Orange Riots, Party Processions Acts, and the Control of Public Space in Ireland and British North America, 1796-1851

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ORANGE RIOTS, PARTY PROCESSIONS ACTS, AND THE CONTROL OF PUBLIC
SPACE IN IRELAND AND BRITISH NORTH AMERICA, 1796-1851

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A DISSERTATION
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This dissertation explores the state’s effort to control public space by passing legislation to suppress Orange Order processions in Ireland and British North America between 1814 and 1851. By the early nineteenth century, annual July Twelfth parades commemorating William III’s victory at the Battle of the Boyne in 1690 became occasions for violent sectarian clashes in the streets of Ireland, New Brunswick, and Canada as celebratory Protestant Orangemen clashed with resentful Catholic opponents. In 1832 the British Parliament sought to put an end to these riots by passing the Party Processions Act, which prohibited Orange processions in Ireland. The Legislative Assembly of the United Canadas followed suit in 1843. Notwithstanding these statutes, tensions between Orangemen and Catholics continued. An explosion of July Twelfth violence in Canada, New Brunswick, and Ireland in 1849 resulted in divergent legislative responses. Whereas Parliament passed a second Party Processions Act for Ireland in 1850 to replace the original Act, which had expired in 1844, the Legislative Assembly for Canada repealed its Act in 1851. Despite a vigorous debate, New Brunswick never passed any specific legislation on party processions. The British Parliament’s determination to gain control of Irish public spaces through aggressive legislation ultimately revealed the fracture between the
interests of the state – seated in Westminster and Dublin Castle – and the priorities of local magistrates in charge of enforcing statutes on the ground. In the two Canadian provinces, New Brunswick’s disinclination to pass a Party Processions Act and Upper Canada’s quick annulment of their legislation showed a determination on the government’s side to not expose their weakness on the ground by retaining a law they found unenforceable. The passage, enforcement, and ultimate failure of these Party Processions Acts provides an opportunity to employ theories from legal geography and social history to investigate the increasing role of government in policing public space. The debate over the Party Processions Acts in contemporary newspapers, official correspondence, legislative debates, Parliamentary reports, and court transcripts exposed tensions between the state and local concepts of order. These issues played out in both the abstract space of the law and in the material space of its enforcement.
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CHAPTER 1:
INTRODUCTION

“It is because the law matters that we have bothered with this story at all.”¹

On the morning of July Twelfth, Orangemen around the world gathered in homes, lodges, and parks in preparation for their largest procession of the year. They donned their sashes, badges, and orange lilies, took up their flags, fifes, and drums, and marched over the countryside, down busy thoroughfares, and through neighborhoods in a militant display of loyalism and Protestantism. Orange parades were intended to incite a reaction, whether that was pride and a sense of community or intimidation and a sense of injustice usually depended upon whether the observer was Protestant or Catholic. In most cases, these processions, and other annual sectarian displays, contributed to a seething resentment that bubbled to the surface in the form of verbal insults or letters of complaint. Occasionally the current of rancor erupted in violence and death. Sectarian rioting during the first half of the nineteenth century frequently occurred on anniversary dates, although elections, market fairs, and races served as serviceable alternatives; the Glorious Twelfth was the most fervently observed and potentially violent.

During the mid-nineteenth century, legislative bodies in Ireland and British North America responded to recurrent July Twelfth rioting with laws prohibiting sectarian parading, especially on contentious dates. These Party Processions Acts represent an early effort by the state to exert control over citizens’ behavior in public spaces. Efforts to enforce the acts reveal the challenges the state faced in transferring their claim of control over these spaces from the abstract realm of law into the material spaces of encounter in which Orangemen, Catholics, and

local law enforcement officials all had their own claims to power. This tension between order and freedom, centralization and local variation, and theoretical and physical control played out on July Twelfth during the mid-nineteenth century. It continues to plague the Boyne anniversary into the early twenty-first century. Who has a right to occupy space in public thoroughfares? How does government resolve the conflict of competing claims to space? What does it mean when one group’s rights are curtailed in favor of another’s? How does society balance rules and rights in contested spaces? These questions trouble a state that claims to protect equally the rights of its citizens. If the perception of equal treatment under the law does not matter, then these questions are more easily resolved. Such was the case before Parliament conceded to grassroots efforts to bring Catholics into the British polity in the 1820s. The state’s decision to begin protecting its Catholic subjects meant that some of the privileges Irish Protestants held dear – even as rights – had to be curtailed. A similar situation occurred in the 1840s in eastern Canadian provinces when recent Irish-Catholic immigrants challenged established British and Irish Canadian Protestants for jobs, political power, and territory. When many magistrates refused to enforce the Party Processions Acts, proving themselves more committed to local than national allegiances, the governments faced a quandary. It became clear that if the government was going to claim control over non-private spaces, which we now commonly refer to as public spaces, it was going to have to back up that claim with armed military or constabulary forces. Or, alternatively, it could repeal the law and allow control of those spaces to revert to local custom as it retreated behind the comfortable screen of apathy. Parliament pursued both strategies over the course of forty years, while Canada rather quickly opted for the latter. Exploring the evolving concept of public order through the state’s response to Orange riots on the Glorious Twelfth
illuminates an early phase of the ongoing struggle for control over public space in the mid-nineteenth-century British Atlantic.

The Glorious Twelfth refers to the anniversary of the Battle of the Boyne, fought on the twelfth of July (N.S.), 1690, near Drogheda, County Louth, in Ireland. At the Boyne River, William of Orange, aka William III, king of England and devout Protestant, defeated James Stuart, aka James II, king of England and devout Catholic. The battle was not the decisive contest in the war for Ireland, that honor belongs to the Battle of Armagh (1691), nor did it occur on the twelfth; oddly enough, that date belongs to the Battle of Armagh, too. Historians suggest that the Boyne held pride of place in popular memory because it was the only battle that pitted one king against the other, and William clearly showed better in the contest. The date confusion results from England’s belated shift from the Julian to the Gregorian calendar, a transition most Catholic European countries made in the sixteenth century, but England, being in the midst of their own reformation at the time, held out until the mid-eighteenth century. By that point, they had to shift the calendar forward eleven days. Nevertheless, Irish Protestants continued to celebrate the anniversary of the Battle of the Boyne on July First until the mid-1790s.

Celebrations of the Boyne anniversary were rather tame in the first part of the eighteenth century. The more well-to-do Protestants often marched to a church where they took in a Protestant, loyalist sermon and then gathered in taverns and drank loyal toasts to King William and his Protestant successors. For example, one London newspaper carried an account from Dublin in 1735:

Last Thursday being the Anniversary of the ever memorable Battle of the Boyne, the same was observed here by all Wellwishers to our Happy Constitution. The Bells rang in the Morning; several Houses were adorn’d with Lillies, and the Night concluded with Bonfires, ringing of Bells, firing of Guns, Illuminations, and all other possible Demonstrations of an universal Joy. The Boyne Society had a Sermon suitable to the
Occasion preached at St. Katharine’s Church, by the Rev. Mr. Nesbit; after which they went to Mr. Dalton’s in Truck-street, where an elegant Dinner was provided for them, and they drank to the Glorious and Immortal Memory of King William, their present Majesties, and all the Royal Family, with many other Loyal Healths.²

With the outbreak of war in the mid-eighteenth century that coincided with the fiftieth anniversary of the battle, celebrations became more elaborate. Protestants decorated their homes with orange lilies, revelers wore orange cockades, marchers fired salutes with both guns and ordnance, and local dignitaries provided alcohol for the lower classes to aid in their enjoyment of the festivities, which often featured the burning of multiple bonfires. Reports from Dublin featured a detailed description of the preparation of the “largest bonfire ever made in this city,” including a forty-foot-tall tree, barrels of pitch and tar, and animal bones covered in furze and orange lilies. The same account claimed, “yet notwithstanding these unexampled rejoicings, there was not the least mischief done.”³

The First of July was not the only loyalist, Protestant holiday. One of the other major dates on the ritual calendar was William’s birthday, November 4, which was frequently celebrated in conjunction with another Protestant holiday, Guy Fawke’s Day, on November 5. By the late eighteenth century, it appears that the First of July was primarily the popular holiday, whereas the November 4 celebrations were orchestrated by the government and militia. Up to this point, observances were certainly commemorative of political events, but not overtly intended to influence current politics. This changed with the Volunteer celebrations of November 4, 1779.⁴

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² Read’s Weekly Journal or British Gazetteer (London, Eng.), July 19, 1735.
The Volunteers were an Irish militia raised to keep order in Ireland while the regular British troops dealt with the American Revolution. The Volunteers became increasingly radical, calling for reform to the Irish constitution; they used the traditional November 4 holiday to parade to William’s statue on College Green in Dublin and erect signs calling for free trade and a new constitution. In just a couple of years, the Volunteers moved to invite Catholics into their ranks and provide them with firearms. This unification of interests between radical Protestant politicians and the Irish Catholic majority was alarming to many Irish Protestants and played a role in the downfall of the Volunteer movement. 5 Although anniversary celebrations calmed for a while, the tone had been set for their politicization.

In the early 1790s, the rise of the politically radical United Irishmen and their direct appeal to the Irish Catholics to join them in calling for significant reform to the Irish constitution, including the repeal of the Penal Laws inhibiting Catholic participation in government and militias, confirmed conservative Protestant fears that the disorder of the French Revolution was spreading to Ireland. 6 Violence broke out in the countryside as Protestant Peep O’Day Boys fought Catholic Defenders for control of localities. Underlying this wave of hostility was longstanding competition between Catholics and Protestants for land. According to historian Hereward Senior, the only way that peasants could retain land claims in a system of distribution in which landlords issued leases to the highest bidder without consideration of prior tenancy was to form secret societies and engage in campaigns of intimidation. 7 In spite of their stated economic purposes, these societies frequently divided along religious lines, lending local grievances to a long national memory of sectarian conflict that included simmering resentment

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7 Senior, Orangeism in Ireland and Britain, 4, 8.
for the Tudor claims to the Irish crown, the Irish rebellion of 1641 and resultant Cromwellian conquest of Ireland, the Williamite Wars, and the eighteenth-century Jacobite threat.

In response to the 1795 Battle of the Diamond, a particularly violent clash that left four or more Catholic Defenders dead, a group of Protestant peasants formed the Loyal Orange Order. The Order’s initial activities involved harassing Catholic tenants in County Armagh, primarily by raiding their farms and destroying furniture in the hopes that the victims would pick up and leave, allowing Protestants to assume the leases. The Order quickly spread throughout Ireland, and as it did, violence surrounding the celebration of the Boyne anniversary swelled. Around the same time, the anniversary began to be celebrated on the Twelfth instead of the First. Historians are unsure why the date changed at this time, but perhaps those behind the shift sought to assert ownership of the holiday and emphasize a more militant meaning.

The founding of the Orange Order coincided with an increase in the violence attending celebrations of the Boyne anniversary. A letter from Tandragee, a small town outside of Dublin, described one of the first Orange celebrations of the Twelfth and the feeling of menace that accompanied it:

Happening to be yesterday in Tandragee, I saw with feeling and honest indignation, a grand division or party of Orange or Break-of-day-men, who, on pretence of celebrating the anniversary of the battle of the Boyne, were, in reality, celebrating their own disgrace and degradation of their country; or rather were rejoicing for the many ravages, devastations, rapes, and murders committed with unrelenting fury on the defenceless Catholics of this loyal county. The procession consisted of fourteen companies, each with ensigns and devices emblematical of the occasion, and formed a motley group of Turncoats, Methodists, Seceders, and High-church-men, at least double of all the rest, with a multitude of boys and country trulls, cheering up the lagging heroes. The pious Rector of the parish was seen bringing up the rear, conversing delightfully in the happy sight, and

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praying for their success—as much to say, “go on, my boys, and prosper—fear not, I am with you—glorious defenders of the faith!”

The letter is unsigned, but presumably was composed by a Catholic sympathizer. This account depicts an environment of terror and triumphalism and presents a very different picture than earlier accounts of communal celebration. Orange militancy only increased after the United Irishmen’s failed rebellion in 1798; many Orangemen served in the yeomanry corps and the militia units that helped put down the uprising. The rebellion quickly assumed a prominent place in the Orange collective memory of Protestant-Catholic conflict in Ireland. In fact, Orangemen involved in repressing the rebellion used this long history to mock their Catholic adversaries. Senior explained, “Orangemen … losing no opportunity to relate current humiliations to past defeats of catholic Ireland, had a way of making their persecution cut deeper than that of the others.” According to Senior, Orangemen were at their pinnacle of power immediately following the rebellion, but they soon fell out of favor when they initially opposed the Act of Union in 1801.

Although the first decade of the nineteenth century appears to be free of July Twelfth violence, during the 1810s Ulster Catholics were less willing to suffer Orange aggression. Historian Sean Farrell argued that this was in part due to the activities of Ribbon societies, the successors to the earlier Defenders whose secret machinations are still poorly understood by historians, and in part due to the politicization of the growing Catholic middle class. Farrell

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9 *Morning Chronicle* (London, Eng.), July 28, 1796. Throughout the dissertation, quoted material retains the spelling and capitalization present in the original.

10 Senior, *Orangeism in Ireland and Britain*, 95–108.

11 Senior, *Orangeism in Ireland and Britain*, 106.


13 With the caveat that it is always difficult to prove a negative, especially with spotty newspaper coverage and incomplete documentary survival.

14 This lacuna has been filled in recent years by Kyle Hughes and Donald M. MacRaild’s *Ribbon Societies in Nineteenth-Century Ireland and Its Diaspora: The Persistence of Tradition* (Liverpool: Liverpool University Press,
asserted that Catholic confrontations with Orange processions “led to more sectarian riots, as both parties attempted to gain control of public spaces in the north of Ireland. This phenomenon clearly mirrored the growing self-confidence of middle-class Irish Catholics in the first decades of the nineteenth century. As such, it should be viewed as a critical part of the politicization process that reshaped prefamine Irish society.”

The 1820s saw an explosion of July Twelfth sectarian violence in Ireland that would become the pattern for the next thirty years. The Rockite movement, an agrarian secret society conducting a violent campaign against landlords and their property in the west of Ireland, led Ulster Protestants to fear a nationalist Catholic conspiracy during the early years of the decade. In 1823 and 1825, respectively, Parliament passed Unlawful Oaths and Unlawful Societies Acts, which caused the Orange Order to temporarily disband. In addition, the establishment of a professional police force – symbolically, if not consistently, taking law enforcement out of the hands of the locally controlled Protestant police – was a further blow to Ulster Protestant confidence. Dublin Castle’s receptivity to the Catholic push for political inclusion, and the grassroots, mass mobilization strategy of Daniel O’Connell’s Catholic Association, brought tensions to the boiling point. By the time the Roman Catholic Relief Act became law on April 13, 1829, the decade had seen twenty-nine riots on the Boyne Anniversary. On July 12, 1829, there would be twenty more. The increasing violence on July Twelfth from 1829 to the early

16 From 1823 there were at least two July Twelfth riots every year in Ireland until 1850. See Appendix A.
17 See, for example, J.S. Donnelly, Jr., Captain Rock: The Irish Agrarian Rebellion of 1821–1824 (Madison: University of Wisconsin Press, 2009).
18 Farrell, Rituals and Riots, 66–69. Dublin Castle, located in Dublin, was the seat of British rule in Ireland from the early thirteenth century to 1922.
1850s and the association of these riots with a struggle for control of public space will be the major theme of this dissertation.

Perhaps unsurprisingly, Irish immigrants to Canada brought this sectarian conflict with them when they began emigrating in large numbers in the early nineteenth century. The Orange Order came to Canada with British military units in the late eighteenth century, and the first lodge was founded in Halifax in 1799. It was soon followed by others as the popularity of the Orange brotherhood spread throughout British North America. One study claimed, “Nowhere outside of Ulster did it find as widespread acceptance as in Canada.”19 The lodges were primarily locally oriented until 1830, when recent Irish immigrant Ogle Gowan established a Grand Lodge in Brockville, Ontario, and soon organized a network of lodges across Ontario and the Maritimes. Gowan’s family was directly involved in the Irish turmoil that birthed the Orange Order: his family suffered at the hands of Catholics during the 1798 rebellion, and Ogle was named after his godfather, George Ogle, one of the Grand Masters of the Irish Orange Order.20 Although the Canadian Orange Order maintained connections with lodges in Ireland, it was not simply a transplanted clone of the Irish organization; rather, the Canadian incarnation addressed the ways in which Old World antipathies were shaped by New World conditions. Nevertheless, they were still Orangemen and retained two of the most important pillars of Irish Orangeism: loyalty to Britain and anti-Catholicism. These two concepts seem to go hand in hand, even outside of the Orange context. Indeed, in their collection of essays, *The Loyal Atlantic*:

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Remaking the British Atlantic in the Revolutionary Era, Jerry Bannister and Liam Riordan identified anti-Catholicism as loyalism’s major eighteenth-century feature.\(^{21}\)

Commemoration of past victories played a crucial role in the development of Orange identity: as Allison Malcom argued, the “present and past become one in Orange language.”\(^{22}\) In their initiation oath, Orangemen vowed to celebrate the Boyne anniversary every year. Historian Donald Akenson uncovered few incidents of violence attending Ontario Twelfth parades, although he admitted that there was always the potential for conflict. He conceded, “The marches, despite being adapted to Canadian conditions, still recalled the purpose of their Irish antecedent, marching about to show the Catholics who was boss…. It was the dark wraith of sectarian cleavage, not actual violence, that marched in Orangeism, and it could not have been otherwise when membership was restricted to Protestants and when a member incurred an anathema should he marry a Catholic.”\(^{23}\) Nevertheless, violence did attend Orange parades in New Brunswick and Upper Canada.

In a 1997 article assessing recent developments in the study of collective violence in Canada, Scott See found that, in spite of their awareness of the twin myths of Canada’s peaceable kingdom and American violence, both Canadian and American historians nonetheless tended to continue to construct their studies on collective violence within these frameworks. This was largely because historians became interested in collective violence during the 1960s and 1970s during both the formative period of the social history movement and a period especially remarkable for its social unrest. American historians reacted by looking for the roots of the


\(^{23}\) Akenson, *The Irish in Ontario*, 278, 279.
violence they saw around them in the annals of American history, while at the same time Canadians celebrated their centennial in 1967 with a surge of pan-Canadian nationalism that resonated with the idea of the peaceable kingdom. See argued, “This historiographical exercise, designed in part to shape further research, maintains that we would better understand collective violence if we range more often outside the intellectual frameworks we have carefully constructed – if we identify and test more explicitly and rigorously North American, and ultimately, North Atlantic themes. The international consideration of collective violence might expose more points of commonality than have previously been considered.”

In cautioning historians against projecting the tumult and violence of their own period into the period that they are studying, See advised, “Collective violence should more accurately evoke the metaphorical image of a resilient fabric of traditional behavior in the 19th century; it is only partially understood when conceptualized in strictly national or colonial frameworks rather than in sweeping, international patterns.”

See proceeded to offer considered suggestions for fruitful approaches to the study of collective violence in a broader context, especially during the peak years of the 1830s to the 1850s. These themes include focusing on nationalism and nativism and the distinctions between the two in a North American comparative context; examining traditions of collective violence imported into Canada from the Loyalist migration or with European immigrants; delving into the atmosphere of religious fervor and its effect on collective action; interrogating the social, economic, and cultural upheaval of the transition to capitalism; exploring collective action as an illustration of and a theater for the performance of gender roles; and finally, studying collective

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action in the context of vigilantism, a perspective that complicates the order/disorder dichotomy.

As reflected in his own work, which will be addressed below, See identified religion and ethnicity as the most compelling topical approaches to this subject. See cited several innovative and insightful studies of collective violence in Europe by scholars like E. P. Thompson, Eric Hobsbawm, and Charles and Louise Tilly, and called for similarly inventive work to be done in the North American context that would provide an in-depth study of collective violence in a local community that may act as the foundation for subsequent work to make more general statements about the causes of crowd activity. See concluded, “Once the intellectual blinders have been completely removed and historians have telescoped their assessments beyond boundaries, then we will know with more certainty whether an impressive frequency of collective violence, previously thought to be an especially American phenomenon in the 19th century, might be more accurately located in a North American, or better still, North Atlantic context.” This dissertation takes up See’s challenge to examine collective violence – or in this case state responses to collective violence – both as a piece of a fabric of traditional behavior and in an international, North Atlantic context.

In 1966, Hereward Senior published one of the first modern histories of the Orange Order by a non-Orangeman. Although his work was still generally sympathetic to the Order and mildly dismissive of the lower classes, especially those of the Catholic persuasion (he asserted confidently that Catholic secret societies would have attacked Protestants whether the Orange Order existed or not), it provided a valuable overview of the Order’s early years in Ireland and

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Britain. Senior’s work was primarily a political history that detailed the fortunes of the Order under various Irish and British administrations, but he did discuss Twelfth riots on several occasions. Of the violence in general he wrote:

> Crimes committed against catholics were a continuation of a feud, a form of warfare which protestant courts had no right to punish. The Irish protestant peasant had no reason to think he could rely either on the goodwill of his catholic neighbours or the forces of the crown for his safety. This feeling was the result of his own and, what he believed to be, his ancestors’ experience. … There was in Ireland no tradition of impartial justice, and the habit of settling disputes by violence, and even a fondness for violence itself was so engrained in the rural population, that it was impossible to give effect to a liberal policy that would do justice to all.

Considering his focus on leaders and politics, his characterization of the rural populace as possessing a “fondness for violence” was cursory and unsubstantiated. Nevertheless, what is interesting here is that he identified what seems to be a kind of frontier justice – one might even call it vigilantism – operating on the fringes of the British Empire. In addition, Senior emphasized the importance of historical memory to the continuation of conflict. There was (is) a sense in Ireland that to for either side to back down would be to dismiss the sacrifices of one’s ancestors, hence the Orange motto: No Surrender. Senior’s work remains valuable for its chronicling of the growth of Orange power through its heavy participation in the yeomanry and infiltration of local courts and government, but his emphasis on politics leaves fertile ground for subsequent scholars to examine sectarian violence among the lower orders.

Senior was also among the first modern scholars to examine the Orange Order in Canada. In 1972’s Orangeism: The Canadian Phase, Senior continued his political emphasis and overall positive treatment of the Order. Indeed, in his foreword Geoffrey Milburn extolled Senior’s

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29 Senior, Orangeism in Ireland and Britain, 182.
30 Senior, Orangeism in Ireland and Britain, 187. Lower cases for confessional groups in original.
contribution to the study of the Orange Order and Canadian history more generally for “emphasizing its constructive contributions to Canadian history and … relating its political activities to the wider context of nineteenth-century history.”31 Senior himself characterized the Orange Order as “the most impressive fraternal society among the Irish Protestants” and described its transfer from Ireland to Canada as “one of the most successful efforts to transplant the form and spirit of an Old World institution to the New.”32 Senior’s pro-Orange bias was reflected in his accounts of early sectarian conflict in Canada. Referencing a group of Irish-Catholics from County Cork that settled in Perth in 1823, Senior maintained that the new immigrants “frightened the older inhabitants [mostly Scots and Irish Protestants] and consequently suffered from their hostility.” Senior made no mention of what the new arrivals did to terrify their neighbors into violent enmity. A militia parade in April 1824 sparked a riot in which “unruly Irishmen were brought under control by volunteers led by the deputy sheriff and former Orangeman, Alexander Matheson.”33 In a repetition of countless disturbances between Irish Catholics and Protestants, the Catholics came off the worse in Perth, with one killed and several injured.

The bulk of Senior’s study focused on the Orange Order’s complicated relationship to Canadian politics. While wielding significant political influence, Orangeism did not quite fit with either of the major political forces, the Family Compact and the Reformers, during its rise in the 1830s. When the Act of Union joined the provinces of Upper and Lower Canada in 1841, Orangemen feared their privileged political position may be overrun by Catholic interests, and they lashed out. Although Senior admitted that much of the violence of the early 1840s “was

32 Senior, Orangeism, x, 1. “Impressive” is a rather loose adjective here, and one might wonder exactly how he intended its interpretation.
33 Senior, Orangeism, 10.
initiated by Orangemen,” he emphatically claimed “their rivals came armed and fought them on terms of equality.”34 Senior did address the Canadian Party Processions Act – though not by name – in a single paragraph. In his treatment of the Reform-minded backlash against Orange influence and violence, Senior acknowledged that “on the surface, the case against Orangeism was strong.” However, he concluded, “If Orangemen had used violence and intimidation during elections, they did not have a monopoly of violence. However provocative Orange processions may have been, the first blow usually came from their enemies.”35

In the midst of his political account of Orangeism in Canada, Senior noted, “It is necessary to re-emphasize the fact that the lodges were primarily social clubs, reflecting the attitude of immigrants seeking a place in the new world.”36 The Orange Order’s social role and its involvement in the settlement of Canada was taken up by historical geographers Cecil J. Houston and William J. Smyth in their 1980 study: *The Sash Canada Wore: A Historical Geography of the Orange Order in Canada*. Houston and Smyth identified their rationale for the monograph: “The principal focus of this work is a transplanted institution and the role it assumed in a new setting.”37 They examined the decentralized spread of the Order with Irish settlers during the first part of the nineteenth century, and identified two primary and distinct regions of Orangeism by the 1820s: New Brunswick and Upper Canada.38 They found that growth accelerated during the 1850s as Orangeism broadened its appeal to encompass non-Irish areas. From these two original regions, New Brunswick Orangeism moved east and north into Prince Edward Island, Nova Scotia, and Newfoundland. In all of those locations it appealed to the

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34 Senior, *Orangeism*, 41.
35 Senior, *Orangeism*, 42.
36 Senior, *Orangeism*, 37.
dominant Scots- and English-Canadian populations. Western Orangeism was rooted in the Ontario lodges, although it never thrived in British Columbia as issues of class and competition between white and Asian laborers overshadowed religious differences.39

Houston and Smyth claimed that theirs was the first study to examine in detail the social, ethnic, and religious makeup of Orangeism or attempt to quantify its support. They found that “men from a wide variety of backgrounds and ethnic groups belonged to the order, and as the nineteenth century progressed immigrants became a minority in an increasingly Canadian organization. … In religion, as in social class and ethnicity, it reflected the composition of the communities in which it operated.”40 While other historians have also observed Orangeism’s broad appeal to non-Irish Canadians, the assertion that lodges reflected the compositions of their host communities seemed overstated.41 There was very real opposition to Orange lodges that was reflected in contemporary newspaper coverage of July Twelfth parades, as will be explored in Chapter 4. Houston and Smyth showed little interest in July Twelfth processions or in their attendant violence. In the few pages they dedicated to the Orange high holiday, they focused mostly on a description of a typical Twelfth parade in the mid-nineteenth century. In a selection that emphatically illustrated that this was primarily a work of quantitative geography and not space, the authors did not detail the parade route locations. Furthermore, they stated only that Orange arches were placed “at traditional locations” and “under them marchers and spectators would be required to pass.”42 By focusing on the demographic and geographical spread of Orangeism across the Canadian map, this historical geography sidelined the significance of

40 Houston and Smyth, The Sash Canada Wore, 84.
41 For the makeup of Orange Lodges see, for example, Scott See, Riots in New Brunswick: Orange Nativism and Social Violence in the 1840s (Toronto: University of Toronto Press, 1993).
42 Houston and Smyth, The Sash Canada Wore, 124.
Orange claims to specific contested spaces. Essentially, Houston and Smyth ignored the problem of Orange violence. They barely mentioned the Party Processions Act, and then only in its political context. The closest they came to addressing Orange rioting was when they concluded their brief description of Twelfth marches: “For protestants, it was a day of triumph. For catholics, it was a symbol of the dominance of protestantism, a reminder of their own insecurity within the society and frequently the occasion for much bitterness.” Bitterness indeed.

The 1990s saw historians and geographers turn their attention to Orange processions. Geographer Peter G. Goheen examined the relationship between processions and public space in mid-nineteenth century Toronto in a series of articles and book chapters published in the first half of the decade. In “Parading: A Lively Tradition in Early Victorian Toronto,” Goheen claimed that the public parade was a “comprehensible ritual” and a critical feature of public life. He contended that studying parades provides insight into “the social valuation of time and space, especially of the public space of the streets where they occurred.” During the mid-nineteenth century, Toronto’s inhabitants assumed that they had a virtually unfettered right to the streets. This was due in part to the weakness of law enforcement and its entanglement with municipal politics. Accessing and holding public space was critical to displaying power in Toronto. Goheen explained, “Parades claimed privileges in certain streets where prestige accrued by monopolizing their use for the passing minute or hour. The public space they chose to occupy

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46 Goheen, “Parading: A Lively Tradition,” 331.
lent recognition to the sponsoring organization and helped legitimize its existence. The intention was to associate with the power and to appropriate the status therein represented.”

The Orange Order featured prominently in three of Goheen’s examples: a raucous 1843 Guy Fawkes Day procession, the 1841 election riot that precipitated the Party Processions Act in Canada, and the 1844 July Twelfth near-riot between Toronto Orangemen and laborers on the Welland Canal. In his brief discussion of the Party Processions Act, Goheen was interested in determining its efficacy at challenging the entrenched practice of parading. He found that although the bill targeted Orange processions – leaving civic and state parades sole legal access to public streets – it also affected organizations like Freemasons. Goheen determined that the legislation was ultimately unsuccessful, as Orangemen circumvented the law by organizing “excursions” on July Twelfth, like the one Toronto Orangemen assembled in 1844. He wrote, “The failure of legislation in 1843 to prevent the insistent demonstration of Orangeism in the streets informs us that society – in this case civic government and a powerful fraternal organization – valued parading too highly to permit any draconian legislation to interfere significantly with a right well established in practice.” The use of the adjective “draconian” is interesting here. It is unclear whether Goheen was momentarily taking on the perspective of his subjects. The Riot Act, a violation of which carried the death penalty, could be considered (and one could argue should be considered) draconian, but a violation of the Canadian Party Processions Act was a misdemeanor punishable by up to one month in prison. Moreover, it was

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49 Goheen, “Parading: A Lively Tradition,” 345.
rarely enforced. Goheen concluded, “Whatever their purpose or constituency, [parades] targeted the same urban space. This space, that to which maximum prestige adhered, conveyed the greatest benefit to those engaged in its ‘symbolic capture.’” 52

In his article published a year later, Goheen explored in greater detail the ways in which this “symbolic capture” of public space could be achieved. In “Negotiating Access to Public Space in Mid-Nineteenth Century Toronto,” Goheen argued that the value and use of public space was not a one-way decree from government to people, but rather that it was a conversation in which citizens played a significant role. He wrote that in Toronto, “The meaning of public space arose as a result of the continuing involvement of claimants in the political process of adjudicating what were acceptable rights and privileges to its enjoyment.” 53 He identified three ways in which citizens put forward their claims to Toronto’s public space: petitioning the government, influencing the issuance of licenses and the passage of by-laws, and taking to the streets to perform (or defend) rituals of collective identity. Goheen again employed the example of the 1841 election riots and stated that the Party Processions Act was unsuccessful in averting Orange-instigated disorder. He argued, “What was deemed appropriate and acceptable behaviour in public space was the product of an accommodation between a generality of citizens and their civic officials. In 1841 this arrangement withstood the full glare of censure from the highest office of the state, and between 1843 and 1851, when the Party Processions Act was annulled, defied the law of the land.” 54 But what does it mean that citizens defied the law of the land regarding access to public space? Was the law actually enforced? And if it was not, what can that tell us about the balance of power in the streets? Toward the end of his article Goheen stated,

52 Goheen, “Parading: A Lively Tradition,” 348.
54 Goheen, “Negotiating Access,” 442.
“The claims of Toronto’s citizens to the enjoyment of urban public space grew stronger during these decades.” Following the annulment of the Party Processions Act, “civic authorities and the population itself recognized instead that a greater measure of tolerance of street performance was needed, and they showed it.”55 Goheen’s work remains quite valuable because it encourages us to think about the ways in which groups claimed public space in Toronto and how access to this space was a negotiation between residents and legislators. However, some of his conclusions seemed to glaze over significant tensions. The debate in the Canadian Legislative Council revealed that very few prosecutions were brought under the Act and that the legislators admitted that the Act was unenforceable because it was disregarded by Orangemen, their opponents, local law enforcement officials, and juries. This appeared to be more of a capitulation than a mutually agreed upon solution. Furthermore, as the next author’s scholarship makes clear, the Orangemen were doing a bit more than “enjoying urban public space” in 1840s New Brunswick.

Scott See’s work explored the multitude of causes for the Orange Order riots, highlighting the complexity of collective violence and directly addressing the ways in which Old World antipathies were shaped by New World conditions. In Riots in New Brunswick: Orange Nativism and Social Violence in the 1840s, See analyzed Orange riots in Woodstock, Fredericton, Portland, and Saint John. He contended that members of the Orange Order oppressed and harassed Irish Catholic immigrants using vigilante methods that were supported by a nativist ideology. See argued that, although not an archetypal example of class warfare, the Orange Order’s vigilante activities were supported by the New Brunswick elite. See explained,

“Viewed from the perspective of these individuals, nativism proved a useful ideology and vigilantism a devastatingly effective tool.”

The 1840s were a difficult time for Saint John’s working class. Seismic shifts in Britain’s economic policy as it transitioned to industrial capitalism, such as the advent of free trade and the associated loss of timber protections, signaled an economic downturn in New Brunswick. Coupled with an influx of Irish-Catholic immigration, these factors led to tense atmosphere of fierce job competition and simmering resentment. In the Irish context, it has been argued that the increasing tensions between Protestants and Catholics that led to the violence were based on Protestant fears that Catholics would take their land. In a land-poor country like Ireland, access to land was of the utmost importance. In Canada, conflicts over land ownership and use were at the root of election riots in Saint John, New Brunswick, in the late eighteenth century and in incidents of collective violence in the Escheat Movement on Prince Edward Island. As See pointed out, however, jobs, not land, seem to have been at the core of Orange riots in New Brunswick during the 1830s and 1840s; in Upper Canada, influential Orangemen established a patronage network that ensured that men sympathetic to Orange views would be given preference for employment. Unsurprisingly, the environment was particularly ripe for violence in areas with concentrations of both Protestant Orangemen and Irish Catholics, such as the Saint John waterfront. See argued that the causes of the Orange riots were based on Old World antagonisms but forged by New World circumstances. Thus, the prelude to violence was often highly symbolic, drawing on a shared system of cultural memory. In his chapter focusing on the

56 See, Riots in New Brunswick, 13.
57 For an excellent study on collective violence related to the Escheat movement on Prince Edward Island, see Rusty Bittermann, Rural Protest on Prince Edward Island: From British Colonization to the Escheat Movement (Toronto: University of Toronto Press, 2006).
York Point riot of 1849, See insisted that “the riot evolved from religious, ethnic, and economic issues, not political concerns.” As was the case in his article, he argued that the New Brunswick Orange riots must be examined within a broader context. See concluded, “Ultimately, New Brunswick’s experience fits into patterns of conflict in the Western world during the nineteenth century – it also tells us much about the nature of social violence and nativism in British North America.”

See’s construction of the symbolic landscape of York Point was challenged by Gordon Winder in his article “Trouble in the North End: The Geography of Social Violence in Saint John, 1840–1860.” Winder argued that “if residents used social violence to contest the development of Saint John’s symbolic, economic and built environment, then we may have to rethink the emphasis upon ethno-religious tensions and the ghetto in explaining the city’s social violence.” Winder devoted a significant portion of his article to directly challenging See’s interpretation, which would be interesting and welcome, especially in a field in which multiple studies of a single event are rare, except that Winder seemed to seriously misunderstand See’s argument. He even came close to admitting his lack of confidence in his understanding of See’s thesis before he proceeded to set See up as his straw man. Winder wrote, “Central to See’s interpretation, but underdeveloped in his analysis, is the idea that York Point was an Irish-Catholic ghetto surrounded by Protestant neighbourhoods. Although never stated in this fashion, See’s interpretation seems to rely on the view that the city’s charter group attempted to segregate Irish-Catholics into low-class accommodation and work.” See never stated his argument in that

59 See, Riots in New Brunswick, 176.
60 See, Riots in New Brunswick, 210.
fashion because that was not his interpretation. He did not argue that York Point was an exclusively Irish district. In his study, the point was not that the specific neighborhood was or was not entirely Irish Catholic, rather that the Irish Catholics claimed that territory at that moment, and that their claim to that territory was acknowledged by the Orange Order, who purposefully took their procession through York Point as a symbolic invasion. The meaning of the ritual was clear to both sides and was an expression of long-standing religious and ethnic animosity exacerbated by contemporary economic stress. Incidentally, in his map of Catholic spaces in Saint John, Winder labeled the wharf area of York Point as “Irish Ghetto.”

Furthermore, Winder admitted that “a large group of Irish-speaking Irish Catholics from Cork clustered in York Point, making this perhaps the most exclusive residential concentration of poor Irish Catholics in the city.” Throughout his article, Winder insisted that Saint John’s ghettos were not homogenous, and that collective violence took place in various sites in the north end, points that See would likely be happy to concede as he never argued otherwise.

Similar themes have been addressed by scholars in a European context. Around the turn of the millennium, colleagues Neil Jarman and Dominic Bryan published books that examined Orange parades from the anthropological perspective. Although focusing on modern Orange processions, each undertook a brief history of the annual marches. In *Material Conflicts: Parades and Visual Displays in Northern Ireland*, Jarman set out to investigate “how history, geography and identity are interwoven to create and sustain a sense of difference.”

Emphasizing the significance of visual displays to Orange commemorative parades, he approached his study with two primary aims: to trace the history and development of these

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64 Winder, “Trouble in the North End,” 37.
events over time and to examine their relationship to the late-twentieth-century Troubles in Ireland.\(^66\) Importantly, Jarman pointed out that ability to perform identity-affirming rituals in public was crucial to maintaining the strength of that identity. He wrote, “Maintaining a tradition means being seen to maintain it. To have meaning, traditions must be made visible in the public life of Northern Ireland and made visible on a regular basis. Any challenge to a tradition is therefore also a visible, public event, and, as such, is a threat to one’s status, one’s identity and one’s history.”\(^67\) After a brief chapter discussing Orange parades during the first half of the nineteenth century, which Jarman characterized as “riotous assemblies,” he concluded, “the parades were local expressions of power and dominance, assertions which needed constant reaffirmation, and the threat of violence remained as a constant undercurrent, even if it was not always realized.”\(^68\)

Whereas Jarman focused on visual displays and their significance to Orange identity, Dominic Bryan’s 2000 study *Orange Parades: The Politics of Ritual, Tradition and Control*, investigated “the political control of Orange parades.”\(^69\) Focusing on Orange ritual, Bryan maintained that although Orange parades appeared to be static representations of traditional interests, the purpose of Orange processions changed over time. He argued, “The political functions of the ritual vary historically depending upon those class interests, the interests and power of ethnic and denominational communities, and particularly the position of the British state in Ireland.”\(^70\) Bryan’s work engaged spatial dynamics in the form of the ways Orangemen, particularly during the late twentieth century, intentionally filed applications to march through


\(^{69}\) Bryan, *Orange Parades*, 7.

\(^{70}\) Bryan, *Orange Parades*, 7.
Catholic areas or spaces that were known flashpoints in order to challenge the state’s determination to keep the peace through a policy of sectarian segregation enforced by police.\textsuperscript{71} In his chapter covering the first half of the nineteenth century, Bryan highlighted Orange reaction to state legislation designed to suppress its divisive effect on Irish society. The threat and eventual passage of the Unlawful Societies Bill in 1825, which outlawed the Orange Order and its processions, exposed class rifts within the society. According to Bryan, the Order’s upper-class leadership, “as large landowners, and as representatives of the civil authority such as magistrates,” had the most to gain from a congenial relationship with the state. Placating the state would mean breaking from their rank and file brethren. Bryan wrote, “the only appeal that the senior Orangemen could make to their brethren was to their loyalty to the state.”\textsuperscript{72} That loyalty would seem tenuous, as evidenced by the fact that at least fifteen July Twelfth riots took place between 1824 and 1827.\textsuperscript{73} Bryan identified the difficult position Orange Grand Lodge leadership found themselves in as they negotiated the power dynamics between local and state interests: Orange leadership was “trying to wield the political force displayed on the Twelfth within the state, yet not appear to threaten the stability of the state and thereby lose the very force they were wielding.”\textsuperscript{74} Throughout his discussion of legislation regulating Orange processions during this period, including the Party Processions Acts of 1832 and 1850, Bryan focused on the ways in which Orange reaction to this legislation fractured along class lines.\textsuperscript{75}

In the same year Bryan published his anthropological study of ritual, class, and politics in Orange parades, Sean Farrell employed insights from social and cultural historians like E.P.

\textsuperscript{71} Bryan, \textit{Orange Parades}, 5.  
\textsuperscript{72} Bryan, \textit{Orange Parades}, 37.  
\textsuperscript{73} See Appendix A.  
\textsuperscript{74} Bryan, \textit{Orange Parades}, 37.  
\textsuperscript{75} Bryan, \textit{Orange Parades}, 39.
Thompson and Natalie Zemon Davis to explore the role of nineteenth-century sectarian riots in the formation of modern Ulster.⁷⁶ In his work on sectarian violence and secret societies, Farrell adapted E. P. Thompson’s concept of the moral economy to explore plebian rioting in the Irish context. Farrell clearly articulated his terms and argument:

The sectarian moral economy centered on an exclusivist definition of loyalty and citizenship. Put simply, a sizable majority of Ulster Protestants believed that they had a historic right to superior status over their Catholic antagonists. This belief system had rather straightforward political and economic ramifications. The economic provisions of the sectarian moral economy consisted of a vague sense that Protestants had earned the right to a position of relative economic advantage over Irish Catholics. … More importantly, the loyalists believed that Catholics should be kept down politically – excluded from the Irish polity.⁷⁷

This Protestant entitlement was “grounded in a selective reconstruction of history” that foregrounded seventeenth-century incidents of Catholic violence. Pride of place among these events were the Irish Rebellion of 1641 and the battles of the Williamite Wars of the late seventeenth century, including the Siege of Derry and the Battle of the Boyne. According to Farrell, prioritizing the memory and commemoration of these events perpetuated a siege mentality among Irish Protestants that emphasized loyalty to the British state as a central pillar of their identity.⁷⁸ Based on this view of history, Protestants believed they had earned their privileged status and needed to remain vigilant to defend it.

Farrell noted that “outbreaks of sectarian violence were closely tied to events on the national political scene.”⁷⁹ For example, when Catholics under the leadership of Daniel O’Connell began pressing Parliament to repeal the Penal Laws during the 1820s, many

⁷⁶ Farrell, Rituals and Riots, 8–9.
⁷⁸ Farrell, Rituals and Riots, 14.
⁷⁹ Farrell, Rituals and Riots, 63.
Protestants reacted by joining Orange lodges. Perceiving a threat to their hegemony, Orange lodges increased their activities. Empowered Catholics challenged Orange assertions of supremacy in public spaces, leading to an explosion of violence during the decade that culminated in 1829, the year Parliament passed the Emancipation Act. According to Farrell, Orangemen intended these public processions to send several messages: first, to show Irish Catholics that Protestants remained ascendant; second, to indicate to fellow Protestants that their way of life was under assault; and third, to inform the British government that they would not accept conciliation with Catholics. Farrell asserted that the sectarian moral economy declined after 1830 when conflict shifted into a more urban context. He wrote, “In an era of mass politics, dominance now depended less on who owned land than on who inhabited and controlled territory.” Indeed. And as Farrell noted, the struggle to control territory featured four combatants: Orangemen, Catholic opponents, local officials, and the state.

