

"Mercy we will take, and mercy we will give:" Protests and Justice in early nineteenth  
century Newfoundland

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## **Abstract**

The protests that occurred in the Conception Bay region of Newfoundland, specifically Harbour Grace, Carbonear, St. John's and Port de Grave, between the years 1815 to 1840 indicate underlying tensions. Newfoundland's working population collectively resisted the local officials' decisions in response to their economic, political, social and legal conditions. The residents' concerns were exacerbated by major changes that occurred in Newfoundland's society, particularly the decline of the island's fishery in 1815 after the end of the Napoleonic War and in 1832 after England granted the residents Representative Government. At the same time, Newfoundland's working population protested the island's legal authorities' actions because the fishing servants and families were frustrated that the judges viewed them as criminals. The protests included in this discussion are an anonymous petition that stopped the extermination of dogs in St. John's, a series of servant marches against merchants in Harbour Grace, a sealer's strike against the truck system in Carbonear, a demonstration against the gibbetting of Peter Downing's corpse in Harbour Grace and a rally to reclaim Catherine Snow's corpse from Edward Kielley in Port de Grave. The protestors successfully stopped Newfoundland's judges from fulfilling their responsibilities because they did not support the authorities' actions. Each of these protests demonstrates that groups conflicted with one another in early 19<sup>th</sup> century because they did not agree with one another over how justice was defined and how it should be implemented.

## Chapter One: Introduction

Between the years 1815 and 1840, Newfoundland fishing servants and families participated in several protests and acts of collective resistance that disrupted St John's and Conception Bay communities' everyday activities. In 1815, anonymous petitioners stopped the St. John's magistrates from ordering the extermination of all dogs when the principal inhabitants feared that the recent string of dog attacks were spreading hydrophobia, or rabies, across the island.<sup>1</sup> In the winter of 1816-17, the Harbour Grace fishing servants repelled the local magistrates' attempts to have these workers shipped to Europe when the town experienced a major food shortage.<sup>2</sup> In 1832, Carbonear and Harbour Grace sealers acquired a monetary wage when they organized a strike against their employers and their local suppliers.<sup>3</sup> In 1834, the Harbour Grace townspeople protested the magistrate's order to have Peter Downey's gibbeted corpse displayed on a nearby hill.<sup>4</sup> That same year, Roman Catholic protestors in Port de Grave stopped the local surgeon from dissecting the body of a convicted murderer, Catherine Snow.

While each of these workers' acts of resistance against law officials and employers were separate incidents, considered together they show a pattern of protest. The working people of Conception Bay responded to circumstances, either externally created by economic depressions, or internally manufactured by law officials' decisions.

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<sup>1</sup> Colonial Office 194/56 [Reel B-685], 1815, 14-16.

<sup>2</sup> Minutes of the General Sessions, Harbour Grace, 6-16 June. 1817. Provincial Archives of Newfoundland and Labrador, The Rooms, (PANL), GN 5/4/B/1, box 1, 93-105.

<sup>3</sup> Linda Little, "Plebeian Collective Action in Harbour Grace and Carbonear, Newfoundland, 1830-1840," (Master's Thesis, Memorial University of Newfoundland, 1984), 157. GN 2/2, Harbour Grace magistrates to Crowdy, Jan. 21, 1832.

<sup>4</sup> CO 194/87 [Reel-B536], 1834, 52-8.

Workers perceived the latter as unjust attacks on their livelihoods. These acts of collective resistance demonstrated how Newfoundland's fishery workers used their numbers and the threat of violence to challenge the authorities' decisions that they saw as attacks on their livelihoods or to circumvent legal officials' choices that hindered their economic power.

Christopher English, a legal historian, argued that Newfoundland's judges required the people's support to make formal law function. When the people did not grant their consent, then they openly protested and criticized the magistrates' commands. In the absence of a coercive state, particularly in the early 19<sup>th</sup> century, consent was necessary if the laws were to be enforceable.<sup>5</sup> The law could not be enforced when people collectively resisted the authorities' commands. These protests, however, show more than how Newfoundland's legal system operated and how popular it was among the population. I argue that the court cases provoked by workers' acts of resistance and protests demonstrate underlying tensions that different classes had about the colony. I examine these cases of workers' resistance to show how they responded to their concerns about Newfoundland's changing economic structures after the end of the Napoleonic War in 1815 and political organizations after the colony was granted representative government in 1832.

Workers responded to economic troubles in two ways. In some instances, the servant population wanted to preserve their traditional master-servant relationships. In

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<sup>5</sup> Christopher English, "The Development of the Newfoundland Legal System to 1815," *Journal of the History of the Atlantic Region, Acadiensis* XX, 1 (Autumn, 1990), 111.

other cases, the workers fought against traditions to gain better access to the rewards of their labour when new industries were introduced into the island's economy. The combination of workers' preservation of traditional economic systems and adoption of new labour techniques demonstrated that people wanted to advance their position during a major downturn in Newfoundland's fishery.

The political struggles that occurred after Newfoundland was granted representative government in 1832 showed how religious and ethnic affiliations were tied to political power. Newfoundland's population often divided itself between Irish Catholics and British Protestants, but this did not mean that sectarianism was the only cause of political strife for the colony. In different instances, working people and merchants clashed with one another as they competed for power, in some cases to gain greater rights or to protect their dominance. The last two chapters examine the protests against the execution of Peter Downey and Catherine Snow. They demonstrate that ethnic and religious groups, who often intersected, struggled against one another to understand their place in this new political order.

Residents' economic and political struggles show how classes conflicted with one another, and help us to understand the changing social order and legal systems. Workers either retained or gained new rights as they protested against the island's elites who tried to maintain their own power through the courts. The workers' economic, political and social struggles were each tied together as people exerted their power either bypassing or using the courts. While Newfoundland's class structure was different than that of other parts of the British Empire, it fits with the larger pattern of protest that occurred in other

colonies. In this way, the court records and the newspapers, which told of different legal proceedings, establish how these documents acted as a window into how people lived in Newfoundland and in the British Empire during the 19<sup>th</sup> century.

George Rudé's and E. P. Thompson's work on crowd movements and class conflicts do much to describe collective action. Rudé argued that 19<sup>th</sup> and early 20<sup>th</sup> century historians assumed crowds were homogenous groups who were defined as a "disembodied abstraction and not as an aggregate of men and women flesh and blood."<sup>6</sup> Scholars discussed crowds as if they were the same throughout the world, defining group movements as deterministic and formulaic in nature. Rudé argued that crowds were made up of people coming together under different motives to express their agency against authorities who threatened their way of life. While Rudé's examples show pre-industrial crowds as reactionary forces, his work demonstrated how social history redefined the mob from an amorphous entity to a human movement made up of individuals. E.P. Thompson accomplished a similar task when he challenged how previous historians applied Marx's base/superstructure theory to explain how groups acted. He showed that it was necessary for people to study the totality of society to understand why people acted the way they did.<sup>7</sup> Thompson argued that individuals' experiences represented a common lifestyle, while other historians saw history as a culmination of class struggle. Thompson showed how group resistances were human movements based on how people were concerned about different aspects of society.

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<sup>6</sup> George Rudé. *The Crowd in History, 1730-1848* (New York: John & Sons, Inc., 1964), 9.

<sup>7</sup> E.P. Thompson. "Eighteenth Century English Society: Class Struggle Without Class?" *Social History* 3.2, 147.

I define collective resistance as individuals with different motives coming together to fight for greater rights or to defend their traditions or pursue common goals. In many cases, Newfoundland's fishing servants and fishing families organized together because of the economic hardship, but other underlying tensions, such as social and political disturbances, also caused people to protest. This essay includes an analysis of the fishing servants' and the fishing families' efforts to collectively resist their masters and the magistrates' commands that offended their sense of fairness.

Collective resistance refers to instances and larger patterns of protest in Newfoundland. My singular examples look at specific causes, such as the economic or political struggles, but when they are placed together they show a larger pattern of workers concerned with how Newfoundland's social and legal orders changed after the end of the Napoleonic War. I will be looking at both peaceful demonstrations, when people wrote petitions to oppose legal proclamations, large-scale protests when individuals used their numbers to disrupt communities' every-day activities, and the use of groups to intimidate individuals into complying with what the workers wanted. In many cases, the fishing servants and families blurred the line between peaceful, disruptive and violent actions as they used multiple tactics to achieve their goals. Newfoundland's legal system and its court records serve as a window into how people interacted with one another and how they identified themselves.

Acts of collective resistance demonstrated a group's power, as shown by the workers who protested between the years 1815 and 1840. This was an important period in Newfoundland's history, as the island's population underwent major economic, political

and legal developments that changed how they viewed their respective group identities. This essay examines how the fishing servants and fishing families interacted with the law. I examine how Newfoundland's residents acted as groups, and how these acts shaped their relationship with their masters within a developing economic, political, legal and social atmosphere.

Were the fishing servants and families reactive or proactive when they collectively resisted? By reactive I am referring to when groups defended their traditions, such as the paternalistic obligations of masters toward their servants, against acts that bypassed their sense of fairness or decency. By proactive I mean protests that were designed to change the status quo to directly benefit the group, such as demanding that wages be paid in cash rather than credit, or to develop livelihoods in new directions. Answering this question would help to put together a picture of the realities of their economic and social relationships with one another and their paternalistic masters. For instance, did merchants hold all the power when determining credit and contracts with their customers, or were the island's residents able to circumvent the traders' monopolies?<sup>8</sup> It is important to look at individual cases of workers' and townspeople's resistance efforts because each instance provides nuanced details about people's lives during this period that an overarching and large scaled study would not be able to give. Particularly, each of these separate protests show that the fishing servants' and families' reactions to perceived threats against their way of life do not fit the earlier historians'

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<sup>8</sup> Sean Cadigan, *Hope and Deception in Conception Bay: Merchant-Settler Relations in Newfoundland, 1785-1855* (Toronto: University of Toronto Press, 1995), 28-9.

descriptions as being strictly reactive or proactive, such as how Gertrude Gunn and Linda Little described them.

This research on Newfoundland's acts of collective resistance has prompted other questions. First, how did external factors, such as falling fish prices, impact Newfoundland's social interactions and people's relationships?<sup>9</sup> International markets for fish directly influenced the connection between Newfoundland's cod fishery, its primary industry, and people's social positions. This prompts an investigation to understand if the protests during the 19<sup>th</sup> century were influenced by the economic depression, or if they played a part in bringing it about. Secondly, do these acts of collective resistance demonstrate that Newfoundland's fishery had a unique class structure?

I have limited my discussion to St John's and Conception Bay because that area offers extensive evidence. Sources include the Provincial Archives of Newfoundland located in The Rooms, the Roman Catholic Basilica Archives, and the Centre of Newfoundland Studies in the MUN library. I have collected court records, colonial documents, magistrates' letters and newspaper articles from different publications that pertain to the cases of collective resistance. Each of these sources provided valuable information on the circumstances and the effects that Newfoundland's working population had on the island's society. While there are documents on the other districts available in these archives, these are not as extensive as the ones on Conception Bay because officials focused on events that occurred in the central court district, where the Supreme Court was located.

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<sup>9</sup> D.W. Prowse, *A History of Newfoundland* (London: Macmillan and Co., 1895), 404.

Newfoundland's court and colonial records were heavily biased in favor of Newfoundland's principal inhabitants because these documents were written by the island's elites such as the Governor, the Board of Trade, and the Royal Navy.<sup>10</sup> This meant that the fishing servants' and families' perspectives were rarely directly represented in the official record. The workers' collective acts of resistance were interpreted by the magistrates and the island's principal inhabitants against whom the people protested. Early nineteenth century newspapers were also openly tied to political parties, religious denominations and social factions. This bias was reflected in how the editors of these papers interpreted the fishing servants' and families' protests. For instance, the *Patriot's* editor supported people's acts of resistance against Newfoundland's government because he believed that the Irish population wanted their independence from British rule.<sup>11</sup> Other editors, such as Henry Winton who edited the *Ledger*, saw the workers' acts of collective resistance as dangerous riots that threatened the island's society.<sup>12</sup> As such, the fishing servants and families rarely gave their own accounts of their actions during this period, but the documents that are available are usable in piecing together a narrative that occurred.

This paper works with what the archival record does and does not say about the acts of collective resistance that occurred between the years 1815 to 1840. The research indicated that Newfoundland's working population clashed with masters, merchants and

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<sup>10</sup> Jerry Bannister, *The Rule of the Admirals, Law, Custom, and Naval Government in Newfoundland, 1699-1832* (Toronto: University of Toronto Press, 2003), 46-7.

<sup>11</sup> Patrick O'Flaherty, *Old Newfoundland, A History to 1843* (St. John's: Long Beach Press, 1999), 154.

<sup>12</sup> Patrick O'Flaherty, "WINTON, HENRY DAVID," in *Dictionary of Canadian Biography*, vol. 8, University of Toronto, accessed December 3, 2017, [http://www.biographi.ca/en/bio/winton\\_henry\\_david\\_8E.html](http://www.biographi.ca/en/bio/winton_henry_david_8E.html).

legal authorities because these groups each interpreted the law as performing different functions. The fishing servants believed that the island's law officials did not care about their opinions on how justice should be implemented, and they saw that these officials favored Newfoundland's principal inhabitants. With no other options, Newfoundland's working population took to the streets as a final defense against the administration's efforts to change how these authorities acted in society.

### Historical Background

Newfoundland's society experienced major economic, political, legal and social developments during the Napoleonic War and its aftermath. These changes caused people to identify themselves in new ways as the different classes, especially the fisheries' workers, adapted to meet these new circumstances. As such, it is important to look at the historical background before 1815 and during this period to understand why these developments were significant to the acts of collective resistance that will be discussed.

During the eighteenth century, Newfoundland's economy and social life was divided between the servants, the planters and the merchants. The servants consisted of a small segment of individuals born on the island, and migratory workers from England and Ireland who were hired by the West Country merchants to labour in Newfoundland's fishery.<sup>13</sup> The planters, independent fish plantation owners, acted as the servants' masters. They employed servants to work for the fishing season on the boats that they

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<sup>13</sup> G.M. Story, W.J. Kirwin and J.D.A. Widdowson, eds. *Dictionary of Newfoundland English*, 2<sup>nd</sup> ed., s.v. "set", 461.

owned.<sup>14</sup> The planters, in turn, relied on the merchants to supply them with the necessary fishing gear and provisions to complete their voyages. In exchange, the planters would give the merchants their catch to sell in the international markets.<sup>15</sup> Even though merchants monopolized imports and exports, they did not directly control how the servants and the planters worked in the industry. Power shifted between these classes as political, economic and cultural circumstances changed, yet the merchants remained as a dominant force in the island's society.

During the Napoleonic Wars, Newfoundland experienced an economic boom as the price of fish rose due to other international fisheries being closed and markets having limited access to this resource. Merchants extended further credit to their planter clientele to gain greater profits from their workers' successful voyages. This allowed planters to hire larger numbers of servants and increase production of fish. After 1815, Newfoundland's economic, legal, political and social relationships changed when a depression followed the end of the war.<sup>16</sup> The price of fish fell dramatically when the markets were opened to other nations' fisheries.<sup>17</sup> Planters who relied heavily upon servants' labour became bankrupt when the magistrates expected these boat owners to repay their debts to their merchants and their employees' wages. Planters who used family labour, however, were able to survive this economic decline since they did not have to pay as many wages. This caused a shift in how the fishery operated, as the

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<sup>14</sup> Ibid., s.v., "planter", 382.

<sup>15</sup> Ibid., s.v., "maw-mouth", 326.

<sup>16</sup> Shannon Ryan, *Fish Out of Water, The Newfoundland Saltfish Trade 1814-1916* (St. John's: Breakwater, 1986), 35-7.

<sup>17</sup> Keith Matthews, "The Class of '32: St. John's Reformers on the Eve of Representative Government," *Acadiensis* (Spring 1977), 84.

surviving planters became more reliant on their family members to work on their boats. As a result, the servant population dwindled when planters hired fewer migratory workers and the servants who were left on the island married into their masters' households to gain employment. Fishing families dominated the fishery by the 1820s and the migratory fishery had been replaced by a residential industry.<sup>18</sup> This did not mean that the servant population had completely disappeared at this time, but that their importance in the industry had lessened to the point that families dominated the operation of fishing vessels.

The island's legal system adapted to meet this change. In the late 1700s, Newfoundland's migratory fishers and residents relied on the Royal Navy to impose the law. Newfoundland's Governors, the commanders of the convoy, used their power to unofficially appoint naval surrogates from amongst their officers to patrol the island's communities.<sup>19</sup> While there were local magistrates, they held little authority in comparison to the surrogate judges. Yet, the residents welcomed the law and order that the Royal Navy brought to Newfoundland. The magistrates were limited by the law to only review property and wage disputes, while the naval surrogates could conduct investigations into major crimes.<sup>20</sup> Residents saw the Royal Navy as having the authority and the means to bring justice to Newfoundland because it could use warships to patrol the outpost communities.

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<sup>18</sup> Sean Cadigan, *Hope and Deception in Conception Bay* (Toronto: University of Toronto Press, 1995), 37.

<sup>19</sup> Bannister, *The Rule of the Admirals*, 88.

<sup>20</sup> *Ibid.*, 69.

A reform party headed by Patrick Morris and William Carson brought public attention to the Royal Navy's alleged abuses against Newfoundland's settled population. The historian Keith Matthews argued that the reformers were not Newfoundland nationalists like those who fostered the American Revolution, but were Irish and British elites who immigrated to the island or were second-generation families from prosperous merchant families. They saw themselves as British citizens in a society that did not respect their position in the empire because Newfoundland was not a colony with its own government.<sup>21</sup> The Newfoundland reformers emulated their British reformer cousins, because they saw governmental change as an opportunity to increase their social status.

