distinguishing the two cases on a number of axes, and hence delegitimating Kimberley’s claim.

The first, most immediate distinction that could be made by the court between the two cases rests with the type of work that a doctor and a miner engage in. Doctoring, it could be argued, is qualitatively different from mining and, as such, qualifies for distinct forms of legal protection. Such a division was, in fact, made in the B.C. Supreme Court’s Clearview decision of 1986, in which a dairy farmer, drawing on the Mia decision, sought section 6(2)(b) protection in order to obtain a provincial milk quota. In Clearview, Justice Toy clearly distinguished the dilemma facing Raziya Mia, denied a billing number, from that facing the dairy farmer, denied a milk quota: “In Mia the doctor had all the requisite professional qualifications and was licensed to practice her profession in British Columbia. It may not be a popular or fashionable distinction, but, nonetheless, neither Clearview nor Mrs. Tucker [the farmer] has been accorded any special status to produce milk such as the good doctor had in the Mia judgement” (p. 240, my emphasis). By this logic, the “special status” of doctors as compared to “unqualified” miners could be seen as justifying different degrees of Charter protection.

Another critical distinction that could be made between the two is to distinguish the individualized rights expressed in Wilson and Mia from the “community rights” advanced by the residents of a town such as Kimberley. This is an important distinction that relies, in part, upon the liberal worldview (Bakan, 1991; Petter, 1987). Liberalism begins its analysis from the individual, characterized as autonomous and self-sufficient. The self, in this account, is innate, and is not constituted, even partially, by relationships with the community. Indeed, the individual is to be protected from the potentially oppressive actions of the community. The language of individualism courses through Wilson, with some fifty-nine assertions of individual rights. Typical is the claim that “the rights being asserted . . . are personal rights affecting the freedom and quality of life of individual doctors. The effect upon them of the alleged deprivations is personal” (p. 19, emphasis added). Work, it will be remembered, is defined largely with reference to the idealized individual’s self-worth and self-affirmation. The very rejection of the provincial legislation by the courts signals this individuated predisposition. In striking down restrictions on mobility, the court affirms the individual rights of the doctor in the face of the coercion of the civic community which, in seeking equitable medical provision, unjustly places the “good” before the “right.”

This, however, is not the language of the town in crisis. While the world of Wilson is one of distinctiveness and separation, and a suspicion of the civic community, rights and obligations now provide for interaction, rather than division. The account here is not one of autonomous individuals who happen to share a similar address, but one of interdependence and mutuality. While not wishing to romanticize or reify “community life,” it is hard to deny that much of what seems to go on in a place like Kimberley is incoherent in purely individualistic terms.

We can see this, perhaps, when we consider the way in which the relation between local people and Cominco is locally understood, especially following the closure. Instead of being characterized as a formalized legal relation between individuated employees and an employer, the emphasis is on concepts such as obligation and betrayal. The premise here
seems to be that of a localized set of unwritten mutually understood relationships between company and town. Although power and paternalism are clearly part of this nexus, there is, nevertheless, a sense of mutual obligation. In closing, Cominco had shuttered the very bond that had sustained both mine and town since the 1890s. Commenting on this shift, the mayor noted that

There are still people here today to whom you say "Cominco are not treating the town right," and they'll say, "I don't care what you say. Back in 1936 they gave my job, and I've raised my family here." But the modern Cominco attitude, they say, "well we pay taxes, therefore we don't have any responsibilities. Our responsibilities are to pay taxes and to generate profit for our shareholders." (interview with author, June 13, 1990)\footnote{The mayor also noted that "as time went by, CP began to operate with less feeling for the community. Teck has even taken that a step further" (Howlett, 1990, p. B9).}

Put more bluntly, he claimed that "somebody in the board room has made a decision, an economic decision...to close the mine here, and that decision has effectively killed the town..." (CBC Radio News, January 31, 1990). This concept of betrayal, of course, appears incoherent from an individualistic perspective. It assumes that rights and needs that supposedly inhere within the autonomous individual are, in fact, mediated by place and community (Singer, 1988a).'

In seeking to further gloss the difference between the two cases, the court could also extend the logic of its distinction between individual and community rights by arguing that section 6 protects only those affronts to Charter rights that occur within the public sector—most notably, of course, the actions of the state. Thus the actions of the Medical Services Commission can be distinguished from the private sector actions of Cominco. The right to place, thirdly, could be characterized as a public, not a private, right.

Such a differentiation, of course, is central to liberalism and to Charter jurisprudence and is, more than likely, the first one that the court would seize upon if asked to distinguish between the two cases. The main enemy of freedom, from this perspective, is not the private corporation, disparities in wealth, discrimination, patriarchy, or violence, but the state, which must be kept in constant check. It is assumed that the private sphere is essentially the domain of individual liberty. The state, as a component of the collectivized public sphere, is thus viewed with suspicion. Ideally, the role of public institutions is to regulate the private sphere to the minimum extent necessary to ensure efficient orderings. Many legal authorities go so far as to regard the Charter itself as concerned only with the public sphere. Thus, Chief Justice Dickson held that the crucial function of the Charter, is "the defence of basic individual liberties and human rights against intrusion by all levels of branches of government."\footnote{17Academic commentators have concurred. Bainviance (1982) claims that section 6 of the Charter was designed "to create a relatively secure sphere of moral minimum[s] for human dignity from which the powers of government are banned" (p. 347).\footnote{In fact, Mia makes this distinction explicit. After his lengthy historical excoriation of mobility restrictions, MacEachern catches himself, insisting hurriedly that his argument can only apply to privatized relations: "I hasten to add that the foregoing does not mean that anyone has an absolute right to a livelihood wherever he wishes. He may pursue such livelihood by the exercise of his skill and industry, but, subject to the general law, others have rights not to employ or retain any particular person, and everyone must make his own lawful way wherever he goes" (pp. 414–415). If this distinction can be sustained, Charter mobility rights can only be upheld within the public domain. Kimberley residents, if they have a claim to place akin to that of the Wilson logic, face a set of social forces beyond the scope of the Charter. Finally, and importantly, community and the individual, as concepts, have certain geographical correlates that can further force an analytic distinction between the two examples. The Wilson and Mia accounts, it could be argued, use the language of space, while the community perspective privileges place.\footnote{By this I mean that the courts construct an abstracted map of social life, treating space as a trans-Canadian (even trans-}}