While Farrell pointed out the important role the state played in sectarian violence in nineteenth-century Ireland, his focus remained on understanding the mindset and motivations of lower-class rioters. In his article “A Melancholy Record: The Story of the Nineteenth-Century Irish Party Processions Acts,” legal scholar Neil Maddox looked at Orange riots from the legislative perspective. Maddox’s article was more descriptive than analytical. He characterized the first Party Processions Act as “the most extreme legislative response to contentious parading ever witnessed on the island of Ireland.” Maddox told a story of the deteriorating relationship between Orangemen and Parliament. Orange popularity peaked at the end of the 1798 Rebellion,

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80 Farrell, Rituals and Riots, 63–64, 99.
81 Farrell, Rituals and Riots, 98–99.
82 Farrell, Rituals and Riots, 131.
83 Farrell, Rituals and Riots, 104.
in which the Orange-dominated yeomanry performed a valuable service for the state, putting down (sometimes viciously) a revolutionary domestic rebellion while British regulars fought the French overseas. With the Act of Union in 1801 and the declining French threat to mainland Britain, Parliament’s patience for the Order’s less useful activities, like inciting disorder among His Majesty’s subjects on July Twelfth, frayed. By the 1820s, as will be discussed in the following chapter, Parliament began passing legislation designed to weaken the Order.\textsuperscript{85} When the disorder following Catholic Emancipation in 1829 exposed the impotence of the available legislative solutions, Parliament took targeted action in the form of the Party Processions Act for Ireland of 1832.

Maddox argued that this Act was ineffective and only served to cultivate Orangemen’s sense of victimization. He asserted, “the Act represented all the worst aspects of Irish legislation since the Act of Union.”\textsuperscript{86} Not only was the Act another example of special legislation that only pertained to Ireland, but many, both within Parliament and without, viewed it as unfairly applied only to Protestant processions. Officials allowed the Act to expire in 1844. After an especially violent July Twelfth riot at Dolly’s Brae in 1849, Parliament passed the second Party Processions Act. Maddox claimed, “the two measures enacted in 1832 and 1850 were virtually identical in drafting, the only distinction being that the first was not perpetual and had to be renewed every five years.”\textsuperscript{87} Perhaps this reflects a difference between the interests of legal scholars and historians, but the wording of the 1850 Act diverged in important ways from that of its 1832 predecessor. This will be discussed in Chapter 5. Indeed, the phrase “public peace,” absent from the 1832 bill, featured in two important locations in the 1850 version. Although the structure of

\textsuperscript{85} Maddox, “A Melancholy Record,” 245–47.
\textsuperscript{86} Maddox, “A Melancholy Record,” 249.
\textsuperscript{87} Maddox, “A Melancholy Record,” 248–49.
the laws may have been similar, the revised language reflected social and political changes that historians find important.

In his 2009 book, Fighting Like the Devil for the Sake of God: Protestants, Catholics and the Origins of Violence in Victorian Belfast, historian Mark Doyle focused his attention on the social, political, and economic changes that reshaped Belfast during the 1850s and 1860s and profoundly affected its particular brand of sectarian violence. He argued, “to understand the peculiar embeddedness of Belfast’s violence … we must adjust our focus somewhat, looking not only at the abstract forces promoting antagonism between Protestants and Catholics but also at the complex social relationships that existed among specific groups and individuals.”

He identified three primary and related factors as formative during this period: the Great Famine, the rapid mechanization of Belfast’s linen industry, and the city’s increasing participation in Britain’s imperial interests. These developments contributed to an atmosphere in which sectarian violence was both more intense and less predictable. Examining social networks among each confessional group, relations between residents and the state, and violence itself, Doyle argued that an individual’s experience of violence shaped his or her future reaction to and participation in rioting. With these considerations in mind, Doyle determined to “chart the emergence during these years of a unique tradition of working-class violence in Belfast that became engrained in both sides’ respective communal identities.”

Although Doyle’s work focused primarily on the years immediately following those covered by this dissertation, his discussion of “expulsionist violence” is helpful in understanding

89 Doyle, Fighting Like the Devil, 4–7.
90 Doyle, Fighting Like the Devil, 9–11.
91 Doyle, Fighting Like the Devil, 13.
the profound impact of this violation of spatial boundaries for internalizing sectarian conflict.

During the first half of the nineteenth century, reports of July Twelfth riots in Ireland frequently include references to “wrecking” houses. It was not always clear what degree of destruction this term references; sometimes this may have been modest destruction such as broken windows, but occasionally it was clearly much more. Doyle explained:

Expulsionist violence transgressed the boundaries between public and private space. To watch as rioters entered one’s home, dragged furniture, cooking utensils and other personal items into the streets, and set them afame was a profoundly traumatizing, even radicalizing experience. … It was, above all, a uniquely domestic form of violence that brought the abstract political and religious conflicts between Protestants and Catholics into the homes of many. … Whatever the religio-political principles originally at stake, expulsionist violence transformed the conflict into a poisonous web of deeply personal bitterness and hatred among all sorts of people. 92

Doyle briefly discussed the 1850 Party Processions Act as one state measure designed to mollify some of this bitterness and hatred. Like Maddox, he concluded that it was “a blunt instrument unsuited to the delicate problem it was meant to address. … In seeking to empower Catholics, centralise authority and take control away from Protestants, the Irish Executive caused resentment among Protestants while failing fully to appease Catholics.” 93

While personal experiences of violence, economic motives, and religious animosity are, indeed, compelling in and of themselves, other dynamics also underpinned these events. Territoriality, both physical and abstract, played a significant role in the violence of the Boyne anniversary in both Ireland and Canada. Indeed, Elaine McFarland has argued that Orange parading in Scotland represented “a particularly robust and populist ‘pre-modern’ example of overlapping spatial and religious identities.” She further contended that these parading

92 Doyle, Fighting Like the Devil, 97.
93 Doyle, Fighting Like the Devil, 136.
Orangemen were aware that “claiming physical space entailed also claiming political and ideological space.”

Public space, especially, is inextricable from social, political, and legal entanglements. For this reason, it is misleading to conclude that recurrent July Twelfth violence was a two-sided, Orange versus Green issue. As several authors have noted, there was indeed a third, very interested, party involved: the state. This interest was expressed in Ireland by the British Parliament and in Canada and New Brunswick by the provincial legislatures.

As the nineteenth century progressed, these bodies played an increasing role not only in enacting public order laws but also in enforcing those laws on the ground. State-level efforts to control July Twelfth violence highlighted the tension between legislative bodies’ claim to territorial power via the more abstract spatial realm of law and the need to be seen exercising that power on the ground in contested physical space. Cultural geographer Don Mitchell explained that although legal discourse lays claim to all sorts of power, such as that to grant, protect, or curtail rights and regulate systems or territories, in fact it is the physical enforcement of these discourses that secured the promised outcomes. He maintained:

At most, words can instruct and perhaps provide the discursive justification for the restraint or use of police power; they can help define other institutions of power that may or may not provide a check on the police power of the state. In this sense, words can provide a valuable tool for restraining power or for justifying it in particular ways. That is precisely what “rights” do: they provide a set of instructions about the use of power. But they do so by becoming institutionalized – that is, by becoming practices backed up by force.

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This force could take the shape of Protestant and Catholic subjects who claimed the right to march or defend specific spaces, as well as the right of the state to regulate those spaces through law and its enforcement.

Indeed, the intimate relationship between law and geography is crucial to understanding society and the ways in which it shapes and is shaped by vectors of power. In the preface to the *Legal Geographies Reader*, Delaney, Ford, and Blomley explained, “the basic point … is that ‘law’ and ‘geography’ do not name discrete factors that shape some third pre-legal, aspatial entity called ‘society.’ Rather, the legal and the spatial are, in significant ways, aspects of each other and as such, they are fundamental and irreducible aspects of a more holistically conceived social-material reality.”  

They further asserted, “much of social space represents a materialization of power, and much of law consists in highly significant and specialized descriptions and prescriptions of the same power.” As both the necessity and the difficulty of enforcing the Party Processions Acts demonstrated, the ability (or inability) to control public space had significant implications for the public faith in the legitimacy of the government. Orange and Green claims to public space through contested July Twelfth processions threatened public order, which was increasingly seen as a sign of state weakness.

But what is public space? It would be instructive to begin by discussing property. In her article “Appropriating the Commons: The Tragedy of Property Rights Discourse,” historian Elizabeth Blackmar described three types of property rights in American legal tradition that are useful as we begin thinking about the ways Orange riots tease out the developing notion of

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98 Delaney et al., “Preface: Where is Law?” xix.
public space. According to Blackmar, property “can be thought of as enforceable claims to the benefits of resources. These claims carry with them duties and liabilities.”\textsuperscript{99} The three types of property rights are: private property, in which individuals may exclude others from resources; common property, in which members of a bounded community may not be excluded from the benefits of certain resources; and public property, which is owned by and controlled by governments on behalf of their constituencies.\textsuperscript{100}

The rise of the concept of public space, supplanting – although different from – the older tradition of the commons, needs more scholarly attention. Blackmar, whose article is primarily concerned with the private takeover of public space in the United States during the mid- to late-twentieth century, identified the mid-nineteenth century as the period in which public space took shape. Blackmar briefly discussed the English enclosure movement of the seventeenth and eighteenth centuries that saw landed gentry “enclose,” or privatize, land that had traditionally been reserved for common use by the local peasantry. She contended that John Locke and William Blackstone provided the theoretical basis for this spatial encroachment by arguing that man’s acquisition of property and his associated claims to sovereignty were based on natural law and that men formed governments to protect their property rights.\textsuperscript{101}

The territorial expansion of the United States (and also Canada) during the nineteenth century, highlighted by the expropriation of Native American lands and the development of the railroad, brought with it an expanded role for government financing and regulation and, therefore, a more prominent role for public space. Blackmar contended:

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\textsuperscript{100} Blackmar, “Appropriating the Commons,” 51.
\textsuperscript{101} Blackmar, “Appropriating the Commons,” 52.
\end{flushright}
Two broad impulses established the comparable political terrain of public space as territory in the nineteenth-century United States. On the one hand, the federal government expropriated land into a public domain and redistributed it to private proprietors; on the other, local and state governments appropriated private lands through eminent domain to create streets, waterways, parks, schools, and welfare institutions. As was true of railroads, in both instances the politics of property were linked to issues of labor, maintenance, and governance as well as redistribution.102

Blackmar’s phrasing here is important. She earlier defined public property as that which is owned and controlled by the state, but is this the same thing as public space? Blackmar characterized railroads, which were often privately owned but publicly subsidized and operated over vast swaths of land with diverse types of ownership, as entities that challenged any simplistic public/private property divide. Later, she specifically highlighted the “political terrain of public space as territory” during the nineteenth century. Thus, the question remains: what is public space? Is it a political creation?

What appears to be a simple question belies a complex answer. As cultural geographer Don Mitchell claimed, “just what public space is – and who has the right to it – is rarely clear, and certainly cannot be established in the abstract.”103 According to Mitchell, public space is an arena of struggle and the production of public space is “always a dialectic between the ‘end of public space’ and its beginning.”104 It is a space that requires both disorder and order. For a space to be public, it must be accessible, and accessibility necessitates a tolerance for at least a certain amount of anarchy. But anarchy is the antithesis of order, which is essential to regulating and creating a space that is accessible. Accordingly, Mitchell decided that public space is in some ways a utopia; nevertheless, the striving for public space is crucial to the operation of a just society. He concluded, “Public space must be understood as a gauge of the regimes of justice

102 Blackmar, “Appropriating the Commons,” 53.
103 Mitchell, The Right to the City, 5.
104 Mitchell, The Right to the City, 36.
extant at any particular moment. Public space is, in this sense, the space of justice. It is not only the space where the right to the city is struggled over; it is where it is implemented and represented. It is where utopia is both given spatial form and given lie to. Utopia is impossible, but the ongoing struggle toward it is not.”

Scholars Cedric Terzi and Stephane Tonnelat challenged Mitchell’s notion of public space as an arena of struggle and confrontation between rights and regulation by characterizing public space as the result of a process of publicization. They contended that focusing on the accessibility of public space restricts the concept to “mostly an issue of presence and representation.” Terzi and Tonnelat argued that the publicization process begins with a troubled situation. Basing their analysis on John Dewey’s theories, they insisted that the next phase of publicization is an inquiry into the initial problem. This phase requires action to take place in the physical realm, creating the potential for public spaces. Thirdly, the problem must attract the concern of parties not involved in the initial dispute, thus simultaneously creating a public and a public sphere. They summarized:

A publicization process is always associated with the organization of a problematic situation, presenting spatial and temporal dimensions, with a beginning and an end. An inquiry aims at defining the troubled situation in all its dimensions: its problematic consequences, the people indirectly concerned, its physical environments, and the spheres in which it is discussed and analyzed. When the inquiry begins to publicize these aspects of the troubled situation, a specific process of political resolution of a social problem is at work. … Publicization is thus a process directly linked to what Dewey called “political behavior” behind the functioning of “the State.”

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Terzi and Tonnelat concluded that rather than focus on the state of publicity, scholars “should analyze their processes of publicization.”

The regulation of Orange riots in mid-nineteenth century Ireland and Canada provide a significant opportunity to examine this process of publicization. The endemic Protestant/Catholic conflict and the recurrent riots on July Twelfth represented fitting “problematic situations.” The inquiry into the events took place on multiple levels as local residents and legal officers informed state officials and institutions about the violence taking place. In addition, Parliament ordered official inquiries into Orange riots in 1835 and 1849. These official and unofficial inquiries, initially expressed through private correspondence as well as the public press, contributed to the passage and repeal of Party Processions statutes in both Ireland and Canada. This process directly addressed the problematic situation of access to public space.

The mid-nineteenth century Orange riots brought the problem of ordering public spaces to a head. As Parliament sought to integrate the majority Catholic-Irish population into the British populace, and as Canadian and New Brunswick legislatures tried to accommodate Irish-Catholic immigrants within a British Protestant majority, they found themselves faced with the challenge of mediating social, economic, religious, and political conflict enacted in public space. Ordering this space was increasingly seen as the responsibility of the state. Scholars have noted this development. According to historian David Churchill, the “state monopolisation thesis” argues that “as part of the modernisation process, power to determine the response to crime was


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removed from the hands of the civilian public, and entrusted exclusively to state agencies and the formal criminal justice system.\textsuperscript{110}

In the early modern period and into the eighteenth century, the responsibility for public order rested primarily with private citizens. The establishment of London’s Bow Street Runners in 1749 hinted that a shift toward professional policing was underway. The first half of the nineteenth century saw continued progress in that direction with a countrywide police force established in Ireland in 1822 and the Metropolitan Police in London in 1829.\textsuperscript{111} Constables in Canada shifted from a fee-for-service part time office to a full-time salaried position in the 1830s.\textsuperscript{112} In his article on violence in Ireland, Richard McMahon commented on the growth and professionalization of police: “Over the course of the first fifty years of the nineteenth century the role and position of the police were to change almost beyond recognition – moving from an essentially local force, made up of semi-professional baronial constables, to a centrally controlled and armed one consisting of over 11,000 men by the late 1840s.”\textsuperscript{113} After a historiographical period dominated by brilliant, if overtly ideological, Marxist studies on crime and order, as McMahon points out, “more recent studies have sought to look at the role of the law and courts less as serving the immediate needs of the state to impose control but rather as acting in response to, as Martin Dinges puts it, a ‘popular demand for social control.’”\textsuperscript{114}


One of these brilliant, if overtly ideological, Marxist studies on crime and order was E.P. Thompson’s *Whigs and Hunters: The Origins of the Black Act*. It was also one of the first projects to attempt an applied examination of the ways in which law and space intertwine. Indeed, Thompson opened his work with the following declaration: “The British state, all eighteenth-century legislators agreed, existed to preserve the property and, incidentally, the lives and liberties, of the propertied.”\(^{115}\) *Whigs and Hunters* remains one of the few works by a historian that focuses on the spatial implications of a single criminal law. In an effort to preserve the forests for the sole enjoyment of the elite – and, one might argue, reinforce the social and political order through access to space – the Black Act threatened capital punishment to anyone “‘armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked,’ who shall appear in any forest, chase, park or enclosed ground ‘wherein any deer have been or shall be usually kept,’ or in any warren, or on any high road, heath, common or down.”\(^{116}\) Thompson’s work predated the popularization of the field of legal geography, such as it exists, as well as its application to history. Importantly, his findings on the interplay between class, law, power, and contested space – as well as his identification of the tension between the law as it was enacted and the law as it was enforced – make *Whigs and Hunters* a viable intellectual foundation for this study.

Thompson began his study of eighteenth-century English law by describing the forest economy as exemplified by Windsor Forest. The focus of the forest economy, especially in one so close to London, was the red and fallow deer maintained by the keepers for the King’s entertainment. Intricate rules existed for the construction and maintenance of this elite space,

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\(^{115}\) Thompson, *Whigs and Hunters*, 21.

\(^{116}\) Thompson, *Whigs and Hunters*, 21.
including a law against building a fence so high that the deer might be obstructed from accessing their traditional feeding grounds. Other official laws of the forest stated that under no circumstances should any deer be killed or removed, no timber could be felled without license, and no peat or turfs could be cut or removed. In practice, the forest laws and economy were more complicated and the space was contested. On the upper end of the social spectrum, gentry and nobility increasingly enclosed areas of the forest for private deer parks and created private fishing ponds. On the more humble side, a growing population of manorial tenants pushed their claims to graze animals and cut timber and turf on what they perceived as their commons. In order to enforce the forest laws, an extensive bureaucracy was established, including a ranger (usually a member of the nobility) and many keepers who maintained the forest.

As was often the case, Thompson observed that the on-the-ground enforcement of the law varied with the political situation. Poaching enjoyed a long tradition among people living near the forest. Not only did commoners supplement their subsistence with forest products that included meat, timber, and turf, but they also had an interest in keeping down the population of deer which, because of the laws governing fence height, often trampled their crops. In addition to common people, many country gentry used the forests to hunt small game. The right of the people to use the forest was deeply entrenched in the social memory to the point that it was considered part of the common law. During the seventeenth century this understanding even reached into the courts of law where judges rarely found against the poachers.117

Thompson found that this understanding changed after the Hanoverian accession. The increasing number of presentations for forest usage violations, including local gentry accused of

117 Thompson, Whigs and Hunters, 56–60.
hunting small game, alarmed the forest community. In addition, Thompson reported, applying statute law at the local level was deeply unpopular, even before the passage of the Black Act. In 1719, the Treasury Solicitor lamented, “when any offences are committed, the keepers can scarce prevail with the Justices to take their affidavits, and when they do they will not levy the penalties.” Thompson also quoted Colonel Negus, who suggested that the best solution to the problem was to recruit new justices, as the current ones “ask why we don’t punish the offenders by the forest laws, and are unwilling to execute the statue laws upon forest offences.”

In identifying this tension between state and local legal spaces, though not articulating it in this way, Thompson highlighted one of the keys to understanding the difficulties that authorities encountered when they tried to enforce the Party Processions Acts. Thompson asserted that forests had been contested spaces for centuries, but what changed in the early eighteenth century was the involvement of outside politics. He wrote: “In this sense, the ‘crisis’, while arising from forest conditions, was accentuated by political intrusions from outside. What was at issue was not land use but who used the available land: that is, power and property-right.” Similarly, the Party Processions Acts are an example of an outside political intrusion that sought to control who would use public space.

Readers often find that Thompson’s powerful discussion of “the rule of law” in the concluding chapter of *Whigs and Hunters* represented his major contribution. Thompson categorized himself as a Marxist historian of the old tradition, which was apparent throughout his discussions of the Black Act as one of the first of many capital offense decrees designed to protect the property of the ruling class. He claimed that in 1975 he found himself standing,

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118 Thompson, *Whigs and Hunters*, 61.
ideologically, on an eroding middle ground.\textsuperscript{120} The intense focus of political and social historians on the island of Britain had been justified because they saw Britain as exceptional and somehow vitally important to human history. That perspective, with the decline of empire and in an increasingly global view of history, was coming under criticism. And rightly so, according to Thompson. On the other hand, new Marxist historians attacked the study of individual laws because law was the instrument of the ruling class. The revolutionary class had no use for law except to overthrow it. Thompson found himself arguing that, though enacted and often abused by the ruling class, the study of law remained important because it also defended the people against the overt abuse of power. He argued:

There is a difference between arbitrary power and the rule of law.... The rule of law itself, the imposing of effective inhibitions upon power and the defence of the citizen from power’s all-intrusive claims, seems to me to be an unqualified human good.... The uncodified English common law offered an alternative notation of law, in some ways more flexible and unprincipled ... in other ways more available as a medium through which social conflict could find expression.... Since this tradition came to its maturity in eighteenth-century England, its claims should command the historian’s interest.\textsuperscript{121}

It should indeed. And not just English law, but law in general. Law as an expression of power and a means of exercising power through control of the physical and social spaces in which people live. Law and space as inextricably related. To describe this relationship between law and geography, and to move beyond the limitations of the existing linguistic options, critical legal geographer David Delaney identified the “productive neologism, nomosphericity, that may relieve interested scholars of the burden of ‘relating’ the socio-spatial to the socio-legal and may reposition inquiry at a point where they are already recognized as (i) constitutive of each other,

\textsuperscript{120} Thompson, Whigs and Hunters, 260.
\textsuperscript{121} Thompson, Whigs and Hunters, 266, 267.
and (ii) constitutive of structures and experiences of power.” This study will not directly engage in the term “nomosphericity,” but its definition is nonetheless useful to describe the interrelationship between law and space and also its foundational social role.

Thompson recognized this, at least to a certain extent. In that same well-known chapter on the rule of law, but in a less-heralded paragraph, Thompson discussed the relationship between law and practice and law and productive relations. However, he described these relations through their enactment in space:

If we look closely into such an agrarian context, the distinction between law, on the one hand, conceived of an element of “superstructure,” and the actualities of productive forces and relations on the other hand, becomes more and more untenable. For law was often a definition of actual agrarian practice, as it had been pursued “time out of mind” How can we distinguish between the activity of farming or of quarrying and the rights to this strip of land or to that quarry? The farmer or forester in his daily occupation was moving within visible or invisible structures of law: this merestone which marked the division between strips; that ancient oak – visited by processional on each Rogation Day – which marked the limits of the parish grazing; those other invisible (but potent and sometimes legally enforceable) memories as to which parishes had the right to take turfs in this waste and which parishes had not; this written or unwritten customal which decided how many stints on the common land and for whom – for copyholders and freeholders only, or for all inhabitants? Hence “law” was deeply imbricated within the very basis of productive relations, which would have been inoperable without this law.

This passage reminds one of Doreen Massey’s influential 2005 definition of space as, in part, “the product of interrelations.” She insisted on grounding space, a concept which she contended can be conceived of as overly abstract, in everyday practice. She continued, “precisely because space on this reading is a product of relations-between, relations which are necessarily embedded

123 Thompson, Whigs and Hunters, 261. The end of this passage from Thompson is also noted by Luke Bennet and Antonia Layard in “Legal Geography: Becoming Spatial Detectives,” Geography Compass 9, no. 7 (2015): 415. Note that they list the date of the Black Act as 1732, rather than its accurate date of 1723. This might have been a typical transposition, but it may reveal the level of attention paid to history and temporality in most scholarship on legal geography.
material practices which have to be carried out, it is always in the process of being made. It is never finished; never closed. Perhaps we could imagine space as a simultaneity of stories-so-far.”\textsuperscript{124} This somewhat whimsical but also profound characterization of space as “a simultaneity of stories-so-far” implied a significant role for time in our understanding of space. Perhaps we could imagine spatial history as a recognition of and grappling with the beautiful – and also frequently elusive – complexity of a multiplicity of simultaneous chapters of one large, ultimately incomprehensible, story.

If law and space can both be thought of as relationally constructed, as Massey insisted, these relations cannot exist purely in the abstract realm of legal and spatial theory but must be placed in their material contexts. After the British Parliament and the Canadian Legislative Assembly passed Party Processions statutes for Ireland and the Province of Canada in 1832 and 1843 respectively, these laws had to be enforced on the ground in order to be effective. Governments largely depended upon officials at the local level to flex state muscle when laws were challenged. This arrangement proved problematic as community magistrates juggled conflicting local and national concepts of public order.

Historian Keith Wrightson examined this tension in his 1980 chapter, “Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England.” Expanding upon Thompson’s identification of the tension between government officials and local justices over their refusal to enforce statute law in the forests, Wrightson argued that distinct systems of order operated at the state and local levels during this period and that the task to mediate between the two fell to local officials like constables. He noted: “Ensnared at the point where national

legislative prescription and local customary norms intersected were the wretched village officers, the much tried, sorely abused, essential work-horses of seventeenth-century local administration.”125 During this period, order at the state level “was at once an ideal arrangement of human institutions, a pattern of authority and an ultimate scheme of values.”126 With the Puritan gentry holding the reins of government, local officials were tasked with enforcing strict rules governing morality, like Sabbath-breaking and drunkenness. At the local level, however, order operated differently and with different aims. As Wrightson asserted, “‘order’ meant little more than conformity to a fairly malleable local custom which was considerably more flexible than statute law. The maintenance of order meant less the enforcement of impersonal regulations than the restraint of conflict among known individuals in a specific local context.”127

These two systems of order could coexist as long as state order was not enforced. Wrightson argued, “the vital area became that of enforcement, for the degree of law enforcement was the factor which could determine whether central regulation and local customary practices were to enjoy a precarious co-existence or to come into disruptive conflict.”128 The degree to which these came into disruptive conflict was largely determined by the persistence of the local enforcement officers. While a diligent constable may gain esteem in the eyes of his superiors, he was more likely to earn the disapprobation of his neighbors.129

Constables and jurymen of seventeenth-century England stood at the nexus of two concepts of order: one at the state level and the other at the local level. The seventeenth century saw a quiet revolution in the way in which state law was conceived that would have profound

effects on the creation and regulation of public space. During the early seventeenth century, English jurist Edward Coke published his influential commentary on English common law. The effect of his effort was to remove the common law from its local context and create in it a powerful force for a unifying national English law. Legal geographer Nicholas Blomley described Coke’s process: “While rooting the common law in the spaces (and times) of ‘Englishness,’ he disembands the interpretation of that law from the multiple local sites in which law acquires meaning. As well as being ancient, the common law is described as unitary and centralized.”  

Because this centralization extracted the law from its formative context, it necessarily became spatially abstract in the sense that it referred to general rather than particular situations and claimed jurisdiction over a politically bounded territory that existed on a map rather than on the ground. As Blomley explained, “to the extent that the essence of the law is always understood as disembodied rather than formed in material and historical conditions, it follows that the law can be interpreted only at the highest level of spatial abstraction.”

But, of course, law must be applied to specific struggles in particular locations. By the nineteenth century, the reification of abstract law on the ground was the responsibility of local magistrates, who found themselves in much the same position as their seventeenth-century constable forebears. As Don Mitchell asserted, “the ‘actually existing’ right to the city – and the struggle for its expansion by some social groups and its contraction by others – is the product of specific social contests, in specific places, at specific times. And yet, these contests themselves give rise to particular forms of regulation – or the adjudication of interests – that, as law, or as

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131 Blomley, *Law, Space, and the Geographies of Power*, 76.
formally enunciated rights, are universal (or better yet, universalizing) in their intent.”\textsuperscript{132} At this nexus of universalizing state law and fragmentary local practice is public space.

Whereas several authors have examined the reasons for and meanings of Orange riots, fewer have focused on the response to these riots as part of an evolving concept of public order. A transatlantic comparison is useful because it allows for an exploration of efforts to control public space in different parts of the British Empire. In addition, the specific case of Orange violence in Ireland and British North America lends itself to a center-periphery study of a conflict that originated over control of a particular place but was nevertheless transferred to a new environment where it engaged participants who were not involved in the original dispute. How did Canadian legislatures and the public respond to this non-native threat to public order? In his 1997 article assessing recent developments in the study of collective violence in Canada, Scott See maintained “that we would better understand collective violence if we range more often outside the intellectual frameworks we have carefully constructed – if we identify and test more explicitly and rigorously North American, and ultimately, North Atlantic themes. The international consideration of collective violence might expose more points of commonality than have previously been considered.”\textsuperscript{133} This dissertation explores North Atlantic themes in the developing conflict over control of public space.

This examination of July Twelfth riots will utilize insights from cultural geography and spatial legal history, as well as the scholarship of social and cultural historians who explored the increasing role of the state in law enforcement. It will investigate the tension between governmental efforts during the nineteenth century to claim jurisdiction over public space

\textsuperscript{132} Mitchell, \textit{The Right to the City}, 41.
\textsuperscript{133} See, “Nineteenth-Century Collective Violence,” 16.
through legislation and the proliferation of police and military peacekeeping forces and the persistent challenge at the local level to resist these outside incursions. The response to this challenge during the first half of the nineteenth century illuminates evolving concepts of the responsibility for public order during a pivotal period in British and Canadian history. By naming certain acts as legal or illegal, the state set the boundaries for which activities were acceptable in public spaces. Through the growth of the police force during this period, authorities sought to physically control contested territories. And in the medium of burgeoning newspapers, the state and public voices wrestled for control of the narrative on accountability for public order. The responses to Orange riots on both sides of the Atlantic provide insight into evolving concepts of public order and the ways in which claims to power negotiated through law must ultimately be contested in public space.
CHAPTER 2:

PARLIAMENT, POLICE, AND THE PUBLICIZATION OF PUBLIC SPACE, 1814–1832

“In a spirit of greater defiance”

This chapter explores the state’s early efforts to control public space by reforming the police force and passing proactive legislation. In the first part of the nineteenth century, Parliament formed committees to investigate the causes of disorder in Ireland and to assess the state of the police forces in both Ireland and London. They discovered that the current methods of keeping the public peace—relying on the century-old Riot Act and locally controlled constabularies and police—was not effective. During the same period, political, social, and economic tensions in Ireland came to a head as violent agrarian protests and mass political movements threatened Protestant ascendancy.¹ As a result, Parliament passed legislation in 1814, 1822, 1824, and 1825 that sought to assert more state control over public order through reshaping the police and constabulary and banning secret societies, like Orange lodges, that advanced competing concepts of order. These conditions, and Parliament’s efforts to mediate between Catholic and Protestant interests, led to an explosion of violence during Orange celebrations on July 12, 1829. In response, Parliament passed the Party Processions Act for Ireland in 1832, prohibiting Orange processions in public thoroughfares.

¹ I use the term “Protestant ascendancy” to refer to the Protestant minority’s political, social, and economic dominance in Ireland. This popular phrasing is not without its complications. Historian S.J. Connelly grumbled that “the ascendancy” was “a muddled, anachronistic label that has somehow become a substitute for serious analysis.” In the same work he clarified that in its late eighteenth-century usage, “‘Protestant ascendancy’ was a state of affairs, the superiority of Protestants over Catholics. It was only later that the phrase came to refer instead to a social group: the Protestant ascendancy.” See S.J. Connelly, Religion, Law and Power: The Making of Protestant Ireland 1660–1760 (Oxford: Oxford University Press, 1992), 4, 104. My definition tends toward Connolly’s “state of affairs,” but it encompasses the ruling Protestant elite.
This course of events echoes Terzi and Tonnelat’s articulation of the process of publicization: recognition of a problematic situation, investigation into the dynamics of that situation, and then the involvement of actors not directly affected by the situation to discuss its solution. They characterized this third step as “a political resolution of a social problem.” The ultimate end of this process, they argued, “leads … to the designation, for a variable duration of time, of public officials in charge of dealing with the problem, and thus to the creation or the reinforcement of more or less durable political institutions.”\(^2\) The Party Processions Act would prove to be of the less durable variety. This was in large part due to a potential weakness Terzi and Tonnelat identified: disagreement on exactly what shape the public space under construction should take. They explicated this possibility: “As the inquiry advances, it opens the way to experimental solutions aimed at solving the problem. All this means that the construction of a public rests on sensitivity and values largely shared by the concerned population.”\(^3\) In the specific case of Orange processions, there was very little agreement among Parliament, local authorities, rioters, and newspaper contributors on what an Irish public should look like (an issue that has yet to be solved today) or who should control Irish public space. The years culminating in the first Party Processions Act illustrate the challenge Parliament faced in wresting control of emerging public spaces from traditional local interests and its increasing willingness to combine legislation with forces on the ground to assert its authority.

Before 1832, authorities primarily employed two laws to moderate collective violence across the British Empire: the common law prohibition against assemblies likely to disturbs the peace and the Riot Act. Even before the Party Processions Acts, the common law gave

\(^3\) Terzi and Tonnelat, “The Publicization of Public Space,” 531.
magistrates the authority to disperse potentially incendiary assemblies, whether armed or unarmed. In what is a common theme, magistrates rarely exercised these powers as they were reluctant to infringe upon the common law right to procession or simply saw no advantage in upsetting the local status quo.⁴ Criminologist Iain Channing explains the confusion surrounding the issue of public assembly: “The freedom to assemble in public was not legally enshrined as a right before the Human Rights Act 1998…but through the concept of residual freedom, people were at liberty to form public assemblies provided the conduct of its members remained lawful. No statutory law to restrict public assemblies existed until the Public Order Act 1986.”⁵ To complicate matters, processions represented a special category of assembly, as several types of public parading, such as religious processions or state events like the Lord Mayor’s parade, held significant social and political value.⁶ The trick for legislators was to extricate incendiary party processions from the useful demonstrations without appearing to target a specific group or infringing on customary rights. This proved to be a difficult task.

During the final years of Queen Anne’s reign, Parliament formed a committee to discuss making “more effectual” laws pertaining to riots and disorders.⁷ The situation gained urgency with the disruptions following Queen Anne’s death and the succession of George I, Elector of Hanover, to the English throne in August 1714. The Riot Act (1715), although seemingly casually referenced in accounts of collective disturbance, was in actuality a particularly destructive weapon of state authority. In cases of riot, a justice of the peace was to maneuver

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⁴ See Neil Maddox, “The Party Processions Acts: An Account of Irish Parading during the Nineteenth Century” (PhD diss., University College Dublin, 2005), 49. Maddox generously loaned his defense copy to me when I was unable to obtain a copy via interlibrary loan.
himself “among the said rioters or as near to them as he can safely come”⁸ and proclaim in a loud voice, “Our Sovereign Lord the King chargeth and commandeth all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon the Pains contained in the Act made in the first year of King George, for preventing Tumults and riotous Assemblies. God Save the King.”⁹ Should any rioters fail to disperse after one hour, they would be charged with felony without benefit of clergy.¹⁰ But in the penal section of the Act, the actual offense was referred to as treason, thus significantly upgrading the degree of felony and subjecting those prosecuted under the Act to lethal force. Richard Vogler explains, “It is for this reason that actual prosecutions were hardly ever founded on the Act, which was concerned above all with the immediate defence of authority.”¹¹ The Riot Act, then, could be considered part of the Bloody Code, the collection of British criminal laws that expanded the number of capital offenses from around 50 in 1688 to 225 by 1815.¹² In practice, however, these draconian laws lost their bite both when juries refused to convict and when local magistrates declined to read the act or bring prosecutions in the first place. Parliament anticipated these difficulties during debate over the bill. On the same day the House of Commons sent the Riot Act to the House of Lords, they also passed a motion to present an address to the newly crowned King George I regarding steps to be taken to put down “the late rebellious and

⁹ Vogler, Reading the Riot Act, 1.
¹¹ Vogler, Reading the Riot Act, 2.

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tumultuous Riots and Disorders.” Among these efforts was an assurance that “an Account may be taken of such Justices of the Peace as have failed in the Discharge of their Duty on these Occasions; and that such Justices who shall appear to his Majesty to have neglected their Duty be forthwith put out of the Commissions of the Peace; and that such other Magistrates, as shall appear likewise to have neglected their Duty therein, may be proceeded against with the utmost Rigour of the Law.”

These men were emblematic of E.P. Thompson’s reluctant enforcers of the Forest Law.

The challenges of the Riot Act illustrate the fraught relationship between what appears to be the centralization of control over law enforcement that nevertheless relies on men at the local level to enforce the laws as well as a belief among the public in the legitimacy of those decrees. Indeed, geographer John Allen asserted that authority “works through recognition.” He continued, “compliance is always conditional and anyone thinking that a rule book is all the legitimacy that is necessary is one day likely to be in for a rude awakening.”

Recognizing that laws seeking to regulate public space would require a centrally controlled presence in public space, Parliament moved to increase their presence on the ground.

Parliament’s determination to assert peace-time authority over Irish public order coincided with the first reports of July Twelfth riots and a rash of agrarian disturbances. The resolution in 1814 of the Napoleonic Wars brought with it fears of rising disorder in Ireland as Parliament planned to withdraw a significant number of British troops that had been stationed there for wartime service. Robert Peel, Chief Secretary for Ireland, sought to forestall the danger

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by enacting innovative police reform that would give Dublin Castle, seat of British political power in Ireland, greater control over order in the most troublesome areas. Passed in June, “A Bill to provide for the better Execution of the Laws in Ireland” opened with the clause: “Whereas Disturbances have from time to time existed in different parts of Ireland, for the suppression whereof the ordinary Police hath been found insufficient, and it is expedient that Provision should be made for such Cases.”\(^{15}\) Peel then laid out those provisions. The bill offered local magistrates the option to petition the Lord Lieutenant of Ireland to proclaim a district to be “in a state of disturbance.” This procedure harkened back to the recently lapsed Insurrection Act, a version of which Peel had plans to resurrect. Once a district was proclaimed, the Lord Lieutenant could appoint a stipendiary magistrate, a chief constable, and a police force of no more than fifty men to take charge of the area. This delegation now took precedence over the local magistrates and was tasked with reporting weekly on its activities to Dublin Castle, thereby effectively centralizing control over law enforcement in the hands of Parliament’s representative in Ireland. Significantly, the cost of this extra-local force was to be paid by taxpayers of the proclaimed district and could only be withdrawn when the Lord Lieutenant was satisfied that the danger had passed.\(^{16}\)

A month later, Peel ushered “A Bill to provide for preserving Peace in Ireland” through Parliament, essentially reviving the Insurrection Act.\(^{17}\) The Bill provided a procedure by which the local magistrates could appeal to the Lord Lieutenant to proclaim an area disturbed. In an area so proclaimed, local inhabitants would be subjected to a curfew. Moreover, a special

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\(^{17}\) Palmer, Police and Protest, 202.
sessions court would be established, presided over by the Lord Lieutenant’s appointee, until the disorder was deemed passed. The law also gave magistrates authority to demand entry into individual’s homes if they were suspected of violating the curfew. Inhabitants were prohibited from possessing arms or weapons of any kind, gathering in public houses after dark, distributing seditious material, and assembling “tumultuously” during the day. With this legislation, Parliament insinuated that its authority to keep order in public spaces extended into private homes. Long arm of the law, indeed.

In contrast to its aggressive push for a centrally controlled police force in Ireland, Parliament trod more carefully in England. In 1816, Parliament undertook an investigation into the state of the police force in London and its surrounding area. It conducted interviews with fifty-four witnesses involved in various aspects of law enforcement in the metropolis, uncovering several areas in need of reform if the state was to improve its control over the public peace. The magistrates’ court at Bow-Street, established in the early 1750s, remained one of the primary centers for policing and justice in the city. In 1816 it was staffed by three magistrates, four clerks, eight officers, thirteen captains, and eighty-seven patrolmen. Chief Magistrate Sir Nathaniel Conant described their standard operating procedure as follows: “There is an attendance, all night as well as all day, of certain Police officers and constables, to be ready if any disturbance of the public peace occurs; and the Magistrates, when they leave the office, give

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orders to have immediate notice if any exigency arises.”20 Conant’s account makes clear that the police were, by design, a reactionary body.

John Beaumont, magistrate for Middlesex County, argued that this strategy represented one of the failings of the police. He contended, “In my opinion there is too little exertion used in preventing the propagation and growth of crimes, and too much exertion used in punishing them when they arrive at maturity.”21 A shift from reactive to proactive policing in the area of keeping the peace would represent a significant change in philosophy, and one that would not be welcomed by those who felt that such a move would violate individual rights that many Englishmen held dear. In addition, according to several witnesses, the criminal justice system was not particularly effective at punishing crimes after they occurred. This failure was partly because the existing justice system placed the burden of prosecution largely on the victim of the crime. Beaumont further commented, “I think that crimes against the public peace ought to be prosecuted at the public expense, and be conducted by a public officer; this would secure the ends of justice, and prevent collusion between the prisoner and the prosecutor.”22 Here he referenced the practice by which criminals could avoid prosecution by paying off their accusers, an opinion seconded by William Fielding, one of the magistrates at the Queen’s-Square police office.23

John Townshend, a Bow-Street police officer, put forward another argument in favor of a public prosecutor: many victims would not prosecute due to the cost in money and time. When asked for the leading obstructions in convicting criminals against the public peace, Townsend

asserted that so long as the victim did not employ an attorney or counsel, prosecution was not that expensive. Nonetheless, he complained, “We cannot beat that into the public.”24 He listed additional circumstances discouraging prosecution, “Others do not like it because there is such a waste of time; sometimes they must wait three, four or five days at the Old Bailey before their trial comes on, besides the examination at the Office, all of which are existing circumstances, that are daily occurring, and therefore a great many people will not prosecute; and in some cases persons are deterred from an unwillingness to have their names brought in.”25 For working-class crime victims, these obstacles could be insurmountable. Between them, Beaumont and Townshend showed the significant challenges of entrusting criminal prosecution and public order to private citizens and enforcement officials. Beaumont’s repetition of the word “public” in his recommendations for reform was more than a rhetorical trick: he was suggesting that order and law enforcement were public, not private, responsibilities.

But who should carry out these public order duties? The Parliamentary committee was also interested in whether an augmented police force could reduce the need for the military to perform crowd control and disperse rioters. Initially, magistrate William Fielding, with more than fifty years of service experience, pushed back against this idea. He demurred, “All the Police which we now have, or could have, with the addition of every different officer, would be inadequate to the thing. And I think that the whole Police power, supposing it were double, would be an inadequate body upon which to place full reliance.” Rather, he favored using the military: “I also think, that for the purpose of public peace, an early appearance of the military would be dreaded, and under that dread much benefit might be expected; always supposing that

the Police will first of all be tried to ascertain the point of safety; but if danger seemed to threaten beyond that point, I should think, as a Magistrate, I should best perform my duty by thinking of and immediately calling out the military energy.”26

The committee was not satisfied with Fielding’s out of hand rejection of their plan. They then presented him with a scenario in which parish constables were placed under the authority of a superintendent constable who was in turn under the authority of the police, “by which means a daily attendance of the constables would take place, preventing thereby the nuisances which at present infest the streets; and in case of public disturbance, the whole body might be called out, interposing, in the first instance, their strength to check any riotous disturbance.”27 Would Fielding be amenable to this arrangement? They flattered him, recalling that he had first mentioned the role of superintendent constable. Fielding immediately warmed to the idea. He described his ideal superintendent constable: “I think that that would be a species of officer who would produce the same sort of efficiency that is produced in the army by the serjeant and the corporal, for they are the people upon whom the military officers rely for the strict execution of their regulations; so with respect to the Police; for this class of officer would carry our orders into execution.”28 In spite of this thorough investigation, which seemed to find in favor of a move toward a more centrally controlled, publicly funded police and prosecution system, nothing happened. London did not get a metropolitan police force until Home Secretary Robert Peel introduced the Metropolitan Police Act in 1829. Although willing to restrict the freedom of its Irish subjects, Parliament was reluctant to try the same closer to home. England had plenty of crime and disorder, and, as the 1816 investigation shows, Parliament had plenty of interest in

reforming the system. The stumbling block, Stanley Palmer explained, was “the great fear that the remedy – a powerful force of policemen – would necessarily involve the destruction of the historic rights and liberties of Englishmen.”