While the Newfoundland reformers may have identified more as British citizens than as Newfoundland residents, segments of the island's population, such as the disenfranchised Irish, saw them as true Newfoundland patriots. Public support for the reformers reached its peak when Morris and Carson brought attention to the Royal Navy's abuses against the residents.<sup>22</sup> Both Morris and Carson argued that Newfoundland needed to adopt representative government to grant residents control over the justice system. The reformers accused the Royal Navy of brutality and incompetency. Eventually, the reformers' efforts were effective in ousting the naval surrogates, which the Board of Trade replaced with an appointed civilian Chief Justice.<sup>23</sup> The Chief Justice then appointed local magistrates to oversee the island's legal system and marked the end of the Royal Navy's reign as Newfoundland's surrogate judges. Additionally, the

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<sup>21</sup> Matthews, "The Class of '32: St. John's Reformers on the Eve of Representative Government", 87.

<sup>22</sup> Cadigan, Sean. *Newfoundland & Labrador, A History* (Toronto: University of Toronto Press, 2009), 91-3.

<sup>23</sup> Bannister, *The Rule of the Admirals* 88.

reformers' efforts to demonize the naval surrogates bolstered their support from the public and newspapers such as the *Patriot*. In 1832, Carson and Morris accomplished their goal of bringing representative government to Newfoundland.

The social, and in many cases the legal, identities of Newfoundland residents were tied to their ethnic and religious backgrounds. From the early 1600s to the late 1800s, Roman Catholics in Newfoundland were not given the same rights or considerations as Protestants were by the administration.<sup>24</sup> The British government curtailed people's worship of Catholicism in 1697 with the Banishment Act and other measures, in which "Catholic bishops and priests were compelled to return to their countries of origin."<sup>25</sup> These restrictions extended to Newfoundland as the island's Roman Catholic population were prohibited from practicing their religion. In one case, the Royal Navy demolished a person's house because a priest held Catholic masses in the home. Tensions were also high between Catholic and Protestant communities, in which people divided themselves into separate communities.<sup>26</sup> This religious division was emphasized by the growing economic and social stratification that occurred between the Irish and the English. A majority of Newfoundland's Roman Catholic community consisted of Irish immigrants who moved here as fishing servants hired by the West Country Merchants to work in the migratory fishery.<sup>27</sup> As the migratory fishery transitioned into a residential one, the Irish fishing servants permanently settled on the island and married into their masters' families.

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<sup>24</sup> Bannister, *The Rule of the Admirals*, 10-11.

<sup>25</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 35.

<sup>26</sup> Bannister, *The Rule of the Admirals*, 217.

<sup>27</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 25.

On the opposite end of the socioeconomic spectrum, most of Newfoundland's merchants and administrative personnel were English Protestants.<sup>28</sup> They had the capital and education to dominate the island's government, while the Irish Roman Catholics worked to maintain their livelihoods in the fishery. An English majority largely made up Newfoundland's administration since its inception.<sup>29</sup> While Newfoundland's early Governors, who were Royal Navy admirals, appointed both people of Irish and English descent as magistrates, these local justices were still mostly English. This practice continued when Newfoundland's administration elected to have residents act as the main legal force, as the English in the government outnumbered the Irish. However, there were wealthy Irish Roman Catholics and poor English Protestants. Patrick Morris, for example, was a prominent Irish merchant who helped to establish the reformers in Newfoundland.<sup>30</sup>

These religious and economic differences led to a social stratification that divided communities into separate Catholic and Protestant cultures. Power between the two groups was constantly contested, as both sides used legal measures and illegal actions to defend their interests. Keough argued that the Harbour Grace affray, for example, was caused by people's ethnic identities, instead of their denominational identities, as other historians had argued.<sup>31</sup> It is important to note that these majorities, the Irish Roman Catholics and the English Protestants, shaped how Newfoundland's working population

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<sup>28</sup> Ibid., 26-7.

<sup>29</sup> Ibid., 237-8.

<sup>30</sup> John Mannion, "MORRIS, PATRICK," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003–, accessed December 5, 2017, [http://www.biographi.ca/en/bio/morris\\_patrick\\_7E.html](http://www.biographi.ca/en/bio/morris_patrick_7E.html).

<sup>31</sup> Willeen Keough, "Contested Terrains: Ethnic and Gendered Spaces in the Harbour Grace Affray", *The Canadian Historical Review* 90, no.1 (2009), 29-70.

and the island's elites interacted with one another. This relationship often led to conflicts where individuals to large groups fought one another over perceived slights. Yet, the people involved in these conflicts often identified themselves based on their affiliations with several groups, instead of solely relying on their religion to define their allegiances.

In 1784 Newfoundland's and England's administrations had lifted some of the restrictions that they placed on Roman Catholics.<sup>32</sup> Bannister noted that after the end of the Seven Years War Royal Navy officials dealt with cases of Irish residents collaborating with French forces who occupied St. John's. Tensions ran high between the administration and the local Irish populations as people were trialed for treason or other crimes. For example, "Esther Merrifield swore a deposition that she had been raped during the French occupation... [by] John Stackebald, who identified as an Irishman."<sup>33</sup> The St. John's magistrates had Stackebald executed for his crimes, but they declared that he was hanged for helping the French. Bannister points out that hostility between the administration and the Irish residents lessened to the point that the island's government adopted a stance of toleration in 1779 towards Catholic practices. Eventually the administration made this a "grant of liberty of conscience in 1784."<sup>34</sup> Residents were given free rein to practice Catholicism and local officials no longer had to renounce their Catholic faith to maintain their positions. Yet, people remained divided as religious, ethnic, economic and social divisions became further entrenched.

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<sup>32</sup> Bannister, *The Rule of the Admirals*, 218-9.

<sup>33</sup> *Ibid.*, 218.

<sup>34</sup> *Ibid.*, 218.

As stated earlier, the workers' acts of resistance were a part of a larger trend that was occurring across the empire during the 1800s. In Ireland, for instance, the United Irishmen rebelled in 1798 to retake their independence from Britain.<sup>35</sup> While none of Newfoundland's acts of collective resistance reached the level of violence that occurred in Ireland during this rebellion, some of the Irish residents may have carried the memories of this event with them when they immigrated to the island, and the Irish residents who made up the majority of the working population were distrustful of authorities because of the United Irish Rebellion. England's workers also staged their own acts of resistance during the late 1700s that were similar to how Newfoundland's servants resisted the island's authorities. Thompson states in *Whigs and Hunters* that England workers protested authorities' efforts to erode their rights to communal land and given to private holders.<sup>36</sup> Newfoundland's servant population acted in a similar manner, as discussed in chapter two and three. In both cases, the workers came together to protest the authorities' actions that they felt impinged on their traditional and economic rights.

In British North America, people engaged in politically motivated acts of collective resistance, much as the Catholic populations of Newfoundland protested the executions of Peter Downey and Catherine Snow. Scott W. See discusses how English Protestants and Irish Catholics fought one another in a series of riots in New Brunswick during the 1840s.<sup>37</sup> See demonstrates that each of these protests was politically charged,

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<sup>35</sup> Radvan Markus, "Níl an Focal Sin Againn": Orality, Literacy, and Accounts of the 1798 Rebellion," *New Hibernia Review*, 14, no. 1 (Spring 2010), 112-126.

Susan B. Egenolf, "Maria Edgeworth in Blackface: Castle Rackrent and the Irish Rebellion of 1798," *ELH*, 72, no. 4 (Winter 2005), 845-869.

<sup>36</sup> E.P. Thompson, *Whigs and Hunters* (New York: Pantheon Books, 1975), 21.

<sup>37</sup> Scott W. See, *Riots in New Brunswick* (Toronto: University of Toronto Press, 1993), 3-6.

as groups of people were aligned by their ethnicity and religious affiliation to resist their rivals. Newfoundland's Irish Catholics acted in a comparable manner, when they communally resisted the authorities' decisions to execute Downey and Snow. They believed that the British Protestants who controlled Newfoundland's government were biased against Catholic prisoners and unjustly condemned them to death. These comparisons show that similar underlying tensions were present throughout the Empire.

The shifts in Newfoundland's economic, legal and political systems changed how people related to one another. With the decline in numbers of fishing servants during the 1820s, Newfoundland's merchants relied on the fishing families and the credit system to complete the seasons' fishing. This affects how we view the different acts of collective resistance, since groups with different backgrounds and identities organized together to resist their masters. For instance, in 1816 to 1817, the court records referred to the servants who demanded food from their local merchants as "rioters" or as a "mob."<sup>38</sup> In 1834, this language changed, for example, when the court records and the newspapers called the protestors who resisted the magistrates' orders to have Peter Downing's remains dissected as "the public."<sup>39</sup> This suggests that the officials in the judiciary saw that Newfoundland's residents inhabited a new social category. The judicial officials perceived people as either disrupting the public sphere or of being a part of it. As such, the identity changes that the fishing servants and families underwent during this period can be attributed to the changing structure of Newfoundland's society.

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<sup>38</sup> Minutes of the General Sessions, Harbour Grace, 6 June-16 June, 1817. PANL, GN 5/4/B/1, box 1, 102.

<sup>39</sup> Edward Kielley to Thomas Cochrane, Port de Grave, 23, July, 1834. PANL, GN 2/2, n.g. 357.

## Historiography

Historians have discussed how Newfoundland's residents were often in conflict with one another. Groups defined justice in different ways, and they believed that their actions were fair, even when they conflicted with other people's actions. This section discusses how historians attributed residents' acts of collective resistance to sectarian, political or ethnic divisions within the population. The second part will look at how historians have applied class analysis of economic and social inequalities. I divided these historians into different categories to organize them around central themes that pertain to my discussion on workers' acts of collective resistance. Each of these historians could fit into either category, but I feel it is important to group them to demonstrate certain themes that are important in understanding my contribution. What each of these scholars demonstrated is that the fishing servants and families expressed their agency as a part of a group and did so within the circumstances that they found themselves.

Newfoundland's modern historiography is rooted in the 1960s when Keith Matthews challenged the island's "traditional" historiography. Matthews stated that John Reeves and D.W. Prowse created the myth that the West Country merchants prevented the island's people from having any control over Newfoundland's development during the late 17<sup>th</sup> and early 18<sup>th</sup> centuries. 20<sup>th</sup> century historians, such as A. McClintock and W.L. Morton, accepted Reeves' and Prowse's ideas that Newfoundland's development was subverted by group-conflict as merchant groups contested one another over economic supremacy of Newfoundland. Matthews argued that the West Country merchants were not the villains that earlier historians suggested. Instead, he showed how

the Devonshire merchants benefited from settlement.<sup>40</sup> Matthews pointed out that earlier historians neglected to talk about large portions of Newfoundland's history to continue the false narrative that the West Country merchants had subverted the island's settlement. His argument gave further agency to the island's residents and he showed that the merchants differed in their views.

Other scholars focused on particular moments to explain the rate of Newfoundland development. In 1966, Gertrude Gunn reexamined Newfoundland's early 19<sup>th</sup> century political history.<sup>41</sup> Gunn focused on how the island's elites, such as the reformers, the merchants and the magistrates, impacted their society's development. This is both an advantage and a flaw of Gunn's work. She showed that the principal inhabitants shaped Newfoundland's political scene through their decisions, but she described the majority of the island's population, the fishing servants and families, as capable only of violent protest. Gunn used also sectarianism between Catholics and Protestants to explain Newfoundland's political instability after 1832, but this argument does not fully answer why people collectively resisted specific acts.<sup>42</sup>

More recently Patrick O'Flaherty also examined Newfoundland's political turmoil that occurred between the years 1832-1843. In 1999, he concentrated on Newfoundland's elites to understand the island's sectarian and party divisions.<sup>43</sup> Unlike Gunn, he did not believe Newfoundland's political conflicts or people's protests were solely sectarian.

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<sup>40</sup> Keith Matthews, "Historical Fence Building: A Critique of the Historiography of Newfoundland," *Newfoundland and Labrador Studies* 17.2 (2001), 145.

<sup>41</sup> Gertrude Gunn, *The Political History of Newfoundland, 1832-1864* (Toronto: University of Toronto Press, 1966), v.

<sup>42</sup> *Ibid.*, 7-8.

<sup>43</sup> Patrick O'Flaherty, *Old Newfoundland A History to 1843* (St. John's: Long Beach Press, 1999), Preface.

Unlike Matthews who argued that conflict was rooted in social ambition of English and Irish residents of Newfoundland who cared little about the local grievances, O'Flaherty looked more closely at the reasons people organized into groups to collectively resist what they considered injustices.<sup>44</sup> He effectively showed that sectarianism was not solely responsible for Newfoundland's turmoil, while he placed blame on the church leaders for some of the conflicts. He believed that other factors, such as a depressed economy, had created desperate situations and that people's grievances were justified. O'Flaherty discussed the political impacts that the workers had on Newfoundland's society, but paid less attention to how the majority of the island's population influenced its political scene. These two historians show how the fishing servants and families did not hold equal representation in Newfoundland's government, since principal inhabitants and merchants dominated the island's politics.

Neither Gunn nor O'Flaherty gives enough attention to how workers participated in shaping the island's political landscape. My contribution shows that servants and planters participated in political development by using their collective power to establish a foothold in how the government decided matters. A dialogue, while often forced open by the workers, was established between the people and its authorities, where individuals voiced their common concerns about Newfoundland's development through their actions. I agree more with O'Flaherty's interpretation than with Gunn's that external factors were significant in influencing how people reacted to certain matters, but it is important to

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<sup>44</sup> Patrick O'Flaherty, *Old Newfoundland*, 146.

examine how internal constraints, such as sectarianism, impacted how groups related to one another and community cohesion.

In 2009 Willeen Keough examined the belief that the Harbour Grace Affray, the most violent incident of Catholic versus Protestant violence in Newfoundland during the nineteenth century, was caused by religious tensions. She argues that the respective parties' religious identities were a part of their larger ethnic identities.<sup>45</sup> Keough argued that the Irish of Riverhead and the English of Harbour Grace considered their towns to be their ethnic territories. When the Orange Order marched into Riverhead, the Irish saw it as the English challenging their territorial rights and their collective power.<sup>46</sup> Keough's arguments might have been more persuasive, however, if she had defined the term *ethnicity*.

In 2016, Kurt Korneski examined how people divided themselves into separate territories based on their ethnic differences and local economic factors. Korneski showed that different cultures colonized the island and how these groups lived next to one another, producing conflict and renegotiating their boundaries. Korneski highlighted that Newfoundland's residents were not just reactive or proactive, but acted in accordance to their values.<sup>47</sup> Compared to Gunn, O'Flaherty and Keough, Korneski is effective in showing how ethnic differences impacted the residents' group actions. Where the other historians focused on one particular aspect of the fishing servants and families, Korneski

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<sup>45</sup> Willeen Keough, "Contested Terrains: Ethnic and Gendered Spaces in the Harbour Grace Affray," *The Canadian Historical Review* 90.1 (March 2009), 30-1.

<sup>46</sup> *Ibid.*, 40.

<sup>47</sup> Kurt Korneski, *Conflicted Colony, Critical Episodes in Nineteenth-Century Newfoundland and Labrador* (Montreal: McGill University Press, 2016), 7-8.

discussed how their cultural, economic, political and social positions each influenced how the residents acted to the different circumstances that they faced. He offers the most complete discussion on how ethnic identities influenced the fishing servants' and families' collective acts of resistance. Keough's and Korneski's arguments are consistent with my argument that earlier group conflicts in Newfoundland need to be reexamined to illustrate how factors other than sectarianism were at play. For instance, how did changing economic factors determine how people saw one another as they competed for greater political representation? Ethnicity is especially significant to discuss in regards to sectarian conflicts because not all Irish were Catholic nor were all English Protestant. My study does not delve into how Irish Protestants or English Catholics were seen by their fellow residents, but their presence shows that groups were based on several identities, such as their class and ethnic backgrounds.

#### Newfoundland's Modern Historiography: Class Actions

The historians discussed in this section wrote about the fishing servants' and families' class relations. These scholars all worked within the framework of British Marxist historians, and examined the fishing servants' and families' group actions as evidence of class structure within Newfoundland's society during the 19<sup>th</sup> century. While these scholars approached this subject in different ways, they were each interested in illustrating how people used their agency within the limits of Newfoundland's society. In a study particularly relevant to my own, Linda Little asserted that Newfoundland's fishing servants and families were not a working class, as Marx may have defined, during

the 19<sup>th</sup> century because they were a part of a paternalistic society.<sup>48</sup> By paternalism I am referring to an economic system based on obligations, where workers and masters relied upon contracts for employment.<sup>49</sup> Masters saw themselves as the patriarchs of their families, and their servants as extensions of their households. Servants were expected to fulfill their responsibilities to their employers by completing their contracts, and could be subject to corporal punishment. However, Brian Palmer's definition makes it seem as if masters were in complete control of their workers, but my own research indicates that these economic pacts were rife with conflict over how these responsibilities should be upheld. In some instances, such as the Harbour Grace food strikes in 1816-17, the workers held more control than the masters because of their ability to organize together.

In 1984, Linda Little attacked the idea that Newfoundland's plebeians, a term she adopted from E.P. Thompson to address the island's fishing servants and families, were passive individuals.<sup>50</sup> Her category and use of the term *plebeian* is not terminology that people in the nineteenth century would have recognized. People would likely have referred to themselves as servants, planters or merchants. She argued Newfoundland's plebeians were not a just a group who only defended their traditions, but that they took action against their masters and the merchants. Little derived her argument from her research on the decades of 1830-1840, in which she illustrated how the fishing families connected through their culture of resistance that they adopted from their home countries of Ireland and England. Like Thompson, she saw paternalism as a time when people were

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<sup>48</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 5-6.

<sup>49</sup> Bryan D. Palmer, *Working Class Experience, Rethinking the History of Canadian Labour, 1800-1991* (Toronto: McClelland & Stewart Inc., 1992), 42.

<sup>50</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 4-5.

unaware of their common social and economic positions.<sup>51</sup> Instead, she argued that the fishing servants and families existed as a proto-class, as the workers' cultural traditions or heritage tied them together into ethnic communities. She stated that eventually the workers' cultural connections would become intertwined with their acts of resistance and would be transferred into future generations, creating their class ideals.