\footnote{18R v. Beareoud [1986] 2 SCR 56, at 72.}
global) surface of opportunities upon which individual actors can move in pursuit of economic gain. Such is the significance of free movement to McEachern that he evokes it in the same breath as liberty itself. Similarly, the Wilson court outlines, in great detail, the migratory paths of individual appellants (in one case, from England to Ontario, and then to Vancouver, before leaving for Micronesia, and then returning to British Columbia). Given their assumed individualism, the doctors are considered almost as migrants, rather than immigrants or emigrants. Little attention is given to the severance of local social and cultural ties that go with departure, or the upheaval occasioned by arrival. One is reminded of the mythic isotropic plain of regional science, upon which the rational, self-willed individual roams. The account is simultaneously heroic—of the lone individual confronting all odds in pursuit of economic advancement or the abstract hierarchies of central place theory—and profoundly lonely.20

We have already met similar geographies. The Mau and Wilson courts present a treatment of abstract space, coupled with a suspicion of place bound legal action, that I have identified in English common law and American Federalist discourse. Similarly, the heroic treatment of individualized mobility is very similar to that deployed during the British miners' strike. The resonances, however, go considerably deeper. Useful connections can also be drawn with other liberal thinkers, such as Thomas Hobbes. As has been noted (Macpherson, 1988; Turner, 1984, p. 87), Hobbe's individualist and materialist account draws on a specific conception of the geometry of bodies, in which attention is drawn to the vectors of human action. The individual, to Hobbes, appears "as an atom . . . hurtling across a flat social plane; that is, a landscape without any visible contours of social distinctions to bar his path or predetermine his line of motion" (Wolin, 1960, p. 282), driven by individualized appetites and aversions. To Hobbes, the essential liberty of the subject presupposes certain forms of mobility that are both metaphorical and literal. In an influential description, liberty is wedded to freedom of movement. "Liberty," to Hobbes, "signifieth (properly) the absence of Opposition; (by Opposition, I mean external Impediments of motion)" (Hobbes, 1651/1988, p. 261):

brakes on the full expression of Charter rights, it has been argued that "they do not alter the fact that liberal individualism is the engine that drives the Charter carriage" (Hutchinson & Petter, 1988, p. 283).

20 evoke the idea of solitude deliberately. To me, it seems to cut to the human sterility at the core of the liberal vision, where the emphasis is continually on division and distinction. Nedelshyk (1990) captures this notion well when she notes that, by this account, "the most perfectly autonomous man is the most perfectly isolated" (p. 167).

For whatsoever is so tyed, or environed, as it cannot move, but within a certain space, which space is determined by the opposition of some external body, we say it hath not Liberty to go further. And so of all living creatures, whilst they are imprisoned, or restrained with walls, or chains; and of the water whilst it is kept in by banks, or vessels, that otherwise would spread itself into a larger space, we use to say, they are not at Liberty, to move in such manner as without those external impediments they would. (pp. 261–262)

Hobbes insists that the association of freedom and liberty with anything but bodies is an abuse of the term, "for that which is not subject to Motion, is not subject to impediment" (p. 262). Not surprisingly then, the laws that men construct within the commonwealth are presented in terms of their effect on motion; in one place, regarded as constraints on that mobility ("Artificial Chains . . . called Civill Lawes"—p. 263), at another place characterized as a benign constraint upon human "motion": "The use of Lawes, (which are but rules Authorised) is not to bind the People from all Voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves or their own impetuous desires, rashnesse, or indiscretion, as Hedges are set, not to stop Travellers, but to keep them in the way" (p. 388).

William Blackstone, writing two hundred years later, adopts a very similar account, although the science to which he appeals is not geometry, but rather mechanics and Newtonian physics. At its most abstract, law signifies a "rule of action," which derives from God. In forming the universe, He "impressed certain principles upon . . . matter," the most important being "laws of motion, to which all moveable bodies must conform" (1765/1838, p. 38). Mobility emerges in his discussion of the absolute rights of men, which are reduced to that of personal security—the legal and uninterrupted enjoyment of life, limbs, body, health, and reputation (p. 128); private property (the free use, enjoyment, and disposal of acquisitions (p. 138); and the right to personal liberty. The latter, importantly, is defined as the power of "loco-motion," that is, the power of "changing situation, or removing one's person to whatsoever place one's own inclination may direct; without imprisonment or restraint, unless by due course of law" (p. 134). The right to personal liberty, to Blackstone, effectively reducible to mobility. On the one hand, it protects against wrongful detention and arrest (a Hobbesian account of "Opposition"), while also extending to the power to resist forms of forced mobility—most notably, exile. "[E]very Englishman," he intones, "may claim a right to abide in his own country so long as he pleases." Given the degree to which the law "is in this respect so benignly and liberally
construed for the benefit of the subject," the king "cannot send any man out of the realm, even upon the public service, excepting sailors and soldiers" (pp. 136, 138). This provides a subtle, though significant, inflection that bears on the case of the town in crisis. Mobility is now defined as not only the right to move, but also the right to resist movement.