This fear was not misplaced. As Don Mitchell insisted, public space is defined by the tension between freedom and order: between rights and rules. He wrote: “The struggle for rights is a determinate of the actual social content of the dialectic between abstract and differentiated space; the struggle for rights produces space. … The rules for … how public space is created, used, and transformed within cities are all, in part, rules of law, rules of right.” Local magistrates were frequently the arbiters of who would get to exercise which rights, and where.

Even in this era of reform, magistrates continued to play significant roles across Britain and the empire as the critical link between British law and its implementation. Traditionally, as Keith Wrightson explained, magistrates were responsible for dispensing justice in localities, both by calling in the required forces, whether the constabulary, the police, or the military, and by prosecuting the offenders at the petty sessions. Parliament clearly recognized the crucial role these officials played as well as their tendency to go off script. In 1822, its Select Committee on Police concluded that Englishmen were still not ready for a police force. Ireland, however, was a different matter. The persistent agitation in Ireland, which frequently stemmed from conditions imposed by the centuries-long English occupation of the country and the Irish refusal to accept their subjugation, led many leading Englishmen to conclude “that there was something wrong with Ireland.” Historian Thomas Bartlett maintained, “Unlike in England, where the law was regarded as a neutral instrument, in Ireland the ‘law’ was perceived as a vigorously partisan

29 Palmer, Police and Protest, 286.  
30 Mitchell, The Right to the City, 29.  
weapon, to be applied or waived as the occasion demanded.” The purportedly law-disrespecting Irish would require a firmer hand. New Chief Secretary Henry Goulburn, inspired by the success of the Peelers (created by the 1814 act), horrified by the state of the local constables, and concerned by the persistent bouts of disorder throughout the country, pushed for a more permanent, centrally controlled police force for Ireland in 1822.

Goulburn’s inclination to reform the Irish police force got a significant push from local conditions. The early 1820s were a particularly fraught period in the southern and western counties as two decades of agrarian unrest intensified. Although Orange lodges were not particularly active in the south and west, sectarian prejudice always provided extra tinder for any grievance. When interviewed by a Parliamentary committee to investigate the disturbances, Maxwell Blacker explained that the religious animosity had ancient roots. He expounded, “There is an indisposition on the part of the Catholics against the Protestants, and against the Church establishment…though disturbances arise from the distress, and from the increase of population during the war, and the fall in the price of produce, yet when they get to a certain height, there is a religious tinge given to them.” This religious tinge was intensified by the additions of Ulster Ribbonmen and Rockite millenarianism. Probably a descendent organization of the Defenders, Ribbonism was the Catholic answer to Orangeism by the early nineteenth century, although it was and remains a fairly shadowy organization. The Rockite movement blended traditional

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35 Senior, *Orangeism in Ireland*, 181–82. The first full-length study of Ribbonism was published in 2018, so historians should hope that the organization is now moving out of the shadows. See Hughes and MacRaild, *Ribbon Societies in Nineteenth-Century Ireland and its Diaspora*. 59
grievances against rents and tithes with a prophecy that the Protestants soon would be driven out of Ireland.\textsuperscript{36} The Rockites’ threat to peace and order in the majority-Catholic counties provoked a significant response from Parliament. The primary historian of the movement, James Donnelly, explained the Rockites’ impact: “The intensity of their grievances, the frequency of their resort to sensational violence, and their appeal on key issues – especially rents and tithes – across a broad front presented a nightmarish challenge to Dublin Castle. This challenge prompted a major reorganization of the police, a purging of the local magistracy, and the introduction of large military reinforcements.”\textsuperscript{37} A significant part of this reorganization was the Constabulary Act of 1822.\textsuperscript{38}

The Constabulary Act sought to centralize control of law enforcement in Ireland along the lines of the French gendarmerie by reserving for the government the right to appoint constables, chief constables, stipendiary magistrates, and inspectors of police, all of whom would be answerable to the Crown’s representative in Dublin Castle. Vigorous liberal opposition from a combination of Radicals and English and Irish Whigs – who argued that the establishment of a pseudo-gendarmerie was unconstitutional under English law – resulted in concessions that took much of the centralization out of the legislation as enacted.\textsuperscript{39} For example, Mr. Charles Grant, liberal Tory and former Chief Secretary for Ireland, contended that Parliament had two choices: reform the existing system of baronial constables, which was admittedly ineffective and poorly managed, or scrap that system entirely and “station a gens-d’armerie throughout Ireland.”\textsuperscript{40} He maintained that the problem was not with the principle of the existing system, but with its

\textsuperscript{36} Senior, Orangeism in Ireland, 195; Palmer, Police and Protest, 218.
\textsuperscript{37} Donnelly, Captain Rock, 4.
\textsuperscript{38} Donnelly, Captain Rock, 350.
\textsuperscript{39} Palmer, Police and Protest, 240–44.
\textsuperscript{40} House of Commons Debate (hereafter HC Deb) 22 April 1822, vol 6, col. 1527.
execution, and that it ought at least to be fairly tried before it was replaced by a more objectionable system. Grant argued its merits: “It finds the defenders of peace and order amongst the people. And, surely, this is wiser and better than the notion of securing the public tranquillity [sic] by the direct agency of the executive power.”41 This plea evokes Terzi and Tonnelat’s position that the creation of a functioning public environment requires a certain degree of community agreement on issues relating to ethics and conduct. The final version of the 1822 Constabulary Act was a compromise between local and state interests. It led to the establishment of police forces in every county of Ireland and created 250 Chief Constables who were appointed by the Lord Lieutenant and reported to him every three months. On the other hand, the local magistrates retained much of their power under the new Act, including the ability to request – or not – the appointment of a stipendiary magistrate who would report to Dublin Castle. Constables reported to the Chief Constable, who reported to the local and/or stipendiary magistrate. The result was a stronger security force and a tangled mess of allegiances.42

The threat to the public peace in Ireland increased when Daniel O’Connell founded the Catholic Association in spring 1823.43 The Association was innovative in its effort to unite Irish Catholics of all classes in the campaign for political rights as well as tithe reform and equal treatment under the law and in the military. Significantly, the Catholic Association collected a subscription fee of one penny per month, called a “Catholic rent,” which intensified members’ investment in the cause and raised needed funds for Association activities.44 It also increased the anxiety of both Protestants and the state, thereby providing concrete evidence of the movement’s strength. Parliament was in a bind. Historian D. George Boyce explains the conundrum: “The

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41 HC Deb 22 April 1822, vol 6, col. 1528.
42 Palmer, Police and Protest, 240–44.
43 Senior, Orangeism in Ireland, 204.
44 Bartlett, Ireland, 262.
question was...whether or not the British government could satisfy Catholics, and at the same
time avoid arousing the wrath of Protestants, whose idea of the Union was that it was instituted
precisely to continue those privileges and advantages, those laws and institutions, which Doyle
and O’Connell were asking Britain to remove.”

Clearly, the achievement of consensus
regarding proper conduct in Irish public space – and even the creation of a singular Irish public
space – would prove to be elusive.

As Parliament considered how to balance these competing interests, the Orange Order’s
extreme anti-Catholicism and provocative public activities were increasingly unwelcome. The
Dublin Orange Lodges traditionally decorated King William’s statue on College Green to
celebrate the Glorious Twelfth. Their procession and its culmination at the statue often resulted
in disorder, and riots took place in 1815, 1819, and 1820. The 1819 tumult arose when
Orangemen forced passersby to doff their hats to the Prince of Orange.

Mindful of the
celebration’s tumultuous history, the Lord Lieutenant tried to dissuade the Dublin Orangemen
from decorating the statue in 1822. Rather than comply, the Orangemen persisted in their
traditional activity and again provoked a riot. Undeterred, the Lord Lieutenant banned the
statue’s decoration for William’s birthday in November and consequently became the target of
an Orange mob at the Theater Royal that December.

This incident seemed to accelerate the Orange Order’s already declining status among the
ruling elite. In spring 1823, Parliament passed the Unlawful Oaths Act, which banned societies
that required their members to take an oath of allegiance. After a fourteen-day grace period from
the passing of the Act, individuals found in violation faced three months in prison or a twenty

46 See Appendix B; Dublin Weekly Register, July 17, 1819.
47 Boyce, Nineteenth-Century Ireland, 42–43; Dublin Weekly Register, July 17, 1819; See Appendix B.
pound fine if convicted as a summary offence and transportation or two years of hard labor if
convicted under indictment.\textsuperscript{48} This legislation proved effective in weakening the Orange Order.
The Grand Lodge in Ireland banned July Twelfth processions in 1824, dissolved the traditional
lodge, and tried to resurrect itself in compliance with the new regulations.\textsuperscript{49}

But Parliament was not finished with its effort to wrest control of Irish politics from the
grip of Protestant and Catholic associations. In 1824, Parliament assigned a committee to
investigate the recent disturbances in Ireland, focusing primarily on the south and west. Although
the Orange Order was not strong in this part of the country, its role in the recent violence was
nonetheless remarked upon. Mr. John Dunn, a Catholic tithe commissioner from Ballynakill,
Queen’s County, was asked whether his area had experienced disorder as a result of processions.
He testified that July Twelfth processions did take place in some towns and that they
occasionally resulted in deaths. He observed: “Lives have been lost from time to time, and
always the lives of Roman Catholics; one party are armed, and the other party are not.”\textsuperscript{50} The
Rev. Michael Collins gave evidence about a particularly violent incident and its reprisal that took
place as a result of an Orange procession in Bandon, County Cork, in July 1821. The Orangemen
featured a cannon loaded with stones as part of their procession, and when they encountered a
group of Catholics, they fired, killing one woman. Three days later, at the Timologue fair, “some

\textsuperscript{48} United Kingdom. House of Commons. “4 Geo. IV. Sess. 1823. (Ireland.) A bill [as amended by the committee] to
amend and render more effectual the provisions of an act, made in the 50\textsuperscript{th} year of His Late Majesty’s reign, for
preventing the administering and taking unlawful oaths in Ireland,” 19\textsuperscript{th} Century House of Commons Sessional
\textsuperscript{49} Senior, Orangeism in Ireland, 207–09.
\textsuperscript{50} UK, Parliament, “Mr. John Dunn Examined,” The Evidence Taken before the Select Committees of the Houses of
Lords and Commons, Appointed in the Sessions of 1824 and 1825 to Inquire into The State of Ireland (London: John
Murray, 1825), 31.
mischievous individual” identified an innocent Protestant man as one of the Bandon Orangemen, whereupon a crowd attacked and killed him.51

Although voluntary associations were already weakened by the 1823 Unlawful Oaths Act, this testimony convinced Parliament that further legislative action was necessary. In 1825, it passed the Unlawful Societies Act, which banned associations “acting for redress of grievances in Church or State,” collecting or receiving money, or meeting regularly for fourteen days.52 It further declared unlawful any society that excluded people based on a religious preference allowed under British law, as well as “every society, committee, or body of persons” in which members take any oath or declaration in any way other than in the time, place, and manner directed by Parliament. Mayors, sheriffs, and justices of the peace were given authority to disperse and enter a room by force if necessary. Violation of this act was a misdemeanor punished by a fine and imprisonment as the court saw fit.53 It did not apply to worship communities or societies “acting merely for purposes of public or private charity, science, agriculture, manufactures or commerce.”54 The Unlawful Societies Act clearly targeted the Catholic Association, but O’Connell’s supporters in Parliament insisted that it be directed at the Orange Order as well. Although vigorously opposed by Orange supporters, in the end, the Act suppressed both societies in what Boyce termed “a kind of even-handed repression.”55

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51 UK, Parliament, “Rev. Michael Collins Examined,” The Evidence Taken before the Select Committees ... to Inquire into the State of Ireland 1824 and 1825, 117.
55 Boyce, Nineteenth-Century Ireland, 42. See also Bryan, Orange Parades, 37.
Neither society completely fell apart, however. Although the Grand Lodge of Ireland officially dissolved in response to the 1825 Act, local lodges continued to operate as usual – as evidenced by at least fourteen July Twelfth riots between 1825 and 1828. When the Act lapsed in 1828, the Grand Lodge reformed just as the debate over Catholic Emancipation intensified. The Emancipation movement began in earnest in 1823 when Daniel O’Connell, an Irish Catholic lawyer and statesman, founded the Catholic Association. The Association intended to mobilize the political potential of the Irish Catholic masses by offering a one-penny membership, encouraging personal investment in a political endeavor. Although at the time the franchise was limited to those with at least a 40-shilling freehold, the vast ranks of the Association whipped up political fervor among voters resentful of the traditional paternalism of the gentry. In a stunning result, Waterford returned the Association candidate, Villiers Stuart, a young Protestant landlord, over the Ascendancy candidate, Lord Beresford, brother of the Archbishop of Armagh and son of the Marquis of Waterford. Historian Alvin Jackson explained the significance of the election: “The normally passive 40-shilling freeholders, whom the Beresford and Tory interest regarded almost as a form of political property, had defied the instructions of their landlords and had plumped for Villiers Stuart and emancipation. This rejection of political and social deference was all the more shocking because it was repeated in other constituencies where, like Waterford, a dominant ascendancy clan had represented the county for several generations.” The push for emancipation came to a head two years later, when Daniel O’Connell himself contested and won a by-election for County Clare. Under the Penal Laws, Catholics were unable to sit in

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56 See Appendix A.
57 Senior, Orangeism in Ireland, 236.
58 Senior, Orangeism in Ireland, 204.
Parliament, and O’Connell’s victory forced the government’s hand. Reluctantly, the Duke of Wellington, prime minister at the time, and Robert Peel ensured that the Roman Catholic Relief Act allowing O’Connell to take his seat passed in spring 1829. In a cruel twist, the 40-shilling freeholders who won emancipation were ultimately its biggest losers: accompanying legislation raised the property qualification to £10, effectively lowering the Irish voting population from about 216,000 to about 37,000. According to historian Christine Kinealy, these disenfranchised voters were “predominantly Catholic.”

The British government had hoped that the Roman Catholic Relief Act would mollify the Irish Catholic population, but it seemed only to embolden Catholic resistance to the government and exacerbate sectarian tensions. Historian Alvin Jackson clarified, “The measure was passed not out of the magnanimity of the Wellington government but because the government feared – and was seen to fear – the consequences of resistance: ... emancipation, which might in different circumstances have reinforced Irish Catholic commitment to the Union and to British government, in practice helped to loosen the bonds of political and social deference.” Not only were the Irish Catholics not appeased, but the Irish Protestants – and the newly reconstituted Orange Order – felt their loyalty to the British crown ill rewarded by recent Parliamentary activities. As one historian observed: “Already conscious of the extent to which their local autonomy had been eroded by the intervention of central government in local administration, they now found their status and influence under direct threat from a resurgent Catholic population.”

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movement had a dramatic impact on the meaning of spatial control. As Sean Farrell argued, “both the popular politicization accelerated by O’Connell’s crusade for Catholic emancipation and, more directly, the creation of a representative system of popular electoral politics that gave the right to vote to more and more of the traditional antagonists of sectarian combat put even greater emphasis on spatial issues.”

According to Farrell, dominance, both political and social, became more tied to territorial control than to land ownership. The significance of this shift was not lost on the Orangemen.

The Orange Order responded to this threat to their superior position in a predictable manner: July 1829 saw a spike in Twelfth-related violence, as contemporary newspapers reported twenty riots in the northern counties. Of these affrays, at least five resulted in fatalities. Riots at Manorhamilton, Macken, and Coal Island were particularly deadly; together they claimed at least fifteen lives. In the Enniskillen area, magistrates and local police were proactive in trying to keep the peace over a long weekend of potentially incendiary events. On Friday, July 10, they prepared for violence at the fair, “but in consequence of the large force of Police marched in here by Captain Joyce, and judiciously arranged by him and Mr. Colclough, the streets and public places were well watched.” Nevertheless, they were called into action on the outskirts of town, where they broke up two skirmishes. The Enniskillen Chronicle and Erne Packet reported: “His Lordship with the Captain and party rode on for about two miles to clear the roads, and to protect the unoffending people returning home from the fair. It was ten o’clock

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65 Farrell, Rituals and Riots, 131.
at night before his Lordship and the party returned to their houses fatigued and drenched with wet.”\textsuperscript{67}

On July Twelfth, a Sunday, Captain Joyce and his men were back in action. They dispersed a large crowd at Swanlinbar, and on Monday, Lord Enniskillen, probably a magistrate, received word that the Orangemen of Derrylin intended to march. He called again on the likely exhausted Captain Joyce and his police dragoons. They encountered Orangemen organized and prepared to walk and 2,000 to 3,000 Catholics “ready to oppose them, armed with guns, pistols, bayonets on poles, pitchforks, spades, shoves, grapes, scythes, and sticks.” Enniskillen convinced them to disperse, but a group of Catholics cut across a bog and encountered a party of Orangemen near Macken. In the rioting, one man was killed immediately, and three others died soon after. Another three men were severely wounded. By the time the police arrived, this time accompanied by a detachment of 120 men of the 37th regiment, the rioters had melted away. Nonetheless, three days later the area was still “in the utmost state of alarm.”\textsuperscript{68} In the aftermath of the Macken affray, Catholics fled their homes for the perceived safety of rural encampments and the country appeared to be under martial law. The \textit{Fermanagh Reporter} recorded the degree of disruption: “The whole country is in a state of alarm; the Roman Catholic houses are left desolate; the milch cattle are going wild with the pain of their milk, and no person to milk them; the military and the police have been out continually since Monday; the country people are afraid to stir out, and our markets have not been supplied with potatoes for the last two days. All is consternation and alarm, and the yeomanry are patrolling the roads.”\textsuperscript{69}

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\textsuperscript{69} “From the Fermanagh Reporter,” \textit{Drogheda Journal, or Meath & Louth Advisor}, July 18, 1829.
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There are conflicting reports of the magistrates’ conduct during the affray at Strabane. The *Dublin Morning Register* contends that processing Orangemen encountered a small group of opposing townspeople in the community. A butcher’s boy snatched away an Orange standard, setting off a brief scuffle. The boy and his friends first retreated, and then turned and threw stones at the Orangemen, who fired down the street at them. Three bystanders were shot: one, a printer, was shot in the eye while standing at his shop door, and a second, a shoemaker, watched from a distance and took a bullet through the chest. He was not expected to survive. The paper criticized the authorities for their inactivity:

The most important circumstance connected with these proceedings we hold to be the fact, that a procession of Orangemen was openly announced and that though there was a sufficient military and police force in the town, not the slightest attempt was made by the authorities to prevent it. The whole strength of the Orangemen is said to have been between five and six thousand, and it appears that when they marched in procession the military and police party were actually drawn up in the streets, and were, with their commanders…together with the magistrate…witnesses of all that occurred.70

The writer heard that the King’s troops presented arms for the Orangemen but assumed this to be too incredible to be believed. He continued, “We presume his Majesty’s government will deem it their duty to enquire why, at all events, no means were taken to protect the lives and limbs of his Majesty’s peaceable and unoffending subjects, by preventing a procession of any kind, or why even no warning or admonition was published by those persons who were entrusted with the preservation of the public peace.”71 One can only surmise what this writer considered a “sufficient military and police force” to counter five to six thousand Orangemen, many of whom were probably armed. If the peace-keeping force at Strabane was comparable to the 120 men

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71 “The Twelfth,” *The Dublin Morning Register*, July 17, 1829. The emphasis in the quotation is mine, as this is precisely what Parliament would endeavor to do.
who responded to respond to the affray at Macken, it is little wonder they decided discretion was the better part of valor.

Another account reported two processions of Orangemen that day in Strabane, and that the riot involving the butcher’s boy took place before the magistrates and police arrived on the scene. In this version, they remained under arms while a raucous and ragged procession of 5,000 to 6,000 Orangemen, women, and children marched through the streets. The *Belfast Commercial Chronicle* reprinted the *Derry Chronicle*’s account of the afternoon parade, and it is worth quoting at length as it paints a colorful picture of an Orange procession (whether it is accurate is another question). The correspondent reported:

> Between two and three o’clock, long before which hour all the shops and houses in the town were closed up, the grand procession, consisting of between 5 and 6,000, four deep, and extending beyond a mile in length, paraded the town with several flags, on some of the which King William, and on others the Pope’s head were painted. Those among them who appeared to be Captains were mounted on miserable half-starved horses. Thousands of ragged women and children accompanied the Orangemen, and made the air ring with their shrill screeches and horrid execrations against the Roman Catholics.\(^{72}\)

The procession was accompanied by the particularly offensive anti-Catholic tunes “Boyne Water,” “Protestant Boys,” and “Croppies Lie Down.” The *Belfast Commercial Chronicle* also reported that two brief affrays took place in the hills outside Strabane during the morning, and that those Orangemen then joined their brethren in the town later that afternoon. In these earlier incidents, the paper claimed that the Orangemen were the aggressors and fired first, and that far from trying to keep the peace, the police joined the Orange attack.\(^{73}\)

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In Belfast, magistrates and Orange leadership took an active role first in trying to dissuade the lodges from marching and second in responding quickly to reports of skirmishing. On July 10, police magistrate C.M. Skinner posted a public notice that read in part, “I earnestly entreat that NO PROCESSION whatever may take place in this Town or Neighbourhood, and that every person be careful to preserve the public peace; and thereby render Magisterial interference unnecessary on that occasion.”^{74} Skinner’s entreaty was supported by the Duke of Cumberland’s letter to the Belfast lodges. He wrote, “Judging from the temper of the times, I would say that such processions, leading, probably, or at least being interpreted to lead, to an infraction of the law, and a breach of the public peace, would draw with them most mischievous consequences, and would probably be followed up by some legislative measure, ruinous to the Orange institution.”^{75}

Despite these warnings, a brief riot did occur in Belfast that July Twelfth, although it was quickly put down. In Brown Street, an Orange neighborhood, a mob attacked the houses of some Orangemen. A general melee ensued in which women and men of all ages threw stones and broke windows. A man whose house was attacked shot a man in the crowd. Police, including Captain Skinner, were on the scene quickly and earned praise from the Belfast News-Letter’s correspondent: “The conduct, and activity of these gentlemen on this occasion, deserve public gratitude, since to their spirited interference it is mainly owing, that consequences of a more serious character did not result from this collision of hostile parties.”^{76} Reports emerged, however, that general disorder resulting from the July Twelfth observance caused disruptions to normal public activities through the city. The Dublin Evening Post reported, “The Northern

^{74} “Orange Processions,” The Belfast Commercial Chronicle, July 11, 1829.
^{75} “Orange Processions,” The Belfast Commercial Chronicle, July 11, 1829.
^{76} Belfast News-Letter, July 14, 1829.
Whig says, that in Belfast on Monday last, business was interrupted throughout the most public places of Belfast – and the stage coaches were barely able to get out of town, amidst the din and hubbub. The Larne coach was nearly upset, the pole broken, and the passengers detained for some time, till the damage was repaired.”

July 12, 1829 was the most disorderly Boyne anniversary, by sheer number of incidents, during the first half of the nineteenth century. The pattern was becoming clear: Orangemen responded to threats to the Protestant Ascendancy with demonstrations of their ability to take over public spaces, particularly roads. They did this despite remonstrations from some Orange leaders to cancel processions and stay home in the interest of keeping the peace. In urban areas like Belfast, they disrupted regular transportation services. Nearly everywhere Orangemen marched, businesses on the public thoroughfare closed. Authorities responded to Orange processions and the threat of Orange violence inconsistently. In Enniskillen and Belfast, they appear to have been proactive and diligent in their peacekeeping duties, whereas reports from Strabane suggest the possibility of negligence – though perhaps understandable – and even participation in Orange violence. In an example of Terzi and Tonnelat’s third stage of publicization, observers joined the conversation and began to call for the government to intercede.

The correspondent for the Dublin Morning Register’s presumed His Majesty’s government would authorize an inquiry into why more was not done to prevent processions likely to result in disorder. A writer for the Belfast Commercial Chronicle went a step further.

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77 Dublin Evening Post, July 18, 1829.
78 The Twelfth,” The Dublin Morning Register, July 17, 1829.
and opined that the government should pass legislation that would clearly ban those provocative processions. He argued:

> How long such disgraceful effects of party spirit are to be suffered it is impossible to say; but we should think that Government will now see the necessity of decided and vigorous interference, and that a law may be enacted, incapable of misinterpretation, to put a stop to every procession of political partisans, marching with emblems of any kind. For it is quite abhorrent to civil society, that a set of low wretches, who profess religious, but in reality have none, and who will not be guided by their best friends, by hoisting either Orange flags or Green flags, shall be permitted to set the country in a blaze, commit murder on one another, and, in their reckless fury, bring desolation upon many innocent families. The occurrences of this week, in the North of Ireland, will doubtless arrest the immediate attention of the Government; and we anticipate, from the vigorous administration of the Duke of Wellington, such measures as will put an end for ever to these shameful and unnatural scenes.⁷⁹

Another three years would pass, and it would not fall under Wellington’s administration, before the government finally took legislative action against party processions. The Duke of Cumberland’s warning to the Belfast Orangemen proved prophetic.

According to Sean Farrell, the Orange marching season of 1829 was meant to send three distinct messages: first, to Catholics that the Protestants remained in power; second, to Protestants, reinforcing the unifying force of their siege mentality by provoking Catholic attacks on Orange processions; and third, to the British government, by asserting themselves as willing to defend the British interests against the Catholic threat even if the government itself was not. On this last point Farrell stated, “Unfortunately for the Orangemen, such a message was not well-received in London.”⁸⁰ In fact, Parliament responded to persistent parading violence in Ireland with what Neil Maddox characterized as “the relatively blunt instrument of legislation.” He contended that the effort of the British Parliament in 1832 to ban offensive parades

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“represented the most extreme legislative response to contentious parading ever witnessed on the island of Ireland.”

For Terzi and Tonnelat, legislative involvement was a natural result of the publicization process. They wrote: “Logically, a necessary but not sufficient condition for publicization is the preservation of the continuity of the inquiry and of its sensible dimensions from the existential situations, where the trouble is experienced and expressed, to the physical and dematerilaized arenas of discussion and debate, where indirectly concerned individuals can decide to get involved more or less intensely and durably.” Parliament ultimately decided to involve itself moderately intensely but not very durably. At one o’clock in the morning on June 14, 1832, Edward Stanley, conservative Whig and Chief Secretary for Ireland, presented the first version of the Party Processions Act for Ireland. While apologizing for introducing a new bill at such a late hour, he claimed that the situation in Ireland cried out for a legislative solution before the upcoming July anniversary. Mr. Stanley pointed out that recent years had seen an unanticipated spike in Orange demonstrations, as “Orangemen had assembled, and formed processions in greater numbers, and in a spirit of greater defiance to the Government and to their political adversaries, than on any preceding occasion.” Aware that a bill that appeared to target one party would be a difficult sell, Stanley summarized his intent: “The object of his Bill was not to fetter the manifestation of political opinion in any way whatever. His Bill was directed against party processions connected with religious subjects, and calculated to maintain and prolong

83 HC Deb 25 June 1832, vol 13, col. 1032. Stanley cites the years 1830 and 1831 in particular. Those two years may have seen more processions, but they combined for ten July Twelfth riots whereas 1829 featured twenty. See Appendix A.
religious animosities, which moved with banners exciting angry feelings, and which were not unfrequently armed, ready to meet the conflicts they provoked.”

Stanley was justified in his trepidation. His colleagues in the Commons objected vociferously to both the one-sidedness and the timing of the bill. Mr. James E. Gordon warned that the bill may be understood as partial and directed against Orangemen, who had formerly been loyal, if at times exasperating, friends of the government. He cautioned, “Their present course of conduct might produce a serious reaction; the Orangemen were now strong in their loyalty, but they were no more than human beings, and had to struggle against all the infirmities and vices of human nature. Let the Government, then, be cautious lest their conduct should lead to disastrous results.” Mr. Shaw went further, asserting that Stanley’s bill would only encourage Catholics and provoke Orangemen “to acts of insubordination, and an utter contempt of the Government[.] The course of this night’s debate had afforded ample evidence of the partial and unjust principle of the Bill.” The opposition argued that by bringing the Orangemen to heel, the Party Processions Act would have the unintended consequence of causing greater disorder and weakening Parliament’s legitimacy through perceived partiality.

Stanley’s proposal also met with resistance on both its timing and the amount of time given to consider the legislation. Colonel Percival argued, “On the 25th of June, they were discussing the Bill, and yet it was to be law, and come into operation on the 12th of July. Months

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84 HC Deb 14 June 1832 vol 13, col. 717. I have used Hansard’s Parliamentary Debates to explore the conversations in Parliament around the Party Processions Act. Hansard’s is considered an authoritative source for this material, but it was usually reported in the third person, making it a bit awkward to use for a quote in this setting. Hansard combined the most detailed newspaper accounts he could find with additional information provided by at times by Members themselves to create a reasonably accurate account for the time. See John Vice and Stephen Farrell, The History of Hansard (London: House of Lords Hansard, 2017), 21.
85 HC Deb 25 June 1832, vol 13, col. 1044.
were passed in legislating on the subject of disfranchising Old Sarum … and yet, for this insulting object, they were called upon to legislate with most unbecoming rapidity.”

Robert Bateson concurred that to pass a bill prohibiting processions weeks before the anniversary was irresponsible. He complained “that the Bill, if it was necessary at all, had not been brought in earlier, instead of being postponed to the very eve of the day for the Protestant processions. He thought that circumstance an insult to that body.”

In addition, some members argued that the bill was needless, as it did little to alter the existing prohibition in the common law against assemblies likely to disturb the peace. Maurice O’Connell, MP for Clare argued that the new law was unnecessary. He considered that “the law at present armed the Magistrate with sufficient powers to disperse any assembly from which danger to the public peace was apprehended; and … he conceived it would be useless, because carrying the Bill into effect was confided to those very persons whom the right hon. Secretary had himself complained could not be prevailed on to act for the dispersion of such assemblies.”

The problem, O’Connell argued, was not that the existing law was insufficient to its purpose, but that it was insufficiently enforced by local magistrates. To pass a new, slightly different law but to entrust its enactment to the same hands was an exercise in futility.

After an initial debate, during which members of the House of Commons argued the content, timing, and necessity of the bill, Mr. Stanley conceded. He registered his disappointment that the Commons refused to act to support the enforcement of the law during a tumultuous time and warned that those opposed to the bill should be prepared to accept responsibility for any disasters resulting from their inaction. He assured the Commons that he fully intended to revisit

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87 HC Deb 25 June 1832, vol 13, col. 1030.
88 HC Deb 25 June 1832, vol 13, col. 1048.
89 HC Deb 25 June 1832, vol 13, col. 1049.
the measure after the impending July anniversary. Stanley made good on this assurance in the session beginning August 8, 1832. After unsuccessful efforts to block its progress, the bill finally went through the committee stage and was read for a third time on August 10.

The action then shifted to the House of Lords. In moving for a second reading of the bill on August 13, Viscount Melbourne argued that, although it was preferable that large, peaceable assemblies remain free from legal interference, experience had shown that party processions frequently devolved into sectarian violence. Despite government warnings and admonitions year after year, violence continued unabated on Orange anniversaries. The Viscount argued, “When, as was the fact, it was found that advice and remonstrance had, year after year, been thrown away, in the endeavour to put a stop to them, it became the duty of the Government and the Legislature to step in and prevent them in future.” Opponents again argued both content and timing. Some members claimed that the presentation of the bill at this session caught them unawares and that several of their Irish colleagues, who were strongly opposed to the measure, were not present to engage in the debate and vote. Others returned to the issue of the unfair targeting of one side of the conflict. The Marquess of Westmeath asserted, “He thought that the present Bill would be taken by many in Ireland as pandering to the morbid feelings of the Catholic party, and not dictated in the spirit of fairness as a measure equally affecting all parties. The Bill alluded to persons coming armed to those processions, and seemed as if directed against

90 Unfortunately for Mr. Stanley, 1832 proved a relatively calm Twelfth, with newspapers reporting only minor skirmishes in Cavan and Newry. HC Deb 29 June 1832 vol 13, cols. 1162–1163. The day was not without Orange provocation, however. The correspondent for the Dublin Evening Post commented acidly on an Orange-sympathizer, “The Rev. Mr. Martin … distinguished himself on this occasion by treating the Orangemen to whisky in his park. You are an ass, Mr. Martin, and we are sorry for it, for we knew you a little once, when we thought you were only a very imperfectly informed Clergyman. But we have not room to say more.” See “Twelfth of July,” Dublin Evening Post, July 14, 1832.

91 House of Lords Debate (hereafter HL Deb) 13 August 1832 vol 14 col. 1337.
one class of men.”92 In spite of these objections, the bill was read a third time and passed on August 15, 1832.93

The Party Processions Act for Ireland, officially titled “A Bill to restrain in certain cases Party Processions in Ireland,” opened by acknowledging the religious animosity unique to Ireland as well as the role of party processions in stirring up emotions that frequently led to violence:

Whereas great numbers of Persons belonging to different Religious Denominations . . . are in the practice of meeting and marching in Procession in Ireland, upon certain Festivals and Anniversaries, and other occasions; and such Processions are calculated to create and perpetuate Animosities, and have been found to occasion frequent and sanguinary Conflicts between different classes of His Majesty’s Subjects; FOR prevention whereof, and in order to guard against the recurrence of the Tumults, Riots and Disorders arising out of such Processions… 94

Accordingly, the Act applied to any person joining in a procession to celebrate or commemorate any event connected to religious differences between His Majesty’s subjects:

From and after the Commencement of this Act any Body of Persons who shall meet and parade together, or join in Procession, for the Purpose of celebrating or commemorating any Festival, Anniversary, or political Event relating to or connected with any religious or other Distinctions or Differences between any Classes of His Majesty's Subject, or of demonstrating any such religious or other Distinction or Difference, and who shall bear, wear, or have amongst them any Fire-arms or other offensive Weapons, or any Banner, Emblem, Flag, or Symbol the Display whereof may be calculated or tend to provoke Animosity between His Majesty’s Subjects of different religious Persuasions, or who shall be accompanied by any Music of a like Nature or Tendency, shall be and be deemed an unlawful Assembly, and every Person present thereat shall be deemed to be guilty of a Misdemeanor, and shall upon Conviction thereof be liable to be punished accordingly.95

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92 HL Deb 13 August 1832 vol 14 col. 1341.
93 HL Deb 15 August 1832 vol 14 col. 1361.
94 The Statutes of the United Kingdom of Great Britain and Ireland, 2 & 3 Guliemi IV, 1832 (London: His Majesty's Printers, 1832), 1007–1008.
95 The Statutes of the United Kingdom, 2 & 3 Guliemi IV, 1007–1008.
In practice, a justice of the peace was to read an order for members of an illegal procession to disperse. After fifteen minutes, any persons who had refused to do so were ordered to appear before at least two justices to answer the charges. Upon the testimony of a single reliable witness, the accused could be sentenced to one month in prison for a first offense and three months for a second offense. The Act concluded by reasserting that this law was only to be applied to Ireland and that it would expire after a term of five years unless renewed by Parliament.96

If Parliament hoped the Party Processions Act would solve the problem of collective violence on the Boyne Anniversary in Ireland, they were to be disappointed. The Twelfths of 1835, 1836, and 1841 each witnessed ten or more riots. Orangemen continued to lay claim to public spaces by parading, erecting arches, setting fires, and damaging property, which increasingly brought them into direct conflict with police and military forces. Magistrates remained unreliable representatives of state order. Some did try to enforce the new law, whereas others chose to turn a blind eye or even supported its breach, both in the streets and in the courtrooms. Applying Terzi and Tonnelat’s three-stage process of publicization, in which they asserted that the role of space is “primordial,” to the legislative response to Orange riots in Ireland in the years leading to the first Party Processions Act reveals the supreme challenge confronting Parliament.97 They concluded that “troubled and routine” represent the two states of publicization, and that these “are essential moments in a process of publicization and democratization grounded in an absence of stable power and transcendent truths, but trustful in the capacity of people to face problems of the moment in a right and proper manner.”98 Again,

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96 The Statutes of the United Kingdom, 2 & 3 Guliemi IV, 1832, 1008.
This is reminiscent of Charles Grant’s argument that the wiser course of action in Parliament’s effort to keep order in Ireland would be to work with local people rather than to impose outside authority upon them.\footnote{HC Deb 22 April 1822, vol 6, col. 1528.} With the Party Processions Act, Parliament claimed the control of Irish public space through specific legislation.\footnote{Although according to Terzi and Tonnelat’s definition, one wonders whether Irish public space existed at all in the absence of community agreement.} Once the claim was made, it had to be defended. This raised the profile of the local and stipendiary magistrates – who now not only represented common law but also statute law, which directly reflected on Parliament’s legitimacy – and raised the stakes of the contest.
CHAPTER 3:

THE PARTY PROCESSIONS ACTS AND TERRITORIALITY IN IRELAND,

1833–1848

“Laws have been passed and have not been effectively enforced”

As Parliament sought to implement the Party Processions Act, Orangemen challenged the state’s claims to public authority in the courts and in the streets. Although Orangemen were convicted on occasion, they also could reasonably hope for acquittal based on bias in the Irish court system. In the north of Ireland, even when judges advised juries that circumstances suggested the Party Processions Act had been violated, skillful Orange counsel played to the frequently Orange-biased courtroom audience to turn the trial into a spectacle and win a triumphant acquittal for their clients. Moreover, Catholic counsel struggled to empanel juries free of Orangemen. In addition, Orangemen tried before local magistrates could at times count on having a friend on the bench. In the case of notoriously biased magistrate William Rowan, this favorable conduct included bullying his fellow magistrates and barring counsel and press from the courtroom. Orangemen also claimed public space outside the halls of “justice.” By marching along public thoroughfares and through Catholic neighborhoods, lighting bonfires in roads and in front of targeted houses, erecting orange arches strategically across public streets and the entrances to public spaces, and breaking the windows of Catholic homes and police buildings, Orangemen asserted territorial power and dared the state to enforce their claims to authority on the ground. In this context, it is helpful to employ geographer Robert Sack’s work on territoriality. He defined this concept as follows: “A spatial strategy to affect, influence, and control resources and people, by controlling area; and as a strategy, territoriality can be turned on
and off. In geographical terms it is a form of spatial behavior. The issue then is to find out under what conditions and why territoriality is or is not employed.”¹ He insisted that the term “territoriality” should not be used interchangeably with the term “spatial.” Rather, territoriality describes a “particular kind of behavior in space.”² This chapter explores the ways in which the Orange Order engaged in territoriality in public spaces, when they turned it on and off, and how Parliament sought to counter this behavior with the unreliable instruments of local authority between 1833 and 1848.

One of the Party Processions Act’s first tests before the court revealed several of the challenges it would face. First, as it was new legislation, magistrates needed to accustom themselves to its proper use so that prosecutions would stand up in court. Second, the court would have to respect the legitimacy of the state’s authority to legislate party processions by maintaining an impartial environment in which judges and juries could hear evidence and deliberate the merits of the case. Third, individuals involved in the prosecution of Orangemen under the Act should be safe to bring their charges and return to their communities. The July 1833 prosecution of fourteen Lurgan Orangemen before the County Armagh assizes for violating the new Party Processions Act exposed the vulnerabilities of the legislation in action.

Although the prosecution clearly showed that the accused violated the Act by marching on July Twelfth, on cross examination, magistrate William Hancock admitted that he did not read the proclamation included in the Act ordering the marchers to disperse. While the judge still felt that the men should be convicted in spite of this error, especially in light of the fact that magistrates had already cautioned three of the prisoners for violating the Act in the days leading

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² Sack, Human Territoriality, 23.
up to the Twelfth, he decided to leave that decision to the jury. Though convinced that the accused had violated the Act, the judge allowed the defense counsel to mock the witness and threaten to turn the trial into a farce. The counsel, Mr. Holmes, after eliciting Mr. Hancock’s admission that he did not read the charge continued his examination:

Holmes: Did you ever in your life drink “the glorious, pious, and immortal memory of the great and good King William?” (Laughter)
Hancock: I did!
Holmes: I declare you astonish me: was it in a bumper?
Hancock: It was in a bumper!
Holmes: I hope you never did worse in your life—but what tune did they play?
Hancock: The “Protestant Boys”
Holmes: Can you whistle it or sing it? (Laughter)
Hancock: No, but I have danced to it. (Great Laughter.)
Holmes: Did you keep good time to it?
Hancock: I can’t say.
Holmes: Well, we’ll leave that to the ladies. (Laughter.) Oh! Only think (with much animation,) only think of Mr. Hancock dancing to the “Protestant Boys!” (Clapping and laughter.) Did the party create any disturbance?
Hancock: It was as quiet an assembly, and as peaceable a one, as I have ever seen.  

Holmes’s argument and antics ultimately proved successful: eleven marchers were found not guilty and the three convicted, those who had been warned previously by magistrates, were released on their own recognizance. One of them remarked, “Thank God! We have so mild a Judge” on his way out of the courtroom with his congratulatory friends. The article concluded: “The trial excited great interest.” Those interested parties would see that, although the jury returned a guilty verdict on three of the accused, the courts of Northern Ireland remained a relatively comfortable space for Orangemen. When it suited their purposes Orangemen could

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engage in territorial behavior in Irish courts, thereby asserting influence and control over the resources of justice.

Orange supremacy in Irish legal spaces did not go unchallenged, however. In 1835, Orangemen and Catholics appeared as defendants in back-to-back trials for riot and assault during the same incident the previous July Twelfth in Abbeyleix, Queens County. The Orangemen stood trial first, and the prosecutor ran into difficulty selecting an unbiased jury. The correspondent for the *London Morning Chronicle* reported that this was par for the course in a system dominated by Orange interests: “The power of the Orange combination to control the administration of justice, and the daring spirit with which that busy faction still proceeds to obstruct or pervert its course, have been signally exemplified within the last week in Ireland.”

The attorney for the defense, Mr. Jacob, “challenged every reputed Orangeman whose name was called on the panel. But their number bore so large a proportion to the whole list, that but eleven indifferent persons could be selected from it. It became necessary, therefore, to call the panel over again, and the prosecutor being now obliged to show cause for his objection, challenged the first man who came forward, on the ground of favor.” When the potential juror was asked whether he was an Orangeman, he replied that he would not answer such an impertinent question. In response, the chairman of the session assured him “he was not bound to answer a question, by answering which he might make himself liable to pains and penalties.” So he did not answer and was empaneled. He and another man voted for acquittal against ten for conviction.

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Next, the Catholics were tried for assaulting the Orangemen. Their attorney, Mr. Phelan, observing there was only one Catholic in the jury box, asserted, “I never will consent to such an array as I now see.” He challenged one of the jurors as an Orangeman. None of those examined would state whether he was or not. Phelan, clearly exasperated, remarked, “A man has nothing to do but become an Orangeman, to put a stop to the course of justice; he may then refuse to be probed as a witness, because, forsooth, he might criminate himself.” After the process was repeated several times, the defense requested that their challenge be put on paper. Although the judge consented to this, he refused to allow them five minutes go procure parchment and ordered the jury to be sworn in immediately. The empaneled jury consisted of twelve men assumed to be Orangemen.