Little demonstrated that the island's workers were not passive. People used their crowd strength to make changes in their relations with those who had power over them. Little argued that the fishing servants and families held a common plebeian-culture, but not a class identity. On the other side, she asserted that the sealers' strike represented a class movement and the beginning of the island's class divisions in the 1830s.<sup>52</sup> Little wanted to show how the residents' actions changed, but her discussion would have been more effective if she talked about how their cultural identity translated into their class awareness. Little drew heavily from Thompson's idea that paternalistic societies only contained proto-classes, when people were unaware that their economic power determined their social positions in Newfoundland. Little's discussion is consistent with my argument that Newfoundland's residents brought their cultures with them when they immigrated to the island and this influenced how they related to one another. Economic struggles were as much about class as they were about competing cultures, especially between the British and the Irish. I agree with her assertion that the servant population was active participants in how Newfoundland's legal system developed.

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<sup>51</sup> Ibid., 5-6.

<sup>52</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 14.

In a similar analysis, the anthropologist Gerald Sider also looked at how Newfoundland's culture and traditional ties to Europe influenced how the island's residents formed their class identities. In 1986, Sider proposed that "[c]ulture enters the dynamic of class...because it is where class becomes dynamic; where the lines of antagonism and alliance come together and apart."<sup>53</sup> He argued that the class or economic dimensions created the culture. He stated that Newfoundland's cultural traditions, such as mummering, were based on the fishing servants' and the planters' reactive responses to the merchants' oppressions. Much like Gunn, Sider presented the island's principal inhabitants as having agency, but he did not see agency of the majority of Newfoundland's population. He claimed that the fishing servants and families were powerless to directly challenge the traders' control over the economy, and could only use symbolic acts, such as mummering, to protect their rights. However, my own discussions on acts of collective resistance show that merchants were not as dominant as Sider argues in controlling the economic exchanges and subsequently, the island's social system. Like Sean Cadigan, I argue that workers played a larger role than Sider allowed.

In 1995, Cadigan responded that Newfoundland's residents played a larger role than Sider allowed. He argued that Sider was wrong in asserting that the West Country merchants completely controlled Newfoundland's development, and that these traders forced the island's residents to use family labour.<sup>54</sup> Cadigan discussed how external factors, such as fish prices, forced Newfoundland's residents to adapt to new economic

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<sup>53</sup> Gerald Sider, *Culture and Class in Anthropology and History, A Newfoundland Illustration* (London: Cambridge University Press, 1986), 9.

<sup>54</sup> Sean Cadigan, *Hope and Deception in Conception Bay: Merchant-Settler Relations in Newfoundland, 1785-1855* (Toronto: University of Toronto Press, 1995), 37.

circumstances.<sup>55</sup> For instance, when the price of fish dropped after the Napoleonic Wars, the planter households who used more family labour than servants for work economically survived this period and the demand for migratory servants dropped.<sup>56</sup> Cadigan demonstrated that Newfoundland was not isolated, but was connected to the rest of the world. He argued that the servants used their group power in response to circumstances that harmed them. Cadigan argued that the planters were a reactive force that adapted to new economic circumstances. The inhabitants changed how they interacted with one another, and how they identified themselves, in response to these changes. He demonstrated how important it is to understand how external circumstances impacted the island's development. At the same time, his acknowledgement of the residents' efforts to elicit change in a merchant economy showed how the fishing servants and families were active in shaping their lives while being exploited for their labour.

Jerry Bannister, a legal historian, pointed out that Cadigan only used evidence from the Avalon Peninsula. In particular, Bannister found Cadigan at fault when he claimed that Newfoundland magistrates favored servants when masters brought their employees to court or that punishment was eliminated during the late 18<sup>th</sup> century.<sup>57</sup> Instead, Bannister pointed out that the magistrates did not universally apply the law across the island, but that they used their own discretion in many cases. Did Newfoundland's residents experience the economic decline during the early 19<sup>th</sup> centuries in similar ways, or did the Avalon residents face unique circumstances that

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<sup>55</sup> Cadigan, *Hope and Deception in Conception Bay*, 41.

<sup>56</sup> *Ibid.*, 40-1.

<sup>57</sup> Bannister, *The Rule of the Admirals*, 244.

allowed them to adapt? Bannister's and Cadigan's views are reconcilable. As a legal historian, Bannister's interests lay in different areas than Cadigan's, even though both scholars focused on similar evidence from the court systems. Bannister is more interested in how Newfoundland's formal power structures were established and administered.<sup>58</sup> Much like Christopher English, Bannister saw that the government required the people's popular support to function. He used examples of residents' protests as ways to indicate how effective the Royal Navy was in administering the law.<sup>59</sup> He argued that the island had an effective system of government since the Royal Navy officials and the local magistrates were able to quell people's protests through peaceful or harsh measures. Cadigan, on the other hand, looked at how people interacted within these power structures. In many ways, these scholars' works complement one another, since they both examined similar pieces of evidence from different perspectives. Cadigan indicated that fishing families developed on the Avalon Peninsula and Bannister demonstrated that these social and economic developments may not have universally occurred across the island. My own discussion is aligned with Cadigan's and Bannister's arguments that the fishing servants and families organized in reaction to local and external events that occurred around them. I also argue that Newfoundland's working population took advantage of changing circumstances to push for greater economic and social rights that were created by these external circumstances, such as how the international economy shifted in new directions after the end of the Napoleonic War.

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<sup>58</sup> Bannister, *The Rule of the Admirals*, 23.

<sup>59</sup> *Ibid.*, 224.

The cases of collective resistance I examine may be understood within the frameworks of Korneski's, Little's and Cadigan's interpretations of Newfoundland history. I agree with their views that both internal and external influences affected how people treated one another. Irish and English identities persisted among settlers on Newfoundland. Their ideas of justice came from these two perspectives as they attempted to reconcile what was fair, based on what they experienced in their original culture and with their new identities on Newfoundland. The residents' identities as members of groups were complex, as they could inhabit different perspectives when they clashed with the law.

Fishing servants' and townspeople's collective actions during the years 1815 to 1840 show that they were united by their work in the fishery. The servants and families were not equivalent to industrial classes in London, but Newfoundland had its own social and economic hierarchy. The workers were aware of their common position within the island's paternalistic society, and they used their numbers to circumvent official channels that were dominated by their masters to get their way. While people were able to petition their local magistrates on legal matters, the law officials listened more closely to the highest-ranking members of Newfoundland's society, such as the merchants.<sup>60</sup> The island's workers felt that they were unable to trust the legal process and to have their voices heard by the administration.

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<sup>60</sup> Bannister, *The Rule of the Admirals*, 147.

## Chapter Two: The 1815 Dog Petition

In 1814-1815 a group of St. John's workers threatened the local magistrates and the Chief Justice, Cesar Colclough, to stop them from exterminating dogs. When the Governor was away, and with no representative assembly, the Chief Justice was responsible for protecting the public order from threats. The Colonial Office appointed Colclough to Newfoundland after he left his position as Prince Edward Island's Chief Justice. He was a controversial figure in PEI's history, as he was involved with the local proprietors who conflicted with Lieutenant Governor Joseph DesBarres and his supporters, the Loyal Electors. Colclough was friendly with what he considered the island's genteel class, and supported their aims to gain greater property rights. However, in 1809, DesBarres and his loyal electors were "attacking the [absentee land] proprietors in the name of the people,"<sup>61</sup> Colclough's name was tarnished in PEI after this three yearlong conflict when he committed questionable actions to defend his allies. Before he left to oversee Newfoundland's justice system, the Prince Edward Island's residents considered him a defender of murderers and a person who beat his servants. When Colclough arrived in Newfoundland, he found himself beset by financial woes and what he considered seditious Irish factions who wanted to undermine his authority. Colclough continued to align himself with society's elites while in Newfoundland, and this later caused him trouble as the records on the dog petition demonstrate.<sup>62</sup>

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<sup>61</sup> J. M. Bumsted, "COLCLOUGH, CÆSAR," in *Dictionary of Canadian Biography*, vol. 6, University of Toronto/Université Laval, 2003–, accessed February 13, 2018, [http://www.biographi.ca/en/bio/colclough\\_caesar\\_6E.html](http://www.biographi.ca/en/bio/colclough_caesar_6E.html).

<sup>62</sup> Bumsted, "COLCLOUGH, CÆSAR," in *Dictionary of Canadian Biography*, vol. 6, University of Toronto/Université Laval.

A number of the town's principal inhabitants and merchants had earlier approached the local justices to complain about the dangerous dogs that roamed the vicinity of St John's. Work dogs were widely used to haul wood, for example, but when not being employed they were left to roam. While no official complaints were found in the records, one of the magistrates claimed numerous dogs had bitten them and that they were afraid that the animals were infected with hydrophobia, better known as rabies.<sup>63</sup> J.M. Bumsted suggested that the threat of rabies initially came from a ship that visited St. John's.<sup>64</sup> When the magistrates apprised the Chief Justice of this situation, he asked the Grand Jury, comprised of the town's principal inhabitants, to investigate these claims. Bannister notes how Grand Juries were often formed by the residents themselves to be used as a means of local representation.<sup>65</sup> In some cases, the local authorities empaneled Grand Juries to "try capital offences, treason expected", such as the one Governor Francis Drake formed in 1750.<sup>66</sup> The Grand Jury who approached Colclough was not involved in determining if a human should be executed, but the jurors were given the task to decide if the authorities should exterminate animal life. This demonstrated that Newfoundland's Grand Juries had evolved. Colclough was aware of the seriousness of the threat that hydrophobia presented. If the dogs infected other animals, then people could find themselves becoming seriously sick or they could lose their cattle.

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<sup>63</sup> Colclough's Letter About Mad Dogs to Unknown, St. John's, February 7<sup>th</sup>, 1815. CO 194/56-[Reel B-685], 11.

<sup>64</sup> Bumsted, "COLCLOUGH, CÆSAR," in *Dictionary of Canadian Biography*, vol. 6, University of Toronto/Université Laval.

<sup>65</sup> Bannister, *The Rule of the Admirals, Law, Custom, and Naval Government, 1699-1832*, 151.

<sup>66</sup> O'Flaherty, *Old Newfoundland*, 78.

When the Supreme Court next deliberated, on February 6th, the Grand Jury argued that the dogs in St. John's had hydrophobia and they posited that a plan was needed.<sup>67</sup> Colclough took the Grand Jury's conclusions seriously, but the Chief Justice noted in his letters to the magistrates that he believed the issue had been blown out of proportion. The Chief Justice compared the elites' fears to the same ones that London elites held about dogs in the past. Colclough referred to 1798, when London's elites started a movement to exterminate dogs in the nearby area to stop the spread of rabies.<sup>68</sup> He wrote that London's elites were never able to prove that the dogs had hydrophobia, much as St. John's principal inhabitants were unable to. Instead, London's and St. John's elites relied on their political clout, such as their positions on the Grand Jury, and their combined word of mouth to produce enough complaints to force legal officials to enact measures to get rid of potential hydrophobia threats.

While Colclough doubted the seriousness of the threat of mad dogs in St. John's, he enacted a plan that satisfied the principal inhabitants and the merchants. He ordered that any dogs found within St. John's that was not muzzled or being used for sledding were to be destroyed.<sup>69</sup> Colclough offered substantial rewards to any person who brought in dogs to be killed. His order did not affect other towns, but there was no way to identify where the dogs came from and people could claim the bounty by bringing in animals from other locations. The Chief Justice's plan may have pleased St. John's elites, but the fishing servants and planters who used the dogs for work were angered by this proposal.

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<sup>67</sup> Colclough's Letter About Mad Dogs to Unknown, St. John's, February 7<sup>th</sup>, 1815. CO 194/56-[Reel B-685], 11.

<sup>68</sup> O'Flaherty, *Old Newfoundland*, 11-13.

<sup>69</sup> In the Court of Sessions, L. Chancey. St. John's, 3<sup>rd</sup> February, 1815. CO 194/56-[Reel B-685], 14.

In response to Colclough measures, an anonymous letter was drafted in the name of the “poor of St. John’s” and unknown persons nailed it to the courthouse’s doors the day after the Supreme Court adjourned. The letter stated that the town’s servants would not abide with the law if it meant that their dogs would be killed, and it asked the Chief Justice to rescind his orders.<sup>70</sup> If Colclough did not accept their demands, then the anonymous writer threatened that the “poor” would take to the streets to force the court officials to take back their orders. The writer noted that the Chief Justice’s proclamations was similar to preceding orders that English officials made before the Irish rebellion of 1798, in which England’s authorities killed the Irish residents’ cattle because people feared that they were diseased.<sup>71</sup> The anonymous writer compared Colclough’s commands to British officials’ oppressive measures against the Irish. It suggested that the island’s administration was continuing a pattern of unnecessary and unjust orders against the Irish people.

The writer denied that the dogs had hydrophobia and insisted that these animals were necessary for people’s livelihoods. The servants and poorer families of St. John’s relied upon their dogs to hunt game during the colder months, and these animals would pull the sleds that brought the timber back to their homes.<sup>72</sup> The wood that the dogs carried was used in the construction of buildings necessary for the fishery such as fish flakes. The justices’ destruction of the dogs would not only hurt the poor of St. John’s, but it would also limit the servants’ and the planters’ ability to work in the fishery. The

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<sup>70</sup> The Distressed of St. John’s to Colcough, Dog Petition. St. John’s, n.d., 1815. CO 194/56- [Reel B-685], 16-17.

<sup>71</sup> The Distressed of St. John’s to Colcough, 17.

<sup>72</sup> The Distressed of St. John’s to Colclough, 16.

writer made it clear that the servants, many of whom came from Ireland, did not want their rights trampled upon as had happened in the past, and they were taking precautionary steps to prevent this. The author employed a threat in the last line of the letter, in which the author stated “[m]ercy we will take, and mercy we will give.”<sup>73</sup> The author insisted that they did not want to force the Chief Justice’s hand, but that the ‘poor’ felt that they had no choice in the matter.

Colclough refused to give in to the anonymous petitioners’ threats. Instead, the Chief Justice announced to the local Sheriff that he wanted the writer and the person who posted the letter to be apprehended. Colclough offered a substantial reward for information that people brought to the court officials. He additionally proposed that any petitioners or accomplices to the poster would be pardoned if they turned themselves in and provided information on who committed these acts.<sup>74</sup> Colclough wanted to show the public that the petitioners’ threats were not tolerated, especially if they used intimidation tactics to disrupt his orders. Colclough’s response demonstrated an important characteristic about the relationships between the justices and the different classes that resided in St. John’s. The principal inhabitants and merchants were able to get the justices’ attention by going through official channels. In particular, their status as high-ranking members of Newfoundland’s society, in this case created by their wealth and their ability to control the cod fishery’s production, gave them greater clout in getting the magistrates to do what they wanted. This was illustrated by how some of the principal inhabitants and merchants held positions in the Grand Jury which convinced the Chief

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<sup>73</sup> Ibid., 17.

<sup>74</sup> Colclough’s Letter About Mad Dogs to Unknown, 12-13.

Justice to exterminate the dogs. In comparison, St. John's servants and the poorer planters did not have the same power to get the justices' attention. The servants could complain to their court officials, but the island's elites held positions within the administration.

Colclough and the magistrates listened more closely to the town's elites because the principal inhabitants had official positions that granted them greater authority than the fishing servants.<sup>75</sup> British officials often chose to place the island's principal inhabitants, including merchants, into positions of authority both because these people were often educated, and because their judgment could be counted upon to uphold the interests of property owners. Bannister noted that Newfoundland governors appointed successful fishing admirals and surgeons as magistrates because of their experience with the law and their educational backgrounds.<sup>76</sup> Additionally, the merchants were involved with the local justice system, even though they rarely held official positions. Bannister also pointed out that the local administration saw the merchants as a source of public funding, which it used for the maintenance and construction of buildings necessary for the island's government. When the merchants gathered together to form committees or to petition their local Justices of the Peace, the administration listened to their complaints because the authorities realized that they needed these traders to keep Newfoundland's economy and government running.

This interdependent relationship was exemplified by Benjamin Lester's relationship with the naval surrogates and Governor Palliser during 1767. Lester was a

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<sup>75</sup> Bannister, *The Rule of the Admirals*, 119.

<sup>76</sup> *Ibid.*, 23.

prominent merchant who held significant shares in Newfoundland's fishery along with his brother Isaac, and who oversaw the English side of their family business venture.<sup>77</sup> As a former magistrate in Trinity, Lester was familiar with the legal authorities, especially the naval commodores and governors that visited the island during the summer. For instance, Commodore Albright visited Lester to have tea with the merchant and to deliver a personal letter from Governor Palliser.<sup>78</sup> Merchants' and legal authorities' social circles often included one another. As such, the "[m]erchants influenced but [they did] not control" Newfoundland's legal system.<sup>79</sup> The town's elites had greater access to official channels since they operated within the system, while the servants were left outside of it to petition their local magistrates and hope that the justices listened to their pleas. If petitions did not work, the workers used protests to circumvent the courts and to change how the law functioned. The Chief Justice, and the local magistrates, trusted the elites' word over that of the town's servants and poorer planters, because the judicial officials were themselves enlisted from a similar social class.

Unfortunately, there are no extant records to determine whether the principal inhabitants were successful in having the town's dogs exterminated, or if the servants stopped it from happening. There were also no records of people turning in the writer and the poster of the petition, or any further information on these suspects. The lack of evidence suggests that the elites were unsuccessful in their plan to have the dogs removed from St. John's. If the authorities' plan was successful there would be documentation on

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<sup>77</sup> D. F. Beamish, "LESTER, BENJAMIN," in *Dictionary of Canadian Biography*, vol. 5, University of Toronto/Université Laval, 2003–, accessed January 23, 2018, [http://www.biographi.ca/en/bio/lester\\_benjamin\\_5E.html](http://www.biographi.ca/en/bio/lester_benjamin_5E.html).

<sup>78</sup> Bannister, *The Rule of the Admirals*, 153.

<sup>79</sup> *Ibid.*, 129.

people being paid for bringing in animals to be destroyed, correspondence on the success of this plan and appeals for compensation. If the petitioners were not bluffing, there would also be evidence of protests against the Supreme Court officials for killing their dogs.