In drawing from this rich liberal tradition, the Wilson and Maa courts characterize place as an obstacle to uncontrolled movement—even a threat to this fundamental right. For the Maa court, status and the bonds of place are synonymous with bondage, stagnation, and the premodern. As with Hobbes and Blackstone, movement is freedom. The Kimberley account, however, implies a very different geography. It is both about a specific place, and the importance of places in general. It is not an account of surfaces, viewed from above, but one of discontinuous and situated landscapes, viewed from within. Movement, from this perspective, is not hyperspatial, but deeply frictional. In part, this reflects not just the financial costs of relocation, but also the social penalties. A strong sense of attachment to a people and a place is evident. This can be found in other places where, despite the disadvantages of life in economically unstable settings, a strong local consciousness is expressed. It has been noted, for example, that despite the very real hardships of life in Canada’s single-industry towns, a strong sense of satisfaction can be observed among local residents. This local commitment is reflected in a reluctance to leave when economic crisis strikes (Canadian Employment and Immigration Advisory Council, 1987). People often seem to value the places in which (and through which) they live for reasons which cannot be reduced to the rational pursuit of individual advancement.

REPRESENTATIONS AND PRACTICES

Identifying such representational conflicts might seem both contrived and forced. More seriously, my argument could be characterized as diversionary. The real issue here, it could be charged, is being avoided: the working people of Kimberley face massive dislocation, as do the residents of other economically vulnerable towns. Unraveling the representational geographies of the city might seem, in this sense, a diversion of energy from more important battles. Not so. Although the two might appear to be unrelated, a closer analysis reveals a surprising linkage. Although the legal discourses make no reference to the case of the single-industry town, they are implicated in a wider set of spatial representations and practices that are politically consequential in both material and ideological terms. The orthodox representation of mobility rights, it can be argued, not only allows us to make a distinction between “legitimate” and “illegitimate” rights claims, it actually militates against the “claim to place” of the small town. It is precisely for this reason that identifying and challenging the orthodox representations of space is a critical task. The claimed authority and objectivity with which the court speaks, however, can obscure the degree to which its representational claims are themselves highly politicized, premised on conditional and partial representations of space, society, and economy.

The politics of section 6 is revealed by its history. It was included in the Charter to advance the “Canadian economic union,” defined by Jean Chrétien (1980) as “an entity within which goods, services, labour, capital and enterprises can move freely, that is, without being subject to fiscal and other institutional barriers” (p. 1). Laskin (1982) notes that “it was concern about the economic balkanization of Canada that was largely responsible for the inclusion in the Charter of provisions relating to interprovincial mobility. An assortment of provincial and federal laws and policies, it has been argued, create barriers to interprovincial economic activity and subvert the operation of the Canadian economic union” (p. 93). Concern at the internal movement of factors of production was first expressed in a seminal paper by Saffarian (1974). In 1980, Jean Chrétien expressed similar disquiet at the plethora of provincial barriers to the mobility of labor, including provincial employment preferences, restrictions on nonresident landownership, and provincial certification and licensing requirements. It is also quite clear that it was not just the mobility of labor, but that of capital, services and commodities, that was seen to be at issue. Were this mobility to freely occur, it was argued, comparative

21Similarly, a detailed study of plant closures in Youngstown, Ohio (Bus & Redburn, 1983) found that 82% of a sample of unemployed steelworkers claimed to have a deep “sense of belongingness,” while only 8% claimed to feel isolated. Only 6% of the laid-off work force applied for federal assistance to relocate; only 7% applied for travel assistance for job-search. The authors argue that this reflects the importance of local, intergenerational support networks that offered informal counseling, shared jobs, and provided general support.


23Binacina (1982) sees section 6 as “the centrepiece of the economic union.... It is designed to dismantle Canada’s ten ‘Berlin Walls’” (p. 364).

24Indeed, Binacina (1982) goes so far as to argue that the free movement of capital and goods is also protected by s(2)(b) of the Charter since they are employed by a person to pursue the gaining of a livelihood. By this account, even the actions of Cominco may receive Charter protection. Recent federal proposals to entrench “property rights” could also be seen as providing further justification.
advantage and economies of scale would operate so as to enhance overall economic efficiency and international competitiveness (Binavince, 1982; Breton, 1987; Lee & Trebilcock, 1987). The right to mobility, then, has more to do with economic efficiency than with individual liberty.

This linkage became both more explicit and more powerful during the recent round of Canadian constitutional reform. Noting that the "full mobility of people ... is a basic right of all Canadians," the federal government proposed in 1991 that section 121 of the 1867 Constitution Act be "modernized to enhance the mobility of persons, capital, services and goods within Canada by prohibiting any laws, programs or practices of the federal or provincial governments that constitute barriers to such mobility" (Shaping Canada's future, 1991, p. 30). Not only were such proposals to be legally enforceable, they were also to be targeted at free factor movement within, as well as between, provinces (Glasbeek, 1992). A revised version of these proposals was included in the Charlottetown Accord, a package of constitutional amendments released in October 1992.