In response, the defense counsel, Jacob, Delany, and Phelan, left the court in disgust, “declaring that they would not defend their clients before such a tribunal, and that they left them to the Chairman himself to defend them.” This dramatic action would seem to have helped only the prosecution. The defendants remained silent: they called no witnesses and asked no questions, nor did the chairman. The Catholics were found guilty. The apparent capitulation was, however, part of a legal strategy to combat a biased court system. By employing such a tactic, a Morning Chronicle contributor suggested, “passive submission” may be more apt for the defense to expose the corruption in the system: “The pound of flesh was legally forfeited … but the constitution of the jury was so palpable, and the entire arrangements of the party for insuring a conviction so completely blown up by the bold and clever manoeuvre of the three attorneys for the prisoners, that the victors durst not exact a single ounce of the penalty.” The prisoners

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6 “London: Monday, November 9, 1835,” Morning Chronicle, November 9, 1835.
7 It is unclear what happened to the Catholic juror or whether the twelve includes alternates.
refused to pay the small fine levied and embraced the martyrdom of a prison sentence. Ultimately, the court decided to delay a decision in their case until the January quarter sessions, and they were released. The author summarized the result: “In other words, they came out, completely triumphant over their prosecutors, their jury, and their judge.”8 It is unclear whether the “passive resistance” strategy was widespread, but according to this London author, it seems to have been an effective means for Catholics to combat Orange territorial dominance in legal spaces in Ireland.

Catholic success in thwarting a rigged legal system, as in the Abbeyleix case, seems to have been the exception rather than the rule. More common, and certainly more prominent in the minds of legislators, was the public disorder that could accompany an Orange court victory. In the aftermath of the 1833 Lurgan trial, the celebrations and terror that ensued left little doubt of who controlled the public spaces in that town. When word of the verdict reached the community, the church was bedecked in Orange flags and its bell pealed the good news. Orangemen from surrounding areas gathered in town and marched down the Armagh road to greet their acquitted brethren. They soon met with Mr. Hancock near the turnpike, and a “large mob” followed him home, “shouting, groaning, cursing, and using the most violent gestures.” Around six in the evening, a grand procession of Orangemen entered the town with drums, men on horseback, lodge masters, and the area lodges marching in file. Conspicuously singled out in the midst this parade, although not wearing colors, were the men who that very morning had been acquitted of violating the Party Processions Act. While an estimated 6,000 people gathered for the parade, the Belfast News-Letter correspondent claimed 1,000 were occupied in besieging Mr. Hancock’s house in between viewing the parade and returning to the center of town where an unknown

8 “London: Monday, November 9, 1835,” Morning Chronicle, November 9, 1835.
benefactor provided them with beer and refreshments. Sometime after 8:00, “bonfires were then kindled in different parts of the town, a lighted pitch-barrel, attended with large drums, was carried by the mob, and set down in a blaze opposite to Mr. Hancock’s door. … About nine o’clock, a cart loaded with straw was passing through the town, when it was seized by the mob, carried to Mr. H’s door, and there set on fire.”9 Soon, the steady stream of insults directed at the house escalated to a torrent of stones and threats of further violence. Hancock finally called the police, who remained stationed at his home throughout the night. By morning, most of his windows were shattered, but no injuries were reported.

As the events in Lurgan show, Parliament’s efforts to ensure the public peace via the Party Processions Act of 1832 and the antecedent police reform bills proved unequal to the task of keeping order in Ireland in the early 1830s. The persistent disorder surrounding parading, as well as recent Catholic agitation over the payment of tithes known as the Tithe War, convinced Parliament further action was needed.10 In 1836, the House of Commons found itself debating a second Constabulary Act just fourteen years after the first. In support of the bill, Whig Home Secretary Lord John Russell cited the confusion caused by the current system in which four inspectors-general ran four separate police operations. Not only did this system lack uniformity, he asserted, but it also resulted in reports piling up at Dublin Castle that ought to have been handled by a head of police. The current bill would replace the four inspectors with a single inspector-general for all of Ireland who would be responsible for organizing the force under a single set of rules and directions. Significantly, it would also wrest control of some of the police appointments from the hands of local magistrates. Under the existing system, the inspectors

9 “Attack of the Lurgan Orangemen on Mr. Hancock’s House,” Dublin Evening Post, July 30, 1833.
10 Bartlett, Ireland, 270–71.
appointed some of the police, while magistrates appointed others. Lord Russell argued that “by this means [the police] became subservient to local interests, to party views, and to the motives and feelings of particular individuals.” He continued, contending the reform of the police “was a national object, an object which all who desired to see the efficiency of the police improved by a proper system of organization, and by that means wished to contribute to the maintenance and preservation of the peace in Ireland, would be anxious to see accomplished.”\textsuperscript{11}

Daniel O’Connell, who had led the successful effort to win Catholic Emancipation in 1829 and thereafter served as an elected member of Parliament for Dublin City, also threw his support behind the new Constabulary Act. He was more specific in his critique of local magistrates’ police appointments. O’Connell maintained that the close connection – even overlap – between Orange leadership and the magistracy in Ireland disqualified that body from appointing an impartial force. He declared:

Was it not a fact that the principal functionaries of the Orange Lodges in Ireland were supplied form the Magistracy? Would it be contended that the Grand Orange Lodge was the fittest body in which to vest the appointment of the police? In his opinion, Government had done wisely to seek to have the appointment vested in their own hands, and he was happy that the subject had been taken up by the present Government—the first that had ever shown a disposition to do justice to Ireland.”\textsuperscript{12}

Parliament’s struggle to wrest control of public order from magistrates and police forces infused by pro-Orange sympathies would be an ongoing theme throughout the era of the Party Processions Acts and beyond. Indeed, the state’s commitment to pass legislation banning processions depended upon their willingness to tackle the problem of local enforcement. According to Sack’s expanded definition of territoriality, Parliament was quite capable of

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\textsuperscript{11} HC Deb 18 February 1836, vol 31, col 543. Emphasis mine.
\textsuperscript{12} HC Deb 18 February 1836, vol 31, col 539.
accomplishing the first two components: classifying their claim by area (A Bill to Restrain in Certain Cases Party Processions in Ireland) and communicating that claim (publicizing the new law and reading the proclamation to disperse). But they struggled with the third element: enforcement. This problem bedeviled legislatures on both sides of the Atlantic. As will be indicated by the divergent state responses to Orange riots, Ireland and British North America took different approaches to this dilemma by 1850.

The 1836 Constabulary Act, passed in May, gave most powers of appointment at every level of law enforcement to the government. At the constable, head constable, and chief constable levels, most men were promoted from within and there was initially little turnover. At the higher levels, however, the state appointed new men with little background in the lower levels of law enforcement. For example, when the Act was passed, seventeen of twenty-nine stipendiary magistrates had started out as constables: conversely, none of the first wave of nineteen new Parliamentary appointments to the magistracy had served. Historian Stanley Palmer commented, “Irish factionalism had ensured that, in matters of policing, all Irishmen would be the losers. Ireland’s police was now totally controlled by the English Government.” The English may have appeared to be in control on paper, but in practice many magistrates retained a stubborn adherence to their own, often Orange-tinted, view of justice.

Less than one week after the House of Commons moved to root this Orange influence out of the police in Ireland, the same body went on the offensive against Orangeism itself. The previous year, Parliament formed a select committee to investigate “the nature, character, extent

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14 Palmer, Police and Protest, 361.
15 Palmer, Police and Protest, 360.
The investigation uncovered a pattern of behavior by which Orange lodges sought to control public spaces, ostensibly in the name of promoting the public peace. During his testimony, William Ripton Ward, Esq., deputy grand secretary of the Orange Lodge of Ireland, quoted a passage from the Orange rule book that listed the maintenance of public peace as one of the organization’s foundational principles: “This institution is formed by persons desiring, to the utmost of their power, to support and defend His Majesty King William the Fourth, the Protestant religion, the laws of the country … and the maintenance of the public peace; and for these purposes the members hold themselves obliged, when called upon, to be at all times ready to assist the civil and military powers in the just and lawful discharge of their duty.”

Lieut. Col. William Verner, M.P. for Armagh and Orange deputy grand master confirmed his belief that the Orange Order was founded in 1795 to oppose the activities of sectarian societies like the Peep o’ Day Boys and the Defenders and to preserve the public peace. According to these elite Orange officers, the Orange Order, accused by the state of disturbing the public peace was, in fact, established to preserve order in Ireland. This assertion reinforces Keith Wrightson’s observation that two concepts of order operated at the local and state levels and even suggests that there may have been many more than two competing systems at play as various actors strove for supremacy in the public streets.

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18 UK, House of Commons, “1835 Report form the Select Committee,” 5.
From the beginning, Orange claims to public peacekeeping were challenged by those outside their group. In a question that was more of a comment, the committee asked the Earl of Gosford, Lord Lieutenant of Armagh and former governor of the county:

[After the Orange Order’s establishment in 1795] they had been scarcely three months in existence when—that institution professing to be established for the preservation of the public peace and the maintenance of order—the county is in a state of the most frightful disorder, and outrages of an appalling nature are perpetrated, and half the population driven as outcasts from the county with ‘Hell and Connaught’ inscribed on the doors of the Catholics; is not it fairly to be presumed that that was the result of the Orange system being introduced into that county?¹⁹

He replied, “I think that the conclusion may be a fair one.” At a subsequent point in his testimony, the committee asked the earl whether a distinctly partisan organization like the Orange Order was bound to produce a mirror image organization on the other side, leading to further disturbances of the peace as the two fought for supremacy. Gosford again replied in the affirmative.²⁰ Challenges to Orange order, whether from a counter organization or from the police, could – and often did – bring about the very result the peacekeeping measures sought to avoid.

For example, Mr. James Christie, a Quaker from County Down, testified to the Orange takeover of public space and the consequences of challenging their supremacy. He described the Orangemen beating their drums in the public roads for hours on summer evenings and lighting bonfires in the roads in celebration of the Boyne anniversary.²¹ On many July Twelfthys, the Orangemen erected arches across public thoroughfares, forcing passersby to walk or ride under them in a show of dominance. When asked whether he had observed such arches, Christie

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²⁰ UK, House of Commons, “1835 Report form the Select Committee,” 250.
offered a vivid reply: “Yes; that is regular every 12th of July; arches over the roads and public places; there are poles put down on each side of the road, and ropes suspended, over which orange lilies and garlands are suspended from it, something in the shape of a crown.” He then detailed an incident in which the Orangemen intentionally damaged Quaker property, showing no respect for any order but their own, to set up their display. Christie recalled, “On one occasion they had one [an arch] at the entrance into Lurgan, where our friends’ meeting-house is, and they stripped the slates off a part of the meeting-house, probably a foot square, and fastened the rope to the rafter, and carried it, suspended, across the street, to a tree on the opposite side of the street.” Christie informed the local magistrate, Mr. Hancock, who told him that in order for him to act, Christie needed to give an affirmation that a breach of the peace was likely to occur. In that case Hancock would call out the police and take down the arch. Christie declined to engage the official process because he worried that involving the police would likely bring about the breach of the peace he sought to avoid. He averred, “I would not, for the value of the roof of a house, have any man in danger of being killed.”

There had only been two July Twelfths since the Party Processions Acts had gone into effect in 1833, but the early results were not promising. William Sharman Crawford, Esq., M.P. for Dundalk, was an Irish landowner who had supported Catholic Emancipation. Nonetheless, he informed the committee that he found the recent Party Processions Acts unnecessary. In an argument that foreshadowed one made by J. R. Partelow, Provincial Secretary for New Brunswick, fourteen years later, Crawford argued that the common law prohibition against processions intended to terrorize members of the public was enough to keep the peace.23 When

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22 UK, House of Commons, “1835 Report form the Select Committee,” 386.
23 UK, House of Commons, “1835 Report form the Select Committee,” 399.
the committee pressed him as to why he thought the Party Processions Act had not been employed “with a sufficiently strong hand,” Crawford took the opportunity to offer his opinion that, while he did not know why the Act was not employed more forcefully, he thought that the fact that it was on the books and not enforced did more to upset the country and impede the rule of law than to uphold it. He stated, “Since that subject has been mentioned, I want to observe, that in my opinion that is one cause of the increased state of disturbance in the north of Ireland, that laws have been passed and have not been effectually enforced; the Party Procession Act is an arbitrary Act, and it tends to irritate, and then at the same time not acting effectively under that Act gives the people to believe they may with impunity evade the laws.”24 Once again, the discussion in the 1835 Parliamentary report presaged later debates over party processions in Canada. The Canadian Legislature encountered this very problem when they passed their own Party Processions Act in 1843: a law that they found unenforceable created a legitimacy problem for the government. As an alternative to legislating space through banning party processions, Crawford suggested that Parliament direct a law against the organization. Presumably such a statute would resemble the Unlawful Societies Acts that had expired. He insisted, “The processions are merely an external demonstration of that internal organization, which is the root of the evil.”25

A year later, Parliament appeared prepared to take Crawford’s advice. In response to the 1835 Parliamentary investigation that unearthed the depth of Orange implication in Irish disorder, the Radical MP from Middlesex, Joseph Hume, observed, “The evidence proved that in Ireland, when Orange processions or meetings took place, the Orangemen appeared armed,

having along with them, generally, not only the gentlemen of the country, but magistrates, deputy-lieutenants, clergymen and others who ought to know better, but who used the advantages of their influence and station to oppress the people.\(^{26}\) He recommended the government “should take some strong measures to put down Orange Lodges in every case.” Hume further referred to Judge Fletcher’s 1811 grand jury charge that described the ways Orangemen abused their status as yeoman to control public spaces in the North: “so long as these associations were permitted to act in the lawless manner they then did, there would be no tranquillity [sic] in that country … where those disturbers of the public peace, Orange yeomen … frequented fairs and public places, with arms in their hands, under pretense of preserving the public peace, but really for the purpose of excluding Ribbonmen and putting them down.”\(^{27}\)

After a lengthy debate, the Commons, with Hume’s approval, decided to forward Lord John Russell’s recommendation that the Government take action against all secret societies.\(^{28}\) Two days later, the King replied that he would “be pleased to take such measures as may seem to me advisable for the effectual discouragement of Orange Lodges and generally of all political societies, excluding persons of a different religious faith, using secret signs and symbols, and acting by means of associated branches.”\(^{29}\) The next day, the Duke of Cumberland, Grandmaster of the Orange lodges, stated that while he disagreed with the Common’s characterization of the Orange institution, in light of their address and the King’s reply, he nevertheless recommended his Irish colleagues dissolve their lodges. Expressing confidence that “all classes of Orangemen would see the wisdom of adopting his recommendation,” he insisted that “though the societies

\(^{26}\) HC Deb 23 Feb 1836, vol 31, col. 785.
\(^{27}\) HC Deb 23 Feb 1836, vol 31, col. 786
\(^{28}\) Senior, \textit{Orangeism in Ireland}, 273.
\(^{29}\) HC Deb 25 Feb 1836, vol 31: col. 870.
might now be dissolved, their principles could not and would not die. While he avowed to their Lordships his entire acquiescence in the wish of his Majesty, he would support to the last the principles which Orange Societies were founded to defend.”30 All classes of Orangemen did not see the wisdom of adopting his recommendation, and many local Orange societies remained active throughout the ten years that the grand lodge was dormant.31

Parliament’s 1835 investigation into Irish Orange Lodges revealed many of the mechanisms by which they engaged in territoriality. Yet claims to specific areas remained somewhat ambiguous. While public spaces like roads, squares, and courtrooms featured most prominently, the idea was that all Irish spaces – including private homes, Catholic churches, and police barracks – could be vulnerable. Orangemen communicated their claims through processions, arches, and bonfires, and enforced those claims with violence.

In defiance of legislation and police reform designed to curtail their activities, Orangemen continued to claim territory by erecting arches in public spaces on July Twelfth throughout the duration of the first Party Processions Act. Neil Jarman explained the significance of these structures: “Where once such displays were contained within a moving body of men, they were now an extension of the public architecture; these developments mark the beginnings of the visible sectarianisation of space … the idea of the ‘triumphal’ arch points to the darker background of conflict and to a vanquished population as well as to the victors.”32 Occasionally,

30 HL Deb 26 Feb 1836, vol. 31, col. 934. It is the tradition for Hansard’s to record Parliamentary debates in the third person. Ernest Augustus, Duke of Cumberland, was a brother of King George IV and appointed grand master of the Grand Orange Lodge in Ireland in 1827. When King William IV determined to suppress Orangeism, first in the military and then in general amidst rumors of a conspiracy to overthrow the crown, Cumberland dissolved the lodge in 1836. See Ian Radforth, “Orangeism and the Crown,” in The Orange Order in Canada, David A. Wilson, ed. (Dublin: Four Courts Press, 2007), 71–73, and Senior, Orangeism in Ireland, 281–84.
32 Jarman, Material Conflicts, 49.
Orangemen constructed arches independently of a procession. It appears that Ballymacarrett Orangemen refrained from parading in 1837 and instead focused their energies on erecting and defending multiple arches throughout their Belfast suburb. John Agnew, Esq., Sovereign of Belfast, testified in the trial of three men indicted for a riot on July 12, 1837, in Ballymacarrett. According to the *Belfast News-Letter*, Agnew reported that “there were a great number of persons assembled there, who had arches erected across the road, and the entries inhabited by people of different religious persuasions; [he] advised the crowd to have them removed.”

Although “he got some of them removed,” his victory was only partial and temporary. By afternoon, several arches were back up. Constable John Dorrerty testified that he had been present when constables took down an arch at 9:00 a.m. The crowd immediately tried to recapture the arch, and amid a hail of stones the constables decided they would need reinforcements in order to remove more Orange displays. Constable Henry Boyd saw the removal of an arch crossing Scotch Row; it is unclear whether this is the same arch that Dorrerty referenced. Chief Constable Giveen testified that those assembled in the streets “were frequently cautioned by the Magistrates to disperse, but they refused; the riot act was read three times that day.”

The jury found the three accused guilty and the judge sentenced them to eight months in prison. The account from the trial suggests that there may have been as many as 2,000 people assembled in Ballymacarrett that July Twelfth, but they were divided into groups of twenty to thirty in various locations. The reports of the constables indicate that when an arch was threatened, upwards of 100 people gathered to defend it, suggesting that at least some of the crowd moved to where the action was at the moment. The events at Ballymacarrett illustrate how

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Orangemen and their followers could take over public space by identifying and defending symbolic nodes that proved difficult for the police to retake even when they were inclined to do so.

An 1834 case in Belfast illustrates the significance of place to the meaning and violent potential of orange arches. Three Orangemen appeared at the magistrates’ court to answer charges of riot and assaulting the police. One of the Magistrates, Mr. Skinner, stated that he had been notified of an arch in the Sandy Row neighborhood and had gone there to request it be taken down. The men he spoke with seemed ready to comply, but “the women and children were, however anxious that it should remain, and would not let the men consent to its removal.”35 Skinner did not intend to force the issue. Sergeant Campbell however, disagreed; when he commenced taking down the display, he was met with a hail of stones from the women and children and someone tried to kick the ladder out from under him. The police eventually retreated, justifying Skinner’s opinion that removing the arch was not worth the upset it caused. One might conclude that Skinner was derelict in his duties, but, significantly, Sandy Row was, and remains, a Protestant neighborhood.36 Although Sandy Row was a public street, it would seem to be an essentially uncontested Orange space. Skinner recognized that any attempt by the police to force the government’s claim in Protestant Sandy Row may have been beyond the scope of the Party Processions Act, which banned all party processions, but only outlawed symbols and banners displayed with the intention to provoke Catholics. Orange arches in Orange spaces were not the issue; however, when Orangemen used these symbols to claim public space,

or encroach on Catholic territory, they violated the law and provoked a reaction from Catholics and state authorities alike.

Sometimes, the police were successful in thwarting Orange efforts to plant their arches across public roads. Police patrolling the roads of County Tyrone seem to have prevented Orangemen from stringing an arch across the street of Sixmilecross on July 11, 1838. They vented their frustration on the house in which the police stopped, throwing rocks through every window.\(^{37}\) The correspondent for the *Waterford Chronicle* congratulated the police for their mostly successful efforts in the area that July. The *Northern Whig*, a publication with little sympathy for the Orange Order, also praised the efforts of the authorities to curb Orange activities: “The judicious arrangements made by the Government, and the watchfulness and activity of the different officers, civil and military, had the effect of preventing the Orange exhibitions and outrages from being nearly so great as they otherwise would have been.” Still, the paper asserted, the best efforts of the authorities could not entirely restrain Orangemen’s “lawless dispositions.” In some instances, Orangemen paraded as usual in flagrant violation of the law, but “in others, they adopted a different course: they did not venture to parade, as they used to do; but they got up mobs, and perpetrated outrages.”\(^ {38}\)

In other instances, they did both. The *Northern Whig*’s account of July 12, 1838 at Magherafelt in County Derry provides a clear picture of how Orangemen commandeered territory and sent a clear message about who controlled public space in many parts of Ireland. Late at night on July 11, a band of Orangemen paraded through the town with fife and drum until an inebriated – or, just as likely, an annoyed – Catholic “put his foot through the drum.” No

\(^{37}\) *Waterford Chronicle*, July 28, 1838.

matter. The Orange celebration scheduled for the following day would not be put off by the
smashing of a drum. Overnight, they erected an arch across the main road, attaching one end to a
tree next to the police barracks

where it remained, the night of the 12th, which was the big market: and this is the road by
which the greatest number of Catholics come into town, and under which the Magistrate,
Mr. Spottiswood, had to pass. During the busiest time of the market, they again paraded
the town with music, &c., destroying the business of the day, and insulting and abusing
any Roman Catholics that came in their way. Not content with clearing them off the
street, they demolished the windows of a man’s house … where a number of them retired
for safety, thus virtually taking possession of the town. … It is but justice to Mr.
Spottiswood to say, he endeavoured to arrest their progress; but was met by contempt and
insult:—he was without the power.39

The phrasing above is especially poignant: not “he was without power,” but “he was without the
power.” The insertion of the definite article implies that there is a specific kind of power
involved in this situation – the power to control access to the public streets and the public
marketplace – and the representatives of the law did not have it.

Setting fires in roadways was another Orange tactic for asserting control over public
space. Newspaper accounts of the assault on Mr. Hancock in 1833 and the testimony of James
Christie before the 1835 Select Committee suggest that bonfires were a common part of Twelfth
celebrations in Lurgan. These activities continued into the 1840s. For example, in Farlough,
County Tyrone, an “Orange mob,” encouraged by a young gentleman who supplied them with
turf, wood, and alcohol, set bonfires in each of the lanes leading from the highway to Catholic
neighborhoods. When a Catholic flax merchant returned home from the market, he was forced to
drive through the fire. When he did, the Orangemen attacked him, broke his harness and cart, and
wounded his horse. The Orangemen spent the evening marching between the fires and playing

party tunes. As they dispersed around midnight, they marched passed Catholic homes on the highway, singing party tunes, firing guns, and throwing rocks at the doors. The letter writer, who signed his missive “Veritas,” reported that “this happened within half a mile of the police barracks of Coalisland.”

As the officials empowered to call out the police or the military, magistrates played a crucial role in enforcing Parliament’s claim to control public space in Ireland. At times, the magistrates actively took part in suppressing, or attempting to suppress illegal processions and/or riots on the Boyne anniversary. On July 1, 1840, the timely arrival of Constable Sloan and his party of six officers broke up a disturbance involving 600 people in Leverick, County Down. Sloan and his men had to load their guns with cartridge and ball to defend themselves, and they were praised for risking their own safety to quell a “dangerous affray.” The principal rioters were taken to the Belfast police office “amidst many threats” to await trial at the Quarter Sessions. Although no magistrate is mentioned specifically, it is likely that a justice of the peace was involved in calling out the constables and reading the Proclamation.

At other times, magistrates were present during Orange processions that turned to riot, but they did nothing to stem the tide of violence. For example, in Maghera, County Derry, on July 12, 1841, an Orange procession wound its way from the little village of Tamlaght-o-Crilley to a Maghera public house that doubled as an Orange lodge. There, the brothers drank whiskey and then “commenced their nocturnal wreckings by smashing Mr. Harkin’s windows.” They also

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40 “Orangeism Again!” *Newry Examiner and Louth Advertiser*, July 8, 1840.
went after the windows of Mr. H. O'Farrell and Sons, doing serious damage. They finished their evening by throwing stones in other areas of town. Magistrates “took no notice of the affair.”

A report from Coleraine accused the magistrates of looking on as their townsment were bloodied and their homes destroyed. This procession featured several effigies, including likenesses of “Billy the Dutchman,” “Dr. Cooke,” and “Jezebel M’Neile” As one newspaper account reported, “the former [was] in the act of crushing Dan O’Connell, while the latter was very appropriately represented as putting his heel on the neck of Mother Popery.” The marchers played the particularly offensive tunes “Protestant Boys” and “Croppies Lie Down” while bashing Catholics in the head with a Daniel O’Connell effigy. They continued to the cemetery, where they thrashed the effigy against several graves. All the while, the magistrates looked on and did nothing, although one justice of the peace could claim the excuse of being new to the area. The informant further claimed one of the Orange ring leaders was the son of a magistrate. There was a small police presence, but as the police inspector had only three men – the rest were patrolling a county election in Derry – and had no authority from the magistrates to disperse the crowd, they were rendered useless.

A shortage of policemen could be a convenient excuse for magistrates disinclined to discourage Orange activities, but it was also a legitimate problem. In another incident in 1841, Orangemen in Loughhall, County Armagh rampaged through the town on the Twelfth with impunity while police sat idle elsewhere. The main procession of 300 or so Orangemen initially passed the property of the parish priest, but then a detachment of fifty or so, led by two men on horseback, doubled back to attack his house. A correspondent for the Kerry Examiner and

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42 “Orangeism Revived – The Beginning of an End,” Vindicator (Belfast), July 17, 1841.
Munster General Observer reported what happened next: “Immediately the work of destruction commenced. Volley after volley followed rapidly, until every window in his house, and three other houses opposite, were literally demolished. The hall-door was partly broken in and otherwise much injured, by the large stones thrown against it. … The missiles were showered into every room, and broke several articles.”

Fortunately the priest, Mr. Keating, escaped unhurt. About an hour later, another large group came that way and threatened to destroy all the houses in the neighborhood. They broke the windows of an old pensioner before they were persuaded to desist by some Protestant neighbors. While the Orangemen continued to hang around, as one newspaper reported, “the poor defenceless people of that quarter expected every moment to be not only wrecked (they already were), but to have their lives sacrificed by this gang of infuriated and drunken monsters.”

The article commented on these “frightful outrages” and “atrocious proceedings”:

“Having received, no doubt, encouragement from higher quarters that they might walk this year with impunity – that no precautions were taken to prevent them, at least in these districts, from displaying their force and prowess – the Orangemen assembled in large numbers in the parish of Loughgall and Tartaraghan, and marched in regular procession as in the good old times, with music, banners, sashes, and all the other insignia usual on such occasions.” The author asserted that police forces were focused on towns, leaving rural areas undefended: “The authorities, it is to be regretted, made no provision for our country parts, whilst they have unemployed numbers

of the police force stationed in all the adjacent towns. They have even diminished our number to station them elsewhere."47

This informant highlighted a significant challenge for local magistrates. Even when they were concerned about violence on the Twelfth, there were a finite number of troops to be maneuvered across the chessboard of Northern Ireland. On the other hand, sometimes, as at Moy, County Armagh in 1841, there were plenty of troops and police present. But they either chose not to prevent Orange activities or they were not under orders to do so.48

The writer who submitted this report to the Belfast Vindicator sought to call the attention “of those who may be anxious to preserve the lives and properties of the inhabitants of this neighborhood, to the disgraceful conduct of a number of Orangemen, who every evening parade the roads leading from Lurgan and Waringstown to Gilford. No Catholic dare attempt to go out after sunset, no matter how urgent the occasion.” He further called for the appointment of “some honest magistrate” before the Twelfth. According to this writer, the magistrate, Rev. Waring, was biased toward Orangemen: “They need not apply to his reverence; for I myself heard him declare, at a meeting convened for the purpose of congratulating him on his restoration to the commission of the peace, that his heart was warm to the cause, and that we would stand by them till death. Under such circumstances, the public will see the way in which we may expect to be treated in this locality; and should not think it strange if we may feel compelled to protect ourselves.”49

49 “Orange Rioting (from our own correspondent).” Vindicator, July 10, 1841.
The following year, seventy-nine of the inhabitants of the Carnreany and Corcreeny townships wrote to Earl De Grey, the Lord Lieutenant General of Ireland, complaining of abuse by Orange mobs every July 12th and 13th. They requested military support because the local magistrates refused to provide reliable protection. They claimed:

On the 13th, said Townlands, and neighbourhood exhibit a most frightful appearance from the countless thousands who assemble armed with guns, pistols [sic], and sords [sic], &c for the purpose of commemorating the anniversary of the battle of the Boyne in a sham fight and that while they are thus armed they attack the catholics of said Townlands; firing shots at them and smashing their houses; and the same time daring them to make their appearance.50

Any Catholic who did appear they threatened to blow into eternity. The letter further asserted that one of its signatories, Robert Matthews, “was attacked by an armed mob from said sham fight; and [had] his windows smashed and although in the open day not one of them (the Orangemen) could be identified.” Based on threats of stockpiling guns and ammunition, the local Catholics expected a repeat of Orange violence on the coming Twelfth. The Orangemen, they complained, boasted that the Lieutenant General would not issue a proclamation. These Catholics were tired of relying on local justice to protect their interests and warned that

if the Catholics of said Townlands be unprotacted [sic] on the approaching anniversary as they hitherto have been and their persons be abused and their propertys [sic] be destroyed they will not remain as they heretofore have done silent spectators and memorialists further beg to state that from the small police force stationed in this district and the disinclination of the local magistrates to interfere with, or put a stop to party exhibitions the peace of this district will be disturbed and the lives of its quiet and peaceable inhabitants endangered.51

50 The inhabitants of Carnreany and Corcreany to His Excellency, Earl De Grey, the Lord Lieutenant General and General, Governor of Ireland, July 4, 1842. Outrage Reports, 1842, Down, 8/12,539.
51 The inhabitants of Carnreany and Corcreany to His Excellency, Earl De Grey, the Lord Lieutenant General and General, Governor of Ireland, July 4, 1842. Outrage Papers, 1842, Down, 8/12539, NAI.
Although it is unclear whether troops were sent to Carnreany to “assist” the local magistrate, Rev. Waring, to hold the Orangemen in check, there was not a riot in the area in 1842.

Occasionally, however, magistrates were conspicuous by their absence. In Rathfriland an outraged townsman protested:

What I thought the most barefaced thing of all was, that they even carried fire-arms on their shoulders. I saw upwards of two hundred guns, and a like number of pistols, besides many other weapons. While I write, I am almost rendered deaf with continued firing of guns, &c., and that, too, in the very face of the police, who, I hope, will do their duty and bring to justice all they know of them. I should mention that neither Mr. R -----, nor any other magistrate was in town during the day. I would like to know if the government are aware of his conduct, in absenting himself this day; or why they allow the peaceable people of Rathfriland to be exposed to the mercy of those brutal Orangemen, who, I verily believe, only wanted an excuse to murder every Roman Catholic in it.

Mr. R----- likely refers to the notorious Hill W. “Ribbon” Rowan. The “Ribbon” seems to have referenced his affinity for those who wore an Orange ribbon on Protestant holidays. Rowan’s jurisdiction included the town of Scarva, which was the site of the annual “sham battle” that reenacted the events of the Battle of the Boyne when Orange hero William III bested Catholic James II. In a letter to the Chief Secretary dated July 8, 1842, Rowan outlined his decision not to request troops for the Twelfth. He asserted, “It appears to be my duty again to Report that I have not been able to learn since that letter was written that the suppression of party processions by military force would be productive of beneficial results.” First, he argued, he had no accurate information telling him where such meetings would take place. Second, were he to request troops for one area, he would need to request them for several areas on the chance their presence may deter potential marchers. Third, because the magistrates and police were attending the assizes during that time, the troops would be insufficient in themselves as peacekeepers without

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52 “Orange Outrages—Twelfth of July: The Faction are as Rampant and Sanguinary as Ever,” Dublin Evening Post, July 17, 1841.
magistrate or police presence. Fourth, the past two to three years had been quiet without any military assistance. He concluded that, should a large gathering take place at Scarva for the sham battle, it would take a significant force comprised of both cavalry and infantry to suppress it. In a letter dated the following day, Rowan cited discussions with other magistrates and a district sub inspector of police who agreed with his decision. A note scribbled on this letter directed the clerk to inform Rowan that no troops would be ordered to Scarva.

The next year, Rowan again refused to order troops to the area, this time with deadly results. A correspondent for the *Belfast Vindicator* reported the outrage and laid the entire blame at the feet of Rowan and his fellow magistrates who willfully left the neighborhood bereft of any law enforcement that might deter Orange marauding. He wrote:

On last Thursday the celebrated Ribbon Rowan, the stipendiary magistrate of this district, took the precaution, in conjunction with the Orange unpaid magistrates, to have the place clear of the noxious presence of even a solitary policeman, thus evidencing his confidence in the loyal (!!!) Orangemen, who are at present under probation to entitle them to yeomanry arms and pay! So, at least, they say. . . . [the Magistrates went to dine at Tandragee Castle] leaving the whole Catholic population at the mercy of an armed and ferocious mob, who, being prevented by their leaders from having a sham-fight, resolved to have a real one before they went home.

Orangemen threw stones at several houses and attacked a poor, seventy-year-old woman who was standing in her door. When her son rescued her, the mob thrust a bayonet through the chinks in the door in an attempt to stab him. When two other men came to their aid, they, too, were attacked. The nineteen-year-old sister of one of the men successfully prevented the Orangemen from stoning her brother, but she was wounded in the process, as was another man who knocked the Orangeman away. Another attacker was about to stab her again when one of his fellows

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53 Hill W. Rowan, RM to the Chief Secretary. July 8, 1842. Outrage Papers, 1842, Down, 8/12755, NAI.
54 Hill W. Rowan to the Chief Secretary. July 8, 1842. Outrage Papers, 1842, Down, 8/12843, NAI.
55 “Horrible Assault at Balleyvarley,” *Vindicator* (Belfast), July 19, 1843.
“more manly than the rest” shouted, “Don’t stab her – she has got one already.” When the melee was over, the police arrived and “prevented further mischief.” The correspondent commended the police activity: “In every respect, the police under Mr. Plumber have done their duty efficiently. But where was Rowan?”\(^56\)

Apparently, Rowan was dining at Tandragee Castle with the Duke of Manchester and his fellow magistrates. The *Vindicator*’s correspondent continued:

The news arrived at Tandragee Castle whilst the gentlemen were at dinner, a distance of at least three miles from where they should be on the 13\(^{th}\) of July. The wines, however, of the newly created Duke of Manchester were too inviting. Rowan, the Duke, and Reilly, arrived at Scarva House when they heard how matters were, and stopped the warlike Dean Carter, whose profession was mistaken except in tithe-hunting times. …Not a magistrate has come to assure the people of protection. Young Reilly is sometimes seen passing the roads, and, latterly, has made himself more active; but, with this exception, neither paid or unpaid, liberal (laugh!) nor illiberal, made their appearance amongst the people.\(^57\)

An investigation into the incident did take place two weeks later, presided over by none other than Ribbon Rowan. In a shocking move, Rowan informed the witnesses, attorneys, counsel, and press assembled in the courtroom that the magistrates had met that morning and decided “that they would hold their inquiry privately, without the intervention of professional men or newspaper reporters (three of whom were present).”\(^58\) The chaotic scene continued when another magistrate, Mr. Crawford, informed the courtroom that he and one of his fellows had not agreed with Rowan’s decision. Before he could continue, Rowan cut him off, saying, “that he should not interrupt him – that he must say such an interruption was exceedingly improper.” Mr. Moriarty, counsel for the Catholics, then rose to speak and explained that he was representing a

\(^{56}\) “Horrible Assault at Balleyvarley,” *Vindicator* (Belfast), July 19, 1843.

\(^{57}\) “Investigation into the Ballyvarley Riots,” *Dublin Monitor*, July 31, 1843.

\(^{58}\) “Investigation into the Ballyvarley Riots,” *Dublin Monitor*, July 31, 1843. Emphasis in the original.
plaintiff who was too old and infirm to give her information in person. Rowan countered that she could come give her testimony in person when she was able. Moriarty retorted, “the more time she gets she will only get the older and more unable to come in.” At this point, Rowan cut him off, asserting, “we want no speeches.” Mr. Mitchell, the attorney for the Catholics, then protested that he had not been informed of court’s intention to bar professional men and had brought counsel with him to hear the witnesses’ complaints. Rowan interrupted him: “Now, if you make a speech those gentlemen of the press will take it down.” Mitchell replied that he could not help that. Rowan insisted, “But they will take it down; and it would be unpleasant for us to oblige them to give up their books.” Incensed, Mr. Moriarty declared, “You have no jurisdiction to do so.” Suddenly, an uproarious cheering could be heard from outside the courthouse, indicating the Orange supporters had learned that the professional men and press had been barred from the proceedings. At this, according to the newspaper account, “The professional gentlemen on both sides, and the much-dreaded reporters, here walked away.”59 In this case, the Orangemen had the upper hand, both inside and outside the courthouse.

Rowan was not the only magistrate openly accused of Orange sympathizing. On the evening of July 1 in the town of Carnreany in County Armagh, a rowdy mob of Orangemen was marching on the road from Lurgan and Waringstown to Gilford when they encountered Catholic James Donnelly.60 Donnelly called for police to protect him from “the fellows.” When police tried to “suppress their rioting” by seizing their drums, they were rebuffed. After a second failed attempt, the police were beaten with stones and bludgeons. The next morning the rioters gathered

59 “Investigation into the Ballyvarley Riots,” Dublin Monitor, July 31, 1843. All emphases in the original.
60 The original date for the Battle of the Boyne before shift to the Julian Calendar. The anniversary continued to be celebrated on both the first and the twelfth.
on the lawn of Rev. Holt Waring, JP and Dean of Dromore.\textsuperscript{61} Rather than punish the rioters, Waring gave them a civil caution for their activities.

In London, at the same time the Canadian Legislative Assembly prepared to pass a version of the Irish Party Processions Act, the House of Lords discussed dismantling the original. The Earl of Roden opened the discussion by presenting a petition signed by more than 5,000 Protestants from the Rathfriland district in County Down. The petitioners made two requests: first, that the government take measures to address the unrest in the country resulting from a Catholic-led effort to repeal the union between Britain and Ireland; and second, that the government would repeal the Party Processions Act.\textsuperscript{62} Their requests were ultimately granted, although Parliament chose to allow the Party Processions Act to expire in 1844 rather than act to repeal it. Ironically, six years later, Rathfriland – and likely some of these same petitioners – were at the center of the violent riot that would trigger the passage of the second Party Processions Act.

The petitioners’ first concern, Repeal, had its roots in the successful movement for Catholic Emancipation in 1829. As was the case in the 1820 campaign, Daniel O’Connell led the charge for Repeal. Previously averse to repealing the union between Britain and Ireland so long as Ireland was treated justly, by 1840 O’Connell changed course and founded the Loyal National Repeal Association. Christine Kinealy explains that the paradox in the organization’s name was intentional: “he wanted independence for Ireland within an imperial context and with links to the British monarchy being maintained.”\textsuperscript{63} The Repeal Association failed to gain much traction with

\textsuperscript{61} It is unclear whether the rioters were summoned there or appeared of their own volition.
\textsuperscript{62} HL Deb 08 August 1843 vol 71 col. 360–361.
\textsuperscript{63} Kinealy, Repeal and Revolution, 25–26.
the Irish populace until late 1842, when the new nationalist newspaper, the *Nation*, took up its cause. Significantly, the *Nation* promoted an inclusive approach to nationalism, and recruited Ulster Protestants to the Repeal banner.64 Founded by three young, educated Irish writers, one Protestant and two Catholics, the Nation immediately reenergized the Repeal movement, as evidenced by the nearly six-fold increase in weekly contributions to the Association between 1842 and early 1843. Daniel O’Connell was so inspired that he proclaimed 1843 the “Repeal Year.”65

Predictably, the popularity of Repeal alarmed many involved in governing Ireland, particularly the Orange-sympathizing lord lieutenant, Earl Grey. As historian Sean Farrell observed, “outbreaks of sectarian violence were closely tied to events on the national political scene.”66 Indeed, political developments could animate Orangemen – and Catholics – to “turn on” territorially. Prime Minister Robert Peel favored conciliation over coercion, but when O’Connell threatened to employ the mass-meeting strategy that had effectively won Catholic Emancipation in 1829, Parliament was sufficiently alarmed to act against the movement. In May 1843, Peel publicly declared his intention to oppose Repeal with every tool available to him. The lines thus draw, O’Connell countered with a plan to hold a huge Repeal meeting in Clontarf, near Dublin. On October 7, the day before the meeting, as Repealers from around Ireland and beyond made their way to the site, Peel abruptly banned the gathering and sent troops in to support his order. O’Connell backed down and canceled the event, enraging many of his supports and weakening his position as nationalist leader.67 Although the Repeal Movement would struggle

65 Kinealy, *Repeal and Revolution*, 32.
until this iteration was finally crushed with the defeat of Young Ireland in 1848, the summer of 1843 was a particularly tense moment for the traditional balance of power in Ireland.

In August 1843, Lord Roden, a Tory with English and Irish titles, claimed that Repeal agitation was causing severe anxiety among the Protestants of Ulster. He maintained, “The Protestant inhabitants of Ireland also heard it proclaimed that repeal implied the deliverance of that country from the Saxon yoke; and they found further that, in the opinion of the Repealers, the terms ‘Saxon’ and ‘Protestant’ were synonymous. It had been openly and distinctly stated, that the destruction of the Protestant religion was one of the objects of the Repealers.”

In addition, the prevailing uncertainty was disrupting the economy up and down the social ladder. As Roden asserted:

> Individuals in the highest sphere of life, who were about to improve their estates, to erect mansions, or to extend their domains, at once abandoned their intentions; discharged; and avowed the reason was, “We do not know for whose benefit these alteration may be made; we will not prosecute them until there is some restoration to peace and tranquility.” Those in the humbler spheres of life suffered to a considerable extent from this state of things; in consequence of improvements contemplated by the higher classes being abandoned, many of the humbler classes were deprived of employment. Indeed, the confidence of the people was shaken throughout the country.

Several members also cited the Act’s unbalanced application as reason for abandoning it. Echoing those concerns, Lord Roden argued that in practice, if not in intent, the Party Processions Act had only been directed against Orange marches; either the Act should be allowed to lapse or it should be revised to more directly apply to all processions. The Conservative Duke of Wellington responded that if the Party Processions Act was being applied

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68 HL Deb 08 August 1843 vol 71 col. 366.  
69 HL Deb 08 August 1843 vol 71 col. 365.  
70 HL Deb 08 August 1843 vol 71 col. 364.
primarily to Orange processions celebrating Protestant victories, then it was fulfilling its intended purpose. After praising the Protestants identified by Lord Roden for their efforts to adhere to the law, Wellington stated, “I think that my noble Friend and the petitioners labour under great mistakes, in supposing that the act of Parliament to which my noble Friend has adverted, and which he calls upon us to bring in a bill to repeal, applies to processions other than those particularly described in its preamble.” He encouraged the House to stay the course and neither repeal the Party Processions Act nor extend its purview to include all processions. His fellow Conservative, the Earl of Wicklow, disagreed. Wicklow opined:

He had no hesitation in saying that a great act of injustice would be committed, should the act be renewed in its present shape; and he hoped that even those leaders of the party which was in office when the act passed, notwithstanding the bias of their minds, would not allow the act to continue solely to affect Protestants. He believed that its operation was a blunder not intended by those who passed it. He was confident that they meant to include all parties; and if there was a failure, it was the mistake, and not the intention of the framers of the bill. It must either be allowed to expire or be made to embrace all.