Colclough's documented concerns about Irish rowdiness suggest another dimension to this incident, since he inferred from the petitioners' allusion to the Irish rebellion that they were immigrants from Ireland.<sup>80</sup> The Chief Justice stated in different letters that the Irish Catholics were causing trouble in Conception Bay by rioting. It is hard to determine if Colclough was correct in his claim that these riots consisted solely of Irish servants but not servants of English background, because he did not present any evidence to prove his point.<sup>81</sup> Colclough's letters demonstrate his paranoia of Irish Catholics, and his biases that these people were naturally seditious. The Chief Justice's family was a part of the Irish Protestant elites. Bumsted stated that his family's participation in Ireland's politics led Colclough to support the "English government in its suppression of the Irish Rebellion of 1798."<sup>82</sup> Colclough's suspicions of Irish Catholics led him to suspect that these people were behind every protest and that they were undermining his authority. What the Chief Justice's letters suggest is that it is possible that the extermination of the dogs may have happened, and that groups of servants were protesting against these unfair laws. Yet, Colclough never stated in a majority of the cases why these people were protesting, only that he believed that it was the Irish causing

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<sup>80</sup> Distressed of St. John's to Colclough, 16-17.

<sup>81</sup> Colclough's Report on the State of Affairs in Newfoundland, St. John's, March 19, 1815. CO 194/56 [Reel B-685], 173.

<sup>82</sup> Bumsted, "COLCLOUGH, CAESAR," in *Dictionary of Canadian Biography*, vol. 6, University of Toronto/Université Laval.

trouble. Therefore, the lack of documentation about the consequences of his plan to exterminate the dogs and the later petition strongly suggest that the St. John's court officials did not go ahead with their order, whether it was the servants who caused the authorities to back down or other factors.

The available evidence also suggests that the St. John's justices saw the fishing servants as a class who in the past resisted their orders. While Colclough acknowledged that it was likely only a small group of servants who were responsible for the dog petition, he knew that a majority of the town's servants were unhappy with this plan.<sup>83</sup> The Chief Justice and the court officials worried that the servants would wreak havoc on the town if their dogs were killed. This runs contrary to Little's argument that the servants did not constitute as a class because they did not have an ingrained history of resistance. The Chief Justice's reaction shows that he considered the servants did have this history, whether he experienced the workers' acts of collective resistance during his time in Newfoundland or elsewhere in the British Empire.

Little did not suggest that the fishing servants drew their sense of class from their previous homelands or their cultural roots, such as the Irish's resistance to British rule. The references to the Irish rebellion in the letter supports the idea that the petitioners saw the similarities between the Chief Justice's plan to exterminate the town's dogs and the British officials' decision to kill Ireland's cattle. The anonymous petitioners did not trust the Grand Jury's, or the Chief Justice's, decisions because they saw that the elites were

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<sup>83</sup> Charles Pedley, *The History of Newfoundland and Labrador From the Earliest Times to the Year 1860* (London: Roberts & Green, 1863), 293-4.

oppressing them by depriving them of a valuable asset, as Protestant elites had in Ireland. The servants believed that the principal inhabitants and the justices colluded with one another because they came from the same backgrounds. The elites and the administration, on the other hand, believed that the dogs posed a threat to the town and that something needed to be done. Both groups had valid reasons for their actions and each saw the other as infringing on their ideas of what was fair, and how the potential threat of dogs infected with hydrophobia should have been handled.

This was not clearly a conflict between St. John's elites and the popular classes. It is impossible to tell from the extant documentation who exactly made the complaints to the Justices or who wrote the anonymous petition. It cannot be fully established if all of the town's elites wanted the dogs exterminated, or if all of the servants objected. What most likely occurred was that small segments of both classes acted on their own, which impacted their respective groups. What can be established was that Colclough acted upon the complaints that the dogs represented a threat.<sup>84</sup> Despite the petitioners' threats in their letter, Colclough ignored the distress that his actions caused to the servants. The available evidence shows that Colclough enacted a law that harmed the most vulnerable people in St. John's, the town's poor, to ease the principal members' fears. Without their dogs, the servants would have found themselves at a severe disadvantage while trying to survive the winter. While Colclough did not intend to specifically damage the servants' livelihoods, his actions demonstrated how court officials were more likely to listen to the island's principal inhabitants' grievances.

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<sup>84</sup> Colclough's Letter About Mad Dogs to Unknown, 11.

The servants' petition was a reactive demonstration against the principal inhabitants' actions, and one that reminded them of how British officials oppressed them in the past. This case illustrates that the servants had an ingrained awareness of oppression from legal officials, and an idea of how they might respond. On the other side, the elites acknowledged that the servants had a history of resistance against their decisions. The 1815 dog petition incident supports my argument that the St. John's servants, particularly the Irish who had memories of dealing with an English state, were class conscious because of their history of oppression and resistance. Even though not all of the servants in the Conception Bay region, let alone St. John's, were Irish, a large majority of them came from Ireland.<sup>85</sup> In this case, the English and Irish servants in St. John's banded together because the Chief Justice's decision harmed all of them. While it is impossible to determine who exactly wrote the dog petition, the court officials' response to the letter, and the community's failure to turn the creators in to the authorities, demonstrated how the servants were resolved to resist Colclough's decision.

The St. John's administration and the fishing servants distrusted one another, and these events occurred during a period of economic hardship. The two groups disagreed over what should be done about the potential threat of rabid dogs, and what they considered fair treatment. The town's law officials believed the principal inhabitants' complaints, and saw that something needed to be done. While the evidence showed that the legal authorities favored the principal inhabitants' opinions of the town's working population. The fishing servants, on the other hand, believed that the magistrates unfairly

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<sup>85</sup> Cadigan, *Newfoundland & Labrador, A History*, 88.

targeted their livelihoods, because they relied on the dogs to haul wood. As we will see in the other cases I will discuss, times of crises during the nineteenth century revealed that Conception Bay's population was at odds with one another because different factions did not trust one another. They interpreted what was fair in different ways.

### Chapter Three: 1816-17, Harbour Grace Food Riots

People's reaction to Colclough's measures against dogs was not unique. The following year, in 1816-17, Harbour Grace's fishing servants rallied to protest what they believed was unjust conditions set by Matthew Stevenson during the town's starvation crisis. Cadigan examined this series of protests, and argued that the fishing servants were able to organize themselves into large groups to defend their traditions from what they saw as the elites' harming their livelihoods.<sup>86</sup> He suggested that Newfoundland's fishing servants held common values, especially about how justice should be implemented. They believed that the law should fairly treat the majority of people. The servants' belief was part of a paternalistic system of obligations. By *paternalism* I am referring to an economic system where workers relied on their masters or employers to provide them with their necessities of life and employment.<sup>87</sup> Masters saw themselves as the patriarchs of their families, and their servants as extensions of their households. Little asserted that Newfoundland's fishing servants and families in Conception Bay did not constitute as a working class during the early 19<sup>th</sup> century because they were a paternalistic society.<sup>88</sup> Cadigan disagreed with Little's assertion that the fishing servants had not developed a class until later in this period.<sup>89</sup>

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<sup>86</sup> Cadigan, *Hope and Deception in Conception Bay*, 58-60.

<sup>87</sup> Bryan D. Palmer, *Working Class Experience, Rethinking the History of Canadian Labour, 1800-1991* (Toronto: McClelland & Stewart Inc., 1992), 42.

<sup>88</sup> Little, *Plebeian Collective Action in Harbour Grace and Carbonear*, 5-6.

<sup>89</sup> *Ibid.*, 4-5.

While Cadigan and Little differed on the nature of the fishing servants' class-consciousness, they both argued that the workers' acts of collective resistance were effective. Much like the anonymous petitioners in St John's the previous year, the 1816-17 Harbour Grace food rioters organized in response to the local justices' actions that impacted their livelihoods. After 1815, Newfoundland experienced a major post war economic depression. Newfoundland's reliance on the cod and seal fisheries made its economy volatile, since the price of fish was vulnerable to foreign influences. D.W. Prowse demonstrated this crisis by noting that when Britain made peace with America in 1814 and with France in 1815, that fish was "selling for less sometimes than one-third of its cost to the merchant."<sup>90</sup> Both French and American fishermen re-entered the fishery, which limited the British dominance in waters near the island and the markets in Europe. Newfoundland's residential fishery also competed with Norwegian fishers, which reduced the price of the island's catch further. The international markets were flooded with fish and these countries refused to pay the same price as the previous year when Newfoundland was the only fishery that operated. Shannon Ryan noted that the price of fish dropped in the Mediterranean market, Newfoundland's greatest buyer, from an estimated 42s per quintal to 24s 6d.<sup>91</sup> Even though the resident fishermen caught a significant million quintals of fish, it was not enough to save many of the island's trade houses from bankruptcy.

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<sup>90</sup> Prowse, *A History of Newfoundland*, 404.

<sup>91</sup> Shannon Ryan, "Fishery to Colony: A Newfoundland Watershed, 1793-1815," *Acadiensis* 12.2. (April 1983), 49.

Newfoundland's merchants were not able to get the same price in the markets, and, as such, they could no longer extend the same amount of credit to their clients, nor could they sell provisions at a lower price. The planters faced the worst burden, since island officials expected them to pay their servants' wages and to repay the credit that they owed to their merchants during this economic slump.<sup>92</sup> Newfoundland's residents were unable to buy their basic necessities from their local suppliers. Prowse mentioned that "provisions were quite inadequate, and, to add to the general misery, emigrants were flocking in from Ireland."<sup>93</sup> The threat of starvation across Newfoundland was worsened when a major fire also devastated St. John's, which left a majority of the city's residents homeless and destroyed the storehouses of provisions in the colony's principal port.

While the years 1816-17 represented a unique combination of crises, Newfoundland's authorities were experienced in dealing with emergencies. In 1785, for example, Governor Campbell "authoriz[ed] public relief because people had not earned enough in the preceding fishing season" to buy the necessary provisions.<sup>94</sup> The Governor's response had been prompted by the outbreak of food riots in Conception Bay. Bands of fishing servants across the Avalon came together to disturb the peace as they searched for food. Campbell gave the residents public relief because the merchants were unwilling or unable to grant provisions to the planters and the servants. Some residents and government officials proposed opening trade relations with America, which had been closed by the American Revolution. It was hoped that it would provide cheaper

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<sup>92</sup> Cadigan, *Hope and Deception in Conception Bay*, 83-5.

<sup>93</sup> Prowse, *A History*, 404.

<sup>94</sup> Cadigan, *Hope and Deception in Conception Bay*, 53.

provisions, and to alleviate shortfalls. In response, the merchants lobbied England's Board of Trade against that measure because they wanted to maintain their lucrative monopoly on Newfoundland's provision trade. Campbell's decision to issue public relief ended the food riots.<sup>95</sup>

While authorities sometimes responded to protests by acceding to the demands, on other occasions they successfully implemented plans that were unpopular. Harbour Grace's food riots in the winter of 1816-17 are a good example, as the community's fishing servants, planters and merchants found themselves in dire circumstances when the price of fish fell. As a major economic hub, Harbour Grace's economy was directly tied to the fishery. When the price of fish declined across Europe everyone in the town fell into an economic slump. Cadigan stated that by 1813 "communities from around the island had already run out of supplies", but the merchant imports had saved the people from starvation.<sup>96</sup> This suggested that Newfoundland's population was already vulnerable before the economic depression occurred, but that the merchants propped up the people's provisions because they had the money to do so.

By 1816, Harbour Grace's merchants were unable to continue supplying fishing families. The town's fishing servants and planters were also hit by this decline, since they relied on their local merchants as their main source of food and other provisions.<sup>97</sup> Their masters could only use the fish that the servants caught during the season for sale in local or foreign markets. Palliser's Act required that they signed contracts to ensure that their

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<sup>95</sup> Cadigan, *Hope and Deception in Conception Bay*, 51-3.

<sup>96</sup> *Ibid.*, 56-7.

<sup>97</sup> *Ibid.*, 53.

catches of fish were sold in the foreign markets.<sup>98</sup> Subsistence agriculture supplemented but could not fully replace imported provisions, which left the servants and the planters without access to food if their merchants went bankrupt or if they were unwilling to extend any further credit. While the servants and the poorer planters were unable to maintain reserves, the merchants who survived the economic downturn were able to save provisions in their stores or homes for the coming winters.

With the onset of winter, Harbour Grace's court officials faced an immediate crisis. There were not enough provisions to feed the town's population. Matthew Stevenson, the local court clerk, responded to this emergency on November 6<sup>th</sup> by stating that every planter and merchant was responsible for ensuring that their servants immediately left Newfoundland when the fall fishery was over.<sup>99</sup> The courts ordered that the town's masters were to withhold 4 pounds from their servants' wages to buy their passage to either America or Great Britain. Stevenson believed that this would lessen the town's population before the available food ran out. The clerk's command was aimed at the fishing servants rather than their masters; Stevenson told these workers that they were not welcomed to live in Harbour Grace. The authorities' language indicated that they viewed the fishing servants as a threat to the town's peace and order, not as people who needed help during this crisis. The court officials saw the fishing servants as potential rioters, since past food riots had proved to the justices that these workers were willing to disturb public order if they were left without food.

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<sup>98</sup> Cadigan, *Hope and Deception in Conception Bay*, 30.

<sup>99</sup> *Ibid.*, 58-60.

Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 54.

Stevenson relied on the masters to solve this problem, since in the eyes of the law, they were responsible for taking care of their employees' needs and controlling their behavior. Palliser's Act emphasized the control that masters had over their workers by declaring that employers could hold back their servants' wages if they disobeyed or deserted their responsibilities as stated in their contracts.<sup>100</sup> Stevenson used similar tenets to state the measures masters should use to reduce the population before the town experienced a famine. Yet, the authorities advocated using punishments that were meant for criminals and disobedient servants to force law-abiding workers to leave the island. The fishing servants saw Stevenson's declaration as a breach of their trust, since they expected their masters to look after them. The servants believed that their patrons had the responsibility to ensure that they continued their work and to provide them with their basic necessities. In return, the servants remained loyal to their masters. Stevenson's order broke this relationship by commanding the masters to abandon their servants. The court's reinterpretation of the law continued in their other attempts to solve the coming famine crisis and showed that they supported criminal punishment of law abiding workers to deter people from disobeying their orders.

The magistrates' earlier efforts to have the fishing servants removed before winter failed, so they called a second emergency meeting on 2<sup>nd</sup> January. Stevenson again ordered that the magistrates meet with the merchants and the principal inhabitants about the ongoing starvation crisis.<sup>101</sup> That afternoon the justices, the merchants and the rich planters decided that the "number of poor creatures now in a starving condition about this

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<sup>100</sup> Cadigan, *Hope and Deception in Conception Bay*, 30.

<sup>101</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov., 1816. PANL, GN 5/4/B/1, box.1, 139.

town” was to be sent to St. John’s to receive a passage back to their country of origin.<sup>102</sup> This statement shows that the authorities’ earlier attempts had failed to lower the town’s population, and the clerk noted that the district’s provisions had reached a remarkably low level, and it was impossible for the officials or the merchants to feed everyone. Instead, the community’s elites decided to ship the population home to prevent people from dying of starvation.

Captain David Buchan, Newfoundland’s Acting Governor, expected that the island’s economy would continue to decline in the coming years. The authorities reacted by increasing their restrictions on the fishing servants to keep the population of residents low for years to come, instead of temporarily removing servants from the town until the next fishing season.<sup>103</sup> The court officials would only allow the servants to return if their masters authorized their reemployment.<sup>104</sup> The authorities’ response to the food crisis showed how terrible the situation in Harbour Grace had become, and that they feared what could happen if they left the fishing servants to freely roam the area. Since the merchants were unwilling to use alternative solutions, the town’s principal inhabitants believed their only choice to save the town and their properties from being destroyed by rioters was to send these workers away.

The January 2<sup>nd</sup> meeting demonstrated that the fishing servants did not have any say on how to solve the crisis that directly impacted them. Stevenson indicated some fishing servants were present at the meeting, but the town’s principal inhabitants did not

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<sup>102</sup> Ibid., 140-1.

<sup>103</sup> Cadigan, *Hope and Deception in Conception Bay*, 56.

<sup>104</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 54.

ask for their employees' opinions on the plan. Instead, the town's elite saw the servants as "objects of pity" that were unable to help themselves and required their support to survive. At the same time, the authorities feared the servants, which demonstrated that Harbour Grace's administration looked down on these workers as a problem that needed to be fixed.<sup>105</sup> Stevenson announced that anyone who did not adhere to their orders would be flogged and placed in the gaol for the winter. Stevenson caused Harbour Grace's servants to resist the local courts when the court clerk ordered that the authorities would use corporal punishment on workers who disobeyed the order to abandon the island. Newfoundland's residents saw the magistrates' use of corporal punishment, such as whipping, dunking (repeatedly dropping a person into the ocean) or branding, as being reserved for criminals. Bannister noted how the most common crime that incurred whipping was theft, which was followed by "assault to simple breaches of peace."<sup>106</sup>

Refusal to emigrate had been criminalized. The chances of criminals being whipped varied more by who the offenders appeared before in the courts, than the type of crime that was committed. For example, in 1786 Justices John Clinch, Jonah Howell and Geo. White heard testimonies about an altercation between John Andrews and Thomas Taylor. Andrews accused his servant, Taylor, of assaulting him on his Brigantine the *William* in front of his crew. The captain stated that Taylor disobeyed his orders about how to raise the anchor. Andrews did not tolerate this behavior and struck Taylor. Other crewmembers corroborated that Andrews and Taylor brawled in front of them, but that the captain was the one who struck first. The jury sided with Taylor because they

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<sup>105</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 141.

<sup>106</sup> Bannister, *The Rule of the Admirals*, 239.

believed the crewmembers' testimony. If the other servants had not testified, it would have been likely that Taylor would have been corporally punished for attacking his master. Additionally, the justices used a jury of Taylor's peers, other fishing servants, to determine if the defendant was guilty. This likely played a major part in Taylor's sentencing, since the servants might have been more lenient than a jury made up of planters based on their own experiences with their masters. The Taylor v. Andrews case demonstrated how justices' used corporal punishment was determined by both their own discretion and in certain cases, the community's choice.<sup>107</sup>

This case illustrates that the justices and the island's population were continuously contesting the application of the law. This was especially the case for the interpretation of the master-servant relations within the law, where the legislation indicated that employers were allowed to whip their servants if they disobeyed. Yet, Cadigan showed that the Harbour Grace magistrates were lenient towards servants during wage disputes between masters and their workers. Masters did not always use whipping because the servants could cite this as ill treatment and gain more money from their employers. Sir Hugh Palliser, in 1793, stated that he regretted the creation of the Palliser's Act because it granted "fishing servants freedom from discipline and guarantees for wages."<sup>108</sup> However, Bannister noted that Cadigan's study was limited to Conception Bay and that justices from the other districts interpreted the Palliser's Act as giving masters greater control over their servants.<sup>109</sup> This shows that the island's legal

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<sup>107</sup> Minutes of the Surrogate Court, 23 Aug., 1786, PANL, GN 5/4/B/1, Box 188, n.g.