The economic union seems to have survived the defeat of the Accord in a national referendum. A similar proposal resurfaced in November 1992, as government and corporate elites struggled to salvage those advantageous concessions that had been wrung from provincial governments and the Left during constitutional negotiations. Contemporary government and corporate rhetoric (and that of the recently elected federal Liberal party) continues to take as axiomatic the need to remove "internal trade barriers." However, while the primary impetus behind the "new federalism" of the Trudeau government of 1980–1984, of which the proposed economic union of the day played a central part, related to political domestic concerns and concepts of Canadian citizenship, present proposals have been packaged in the language of the free market and the global economy (Stein, 1991). Indeed, the major justification for the economic union provided in the 1991 constitutional proposals was that of international competitiveness in the face of growing international integration (Shaping Canada's future, 1991, pp. 28–29; McDougall, 1991). The economic union, in this sense, cannot be disentangled from the massive and antidemocratic drive for enhanced "free trade" within the North American continent. For Michael Mandel, the Charter is in this sense "on the side of the free play of market forces, unhampered by any mere political interference, no less than free trade or the other elements of the new era of global competition" (1991, p. 147).

The arguments used to support mobility rights and the economic union are strikingly similar to those put forth in Wilson and Mia. A clear distinction is made between the public and private sector, for example, with section 6 targeted at the "distorting" intervention of the public sector. Harris and Purvis (1991) cite provincial policies, such as discriminatory provincial purchasing policies and commodity marketing, and federal interventions, such as the unemployment insurance system, as the main culprits, rather than the structures of "private" capital. In a move strikingly similar to that advanced in defense of international free trade, it is maintained that the state must absent itself from the space-economy. It is also clear that economic union arguments favor an individualistic, space-based vision, rather than a community place-based account. Lee and Trebilcock (1987), for example, argue that mobility is a fundamental individual right. The main purpose of section 6 is "to protect those mobility rights that are most closely tied to the concept of personhood" (p. 283). This is also closely allied with citizenship (Chretien, 1980, p. 2; Harris & Purvis, 1991, p. 381). Again, mobility rights are characterized as the right of the individual to move within the Canadian economic space, rather than the right to resist forced mobility (Harris & Purvis, 1991).

By the same token, the economic union arguments seem openly skeptical of alternative claims to place or community. In arguing for the individual's right to move, Lee and Trebilcock (1987) assail those regional transfer payments that could sustain the community in crisis:

[A] very compelling ethical case in terms of theories of community rights and distributive justice needs to be advanced to justify the general reduction in national welfare likely to be entailed. While the severance of community ties or roots that economic adjustment will entail in some cases undoubtedly involves real social costs, simply demonstrating that this is so does not in itself establish the case for forgoing even larger social gains from enhanced economic mobility. (1987, p. 317)

Implied here is a "trade-off" between the claims of the local community, experiencing capitalist "adjustment," and that of a national community that will forgo growth if adjustment is denied. While wondering exactly where (or who) this "national community" is, we might also question a normative vision that opposes this abstracted "community" to "social gain," defined in terms of economic efficiency. This question has an added urgency, given that the recent federal proposals also insisted that Canada's national Parliament be granted the power "to make laws for the efficient functioning of the economic union" (Shaping Canada's future, 1991, pp. 30–31). Under this scheme, the federal government would have acquired sweeping powers to disallow any provincial regulation that was
deemed a hindrance to interprovincial mobility, even if it was viewed by the courts as furthering equalization or regional development goals (assuming that two-thirds of provinces representing at least 50% of the population concurred) (Trimble & Morley, 1991). The higher good of national efficiency, then, could be used to trump principles of equalization and regional development—the very tenets that could be used to support a town in crisis such as Kimberley. Moreover, the entrenchment of “efficiency” raises worrying questions. Canadian courts would be asked to apply a nebulous yardstick in order to “balance the supposed benefits of government initiatives designed to increased national efficiency with the needs of ‘have not’ provinces. . . . What will take primacy; the goal of efficiency for the nation as a whole or the principle of regional development?” (Trimble & Morley, 1991, p. 73; see also Lessard, 1992). The answer to this question, of course, is unknown. However, if case law surrounding section 6 provides any guide, the courts are likely to be more sympathetic to the former. Early critiques of the economic union, such as then Prince Edward Island Premier Fred Driscoll, were sure of the relation. The union, he claimed, was discriminatory: “It discriminates in favour of the economically powerful and against those who could be used to concept which adheres to the dogma of the economy of scale, a dogma which has proven to be somewhat ruthless in its effect on those regions and communities which do not fit the dogma” (quoted in Jackman, 1985, p. 43).

The history of section 6, then, demonstrates that Charter mobility is far from an empty category. In its celebration of individual movement, hostility to public sector actions, and implied opposition to claims of community and place, constitutional discourse echoes the Maa and Wilson decisions. The homology is made clearer by the definition of section 6 given by other Canadian courts.28 If we explore the rationale behind section 6, it seems, we find an economic geography that is opposed not only to the language of a town such as Kimberley, but also to the very claim to place advanced by local residents. Ironically, section 6 of the


Movement, Leaving, and Arriving

Charter does seem to have a perverse relevance for the single-industry town.

We can see the direct implications of the economic union to a town like Kimberley in relation to government attempts to sustain the economic base of the town. Had the recent government proposals been accepted, these would have been rendered vulnerable. Prior to the mine closure, state loan guarantees and interest-free loans of $124 million were made on the assurance that this money would help both the Trail and Kimberley operations. Industrial retraining programs were also in place. Following the closures, some $600,000 of provincial grants and loan guarantees were provided. Such policies, and others such as differential provincial tax rates designed to tempt investors to areas of high unemployment, could have been characterized under the 1991 constitutional revisions as marketplace “distortions,” acting as barriers to the free flow of capital and labor. That this is not an impossibility is shown by David Schneiderman (1991) who draws on the judicial treatment of a similar section of the Australian Constitution to argue that as “any regulatory measure is intended to ‘distort’ the operation of the free market, most measures would be prima facie challenging under the proposed section, 121” (p. 43).