Sir Robert Peel closed the debate by reminding the House that the Act would expire the following summer, therefore in all likelihood there would be no need to either repeal or extend it. As he no doubt considered the official disbandment of the Orange Order in 1836 and the leadership’s continued pleas to the local lodges (unpersuaded by the initial call to dissolve) to refrain from processing on July Twelfth, he concluded the following: “The course pursued by the Protestant body in relinquishing their processions reflected the highest credit on them; and

71 HL Deb 08 August 1843 vol 71 col. 372.
72 HL Deb 08 August 1843 vol 71 col. 374.
73 Wicklow’s opposition to the Duke should not be surprising, as the two had dueled over Catholic Emancipation in 1829.
74 HL Deb 08 August 1843 vol 71 col. 377.
induced a hope that, as far as they were concerned, it might be in the power of the Government to dispense with the act.”

75 The Party Processions Act expired on August 1, 1844.

It is difficult to measure the Party Processions Act’s efficacy, as there is no way of knowing how many processions were foresworn or riots averted. It is also challenging to assess whether the Act succeeded in reducing the numbers of Orange processions to a more manageable figure than the 5,000 to 6,000 that assembled in Strabane in 1829.76 Apparently, Parliament primarily based its legislative decisions on impressionistic rather than quantitative data. According to contemporary newspaper accounts, there were at least sixty-five riots related to Boyne celebrations during the period of the first Party Processions Act in Ireland. Coincidentally, there were also sixty-five riots in the twenty years prior. The Party Processions Act did increase violence between Orangemen and police: from 1813 to 1832, police were Orangemen’s primary opponent in 10.5% of observed riots, whereas during the ten years the Act was in force, police were the primary opponent in 27.7% of Twelfth riots.77

In the first year following the Act’s expiration, Parliament received another petition regarding Orange processions, this one from the people of Armagh after a bloody riot on July 12, 1845, claimed the lives of seven of their townspeople. They wrote, “We, the undersigned … respectfully call upon your Honourable House to bring in, and pass, an Act of Parliament, before the close of the present Session, declaring all party processions, and demonstrations, under any pretence [sic] whatsoever, illegal, unless convened by the constituted authorities.” The petitioners feared that disorder was on the increase and insisted that the matter receive immediate attention. The petition concluded, “[we] humbly pray you will take under your most serious and

75 HL Deb 08 August 1843 vol 71 col. 410.
76 See page 69.
77 See Appendix C.
immediate consideration, the measures calculated to restore confidence in her Majesty’s
Government, and secure protection to the lives and property of her Majesty’s peaceable and loyal
subjects.”\footnote{78} The \textit{Northern Whig}’s editors articulated similar sentiments a year later, when at least
nine riots shattered the peace on July Twelfth. In noting the rough nature of some of the Belfast
Orange processions that year, the editors remarked, “as similar exhibitions may be repeated,
unless the Legislature interpose, that interposition should take place.”\footnote{79}

The petitioners were not alone in their concerns. Resident Magistrate George Despard
lived in Summerhill, County Meath, in the province of Leinster. He spent July 12, 1845, in
County Armagh, presumably to support the local magistrates in one of the hotspots of Orange
activity. After briefly reporting on a huge Orange procession in Tandragee on the Twelfth, he
clarified his earlier assertion that 30,000 people had gathered at Scarva (Rowan’s territory) two
days later for the annual sham battle. Despard explained that it was difficult to arrive at an
accurate figure because all the roads in Scarva and leading to it were crowded with a “mass of
human beings of all ages and sexes.”\footnote{80} He remarked that although the two events had not incited
riots that year, he was concerned that the repetition of such performances would certainly result
in violence in the future. He wrote to the Under-Secretary for Ireland, “no imprejudiced person
of sense or understanding can help considering that such meetings and processions, as well as
those of the opposite party, … are, in their ultimate results certain of proving most prejudicial to
the public peace and to the welfare of the country, calculated as they are, and must be, to
engender the most bitter feelings of politics religious hatred and to set man against men.”\footnote{81}

\footnote{78} “Ireland,” \textit{Coleraine Chronicle}, July 26, 1845.
\footnote{79} “The Orange Anniversary,” \textit{Northern Whig}, July 14, 1846.
\footnote{80} George Despard to Edward Lucas, July 17, 1845, Outrage Papers, 1845, Armagh, 2/15483, NAI.
\footnote{81} Despard to Lucas, July 17, 1845.
Despard’s insightful commentary was not unique among those nonpartisan persons who endeavored to keep the peace in Ireland. However, his detailed description of conversations with magistrates, clergymen, and middle-class men who were likely Orangemen – or at least Orange sympathizers – about what to do about party processions were unusual. Despard reported, “all assured me that they would hail with delight any measure for the suppression of all party processions and displays but that any attempt at a revival of the late act would only increase the bitterness and intensity of party feeling (in my own opinion it would throw hundreds of the orange party into the ranks of repeal) while any measure suppressing All, without distinction, would meet the approbation of the wise and good of all parties and sects.” In this one statement, Despard highlighted both of the issues articulated by the Rathfriland petition Lord Roden brought before Parliament: concern over the equal application of the act and fear of the act’s potential to strengthen the Repeal effort. As Sean Farrell pointed out, July Twelfth violence – as well as official response to it – was closely tied to political developments in Ireland.

But Despard went further, identifying the magistrates’ tenuous position at the nexus between local and state concepts of order. Keith Wrightson described seventeenth-century village constables as “wretched” men who were “ensnared at the point where national legislative prescription and local customary norms intersected.” Despard’s characterization of the nineteenth-century magistrates’ position suggests the situation had in some ways changed little in two hundred years. He explained that if a new law was not passed, “I have been assured, and am authorized to state that the respectable Gentry, the Magistrates and clergy in the North will of necessity be compelled, again to enrol [sic] themselves members of the orange society, in order

82 Despard to Lucas, July 17, 1845.
to preserve their influence over that body so as to enable themselves to prevent the commission of outrage or disturbance.”  

Orange control of the countryside in the North was so strong that law enforcement officials believed that they had to join them in order to have any hope of maintaining the public peace. By allowing the Party Processions Act to expire, Parliament had weakened its claim to control Irish public spaces and impaired the ability of disinterested local authorities to oppose Orange influence. As Sack explained, territoriality is “imbedded in social relations.” He continued: “Human spatial relations are the results of influence and power. Territoriality is the primary spatial form power takes.”  

Clearly, although the impact of the Party Processions Act is difficult to assess statistically, the men tasked with keeping order at the ground level thought it had some effect. Perhaps the number of processions indeed decreased, and officials may have had more confidence in their ability to put a stop to a developing situation before it got out of control. Despard concluded his missive with the following warning: “I much fear that unless measures are adopted, and that immediately, to prevent for the future all party displays, that before the next session of parliament there may be hostile collisions between the two parties arising out of the occurrences of the 12 July, that many valuable lives may be lost, and the country from North to South be in a blaze.”

Over the next several years, the country was indeed set ablaze, and many lives were lost, but it was not as a result of Orange-Green violence. The Great Famine (an Gorta Mór) struck Ireland in the autumn of 1845. Over the past fifty years, Ireland had become uniquely dependent upon the nutritious potato. During the Napoleonic Wars, the price of grain rose, giving landlords incentive to switch from pasture to tillage. Grain became a cash crop, and the Irish population

84 Despard to Lucas, July 17, 1845.  
85 Sack, Human Territoriality, 26.  
86 Despard to Lucas, July 17, 1845.
subsisted mostly on potatoes. Some tenant farmers did well enough to subdivide their leaseholds, and some laborers were content to work for small plots of land rather than cash. The result was the division of land into smaller and smaller parcels, which required an efficient crop like the potato to provide subsistence. At the same time, the population increased during the relative peace of the eighteenth century, and with the addition of the potato to the everyday diet the population grew from approximately five million in 1800 to eight million in 1841.\footnote{E.R.R. Green, “The Great Famine (1845–1850),” in \textit{The Course of Irish History}, eds. T.W. Moody and F.X. Martin (Niwot, CO: Roberts Rinehart Publishers, 1967, 1994), 264–66.}

A largely impoverished population dependent on a single perishable food source that was exporting all its produce, like grain, that could be stored in case of emergency was especially vulnerable to famine. When the potato blight first appeared in 1845, Prime Minister Robert Peel acted quickly to try to get ahead of any disaster by setting up a government employment plan and purchasing food from the United States. When Peel’s government fell the next year, partly over his work to repeal the Corn Laws, a protectionist tariff that propped up the English agricultural industry, a Whig government committed to \textit{laissez faire} policies came to power. Under Charles Trevelyan, the treasury department determined to withdraw the government from regulating the food supply. A total crop failure 1846 and a harsh winter caused starving Irish peasants to flood relief centers, leading to epidemics of typhus, relapsing fever, and dysentery. After another crop failure in 1848, the Famine finally receded by 1850. By that time, around one million Irish had died of starvation and disease.\footnote{Green, “The Great Famine (1845–1850),” 268–73.}

During the Famine years, Ireland not only lost many valuable lives to starvation; a further one million Irish men and women fled their native country for new lives in England, British North America, and the United States. Many of the impoverished Irish first made their way first
to Liverpool and from there booked passage to British North America, the most economical option. More than 100,000 Irish set out upon this migration path in 1847. Some stayed in British North America, others continued on to the United States, and an estimated 20% died of disease or starvation during the journey.\textsuperscript{89} During the Famine years of 1846–1850, 229,830 Irish men and women emigrated to British North America, 104,518 of these during “Black ’47.”\textsuperscript{90} The timing of this flood of humanity may be partly explained by the Whig government’s decision to use the Poor Law to regulate Famine relief, thus shifting the burden entirely to the Irish landlords. In response, many landlords paid for their tenants’ transatlantic passage. As historian Scott See maintained, this “should not be interpreted as a noble gesture. … Many landlords deemed paying fares to North America as a cheaper proposition than the poor rates, and peasants preferred emigration to eviction.”\textsuperscript{91}

Although the Famine influx of the late 1840s was dramatic, the Irish had been migrating to British North America in significant numbers since the peace in 1815. Historical geographers Cecil Houston and William Smyth estimated that they made up 60% of the total immigration to British North America between 1815 and 1845, around 500,000 people.\textsuperscript{92} It is difficult to ascertain how many of these migrants remained to settle in British North America, but Houston and Smyth surmised that approximately one-third of emigrants between 1816 and 1842 stayed.\textsuperscript{93} Significantly, Ulster Irish dominated the migration to British North America before the Famine. In 1833–1834, 47.6% of the Irish landing in the ports of Saint John and Quebec were from

\textsuperscript{89} Green, “The Great Famine (1845–1850),” 272.
\textsuperscript{91} See, \textit{Riots in New Brunswick}, 47.
\textsuperscript{92} Houston and Smyth, \textit{Irish Emigration and Canadian Settlement}, 14.
\textsuperscript{93} Houston and Smyth, \textit{Irish Emigration and Canadian Settlement}, 26.
Ulster, and 55.2% of the Irish landing in Saint John sailed from Ulster ports. Again, it is unclear how many Irish stayed in British North America, but the statistics suggest that early settlement was dominated by Ulster, Protestant Irish, at least in the provinces of New Brunswick and the Canadas. These first immigrants would establish themselves in Canadian society, culture, and politics – local and provincial – by the time the destitute Famine victims, most of them Catholic, came seeking refuge. Houston and Smyth articulated the significance of this migration: “They thus represented a potential force for cultural change within their reception areas, which, outside Quebec, were preponderantly Protestant.” Whereas several traditionally Irish Catholic regions received very few Famine migrants, “it fell to Saint John and its hinterland and places in central Canada to deal with the victims.” One of the components of Ulster culture to make its way across the Atlantic with the immigrants was the Orange Institution. Orange processions had already caused enough trouble in the Upper Canada by the early 1840s for the Provincial Legislature to pass a Party Processions Act along the lines of the Irish law in 1843. Three years later, destitute Catholic Famine migrants found themselves in a potentially hostile environment. As See explained, “Irish-Catholics entered communities whose history had been shaped by Loyalists and Protestant immigrants from England, Scotland, and Ireland.” An interesting conflict emerged in New Brunswick and Upper Canada during the 1830s and 1840s as provincial legislatures felt pressure to absorb an increasingly diverse population, and established Irish

94 Houston and Smyth, *Irish Emigration and Canadian Settlement*, 34, table 2.2.
96 The province that is now known as Ontario was carved out of the territory of Quebec in 1791 when it became Upper Canada; the French-speaking part of Quebec was renamed Lower Canada. Following the Rebellions of the late 1830s, Upper and Lower Canada were reunited to become the Province of Canada in 1840, although the former Upper Canada retained a directional moniker as Canada West. The territory finally gained its present name at Confederation in 1867, when the Province of Canada split into Ontario and Quebec. See David J. Bercuson, Kerry Abel, Donald Harman Akenson, Peter A. Baskerville, J. M. Burnsted, and John G. Reid, eds. *Colonies: Canada to 1867* (Toronto: McGraw-Hill Ryerson Limited, 1992), 154, 330, 522. Following the example of these editors, this study will refer to the province as “Upper Canada” throughout the period under consideration.
Protestant communities fought impoverished Irish Catholic immigrants for control of British North American public space.
CHAPTER 4:
PARTY PROCESSIONS IN BRITISH NORTH AMERICAN PUBLIC SPACE, 1830-1848

“It is now high time that the majesty of the law should be directed efficiently against them”

“We only desire that the matter may be fairly and impartially investigated, and the majesty of the law vindicated – no matter whether the guilty parties be Orangemen or Roman Catholics. They must both be taught that they are not to violate the law with impunity.”¹ Thus the editor of the Islander, a newspaper out of Charlottetown, Prince Edward Island, succinctly summarized the British government’s position on regulating Orange riots in 1843. Unfortunately, eradicating the conflict would never be so simple. As the article suggested, July Twelfth rioting was not limited to the British Isles. British North America also witnessed an increasing number of violent events as its Irish population increased over the first half of the nineteenth century. By the end of the 1840s, Canadians were all too familiar with Orange violence, frequently in the form of election and labor rioting, but also on the contentious anniversaries. Twelfth riots occurred in Upper Canada in the 1830s, and by the 1840s New Brunswick had also experienced multiple episodes of violence on the Boyne anniversary. The spatial dynamics of Orange violence in British North America differ from those in Ireland. In British North America, taverns served an important role as sites of Orange lodges, centers of municipal political power, and targets of Orange opponents. Public works projects also become contentious locations, as they employed large bodies of impoverished Irish-Catholic immigrants. As in Ireland, public thoroughfares were also a significant locus of Orange/Green conflict. Like in Ireland, legislative bodies in Canada and New Brunswick utilized the law in their struggle for power in public

¹ “Riot at Kingston, Canada.” Islander, August 18, 1843.
spaces. In Canada, the provincial assembly passed a Party Processions Act that was based on the Irish model but was also shaped to fit British North American conditions. As legal scholar Pietro Costa asserted, “it is difficult to understand a text that moves from its original context and takes new roots in a different interpretative community without focusing on space and time.”

Studying a law like the Party Processions Act in its transatlantic context requires an examination of both spatial and temporal factors.

In British North America, many contemporaries believed that July 12 riots were aspects of a displaced conflict: the ancient Irish territorial contest had no place in Canadian space. Though Orangemen continued to march, and Irish Catholics offered opposition, the struggle was less over specific locations as it was a battle for a niche in the Empire. Twelfth riots were not as common as election violence, as Orange and Green candidates vied for seats on the councils that controlled access to many of Upper Canada’s public spaces. They also tussled over access to the Canadian economy, often in the form of public works jobs. Although there were glimpses of the traditional means of claiming space – processions, attacks on private property and places of worship, and a few ceremonial arches – many Twelfth celebrations were more haphazard affairs.

It appeared that Orangemen, by their Protestantism, earlier migration, financial stability, and appeal to non-Irish Canadians, had already established themselves as power players in Canadian politics by the time that Irish-Catholic migration gained momentum during the early 1840s. Although Orange parades were more tolerated than celebrated, the newcomers were often seen as the troublemakers. The discourse surrounding the conflicts from newspaper commentary to

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3 See Houston and Smyth, Irish Emigration and Canadian Settlement, 9, 20–23, 39; Houston and Smyth, The Sash Canada Wore, 5–6, 18–19; and See, Riots in New Brunswick, 45–48.
official and private correspondence reflected contemporaries’ view of Orange riots as unwelcome foreign incursions into Canadian space. In both Upper Canada and New Brunswick, commentators repeatedly expressed concern that the full weight of the law must be thrown against this threat to British North American order, especially during its formative years in the mid-nineteenth century. This connection between law, space, and order is important to the development of a society. As historical geographer Nicholas Blomley explained: “‘The legal and the spatial are, in significant ways, aspects of each other.’ This becomes clear when we recognise the importance of law and space to order. The world is not given to us, but actively made through orderings which offer powerful ‘maps’ of the social world, classifying, coding and categorising. In so doing, a particular reality is created.”

During the 1830s and 40s, inhabitants of both Upper Canada and New Brunswick grappled with Old World sectarian violence that challenged the social order they were trying to establish in their New World home.

The Orange Order probably arrived in British North America in the 1810s and lodges were certainly active by the 1820s. Orange literature suggests a July Twelfth parade took place in York in 1818, and by the early 1820s the provincial legislature of Upper Canada received a petition requesting they ban Orange processions. Orangeism took hold primarily in two provinces: New Brunswick and Upper Canada, and these two locations represent the focal areas

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6 Houston and Smyth, The Sash Canada Wore, 18.
for this study. During the 1820s, Orange lodges in British North America were decentralized: there was no overarching Grand Lodge as there was in Ireland.\footnote{Houston and Smyth, \textit{The Sash Canada Wore}, 19–20.}

For the most part, Canadian Orange riots are less well documented than their Irish counterparts. Correspondence between New Brunswick Attorney General Thomas Wetmore and Provincial Lieutenant Governor George Stracey Smyth in 1821 hints at a potential July Twelfth riot in Fredericton in 1820.\footnote{Wetmore to Smyth, February 22, 1821 and Wetmore to Smyth, February 23, 1821, RS336 A3b, PANB.} Historian Scott See, in his database of more than 400 Canadian riots between 1785 and 1886 recorded two July Twelfth riots in the 1820s: both in 1825 in Montreal and Kingston, Upper Canada, respectively.\footnote{Scott W. See, “Riot File Database.”} Evidence from provincial legislative debates in the 1820s suggests Orangemen’s activities, including processions, were causing trouble in their adopted country. Although scholars do not usually consider conditions in British North America to be as incendiary as those in Ireland, the proximity in Lower Canada of a large body of Catholic French Canadians certainly claimed the attention of contemporary Upper Canadian politicians. As historian Ian Radforth reported, an “assemblyman observed that Orangeism was especially dangerous to the peace of the Canadas, where not just Irish Catholics would take offence but the far more numerous French-Canadian Catholics as well.”\footnote{Ian Radforth, “Orangemen and the Crown,” in \textit{The Orange Order in Canada}, ed. David A. Wilson (Dublin: Four Courts Press, 2007), 74.}

In 1823, the same year the Unlawful Oaths Act took aim at secret societies in Ireland, a group of inhabitants presented a petition to the Legislative Assembly of Upper Canada requesting similar action be taken against Orange societies in their province. The legislature
agreed to form a committee to investigate the issue, and in January 1824 they recommended the following solutions, which are worth quoting at length:

Resolved, That this Committee having taken into consideration the petition of William Bergin and others, are of opinion that the Petitioners and all others of His Majesty’s subjects may rely with confidence on the sufficiency of the Laws now existing to repress or punish any tumults or violence to the persons or properties of individuals, and that this House is desirous to forbear noticing those political parties or distinctions alluded to in the petition, in any other manner than by expressing their hope that they may be speedily forgotten.

Resolved, That as all His Majesty’s Subjects in the Province enjoy equal rights without regard to religious distinction, this House hopes that the good sense and good feeling of the Petitioners and of their Countrymen of whom they complain will gradually correct the evil; that the one will see that there is neither necessity nor propriety in continuing in this country those Political Associations, which all their fellow subjects desire to see abolished, and that in the meantime the others, conscious that they share every privilege of subjects, will learn to treat such associations with silent disregard.¹¹

Thus, in 1824 the official policy for handling sectarian animosity in Upper Canada was to hope that it would be forgotten and/or ignored. These resolutions rested on an interesting assumption that the enmity between Irish Protestants and Irish Catholics was seated in Ireland, not in the people themselves. Geographer Kenneth E. Foote explored the connection between violence, memory, and landscape in his book Shadowed Ground: America’s Landscapes of Violence and Tragedy. In contemplating sites like Salem, Massachusetts, and the debate during the 1990s about how or whether to commemorate the witch trials and executions that transpired there, Foote remarked, “the evidence of violence left behind often pressures people, almost involuntarily, to begin debate over meaning. The sites, stained by the blood of violence and

covered by the ashes of tragedy, force people to face squarely the meaning of an event.”

Contemporary British North American commentators repeatedly asserted a variation of the argument that Orange-Green violence was not Canada’s conflict. Compared with Ireland, there were fewer calls to take decisive action to prevent riots than there were pleas with the participants to leave their old quarrels at home. Perhaps the Upper Canadian legislators’ strategy eventually turned out to be right – if their long game was meant to last around a hundred years – because July Twelfth is no longer a dreaded date on the calendar as it remains in Northern Ireland today. In the more immediate future, however, nineteenth-century hopes that Old World conflicts would be forgotten on New World soil turned out to be unfounded. This reluctance to apply legislative solutions to the problem of Orange intimidation and violence was a consistent theme throughout much of the subsequent decades in both Upper Canada and New Brunswick, with the exception of the former’s 1843 Party Processions Act. Even this statutory measure, however, would prove to have more bark than bite. Canadian and New Brunswick legislators were acutely aware of the tension between rights and order. As Don Mitchell explained: “The way to understand these issues is to uncover the source of political and regulatory change in the actual battles that have led to the formulation of public forum doctrine (or other regulatory apparatuses). By doing so we can better grasp how judicial and legislative lawmaking works dialectically with social and political action to structure public space itself.” This relationship was visible in the debates regarding the regulation of party processions in Upper Canada and New Brunswick.

13 Mitchell, The Right to the City, 50.
The quality of evidence – and the frequency of Orange processions – increased markedly in the 1830s. Some of this can be attributed to the general growth of the Order. In 1829, Ogle R. Gowan, son of a founding member of the Irish Grand Lodge, left his family home in Wexford, Ireland for British North America. Gowan settled his family in Brockville, Upper Canada and quickly turned his organizational talents to forming a Grand Lodge of British North America in January 1830. Gowan immediately began issuing warrants for new lodges, although the grand master of the empire, the Duke of Cumberland, did not officially acknowledge the British North American branch until 1832.¹⁴ This early independent activity set the tone. As Orange historians Houston and Smyth asserted, “The British American order had been fashioned without supervision from the old country and was to develop independently thereafter.”¹⁵ According to Gowan’s calculations, 12,853 Orangemen in Upper Canada in 1834 belonged to 144 lodges. Sixteen years later, another high-ranking Orangeman claimed there were between 60,000 and 70,000 Orangemen in British North America.¹⁶ With more lodges came more processions and more potential for violence. The first decade of the Grand Lodge of British North America witnessed at least five Boyne anniversary riots, all of them in the province of Upper Canada. These violent affairs were part of a particularly riotous decade for the region: of the approximately 400 British North American riots that occurred before 1850, 44 took place in 1830s Upper Canada.¹⁷

Interestingly, the Canadian perception of Orange violence was at times interpreted through comparisons to the United States. An 1833 article in the Niagara Gleaner informed its readers...

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¹⁵ Houston and Smyth, The Sash Canada Wore, 23.
¹⁶ Houston and Smyth, The Sash Canada Wore, 84, 85.
¹⁷ Bercuson et al., Colonies: Canada to 1867, 222.
readers of two July Twelfth riots in Upper Canada, one in York and a second smaller affray in Niagara. After almost offhandedly mentioning that “the Province is like to be inundated with these broils annually,” the author quickly pivoted to his desired topic: Yankee Day. This “new farce” was celebrated at St. Catharines on July 4th. The Gleaner correspondent was disappointed at the support the holiday enjoyed; he remarked acidly: “Was a band of young boys or old boys, such as displayed their attachment to the Government of the U. States at St. Catharines, to display their attachment to the Government of Great Britain in the same manner in any town or city in the U. States, we guess they would be handled more roughly than the Yankees at St. Catharines were … and not find so many advocates.”

Indeed, this tension with the United States was expressed in Canadian Orange songs. The United Empire Minstrel, published in Upper Canada in 1852, expressed a common Orange theme that juxtaposed liberty and slavery, but within an explicitly North American context. In the song “The Flaunting Flag of Liberty,” the initial stanzas extolled the fame of the British flag as an emblem of freedom around the world. An added optional stanza berated the United States for the continued practice of slavery:

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United States! Your banner wears
Two emblems: one of fame;
Alas! The other that it bears
Reminds us of your shame!
The white man's liberty in types,
Stands blazoned by your stars;
But what's the meaning of the stripes?
They mean the Negroes' scars!
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These examples highlight the macro geographical context of Orange riots during the first half of the nineteenth century. Whereas Ireland’s proximity to the United Kingdom situated it firmly

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within the British orbit, to the point that its legislators sat in the British Parliament and Orange violence was closely monitored and controlled by Westminster, British North America’s proximity to the growing power of the United States colored its response to collective violence.

The *St. Thomas Liberal*’s editor continued to link activities on July Twelfth with those of July Fourth, however, he employed the American holiday in an effort to help Canadians understand Irish Catholics’ visceral reaction to Orange processions. He characterized the Orange Order as “Mr. Gowan’s system,” and criticized the annual processions as an attempt to “revive the party feuds which owe their origin to other countries and other times.” Laying the blame for the continued violence squarely upon the Orange Order, the editor compared an American celebrating July Fourth in Upper Canada to Orangemen celebrating the Twelfth. He wrote, “if on the fourth of July, a Yankee hoists a pole or fires a gun in this Province, the kindled wrath of British subjects falls upon his devoted head; and yet, not more offensive to them is the celebration of the fourth, than that of the 12th to the Catholics.” The confused spatial context of this statement is interesting. While an American celebrating independence from Britain on the soil of a British colony that fought to remain with the crown was clearly a territorial violation, the reverse was less certain. The author implied that the Orangemen were invading Catholic space to celebrate a Catholic defeat. This would be a sensible argument in Ireland, but who had claim to Canadian space?

Unlike coverage of Twelfth riots in Irish newspapers, which frequently included a blow-by-blow account of what happened, the accounts of the York riot in the *Gleaner* and the *Liberator* tended toward the editorial. The *Liberator*, however, reprinted William Lyon

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Mackenzie’s *Colonial Advocate*’s treatment of the riot, which provided some details of the event as well as commentary.21 Early in the morning, the York Orange lodge members marched through the streets, waving banners and playing two of the most offensive Orange tunes: “The Protestant Boys” and “The Boyne Water.” The author remarked that these songs were “calculated to remind the Catholics of their inferiority.”22 Irish readers probably did not need the explanation. In spite of their provocative behavior, the Orangemen marched out of town without incident.23 When they returned to York after 6:00 p.m., however, the Catholics were waiting for them outside the courthouse, where they “commenced a hostile attack, some with wallopings-poles in hand, some with hammers, some with other weapons and some without any, which compliment was returned by the orangemen in Irish style.”24

Significantly, the Catholics chose to make their stand in the ultimate public space: in front of the courthouse (which, as one newspaper pointed out, was conveniently located next to the jail).25 This foreshadowed a pattern in the location of Canadian Orange riots: they frequently took place in spaces of municipal significance, like town squares, or were outgrowths of conflicts over employment on public projects, like canals or railroads. In addition to the July Twelfth anniversary, Canadian Orangemen and Catholics frequently came to blows during public elections, and indeed one of these riots led to the 1843 Party Processions Act. This suggests that

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21 William Lyon Mackenzie, liberal Reformer and leader of the 1837 Rebellion in Upper Canada, was a political rival of Canadian Orange Grand Master Ogle Robert Gowan. In 1831, the two engaged in public debates around York as Gowan sought to establish his political career in Upper Canada. See Akenson, *The Irish in Ontario*, 176.


23 This incident followed a pattern for Twelfths that turned violent: the outward march normally occurred without incident, whereas returning procession provoked a reaction. The reason for this trend was probably a combination of the earliness of the starting hour, the time afforded Orange opponents to prepare and gather, and the drunkenness of the participants. Indeed, Dominic Bryan mentioned drunkenness as one of the behaviors Orange reformers sought to curb during the campaign to make Orangeism “respectable” during the 1870s and 1880s. See Bryan, *Orange Parades*, 9, 49, 51.


25 “York, July 17, RIOT,” *St. Thomas Liberator*, July 25, 1832.
the contest in British North America was primarily a political one: a jostling for power in a New World context. As will become clear, the Irish Catholics started behind in this race and did not catch up, as Orangemen occupied many of the offices of law enactment and law enforcement. In the York riot of 1832, however, the law appeared to have dealt with both sides equally, at least initially. Although the author did not claim to be a witness to the affray, he reported that the magistrates acted promptly to put down the riot and sent twenty to thirty combatants to the nearby jail. Apparently, there was some disagreement among editors over the conduct of the agents of the law. Some criticized Dr. King (perhaps referring to John King, a prominent Catholic) and Colonel Fitzgibbon (an Irish-born veteran of the War of 1812 and numerous Orange riots) for overzealous behavior.26

On the other hand, reviews of the authorities’ actions were not all negative. The Liberator also reprinted an excerpt from the Christian Guardian, Egerton Ryerson’s Toronto-based Methodist journal. The quoted correspondent extolled: “Great praise is due to Capt Fitzgibbon, the Sheriff, High-Constables, and other peace officers, for the promptness and vigilance with which they did their duty in quelling the riot.” Significantly, the writer added, “but it is much to be regretted, that the occasion was not prevented.”27 Just eight years after the Legislative Assembly rejected a petition from concerned citizens to curtail Orange activities via legislation, the Guardian’s correspondent suggested his readers take just that action. He advocated, “we hope this disturbance may be a means of getting up an application to the Legislature to prevent the like processions in future. Their tendency can be only evil – to provoke the opposite party to

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27 “York, July 17, RIOT,” St. Thomas Liberator, July 25, 1832.
violence. No set of men should be suffered to provoke another in that public manner, especially on account of their religion, or the acts of their forefathers.” He castigated the Protestants, contending that it was cruel to provoke the descendants of their Catholic foes year after year, “especially in this country, so far remote from the seat and occasion of their old differences; where both parties have sought for a quiet and happy retreat and asylum from former troubles.”

This author envisioned British North America as a space remote from Ireland, the seat of old quarrels. He also implied that part of the problem with Orange activities was that they insulted Canadian Catholics in public, which suggested that replicating Old World animosities was not appropriate in Canadian public spaces. He further intimated that local inhabitants had a responsibility to inform the Legislative Assembly of these undesirable activities, thus taking the initial responsibility for policing public space. Once cognizant of the threat to public order, the Legislative Assembly could use its authority to ban public processions that would lead to a breach of the peace.

British North America’s relative distance from the origin of the Orange-Green conflict was also reflected in the Gleaner’s second brief mention of the recent riots. The author regretted to inform his readers “that one of those disgraceful squabbles took place in York on the 12th July, (Orange Procession) which these worse than useless exhibitions so frequently give birth to.”

The fact that he felt it necessary to clarify the significance of July Twelfth – although he also mentions that such squabbles are not a rare event – as the date of an Orange procession one might surmise that at least some of his readers may not have been as conversant in the Orange ritual calendar as contemporaries in Ireland and England.

28 “York, July 17, RIOT,” St. Thomas Liberator, July 25, 1832.
In 1834, Toronto’s Orangemen decided to put Old World animosities – and traditions – aside and refrained from marching at all on July Twelfth. The *Canadian Freeman* approved of the decision: “We feel pleasure in attributing this to the good sense and growing spirit of conciliation and liberality evinced by the respectable portion of the Orangemen of this city, who, assured of the readiness of their Catholic fellow-countrymen to put back to back with them in resisting the enemies of their common country, refrained from public processions, from the exhibition of party colours, and from every thing else that could tend to give offence, create division, or revive the memory of old religious animosities, which all know ought for ever to be buried in oblivion.”

Illustrating the fact that the Orange societies were not a monolithic body, several members from rural lodges marched through Toronto in the evening. This further suggests a tradition among Canadian lodges in which small regional outposts gathered in cities to join larger urban processions. The Toronto lodges spurned the activities of their rural brethren, who marched with badges but without music. As the *Canadian Freeman* reported, “this party was so despicable, that their brother Orangemen in town were ashamed of them, and they passed on with the silent contempt of both Protestants and Catholics.”

The next year, Toronto Orangemen again refrained from processing to celebrate the Boyne anniversary, and they explicitly requested their rural brethren do the same. Toronto’s Orangemen were joined in this recommendation by the local authorities. As on the previous July Twelfth, a small group of lodges from the surrounding region insisted on marching and drew the ire of a few Toronto Catholics, resulting in skirmishing. Most of the Catholic hostility was attributed to the notoriously unruly Sullivan family. In an article describing the proceedings, the

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30 “City of Toronto, Thursday, July 17, 1834,” *Canadian Freeman*, July 17, 1834.
31 “City of Toronto, Thursday, July 17, 1834,” *Canadian Freeman*, July 17, 1834.
editor of the *Toronto Recorder* claimed that the Orangemen who marched that day were “young and unexperienced men” who must be ignorant of the Grand Lodges of England and Ireland’s disapproval of such processions. To educate these persons, the editor included trial summaries of men recently brought up on processions charges at the Downpatrick and Londonderry assizes in Ireland. The editor hoped that “knowing that the law is against processions of any kind they will, for the time to come, as heretofore, how with submission to the laws of the country, and not allow, by their own foolish conduct, the good that is them to be evil spoken of.”

In his zeal to educate the Toronto Orangemen’s country brethren, the *Toronto Recorder*’s editor failed to mention that the Party Processions Act of 1832 was fully titled “A Bill to Restrain in Certain Cases Party Processions in Ireland,” and therefore did not apply in British North America. It is unclear from the evidence whether the author was ignorant of this fact himself, or whether he assumed that his audience would be.

Kingston, Upper Canada also witnessed disorder on July 12, 1835, but apparently much of the mischief was unintentionally self-directed. There was some property damage, the windows of a local tinsmith were broken, and several small quarrels broke out in various parts of town, but much of the damage occurred when Orangemen attempted to set off a small cannon. After meeting at a tavern in Waterloo, the brethren marched a quarter mile away, where an accident reloading the cannon sent two of their number to the surgeon with significant injuries. Not to be deterred, the rest of the column continued to Kingston, where they “took up their head quarters at Mr. Jacob Steele’s.” It is possible this Orange procession both originated and terminated in

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33 Emphasis mine.
34 *Perth Courier*, July 24, 1835.
Canadian Orange Lodges were frequently headquartered in taverns, and, unsurprisingly, these sites feature prominently in Canadian Orange riots. Taverns played a political as well as a social role in nineteenth-century Upper Canada. In Toronto, the Corporation, an Orange-Tory political alliance, controlled much of the city’s politics during the 1830s and 40s. Among their patronage powers was the licensing of inns and taverns, and, as historian Gregory Kealey asserted, “the importance of taverns in plebeian life cannot be overestimated.”

Taverns acted as staging grounds for Orange processions in New Brunswick as well. In 1837, Joseph Brown wrote to Robert Hazen, lawyer and member of the provincial legislature, warning him that Saint John tavernkeeper, Samuel Walker, was planning to host a July Twelfth celebration that year. Tensions between local Orangemen and Catholics had been running high of late, so Brown was concerned that the meeting would provoke a riot. He accused Walker of using the meeting as an excuse to make money from the business with no regard to the safety of the community. He wrote, “it appears that Walker is getting up said meeting for no other purpose than filling his coffers regardless of the peace of the neighbourhood and the Blood—perhaps the lives of his fellow creatures.”

The role of taverns as important Orange-controlled political spaces became especially clear following Orange election violence in 1841. A committee

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36 Kealey, “Forging the Consensus,” 49.

commissioned to investigate the election violence commented, “the influence exercised by Tavernkeepers at public elections, is notorious.”

The late 1830s witnessed a détente between Canadian Orangemen and Catholics. One Orangeman penned a letter to the Kingston Chronicle and Gazette encouraging cooperation and imploring both parties to ignore the insults of the “lower orders of their respective parties.” He concluded, “Let not our Constitution and the interests of our noble Province be sacrificed to party spirit. Let not what has always been the curse of Ireland become the curse of Canada. We are ‘Brothers from the Sod’ – let us act as such.” In addition to engaging in processions, a significant part of Orangemen’s July Twelfth celebration was drinking toasts. The honorees commonly included “the glorious, pious, and immortal memory of William III,” the English monarch, prominent figures in Orange history, politicians supporting Orange causes, and military leaders who had won Orange victories. On July 12, 1836, Orangemen celebrating at Hallowell added a new wrinkle: they drank a toast to “the Right Rev. Bishop McDonnell and our Roman Catholic Fellow Subjects, to whom we are always ready to offer the right hand of fellowship (as subjects;) and may their noble deeds lately in defending our glorious Constitution meet their just reward.”

The feelings of brotherhood permeated the city council, where Dr. King moved that they table a notice regarding party processions. King opined that any such law was unnecessary, as “all party distinctions had been done away with, and for the future he was convinced that Orangemen and Catholics would unite in the bonds of Christian brotherhood!!!!” Alderman Thornhill raised his voice in support, claiming “he was convinced Orangemen never again would

38 United Province of Canada, Appendix S, “Report of the Commissioners appointed to investigate certain proceedings at Toronto, connected with the Election for that City.” Journals of the Legislative Council of the Province of Canada ... being the first session, of the first provincial Parliament, 1841 (Kingston: R. Stanton, 1841) Canadiana online. https://www.canadiana.ca/view/oocihm.9_00967_1. This report is unpaginated.
39 “To the Editor of the Chronicle and Gazette,” Kingston Chronicle and Gazette, July 17, 1836.
40 “12 of July,” Correspondent and Advocate, July 20, 1836.
walk in procession, or do any thing to irritate their Catholic brethren!\textsuperscript{41} The excessive punctuation with which the reporter adorned this news suggests he was less convinced of the sincerity – or at least the likelihood – of these professions.

The rebellions in the Canadas in 1837 and 1838 had less effect on public order policing in Upper Canada than they did in Lower Canada, where rebellion was more widespread. A financial crisis in Britain as well as Jacksonian policies in the United States to dismantle the national bank and demand cash payment for public lands simultaneously created cash and credit crunches felt on both sides of the Atlantic. In Upper Canada, the provincial legislature had borrowed heavily to spur the province’s economy. The radical politician and newspaper editor William Lyon Mackenzie saw the bankers as the ruin of Canadian farmers and opposed the incumbent Tory government. Long an admirer of American state government, he was incensed when Home Secretary Lord John Russell passed Ten Resolutions, allowing the governor of Lower Canada to appropriate funds from the provincial treasury over the objection of the provincial Assembly led by Louis Joseph Papineau’s Patriote Party.\textsuperscript{42} The Patriotes, whose original grievances included a complaint against the governor’s overreaching power, openly rebelled in November 1837. British troops beat back this initial surge, and some rebellion leaders escaped to the United States.\textsuperscript{43} Throughout the fall, Mackenzie advocated for support for Lower Canadians in their protests, use of physical force, and the benefits of joining the United States.\textsuperscript{44} In spite of the fact that the vast majority of the Reformers in Upper Canada eschewed Mackenzie’s program, in December 1837, he “led around 1000 ill-armed followers down Yonge Street to Toronto in an

\textsuperscript{41} “City Council,” \textit{Correspondent and Advocate}, July 27, 1836.
\textsuperscript{44} Craig, \textit{Upper Canada: The Formative Years}, 242–45.
attempt to overthrow the colonial regime."\textsuperscript{45} This attempt failed; Mackenzie and many of his followers fled across the border to the United States.

The rebellions significantly affected the development of the police force in Lower Canada, in which Parliament installed a centrally controlled force on the model they had established in Ireland in the preceding decades. Historian Greg Marquis explained that, "when dealing with ‘problem populations,’ colonial administrators looked not to London but to Ireland."\textsuperscript{46} Upper Canada’s relative loyalty, especially among the provincial political leadership and magistracy, allowed it to escape a similar fate.\textsuperscript{47} Police reform in British North America following the Napoleonic Wars was characterized by its devolved, localized nature: each region, and even each city, followed a different path. As traditional paternalism declined, municipal administrations gained more control over law enforcement in their jurisdictions. This could lead to problems and invariably tied policing to politics, and magistrates continued to play a prominent role. Marquis asserted: "With popular parties struggling against elites that dominated the courts, legislative and executive councils and militia, the partisanship of the magistracy, arguably the most important centre of traditional law enforcement power, became a major issue."\textsuperscript{48} The rough and tumble nature of Upper Canadian politics complicated the situation. In 1836, Reformers gained control of the legislature and passed a Local Government Act that replaced magistrates with commissioners for some administrative tasks, but the effort to divorce policing from politics was short lived. Following the Rebellions, Tories dominated Upper Canadian politics until the 1850s.\textsuperscript{49} During the 1830s and 40s, the jobs of constables in Upper

\textsuperscript{45} Bercuson et al., \textit{Colonies: Canada to 1867}, 223.
\textsuperscript{47} Marquis, \textit{The Vigilant Eye}, 25.
\textsuperscript{48} Marquis, \textit{The Vigilant Eye}, 19.
\textsuperscript{49} Marquis, \textit{The Vigilant Eye}, 19, 21.
Canada were tied to the political party in control. Marquis noted that “municipal control of police reflected majority rule. As with twentieth-century North America, ethnic and racial minorities who were excluded from economic and social privileges and patronage networks risked victimization by the justice system.”

Although Saint John, New Brunswick, established a taxpayer-supported watch in the 1830s, the province would see comparatively little police reform until their own public order crisis exploded with Irish immigration in the 1840s.

By 1840, New Brunswickers were complaining of Orange processions and their divisive potential. In April of that year, “An Observer” wrote an open letter to the Saint John magistrates in the local newspaper notifying them of a recent procession “which took place in our public streets.” He warned that such processions were likely to cause similar dissension among Saint John’s subjects to that experienced in Ireland and argued that they were, in fact, illegal according to “the Laws of England and the British Constitution.” He concluded, “I therefore most solemnly beseech you by your respect for the peace of this community, by the majesty of the laws which you are appointed to enforce, by every claim which this young and thriving city has upon your protection, to raise your voices immediately against the evil, and use your powerful influence to crush the Hydra head of faction in whatever shape it may appear to threaten us.” This observer painted a picture of a bright, new city under threat from the monsters of the Old World. He was confident, however, that the laws of the Old World would sufficiently defend this New World space as long as the magistrates were willing to wield them to effect. This writer seemed to claim the parades were illegal based on the general common law prohibition against assemblies likely to cause disorder. This argument, as discussed in Chapter 2, occurred in Parliament as well.

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50 Marquis, The Vigilant Eye, 30.
51 Marquis, The Vigilant Eye, 20.
52 “For the Courier,” New Brunswick Courier, April 11, 1840.
where ministers questioned whether a specific Party Processions ban was necessary. New Brunswick’s legislature evidently decided that the existing laws were adequate, as they never passed a Party Processions Act. But the question would arise again following the tragic events of July 12, 1849.