<sup>108</sup> Cadigan, *Hope and Deception in Conception Bay*, 83.

<sup>109</sup> Bannister, *The Rule of the Admirals*, 242-5.

system was not monolithic, and that magistrates from different regions applied the law in different ways to meet changing circumstances. Harbour Grace authorities', specifically Stevenson's, command to corporally punish any servant who disobeyed their orders may seem to contradict earlier decisions made by the same court, but the severity of the town's starvation and the threat of food riots prompted officials to enact extreme measures to make people comply to their commands.

As Cadigan discussed in his analysis of this case, the court officials' and the principal inhabitants' plan backfired.<sup>110</sup> The fishing servants considered themselves to be law-abiding workers who adhered to their masters' contracts and who were now being treated as criminals because the economic problems forced them into a desperate situation. The servants felt that the magistrates crossed a line in threatening that they would be whipped for staying in their homes for the current fishing season. The servants believed that the authorities' and the elites' plan to have them evicted represented their masters' failure to provide for them. The workers felt betrayed that their employers were not fulfilling their obligations. The principal inhabitants, however, perceived the fishing servants as a potential threat to public peace in Harbour Grace and to their own safety. The authorities' decision to remove the servants from the town caused the reciprocal elements of paternalism to break down between the servants and their masters. Ironically, the magistrates' efforts to prevent the fishing servants from rioting encouraged people to gather together and to march on the merchants' stores for food.

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<sup>110</sup> Cadigan, *Hope and Deception in Conception Bay*, 58.

The next time that court officials recorded information on Harbour Grace's food shortage was on June 16<sup>th</sup>, when an unnamed surrogate judge arrived in Newfoundland for the summer. The naval surrogate held a court in Brigus to receive complaints from merchants who were affected by the bands of fishing servants.<sup>111</sup> (The Royal Navy convoy left each fall and returned each spring when the water was free of ice. This meant that many communities had to wait months before a suitable authority could hold a trial and to judge their legal troubles.<sup>112</sup>) Naval surrogates often experienced a backlog of cases when they arrived on the island. With earlier governors' introduction of the magistrates, Newfoundland-based officials could help alleviate the surrogate judges' burdens by holding trials for minor crimes that occurred in the winter. Yet, the justices were not allowed to oversee trials that concerned violent crimes or other malicious acts. The Harbour Grace's magistrates were unable to hold their own inquiries into the food riots because the higher authorities, including the Governor, classified these crimes as above their jurisdiction. Instead, the community's residents waited months after the protests occurred to have a surrogate judge investigate their complaints against the fishing servants.

George Best was the first merchant interviewed by the naval surrogate. Best recalled that on March 27<sup>th</sup> a group of servants gathered outside his home. He stated that this was the second time that he was accosted by this group; they had invaded his house to search for food earlier that month. This time the merchant conversed with the group's spokesperson, either a Walsh or Ryan (the merchant was unsure), who "threatened to

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<sup>111</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 93-103.

<sup>112</sup> Bannister, *The Rule of the Admirals*, 46-7.

burn his house if he did [not] open” the door to them.<sup>113</sup> At first the merchant refused to comply with the threat, but the spokesperson cajoled Best further and he eventually relented. When the servants finished searching his home and they found no food, the spokesperson requested that they take a barrel of potatoes that the merchant’s partner, Charles Cozens, owned. Best allowed them to have the potatoes because he wanted to get rid of the servants before they damaged his premises. After a few days the group returned with “tenders of payment” to compensate the merchant.<sup>114</sup>

Best’s encounter with the group of servants revealed that the principal inhabitants’ fears that these workers would pillage the town were unfounded. Instead, the group wanted food and they organized themselves around this goal. This was demonstrated when they paid Best for taking Cozen’s food, which they saw as a forced transaction and not as stealing the barrel of potatoes. The fishing servants’ actions were consistent with the credit system under which they had operated since a time before any of them could remember. This illustrates that the servants wanted to continue to rely upon paternalist relations even as the merchants believed the economy could not support it. The workers saw the truck system as beneficial because their master provided for them during the winter. Even when the fishery faced poor markets, Newfoundland’s administration was able to avert economic and food crises by intervening, such as how Campbell used relief programs.<sup>115</sup> The 1816-17 food riots represented a unique turn of events, when both Newfoundland’s merchants and its authorities were not able to

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<sup>113</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 93.

<sup>114</sup> *Ibid.*, 94.

<sup>115</sup> Cadigan, *Hope and Deception in Conception Bay*, 51-3.

maintain paternalist economic relations. Additionally, the group's use of a spokesperson to voice their demands to the merchants showed how the servants were organized enough to elect people into positions of leadership. This demonstrated that the servants acted as a collective to accomplish their goal.

The surrogate's second investigation showed that while the fishing servants elected leaders, the different spokespersons conflicted with one another on how they should treat the merchants. The surrogate next heard from Cozens about his own encounter with the group of fishing servants on 26<sup>th</sup> March. He recalled how he "called Thomas Trehea and John Murphy...from among them" to ask why the rioters were gathered around his home.<sup>116</sup> When Cozens heard that the crowd planned to pilfer from Best's store the next day, he explained to them that his family required that food to survive the winter. Trehea and Murphy agreed with Cozens that to take his food would not be fair, but Thomas Walsh, another leader of the group, argued that the fishing servants had taken something from each house that they visited. Walsh insisted that it would not be fair to give Cozens preferential treatment because his family might starve, while the fishing servants had been hungry since the winter started. Trehea and Murphy compromised with Walsh by asking if Cozens could spare a sack of flour for the group. The merchant agreed, and he did not expect to see the servants again after this encounter.<sup>117</sup>

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<sup>116</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 94-5.

<sup>117</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 94.

Yet, the following day a different group of servants, led by Walsh, arrived to threaten Cozens for more food.<sup>118</sup> We can speculate that these were the fishing servants whom Best encountered that morning, since they arrived at Cozen's house at 2 o'clock that same day. Walsh threatened Cozens with violence if the merchant did not hand over the key to his potato cellar. The merchant asked if he could see Trehea and Murphy, who promised him that he would not be disturbed again, but Walsh insisted that he was Trehea. The group's leader uttered more threats from behind the door and promised Cozens that the merchant would experience "Harbour Grace laws" if he did not open his house to the servants. Cozens eventually complied with Walsh's demands, as long as only two of the servants entered his premises, but a "large body of them" forced their way in and struck the merchant to subdue him.<sup>119</sup> The group took a barrel of pork and when they forced open the cellar, they took several barrels more of potatoes that belonged to Mr. Best. As the group ransacked Cozens' house, the merchant's own servants arrived from the nearby woods and attempted to stop the group from seizing the food. When the merchant's men failed, they retreated to rearm themselves with guns, and Walsh stated that they in turn would come back with more men to fend them off. Before any violence could occur, the real Trehea arrived and calmed the group of fishing servants down. Eventually the group departed and Cozens' men returned to the merchant's house. Cozen's encounter with Walsh and his men indicated that not all servants wanted a return to paternalist relations. Instead, some of the servants wanted to express the anger and betrayal that they felt against the masters who had failed to avert

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<sup>118</sup> Ibid., 95-6.

<sup>119</sup> Ibid., 96.

this crisis. The servants who negotiated with the merchants represented those who wanted the community to return back to its paternalistic roots, while the group who threatened Cozens signified those who wanted to lash out against their masters.

Cozens' encounters with the fishing servants show that they gathered into groups to find food, which they knew that the merchants had set aside during the winter for their private use. In Cozen's case, it could be argued that some of the merchants stored food instead of giving it out to the servants because they did not want their own families to starve. However, merchants' actions during previous food crises also pointed to local suppliers hoarding food because they wanted to be paid for their provisions, instead of freely giving them out.<sup>120</sup> Newfoundland's economic crisis caused both the fishing servants' quality of life to worsen and impacted how much monetary power the island's wealthy elite had. This explained why Harbour Grace's inhabitants wanted to ship the fishing servants off the island in this particular case, because they knew that the workers would visit their homes and stores to demand food that they did not want to share. The fishing servants viewed the merchants as their local suppliers and they saw it as both their masters' and their suppliers' duty to provide for them.

The fishers' spokespersons had different opinions about how to treat the merchants. Trehea saw the merchants as a part of the community, who were not directly to blame for the fishing servants' desperate circumstances, but who were also victims of the same circumstances. Trehea wanted the merchants to share their food. Walsh, on the other hand, felt that the merchants could not be trusted because he saw this starvation

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<sup>120</sup> Cadigan, *Hope and Deception in Conception Bay*, 53.

crisis as their fault. His violent seizure of Best's and Cozens' food demonstrated that he believed that the merchants were greedily withholding food. While the fishing servants were organized enough to elect spokespersons to talk to the merchants, they were too disorganized to completely agree on how to act about the merchants. It also showed that there was not a single band of fishing servants going around, but that there were multiple groups that were roaming from merchant to merchant.

Thomas Robert's experience with the servants exemplified the groups' disorganization. Roberts testified that thirty servants surrounded his house on 26<sup>th</sup> March. Trehea and James Meddenon asked Roberts if he could spare any flour or bread for the starving men at his door. The merchant responded that he had "none to spare...I then went and showed the flour and the pork, they examined and saw what was there- representing to them I was a poor man."<sup>121</sup> The merchant inquired that if he did give the servants what they requested, would they provide "security for the payment in what they might take."<sup>122</sup> Trehea and Meddenon stated that Roberts should ask the other members of the group, but that they would not take anything until they returned the next day.

When the crowd returned, neither Trehea nor Maddenon were there to greet Roberts. Instead, Walsh and Thomas Ryan threatened to break down Robert's door if he did not let them search his home. The merchant complied and the group entered, rolling out a barrel of flour and potatoes. While some of the fishing servants returned with notes to compensate the merchant, Robert's encounter with the fishing servants showed that

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<sup>121</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 98.

<sup>122</sup> Ibid., 99.

Trehea chose to peacefully engage with the merchants, while Walsh opted to threaten the merchants into submission.<sup>123</sup> This showed how the servants were united together to stave off starvation, but that the various groups chose to use different methods to get their way. In this case, the servants sought credit at their local suppliers to obtain food, as they would have done when Newfoundland's economic climate was stable. However, the crisis forced servants to adapt different tactics.

The servants varied in their tactics, but they were consistent in their use of numbers to threaten the merchants. On February 3<sup>rd</sup>, an estimated group of eighty fishing servants armed with guns and sticks marched on Port de Grave to plunder the town of its food.<sup>124</sup> The merchants were made aware of their march the day before the servants arrived, when they noted that the town was not able to protect itself from this attack. The merchants talked with the crowd, but they were unable to deter the servants from coming to their town. The servants forced the residents to leave open their homes and stores for inspection. The merchants noted how each servant claimed that they were "in the greatest distress for want of provisions."<sup>125</sup> However, the traders concluded that the servants were lying because none of them appeared to be in poor shape. The merchants may have thought that the fishing servants were criminals and that they used the starvation crisis as an opportunity to plunder Port de Grave. This source should not be completely trusted, since the merchants opposed servants taking their food without paying for it. Yet, the

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<sup>123</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 62.

<sup>124</sup> *Ibid.*, 109-110.

<sup>125</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 109.

merchants' experiences illustrated that there were some servants who took advantage of this crisis to loot people's homes.

Whether the merchants' observations were true is hard to say, since people aligned with the merchants wrote the court records. The extant evidence commonly presents the merchants in a favorable light, while the island's poor were portrayed as seditious or too pitiful to live without their masters' care. In all of these cases, the servants relied on their numbers to show the communities' elites that their desperate conditions would not be brushed aside. If their masters and their local suppliers could not help them, then they would take what they needed by themselves. The fishing servants' collective actions support Little's argument that Newfoundland's servants required the use of groups to have their voices heard.<sup>126</sup> The protestors in these instances announced to the merchants that they would not be abandoned and that the masters still had an obligation to provide for their servants.

One question raised by the Harbour Grace food riots is: did the fishing servants' actions during this crisis demonstrate that they were a plebeian population as Little argued or a class as Cadigan argued? The servants banded together because they wanted to maintain the paternalistic truck system under which they and their masters operated during prior fishing seasons. The servants' collective actions show that they were influenced by their traditions and that they wanted to keep this economic system of reciprocal relations, even during the crisis. As such, the servants reacted to a food and patron obligation crisis that was created by the post war collapse of trade. From Little's

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<sup>126</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 5-6.

point of view, the servants' actions demonstrated the roots of a class movement that were beginning because the servants assembled their power together to make demands of their employers. However, Little characterized these group actions as spontaneous movements that were reactions to their immediate circumstances. She argued that to fully constitute as a class the fishing servants needed to unite against their masters' exploitation of their labour. Cadigan, on the other hand, sees the fishing servants' group actions as evidence that they were a self-conscious class. He argued that the servants were a reactive class who organized because of the common plights that they each experienced during their daily lives. The servants saw one another as having similar lives and they identified with one another because of their common economic positions. In the cases of the St. John's dog petition and the Harbour Grace food riots, the servants demonstrated that they had a class identity. In these cases the servants acted as a collective who were aware of each other's position in Newfoundland's society, even if the examples discussed only showed specific instances in different towns, they both illustrate how the servants banded together to protect themselves from their social superiors.

The fishing servants protested against their masters and local suppliers because the two groups interpreted paternalism's function differently. The servants saw credit as a system of responsibilities and contracts that protected their livelihoods in bad years as well as good. The masters and merchants, however, saw paternalism as a disciplinary device that ensured workers continued to labour in the fishery. The workers' and the masters' different interpretations of the obligations to each other impacted how they saw one another's actions. The fishing servants believed that the administration's commands

to ship them off the island on the behest of their masters was unfair, because they thought it was their employers' obligation to provide them with winter provisions as they had in earlier years. On the other hand, the masters and merchants did not have the money, or the food, to provision their employees and they believed that it was best for the servants to leave Newfoundland. Neither group was able to agree, or had a chance to voice their opinions, on how to handle the crisis. The servants' and their employers' beliefs surrounding paternalism was formed by their past experience interacting with one another. This suggested that the servants' and the masters' class values were centered on what they considered to be fair or just interactions. Additionally, the Harbour Grace workers' feelings of betrayal by their local suppliers demonstrate that the cod fishery was not just an industry, but that it was also a system of obligations between masters and servants. The town's workers felt comforted that they could rely on the local merchants to provide for them in return for their labour. When the merchants refused to continue this social transaction, then the servants protested the breakdown of paternalism. The Harbour Grace food crisis and the workers' subsequent protests demonstrate that the cod fishery was both an economic and a social system. In the next chapter, I discuss a challenge to that system in a dispute over wages in the seal fishery.

#### Chapter Four: Carbonear Sealers Strike of 1832

In the early spring of 1832 between two and three thousand fishermen protested the truck system on Saddle Hill near Harbour Grace.<sup>127</sup> This section examines a case in which the fishing servants came together as a class to demand better economic conditions, instead of relying on customs to defend themselves as in the two cases discussed above. The Carbonear sealers involved in the 1832 strike demonstrated that they were proactive, or in other words, acted on their own terms to change how they were rewarded for their labour. The fishing servants were a class that changed its nature and tactics depending on the circumstances that it protested, instead of relying on the same motivations and measures to protect its interests. In the cases discussed previously the servants protected their customary way of life, the sealing strikers wanted to better their lot. The sealers resisted the cycle of debts that fueled Newfoundland's economy, and fought for access to greater economic opportunities, instead of defending their traditional rights within the paternalistic truck system. The sealers actions also demonstrated that the seal hunt, as a new enterprise, existed more as an industry organized along capitalist lines than as a system of obligations as was the cod fishery.

To understand why the sealers acted the way they did it is important to discuss the sealing industry's history in Newfoundland. Residents on the northern part of the island started sealing in the late 17<sup>th</sup> century when the inhabitants casted nets from the shore to catch harp seals. Shannon Ryan noted how an "estimated 150 resident English fishermen [were] scattered throughout the area of [present-day] Fogo and Twillingate" and how

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<sup>127</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 41.

wintering fishermen were inclined to hunt the seals when the ice-pans came close to the coast.<sup>128</sup> This was known as the landsmen hunt, and the residents initially caught the seals for sustenance instead of for sale.<sup>129</sup> By the early 18<sup>th</sup> century, the sealing evolved into an industry.<sup>130</sup> As an international market for seal oil developed, the merchants paid planters to hire crews to voyage out to the ice flows that appeared on Newfoundland's northern coasts and Labrador's southern shores to catch the migrating harp seals. In 1723 the administration reported that Newfoundland's sealers produced an estimated 500 tuns of seal oil valued at £12 each.<sup>131</sup> While Northern communities initially dominated the sealing industry, Eastern residents entered the hunt during the late 18<sup>th</sup> century. In 1848, Governor Le Marchant reported that a Spring Seal fishery was started in St. John's, when a "merchant...sent two small vessels of about 45 tons each to search for seals" and they returned with around 1,600 seal pelts.<sup>132</sup> By 1803, Newfoundland's administration and its residents saw the winter and spring seal hunts were separate industries, instead of as a supplement practice to the cod fishery. Northern and Eastern communities engaged in the seal fishery annually, bringing back pelts and oil which helped to bolster people's wealth.

In comparison to the cod fishery the sealers only had a small window of opportunity to pull off a successful seal hunt each year. During the early winter, the island's planters prepared for the annual seal hunt by hiring crews from the local

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<sup>128</sup> Shannon Ryan, *The Ice Hunters, A History of Newfoundland Sealing to 1914* (St. John's: Breakwater, 1994), 49.