There are also more indirect implications of the economic union rhetoric, especially if it is understood as part of a wider set of liberalized claims. Not only could Kimberley face problems in obtaining state support, but the very legitimacy of its claim to place and community is thrown into question. As the geographies of accumulation and international competitiveness presuppose the free mobility of capital and labor, so a place such as Kimberley, with its aging plant and localized ties, appears as an active barrier to unfettered accumulation. Urban spaces, on the hegemonic account, are imagined to be “relatively open systems; people move in and out uncluttered by the baggage of community consideration” (Cox, 1981, p. 435). It is this longed-for fluidity, of course, that is assumed in the operation of economic spaces at varying scales, cascading from the international territories of the Free Trade Agreement (FTA) and North American Free Trade Agreement (NAFTA), through the regional spaces of plant closures, to the urban geographies of gentrification. A generalized capitalist space-economy, it seems, necessitates rapid and frictionless factor mobility not only between, but also within, individual states. It is not surprising that as the Canadian corporate elite rushed to rally behind NAFTA, so it threw its weight behind the economic union (Rocher, 1991). To many critics, such practices are a means by which Canadian capitalism "harshly and brutally, seeks to main-
tain and perpetuate itself in a meaner, leaner way” (Drache & Glasbeek, 1989, p. 559). 26

There are other, more complex implications of the hostility to place that section 6 embodies. Such is the power and prevalence of this hostility that the alternative vision becomes a deviation from the norm. The effect of this suppression is, of course, to belittle or even deny certain social possibilities, or alternative ways of imagining the world. Apart from reducing such political possibilities, the courts’ suppression may also limit the likelihood of activism and coalition building, as well as curtailing legal challenges to plant closure and local economic dislocation. 27 This is important, given the explosively progressive potential of mobility rights. If creatively re-imagined, a right to mobility can be extended not only to the resistance to economic exile, but to to many other forms of oppression, such as the constraints upon personal mobility that women may feel when faced with sexual violence, or that the physically and mentally handicapped may experience, as well as the limits to residential mobility that people of colour may experience. In their implicit struggle to contain these corrosive possibilities, it is ultimately the courts that provide the most pernicious barrier to “free” mobility (Blomley, 1994).

To see the consequences of this proscription, we need only think of the political outrage and mobilization that occurs when it is the turn of the state to either deny or to force a geography upon a people. 28 Although the denial of place in these contexts is undoubtedly immoral, the systematic and self-conscious dislocation of communities through “private” sector action is no less abhorrent. However, the language adopted to define these cases—of which the Wilson and Mia courts are only examples among many—would seem to allow us to distinguish between two events, such that one could be defined as a contestable act of oppression, the other as an inevitable loss, to be individually borne.

26An extensive literature argues that the interpretation of many other sections of the Charter has also been deleterious to the interests of working people (see Drache & Glasbeek, 1989; MacNeil, 1989; and Mandel, 1989, for summaries. More generally, see White, 1986).

27To my knowledge, there have been no such attempts in Canada. The abortive attempt of local unions in Youngstown, Ohio, to challenge closures through the courts and get jobs is outlined, in an illuminating fashion, by Singler (1988). Rothstein’s (1986) arguments concerning the power of “myths” in shaping consciousness, and their effect on activism in the face of plant closures, are also instructive.

28As for example, in the Israeli-occupied West Bank, where Palestinians have been systematically expelled (Diedj, 1990), in British Columbia during the Second World War, where the coastal Japanese-Canadian community was uprooted and forced into interior camps (Kobayashi, 1990), or in the ethnic “cleaning” of areas of Bosnia (O’Kane, 1992).
cerning employment status. The other basis for the distinction, apparently, is to note, following the Clearview logic, that doctors are accorded a "special status," by virtue of their "professional qualifications" that a miner is not entitled to share in. This then raises a question concerning the status of the professional. The cynic might suppose that this simply constitutes a normative (and snobbish) distinction between the formally accredited, middle-class doctor, whose exertions are as much mental as manual, and the "untrained" and "unlicensed" "manual" worker—whether farmer or miner. It is interesting, in this regard, to note the preponderance of favorable Charter decisions relating to other "professionals" such as doctors and lawyers (Mandel, 1989, pp. 218-222). However, an examination of the nature of work in a town such as Kimberley might suggest that such a difference is implausible. The implication that "professional" work is somehow "better" than "nonprofessional" work is belied both by the considerable levels of skill of the latter, derived from both informal work cultures and formal training, and by the frequent assertions of work pride among "nonprofessionals." Indeed, the Wilson court admits as much in its citation of the Canadian Supreme Court: "all work, it suggests, is a means of laying claim to personal identity and self-respect and is thus equally worthy.

The public/private distinction, I have suggested, is also central to the court's account. An immediate challenge can be made of the claim that the Charter applies only to the public sphere. Gibson (1982) argues against just such a narrow reading, as does Otis (1987). However, when we consider the case of a town like Kimberley, even the public/private divide (which both authors take as given) seems suspect. The best way to think of this is to consider the two idealized landscapes that the courts construct. One is a uniquely public terrain in which individuals are constrained by state barriers and constraints; the other is a private space, in which individual action can force mobility on individuals, given the right "work to employ or retain any particular person." However, it is not hard to demonstrate that the two landscapes are mutually implicated. A "pri-

It might also be argued that licensed doctors are different from unlicensed miners by virtue of the fact that the former, given the present provincial licensing policy, cannot simply "hang out their shingle" where they choose (as a lawyer, for example) and expect business to come to them. However, mining skills are also not readily transferable. For them to reemploy, considerable hardships—family separation, travel—have to be endured.