Apparently, the Observer’s letter received little official response. The July 12, 1840 Orange festivities took place in James Nethery’s establishment with the usual offensive party tunes and toasts, and drunken revelers spilled into the streets at 2:00 a.m., causing a general disturbance. In response, “A Catholic” wrote to the Courier. He recalled that the Observer’s letter from April had been ignored, and issued a similar warning: “The Catholics of this City have hitherto shewn their good sense in not noticing these disturbers of the peace, and I trust they will continue to respect the law: but, if the authorities to not take means to suppress the Orange faction, the time may not be far distant when scenes of bloodshed may hear tragic evidence of their dereliction of duty.” Moreover, he assured his readers that many Catholic immigrants to New Brunswick came there to enjoy the freedom to practice their religion and live peacefully with their neighbors. They sought an escape from their home country where, the Catholic claimed, “the sacred sanctuaries of courts of justice have been polluted by the infuriated prejudices of party spirit.” He worried that, should the Orange Order be allowed to “be fostered” in New Brunswick, Catholics would most likely respond to force with force. He concluded with

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53 In accounts of the York Point riot of 1849 (see Chapter 5), Nethery’s establishment is referred to as a “hotel.” In Upper Canada, this term was frequently used interchangeably with “tavern.” See Julia Roberts, In Mixed Company: Taverns and Public Life in Upper Canada (Vancouver: University of British Columbia Press, 2009), 3. Importantly, Mr. Nethery boasted that he kept “a House of Public Entertainment.” See “Mr. Chubb,” New Brunswick Courier, July 25, 1840.
a dramatic prediction: “Nothing short of a timely interference on the part of the City authorities will prevent this evil.”

Mr. Nethery responded to this letter, refuting the charges that his fellows had behaved inappropriately and calling his accuser an infidel, an unhappy raver, a croaker, a nocturnal eavesdropper, a pimping spic, a well-known sharer, and an infidel scribe. The original correspondent finished the public discussion reporting he was happy to hear that the City authorities had taken note of Nethery’s reply and were going to “adopt measures in order to crush party spirit in whatever shape it may appear.” He added that if his reasons for encouraging the Saint John authorities to take action against Orange processions and public revels were not convincing, he had “only to direct the attention of the community to Mr. Nethery’s letter, which furnishes a more forcible argument for the necessity of such measures, than could a whole volume written by me on the subject.” In spite of the Catholic correspondent’s optimism, authorities in Saint John did little of lasting effect to check Orange activities, and James Nethery’s establishment would play a major role in the violence of 1849.

Taverns like Nethery’s in Saint John were significant sites of public discourse in New Brunswick and Upper Canada. Historian Julia Roberts maintained that taverns were “the most

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54 “Mr. Chubb,” New Brunswick Courier, July 18, 1840.
56 “Mr. Chubb,” New Brunswick Courier, August 1, 1840.
accessible colonial public buildings.” As discussed above, Orangemen frequently used taverns as meeting places and staging grounds for their incursions into public streets. Doling out tavern licenses was an important tool for provincial politicians. It allowed them to maintain power through a patronage network, but it also provided nodes of political power in plebian public spaces. In New Brunswick, tavern licenses were issued by magistrates serving on the County Court of Sessions of the Peace, and one historian considered them “an important, and indeed contentious, part of the Magistrates’ efforts to achieve social order.” In addition to controlling access to tavern licenses, the Corporation in Upper Canada also appointed men to the police force. As Greg Kealey asserted, “the appointment of the high bailiff and the constables provided far more than jobs for loyal Orangemen. A monopoly of legal violence, and the power to choose when to enforce the law, were significant weapons.” This problem became clear when the Legislative Assembly appointed a special commission to investigate the riots stemming from the 1841 election. They found a troubling patronage network that precluded a fair judicial system: “In all these cases, the City Police or the City Officers appear to be so closely identified with the Magistrates on the Bench, and the whole machinery of Justice so completely monopolized in the same hands, that it would be impossible for the most immaculate body of men in the capacity of Magistrates, to avoid imputation engendered by the doubts, the cavils, and the want of confidence which such a system must infallibly entail.” Not only were the magistrates, who decided many criminal cases, closely associated with the police, who frequently served as

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57 Roberts, In Mixed Company, 3. It is unclear how she is defining “public” here. In this instance, I assume she means that Upper Canadian taverns were largely accessible central locations for discourse on topics of public interest and public affairs.


59 Peter McGahan, Crime and Policing in Maritime Canada: Chapters from the Urban Records (Fredericton, NB: Goose Lane Editions, 1988), 15.


61 United Province of Canada, Appendix S, 1841 “Report to investigate certain proceedings at Toronto.”
prosecutors in public order cases, but both offices were controlled by the political party currently in power. The Tories held power for most of the 1830s and 1840s, and they were dominated by the Corporation. The commission summarized the connection and its likelihood to compromise access to both justice and fair elections:

The Police force of Toronto consist of a High Bailiff and five Police Constables appointed by and dependent on the Corporation. It is evident that a force thus constituted must be liable, in times of political excitement, to be employed as political instruments in behalf of those to whom the Corporation or a majority of the Corporation may be friendly. The authority legally invested in these men, their habitual intercourse with the lower classes, the impression that they possess the ear of their employers, the favouritism they may be enabled to suggest, the petty and indirect tyranny they may be permitted to exercise, all combine to degrade a force of this nature into formidable engines of oppression.

The alliance of Tory politicians and Orangemen in Upper Canada during the 1830s and 1840s enabled both to dominate public spaces through their control of plebian political hubs like taverns and their dominance of offices of law enforcement through the magistracy and the police.

In spite of the fact that in the early 1840s many officers of the law were either Orangemen themselves or sympathetic to Orangemen, magistrates in Upper Canada took a more active role in moderating Orange activities on the Twelfth. Nevertheless, this bias could be

62 Marquis, The Vigilant Eye, 32.
63 During the 1830s, Tory ideology in Upper Canada was dominated by Orangeism and the Family Compact. The Orange tenets of Loyalism and Protestantism dovetailed with the Family Compact’s loyalty to the crown and strident Anglicanism. In addition, the Compact, which was an informal association of elite men based in Toronto, maintained a commitment to Empire and a sense of British rather than colonial identity. They were, however, opposed to democracy and self-rule, which saw them lose power when Canada attained Responsible Government in 1849. By the 1840s, the paternalism of the Family Compact was on the wane and the bourgeois priorities of men who were members of the Corporation were on the rise. Through its association with Orangeism, the Corporation mobilized both the plebian and middle-class elements of Upper Canadian society to exploit patronage networks and form a bulwark against Reformers. See Nicholas Rogers, “Serving Toronto the Good,” in Forging a Consensus: Historical Essays on Toronto, Victor L. Russell, ed. (Toronto: University of Toronto Press, 1984), 118; Craig, Upper Canada: The Formative Years, 106–09; and Kealey, “Orangemen and the Corporation,” 167–70.
64 United Province of Canada, Appendix S, 1841 “Report to investigate certain proceedings at Toronto.”
detected by informed – one might say cynical – observers. In Kingston in 1843, their involvement in quashing a Twelfth riot protected the Orange side while ignoring – perhaps intentionally – Orange attacks on Catholics. In Kingston, July 12, 1843 nearly passed without event, but just after dark, shots were fired from hiding places in the new Roman Catholic Church, which was still under construction, and from some cottages nearby. Robert Morrison, a boy of nineteen standing with twenty or so others in the road, was struck in the head and chest and killed. Several papers claimed that the Catholics fired on men and boys they assumed to be Protestants without provocation, and that tensions were heightened that July Twelfth because of Repeal agitation on the part of Irish Catholic Nationalists. Other accounts countered that the Orangemen had long threatened the construction of the new Catholic Church, having been “hostile towards its creation,” and made good on that threat the night of the Twelfth. The Catholics took action to protect their property and a building that symbolized their right to a place in Kingston’s public space. Police responded to the scene immediately, but they were rebuffed by the numbers of rioters and called for reinforcements. Soon, a body of soldiers led by the Mayor arrived and dispersed the crowd. They made a general search of the church, cottages, and nearby area, arresting ten men as sporadic shooting continued.

This would seem to have been an assertive response from the magistracy and police to quell a Twelfth riot, but newspaper contributors disagree about what happened after the initial ruckus had been controlled. It is worth pointing out that the police and mayor responded quickly to an incident in which Catholics were seen to be the aggressors. A correspondent to the

*Kingston Chronicle and Gazette* who signed his letter “A Repealer” wrote:

68 *Perth Courier*, July 26, 1843.
If the Orangemen had kept away from the building, no blood would have been shed. If the authorities, most of whom are of the Orange party, had put a watch on the Church that night, and they might well have known that the Orange boys could not finish the night without destroying Catholic property, peace might have been preserved. But on the contrary by neglecting this, they gave the Orange party the chance of wreaking their vengeance on the defenceless walls and scaffolding of the Church. But it is to be hoped that the Government will purge the Magistracy and Police, and appoint men in the administration of the law who know no party. Men whom the people will have confidence in.»69

A second correspondent noted that given the fact that the crowd began wrecking the Catholic church while the mayor and military were still in the streets, it would have been prudent to leave some detachment of law officers in the neighborhood to protect Catholic persons and property. In what is a common theme throughout this period, law enforcement took no action to protect Catholic property. In Kingston, both the church and the houses – more accurately described as hovels – of local Catholics were damaged and their families intimidated.70 This incident is a compelling example of Mark Doyle’s concept of expulsionist violence that violated the boundaries between public and private spaces. Expulsionist violence personalized the conflict and deepened animosity between the different communities.71

The early 1840s began a critical phase in the struggle between Orangemen and the provincial legislature for control of public space in Upper Canada. Indeed, it was the beginning of a comparatively brief struggle that ultimately resulted in the tacit confirmation that Orangemen would control the streets. An election, rather than a July Twelfth celebration, finally brought the problem of street violence to a head. The union of the provinces of Canada East and Canada West in 1841 to form the Province of Canada necessitated the election of a new

71 Doyle, Fighting Like the Devil, 97.
legislative assembly. This election took place in March and was accompanied by the usual processions of the candidates and their supporters. After six days of polling, which included St. Patrick’s Day, the Catholics’ candidates emerged victorious. The successful candidates’ victory parade through downtown Toronto “not unexpectedly drew the attention of their opposition, the unsuccessful Tories among whom Orangemen, ‘vehement partisans’ fearful of a new association of the winners with French Catholic Canada, were prominent.” Scuffles commenced in the morning and continued unchecked by magistrates or police until the violence peaked in the afternoon. As the victorious procession wound its way down King Street, it passed a tavern flying orange banners. Shots rang out from an upper window, killing one marcher and injuring three others. Chaos ensued as the processionists attacked the Orange stronghold. In the continued absence of magistrates or police, the military finally read the Riot Act and dispersed the mob.

In response to this Orange-fueled election violence, Canada’s Legislative Assembly began debating their own Party Processions Act in the fall of 1843 under the brief Reform ministry of Robert Baldwin. On the surface, the Canadian act took a similar shape as the measure passed for Ireland eleven years previously. As with the Irish case, several members expressed concern that the bill unfairly targeted Orange processions. Henry Sherwood claimed that even if the wording of the bill encompassed processions of any and all parties, the debate in the assembly betrayed its anti-Orange bias. In reference to the argument in favor of the bill put forward by Mr. Hincks, “the hon. Gentleman in advocating the bill had carefully confined his

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72 I will continue to refer to the province as Upper Canada to maintain consistency and as per the example set by Bercuson et al. in Colonies: Canada to 1867.
73 Goheen, “Parading: A Lively Tradition,” 343.
74 Goheen, “Parading: A Lively Tradition,” 344.
remarks to one class of persons; he had never for a moment hinted at the existence of other parties: it seemed, in fact, as if the bill were intended to meet particular cases conjured up by the hon. Gentleman: to apply to one party alone.”  

In addition, Mr. Duggan, an Orangeman himself, “warned them not to tamper with the feelings and prejudices of those men – not to insult the tender feelings of men who are the most loyal and devoted subjects to the country.”  

By insulting the Orangemen, the government would alienate their staunchest supporters. Those expressing concern over the perceived balance of the law were not necessarily friends of the Orange Order. Dr. Dunlop worried that even the appearance of singling out Orangemen for punishment under the new law may increase public sympathy for the Order. He argued, “Orange societies cannot be good here; they are ruinous to the peace of the community without serving any one good end. But he did think that there might be a better way found of suppressing them, for it was a dangerous thing to make people think that they were made martyrs of, and they would be found ready to take that course and strive to appear as persecuted.”

In addition to objections over anti-Orange bias, members arguing against the bill complained that it violated personal liberty. In early debates, members raised concerned over the objectivity of the magistrates tasked with enforcing the law. Not only did it restrict the right to march in public spaces, but the accused party’s guilt was determined by one or two magistrates, which violated the right to trial by jury. Mr. Duggan fumed, “this Bill was in itself a thing unheard of in this country, making that unlawful which was not hitherto unlawful; and not satisfied with this, you are going to deprive them of a fair trial by a jury of their countrymen. It is

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77 1843 Debates, 444.
79 1843 Debates, 400.
unjust – anti-British – and should not be done.” In what Gregory Kealey called “the pseudo-issue of the right to appeal,” Duggan argued that at least the defendant should have a right to appeal the magistrate’s decision. When Mr. Baldwin addressed this objection in an amendment to the bill, Duggan objected that the defendant may be held in prison for twenty-four hours before his appeal, which violated his personal liberty. In the end, the Act passed and was made law on December 9, 1843.

In their introduction to *The Spatial and Temporal Dimensions of Legal History,* Meccarelli and Sastre argued the importance of studying the ways imported laws were altered from their original context to accommodate their new circumstances. They asserted:

> Another dimension of dynamism are the processes of adaptation and modulation of the law into different spaces and times. There is a need to study law-modeling processes, from the awareness that the issue is not only that the law, which may be deemed pre-existent, should adapt to the conditions within a given location, but that the law should be justly formulated and materialised at the moment of being imported form a different space or time and be properly channelled toward its specific formulation and materilisation for a given community.

Accordingly, the adaptations that the Canadian Legislative Assembly made to the Irish Party Processions Act revealed both spatial and temporal adjustments. The Canadian Bill modified the opening language of religious difference featured in the 1832 Irish Bill and emphasized instead a concern for political and social divisions as well as public order. Titled, “An Act to restrain Party Processions in certain cases,” the Canadian Bill opened:

> Whereas divers persons in considerable numbers distinguished by ribbons, favors and other emblems expressive of party feelings, are in the practice of meeting and marching in procession in different parts of this Province, upon certain Festivals, Anniversaries and

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80 1843 Debates, 404.
81 Kealey, *Workers and Canadian History,* 174.
82 Goheen, “Parading: A Lively Tradition,” 345.
other occasions in celebration of certain Political Events; and whereas such celebrations under whatever pretence held, are found to give great offence to large portions of Her Majesty’s faithful subjects, and to occasion heats and perpetuate animosities, injurious to social order and dangerous to the Public Peace, and it is therefore expedient entirely to prohibit the same.84

Although the language of religious difference comes later in the paragraph, in a description of targeted activities that closely mirrored that of its Irish predecessor, the Canadian Bill clearly prioritized mitigating the political effects of Orange riots. In addition, it specifically highlighted the negative effects of party processions on the “social order” and the “public peace,” two phrases that did not appear in the 1832 Irish bill. This suggests a wider concern and an acceptance of responsibility for maintaining order in a state-regulated public sphere. The language of religious differences and animosities between “classes of His Majesty’s Subjects” that dominates the 1832 Irish bill reveals a perspective on Orange violence through a lens of interpersonal and private conflict. The state has been forced to intervene to prevent subjects from doing violence to each other. By 1843, however, the Canadian bill explicitly acknowledged that party processions provoked public disorder, which was increasingly seen as a space of state regulation.

Clearly the product of a divided assembly, the Canadian Bill features eight sections in comparison to the three sections of the antecedent Irish Bill. Section III detailed the consequences of violating the act: it articulated the punishment as a misdemeanor by one month in gaol and until the costs of prosecution were paid. Sections IV and V addressed Mr. Duggan’s demand for an appeal process; section VI assured that the Act did not apply to religious processions that took place during public worship; section VII put a statute of limitations of one

year on acts covered under the Bill; and section VIII ordered that the Act be read aloud at the opening of every Quarter Sessions for the next two years.

Under this legislation, magistrates in Canada, as in Ireland, were required to halt and disperse divisive sectarian processions. The summer of 1844 was the first in which the Party Processions Act was in force in Upper Canada, and in their first major tests the magistrates acquitted themselves well. On July 12, 1844, Orangemen from Toronto and the surrounding area rented a steamer to take them to the Niagara frontier near Welland, where, as they well knew, thousands of Irish Catholics were employed to build the canals. Reports differ as to whether the Orangemen planned to cleverly work around the new law or intended to provide a more acceptable outlet for disappointed brethren. In arguing for the latter, Conservative Assemblyman W. H. Boulton claimed that because the law had been so recently passed (in December the previous year), “it would be very difficult to suppress at once, processions within the city, that had invariably for years past taken place.” Boulton supported the excursion idea, arguing, “those persons who had usually taken part in the processions on that anniversary, should be removed from the city, and in innocent recreation at a distance, lose sight for the moment of a day which from their earliest age, they had been accustomed to commemorate.”\(^8^5\) Removing disgruntled Orangemen from Toronto to a destination near Welland, heavily populated by Irish-Catholic laborers, would seem to be a short-sighted decision at best. Despite warnings that the canal workers were aware of their plans and prepared to resist their incursion, the Orangemen proceeded. Magistrates in Queenstown met the party, warned them that the Catholic workers were waiting for them in an excited state, and encouraged the party not to continue to the Falls. Although the Orange party did proceed, they were persuaded to leave their band instruments

behind. This proved to be a pivotal decision: the group was initially accosted by canal workers, but severe violence was averted when the party turned out to be less offensive than the canallers had anticipated.86

The Toronto magistrates also deserved praise. Although during the morning of July 12, 1844 it appeared that all of the Orangemen would settle for the “excursion” rather than attempting to march in blatant disregard for the law, around 2:00 in the afternoon the sounds of fifes and drums playing Orange tunes proceeded marchers in full regalia down King street to City Hall. Behind City Hall, a magistrate, Mr. Gurnett, met the procession and read the proclamation commanding the procession to disperse. The music stopped, and it seemed the marchers would obey. After a few minutes, however, the drumming resumed and Alderman Gurnett, with assistance from the police, attempted to enforce the law. Although he was knocked down, he recovered and continued his efforts. Alderman Dixon soon joined him, and he was also knocked down and abused by the mob. The magistrates and police followed the procession, trying to halt the proceedings. They succeeded in momentarily arresting the leaders, who were soon rescued by their fellows. When the procession returned to its starting position – Smith’s Tavern, which doubled as an Orange Lodge – the magistrates warned Smith he was violating the law. Assuming they had done as much as they could for the moment, Gurnett and Dixon retreated to City Hall, “saluted as they departed with the threats and imprecations of the Orange mob.” Upon reaching their safe haven, the magistrates issued warrants against those leaders they had been able to recognize. The drama continued that Saturday, when a crowd of Orange

86 British Colonist (Toronto), July 16, 1844.
partisans broke up the examinations by threatening the bench, stamping their feet, yelling, and hooting.  

In the aftermath, a contributor to the *British Colonist* called for authorities to flex their legal muscles when confronting this kind of sectarian violence. He wrote, “the facts here disclosed are the best evidence of the necessity that exists for putting down such exhibitions of party violence by the strong arm of the law; and the authorities are imperatively called upon to act with decision and energy.” In addition, the writer praised the actions of the magistrates in preventing bloodshed on the Twelfth. He opined, however, that those men had work yet to do, as they could identify more offenders and bring them to justice. He contended that the magistrates must know the leaders of the excursion “and from the steps that were taken to preserve the peace, the magistrates must be aware whether or not the Orange party had arms and ammunition on board. … It will be most disgraceful to the Government, if this matter be allowed to pass without undergoing the strictest inquiry.”

Following the close call near Welland on July 12, 1844, the provincial legislature decided to address the problem of party violence between armed assailants associated with public works projects. The Public works sites, like canals and railroads, were hotbeds of disorder. This was due in part to economic conditions as well as sectarian animosity. The primarily Irish-Catholic canal laborers left Ireland to escape poverty only to find destitution in Upper Canada. Irish-Catholic laborers flooded Upper Canada in the early 1840s, flowing into the region both from the old country and from the United States, where the Panic of 1837 had halted public works projects. Under employed and unemployed Irishmen and their families were too poor to leave the

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87 *British Colonist* (Toronto), July 16, 1844. An examination in British law is the questioning under oath of a witness or the accused before a magistrate prior to trial. See the Oxford English Dictionary Online.

region, so they built shanty towns along the canal works. They often stole from the local inhabitants to sustain themselves. Historian Ruth Bleasdale explained, “the combination of low wages, payment in truck and long waits between pay days kept canallers in poverty and insecurity, barely able to secure necessities during seasons of steady employment, unable to fortify themselves against seasons of sporadic work and the inevitable long periods when there was no work at all.”89 The canallers brought with them the tight kinship networks of their native Ireland as well as a devotion to the Roman Catholic faith. In addition, they supported Irish nationalist causes, like the Repeal movement in 1843. These factors brought them into conflict with the local Orange lodges, as shown by their determination to prevent the Toronto Orangemen from “invading” their territory near Welland on July 12, 1844. In addition to conflict with Orangemen, factions of Irish canallers frequently fought amongst themselves and struck against their employers.90

Because the practice of calling in the military often brought bloody results, in 1845 the Provincial Assembly passed an Act for the Better Preservation on the Peace and the Prevention of Riots and Violent Outrages at and Near Public Works, While in Progress of Construction.91 When the proclamation was declared on a public works project, no employee could have in his possession or in his home “any gun, blunderbuss, pistol, or other fire-arm, or any stock, lock, barrel, or any other part of such a gun, blunderbuss, pistol, or other fire-arm, or any bullets, sword, sword blade, bayonet, pike, pikehead, spear, spearhead, dirk, dagger, or other instrument

91 Marquis, The Vigilant Eye, 37.
intended for cutting or stabbing, or other arms, ammunition, or weapon of war."^92 Weapons were
to be handed over to the magistrates and their owners would in turn be given a receipt. Violators
would be fined, and justices of the peace had the authority to search employees’ premises.
Unreported weapons were confiscated. Unfortunately, this government effort to control the area
surrounding public works projects would prove unequal to the task of preventing sectarian
violence at St. Catharines later in the decade.

Around July 12, 1846, several days of rioting took place in Bytown, Upper Canada when
word spread that the town would host an Orange procession. Although the rumors proved false,
Orange opponents gathered in town in preparation for a confrontation, and although they did not
find one, several days of disorder ensued as a magistrate, a constable, and several other men
were beaten and injured, a church service was disrupted, and windows in multiple houses were
broken. It is unclear exactly which parties were responsible for the various actions, although it
appears the Orange opponents were the aggressors. The correspondent for the Ottawa Advocate
accused the authorities of “listless and culpable neutrality” until several of their own number
were attacked. They called in the military; Major Thompson’s men quickly brought the situation
under control and took three prisoners to jail. The correspondent warmed to his subject and
further castigated the magistrates who failed to perform their duty to the public peace: “A
magistrate should be something more than a Justice Painted automaton, showing no signs of
activity until kicked from his pedestal of fancied security, he should be alive to the public safety,

^92 “An Act for the better preservation of the Peace, and the prevention of Riots and violent Outrages at and near
Public Works while in progress of construction, 17 March, 1845,” in The New Municipal Manual for Upper
and manifest a prompt willingness to discharge his duty, and if not supported then the blame rests not with him.”\textsuperscript{93} Exactly who was to support the magistrates, the writer did not say.

As Upper Canada wrestled with the problem of Orange violence in public spaces, New Brunswick saw increasing violence on the Twelfth as Irish immigrants settled in its burgeoning towns and cities. Early Irish immigration to New Brunswick was dominated by financially stable Protestants from the northern counties, but, as Scott See noted, the trend began to shift gradually after 1838 as more Irish Catholics joined the westward migration.\textsuperscript{94} Just as Irish Catholics were establishing a more noticeable presence in New Brunswick, Irish immigrant James McNichol established a provincial grand Orange lodge from the forty to fifty independent lodges in the province.\textsuperscript{95} Tensions in the area simmered. In 1842, Orangemen displaying party badges on the Twelfth drew a violent reaction from a “mob” in Portland Parish in Saint John, a neighborhood with a large poor, Irish Catholic population.\textsuperscript{96} The crowd attacked those wearing the offensive badges as well as anyone who tried to step in and restore order. Although several men were eventually jailed, the New Brunswick Courier’s correspondent warned, ‘it is now sufficiently evident, that unless the strong arm of the law is maintained and supported among us, we are not certain at what moment our lives and properties may be endangered by the caprice of a ruthless and blood-thirsty mob.’\textsuperscript{97}

Many inhabitants sensed that authorities were losing control of the streets. The next year, five men were charged with rioting and destroying property on August 12, 1843, the day on

\textsuperscript{93} “From the Ottawa Advocate,” Perth Courier, July 21, 1846.  
\textsuperscript{94} See, Riots in New Brunswick, 47.  
\textsuperscript{95} Houston and Smyth, The Sash Canada Wore, 69.  
\textsuperscript{96} Winder, “Trouble in the North End,” 37.  
\textsuperscript{97} “Rioting,” New Brunswick Courier, July 16, 1842.
which Orangemen traditionally celebrated the Protestant victory at the Siege of Derry. In 1845, Orange and Green parties took over the streets in a violent display. One newspaper reported, “the assemblage now increased, and both parties became so violent, parading the streets with firearms and clubs, that the civil authorities thought it necessary to send for the military … who remained on the ground till after midnight.” The author again lobbied for a more robust police presence under civil rather than military command. He wrote:

It is now high time that the majesty of the law should be directed efficiently against them; and if its arm is constitutionally weak, that proper measures should be adopted by proper authorities to give it vigour and activity; - for the respectable citizens of Saint John, of all denominations, should blush with shame, when they reflect, that the peace, security and prosperity of their neighbourhood is outraged by lawless vagabonds … and that the civil authority must in every instance of the kind receive power from the bayonet and cannon.

The question of who was responsible for order in the public streets in Saint John – the civil authority, the legislature, the military, or the inhabitants themselves – would be revisited in 1849, when an Orange procession on July Twelfth incited a riot that rocked the city.

While Saint John saw minor skirmishing around July 12, 1847, in which one Roman Catholic died and the troops were called out but not used, violence exploded on the Boyne anniversary in Fredericton, the provincial capital, and in Woodstock, “an agricultural and lumbering center.” On the morning of July 12, 1847 in Fredericton, a group of men, “most of them strangers,” assembled on Queen Street outside the Orange Lodge where the local brethren

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were preparing their celebration. The newcomers were “holding forth in no very measured language,” and shouted abuse at any Orangeman who stuck his head out of the window. A judge and several magistrates arrived on the scene and successfully persuaded some of the crowd to disperse. Later, several small affrays broke out throughout the town. Whereas multiple townsmen and a captain in the 33rd regiment risked their lives to rescue victims of assault, the local magistrates, some of whom practiced Wrightson’s “studied negligence,” apparently acted with less valor.102 The New Brunswick Reporter’s correspondent noted:

Some of our Magistrates never shewed [sic] themselves on the ground, and of those who were present, some, for the good of the people, should have staid [sic] at home. Instead of correcting the evil in its first stage, the thing was permitted to grow every moment, and when in the afternoon attempts were made to enforce the Law, the authorities found themselves ineffective. They could absolutely do nothing: the Town was virtually under the authority of the mob.103

In the evening, the Lieutenant Governor appeared on the scene and endeavored to convince the crowd to go home. In his speech, “he dwelt upon the majesty of the Law [and] expressed his surprise that in a country where equal rights are held forth to all, any individual should indulge in those harsh and bitter feelings which have already been the means of so much mischief in the Mother country.” The reporter claimed that “he was listened to with attention, but the mob remained as turbulent as ever.” This seems unlikely, as soon after several special constables were sworn in to patrol the streets. Nevertheless, additional skirmishes erupted throughout the night and one man was shot and later died of his wounds. The correspondent offered the following summary of the episode: “Little do we care whether the man who disturbs the peace be an

103 New Brunswick Reporter, July 16, 1847.
Orangeman or a Catholic, while we heartily hope that as the Town authorities have now got a lesson … the Laws shall in future be rigidly enforced.”

In a letter to Earl Grey, Secretary of State for War and the Colonies, William Colebrooke, the Lieutenant Governor of New Brunswick, provided a slightly different perspective on the riot. In a missive informing the Earl of the events in both Fredericton and Woodstock, Colebrooke reported, “the public peace has been disturbed.” In the case of the Fredericton affray, he observed that the magistrates anticipated trouble and took precautions “to prevent any unnecessary interference of the Military.” The troops stayed in their barracks, and the magistrates dispersed rioters on multiples occasions throughout the day. He conceded that the combatants reassembled after nightfall, however, and one Roman Catholic was shot and killed. The troops remained in their barracks and order was restored the next day. Newspaper reports of the riot failed to mention special constables, the role of Capt. Walker (one paper asserted that he was “accidentally passing at the time”), or Colebrooke’s own efforts to diffuse the situation by appealing to the majesty of the law.

While the situation in Fredericton on July 12, 1847 was concerning, according to Lieutenant Governor Colebrook “the most formidable of these disturbances occurred at Woodstock on the frontier.” The Orange Order had only recently established their Carleton County lodge in Woodstock in September 1846, but they quickly moved to advance their claim to this hinterland space. On July 13, 1847, Woodstock resident D. L. Dibblee, whose brother John was a magistrate and Orange sympathizer, began a letter to his brother George in

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104 New Brunswick Reporter, July 16, 1847.
105 William Colebrooke to Earl Grey, Fredericton, July 30, 1847. PANB
106 New Brunswick Reporter, July 16, 1847.
107 William Colebrooke to Earl Grey, Fredericton, July 30, 1847. PANB
Fredericton as follows: “We had a hot time here yesterday.” He breathlessly related how the “Greeks,” a slang term for Catholics, had assembled from the region, including a lumber camp 150 miles away, to oppose the Woodstock Orangemen.\textsuperscript{109} The Catholics were not the only side to draw reinforcements from the surrounding area. Indeed, the local Orangemen were joined by others who were part of the lumbering crews working in the woods nearby.\textsuperscript{110} The Catholics armed themselves with “muskets, rifles, fuses, pitchforks, sythes [sic], axes, sickles, bludgeons, clubs, [and] axehandles” and spent the morning marching through the streets. When word reached them that the Orangemen had gone to nearby Jackson Town to attend a worship service, the Catholic party pursued them. A party of troops and magistrates caught up to the Catholic party before they could confront the Orangemen and herded them back to Woodstock. When, around 3:00 in the afternoon, the Orangemen “returned quietly down the Road,” the Catholics, fired on them from windows, behind houses, and the heights above the road. The Orangemen were prepared. Immediately upon taking fire, they rushed to their wagon and armed themselves from a cache of loaded and charged muskets. They returned fire and chased the Catholics up the hill, killing, according to Dibblee’s initial account, between eight and ten men and wounding at least six others. Somewhat remarkably, no Orangemen were killed, although several were wounded in their extremities. The troops marched in the rear of the Orange procession, accompanied by John (presumably the Dibblee brother who was a magistrate), the sheriff, and the officers. Despite the melee, John ordered them to hold their fire. Dibblee concluded, “our liberty and safety is mainly owing the despised and evil spoken of Orangemen – If the villains had got the upper hand I believe a general massacre would have followed, and a protestant could not have lived in safety in this Village – You never saw such a bloodthirsty set of vagabonds in

\textsuperscript{109} D. L. Dibblee to G. J. Dibblee, July 13, 1847, Geo J. Dibblee Collection, New Brunswick Museum.
\textsuperscript{110} William Colebrooke to Earl Grey, Fredericton, July 30, 1847. PANB
your life, and those fellows were supplied by the Irish shopkeepers here with sythes [sic], pitchforks &c."\textsuperscript{111}

In the aftermath, a person claiming to be a Woodstock villager laid blame for the riot at the feet of local law enforcement officials who anticipated trouble and failed to act to avert it. He wrote to one local paper, “well disposed and also well informed persons, residing here, are of opinion that the riot might have been entirely prevented, had the Magistrates faithfully discharged their duty.”\textsuperscript{112} The correspondent claimed that Lieutenant Governor Colebrooke had instructed Sheriff Winslow to meet with the local magistrates to discuss strategies for preventing any demonstration that might result in a disturbance of the peace. The author accused justice of the peace, legislator, and Orange lodge master Charles Connell of suppressing Winslow’s announcement out of personal pettiness: Connell was offended that Colebrooke came to Winslow first rather than him.\textsuperscript{113} If Connell garnered some of the blame for the riot, the Lieutenant Governor credited its suppression to the detachment of the 33\textsuperscript{rd} Regiment. Colebrooke requested reinforcement of this regiment to maintain order in the community. Despite the severity of the riot, the rioters were released on bail until a special commission could be set up because the local jail had recently burned down and its replacement was not yet finished. In addition, securing so many men would be “attended with great difficulty and inconvenience to the Country.”\textsuperscript{114} Colebrooke warned against promoting any further emigration to the area from Ireland until it could be balanced by immigrants from other parts of Britain. He also acknowledged that many of the rioters came from the United States. In a summary

\textsuperscript{111} D. L. Dibblee to G. J. Dibblee, July 13, 1847, Geo J. Dibblee Collection, New Brunswick Museum.
\textsuperscript{112} “For the True Liberator, Woodstock, Sept. 1, 1847,” True Liberator, September 11, 1847.
\textsuperscript{113} “For the True Liberator, Woodstock, Sept. 1, 1847,” True Liberator, September 11, 1847; For Connell’s status as an Orangeman, consult See, Riots in New Brunswick, 79, 109.
\textsuperscript{114} William Colebrooke to Earl Grey, Fredericton, July 30, 1847. PANB
statement, he noted that “these occurrences are also the more to be lamented at a time when so much humane liberality has been evinced for the reception and care of sick Emigrants and in promoting their comfort and employment.”

When the Woodstock rioters went on trial at the Court of Oyer and Terminer in September, lawyers for the Catholic defendants challenged Orange dominance of court space. The defense counsel challenged the proceedings on two counts: first, that the sheriff had compiled his jury list improperly and second, that this particular jury would be partial as it excluded Roman Catholics. The Solicitor General responded to the second challenge that in an effort at fairness (at least on the surface), the sheriff had also excluded Orangemen from the jury pool. The result would seem to be a jury composed entirely of Protestants: hardly a situation likely to either surprise or inspire confidence among the Irish Catholic defendants. After retiring to consider the challenge, the judges decided that there were insufficient grounds to support a charge of partiality against the sheriff, but they were unsure of the rules for the jury list. Rather than risk allowing the trial to go ahead and having a conviction later thrown out on a technicality, they ordered the trial postponed until the new court sat in January.

A year later, the issue of the jury composition was still hotly contested. The Catholics of Saint John met to protest the exclusion of their co-religionists from the jury panel. Their first resolution stated: “The happiness and prosperity of society are inseparable from public order, which can be best secured by the firm and impartial administration of the law of the land, and that any undue interference with the course of public justice should be reprobated as an

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115 William Colebrooke to Earl Grey, Fredericton, July 30, 1847. PANB  
116 New Brunswick Courier, September 25, 1847.  
117 New Brunswick Courier, September 25, 1847.
encouragement to disorder.”\textsuperscript{118} The meeting expressed disgust at the insinuation that all Catholics were involved in “partyism” and claimed that in light of their conduct in regard to the Woodstock trial, the Saint John Catholics had lost all confidence in the provincial government. They requested an inquiry into this abuse of the right to trial by a jury of their peers.\textsuperscript{119} A lengthy editorial in the \textit{Head Quarters} responded to this petition. The editor disputed the argument put forward by the Saint John Catholics. He contended, “we have no reason to doubt that the \textit{wary, politic, and watchful} promoters of Orangeism will use both the Resolutions and the Petition to mark more distinctly the line which divides Roman Catholic and Protestant, and widen the breach which they have already made. It is, if possible, to neutralize, in some degree, this policy, which we consider hurtful to the true interests of the Province, that we have devoted so much of our space to the consideration of this subject.”\textsuperscript{120} Although Judge Robert Parker found no grounds for the complaint against Winslow, the Fredericton writer proved to be prescient, as tensions between Saint John Orangemen and Catholics boiled over the next year.\textsuperscript{121}

By the end of 1848, Canada had a Party Processions Act on the books that it rarely put into practice, due largely to Orange dominance of political, police, and magistrate offices. As Mitchell asserted, “neither law nor public space is neutral or immutable. Both, in fact, are sources of power, available to be used by those best able the ‘capture’ them and turn them toward their own particular interests.”\textsuperscript{122} Following a brief period of Reform influence in the early 1840s, Orangemen had recaptured public spaces in Upper Canada. New Brunswick had no

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\textsuperscript{118} “A Great Catholic Meeting,” \textit{New Brunswick Courier}, August 19, 1848.
\textsuperscript{119} “A Great Catholic Meeting,” \textit{New Brunswick Courier}, August 19, 1848.
\textsuperscript{120} “From the Fredericton Head Quarters, Aug. 23. Aggregate Meeting of Roman Catholics in Saint John,” \textit{New Brunswick Courier}, August 26, 1848. Emphasis in the original.
\textsuperscript{122} Mitchell, \textit{The Right to the City}, 73.
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specific legislation to deal with party processions, but provincial authorities and newspaper commentators alike frequently lamented the local magistrates’ failures to employ the common law prohibition against Orange assemblies that were designed to incite disorder. They would try to remedy this failure before the summer marching season the following year. In Ireland, meanwhile, many members of parliament had convinced themselves that the original Party Processions Act had succeeded in its aims to reduce sectarian violence. They allowed the Act to expire by 1845, despite the fact that rioting continued on the Orange anniversary. All three approaches would be challenged by an especially violent Twelfth in 1849, and these sanguinary experiences elicited three very different legislative responses in Ireland, New Brunswick, and Upper Canada.
CHAPTER 5:
RETHINKING THE PARTY PROCESSIONS ACTS, 1849-1852

“What did the Right Hon. Gentleman mean by an ‘Abstract Proposition’ in connexion with this massacre?”

July 12, 1849 saw some of the most severe Orange violence of the nineteenth century. In northern Ireland Orangemen insisted upon marching along an old road through a pass occupied by Catholic families. The pass had been the site of past sectarian conflict, and in 1848 Orangemen had avoided the road in deference to the interests of the public peace. After enduring Catholic claims of victory, they resolved not to do so again. The city of Saint John, New Brunswick had enjoyed sixteen months of relative peace before Orangemen determined to walk a circuitous route through the largely Catholic neighborhood of York Point. Irish-Catholic immigrants, determined to claim and defend their turf, erected a green arch across Mill Street, thereby planting a physical and symbolic flag claiming that space. Violence erupted when both Orangemen and civil authorities attempted to dismantle their claim. In Upper Canada, Orangemen decided at the last minute to cancel their planned procession through St. Catharines in favor of dining at the tavern that also served as home to an Orange Lodge. Just the threat of an Orange march in the neighborhood of the Welland Canal, which attracted vast numbers of impoverished Irish-Catholic laborers searching for employment, was enough to bring hundreds of Orange opponents to the area. In a reversal of the normal pattern, when the assembled Catholics heard the Orangemen planned to stay in their tavern, a contingent of them marched past the lodge in a show of force. The Orangemen, well prepared for such an action, fired into the crowd from the tavern and the nearby barn. In all three cases, local magistrates came under fire for failing to prevent the anticipated violence. The violence elicited debates among leaders
over the legality of the processions and the best way to ensure the public peace in the future. In response to the violence, Parliament passed a second version of the Party Processions Act for Ireland, the Canadian Legislative Assembly voted to repeal its ban, and New Brunswick’s leaders stood firm in their resolution to rely on the common law rather than pass specific legislation. These divergent responses illustrate the complexity of the notion of public space as it moves between the abstract realm of law into the material space of the streets, all the while mediated by social and political interests. As Mitchell explained, “public space is contested both in political and legal theory and on the ground. As a legal entity, a political theory, and a material space, public space … is produced through a dialectic of inclusion and exclusion, order and disorder, rationality and irrationality, violence and peaceful dissent.”¹ The 1849 riots brought to a head a half century of Orange-Green violence on both sides of the Atlantic and forced authorities to rethink their approaches for controlling public space through legislation and enforcement.

On the morning of July Twelfth, Orangemen from lodges in the area around Castlewellan in County Down assembled at local meeting points and prepared to march to the church at Ballyward. From Ballyward, the procession, included armed men wearing Orange sashes and badges; women and children walked and followed in carts. The procession marched through the hilly countryside to Tollymore Park, seat of Robert Jocelyn, third Earl of Roden and officer in the Orange Order’s Grand Lodge of Ireland. The Orangemen had two options as to which route to take to get from Ballyward to Tollymore. The new road, although slightly longer, was wider and avoided much of the steep terrain between Ballyward and Castlewellan, whereas the more direct old road was narrow and featured two particularly steep ascents. In addition, the old road passed through Roman Catholic territory near Magheramayo Hill at a pass known as Dolly’s

¹ Mitchell, *The Right to the City*, 51.
Brae. Thirty years earlier, an incident had occurred at Dolly’s Brae, and ever since, the “lower class Roman Catholics” of the area considered it “a point of honour not to allow the Orange processions to pass that way.” Allegedly, in subsequent years no Orange procession had tested this declaration.²

In an effort to avoid conflict, the Orange procession on July 12, 1848 had avoided the contentious pass and proceeded instead along the new road. The following year, in response to the brief Young Irelanders rising as well as a taunting song ridiculing the Orangemen for backing away from their plans to walk the Brae in 1848, regional lodges determined to take the old road in 1849.³ Sub-Inspector of the Police James Hill worried that the Orange resolution to march this route would end in bloodshed. He wrote the Inspector General on July 2, 1849, “the line of country through which the procession must necessarily pass, is chiefly inhabited by Roman Catholics – owing to which, I much fear a serious breach of the peace may ensue, as it is asserted that the latter are making preparations to oppose the line of march of the procession, on its passing through a particular tract of country.”⁴ Weeks before the “Battle of Magheramayo,” local inhabitants and officials knew that Orangemen marching through “this particular tract of country” was intended to send a message about who was in control in County Down.

Several days before the Twelfth, by which time the Orangemen’s plans were well known around the local area, Magistrate George Shaw received an anonymous letter threatening violence to Orangemen, magistrates, and “pig drovers the police” should the procession pass

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² “Mr. Berwick’s Report,” in “Papers Relating to an Investigation Held at Castlewellan into the Occurrences at Dolly’s Brae, on the 12th July, 1849,” *Accounts and Papers of the House of Commons: Volume 51* (Ordered to be printed, 1850), 4. Hereafter “Investigation Held at Castlewellan.”
³ Farrell, *Rituals and Riots*, 2. Neil Jarman reported that a Ribbon parade at Castewellan was accosted in March 1849, which could have further exacerbated local tensions in *Material Conflicts*, 55. See also “Mr. Berwick’s Report,” in “Investigation Held at Castlewellan,” 4.
⁴ James Ponsonby Hill to the Inspector General, July 2, 1849, National Archives of Ireland, Outrage Papers, Down, 1849/8/467.
through Dolly’s Brae. Undeterred by this missive, which Shaw reported was not unlike countless others he had received on various occasions, the Orange plans went forward unchanged. While Shaw expressed little concern, other local leaders were more apprehensive. A local Catholic priest, who claimed he was “deeply interested in the preservation of the public peace,” wrote to the Chief Secretary on July 8 informing him of the impending Orange procession and recommending he send the military to help maintain order. He further explained that as the Twelfth fell on a Thursday, which was the local market day, more Orange opponents than usual would be assembled in the area. Father Sharkey concluded with a reminder that the Orangemen would be particularly anxious to send a message following the disorder of the preceding St. Patrick’s Day: “The Crossgar riots it is to be feared will render the Orangemen disposed to be more than usually mischievous.”