<sup>129</sup> C.W. Sanger, "Seal Fishery," *Heritage, Newfoundland & Labrador*, 1998, <http://www.heritage.nf.ca/articles/environment/sealing-fishery.php>.

<sup>130</sup> Cadigan, *Newfoundland and Labrador, A History*, 84-5.

<sup>131</sup> Shannon Ryan, *The Ice Hunters, A History of Newfoundland Sealing to 1914*, 49.

<sup>132</sup> *Ibid.*, 54.

servants.<sup>133</sup> The residents gathered provisions from their suppliers, who gave them equipment and basic necessities on credit. As in the cod fishery, both the planters and their servants became indebted to the merchants. When the early spring arrived, the sealers departed for the ice floes on board their masters' schooners or, in later years, larger vessels built to handle larger crews. When the crews returned they sold their shares of seal pelts and oil back to the merchants to repay their debts. The crews' shares in the profits of the voyage were based on the seniority that they held on the ship, which in turn was based on how much experience a servant had. For instance, youngsters or novice sailors received a lower share of the catch in comparison to an experienced ship's surgeon or first mate.<sup>134</sup> In rare instances the local suppliers paid the sealers in cash for their catches, but merchants generally provided credit.<sup>135</sup> Paying cash in exchange for the seal pelts was vastly different from how the cod fishery operated, in which suppliers overwhelmingly only gave credit to their patrons. Instead of relying on debts, the sealers saw their work directly compensated as they earned cash that helped to supplement their earnings. For instance, fishers who participated in the seal hunt saw an average of "£20 (about \$100) to go towards paying" for their supplies which cost an estimated \$150 in St. John's and \$185 in the surrounding Conception Bay communities.<sup>136</sup> The crews' work in the seal hunts represented a large portion of their annual income.

Little argued that the merchants' use of cash to incentivize the sealers to work harder provoked the sealers strike, since it emphasized the class divisions that existed in

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<sup>133</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 48-50.

<sup>134</sup> Cadigan, *Newfoundland and Labrador, A History*, 35.

<sup>135</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 55-6.

<sup>136</sup> Shannon Ryan, *The Ice Hunters, A History of Newfoundland Sealing to 1914*, 242.

Newfoundland's society.<sup>137</sup> Even though the seal hunt only took place for a short time each year, it generated a large influx of economic activity. This was especially the case for communities in Conception Bay. Before the sealing industry developed, the end of the cod fishery meant that all major economic activity on the island stopped until the next fishing season started. With the introduction of the annual seal hunt, people were motivated to stay all year long, since they could work in the seal fishery when the fishing season ended. While the sealing industry did not cause permanent settlement on Newfoundland, it attracted people to stay for work and allowed for growth of the resident population.

It was apparent to the sealers that they received less money than did the planters and the merchants. Instead, the merchants gave the workers more credit and compensation. The sealers considered this an unacceptable practice, since they realized that they did most of the work and risked their lives, but hardly benefitted from their labour.<sup>138</sup> The planters, in turn, were hardly generating enough capital to keep their businesses afloat, but the servants saw that their shipmasters were better off because they owned their vessels. While the crews had to divide their shares amongst one another, the captains or planters who owned the ships were guaranteed half of the remaining shares.<sup>139</sup> Ryan described how the captains' wages had "increased at an even greater rate than the income of the sealers themselves had declined" as the industry grew since 1803.<sup>140</sup> The

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<sup>137</sup> Cadigan, *Newfoundland and Labrador, A History*, 90.

<sup>138</sup> Shannon Ryan, *The Ice Hunters, A History of Newfoundland Sealing to 1914*, 248.

<sup>139</sup> *Ibid.*, 234.

<sup>140</sup> *Ibid.*, 240.

workers saw the merchants as the biggest offenders, since their suppliers were getting the most from the hunt by investing cash in the venture.<sup>141</sup>

Even though this was an unequal transaction between the merchants and their clients, each relied on one another to perform their responsibilities during a window of a few weeks each spring. This provided servants with greater power over the seal hunt than their masters and local suppliers. While the island's servants required the seal hunt for work during the winter, they did not have as much capital invested into this industry as the planters and the merchants did. Both of these groups needed the sealers to go to the ice if they wanted to recoup the large amounts of the money that they invested into these annual hunts.<sup>142</sup> Since there were more sealers than there were planters or merchants, and the season was limited, the workers were able to hold the sealing hunt hostage by refusing to work.

Compared to the anonymous petitioners in St John's and the Harbour Grace fishing servants, the sealers faced different circumstances that influenced how they acted as a group. In the prior cases, the fishing servants banded together in response to what they saw as the administration's and their masters' failures to uphold their duties within Newfoundland's paternalistic credit system. The anonymous petitioners saw Colclough's decision to exterminate St. John's dogs as an unnecessary measure that would have caused more harm than good.<sup>143</sup> Likewise, the food rioters saw the court clerk's decision

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<sup>141</sup> Linda Little, "Collective Action in Outport Newfoundland: A Case Study from the 1830s," *Labour/Le Travail* 26, no. 1 (October 1990), 26. Little argued that merchant's use of cash exposed labour divisions to the sealers.

<sup>142</sup> Cadigan, *Newfoundland and Labrador, A History*, 102.

<sup>143</sup> The Distressed of St. John's to Colclough, 16-17.

to have them shipped off as their masters abandoning them when these workers needed their patrons' protection.<sup>144</sup> These two cases demonstrated how the fishing servants reacted to crises by defending their traditions because they knew that these practices protected them in the past. While the sealers faced similar harsh economic and winter conditions, they acted as a group to change how things worked, instead of protecting traditional practices to maintain the status quo.<sup>145</sup> Their position was strengthened when they made clear that the seal hunt could not continue without their participation. In January 1832, the sealers placed placards around Carbonear announcing to their fellow workers that they planned to deal with the truck system. The placard's author notified the sealers were to meet on Saddle Hill equidistant from Harbour Grace and Carbonear on January 9<sup>th</sup> to discuss what they should do to end their respective cycles of debt.<sup>146</sup> Cadigan argued that the fishing servants used democratic practices to form their resistance movements such as the servants in the Harbour Grace food riots sealers used a similar tactic.<sup>147</sup> They gathered to decide their plan of action. This demonstrates that the sealers were conscious of their common positions as workers in Newfoundland society, much as the fishing servants had recognized each other's plight during the starvation crisis. The major difference between the two groups, however, was that the food rioters gathered for survival, while the sealers united to fight to be paid in cash.

The authors of the placards called the Harbour Grace sealers to join their fellow Carbonear workers in resistance against the masters and the merchants. The writer

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<sup>144</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 93-103.

<sup>145</sup> Cadigan, *Newfoundland & Labrador, A History*, 108.

<sup>146</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 41-2.

<sup>147</sup> Cadigan, *Hope and Deception in Conception Bay*, 58.

compared the two towns' workers to beasts of burden who were "both willing and able to shake off the yoke [of the truck system] they have so long and unjustly (tho' patiently) borne."<sup>148</sup> In this case, the yoke was the debt that the sealers accumulated after labouring in the cod and seal fisheries. The sealers knew of one another's economic situations and that they could change how the credit system operated if they united. While merchants faced their own economic woes, such as planters declaring bankruptcy when they were unable to meet their own debts, the sealers believed that their superiors were purposely stifling their opportunities to improve their income.<sup>149</sup> Planters were only able to provide credit to their employees since they were unlikely to have cash to pay wages.<sup>150</sup> The Carbonear sealers saw that the effects of the truck system not only affected them, but that it was a widespread issue that impacted the island's workers.

R.A. Tucker, the Chief Justice recorded in his letters to Viscount Goderich, that Harbour Grace's magistrates saw the sealers' meetings as a potential disaster. Tucker came from high-ranking parents in Bermuda, which allowed him to attend Cambridge and to study the law at Inner Temple. Tucker was appointed as Chief Justice in 1822 after Sir Frances Forbes left the position. When the Colonial Office first created Newfoundland's Supreme Court under the Judicature Act in 1824, Tucker was appointed as its first Chief Justice, alongside Wallet DesBarres and John William Molloy, who was later replaced by Edward Brabazon in 1826, as his assistant judges.<sup>151</sup> While each of

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<sup>148</sup> Sealers' Notice, Carbonear, 5 Jan. 1832. PANL, GN 2/2, box 1, n.g.

Linda Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 243.

<sup>149</sup> Cadigan, *Hope and Deception in Conception Bay*, 15

<sup>150</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 187-8.

<sup>151</sup> Christopher P. Curran, "Be Careful what you Ask For: The Judicature Act of 1824 Revisited," in *Discourse and Discovery: Sir Richard Whitbourne Quartercentennial Symposium 1615-2015 and*

these judges was given equal powers, Tucker was given the responsibility to officially approve decisions.<sup>152</sup> As the first head judges of Newfoundland's Supreme Court, Tucker and his assistant judges were tasked with the "preparation of *Rules of Court*", since the Judicature Act introduced new measures to the island's legal system.<sup>153</sup> Tucker served as the island's interim Governor while Thomas Cochrane, the current governor, was away during the winter of 1831-32.<sup>154</sup> He was a staunch opponent of the political reformers, and Tucker's resistance to the residents' efforts to govern themselves prompted him to resign from his position in 1833.<sup>155</sup>

Tucker illustrated his distrust in the residents' ability to govern their selves when he mentioned to Goderich that the Harbour Grace magistrates were overreacting to the sealers' meeting.<sup>156</sup> He wrote that the local justices saw the workers' gathering as a prelude to a riot. The magistrates based this assumption on their own experiences in the region; they stated that when large crowds gathered they aired their grievances to one another and incited each other into action. For instance, in 1831 a crowd of fishing servants in Brigus broke into William Danson's store to destroy his barrels of fish oil.<sup>157</sup> Danson owed a portion of proceeds from the sale of the barrels to the servants as repayment for their labour. However, a group of St. John's merchants called in their

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*Beyond*, Melvin Baker, Christopher Curran, J. Derek Green, eds. (St. John's: SS Daisy Legal-History Committee, The Law Society of Newfoundland and Labrador), 139.

<sup>152</sup> *Ibid.*, 139-40.

<sup>153</sup> Christopher P. Curran, "Be Careful what you Ask For: The Judicature Act of 1824 Revisited," 140.

<sup>154</sup> Leslie Harris and P. G. Cornell, "TUCKER, RICHARD ALEXANDER," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003-, accessed December 5, 2017, [http://www.biographi.ca/en/bio/tucker\\_richard\\_alexander\\_9E.html](http://www.biographi.ca/en/bio/tucker_richard_alexander_9E.html)

<sup>155</sup> Christopher P. Curran, "Be Careful what you Ask For: The Judicature Act of 1824 Revisited," 152.

<sup>156</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 42.

<sup>157</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 53.

debts, including that of Danson. The Brigus merchant was forced to repay his creditors by giving them his merchandise, including the barrels of fish oil. The servants saw Danson's actions as a betrayal of his obligation to them because he repaid his debts to his supplier before he paid them for their labour. The Harbour Grace justices who presided over Danson's case were troubled by the servants' actions. The workers' actions demonstrated to the magistrates that the sealers could not be trusted to follow the law, and they asked Tucker to send in constables to stop the meetings.<sup>158</sup> Tucker did not grant their request, but he did express his own concerns about the sealers meetings.

On February 9<sup>th</sup>, the sealers met again on Saddle Hill.<sup>159</sup> Like their first meeting, the workers peaceably assembled, and this time they called upon the local sealing masters and ship owners to meet with them to discuss their agreements. Masters who worked in the sealing industry had to draw contracts up with their servants to determine what their employees' obligations were and how many shares they received from each voyage. The strikers saw the current contracts as unfair. They believed that they were not receiving enough money for working in harsh conditions, while the industry's investors prospered.<sup>160</sup> Little stated that the "names of 78 masters were listed and summoned to appear along" with those previously called by the sealers to arrive at this second meeting.<sup>161</sup> The strikers called the ship owners one-by-one to have them change their agreements to better meet the workers' expectations. If the masters did not accede to the strikers' wishes, then the sealers threatened to stop working in the industry. Unlike the

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<sup>158</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 43.

<sup>159</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 158-9.

<sup>160</sup> Sealers' Notice, Carbonear, 5 Jan. 1832. PANL, GN 2/2, box 1, n.g.

<sup>161</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 158-9.

sealers, the ship owners did not pose a united front but acted separately based on their own interests. They could not effectively resist the sealers' demands, because they needed the strikers to get back to work before the spring or they would lose their investments. As such, some ship owners and suppliers were forced to agree to the sealers' demands and promise that the workers would receive more cash instead of credit. Other ship owners refused to cooperate with the sealers, however, and decided to ignore the strikers' demands.

Thomas Ridley, a Harbour Grace merchant, refused to meet the strikers at Saddle Hill and to amend his contracts with his employees.<sup>162</sup> Ridley originally came to Newfoundland from England to work under William Bennett, his uncle, who had property in Carbonear. The two formed a partnership in 1824, and were later joined by Ridley's relative, Thomas Harrison, to create the Thomas Ridley and Company firm. The merchants held their stores in Carbonear and moved their headquarters to Harbour Grace. Ridley represented a large business enterprise that influenced the economic environments of both towns and the sealers' working lives.<sup>163</sup> The sealers saw Ridley's refusal to cooperate as undermining their efforts, since they required that all of the masters and the local suppliers agree to their demands. Ridley's dissent threatened to unravel the sealers' efforts because he was a powerful merchant and the other ship owners might have followed his lead by refusing to change the contracts or to go back on their agreements on

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<sup>162</sup> William Ewan's Sworn Statement, 18 Feb. 1832. PANL, GN 2/2, box 1., n.g.

<sup>163</sup> Elizabeth A. Wells, "RIDLEY, THOMAS," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003–, accessed January 29, 2018, [http://www.biographi.ca/en/bio/ridley\\_thomas\\_10E.html](http://www.biographi.ca/en/bio/ridley_thomas_10E.html).

Saddle Hill. The sealers required that all the ship owners agree to their demands to ensure that the sealers' new obligations were honored.

Since the sealers' initial tactics did not work against Ridley, they used different measures. On February 18<sup>th</sup>, Tucker received a letter from the Harbour Grace magistrates reporting that "a mob, to the number of at least one hundred and thirty men" attacked Ridley's property and destroyed his schooner, *The Perseverance*.<sup>164</sup> They believed that the group was related to the sealers, and that this was retaliation against Ridley's refusal to meet with them. The local Justices were nervous about these developments because they believed that their initial fear that the sealers would riot was coming true. While the magistrates' apprehensions were justified, the strikers only targeted people who refused to cooperate, or fellow workers who did not side with their movement. For instance, the local magistrates recorded a case where George Lilly, a local planter, was attacked for refusing to give into the sealers' demands.<sup>165</sup> William Evans attacked Lilly because the planter did not go to the meeting on Saddle Hill. Evans also berated Lilly based on past grievances related to a property dispute involving the ownership of ducks. The strikers saw such persons as traitors to their own class, and they demanded that all of the local sealers to stand together to force payment in cash. While the sealers may have met peaceably on Saddle Hill, they still relied on threats of violence to get their way. In this case, the strikers were much like the Harbour Grace servants who used threats of violence and acts of force to make people comply with their demands.

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<sup>164</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 42.

<sup>165</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 160.

Tucker started an investigation into this attack on February 25<sup>th</sup>, when he held a court to question witnesses about the incident. He first questioned the crew who were onboard *The Perseverance* at the time of the attack.<sup>166</sup> They stated that they were woken up by the sounds of construction on the ship and people shouting to one another. William Ewan, the captain's first mate, went to investigate and discovered a hundred individuals who used hatchets and saws to take the schooner apart. He reported that the men dismantled the ship's masts, gaffs, riggings and yards to prevent the schooner from leaving the harbour. The group of men forced Ewan below deck to prevent him from interfering, and the crewmember reported that at least six men with guns threatened to shoot him if he attempted to come up again. Both Ewan and his captain waited until the men were finished damaging the schooner before they left the vessel, which ended later that morning. Ridley later stated that the schooner required major repairs that cost him 120 pounds and which took his workers months to complete.<sup>167</sup>

Both the witnesses and the investigators suspected that the group that attacked Ridley's schooner was sealers. While disgruntled workers may have perpetrated the attack, there are two characteristics of the group and their destruction of the merchant's schooner that corroborated the court officials' suspicions of sealers. Firstly, the group attacked *The Perseverance* days after Ridley refused to meet with the sealers.<sup>168</sup> The merchant's actions threatened to undo the sealers' efforts to gain better wages because the masters amended their agreements with the sealers on the basis that all of the other

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<sup>166</sup> William Ewan's Sworn Statement, 18 Feb. 1832. PANL, GN 2/2, box 1., n.g.

<sup>167</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 161.

<sup>168</sup> *Ibid.*, 161.

local ship owners would do the same. Ridley now had an advantage over the other ship owners because he did not have to guarantee his employees cash wages, but he could keep giving them credit in exchange for their seal pelts and oil. The other masters and merchants could have abandoned their new agreements with the sealers and returned to the old contracts, but the sealers responded quickly, and continued to hold out against their masters.

The group also wanted Ridley to give into their demands because he was an influential merchant. The sealers signaled that if Ridley wanted to do business in the sealing industry he would have to play by the strikers' rules. Ridley's refusal to work with the sealers prevented a sizable group of the workers from being paid in cash wage and this threatened the strikers' cohesion.<sup>169</sup> Strikers could feel betrayed if they still had to rely on credit, while other sealers received a cash wage. The sealers relied on the promise that all of the strikers would gain equal benefits if they remained united and that their masters would acknowledge their labour through these new contracts. Without unity, the sealers lost their power to set the terms of their engagement. Individually, they would not have been able to get their wages increased by masters who held more economic and political clout. As such, the sealers had the most to benefit from attacking Ridley's ship. It sent a message to Ridley and the other masters that resistance to their demands would not be tolerated. Tucker's and the local magistrates' suspicions were later confirmed when the sealers put up a placard taking credit for the attack.<sup>170</sup>

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<sup>169</sup> Elizabeth A. Wells, "RIDLEY, THOMAS," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003.

<sup>170</sup> Little, "Plebeian Collective in Harbour Grace and Carbonear," 162 and 245.