Otis argues that if the Charter decrees that "everyone" enjoys certain "fundamental freedoms," they should apply within both the public and the private spheres.

vate" economic landscape and its consequent change is, in large part, dependent upon a "public" geography of state intervention. This can occur in an active sense—the involvement of the state in the provision of infrastructure, transfer payments, monetary policy and so on—or it can occur in a passive sense through what we might call the "active non-intervention" of the state. To see the importance of this "active passivity," we need only think what might happen, for example, if in order to retain the mine, the local union in Kimberley decided to embark on industrial action through secondary picketing and site occupations. The full weight of the state could be brought to bear to protect Cominco's threatened private property rights, if need be. As we have seen, the British miners' strike provides a graphic example of this very process. In Kimberley, indeed, the very threat of state intervention may be in itself sufficient to prevent such activism. In other words, the complicity of the state in countenancing economic change, which undoubtedly would have real "public" and "private" costs, is no less a form of state involvement than the active provision of regional economic incentives. The "silences" of the state are no less important than its overt action. The creation of industrial spaces, their subsequent destruction and the attendant destruction of the "right to place" are all bound up with both public and private actions.

The third implicit distinction of the court is that between the individual, as an abstraction, and the community. As they appear conceptually connected, this can best be considered by examining it alongside the space/place division. Again, when we examine these dyads, there seems a simple problem of plausibility. Is it possible to speak of individuals without attention to community and place? Is an individualistic account coherent as a theorization of social life and liberty? Such a debate, of course, is not peculiar to the courts, but cuts to the core of geography and social theory. In both cases, it seems difficult to imagine how an abstract legal individual might be constituted. The power of concepts such "individual" or "space" rest upon their abstraction. Once we try to locate and contextualize these concepts, they rapidly become untenable. In contrast to the unencumbered self of liberalism, the lesson of the town in crisis is that identity and personhood are fundamentally contextual, being both socially and geographically mediated. By this more plausible reading, people do not understand themselves as fully autonomous individuals, but as relationally structured by diverse social and economic roles—doctor, zinc miner, mother, worker, disabled, and so on. Our sense of who we are is constituted by our relations with others. And, of course, our sense of who we are changes according to the social (and, of
course, legal) context within which we find ourselves. In some settings I am a teacher, in others a consumer, a son, or a tenant.  

The same point can be made concerning the stability of the space/place division. Not only are we constituted by our relations with others, but we continually admit to the power of place in the definition of the self. Our lives are lived out, on the whole, within restricted geographies. Our understanding of ourselves and of the larger world is, in part, premised on the role of place. We "read" the social world, with all its potentialities, obligations, and conflicts, "through" the locality. Movement does not seem to occur in some contiguous abstract space, but with reference to discontinuous and distinct places like Vancouver, West Hollywood, or Farley Hill. As we have seen, abstracted concepts of property rights can become redefined locally as a set of contextualized mutual obligations (cf. Mathews & Phyne, 1988).

This does not mean, of course, that we should romanticize or essentialize the "local community." Small towns and villages can be, on occasion, stifling or oppressive places; and any description of a place is always necessarily partial. Similarly, community life must be regarded as dynamic, not as a static end-state. My point, of course, is that, whether good or bad, such local sites are one vital means by which we acquire a sense of identity. Jennifer Nedelsky (1990), for example, provides an exhilarating critique of the orthodox concept of the "bounded self" by arguing that autonomy is not a static condition, but a potential capacity; "what is essential to the development of autonomy is not protection against intrusion but constructive relationship" (p. 168). By this account, the collective, rather than simply a threat (the orthodox reaction) becomes simultaneously a source of individual autonomy.

Interestingly, a close reading of the decisions reveals the corrosive potential of these claims. The Wilson court, in fact, subverts its own logic by recognizing the significance of both community and of place. Indeed, we might say that it is obliged to do so, given that its individualistic space-based account is difficult to sustain as a theoretical account. The court notes, for example, that the importance of work—of "what we do"—is socially mediated. Work is not simply a component of self-worth, but makes manifest a sense of significance. Employment thus "comes to represent the means by which most members of our community can lay claim to an equal right of respect and of concern from others" (p. 16).

Similarly, the court recognizes the saliency of place. Despite its depiction of space as a frictionless economic surface, it must admit—albeit reluctantly—that its "spatial migrants" are ultimately "immigrants" to specific places. In part, the tacit recognition of place is again of the court's own making. Were it simply confined to a discussion of interprovincial mobility, it might be able to dodge questions of place, as does the B.C. Supreme Court. The act of movement, viewed in splendid isolation, can be thought of as the conscious, willed act of the individual, overcoming the ties of geography. However, in striking down interprovincial mobility and the intrusive state, the court runs up against a geography that it might rather avoid. The court extends the reading of the Charter to include a concept of arriving and staying in a place. In so doing, it is obliged to step out of a narrow liberalism and allow that people do not behave as idealized liberal individuals, but as socially and geographically constituted agents who choose and value places, such as Kamloops or Kimberley, over other places, such as Vancouver.

The remarkable thing, of course, is that we can find alternative representational spaces at all, and not only find them, but find them repeated, time and again, in different settings. Such oppositional voices are constrained, of course, and often muted. Yet they persist. This tells us something very important about the potentialities of social life and political opposition. One of the perils of critical theory, under the assumption that the life world has long been disciplined and fractured by the "totalizing logic" of capital or the "hegemony" of liberal-legal discourse, is that in forgetting the old lesson that relations of domination are also relations of resistance (Scott, 1990), we fail to listen for such insistent representational geographies.