When the Twelfth arrived, Dublin Castle did send additional magistrates to Dolly’s Brae from around the region to help keep order in addition to detachments of the 6th and 13th dragoons and men from the 9th infantry. These men were to assist local magistrates and members of the constabulary and to act as a buffer between local prejudices. The military presence, as well as the mediation efforts of two local Catholic priests, initially kept violence at bay. Early on the morning of the Twelfth, stipendiary magistrate Joseph Tabuteau and two local magistrates – along with police and a portion of the military force – occupied the “commanding points.”

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5 The Repaillers to Mr. Shaw, July 8, 1849, Evidence of Major Wilkinson, C.B., of the 13th Regiment of Foot, Battle of Magheramayo. Report of the Evidence Taken Before the Government Commissioner, Walter Berwick, Esq., Q.C., at a Court Held in Castlewellan from 30th July to 4th August, and, by Adjournment, on Tuesday 18th September 1849 (Newry: James Henderson, 1849), 6. Hereafter cited as Battle of Magheramayo. It should be noted that editor who published the Battle of Magheramayo in Newry wrote in his preface: “These are the simple facts of the case, as deposed to before the Commissioner; and the loyal Orangemen, who have been so foully maligned, may well rest their defence on those well-ascertained facts. They speak for themselves; and they are now placed on record in a permanent form, in order that at no future period it may be possible to pervert or distort them.” See page iv.
6 Daniel Sharkey to The Chief Secretary, July 8, 1849, National Archives of Ireland, Outrage Papers, Down, 1849/8/297.
overlooking the road through Dolly’s Brae. Their strategic positioning surprised a contingent of several hundred of the Catholic “Riband Party,” who settled for a less elevated position near the road. After surveying the landscape and its occupation, the authorities decided that the Orange procession should be led by magistrates George Fitzmaurice and Francis Beers and sub-inspector of police James Ponsonby Hill. These would be followed by the dragoons, “and thus, it was expected, that peace would be preserved by such an overpowering show of force.”7 In spite of the ominous presence of hundreds of Catholic men armed with guns, scythes, and pikes, the 1,200 to 1,400 Orangemen on the morning march to Tollymore passed through Dolly’s Brae unmolested apart from passing insults from several of the women lining the road.8

At Tollymore Park, Orangemen representing at least forty-five lodges ate beef, cheese, and bread and drank beer, wine, and, for the elite among them, a fine sherry. They sang the classic Orange song “The Protestant Boys” and listened to speeches by William Beers, District Grand Master, and Lord Roden. In a pro-Orange account of the day, a correspondent for the Belfast News-Letter described “the gallant and chivalrous Roden” as “preaching peace and good will to all, proclaiming the right of private judgment to the dupes and slaves of Rome.”9 Both men encouraged the Orangemen to process back to Ballyward along the old road in spite of the warnings of several other magistrates who thought a second affront to the assembled Catholics would result in violence.10

As the Orangemen marched through Dolly’s Brae a second time, the scene played out in much the same manner as it had that morning. This time, a company of police preceded the

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7 “Mr. Berwick’s Report,” 6.
8 Farrell, Rituals and Riots, 3.
10 “Mr. Berwick’s Report,” 7.
procession, with more police and the dragoons bringing up the rear. Near Magheramayo Hill, where the Catholic Party was entrenched, the police leading the procession stepped to the side, allowing the Orangemen to march through their ranks. After most of the Orangemen had passed through the Brae, the report of a squib rang out, followed quickly by two shots. It is unclear who fired the first shots, but a hail of gunfire soon rained down on the Orange procession. Their military and police escort responded quickly by charging up the hill to rout the Catholic party as the Orangemen returned fire. The Catholics quickly scattered, and the affray turned chaotic as men and women ran for cover, aided the wounded, and picked out targets. Several Orangemen took advantage of the confusion and set fire to the thatched roofs of Catholic houses along the roadside, burning them to the ground. Confirmed fatalities were all on the Catholic side.\footnote{11} At the time of the inquest on July 16, four were dead: an old woman killed as her home burned around her, two men bludgeoned and stabbed to death, and one boy shot through the chest and abdomen.\footnote{12} Another five were critically wounded, four mortally; this brought the most conservative death toll to eight.\footnote{13} The unconfirmed tally may have been as high as thirty.\footnote{14} The number of wounded on either side is unknown, although both sides saw casualties. In the investigation that followed, an English Color Sergeant in the 9th Foot displayed incredible ignorance – perhaps willful – of the meaning of Orange marches when he testified before Walter Berwick’s commission that “there was danger to the public peace from one party, but not from the other; from what I saw the Orange party stand – all sorts of abuse, bad names, beastly names

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\begin{enumerate}
\item \footnote{11}{“Awful Collision between the Orangemen and Roman Catholics near Castlewellan – Several Lives Lost” \textit{Armagh Guardian}, July 16, 1849.}
\item \footnote{12}{“Awful Collision between the Orangemen and Roman Catholics near Castlewellan – Several Lives Lost” \textit{Armagh Guardian}, July 16, 1849 and “The Murders in the North: Inquest on the Bodies of the Persons Killed at Magheramayo,” \textit{Cork Examiner}, July 18, 1849.}
\item \footnote{13}{“Awful Collision between the Orangemen and Roman Catholics near Castlewellan – Several Lives Lost” \textit{Armagh Guardian}, July 16, 1849.}
\item \footnote{14}{Bryan, \textit{Orange Parades}, 39.}
\end{enumerate}
– in the morning, [I] am certain there would have been no danger to the peace if they had not been attacked; it was from the rebel party danger was to be apprehended.”

According to Stanfield, the danger to the public peace came from the response to an intentional, carefully planned invasion of territory, not from the invasion itself. Then again, he dismissively remarked, “I’m an Englishman, and have no feeling one way or other.”

On the same day, at nearly the same moment, Orangemen and Irish Catholics in Saint John, New Brunswick also engaged in violent conflict. That morning, Orangemen from around New Brunswick began to congregate at Nethery’s Hotel in Saint John to celebrate the Boyne anniversary with a parade that would take them through the Irish Catholic neighborhood of York Point and the neighboring Irish Catholic borough of Portland on their way to meet a steamer carrying Orange contingents from Carleton and York counties. Authorities in Saint John had been warned that trouble would ensue if the Orangemen proceeded along their intended route, but they did little to avert the looming disaster. In fact, several magistrates left town to avoid having to take part in any affray, and Mayor Wilmot’s call for citizens to volunteer for service as special constables fell on deaf ears (although whether he actually issued the call prior to the riot or immediately following the conflict in an effort to make himself look more proactive became a point of contention). Additionally, on the evening of the 11th, Wilmot endeavored to persuade the Orangemen to abandon their plans to march. These efforts came to naught; as Scott See noted: “The Orangemen, well versed in their rights, rejected the suggestion because no provincial statute gave civilian officials the authority to ban public processions.”

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17 This is the same Nethery we encountered in the preceding chapter.
19 See, *Riots in New Brunswick*, 163.
aftermath of the York Point riot, interested parties would take to the newspapers to argue whether the Orangemen were as well versed in the law as they assumed.

With drums pounding and banners waving, the procession left Nethery’s and made its way north toward York Point, where many impoverished Irish immigrants had settled. At the head of Dock Street, the Catholics raised an arch of green boughs to symbolize their claim to the area. If the Orangemen wanted to pass this way, they would have to lower their colors to clear the arch and would have no doubt that the Catholics of York Point intended to meet their challenge.\textsuperscript{20} Determined to hold course, the Orangemen dipped their flags as they passed, to the jeers and insults of the throngs of Irish Catholics lining the street. The procession was pelted with stones and bricks, and several guns were discharged by both parties, although no one was seriously injured. As the parade wound its way toward Portland, Mayor Wilmot enlisted the help of several officers to remove the arch, but his efforts were met with fierce resistance from the crowd. The mayor was wounded in the fracas and several men were later charged with assault.\textsuperscript{21}

A correspondent for the \textit{New Brunswick Courier} identified this scuffle at the arch as the “commencement of the disturbance.”\textsuperscript{22} As witness testimonies later revealed, the green arch proved to be the central point around which the riot unfolded. It represented the Irish Catholic claim to New Brunswick space and witnessed the Orangemen’s determination to challenge that claim as well as the local authorities’ efforts to assert their own control over the public streets of York Point. In erecting the arch, York Point Catholics engaged in territorial behavior to counter the Orangemen’s corresponding claim as communicated by their procession. Robert Sack identified ten tendencies of territorial power. According to his fourth tendency, territoriality

\textsuperscript{20} “Serious Riot and Loss of Life!” \textit{New Brunswick Courier}, July 15, 1849.
\textsuperscript{22} “Serious Riot and Loss of Life!” \textit{New Brunswick Courier}, July 15, 1849.
“provides a means of reifying power.” He expounded: “Power and the like are often potentialities. Territoriality makes potentials explicit and real by making them visible.” On July 12, 1849, Saint John witnessed the collision of two explicit territorial claims.

The Orangemen’s initial encounter with the obstacle was the least sanguinary. William Smith, a mason, said that the arch had been put up overnight. He described it as about eight feet high at the center, but explained, “a load of hay could not go under it.” That morning, a man named Charley (Charles Heagan) led a group of boys who claimed to be guarding it. When the procession approached, Heagan confronted Joseph Coram, who led the Orange procession from atop a white horse in the role of King William. According to Smith, Heagan “put up his hand and told him to keep back, that they should not come through there, and he took hold of the horse’s head and turned him up Mill Street.” Coram then drew his sword, and the assembled crowd reacted with a volley of stones and brickbats directed at the men and horses. Both parties fired shots; the Orangemen targeted Catholics who held the poles, but none of the bullets seemed to have pierced flesh. In spite of the chaos, John Shaffroth, a carpenter, reported that Orange leaders, particularly Joseph Coram, restrained their brethren from otherwise attacking the arch on their way through.

The crowd’s vigorous defense of their green arch led Mayor Wilmot to send police magistrate Jacob Allen with a message asking the Orangemen to change their return route to avoid the touchpoint. The Orange procession had made its way to Indiantown in east Portland,

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24 Information of William Smith, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
26 Examination of James McKenzie in case of the Queen v. Charles Heagan, July 17, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
where they met a steamer carrying their brethren from upriver. The reinforcements swelled the ranks of Orangemen to between 500 and 600, many of whom were armed with muskets; as had been the case at Woodstock, those who were not armed could quickly acquire a weapon from the stash carried by a wagon bringing up the rear of the parade. Allen delivered his message to Joseph Coram and George Anderson. Coram seemed open to discussion on the matter, remarking that he had been considering changing course. On the other hand, he reportedly remarked, “they were peaceably inclined and that it was a hard thing they could not walk in the streets and he thought it would look cowardly to [illegible] any other way and it was their intention to be insulted grossly before they returned.”

Anderson was more adamant that they adhere to the original plan. As Watch Captain Francis Jones asserted, “Anderson said if we were now to go back, the other party would triumph in such a way that there would never be peace any more, and they now would persist to go on – as they had right to do.” According to Jacob Allen, Anderson claimed that the Orangemen had come to make peace, to which Allen replied that there was no need for such overtures as York Point had been quiet for the previous sixteen months.

Exasperated, Allen said, “I feel it my duty as a Police Magistrate, to give you notice that if you do persist there will be life lost, as I believe from the intimation I have had. I have now done my duty. I cannot stop you. There is no law to prevent your marching and whatever may happen I shall wash my hands clear of the consequences.” Anderson replied, “we have not come to be driven back. We will go through York Point, let the consequences be what it will.” Allen later reported, “he [Anderson] added something about ‘Death or Victory.’”

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28 Examination of Francis S. Jones, July 30, 1949, Papers Relating to Saint John Riot, RS 346H, PANB.
29 Information of Francis S. Jones, July 18, 1949, Papers Relating to Saint John Riot, RS 346H, PANB.
30 Information of Jacob Allan, July 26, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
This dogged determination to walk the planned route is characteristic of processional claims to territory and power. In his study of processions and urban culture in nineteenth-century Wales, historian Paul O’Leary confirmed that often simply the act of marching through public space brought the desired outcome. He wrote: “A procession should not be concerned with achieving a specific goal, other than to walk the streets between particular points. A procession, therefore, was as much about being on display in public space as it was about achieving an aim.”

In this case, the Orangemen determined to stick to their planned route to show the gathered public that they would march wherever they pleased in Saint John. Anticipating this reaction, Wilmot called on the assistance of sixty British Regulars to try to control the impending clash.

In the meantime, Mayor Wilmot attempted to deal with the problematic arch himself. Witnesses claimed that the mayor said “the arch was creating a disturbance and should be taken down.” Wilmot directed several police constables who were with him, including John Nixon, to effect this purpose. Nixon testified that he approached the crowd and informed them of his intention to carry out the mayor’s order. He recalled that John Haggerty vowed, “we put it there and we will keep it there.” Nixon retorted that the mayor had given him an order and that Haggerty better not try to obstruct him. Nixon then recalled, “Haggerty said he did not care a damn for the mayor or anybody else, and the quicker we cleared out of that the better. … Haggerty laid his hands upon me, and shoved me off. Several voices said, give it to him, one man lifted a brickbat. Someone said he is a policeman let him go. I then backed out.” Nixon reported to the mayor and the magistrate Henry Gilbert that the crowd would not allow the arch

32 See, Riots in New Brunswick, 167.
33 Information of John Fitzpatrick, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
to be dismantled. Nixon recalled that Gilbert responded as follows: “The authorities must be obeyed and he went forward towards the pole.”

Among the crowd, several witnesses recognized the butcher Joshua Corkery, who was partly identifiable because he had “a cast in one eye.” According to alderman Josiah Wetmore, Jr., Corkery was stationed “at the west pole and was clasping the pole to defend it with his arm and he was speaking in a very excited manner and was obstructing the removal of the arch by the Police. Either he or some other one close by cried out ‘down with the first man that attempts to remove it.’” According to witness John Fitzpatrick, an excise officer, someone in the crowd said the following to the mayor: “Damn you what do you want here, get out of this. Their colors annoy us and we will be damned if you shall take this down.” While this occurred, one man secured the branches more firmly to the structure. When the mayor persisted, Fitzpatrick later stated, “the crowd rushed in, and closed upon him. I went to go up to support the mayor and the brickbats came flying round about us like hail…. There was a general cry that the arch should not come down and a determination to prevent it. They damned the Mayor, cried give it to him, down with him, and used violent language to that effect.” Wetmore’s recollection was more specific. He reported, “words were called out very violently, down with him, kill him.” The mayor soon emerged from the crowd with a head wound and without his hat. He remained insistent that the arch be removed. At this point, Wetmore recalled, “a man came out of the

35 Information of Michael Neil, July 20, 1849, Papers Relating to Saint John Riot, RS 346H, PANB. This term refers to the condition strabismus, in which the eyes are improperly aligned. It could appear as a squint or as crossed eyes.
36 Information of Josiah Wetmore, Jr., July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
37 Information of John Fitzpatrick, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
38 Information of John Fitzpatrick, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
39 Information of Josiah Wetmore, Jr., July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB. Underlined emphasis in the original.
crowd and advanced to the mayor and demanded by what authority he ordered it to be removed. The mayor replied, that he was mayor of the city and that was his authority. The man made some threat” and the police took the man into custody. The mayor then attempted a second time to reach the pole. According to Wetmore, “the attack on the mayor was of the most violent kind and the mob were evidently determined to kill him.”40 The crowd chased the authorities into a nearby cellar, shouting that this area was “their ground,” that they would defend it, and that the mayor and his colleagues “had better clear out.”41 Magistrate Henry Gilbert testified, “I heard this repeated, more than once.”42

The Irish Catholics of York Point determined to defend their ground again as the Orange procession returned from Portland. Eyewitness Archibald Bowes, a tinplate worker, recalled, “when the procession was coming out from Indian Town, a man with a white jacket and a white felt had stood near the arch … a gun in his hand. When he seemed to hear the band, he shook the gun as if to put the priming in order. He sung out for the people at the arch to come on with him. He sung out twice and then ran to Halliday’s corner and the crowd followed him.”43 The two parties exchanged gunfire to which the Catholics again added volleys of stones and brickbats. In the melee, Orangemen ripped down the arch and Catholics gained control of the Orangemen’s mobile arsenal, giving its driver a vicious beating. Bystanders were not exempt from the violence, and several innocent parties were injured in the fray. When the Orangemen emerged from York Point, the troops closed ranks behind them, effectively ending the York Point Riot.44

40 Information of Josiah Wetmore, Jr., July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
41 Examination of James Gilbert in case of the Queen v. John Haggerty, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
42 Examination of Henry Gilbert in case of the Queen v. John Haggerty, July 18, 1849, Papers Relating to Saint John Riot, RS 346H, PANB.
43 Information of Archibald Bowes, July 24, 1949, Papers Relating to Saint John Riot, RS 346H, PANB.
44 See, Riots in New Brunswick, 168–69.
Initial reports counted twelve dead, all Catholics, and numerous wounded on both sides, although later accounts confirmed three dead and six severely wounded.\textsuperscript{45} It is difficult to get an accurate number because both sides hurriedly removed their injured comrades from the scene. In the aftermath, numerous individuals were brought to trial for offenses ranging from murder to assault to illegal assembly. Two Catholics were convicted of assault and sentenced to imprisonment.\textsuperscript{46} No Orangeman was punished; the jury acquitted Thomas Knowles, accused of murdering Patrick Allan, one of the Catholic participants, “without leaving the box.”\textsuperscript{47}

The Upper Canadian Orange celebration in 1849 was similarly violent. In a reversal of the usual pattern, the Catholic canal laborers co-opted the traditional Orange territorial behavior by marching through their opponent’s space in a show of strength.\textsuperscript{48} Slabtown was a shantytown associated with the Welland Canal and built on government land near St. Catharines. On July 12, 1849, Orangemen met there in Duffin’s tavern to celebrate the Boyne anniversary.\textsuperscript{49} Clearly anticipating a collision with Catholic canal laborers, they came “armed to the teeth” and commenced cutting holes in the front of the building, taking out windows, and removing its gable ends to allow themselves to shoot down on any adversaries from a position of cover. As expected, a crowd of several hundred Catholics confronted the Orangemen. Perhaps in an effort to show that loyalty to their religion could coexist with loyalty to the crown, they stood outside and gave three cheers for the Queen and Prince Albert followed by three cheers for the Pope. The

\textsuperscript{45} “The Late Riots,” \textit{New Brunswick Courier}, July 21, 1849.
\textsuperscript{46} “Circuit Court,” \textit{New Brunswick Courier}, August 18, 1849; “Circuit Court,” \textit{New Brunswick Courier}, August 25, 1849.
\textsuperscript{47} “Circuit Court,” \textit{New Brunswick Courier}, August 25, 1849.
\textsuperscript{48} Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849. Library and Archives Canada, Hamilton Hartley Killaly fonds, MG24 E10, File 1, p. 24–32.
\textsuperscript{49} Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849. Library and Archives Canada, Hamilton Hartley Killaly fonds, MG24 E10, File 1, p. 24–32.
Catholics had not finished before the Orangemen opened fire, scattering the crowd and leaving at least two dead and many others wounded.50

One of the most detailed accounts of the Battle of Slabtown appears in a letter from Hamilton Hartley Killaly, Superintendent for Welland Canal, to Thomas A. Begly, Secretary of the Board of Works. Killaly’s narrative begins in St. Catharines, where armed Catholic laborers from several points along the Welland Canal gathered during the early morning hours to confront the anticipated Orange procession. Word of this opposing force reached the Orangemen assembled at the tavern in Slabtown. When they heard their adversaries may number as many as 300, they decided to celebrate in the tavern rather than risk the march. One of the local priests convinced the Catholic party to disperse during the afternoon, but at the turnoff to Slabtown, several wagons peeled off and headed toward the tavern. While still several hundred yards from the Orange stronghold, the Catholic party discussed strategy. They determined to leave the wagons and pass the lodge on foot, where they would show their numbers, cheer, and move on. The leaders strictly forbade their companions to throw any stones or otherwise provoke the Orangemen. When the Catholic party reached its destination and commenced cheering, one of their drunk fellows fired a shot through a window. The melee ensued.51

Killaly spent much of his letter describing his own efforts to recruit a force to restore order in Slabtown in the frantic moments after word of the carnage reached the authorities in St. Catharines. According to Killaly, one of the magistrates had secured men from the Royal Canadian Rifles to be stationed in St. Catharines overnight in case of a disturbance. These men were ready to move at a moment’s notice and had wagons for transport; they only needed written

requisition from a magistrate and the company of an officer of the civil power to act against the rioters. Killaly, who was with their commander when word of the Slabtown riot reached the town, immediately sought to procure the necessary orders from men who were present and whom he believed to be magistrates. He was informed that “some were Magistrates ‘of the Town’ and could not act, another was a magistrate of the district, but could not act upon rumour.” Killally continued, perhaps sardonically, “(at this moment two of the wounded had been brought into town) on my pressing further I was informed ‘he could not act without information.’”

Killaly persisted in the face of this magisterial intransigence. Undeterred, he “at once tendered information on oath that blood had been shed – that I apprehended further bloodshed and [rioting?] but this information was considered too vague and general.” The unnamed magistrate then advised Killaly that Mr. Rybert, the magistrate who had ordered the troops in the first place, should be the one to give the order. Accordingly, the dogged Killaly met Mr. Rybert, accompanied by the other magistrates and several other men, near his gate where he repeated his information on the riot in Slabtown and urged Rybert to send out the troops. Rybert responded by asserting that he had requested the troops to keep peace in the town. Killaly later reported, “some words ensued between us upon my stating that ‘I conceived it as much the duty of a district magistrate to prevent bloodshed outside of the precincts of the town as within it.’” Killaly argued that the inhabitants of the town should and could protect themselves. Killaly noted Rybert’s rejoinder: “He would not be instructed in his duty by me that he had got the troops for the safety of the Town ‘and would not order them out of it’ that he did not know but whether it was all a ruse to get the troops out of town in order to sack it.” Upon further consideration of this

52 Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849. Emphasis in the original.
exchange, Killaly conceded to his correspondent that there was excitement in St. Catharines at that time, but that he and Rybert differed on the best strategy for keeping order. Just when it looked as though a portion of the troops would finally make its way to Slabtown, under the order of a different magistrate, the commanding officer balked at dividing a force he felt was of insufficient size for the purpose.\(^53\)

Frustrated in his efforts to secure peacekeeping troops, Killaly determined to assert authority in his own jurisdiction and proceeded along the canal, checking to see whether his men were at their posts or engaged in the affray. Methodically working his way from St. Catharines to Slabtown he saw a man lying dead in the road as he approached the shantytown. Upon reaching the Orange base, Killaly entered the premises and found twelve to fifteen men dressed in Orange regalia at the bar and another five to seven men in a back room. Hearing running footsteps, Killaly threw open the front door to find one of his lock operators sprinting from the tavern. He also noticed another canal worker nearby. He dismissed both men immediately. Killaly then went to the canal’s blacksmith shop, and, finding it idle, discovered that one of the employee’s had been drinking at the tavern with the Orangemen. Interestingly, another had been instrumental in assembling the opposing Catholic party. He dismissed these men, as well. One can only imagine what the atmosphere was like in that smithy.

In the aftermath of the riot, Killaly took several measures to keep order and prevent similar events in the future. He stationed two police officers in Slabtown and sought to put out hotspots of party animosity by closing the blacksmith shop. He considered doing the same for the carpentry shop. Killaly viewed the shantytown as a disordered space, perhaps because he

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\(^{53}\) Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849. Emphasis in the original.
considered the inhabitants “squatters.” Moreover, he may have agreed with the authorities in the town who clearly viewed it as outside their peacekeeping jurisdiction. Killaly recommended the shanties be leveled as soon as legally possible. He viewed this as the best method to “scatter the pestilent spirits who inhabit it and thereby promote the peace of the vicinity.” Understanding that the canal workers had to live somewhere, Killaly also suggested that the company provide additional safe housing. He reported that the lack of accommodations was partly due to party feelings, and asserted, “unless the Commission are disposed to permit the whole of these situations to be filled exclusively by the one party, some expense must be gone to provide houses.”

The July Twelfth riot at Slabtown illuminates several interesting spatial power dynamics. In a point that diverges from the two other episodes discussed in this chapter, at Slabtown the Catholics marching through Orange space to show their numbers ignited the riot. As the other cases demonstrate, Twelfth Orange incursions as a show of force in Catholic spaces often led to violence. The magistrates’ efforts to avoid responsibility when it came to ordering the troops to Slabtown, and Rybert’s eventual refusal to do so, suggest a fissure between the town and outlying areas. Was Slabtown seen as “other” simply because it existed outside the town’s official boundaries? Was it because it was chiefly inhabited by Irish immigrant laborers and operated under its own rules? Was it because the shantytown, built without permission on government land that had been traditionally used as commons, was viewed as extralegal by town

54 Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849. Killaly is most likely referring to the Commissioners of Public Works. In 1841, the government took complete control of the canal when its original owners, the private Welland Canal Company, had to sell their remaining stock. At that point, the canal was under the authority of the Board of Works. See John N. Jackson, The Welland Canals and Their Communities: Engineering, Industrial, and Urban Transformation (Toronto: University of Toronto Press, 1997), xi, 49–50, and “Report of the Commissioners of Public Works, for the Year 1848,” Appendix No. 2 to the Eighth Volume of the Journals of the Legislative Assembly of the Province of Canada from the 18th Day of January to the 30 Day of May, Both Days Inclusive ... Session, 1849 (Printed by the Order of the Legislative Assembly), Appendix B.B. [otherwise unpaginated]
authorities?\textsuperscript{55} Was it a sort of lawless frontier space from which the public required protection? Perhaps the name associated with the riot can provide some clarity on how the inhabitants viewed the local spatial dynamics. Technically, the riot apparently took place in a community known as Centreville. William Duffin, who hosted the fateful dinner at his tavern, was a member of the Centreville Lodge No. 77. By 1852, the riot had gained legendary status among local Orangemen, and to commemorate their victory they had medals struck “for valiant conduct at Centreville Mills.”\textsuperscript{56} Historian Alun Hughes concluded, “though the battle took place in Centreville, it is significant that it was labelled Slabtown; possibly this was to distance respectable people from the unruly Irish.”\textsuperscript{57} Interestingly, Killaly referred to two places in his letter: Slabtown and St. Catharines. Similarly, newspaper articles assign the riot to one of those two places. Hughes asserted that in the 1840s, Centreville, which would become Merriton, was an unofficial community. Nonetheless, it seems odd that it does not appear more readily in much of the historical record of the riot.\textsuperscript{58}

The riots at Dolly’s Brae, York Point, and Slabtown illustrate very different responses to a threat to public order. At Dolly’s Brae, even though the Party Processions Act had expired, authorities anticipated violence and called in more than 120 military and police to assist. These men played a significant role in the events of the day, although whether their actions ultimately served to avert more serious violence or to exacerbate tensions and increase firepower is difficult to determine. At Slabtown, the Party Processions Act was still the law of the land. The

\textsuperscript{55} Hamilton Hartley Killaly to T. A. Begly, Esq., July 17, 1849.
\textsuperscript{57} Alun Hughes, “The Early History of Merriton.”
\textsuperscript{58} Hughes, “The Early History of Merriton.” Orange Lodge No. 77 is identified with Centreville in the finding aid for the records of the Niagara Lodges of the Loyal Orange Association of British America held in the Brock University archives. A pdf is available here: https://core.ac.uk/download/pdf/62641933.pdf
Orangemen did not march in this instance, but merely the threat of a procession was enough to raise tensions to the breaking point. At York Point, on the other hand, no Party Processions Act had ever been passed for New Brunswick; authorities depended on the common law prohibition of processions likely to disturb the public peace. Magistrates in New Brunswick, as was the case elsewhere, anticipated violence. But rather than assemble to assist, many of them left town in a stunning display of “studied negligence.” One of the few public officials who remained, Mayor Wilmot, was injured for his trouble and was unable to recruit a viable police presence. The military, when it eventually arrived, stood by and acted as gatekeepers to the Protestant part of town, allowing the riot to continue until the Orangemen marched from the location.

In 1849 men at all levels of involvement in the riots and their aftermath were uncertain as to the current legal status of the Orange processions. Legal uncertainty and the uneven application of public order law to Orange processions led to confusion on the ground and a reconsideration of these laws at the leadership level. One group of legal geographers wrote:

An interest in the spatialities of law is also a concern for the inherent – and inherently ideological – representations of space that are fundamental to legal understandings and practices themselves. ... When the taken-for-grantedness of these spatial representations are called into question by, for example, revealing their artificiality, political-normative contingency or plasticity, then, again, new questions emerge about the coherence and stability of the law that require a response.

Legislative bodies attempted to respond to questions of the stability of public order law, but contemporary confusion proved to be an obstacle to enforcing order in the public streets.

Although the Irish Party Processions Act had been allowed to expire in August 1844, in Ireland and New Brunswick a general prohibition in common law remained against “displays calculated

to excite public fear.”61 Less than two weeks after the riot at Dolly’s Brae, Earl Grey, Chief Secretary for War and the Colonies, wrote to the Earl of Clarendon, Lord Lieutenant for Ireland, informing him that the House of Commons would take up a new Party Processions Act when they returned to session. In the meantime, he wrote, “it is important that it should be generally known, that without any express prohibition by Act of Parliament, Assemblages or Processions of large numbers of persons bearing Arms or attended with other circumstances calculated to endanger the public peace are unlawful, and may be prevented, if, in the judgment of the Local Authorities, such interference is called for by a regard to the public safety and interests.”62 On the one hand, these instructions illuminated the state’s aim, but on the other they highlighted its weakness in practice: the common law left significant room for local interpretation, which frequently was at odds with Parliament’s intentions.

The New Brunswick assembly attempted to clarify the unlawful assembly prohibition just months before the York Point Riot. In March, it passed “An Act to consolidate and amend the several Acts relating to the Criminal Law of this Province, so far as relates to the definition of certain indictable offenses, and the punishment thereof.” In a session devoted to amending the original bill, the legislature attempted to get ahead of procession-related violence by altering the wording of existing legislation. In Chapter V, Article 5, they replaced the term “riot” with “unlawful assembly,” thus enabling authorities to break up disorderly groups before they came to blows. The legislature defined an unlawful assembly as three or more people gathered without legal permission “to execute any common purpose with force and violence, or in so violent and tumultuous a manner and under such circumstances as are calculated to create terror and alarm

61“Official Documents. Processions” Head Quarters (Fredericton, NB), March 20, 1850.
62 Grey to His Excellency the Lord Lieutenant, July 24, 1849, National Archives of Ireland, Outrage Papers, Down, 1849/8/343.
amongst Her Majesty’s subjects.” Persons convicted of this offense could be jailed for up to two years. Article 8 specified the spatial parameters: “If two or more persons shall fight together in a public place, in such a manner and under such circumstances as are calculated to create terror and alarm amongst Her majesty’s subjects, such persons shall be deemed to be guilty of an affray.” The legislators added that two or more persons openly carrying “dangerous and unusual weapons in any public place in such a manner and under such circumstances as are calculated to create terror and alarm amongst Her majesty’s subjects” were also guilty of affray. Unfortunately, it appears both local law enforcement and the general public were either ignorant of or misunderstood this application. In response to the York Point riot, a writer for the New Brunswick Reporter stated, “as there is no law in the country to render such processions illegal, the attempt to put them down by brute force must ever be subject to a double chastisement, first from the party assailed, and afterwards from the law of the land, for its violation.” Magistrates and local leaders at Dolly’s Brae made a similar argument when Parliament investigated their conduct the following September.

The grand jury in the York Point case convened on August 7 and found true bills against five Orangemen and eleven Catholics. A little more than a week later, the jury acquitted the Orangemen on all charges of murder and illegal assembly and found two Catholics guilty of assault. Despite findings that tended to favor the Orangemen, the grand jury issued a scathing Special Presentment, published in the local newspapers, that criticized the laws governing

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63 “Friday, March 9th, 1849,” Journal of the Legislative Council ... of New Brunswick from 31st January to 14th April, 1849, ... third session of the fourteenth General Assembly (Fredericton: J. Simpson, 1849), 456. Canadiana Online. https://www.canadiana.ca/view/oocihm.9_00948_23
64 “Friday, March 9th, 1849,” Journal of the Legislative Council ... of New Brunswick, 457.
65 “Friday, March 9th, 1849,” Journal of the Legislative Council ... of New Brunswick, 457.
66 New Brunswick Reporter and Fredericton Advertiser (Fredericton, NB), July 13, 1849.
67 See “Mr. Berwick’s Report.”
processions and the failure of authorities to act in the best interest of the citizens regarding the enforcement of public order. They asserted that if the existing law did not allow officials to stop potentially incendiary processions, it should be changed. The jury further argued “that the continuance of these party feuds has a serious tendency to interfere with the progress and general prosperity of the country: and . . . that questions regarding the public good are set aside and compromised as secondary considerations – and that the gratification of party feeling, arising from difference of religious opinions, and of national descent, take precedence on questions concerning the general welfare.”

The Grand Jury also severely criticized the Catholic protesters, asserting that the power to regulate public space belonged to the state: “The peace of the City must be protected by the strong arm of the law, and by that alone.” But they insisted that the representatives of the state must also make an effort to take possession of the contentious territory. They concluded: “The Riot at York Point might have been prevented had the authorities, with sufficient force, been early on the ground and dispersed the rioters.”

In Ireland, too, several newspaper correspondents castigated the government for allowing the Party Processions Act to expire and neglecting to renew it in light of disturbances on St. Patrick’s Day that year. This suggests a general sentiment that the regulation of public space was the government’s responsibility. Referencing a fatal riot on the preceding St. Patrick’s Day, one author wrote, “what, oh what must the Government think of themselves now, after declining to renew the Anti-Processions Act, notwithstanding that they were implored to do so by many Christian and philanthropic individuals after the tragedy enacted at Crossgar on the 17th of March.”

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70 “Circuit Court,” New Brunswick Courier (Saint John, NB), August 25, 1849.
last.” Barrister Walter Berwick, assigned to investigate the proceedings at Dolly’s Brae, vigorously refuted local magistrates’ claims that the Orange procession was legal since the expiration of the Party Processions Act and that they therefore had no authority to stop it. He lectured:

It appears to me that no principle of law is more plain, or ought to be better understood, than that which declares that all bodies or processions of men, whether armed or unarmed, but more particularly if armed, who are assembled under such circumstances as are calculated to endanger the public peace, and to excite terror and alarm amongst her Majesty’s subjects, are thenceforth to be considered and treated by those assigned to keep the public peace, as illegal bodies, dangerous to the well-being of society, and therefore to be repressed, if necessary, by the strong arm of the law.  

Berwick’s argument clearly identified “those assigned to keep the public peace” as public servants that should recognize these kinds of processions as illegal and take steps to prevent their occurrence.

According to many contemporaries, responsibility for the failure to keep the public peace at York Point and Dolly’s Brae fell upon the magistrates and local leaders as well as legislators. A contributor to the New Brunswicker newspaper argued, “the unfortunate men on both sides who were allowed to come into deadly conflict are not half so blameable as those who suffered the collision to take place; and the blood of those who have been suddenly sent to their last account, while rage and every evil passion possessed them, will cry up to Heaven, that justice may be done to those really guilty.” In discussing Dolly’s Brae, historian Richard McMahon asserted that a significant police presence was not enough to keep the peace. Rather, the most

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73 Article originally appearing in the New Brunswicker. Quoted in the Islander (Charlottetown, PEI), July 20, 1849.
effective efforts at law enforcement depended upon the assertion of legitimate authority, often in the form of a trusted magistrate. McMahon wrote:

[Police] effectiveness depended less on the display of force and more on whether the parties involved were willing to cede to their authority. In this sense, the display of force was probably a necessary but not always a sufficient condition for the police to maintain order. A more effective control on the extent of violence may have been the role of local magistrates and prominent figures within these areas who could exert an influence over both sides of the community.\textsuperscript{74}

This applied to magistrates in their judicial roles as well. In his report to the Undersecretary, James Hamilton worried that, although it had been two weeks since the riot, only Catholics had been indicted. He hoped that military and police witnesses would be able to identify Orangemen who had rioted, burned homes, and fired their guns at people. He thought it important that these men be brought to trial to “prevent the appearance that the constituted authorities would be inclined to tolerate transgression against the law in [sic] one side more than another.”\textsuperscript{75}

The efforts of the Provincial Secretary of New Brunswick, J. R. Partelow, essentially made McMahon’s point. Partelow responded to the Grand Jury’s presentment on behalf of the Lieutenant Governor in a published letter. He agreed with many of their statements but took issue with their claim that public interests were secondary considerations. He more directly censured the Orangemen – and displayed a deeper understanding of the common law prohibiting offensive processions – by arguing, “it must be remembered that whilst on the one hand no persons have the right to obstruct the public thoroughfares, so on the other, all processions or assemblages, even for a legal object, if they tend directly to promote or provoke a breach of the peace, become such as to justify the interference of the Magistrates in stopping them. All persons

\textsuperscript{74} McMahon, “The Madness of Party,” 107.
\textsuperscript{75} J.W. Hamilton to T.N. Redington, July 27, 1849, National Archives of Ireland, Outrage Papers, Down, 1849/8/348.
whatsoever resisting the Magistrates under such circumstances in the exercise of their authority, must do so at their own peril.”76 According to Partelow, the procession was illegal and subject to the magistrates’ jurisdiction. In addition, he suggested that the Orangemen bore some responsibility for the violence and, perhaps, intimated that they should have been subjected to legal consequences.

Importantly, Partelow introduced a debate over the roles of the private citizens and professional law enforcement in maintaining public order that gets at the heart of the shift toward a more heavily legislated and policed society. He contended that it was not only the magistrates who had the responsibility to suppress such processions and reminded readers that York Point residents had ignored Mayor Wilmot’s call for support. Accordingly, “the blame of a breach of the peace, consequent on the want of a sufficient number of constables, falls on the persons so refusing or neglecting, at least as much as it does on any Magistrate not attending on the Mayor at the time.”77 In this regard, Partelow found “at least as much” responsibility with private citizens who declined to serve emergency riot duty as he did with magistrates who, with advance warning of potential violence, decided to leave town. He emphasized the role of public confidence in the law over proactive policing as the most effective method of crime prevention when he claimed that the “strong arm of the law” best protects its citizens through the assurance of impartial trials. He claimed, “It is obvious that all power of prevention conferred on Magistrates must be paralyzed by the existence of a belief in the absence of impartial justice.”78

76 “To His Excellency Sir Edmund Walker Head, Bart. Lieutenant-Governor of the Province of New-Brunswick,” New Brunswick Courier (Saint John, NB), September 22, 1849.
77 “To His Excellency Sir Edmund Walker Head,” New Brunswick Courier, September 22, 1849.
78 “To His Excellency Sir Edmund Walker Head,” New Brunswick Courier, September 22, 1849.
Perhaps, he seemed to suggest, uncertainty over the objectivity of jurors led rioters to take the law into their own hands.

This newspaper exchange was the closest New Brunswick came to an investigation of responsibility for the York Point riot. No official review of the incident took place. Although it was clear that the magistrates failed utterly to respond to warnings of violence on the Twelfth and also refused significant assistance during the riot, only sending the military in to close ranks behind the Orangemen as they cleared the York Point neighborhood, the government held no officials accountable for their actions. Despite the Grand Jury’s call for a law preventing processions, New Brunswick never passed a Party Processions Act.

The state response to the violence in Dolly’s Brae differed dramatically. The Home Secretary for the Whig government, Sir George Grey, first raised the possibility of a new Party Processions Act for Ireland in the Commons on March 23, 1849 following disorders occasioned by processions on St. Patrick’s Day the previous week. He suggested the second edition of the legislation should apply to all varieties of party processions, but conceded that the matter was still under discussion.\textsuperscript{79} Four months later, after the carnage at Dolly’s Brae, the processions issue was back on the agenda. On July 19, 1849 Mr. George Moore, MP for Mayo, opened the discussion in the Commons with a detailed account of the clash at Dolly’s Brae.\textsuperscript{80} Moore opined that the Government had been too generous in its assessment that the gentlemen in the north of Ireland could be trusted to put away sectarian animosities during the trying times of the Famine, which he referred to as “mutual afflictions.” He asserted, however, that “the Government little knew the hearts, the souls, the brains of the Orangemen of the north of Ireland, who were about

\begin{footnotes}
\item[79] HC Deb 23 March 1849 vol 103 col. 1189.
\item[80] HC Deb 19 July 1849 vol 107 col. 604–608.
\end{footnotes}
to seize that opportunity for obtaining a paltry and disreputable triumph over their opponents.’’

According to Moore’s account, the magistrates and local leaders who failed to do all in their power to stop the procession – even in some cases encouraging the Orangemen in their depredations – bore most of the blame for the violence. In calling for a thorough investigation, Moore outlined the need for the Government to examine why the procession was allowed to go to Dolly’s Brae, a known flashpoint; how the Government had been persuaded to send troops to support the Orange column; and the role of the local Orange lodges in the affair. He concluded his remarks:

Above all, it must take into consideration the conduct of the local gentry [especially the Earl of Roden] and the local magistrates, what was their knowledge of the state of things existing in the neighbourhood before the procession, and of the collision that was about to take place; and what were the measures, if any, which they took to prevent it. The conduct of the military and police, also, must be taken into consideration.

Several speakers subsequently took exception to some of Moore’s characterizations of the Orangemen and local officials, but most agreed that an investigation of magistrate conduct was imperative and that a more general ban on processions in Ireland may be in order. Following the reasoning of New Brunswick Provincial Secretary J.B. Partelow, Mr. John Bright, Liberal MP for Manchester, questioned whether processions like the one that took place at Dolly’s Brae were already illegal under common law as they were likely to cause a disturbance. Major Samuel Blackall, MP for Longford, opined that the procession was illegal as it was an armed assembly. Mr. William Monsell, MP for Limerick, argued that a new law to stop party

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81 HC Deb 19 July 1849 vol 107 col. 604.  
82 HC Deb 19 July 1849 vol 107 col. 608.  
83 See, for example, remarks by Captain Theobald Jones, Tory MP for Londonderry HC Deb 19 July 1849 vol 107 col. 610.  
84 HC Deb 19 July 1849 vol 107 col. 611.  
85 HC Deb 19 July 1849 vol 107 col. 612.
processions was necessary, especially “in the present excited state of the people’s minds,” and that the Government also needed to clarify the status of processions under the existing common law.\textsuperscript{86}

Other members opposed debating a new Party Processions Act. Mr. Henry Labouchere, former Chief Secretary for Ireland, characterized the question of whether the processions were lawful as “an abstract proposition,” arguing that it would be “most inexpedient” for the Government to “pronounce any opinion upon an abstract proposition.” He further contended that local leaders, especially Protestants, were determined to “discourage by every means in their power those displays which had kept up a spirit of animosity among different classes of people, who had a common interest in living together in harmony. If these things could be prevented by the influence of men of all classes, it would be better than any interference by way of legislation.”\textsuperscript{87} John Reynolds, MP for Dublin City, asked for clarification. Directly addressing the tension between consideration of the law as an abstract space and the physical realities of its consequences, he countered: “What did the right hon. Gentleman mean by an ‘abstract proposition’ in connexion with this massacre? It appeared from the evidence at the inquest that a man was shot. It also appeared that a woman was shot, and that not less than forty persons were wounded. He should like to know how that was considered an ‘abstract proposition?’”\textsuperscript{88} Labouchere replied that “what he had called an ‘abstract proposition’ was, not the circumstances of this case, but the question put to the Government, whether processions of this nature were or were not lawful?”\textsuperscript{89} Reynolds responded that he “was glad that he had made the remark, because

\begin{footnotes}
\item[86] HC Deb 19 July 1849 vol 107 col. 612–613.
\item[87] HC Deb 19 July 1849 vol 107 col. 613.
\item[88] HC Deb 19 July 1849 vol 107 col. 613–614.
\item[89] HC Deb 19 July 1849 vol 107 col. 614.
\end{footnotes}
it had elicited such an explanation.” Reynolds let the matter rest there, although it is unclear from his comment whether he was satisfied with Labouchere’s explanation.