Tucker responded to the sealers' actions by appointing special constables to be attached to the Carbonear and Harbour Grace authorities.<sup>171</sup> He tasked the constables with keeping watch over the town to ensure that the strikers no longer made trouble. The new constables patrolled the two towns day and night to prevent the strikers from meeting together or from posting new placards. While the constables did not meet resistance or break up any illegal assemblies, they did tear down new placards that appeared in the towns. The constables also posted their own notices in prominent places which detailed the Chief Justice's proclamations condemning the sealers' attack against Ridley's ship and asked for anyone who had information on the strikers' illegal activities to step forward.<sup>172</sup> The sealers continued to march together in solidarity against their masters and local suppliers, however, and called to their fellow workers to boycott the sealing hunt until everyone in Carbonear enjoyed a cash wage from this industry.<sup>173</sup> The sealers marched to each schooner and called to their fellow workers to resist their masters until they were paid in cash.

Tucker's measures failed to end the sealers' strike, but it showed how the Chief Justice saw himself as a mediator in this situation. He didn't act against the sealers until the strikers attacked an important merchant. Initially, he saw the sealing strike as the workers negotiating with their masters and local suppliers for better wages.<sup>174</sup> Tucker did not intervene at this time because neither party had committed any crimes or disturbed the area's peace. He did not believe that it was his duty to intervene into the local

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<sup>171</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 43-4.

<sup>172</sup> *Ibid.*, 43-4.

<sup>173</sup> Cadigan, *Newfoundland and Labrador, A History*, 109.

<sup>174</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 43.

economy or to command how people arranged master-servant contracts. Tucker wanted to stop the strikes from happening after Ridley's ship was attacked, because he believed that the workers had committed a criminal act. Yet, Tucker failed to prevent the sealers from destroying property, attacking individuals or assembling. Instead, the sealers continued to resist their masters with peaceful meetings, while factions of these workers took it upon themselves to forcefully coerce the local ship owners.

Tucker and the local magistrates failed to end the strikes, and the workers were successful in their resistance. The attack on Ridley's ship and their subsequent actions demonstrated that they were united in their desire to gain better standards of living for their fellow workers. The strikers did not want to get rid of the truck system all together, but they were able to gain a cash wage from the seal hunt.<sup>175</sup> The sealers' actions did not translate into further resistance against their masters' use of the truck system in the cod fishery, because this economic system was ingrained into how this industry operated. The strikers did not articulate why they didn't continue their resistance movement against their masters' use of the truck system in the cod fishery, but their initial placards illustrated that they saw this initial strike against the ship masters as the first step in getting rid of Newfoundland's debt system.<sup>176</sup> However, the sealers were satisfied that they convinced their masters to amend their agreements and the movement faded. Perhaps the workers saw the seal hunt as a relatively new industry that could be changed by their actions, while they viewed the cod fishery as an established industry. The sealers knew that their masters could be pressured to make one-time cash payments

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<sup>175</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 182-3.

<sup>176</sup> Sealers' Notice, Carbonear, 5 Jan. 1832. PANL, GN 2/2, box 1, n.g.

for the seal hunt, but not a cash wage in exchange for their catches of fish for a majority of the year. In this sense, the sealers acted like their counterparts from the Harbour Grace food riot by viewing their traditional paternalistic relationships, in this case the use of the truck system in the cod fishery, as something that was inherent in their lives.

Although the sealers did not challenge the truck system within the cod fishery, this did not mean that this group was reactive like the anonymous petitioners or the Harbour Grace servants. Instead, the strikers show that the Conception Bay workers were pro-active in changing how the local economic and social systems impacted their lives. The sealers were aware of each other's plights, and they recognized that they had enough collective power to challenge the state of affairs. The strikers had a unified identity as a working population and they had common experiences. The sealers used this common identity and the promise of a better livelihood to mobilize the working population to resist the ship masters.

As with the anonymous petitioners and the Harbour Grace servants, the sealers used their numbers to pressure their masters and local suppliers to give into their demands. This did not mean that the sealers were the dominant force in Conception Bay, but that the masters and the local suppliers still had greater control over how the labour operated and could count on the state to support them. The sealers could only strike for a limited time before the authorities stepped in with harsher measures or before they threatened their own livelihood by not having enough currency to purchase provisions. Even though the masters and the local suppliers required that the seal hunt succeeded

each year to benefit from their investments, they could potentially survive if the sealers continued to strike as they had more access to money to purchase goods.<sup>177</sup>

The 1832 sealers' strike shows that the workers recognized that they had a common identity that they could draw upon to change how the system operated. The sealing strike offered unique circumstances compared to the two previous discussed cases. It changed how they acted as a group and how they responded to their masters' methods of maintaining control over terms of employment. While the sealers used similar tactics to those of their prior counterparts, such as destroying property to make local suppliers comply with their demands, the workers used these methods in this instance to achieve different goals. What this illustrates is that the circumstances that Newfoundland's workers faced determined how they went about achieving these goals. In particular, the sealers reacted to their masters' history of exploiting their labour. Unlike the cases previously noted, the strikers did not respond to immediate situations that they deemed were unfair, but focused more readily on immediate economic improvement.

The sealers believed that the strike was necessary to gain greater benefit from their labour. The shipmasters and the suppliers, on the other hand, believed the strike jeopardized their investments in the seal hunt. The major factor that caused the strike to occur was access to cash and its uneven distribution to the different classes on the island of Newfoundland. The seal hunt also did not have the same history as the cod fishery, which was reflected in how the workers acted. The cod fishery and its system of

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<sup>177</sup> Cadigan, *Newfoundland and Labrador, A History*, 108.

obligations between masters and servants were ingrained into the residents' life. The seal hunt, however, was relatively new to the island's inhabitants and it did not present the same responsibilities that servants and masters felt towards one another. The strikers' actions correlated with the other workers' movements that occurred in the previous example, in which they protested unfair conditions that hampered their economic power. While it is not possible to know why the masters and the local suppliers agreed to the strikers' demands, the evidence suggests that they wanted to end the strike quickly before the seals gave birth and the season was lost. As such, the sealing strike was settled by the workers' protests and by their masters' use of official channels to have their respective ideas of justice implemented.

### Chapter Five: Resisting Gibbeting, 1834

In 1833 and 1834, the people of Conception Bay paid close attention to the murder trials of Peter Downing and Catherine Snow. These two cases reveal many of the problems that Newfoundland's residents had with the justice system and the concerns that they had about the island's political system. Roman Catholics, a majority of whom were Irish servants and fishers, enjoyed toleration towards their religion since 1779 and the authorities granted them the liberty to openly practice their faith in 1784.<sup>178</sup> The Irish population also flourished since the late 18<sup>th</sup> century as more immigrants from Ireland arrived in Newfoundland. O'Flaherty stated that the Irish Roman Catholics outnumbered Newfoundland's Protestant populations by the early 1800s.<sup>179</sup> By 1832, the island's Roman Catholics were spurred by Newfoundland's new Representative Government and by political figures to continue their fight for greater representation. The Catholic population often translated their collective desire for greater access to Newfoundland's government and legal systems by protesting the law officials' decisions that they believed unjustly targeted their community. In many instances, the Roman Catholics were joined by fellow Protestant townspeople who also felt attacked by the authorities' decisions when the officials applied blanket punishments against communities for an individual's crime. The protests that occurred against legal authorities often acted as indicators for the underlying tensions that people felt at this time.

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<sup>178</sup> Bannister, *The Rule of the Admirals*, 218-9

<sup>179</sup> O'Flaherty, *Old Newfoundland*, 122.

People in the towns of Harbour Grace and Port de Grave rallied together in two separate instances to protest their local magistrates' decisions to gibbet the Catholic criminals, Downing and Snow; because they felt that the authorities were overstepping their bounds. The townspeople's resistance to these punishments emphasized how Newfoundland's working population felt alienated by this aspect of the island's justice system. In particular, the magistrates' decision to publicly display the corpses of Downing and Snow demonstrated to these communities that the Justices of the Peace saw settlers especially the Roman Catholic residents as potential criminals. As in the previously discussed cases, these two protests show that Newfoundland's working population felt that their authorities were unjustly punishing Snow and Downing for their economic and social positions as well as their crimes. The townspeople and the authorities had different notions of appropriate punishment. Residents believed that gibbeting offenders was unreasonable since it punished a community for individuals' crimes, while the legal officials saw it as an effective way to prevent people from harming one another by serving as a lesson. How people defined the law differently was exemplified by how the townspeople from Harbour Grace and Port de Grave resisted the local administration's decisions to execute Downing and Snow.

The magistrates were motivated by external circumstances to publicly display the bodies of criminals. Bannister argued that the island's authorities use of "[m]ercy and terror equally reinforced the rule of law and the established social order."<sup>180</sup> However, the magistrates decided what the correct conduct was based on political circumstances.

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<sup>180</sup> Bannister, *The Rule of the Admirals*, 193.

Officials used pardons to reinforce moral obligations and societal values that were threatened by outdated laws. In 1784, Governor Campbell, for example, pardoned Sarah Spry for the murder of her recently born child.<sup>181</sup> Spry confessed that she murdered her child because the infant was conceived during an illicit affair. Campbell and the crown believed that Spry should receive mercy because the laws concerning infanticide were outdated. This did not mean that the Governor believed that Spry was innocent, but thought that she did not deserve to be executed for committing infanticide. Legal officials used pardons to set new legal standards or to reform current laws that reinforced traditions that were no longer supported by society.

Newfoundland's officials used acts of terror, on the other hand, to make people conform to morals and beliefs that authorities believed were necessary to preserve. The legal authorities used corporal punishments to inhibit what they saw as residents' criminal tendencies. However, what the officials considered to be criminal included immoral acts that were not directly handled by the law. In 1820, Acting Governor Lt David Buchan ordered that two fishermen, James Lundrigan and Philip Butler, to be whipped for refusing to repay their debts and for not appearing in court.<sup>182</sup> Cadigan argued that Buchan punished Butler and Lundrigan not because of their debts, but because their wives refused to vacate their homes as ordered by the court and they threatened the constables who tried to confiscate their properties.<sup>183</sup> Lundrigan and Butler

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<sup>181</sup> Bannister, *The Rule of the Admirals*, 195-6.

<sup>182</sup> William Kirwin, "BUCHAN, DAVID," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003–, accessed January 30, 2018, [http://www.biographi.ca/en/bio/buchan\\_david\\_7E.html](http://www.biographi.ca/en/bio/buchan_david_7E.html).

<sup>183</sup> Sean Cadigan, "Whipping Them Into Shape: Refinement of Patriarchy Among Conception Bay Fishing Families, 1787-1825" in *Their Lives and Times, Women in Newfoundland and Labrador: A*

maintained that they did not give into the courts' demands because their wives wanted to keep their homes. Cadigan suggested that Buchan saw the men's choice to submit to their wives demands as their own failures, and thought that they should be punished for not acting as the patriarchs of their respective families. Cadigan saw Buchan's choice to whip these two fishermen as a way to reinforce the message that men should act as the patriarchs of their families. While Campbell had earlier pardoned Spry as a way of reforming how the law operated, Buchan used corporal punishment as a means to reinforce both existing legal standards and the patriarchal values that he believed were important to society's stability.

The whipping of Lundrigan and Butler was not unique; officials used corporal punishment as a means to reinforce servant-master relationships. Naval surrogates and later magistrates used whipping or similar measures to punish unruly servants to ensure that other workers maintained their obligations to their masters.<sup>184</sup> However, legal officials in Conception Bay often opted to use monetary fines instead of corporal punishments because they were easier to implement and the authorities felt that this offered better avenues for mediation between the opposing parties in court.<sup>185</sup> Authorities reserved corporal punishments as solutions to master-servant conflicts for what they considered heinous acts of disobedience. Legal officials rarely corporally punished masters for their discretions against their servants, but magistrates in Harbour Grace were known to fine employers who refused to pay their employees. This suggested that

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*Collage*, eds. Carmelita McGrath Barbara Neis, Marilyn Porter. (St. John's: Killick Press, 1995), 48-59.

<sup>184</sup> Bannister, *The Rule of the Admirals*, 236.

<sup>185</sup> Cadigan, *Hope and Deception in Conception Bay*, 83-5.

Newfoundland's judicial authorities saw punishment as a tool to instruct the working population and masters on how the economy and society should function. Magistrates also used capital punishment to reinforce existing power structures and societal standards, but the death penalties that they applied had more lasting and immediate impacts on communities. Executions were public spectacles for the local residents.

Leading up to their sentencing, criminals were topics of interest in newspapers, as journalists and editors wrote lengthy stories. Michael Eamon argued that the print culture of British North America transcended the barriers of the literate and spread to the illiterate.<sup>186</sup> People used public spaces, such as taverns, marketplaces or homes to disseminate the news that appeared in publication to those around them. It was common for individuals to read newspapers aloud to others, especially to people who could not read. Similarly Maudie Whelan argued that even though most of the island's population was illiterate, newspapers were important in "shaping as well as reflecting Newfoundland society."<sup>187</sup> She argued that Newfoundland's journalism was initially founded for the elite, as the island's officials established local newspapers in 1807 to cater to the St. John's merchants.<sup>188</sup> John Ryan, an experienced editor who founded New Brunswick's earliest newspapers, was chosen by Governor Sir Erasmus Gower to create Newfoundland's first news publication.<sup>189</sup> At first, Ryan held a monopoly over

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<sup>186</sup> Michael Eamon, *Imprinting Britain: Newspapers, Sociability, and the Shaping of British North America* (Montreal: McGill-Queen's University Press, 2015), 9-10.

<sup>187</sup> Maudie Whelan, "The Newspaper Press in Nineteenth-Century Newfoundland: Politics, Religion, and Personal Journalism" (PhD Thesis, Memorial University of Newfoundland, 2002), 1.

<sup>188</sup> *Ibid.*, 23-4.

<sup>189</sup> Patrick O'Flaherty, "RYAN, JOHN," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003–, accessed February 5, 2018, [http://www.biographi.ca/en/bio/ryan\\_john\\_7E.html](http://www.biographi.ca/en/bio/ryan_john_7E.html).

Newfoundland's news cycle with the *Royal Gazette and Newfoundland Advertiser*, but more people created their own newspapers in response to political demands. For example, John Shea created the *Newfoundlander* in 1827 to argue for the "idea of a local legislature" for Newfoundland.<sup>190</sup>

By 1834, newspapers of different political and religious affiliations existed in St. John's and outside of the capital as well, such as Carbonear's *Star and Conception Bay Journal* in 1834 and Harbour Grace's *Conception Bay Mercury* in 1829.<sup>191</sup> Whelan suggested that Newfoundland's newspapers only appealed to a small readership, but the number of newspapers created and their popularity suggested otherwise. Little's and O'Flaherty's examination of Newfoundland's education system suggested that more of the island's population were becoming literate.<sup>192</sup> While literacy was still relatively low among the working populations, Eamon's arguments about how print culture was transferred show that the few people who could read shared what they learned with others. Newspapers were a popular method of getting the daily news by the elites and workers alike. This was especially shown by how many editorials newspapers received on murder cases, in which editors welcomed readers to discuss their opinions on the criminals.<sup>193</sup> If the murderer was particularly infamous, editors published several issues that devoted lengthy stories on the trial proceedings.

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<sup>190</sup> Whelan, "The Newspaper Press in Nineteenth-Century Newfoundland," 25 - 29.

<sup>191</sup> *Ibid.*, 31-3.

<sup>192</sup> Little, "Plebeian Collective Action in Harbour Grace and Carbonear," 36-43.  
O'Flaherty, *Old Newfoundland*, 138.

<sup>193</sup> *The Newfoundland Patriot*, 15 July 1832. Center for Newfoundland Studies, (CNS).  
*The Newfoundland Patriot*, 22 July 1832. CNS. These editorials remarked on the authorities' unfairness towards Peter Downing and Catherine Snow.

Newspaper articles acted as windows into trials, which were also supplemented by local gossip. Community members shared news through word of mouth, as individuals recalled what they heard about the crimes or what their masters told them from what they read in the newspapers. Keough's work on women's use of violence and the courts corroborates this claim, as she stated that the island's plebeian population learned what occurred in their communities from talking to one another. For instance, "Ellen Veal appeared before the justice...at St. Mary's to lodge a complaint of assault against her neighbour Mary Bowen," who attacked her based on rumors she heard about her family.<sup>194</sup>

Crowds watched the authorities hang the guilty parties, thanks in part to the interest generated by newspapers. Newfoundland's judges, particularly the Chief Justices, made these executions accessible to all community members. The magistrates and the naval surrogates encouraged individuals to watch these executions as a reminder that breaking the law had serious consequences. To accomplish this, the local authorities turned criminal executions into public humiliations of the criminals as their bodies were displayed for the crowds after they were hanged. Bannister noted that authorities publicized events by having the sheriff "convey them in public procession to the gallows...between ten in the morning and noon," as they done for Edmund McGuire's and Matthew Halluran's hangings in 1754.<sup>195</sup> Courts ensured that executions garnered attention by having them occur during the busiest time of the day. Like England's courts,

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<sup>194</sup> Willeen Keough, "Now You Vagabond [W]hore I Have You": Plebeian Women, Assault Cases, and Gender and Class Relations on the Southern Avalon, 1750-1860", in *Essays in the History of Canadian Law, Two Islands: Newfoundland and Prince Edward Island*, ed. Christopher English, Vol. IX (Toronto: University of Toronto Press, 2005), 246.

<sup>195</sup> Bannister, *The Rule of the Admirals*, 212.