This in turn raises wider questions concerning political action. If the
analysis above is correct—as I think it is—political struggles need to be fought on at least two levels. We must not only fight a traditional politics, resisting the material structures and spatial practices within which we live, such as the “hyperspatial” circuits of capital investment and disinvestment, we must also bring the representational geographies, constituted by and constitutive of such practices, to account. I have suggested here that one important area of analysis relates to the constitution of the boundaries between the representations of space and representational spaces. The boundaries that mark off one set of geographic claims—such as those of the judiciary—from those of civil society deserve critical analysis. I have argued that these boundaries are made, not found: that they rely on certain highly questionable claims concerning the geographies of social life. Alternative representational spaces, I think, must play a central role in this challenge. Indeed, we can begin to unravel and “denaturalize” the bifurcations of the legal account by drawing upon the experience of the small town. If we do so the stability of the boundaries between individual and community, space and place, and private and public become increasingly shaky.

In unfolding the relation between spatial practice and spatial representation within law we can both start to rethink the geography of contemporary power relations, and the appropriate forms of political response to such structures. In so doing, we begin to imagine the means by which people might be able to make geographies under conditions of their own choosing.

Coda: Making Space

The Great Khan’s atlas contains . . . the maps of the promised lands visited in thought but not yet discovered or founded: New Atlantis, Utopia, the City of the Sun, Oxana, Tamó, New Harmony, New Lanark, Isaria.

Kublai asked Marco [Polo]: “You, who go about exploring and who see signs, can tell me toward which of these futures the favourable winds are driving us.”

“For these ports I could not draw a route on the map or set a date for the landing. At times all I need is a brief glimpse, an opening in the midst of an incongruous landscape, a glint of lights in the fog, the dialogue of two passersby meeting in the crowd, and I think that, setting out from there, I will put together, piece by piece, the perfect city, made of fragments mixed with the rest, of instants separated by intervals, of signals one sends out, not knowing who receives them. If I tell you that the city toward which my journey tends is discontinuous in space and time, now scattered, now more condensed, you must not believe the search for it can stop. Perhaps while we speak, it is rising, scattered, within the confines of your empire, you can hunt for it, but only in the way I have said.”

Already the Great Khan was leafing through his atlas, over the maps of the cities that menace in nightmares and maldictions: Enoch, Babylon, Yahoeland, Butus, Brave New World.

He said: “It is all useless, if the last landing place can only be the infernal city, and it is there that, in ever-narrowing circles, the current is drawing us.”

And Polo said: “The inferno of the living is not something that will be; if there is one, it is what is already here, the inferno where we live every day, that we form by being together. There are two ways to escape suffering it. The first is easy for many: accept the inferno and become such a part of it that you can no longer see it. The second is risky and demands constant vigilance and apprehension: seek and learn to recognize who and what, in the midst of the inferno, are not inferno, then make them endure, give them space.”

—Italo Calvino (1974, pp. 164–165)
A legal history conference was held at the law school of the University of Victoria, British Columbia, in June 1990. For me, the gathering was remarkable for several things, including the space that it gave to the voices of the historically silenced. The most compelling moment, however, occurred on the second day of the meeting. A group of Elders of the Saanich people, on whose land the university sits, presented the law school with a map of their traditional lands, encompassing the Saanich peninsula and adjacent islands. Here, unfolded before us, were the sites important to traditional Saanich cultural and economic life, including the fishing grounds, sacred areas, burial sites, and traditional villages. In depicting past cultural practices, and linking them to present-day concerns, it was entirely appropriate that this map be presented at a legal history conference. The map, however, embodied not only an historical claim. It was also a geographic assertion, a geography, moreover, with considerable critical power.

To the uncritical observer, perhaps, the Saanich chart could be read as "just a map." In its formalized cartography it could easily be taken as an objective presentation of certain prepolitical spatial facts. It could also be read as a property claim, an assertion of territorial possession. Indeed, the map had apparently been used in a legal dispute concerning a marina encroaching on Saanich territory. British Columbia has been convulsed by a range of such disputes concerning Native land. The ability of First Nations' litigants to formally delineate and authenticate "their place" has been seen as an important first step in Canadian land claims disputes. Such a reading of the Saanich map, in which law and space emerge as objectively represented, prepolitical categories, would reflect the pervasiveness objectification of both space and law that I noted in the first two chapters.

I can not claim to speak for the Saanich, of course. As a non-Native observer, however, the map seemed to say this, and to say much more than this. While its objective and formalized claims spoke of the formative power of such orthodox legal geographies, it also quickly became clear that its legal geographies were much more complex, and much more politicized. The map, in fact, seemed to embody many of the critical claims that I have been trying to make in this book.

While the map did indeed assert a legal claim, it went beyond the objectified assertion of legal title to speak directly to the politics of law. Most immediately, of course, the map was presented to the law school. This cannot be taken as an act of homage or deference. The gracious yet self-assured and measured presentation was not obeisant, but dignified and poised. To me, the effect was a quiet rebuttal of legal closure and confidence. Here, at the very heart of the legal academy, in which liberal legalism was taken as given, conference delegates were reminded of a preexisting legality. And a legality, moreover, that occupied—quite literally—the same space as that of the law school.