This question of legality that contemporaries debated was not an abstraction in the sense that law cannot be extracted from its material consequences. Indeed, as critical geographer David Delaney insisted, focusing on real-world manifestations of law allows us “to consider the idea that law does not stop at the utterance, but continues on through causal chains into the world of stuff. Actually, it was never anywhere else. The violence that law authorizes or blocks happens on bodies and elsewhere in the material world. This is not separable from law, nor are these simply ‘effects.’”\textsuperscript{90} The debate over legality is significant as the law shapes lived-in space by declaring what activities are acceptable where and by whom; it thus plays an important role in creating and maintaining local power structures.

This debate continued the next day, when the Commons reconvened and heard a spirited defense of Lord Roden’s character and actions from his son, the MP for King’s Lynn, Viscount Jocelyn. Jocelyn had been absent from the chamber the day before. Sir George Grey, Home Secretary, who had also missed the previous day’s discussion, assured the Commons that the Government would introduce a bill to ban all armed processions and those intended to incite violence in Ireland. He further rejected the notion that, because the original Party Processions Act had lapsed, those processions were therefore legal. He asserted:

\begin{quote}
It was not necessary to constitute an illegal meeting that it is prohibited by statute law. Under the common law, a meeting, although connected with a society that was perfectly lawful, might, from the circumstances attending it, be an unlawful assembly. … If the assembly or procession consisted of large numbers of armed men, and was calculated to inspire terror, or lead to a collision, or to a breach of the public peace, it would be an
\end{quote}

unlawful assembly. It would, of course, be at the discretion of the Government or of the local authorities whether they should take any means to prevent such an assembly or procession from taking place, or whether they should provide against the probable consequences resulting from it."³⁹¹

After a brief discussion of the legality of processions under common law, the decision not to pass a new Party Processions Bill the previous spring, and the culpability of local officials in allowing armed processions to take place, the Commons agreed to await the outcome of the Berwick investigation before taking up the matter again.⁹²

In late July the Lord Lieutenant commissioned Walter Berwick, Queen’s Counsel, to thoroughly investigate “all matters” connected to the riot at Dolly’s Brae and to bring those responsible for or connected to crimes committed that day to justice.³⁹³ During August and September Berwick collected testimony and conducted interviews with witnesses, participants, and officials involved in the affray. In the summary report that precedes the evidence he collected, Berwick provided a brief history of Dolly’s Brae and why the Orangemen’s determination to walk that route evoked such dread in many local leaders. As two of the local resident magistrates, William and Francis Beers, were also leading Orangemen, another local magistrate, Mr. Thomas Scott, requested that Dublin Castle send nonpartisan stipendiary magistrates to assist in keeping the peace. Accordingly, two stipendiary magistrates, instructed to communicate with their local brethren, arrived two days before the Twelfth with the military detachment.⁹⁴

³⁹² HC Deb 20 July 1849 vol 107 col. 741–744.
³⁹³ “Warrant. By the Lord Lieutenant-General and General governor of Ireland” in “Investigation Held at Castlewellan,” 3.
³⁹⁴ “Mr. Berwick’s Report,” 6.
After describing the events of the day, Berwick closed his remarks by providing his evaluation of those responsible for keeping the peace. While praising the conduct of the police in difficult circumstances, he castigated the magistrates for ignoring the information they had prior to the Twelfth, all of which suggested a breach of the peace was likely. Berwick assured his readers that he did not think the magistrates intended for the procession to result in deaths and property loss, and that they actively tried to tamp down the conflict as it unfolded. Nevertheless, he concluded, “In all their previous proceedings, they appear to have acted under a great misunderstanding of the nature of their duties – some of them to such an extent as actually to give countenance and protection to persons engaged in proceedings at variance with the law.”

Although disappointed that the stipendiary magistrates failed to prevent the procession from taking place, Berwick reserved his most strident criticism for the three resident magistrates who were also Orangemen. He was careful to state that none of the men intended the violence to occur, but each personally failed to do his part to keep the peace and to promote public confidence in the justice system. Francis Beers allowed the Orangemen to gather at his demesne on the morning of the Twelfth and was a well-known Orange leader. Although he took his Orange badge off and put it in his pocket while leading the procession in his role as magistrate, Berwick (probably correctly) pointed out that the local Catholics would have hardly noticed such a subtle (and temporary) role reversal. Lord Roden hosted the Orangemen at his seat at Tollymore Park and acted as deputy grand master. William Beers gave a talk at a dinner in the days following the riot that appeared to gloat about an Orange victory at Dolly’s Brae; his speech was printed in the newspapers and caused an outrage among Catholics. Berwick concluded his

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95 “Mr. Berwick’s Report,” 9.
96 “Mr. Berwick’s Report,” 9, 11. For more on William Beers’s letter see William Beers to H.W. Brady, August 1, 1849, National Archives of Ireland, Outrage Papers, Down, 1849/8/444.
remarks by arguing that magistrates should not be Orangemen. He wrote, “the magistrate should not voluntarily place himself in the anomalous condition of belonging to a body, many of the members of which are engaged in frequent collision with a large class in the state, between whom he is constantly called on to stand as umpire, and of whose misdeeds towards each other he is sometimes the only judge.”

In response to Berwick’s report, the Lord Lieutenant of Ireland recommended the Lord Chancellor strip William Beers, Francis Beers, and the Earl of Roden of their responsibilities as Justices of the Peace. This decision occasioned a lively debate in the House of Lords over whether the Government had overstepped its constitutional authority by directly dismissing these men.

The new Party Processions Bill was one of the first orders of business for Parliament when it returned on January 31, 1850, after being prorogued since August 1 of the previous year. Liberal and Chief Secretary for Ireland Sir William Somerville opened the discussion with a brief summary of the history of the first Party Processions Act and asserted that, although many “influential Gentlemen” as well as the Government had hoped that the common law prohibition against displays likely to cause a breach of peace would be sufficient to keep order, they had found this was unfortunately not the case and that specific legislation was necessary. Interestingly, Somerville intentionally did not provide case studies to support his argument that the current state of unrest warranted a new law. He explained that “it had been his wish to avoid them [references to particular cases], because the Bill he proposed to bring in was not aimed at any particular party; and if he had been led into particular allusions, he should have incurred the risk of disturbing that unanimity and general concurrence of all parties which it was his wish to

97 “Mr. Berwick’s Report,” 12.
98 T.N. Redington to the Lord Chancellor, October 6, 1849, in “Investigation Held at Castlewellan,” 48.
secure.”\textsuperscript{100} This effort to prioritize the general at the expense of the particular points to an observation legal geographers have made about the universalizing project of English law.

Critical legal geographer Nicholas Blomley argued:

English common law has been designed as a form of disembedding. The systematization of the English common law crafted by the early modern jurist Edward Coke entailed the attempt at the creation of a unitary legal map in which the diverse local knowledges of the law were immediately suspect. Increasingly, legal knowledge is imagined as disembodied, true to its own internal logic. … This was a very conscious project, designed to eradicate the plurality and radical decentralization of legal voices.”\textsuperscript{101}

In this case, the complexity of the various situations in which a ban on processions, through common law or by specific legislation, could be applied was ignored in favor of a general, one might say more theoretical, argument that whitewashed real-world difficulties. The bill was brought to the floor and passed through the Commons with no further debate.

The debate in the House of Lords revealed more concern for the application of the new law. The Marquess of Lansdowne began the discussion by reemphasizing the desire for unanimity and indicating he did not expect the debate to take too much time; however, he maintained “that as the Bill was one of considerable importance, and as it was of a restrictive nature, he did not think it would be proper for him to ask their Lordships’ concurrence in it without stating in a very few words the reasons which had induced Her Majesty’s Government to submit it for the consideration of Parliament.”\textsuperscript{102} Significantly, Lansdowne used spatial metaphors to describe the current situation in Ireland and the Government’s intent with the new Bill: “The fact was, that so long as facilities existed in Ireland for celebrating, and more than celebrating, these party anniversaries, so long would that country be left open as an arena in

\textsuperscript{100} HC Deb 08 February 1850 vol 108 col. 612.
\textsuperscript{101} Nicholas Blomley, “From ‘What?’ to ‘So What?’” 9.
\textsuperscript{102} HL Deb 28 February 1850 vol 109 col. 126.
which every passion – every absurd prejudice and feeling were brought together. By this Bill it was proposed to close the field against such displays.”¹⁰³

Immediately, several of the Lords questioned exactly which displays would be banished from the field. Lord Campbell felt the wording could not be more stringent without prohibiting innocent processions like those of schools and temperance societies; the Earl of Enniskillen thought temperance processions should be prohibited.¹⁰⁴ Lord Brougham stated that all processions except for funerals should be banned, whereas the Duke of Wellington later countered that in his experience, funerals were a frequent trigger for sectarian violence.¹⁰⁵ Wellington, echoing the sentiments of several colleagues, felt the Bill did not go far enough. He contended that any effort to bring order to Ireland required addressing the problem of an armed peasantry. He asserted: “My Lords, the facility for collecting large numbers of people in Ireland with arms is deserving of your attention, and I entreat you to allow a clause to be inserted into this Bill to enable the justices to disperse any such meeting, and to deprive those individuals of their arms who appear upon these occasions in funeral processions, or in an attack upon a funeral procession with arms in their hands.”¹⁰⁶ In the final reading, Lord Monteagle strongly argued for the inclusion of a clause enabling magistrates, constables, and police officers to confiscate the arms of those participating in an illegal assembly. When the Marquess of Lansdowne objected that constables and police officers were not worthy of this trust, the Duke of Richmond suggested that the words “constables” and “police officers” be omitted from the clause. This version was deemed acceptable, and the clause passed.¹⁰⁷ The second Party Processions Act

received royal assent on March 12.108 Thus in 1850, Orange processions initiated a process of publicization that mirrored the ones in 1832. The 1849 riots presented a troubling situation that spurred an investigation that encompassed discussions among members of Parliament. The result was the creation of a public space in Ireland that was – purportedly – under Parliamentary authority when it came to party processions. This qualifier was important: it revealed the multiplicity and untidiness of space articulated by Doreen Massey.109 The Party Processions Act created a particular spatial context under specific conditions: Parliament would only assert this control over Irish streets when and where party processions took place. Other public marches, such as religious processions, took place in a different public space with a different set of meanings.

Although Neil Maddox claimed that the 1832 and 1850 Party Processions Bills for Ireland “were virtually identical in drafting,” in fact the Irish Party Processions Bill of 1850 incorporated significant, if subtle, changes in language that point toward a shift in understanding.110 In the first place, the very title of the bill was different. The 1832 version was “A Bill to restrain in certain cases Party Processions in Ireland,” whereas the 1850 version read “A Bill to Restrain Party Processions in Ireland.”111 This alteration suggested the state might have been expanding the scope of its regulatory powers. Furthermore, the language of religious difference was eliminated and replaced by the term “class,” which was often used as a general term for different categories of persons in Parliamentary debates. The 1850 act opened:

“Whereas Numbers of Persons have been in the Practice of assembling and marching together in

108 HL Deb 12 March 1850 vol 109 col. 715.
109 See Massey, For Space, 9.
111 Emphasis added.
procession in Ireland in a Manner calculated to create and perpetuate Animosities between
different Classes of Her Majesty’s Subjects, and to endanger the public Peace….”

Significantly, the Earl of St. Germans directly addressed the potential confusion over the word
“class.” Hansards recorded his perspective: “He did not think that the phrase ‘different classes’
was one that ought to be used in the Act. It was usually applied to the higher and lower orders,
whereas, in the present instance, it was evidently intended to mean persons of different religious
persuasions – a construction which he thought could not be properly put upon it.” In their
responses to St. Germans’s comment, the Lords acknowledged that they intended the 1850 Act to
be “as comprehensive as stringent.” By 1850, Parliament addressed the 1832 concern that the
Act was too focused on Orange processions by widening its scope to give magistrates the
authority to prevent almost any provocative parade. In addition, the phrase “endanger the public
peace” appeared in the opening sentence, and the phrase “dangerous to the public peace” was
added to the proclamation that would be read by the magistrates in the event of violent
confrontations.

The Canadian Legislative Assembly’s reaction to the riot at Slabtown varied significantly
from that of both the Provincial Secretary of New Brunswick and the British Parliament. In the
aftermath of the Slabtown riot, nineteen Orangemen were indicted, but the grand jury found no
bill and, as was the York Point case, the charges were dropped. It did appear, however, that
locals were willing to serve as special constables to keep the peace in the days following the
conflagration. It must be noted, though, that whereas Mayor Wilmot called on local York Point

112 “8 February 1850 13 Vict. A Bill to Restrain Party Processions in Ireland.” House of Commons Parliamentary
113 HL Deb 28 February 1850 vol 109 col. 130.
114HL Deb 28 February 1850 vol 109 col. 131.
115 Hughes, “The Early History of Merriton.”
inhabitants to put down the riot as it was taking place, the St. Catharines locals were tasked with peacekeeping after the affray. In addition, the fact that St. Catharines considered itself a separate entity from Slabtown may have contributed to the community’s readiness to police the rowdy Irish in Slabtown. After reporting the swearing in of special constables, a correspondent for the Advocate noted that “fear only deters the mob.” But not fear of the law, apparently.

Engendering such anxiety would require effective enforcement, and Upper Canada lacked this capability in the mid-nineteenth century. An editor for the Toronto Examiner wrote that the recent July Twelfth violence demanded decisive action from the civil authorities. He claimed: “In Canada it is well known that Orange processions are illegal, yet in the teeth of the law and at the hazard of creating riot and bloodshed they have been countenanced and held. The law should either be repealed or enforced.” Two years later, the Legislative Assembly took the former option.

After a motion by Tory MP W.H. Boulton, in 1851, Assembly members voted to repeal the Party Processions Act because they found it unenforceable. This was partly due to the growing influence of Orangemen in positions of power in Canadian politics. Gregory Kealey asserted that between 1843 and 1851 “a new and different political consensus had been growing in the Canadas … one that increasing numbers of Orange leaders had helped form.” As explained in the preceding chapter, this Orange Tory influence in Canadian politics extended to the local level, where the Toronto City Council used its control of the constabulary to ensure Orange marches would proceed undisturbed. Kealey explained the significance of this

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117 “Party Processions,” Toronto Examiner, August 8, 1849.
particular form of patronage to Orange activities: “The appointment of the high bailiff and the constables provided far more than jobs for loyal Orangemen. A monopoly of legal violence, and the power to choose when to enforce the law, were significant weapons.”

The deliberation to repeal the Party Processions Act for Canada was relatively brief. Conservative member W.H. Boulton opened the discussion arguing that the law unfairly targeted Orange processions. He paraphrased John Ross, a Crown Officer who worked in criminal justice, to support his case; Ross’s purported testimony reinforces Kealey’s assertion that part of the reason the Act was ineffective was because Orangemen were increasingly involved in municipal and provincial governance. Boulton claimed that Ross had initially been in favor of the Bill, but “now that Orangeism was very general in the country” and Orangemen had proved supportive of the constitution, he thought the Act should be repealed. Ross also supported Boulton’s argument that the Act was unenforceable, but with a suggestion of disappointment at the fact. Boulton reported the following assessment of Ross: “He was opposed to all societies and processions of this kind; but it was well known that this Processions Act, as against Orangemen, was perfectly inoperative. He was concerned in the investigation of the melancholy affair at Slabtown, and although very clear evidence was sent to the jury, they refused to find bills against the Orangemen.” Boulton followed this report with his own contention that it was his “duty to introduce a Bill to repeal this most obnoxious and unconstitutional law.” After railing against the law’s unequal application and unfair and offensive treatment of Orangemen, he asserted “since its enactment the only cases in which it was attempted to be enforced were against Orangemen –

not only were they the only parties aimed at, but so obnoxious was the law considered throughout the land, that all attempts to enforce it have failed, and the laws, by mutual consent, are brought into disrepute.”123

Legislators referred to the Irish example on both sides of the argument. Conservative (and future Orange Grand Master) John H. Cameron argued, with stunning ignorance of recent Irish history, that in that country, “for a long series of years after the battle of the Boyne, Orange processions went on without any ill feeling on either side.” He seconded Boulton’s argument that the law was unfairly applied to Orangemen and further asserted that the common law was “sufficient to preserve the public peace.”124 Conservative William Robinson concurred in this opinion. Reformer and Inspector General Francis Hincks supported his fellow Reformer, William Richards, in contending that “it was not because a law was violated that it should be repealed.” He also showed a more contemporary grasp of the goings-on in Ireland when he cited the recent riots in County Down as the impetus for the new Irish Bill. He argued, “the common law was considered sufficient at that time, but it was found necessary to re-enact that law, and it was distinctly upon these grounds the government came forward with the measure to put an end to these Orange processions, and it was in consequence of the law having been repealed that it was found necessary to do so.” Hincks further opined that they could not deem the Canadian Act ineffective because they did not know how many people it had prevented from joining the processions.125 He thought the law should stand. Reformer William Lyon MacKenzie closed the debate with a bizarre speech in which he “urged the repeal of the law” even though he opposed Orange societies because “he was confident that good would result from it.” He continued that

123 1851 Debates, 1443.
124 1851 Debates, 1444.
125 1851 Debates, 1444.
“he hoped to see the day when nobler and more exalted views would animate activity, when our children will play together, irrespective of what form of religion their fathers or mothers pursued.” He finished by asserting that if the Party Processions Law were repealed, “and if our contemplated railroads and ocean steamers were put in motion, Canada would yet do well, as should would then hold out the olive branch of peace to all.”\textsuperscript{126} Boulton’s argument proved to be the most persuasive; the motion to repeal the Canadian Party Processions Act passed 38-16.\textsuperscript{127}

Canadian legislators acknowledged the problem exemplified by the riot at Slabtown: magistrates and juries simply refused to enforce the Party Processions Act. Both the Canadian Legislative Assembly and the British Parliament anticipated this difficulty. Neil Maddox wrote of Ireland, “successful prosecutions under the Acts were rare due to a magistracy that was reluctant to enforce the measure and a preponderance of Orange jurors. Catholics were also enraged by this perceived injustice. It seemed that the operation of the legislation contributed to sectarian tension, an irony given that it was precisely this occurrence that the Acts were intended to prevent.”\textsuperscript{128} After Dolly’s Brae Parliament relieved Irish magistrates of their authority when they failed to prevent the Orange march according to the common law prohibition of processions likely to disturb the peace; it passed a more general law asserting Parliamentary authority over all processions. After Slabtown the Legislative Assembly relieved Canadian magistrates of the responsibility to do anything at all about processions by repealing their Party Processions Act. Significantly, the Assembly clearly articulated the inability to enforce the law as the reason for its repeal. Mr. W. H. Boulton, a conservative legislator from Toronto, warned his fellow

\textsuperscript{126} 1851 Debates, 1446.  
\textsuperscript{127} 1851 Debates, 1446–1447.  
\textsuperscript{128} Maddox, “A Melancholy Record,” 273.
legislators of the dire consequences to public perception of the law in general if one law in
particular was openly disregarded:

Since the law has been in force, party processions have not diminished, but increased
throughout the Province. … The law not only is never enforced, but … it is admitted on
all hands it cannot be enforced; and when it is borne in mind, that collisions frequently
take place and even lives are lost – the Orangemen not being the aggressors, he
considered it most demoralizing in a community, that a law should exist, which the
Government and authorities were obliged to admit they could not enforce.129

Boulton’s argument echoed that of the Earl of Ellenborough, who expressed this concern while
explaining his doubts about removing magistrates’ discretion in ordering an illegal meeting
dispersed. Clearly worried about the statute’s text, the Earl noted: “In this Bill … the magistrate
had no option, for it was obligatory on him to declare the meeting unlawful, and to disperse it.
Now, if the magistrate had not a sufficient force with him to disperse it, he would only be
bringing the law into contempt by issuing an order which he could not enforce.”130

The problem faced by authorities on both sides of the Atlantic reveals the vulnerability of
the rule of law and its relationship to spatiality. If a majority of the people, or at least community
leaders at the local level, do not respect the legitimacy of a law and refuse to obey it, then the
central government must either ruthlessly enforce that law or repeal it. The fate of the Party
Processions Acts in Ireland and British North America illuminates the interconnections between
space, law, and politics and the ways in which the relationships between them are historically
contingent. Legal geographers David Delaney, Richard T. Ford, and Nicholas Blomely ably
elucidated those connections:

Elizabeth Gibbs, ed. (Montreal: Centre d’Etude du Quebec and the Centre de Recherche en Histoire Économique du
Canada Français, n.d.), 1443.
130 HL Deb 28 February 1850 vol 109 col. 128.
How the fusion of legal meaning and space is accomplished is not a function of natural necessity. … How the connections are made and unmade is strongly contingent, and the connections themselves may be highly provisional. They are practical. They are shifting. They may be functional or radically unstable. But they are most definitely political in every sense of the term. And again, the contingent and provisional nature of legal geographies turns on vicissitudes through which power unfolds in the material world.¹³¹

Following the violence of 1849, New Brunswick’s political leaders fell short of directly addressing the issue, while the Canadian Legislative Assembly and the British Parliament took divergent paths toward claiming state power over local spaces.

CHAPTER 6:
CONCLUSION: WHOSE STREETS?

The passage and ultimate failure of the Party Processions Acts provides an opportunity to engage the historiographical debate over the increasing role of the government in law enforcement and exposes the tensions between state and local concepts of order as they are played out in both abstract and physical spaces. Magistrates in both Ireland and British North America grappled with the potential for violence on the Orange anniversary, and the difficulties inherent in policing this type of annual collective violence precipitated the creation of unique legislation designed to stop the rioting by explicitly preventing the processions that often preceded it. As discussed in the preceding chapters, the passage of the first Party Processions Act for Ireland in 1832 made parading with the intent to celebrate or commemorate any event connected to religious differences between His Majesty’s subjects illegal. It specified such events as those in which marchers carried offensive flags, wore inflammatory emblems, carried firearms, and/or played offensive tunes. The law required magistrates to read an order to disperse, and after fifteen minutes to order anyone who had refused to go home to appear before at least two justices to answer charges.¹ The Canadian bill, passed in 1843, used the British version as a model. In 1844 political leaders allowed the Irish Party Processions Act to expire, although it was renewed in 1850 in response to a particularly sanguinary Twelfth in 1849. Significantly, the 1850 Party Processions Act for Ireland replaced the language of religious difference with the more general term “classes” and specifically targeted events intended to

¹ The Statutes of the United Kingdom of Great Britain and Ireland, 2 & 3 Guliemi IV, 1832 (London: His Majesty's Printers, 1832), 1007–1008.
“endanger the public Peace.” Indeed, “dangerous to the public Peace” were the last words spoken in the magistrates’ command to disperse rioters before the obligatory phrase “God save the Queen.” In spite of deadly Twelfth violence in the provinces of Upper Canada and New Brunswick in 1849, in 1851 the Canadian Legislative Assembly repealed their Party Processions Act when they found it unenforceable.

Following deadly riots at Dolly’s Brae, St. Catharine’s, and York Point in 1849, two very different responses by law enforcement to Orange riots can be detected. Yet public reaction to both events seemed to be the same: the law, magistrates, or local leaders should have prevented the march. The successful prevention of the march assumes knowledge of community rifts and the potential for violence, but laws are frequently reactive rather than proactive. The Party Processions Act is an interesting case, because it sought to prevent offensive marches in an effort to avoid violence. As this dissertation has argued, the language of preventive legislation can lead to various interpretations. But it should be noted that, although anticipatory, even the Party Processions Act did little to address the underlying community tensions that threatened to boil over every July 12. By 1849, changes in policing and the state and public response to collective violence suggest that both the government and the people viewed the riots as a crisis of authority rather than a crisis of community. Public order was less and less the public’s responsibility. Rather, much of that obligation rested on the shoulders of magistrates who, like Keith Wrightson’s English constables, occupied an uncomfortable space at the juncture of state and local concepts of order.³

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² “A Bill to Restrain Party Processions in Ireland” 1850.
In the aftermath of the 1844 Toronto riot, one newspaper contributor asserted, “it is useless to look for peace in Canada, so long as these secret associations and processions are kept up; and those who are openly engaged in them, cannot expect to be cooperated with by others whose object it is to establish peace in Canada.” This observer articulated the challenge that faced magistrates who were tasked to enforce state law at the local level. It was one thing for legislators to look at the disorder caused by Orange processions and decide to put an end to the traditional celebrations, but it was another thing entirely for men who resided in areas that considered marching on the Twelfth of July to be an important part of its cultural fabric to stand in front of Orange columns and read the proclamation. Some magistrates had no intention of interfering and were content to observe the festivities. Others aided the Orangemen by ensuring that forces of the law would be employed elsewhere on the Twelfth. Still others enforced the law partially. Those magistrates who did endeavor to fulfill their obligations under the law often received bruises, scars, and the disapprobation of their communities as their reward.

The Party Processions Acts were difficult laws to enforce. Several newspaper correspondents remarked upon the irony that the Orangemen claimed to be loyal and yet practiced their loyal heritage by breaking the law. A writer for the Kingston Chronicle commented, “if Orangemen wish to be thought really loyal, they must at least pay some deference to the laws of the country in which they live – nor must they be surprised, if they do not, if the sincerity of their loyalty is doubted – and that it may become necessary to resort to more stringent measures to compel obedience.” But if they did not pay deference to these laws, what then? Would the state resort to more stringent measures to compel obedience? Or would the

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4 “To the Editor of the British Colonist. Toronto, July 16th, 1844,” British Colonist (Toronto), July 23, 1844.
Orangemen successfully call the state’s bluff? By exposing the rift between enacted and enforced law, Orange riots, and other acts of collective violence, challenged the limits of state authority.

The Party Processions Acts provide an interesting case study to examine the utility of the state monopolization thesis during the mid-nineteenth century. On the surface, the legislation supported the claim that the government asserted more control over the operation of law enforcement, but upon closer examination, this legislative effort also exposed the limits of the state’s reach. Sir Denham Norreys, MP for Mallow in County Cork, articulated the persistent difficulty the state faced in entrusting law enforcement – and thereby its own legitimacy – to local officials who may have different interests. During the debate over the second Party Processions Act, Norreys

hoped the Government would endeavour to make the law obeyed in Ireland, because it was the law, and not allow it to be interpreted by partisan magistrates. … He held a letter in his hand from a noble Lord, who stated that resistance to an Act of Parliament might be justifiable and praiseworthy. It was this principle against which he protested. The Government should crush it, and take steps to make the law respected and obeyed, because it was the law. Until they did so, they could never rule Ireland.⁶

In 1840s Ireland and British North America, the success of law enforcement remained dependent on the belief at the local level in the legitimacy of the law, both among local officials and the general public. Standing at the crucial nexus of state law and local interests, at the junction of two concepts of order, and at the intersection between the abstract space of legislation and the physical space of law enforcement were the magistrates.

In the only study to focus solely on the Party Processions Acts, legal scholar Neil Maddox argued that the procession legislation ultimately failed. He concluded, “the attempt to

impose a blanket ban on all Orange marches meant that the Act inevitably failed to garner the support of many of the more moderate members of the Protestant community, a fact that rendered the Acts unenforced and unenforceable in the north of the country.” In spite of Parliament’s expansive rhetoric in 1849 and 1850, Maddox’s assessment lines up with the reasons the Legislative Assembly of Canada gave for repealing their Party Processions Act in 1851. Historian Peter Goheen explained:

When a Party Processions Act became law in 1843, in large measure as a response to the Toronto election disorder of 1841, it was ineffectual in remedying the discord, especially that perpetrated by the Orange Order in the streets. What was deemed appropriate and acceptable behaviour in public space was the product of an accommodation between a generality of citizens and their civic officials. In 1841 this arrangement withstood the full glare of censure from the highest office of the state, and between 1843 and 1851, when the Party Processions Act was annulled, defied the law of the land.

Indeed, this negotiation of acceptable behavior in public spaces is crucial to the modern definition of public space that emerged in the mid-nineteenth century. As public space shook off the final remnants of the notion of the common space, which Blackmar defined as space from which no community member could be excluded, it took on an increasingly middle-class sensibility. As Sevilla-Buitrago contended, “the dispossession of subaltern commons becomes a key element in the imposition of new social orders and the consolidation of social hegemonies, and thus public space is mobilized through a particular enclosure regime to produce new behaviors and spatial practices.”

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8 Goheen, “Negotiating Access to Public Space,” 442.
9 Blackmar, “Appropriating the Commons,” 51.
Crucially, in the case of the Party Processions Acts, the state sought to control public space through its legislative powers. One could think of public space as the arena in which the balance of power is tested and negotiated. On the Orange side, as Sean Farrell articulated, “[July Twelfth] marches served to lay ritual claim to contested territory.”\(^{11}\) Irish Catholics were determined to challenge this claim. The shift in language between the 1832 Party Processions Act and the 1850 Party Processions Act to focus on the public peace reflected emerging liberal priorities. In their recent book, *Civic Identity and Public Space: Belfast since 1780*, Bryan and Connolly revealed the inherent contradiction in the liberal espousal of the doctrines of both individual freedom and self-discipline. They explained: “this in turn permitted the emergence of a powerful new abstraction. Where earlier systems of social regulation had sought to protect the wealthy or privileged, liberalism imposed its restrictions in the name of ‘the public,’ an imagined self-disciplined majority whose enjoyment of liberty and of access to public space were legitimately protected from the potential misuse by others of those same liberties and rights.” This worked in Great Britain. However, they claimed, “in Ulster … the same rhetoric of ‘the public’ was subordinated to religious and political sectionalism, with results that quickly laid bare the inner contradictions of the liberal synthesis of freedom and order.”\(^{12}\) These contradictions of freedom and order are central to the debate over access to and behavior in public spaces. Don Mitchell articulated this paradox: “The central contradiction at the heart of public space is that it demands a certain disorder and unpredictability to function as a democratic public space, and yet democratic theory posits that a certain order and rationality are vital to the

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success of democratic discourse.”\textsuperscript{13} The notion of public space and “the public” is so central to democratic rhetoric, and yet it is so little interrogated and understood by the general public.

Scholars, too, have been late to appreciate the significance of public space in our understanding of how society changes over time. In the abstract for his article in 1994, Goheen asserted that “public space has been unwisely neglected by the student of the modern city.”\textsuperscript{14} More than twenty-five years later, students of history have only recently begun to focus on the potential that the application of ideas regarding public space has for our understanding of social history. This dissertation applies ideas from social histories of English crime and law – like Keith Wrightson’s “two concepts of order” and E.P. Thompson’s study of the Black Act – to explore the ways the Party Processions Acts both shaped and were shaped by the emerging contests for public space. Law plays a critical and reciprocally definitive role in shaping the spaces in which we live our lives. It is molded by both space and time, a focus on particular edicts enables the historian to explore this reciprocal relationship. As Meccarelli and Sastre insisted, “the dynamism of law does not describe the movement of an object that is predefined and unchanging in time and becomes dislocated in space. To the contrary, it is seen as a prime environment in which to observe law as a dynamic object; an object that, despite having an identifiable provenance, adopts different characteristics as it negotiates spatial – or more aptly, spatiotemporal – movement.”\textsuperscript{15}

This discussion illustrates the complexity and necessity of thinking about space and time (and law) simultaneously. Each is inherently dependent on the other. Massey insisted that scholars embrace this complexity and defined space as interrelated, multiple, and in-the-

\textsuperscript{13} Mitchell, \textit{The Right to the City}, 130.
\textsuperscript{14} Goheen, “Negotiating Access,” 430.
\textsuperscript{15} Meccarelli and Sastre, “Spatial and Temporal Dimensions; An Introduction,” 14.
making. She wrote, “it may be useful to think of places, not as areas on maps, but as constantly shifting articulations of social relations through time; and to think of particular attempts to characterize them as attempts to define, and claim coherence and a particular meaning for, specific envelopes of space-time.” Space is dynamic, and so is law. The law can, in fact, be thought of as “constantly shifting articulations of social relations through time.” Spatially bounded, the law attempts to control space. As Blomley explained, “it is important to remember that it is not just law that is enacted. In enacting law, we enact space, and vice versa.”

It is strange to be finishing this dissertation during this particular envelope of space-time: in the United States in the summer of 2020. Alexandre Kedar’s observations seem particularly relevant: “Attention to the interconnectedness and mutual constitution of law and space often entails a critical exposition of their frequent role in the production of oppressive power structures.” For many months in 2020, on a daily basis, protesters all over the world have been demanding that citizens open their eyes to these oppressive power structures and that states dismantle – or at least reconsider – the robust public order policing system. The birth and early development that system has been described in these pages, at least in the Irish and British North American contexts. People are flooding the streets and public squares, risking bodily harm not only from law enforcement and counter protesters, but also from the unchecked COVID19 pandemic. In a moment in which Americans are most encouraged to be private citizens, many are marching as public citizens. Even in this digital age, there is no substitute for the streets. We

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16 Massey, For Space, 9.
17 Massey, “Places and Their Pasts,” History Workshop Journal 39 (1995): 188. Massey used the term “place” in this article, but ten years later in For Space she advocated rejecting the distinction between place (as local and personal) and space (as abstract and other). See Massey, For Space, 6.
hear again the cry and response that originated with the crowds in Ferguson, Missouri, demanding justice for Michael Brown, a young Black man shot and killed by a white police officer in 2014: “Whose streets?” “Our streets!” Videos of crowds in Bristol, England documented the toppling a statue of eighteenth-century merchant and slave trader Edward Colston, which was erected in the city center in 1895. People dragged the statue to the waterfront and dumped it into the harbor, cheering as bubbles roiling the surface slowly dissipated until nothing remained to see of the public monument to racist, white, capitalist power. Some contemporaries have reacted with dismay and horror at what they see as the destruction of history. Others have applauded the crowd’s actions as history-making. The themes of history, public space, public order, and policing that swirled around sectarian Orange processions – as analyzed in this dissertation – also inform our perceptions of racially charged monuments and contemporary policies. Nearly two hundred years after the first Party Processions Act for Ireland sought to establish state control over access to public spaces and thoroughfares, the question retains its urgency: “Whose streets?”
A NOTE ON THE APPENDIXES

The data used to compile the following appendixes were derived primarily from digitized newspaper collections, including the British Newspaper Archive, the Google News Archive, the New Brunswick Irish Portal curated by the Provincial Archives of New Brunswick, Paper of Record, and the Seventeenth and Eighteenth Century Burney Newspaper Collection curated by the British Library. Crucially, these databases are keyword and date searchable, which allowed me to locate and date as many Boyne anniversary riots as I could within the large geographical regions of Ireland and British North America. I intentionally used the term “Boyne anniversary” here, because one of the factors I considered was that the celebration could occur on July 1, July 2, July 12, or July 13 (depending upon whether the participants were using the old or new calendar and whether the preferred date fell on a Sunday). In addition, I wanted to capture public discussions anticipating the Twelfth as well as the reports of what happened in the days and weeks following the event. Some of the other search terms I used included the following: “Orange Order,” “riot,” “affray,” “Boyne,” “party,” “procession,” and “orange.” If any of these terms turned up between June 15 and August 15, I investigated the “hit.” I then followed up to see whether the rioters appeared in later newspaper accounts of quarter or assize sessions.

The working database is a spreadsheet organized by date. It indicates the town, county, and country in which the riot took place. Other categories include the cause of the riot (if discernable), the particular type of territorial claim (procession, arch, fire, or property damage), the assembly point (if noted), whether terror was mentioned in the account, and the total number of fatalities. Fatalities proved be a less useful category than I had originally hoped because the

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1 For complete citations, see each database’s entry in the bibliography.
true numbers were difficult to fix due to under reporting, over reporting, and the lag time between injury and death. The “Notes” column summarizes the riot and includes information about the primary antagonists. The final column records each source in which the riot appears.
APPENDIX A:

NUMBER OF JULY TWELFTH RIOTS BY YEAR (IRELAND), 1813–1852
### APPENDIX B:

**LOCATIONS OF JULY TWELFTH RIOTS BY YEAR (IRELAND), 1813–1852**

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<tr>
<th>Year</th>
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</thead>
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<td>1815</td>
<td>Dublin</td>
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<tr>
<td>1819</td>
<td>Dublin</td>
</tr>
<tr>
<td>1820</td>
<td>Dublin</td>
</tr>
<tr>
<td>1821</td>
<td>Bandon, Butler’s Bridge, Cork, Mountmellick, Newry</td>
</tr>
<tr>
<td>1822</td>
<td>Dublin</td>
</tr>
<tr>
<td>1823</td>
<td>Belfast, Clay, Crann, Keady, Sturgan</td>
</tr>
<tr>
<td>1824</td>
<td>Belfast, Donaghadee, Dromore, Dublin, Newry (x2)</td>
</tr>
<tr>
<td>1825</td>
<td>Belfast, Cloughjordan, Crum</td>
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<td>1827</td>
<td>Belfast, Dungannon, Tipperary</td>
</tr>
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<td>1828</td>
<td>Ballinlinee, Ballinamore, Ballyeaston, Donegal</td>
</tr>
<tr>
<td>1829</td>
<td>Armagh, Athlone, Aughnacloy, Belfast, Birney’s Hill, Castlewellan, Clones, Donegal, Dromahair, Drumlamph, Enniskillen, Glenow (Clonoe/Coal Island), Greyabbey, Knockloughran, Lurgan, Macken, Manorhamilton, Strabane, Three-Mile Hill</td>
</tr>
<tr>
<td>1830</td>
<td>Belfast, Bellaghy, Castlewellan, Crossgar, Muff, Newry, Newtownstewart</td>
</tr>
<tr>
<td>1831</td>
<td>Banbridge, Belfast, Middleton</td>
</tr>
<tr>
<td>1832</td>
<td>Cavan, Newry</td>
</tr>
<tr>
<td>1833</td>
<td>Cootehill, Keady, Randalstown,</td>
</tr>
<tr>
<td>1834</td>
<td>Bailieborough, Belfast</td>
</tr>
<tr>
<td>1835</td>
<td>Abbeyfeale, Ballyroney, Bandon, Bangor, Belfast, Dromore, Kilrea, Monaghan, Millfield, Roscrea</td>
</tr>
<tr>
<td>1836</td>
<td>Armagh, Athboy, Ballyclare, Dromore, Enniscorthy, Garvagh, Gorey, Grange, Knocknashane, Monaghan, Omagh, Pomeroy, Rathriland</td>
</tr>
<tr>
<td>1837</td>
<td>Ballymacarrett, Dromore</td>
</tr>
<tr>
<td>1838</td>
<td>Ahoghill, Ballyroney, Belfast, Garvagh, Greyabbey, Magherafelt, Newtownstewart, Sixmilecross</td>
</tr>
<tr>
<td>1839</td>
<td>Ballymena, Coleraine, Cranky, Culnaddy</td>
</tr>
<tr>
<td>1840</td>
<td>Armagh, Coleraine, Derrycaw, Enniskillen, Farlough, Sheeptown</td>
</tr>
<tr>
<td>1841</td>
<td>Ballymoney, Carnreany (x2), Desertmartin, Dromore, Downpatrick, Edenderry, Grange, Loughgall, Maghera, Moy</td>
</tr>
<tr>
<td>1842</td>
<td>Agivey, Ballymacarrett, Belfast</td>
</tr>
<tr>
<td>1843</td>
<td>Belfast, Ballyvarley, Lifford</td>
</tr>
<tr>
<td>1844</td>
<td>Ballymena, Castleberg, Cork</td>
</tr>
<tr>
<td>1845</td>
<td>Armagh, Dublin, Dungannon, Lavy, Newry</td>
</tr>
<tr>
<td>1846</td>
<td>Armagh, Belfast, Coal Island, Derrylin, Dungannon, Keady, Lurgan, Newry, Strabane</td>
</tr>
<tr>
<td>1847</td>
<td>Castlefin, Cross Keys, Dungannon, Newry</td>
</tr>
<tr>
<td>1848</td>
<td>Ballybovey, Millfield</td>
</tr>
<tr>
<td>1849</td>
<td>Ballymacarrett, Belfast (x3), Derry, Magheramayo (Dolly’s Brae), Newry</td>
</tr>
<tr>
<td>1850</td>
<td>Belfast</td>
</tr>
<tr>
<td>1851</td>
<td>Magherafelt</td>
</tr>
<tr>
<td>1852</td>
<td>Belfast, Middletown, Newtownards</td>
</tr>
</tbody>
</table>
APPENDIX C:
PRIMARY ORANGE OPPONENT BY PARTY PROCESSIONS ACT STATUS

[Bar chart image]

- 1813-1832
- 1833-1843 (PPA)
- 1844-1849
- 1850-1852 (PPA)

Legend:
- Catholics
- Police
- Selves
APPENDIX D:

ORANGE RIOTS IN IRELAND BY PARTY PROCESSIONS ACT STATUS, 1813–1852

![Bar chart showing riots in Ireland by party processions act status, 1813–1852.](chart.png)
APPENDIX E:
JULY TWELFTH RIOTS IN BRITISH NORTH AMERICA BY LOCATION
AND YEAR, 1825–1852

<table>
<thead>
<tr>
<th>Year</th>
<th>Province</th>
<th>Town</th>
</tr>
</thead>
<tbody>
<tr>
<td>1825</td>
<td>Lower Canada</td>
<td>Montreal</td>
</tr>
<tr>
<td></td>
<td>Upper Canada</td>
<td>Kingston</td>
</tr>
<tr>
<td>1827</td>
<td>Upper Canada</td>
<td>Kingston</td>
</tr>
<tr>
<td>1832</td>
<td>Upper Canada</td>
<td>Picton</td>
</tr>
<tr>
<td>1833</td>
<td>Upper Canada</td>
<td>St. Catharine’s, York (Toronto)</td>
</tr>
<tr>
<td>1835</td>
<td>Upper Canada</td>
<td>York (Toronto)</td>
</tr>
<tr>
<td>1836</td>
<td>Upper Canada</td>
<td>York (Toronto)</td>
</tr>
<tr>
<td>1842</td>
<td>New Brunswick</td>
<td>Saint John</td>
</tr>
<tr>
<td>1843</td>
<td>Canada East</td>
<td>Quebec</td>
</tr>
<tr>
<td></td>
<td>Canada West</td>
<td>Kingston</td>
</tr>
<tr>
<td>1844</td>
<td>Canada East</td>
<td>Drummondville, Montreal</td>
</tr>
<tr>
<td></td>
<td>Canada West</td>
<td>Toronto, Welland Canal</td>
</tr>
<tr>
<td>1846</td>
<td>Canada West</td>
<td>Bytown (Ottawa), Goderich, Kingston, Lanark, Pembroke, Renfrew</td>
</tr>
<tr>
<td></td>
<td>New Brunswick</td>
<td>Fredericton</td>
</tr>
<tr>
<td>1847</td>
<td>New Brunswick</td>
<td>Fredericton, Saint John, Woodstock</td>
</tr>
<tr>
<td>1849</td>
<td>Canada East</td>
<td>Montreal</td>
</tr>
<tr>
<td></td>
<td>Canada West</td>
<td>Hamilton, Slabtown</td>
</tr>
<tr>
<td></td>
<td>New Brunswick</td>
<td>Saint John</td>
</tr>
<tr>
<td>1851</td>
<td>Canada West</td>
<td>Toronto</td>
</tr>
<tr>
<td>1852</td>
<td>Canada West</td>
<td>Hamilton</td>
</tr>
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