The inscription of that space, however, was double-edged and in this, the map alerts us to the political significance and social ambiguities of space. On the one hand, the adoption of Western mapmaking techniques—accurate, and drawn to scale—by the Saanich could signal the power of an alien worldview, and its imposition upon the complex cultural cartographies of the Saanich people. However, as the geographies of "modern mappers" such as Saxton come freighted with a complex baggage, so the Saanich map can be read in different ways. Indeed, there seems to have been a conscious subversion at play. Instead of using a "Native" map projection, the cartographers had deliberately used a preexisting map, erased all the English designations, and then replaced them with their original Saanich names. To the mapmakers, the act of erasing and naming signified a conscious reclamation of "Saanich space," itself effaced by non-Native toponymies. One of the cartographers noted that the intent had been to show the "real names" rather than those that were "just given" a mere hundred years ago. To the non-Native observer, however, the sense was one of subversive dissonance. That someone could occupy the same space, yet know it and represent it in an altogether different way, was strangely unsettling. Here, laid out before us, was a familiar frame filled with unfamiliar designations. This alternative, yet coherent and well-ordered, "First Nations" geography challenged the unitary and homogeneous geographies of Canadian liberal discourse.

Indeed, the cartographic jab hit harder. The Saanich map encompassed not only the Gulf Islands, under Canadian jurisdiction, but laid claim to the American San Juan Islands to the south. This refusal to defer to the border corrodes the "objective" status of an international boundary, legally divined and enforced and geographically constructed as an imaginary line bisecting the Strait of Juan de Fuca.

In this book, I have centered my discussion on the legal construction of both place and mobility. The Saanich map, to me, also speaks to such geographies. Most immediately, the map signifies a powerful claim to place. It is in this setting and these practices, it seems to say, that defines and embodies Saanich culture. This claim unfolds both historically and geographically. It insists that one cannot speak of the Saanich without reference to this place; and, more, powerfully, that one could not speak of this place without reference to the Saanich. It also refers back to a time before European subjugation and projects into a future that includes a
place for an evolving Saanich culture. Indeed, the original rationale for the map appears to have been an educational one. Put together for children, it reflected a fear that names were being forgotten. The map changed that. As one Elder put it, “Once you put it down on a map, you keep it for ever.” Such a claim to place also has a broader significance. At one level it constitutes an implicit challenge to those claims, legal or otherwise, that insist on the demise of place. In this, it can be read as a principled assertion of difference and discontinuity.

The Saanich map also speaks to me of my second theme, that of mobility. One ingrained racist reflex on the part of dominant society has been to identify Native people as wayward and capricious. This notion of the “shiftless Indian” has been reproduced in many judicial depictions of precontact First Nations cultures. “Lawyers had said,” commented one Saanich Elder, “that we had just been wandering around, lost.” The map, in its claim to place, showed otherwise. Moreover, it implicitly challenged the liberal construction of mobility, premised on individual movement. As in the single-industry town, the map asserted a collective claim to be, and to stay, in a place. Such a claim is especially poignant given the long history of enforced mobility visited upon Native societies. Until the 1970s, Native children have been removed from their homes and shipped to distant residential schools. Forced to speak English and frequently subjected to physical, cultural, and sexual abuse, the “civilizing” of Native children presupposed the violence of uprooting and the denial of community. Even today, the child welfare system uproots Native children on a frequent basis (Kline, 1992).

I have been trying in this book to make sense of the geographies of law by looking at those struggles centering on the spaces of the economy—especially labor. The legal geographies of English real property and the corporate town, American worker safety, mobility and picketing, and Canadian labor migration are all remarkably fertile fields for such an exploration. As the Saanich map reminds us, however, they are not the only ones. Issues relating to First Nations struggles, such as land claims disputes, are also immensely suggestive. And we must not stop here. The legalities of gender, which I have only dealt with obliquely, also need a geographical treatment. So too the legal construction of crime, which I have only touched upon in my discussion of worker safety, calls out for critical geographic analysis. Further, I have concentrated my discussion on law in late capitalist countries—Canada, Britain, the United States—to the neglect of other countries and other legal systems. This meant that I have not drawn upon a rich “postcolonial” literature, which could serve to remind us not only of the imposition of European values and legalities on legal cultures elsewhere, but of the manner in which Western legalities were themselves shaped by this encounter. Such a discussion would be an invaluable component to any critical legal geography. However, as the Saanich map reminds us, the process of legal colonization and contestation does not only happen beyond Europe and North America. The normalizing powers of law also operates within and upon Western spaces and Western bodies.

Whatever the substantive focus, an analysis of the law-space-power nexus is vitally important, directing the critical scholar to new questions and new possibilities. Not only can such an analysis cast new light on legal hegemony, it can also uncover the emancipatory possibilities of social life. Mobility and place, for example, can be construed in a remarkably oppressive and constraining fashion, both materially and discursively. This process, however, is never closed and never complete. The complex geographies of law can be made to reveal their culpability, their construction, and their contingency. A closer mapping of such geographies can reveal their multivalence and their multiplicity. When we move from the mandarin spaces of legal discourse—too long the central focus even of critical legal enquiry—we discover multiple and often oppositional legal geographies. Even formal legal practice seems uncertain about the significance and valuation of such issues as local legality.

Yet legal practices and discourses can only be made to reveal these geographies if the right questions are asked. Such questions must not only insist on the social construction of both law and space but take very seriously the complex conjunction of the two. The documentation and contestation of the law-space nexus is an essential task for any critical analysis of law and society worthy of its name. Such a task is admittedly difficult, precisely because it entails pushing against the intellectual closure of Law and Geography as academic disciplines and the reified closure of law and space as analytical categories. If I have been successful, I have shown both the possibility and the political urgency of such a project.