Newfoundland's authorities also used gibbetting to terrify the island's residents into complying with the law. Legal officials hung criminals' corpses in chains or in cages that held their bodies in public places. These devices were locked, to prevent friends or family members of the deceased from stealing the bodies and burying them. Gibbeted corpses would be hung from trees, gallows or other locations for long durations of time. In some cases, the executed criminals were displayed for months or years. The authorities tarred these corpses to prevent them from rotting and from animals eating the bodies.<sup>196</sup> Part of what made gibbetting so offensive to the criminal's loved ones was that the convicted were "denied a Christian burial" and were often buried next to the gallows or the gibbets that they hung from.<sup>197</sup>

Authorities often had criminals' bodies dissected prior to being gibbeted. David McNally argued that English officials ordered surgeons to perform operations on corpses in public places because it served as a means to discipline the working masses.<sup>198</sup> McNally showed that the authorities' tactics to scare the English masses into submission failed because these public displays of corpses often enraged crowds. People fought with officials, or secretly stole the bodies to give them proper burials. For instance, he noted how Dr. Bernard Mandeville recorded in his observations on public hangings in Tyburn, England, that the crowds defiantly protested these punishments. In one instance, Mandeville stated that the people who witnessed the execution attacked the jailors who

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<sup>196</sup> Joseph R. Smallwood, Catherine F. Horan, Robert D.W. Pitt and Bertram G. Riggs, eds., *Encyclopedia of Newfoundland and Labrador*, vol. 2, s.v. "Giant Squid, Gibbons", 519.

<sup>197</sup> Bannister, *The Rule of the Admirals*, 214.

<sup>198</sup> David McNally, *Monsters of the Market, Zombies, Vampires and Global Capitalism* (Boston: Koninklijke Brill NV, 2011), 19.

attended one hanging.<sup>199</sup> Gibbetting had the opposite effect than the one that English officials hoped. The display of corpses angered people instead of making them more submissive. Newfoundland's authorities, like their English counterparts, believed that public dissections caused people to fear the law because it showed how individuals who broke the law would be humiliated after their death. Newfoundland's residents, like their English and Irish contemporaries, saw the body as sacred and to witness corpses being dissected, then hung in chains, served as a stark reminder that there were severe consequences for breaking the island's law. Not only did Newfoundland's residents find the gibbeted corpses disgusting, it also offended their sense of Christian decency. Newfoundland's Roman Catholics and Protestants had their own graveyards located next to their churches. While these denominations remained separated on many questions, they shared the belief that the dead deserved a Christian burial.<sup>200</sup> The residents viewed gibbeted corpses as symbols of injustice, since they believed that it was improper for the legal officials to leave bodies rotting out in the open, even if they were criminals.

To fully understand how Newfoundland's residents, particularly the people of Harbour Grace and Port de Grave, reacted to these public displays, it is important to discuss how they perceived Downey's and Snow's executions. Those two murder trials produced intense interest among people in Conception Bay. For instance, the newspaper editors of the *Patriot*, Dr. William Carson and Robert J. Parsons, and the

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<sup>199</sup> David McNally, *Monsters of the Market, Zombies, Vampires and Global Capitalist*, 17-9.

<sup>200</sup> Willeen Keough, "Ethnicity as Intercultural Dialogue: Eighteenth and Nineteenth –Century Newfoundland", *The Canadian Journal of Irish Studies* 31, no. 1 (2005), 18-28.  
Whelan, "The Newspaper Press in Nineteenth-Century Newfoundland," 29-32.

*Newfoundlander*, John Shea, each commented on these murders.<sup>201</sup> People also wrote several editorials in the *Patriot*. While it is difficult to determine how much interest the working population had in these incidents, it can be speculated that the populations of these two towns would have talked to one another about these murders based on the interest shown in the newspapers and the attendance at the trials.

The people of Harbour Grace became deeply involved in the fates of Peter Downing and Patrick Malone after they were accused of murdering their master.<sup>202</sup> In July of 1833, Harbour Grace's residents and the authorities responded to a fire that occurred at Mr. Bray's home.<sup>203</sup> When the residents put out the fire, they discovered the remains of Bray, his child and one of his female servants. At first, the authorities believed that they had died in the fire, but upon closer inspection it was discovered that they had been murdered. How this was discovered, whether the people who responded to the fire saw visible signs of an altercation or if a surgeon performed an autopsy, was not revealed in the court records. What the authorities recorded, however, was that the investigators arrested two of Mr. Bray's employees for their master's murder. An article in the *Patriot* confirmed this. The author stated that the "perpetrators of the savage and diabolical deed, by which Mr. Bray his child and domestic [sic], met their melancholy end" were caught by the authorities.<sup>204</sup> The constables and magistrates in Harbour Grace suspected that

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<sup>201</sup> "Supreme Court", Article, *The Newfoundlander*, 9 Jan. 1834. CNS.

*The Newfoundland Patriot*, 7 Jan. 1834. CNS.

<sup>202</sup> The court records refer to Peter as Downing and Downey.

<sup>203</sup> T. Cochrane to E.G. Stanley, St. John's, 15 March 1834. PANL, CO 194/87 [Reel-B536], 52.

<sup>204</sup> *Patriot*. July 22, 1834. CNS.

Peter Downing and Patrick Malone murdered the three people to rob their master and then set fire to the house to hide their murders.<sup>205</sup>

The authorities postponed the trial because they were uncertain of who committed the killings. Harbour Grace's jailor, Mr. Currie, decided to take advantage of the two prisoners' nervousness.<sup>206</sup> The jailor isolated Downing and Malone to keep the prisoners from talking to one another. He then offered Malone a reprieve from being executed if he confessed about who murdered the residents of Bray's home. Malone stated that the two initially planned to rob Mr. Bray while he was away. When Malone and Downing discovered that there were people still in the house, they killed the occupants to hide their crime. They then set fire to the house to cover their tracks. When the jailor asked who killed the residents of Bray's home, Malone said that Downing murdered them while he assisted with the fire. The jailor was pleased with Malone's confession and he assured the prisoner that the magistrates would be made aware that a plea bargain had been arranged between the two of them. Downing, on the other hand, did not receive a plea offer from the jailor. Instead, the prisoner confessed of his own accord when he heard that the authorities gave Malone a lenient sentence for his confession.<sup>207</sup>

While Downing and Malone confessed soon after they were caught, they did not face trial until January 3<sup>rd</sup>, 1834. By that time, the murders of the three people became a popular topic of conversation amongst the people of Conception Bay. Chief Justice Henry Boulton advised the jury to consider that "one of the parties killed the deceased, it

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<sup>205</sup> T. Cochrane to E.G. Stanley, St. John's, 2 April 1834. PANL, CO 194/87 [Reel B536], 72-3.

<sup>206</sup> Judges Henry Boulton, Brenton and Archibald to T. Cochrane, St. John's, 14 Jan. 1834. PANL, CO 194/87 [Reel B536], 60-3.

<sup>207</sup> T. Cochrane to E.G. Stanley, St. John's, 2 April 1834. PANL, CO 194/87, 72-3.

is murder in both, and it is perfectly immaterial in the consideration of either prisoner's case, which gave the mortal stroke" since both of them intended to harm Bray.<sup>208</sup> The former Attorney General of Upper Canada, Boulton had only been appointed as Newfoundland's Chief Justice months before.<sup>209</sup> He had been a controversial figure before coming to Newfoundland. He actively sought to silence William Lyon Mackenzie King and to reverse that Upper Canada's reformers' efforts to gain greater representation because he believed that the colony benefited from Britain's imperial authority.<sup>210</sup> Boulton's agitations against Upper Canada's Reformers caused the British Colonial Secretary, Lord Goderich, to recall him from his position and to place him as Newfoundland's new Chief Justice in 1833. In his article comparing Frances Forbes' and Boulton's tenures as Chief Justices, John McLaren noted that Boulton made enemies when he sought to make sweeping changes that reaffirmed English common law on the island, where previous judges based some of their decisions on local customs. Boulton's departure from other Chief Justices' actions were not well received in Newfoundland, as he faced the "first six years of a reformed system of colonial governance with a representative assembly" and a Catholic population who were recently emancipated.<sup>211</sup> While Boulton was adamant in seeing English common law applied heartily in

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<sup>208</sup> *Patriot*. January 7, 1834. CNS.

<sup>209</sup> Hereward and Elinor Senior, "BOULTON, HENRY JOHN," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003–, accessed December 5, 2017, [http://www.biographi.ca/en/bio/boulton\\_henry\\_john\\_9E.html](http://www.biographi.ca/en/bio/boulton_henry_john_9E.html).

<sup>210</sup> Hereward and Elinor Senior, "BOULTON, HENRY JOHN," in *Dictionary of Canadian Biography*, vol. 9, University of Toronto/Université Laval, 2003.

<sup>211</sup> John McLaren, "The Joys and Sorrows of British Colonial Judges in 19<sup>th</sup> Century Newfoundland: Comparing Chief Justices Frances Forbes and Henry John Boulton and Their Tenure," in *Discourse and Discovery: Sir Richard Whitbourne Quartercentennial Symposium 1615-2015 and Beyond* (St. John's: SS-Daisy Legal-History Committee, The Law Society of Newfoundland and Labrador), 185-6.

Newfoundland, many segments of the population, including the island's reformers and the Catholic population, resisted his efforts. Boulton's remarks on Downing and Malone would later gain him notoriety amongst the Catholic population and the Reformers, as people believed that he was bigoted against the prisoners because they were Roman Catholics.

The *Patriot's* editor noted the full attendance at the St. John's courthouse to see the trial.<sup>212</sup> The prosecution convinced the jury to have the prisoners hanged by showing the jurors that Downing and Malone had confessed. The jury elected to have the two prisoners executed, to have their bodies dissected by a surgeon, and to have their remains gibbeted as a last recompense for their crimes.<sup>213</sup> However, Boulton later excluded dissection from the list of Downing's punishment and commuted Malone's execution because of the earlier plea bargain.

Both the Harbour Grace's officials' and Boulton's actions during this trial prompted detractors of the administration to criticize the island's legal system. One such critic was the Irish-born Roman Catholic Bishop Anthony Fleming, who chronicled Downing's trial and execution as an example of the administration's incompetence. Originally hailing from County Kilkenny, Ireland, Fleming arrived in Newfoundland in 1823 as a priest under Bishop Scallan's tutelage.<sup>214</sup> Fleming earned Scallan's respect as the bishop's curate, in which he looked after the Parish of St. John's. In October 1829 he

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<sup>212</sup> *The Newfoundland Patriot*, 7 Jan. 1834. CNS.

<sup>213</sup> *The Newfoundland Patriot*, 7 Jan. 1834. CNS.

<sup>214</sup> John Edward Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," (PhD Thesis, University of Ottawa, 1997), 73.

inherited Scallan's position.<sup>215</sup> Fleming used his position as Bishop of St. John's to delve into political matters. John Fitzgerald argued that Fleming was an ultramontanist, who "desired to avoid secular "French","gallican", "liberal" and "enlightenment" ideas, as well as Protestantism...in church affairs."<sup>216</sup> The Bishop's view on how the church should be run influenced how he saw politics, particularly Irish rights. The Bishop backed the reformers' efforts to help the Roman Catholics gain greater rights in Newfoundland, even though he considered them to be liberals.<sup>217</sup> Both the reformers, headed by Dr. William Carson and Patrick Morris, and Fleming, believed that they could obtain their own ends by mobilizing people against the island's largely English and largely Church of England administration. To gain support from the native-born and the Irish-born working classes, the reformers portrayed the British officials as harsh in administering the law. They argued that England's colonial secretary should grant Newfoundland representative government to end the cycles of abuse that English authorities perpetrated against the residents. Carson and Morris, for example, publicly condemned Governor Buchan for having Lundrigan and Butler whipped.<sup>218</sup> The reformers argued that Buchan's punishment was unnecessary and that fines would have sufficed to punish the two fishermen. They used this case as an example of the naval surrogates' overzealous use of whipping as a punishment for mundane offenses.<sup>219</sup>

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<sup>215</sup> Raymond J. Lahey, "FLEMING, MICHAEL ANTHONY," in *Dictionary of Canadian Biography*, vol. 7, University of Toronto/Université Laval, 2003–, accessed February 7, 2018, [http://www.biographi.ca/en/bio/fleming\\_michael\\_anthony\\_7E.html](http://www.biographi.ca/en/bio/fleming_michael_anthony_7E.html).

<sup>216</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 90.

<sup>217</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 90.

<sup>218</sup> Bannister, *The Rule of the Admirals*, 259-60.

<sup>219</sup> Matthews argued that the reformers were more motivated in gaining prestige than they were in helping the island's residents. He stated that the reformers used this case of judicial abuse to endorse

The *Ledger's* editor, Henry Winton, considered Fleming to be a demagogue who used his position as a leader of the Roman Catholic community to support his political movements.<sup>220</sup> While Winton also supported Irish rights, he feuded with the Bishop during the reformers' bid for representative government for Newfoundland. Winton's beliefs were complex, as he supported people gaining greater personal freedoms, such as Roman Catholic emancipation, and in "defending the established order of society" that governed over the island's populace.<sup>221</sup> Winton was a conservative and he clashed with people who he thought manipulated the working population for their own benefit. This did not mean that Winton wanted to protect his fellow residents from being manipulated, since he often berated workers for protesting against unfair economic conditions, but he disliked elites who pandered to the masses. In 1832, Winton criticized Fleming for using his position as a bishop to endorse candidates for the newly granted assembly. John Kent, a politician recommended by Fleming, asserted that Winton was bigoted against Irish Roman Catholics and Fleming retaliated by writing an article in the *Newfoundlander* stating that he was allowed as a citizen of the British Empire to support the potential politicians that he liked in the election.

Winton's remarks on Fleming did not deter the reformers from spurring the residents' patriotism during the 1830s. When Peter Downing and Patrick Malone were sentenced, Fleming claimed that Newfoundland's legal system was inherently biased

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themselves as the best alternative to the current administration. Matthews, "The Class of '32: St. John's Reformers on the Eve of Representative Government", 87-9.

<sup>220</sup> Raymond J. Lahey, "FLEMING, MICHAEL ANTHONY," [http://www.biographi.ca/en/bio/fleming\\_michael\\_anthony\\_7E.html](http://www.biographi.ca/en/bio/fleming_michael_anthony_7E.html).

<sup>221</sup> Patrick O'Flaherty, "WINTON, HENRY DAVID," in *Dictionary of Canadian Biography*, vol. 8, University of Toronto/Université Laval, 2003–, accessed February 12, 2018, [http://www.biographi.ca/en/bio/winton\\_henry\\_david\\_8E.html](http://www.biographi.ca/en/bio/winton_henry_david_8E.html).

against Roman Catholics. While Newfoundland's Roman Catholics had been allowed to practice their faith since 1779, large economic and social divisions still existed between the Protestants and Catholics. The island's government largely consisted of British Protestants, while there was a small Irish Catholic minority that was able to gain positions within the local political scene. The Catholic population believed that the Protestant majority in the government negatively impacted their rights, as authorities upheld laws and made decisions that benefitted their own denomination. At the same time, the local officials believed that the Catholic leaders were using sectarian divisions to further their own power. For instance, Boulton objected to Fleming's interference in politics, stating to the Colonial Office that he disagreed with the Bishop's use of his position to create further sectarian divisions amongst the population.<sup>222</sup>

Fleming considered the Chief Justice to be a "bigot and partisan," who hated the Irish.<sup>223</sup> McLaren argued that Boulton was a "Protestant, [but] he was not antithetical to Catholics."<sup>224</sup> Instead, Boulton's hostile actions against the Catholics in Newfoundland were based on his experiences as Attorney General. In Upper Canada, Catholics were expected to respect the law, as Bishop Macdonnell taught them. However, Newfoundland's Catholic population acted differently than their British North American cousins, since they resisted the law and its officials that persecuted them. Boulton observed how this was made worse by priests and bishops, such as Fleming, who aggravated their congregation to protest legal officials' decisions with which they did not

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<sup>222</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 156.

<sup>223</sup> O'Flaherty, *Old Newfoundland*, 159-160.

<sup>224</sup> John McLaren, "The Joys and Sorrows of British Colonial Judges in 19<sup>th</sup> Century Newfoundland: Comparing Chief Justices Frances Forbes and Henry John Boulton and their Tenure," 195.

agree with. This does not excuse Boulton's bigoted actions against Catholics in Newfoundland, but it does explain why the Chief Justice saw this community as rebellious and seditious against English Common Law.

The Colonial Secretary had appointed Boulton as Newfoundland's Chief Justice because he viewed the former Upper Canada Attorney General as a man who held similar beliefs about Britain's imperial authority as himself. Upon his arrival, Boulton was at odds with Newfoundland's reformers and its Catholic communities. Boulton's respect for British authority influenced him to alter the island's legal system to conform more closely to English law. Boulton changed how Sheriffs chose juries to better resemble how English officials operated. The Chief Justice increased the pool of candidates from which the Sheriff could draw juries to oversee trials that occurred in the Supreme Court. However, Boulton mainly chose Protestants to act as these candidates, while only giving five potential seats to Roman Catholics.<sup>225</sup>

Fleming argued that juries always had a pro-Protestant bias that disadvantaged Catholic prisoners, since Protestant elites viewed Irish workers as naturally violent and disorderly.<sup>226</sup> O'Flaherty argued that Newfoundland authorities "worried about some kind of 'faction' existing among" Irish Catholics.<sup>227</sup> Chief Justice Colclough, for example, referred to protestors during 1815 as Irish rioters because he believed that they were naturally violent and prone to drinking.<sup>228</sup> Fleming further emphasized that

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<sup>225</sup> John McLaren, "The Joys and Sorrows of British Colonial Judges in 19<sup>th</sup> Century Newfoundland: Comparing Chief Justices Frances Forbes and Henry John Boulton and their Tenure," 159-160.

<sup>226</sup> *Ibid.*, 123.

<sup>227</sup> Patrick O'Flaherty, *Old Newfoundland*, 123.

<sup>228</sup> Caesar Colclough to R. Keats, St. John's, 25 Feb. 1815. PANL, CO 194/56 [Reel B685], 152.

Newfoundland's legal system was biased against Roman Catholics when he pointed out that most of the legal and administrative officials on the island were Protestant. The Bishop illustrated that Roman Catholics did not have equal representation in Newfoundland's society. He pointed out that all of the prisoners, an estimated 40 criminals, charged with crimes before the Supreme Court were Roman Catholics.<sup>229</sup> All of the criminals executed by authorities during the 1830s were Irish Catholics.

Fleming publicly allied himself with Caron's and Morris' reformers in response to the administration's apparent abuses of the Catholic population. With their combined efforts, the reformers and Fleming brought to light the Harbour Grace officials' and the Supreme Court's actions during Downing's trial. In particular, Fleming noted that the Harbour Grace officials unlawfully acquired both Malone's and Downing's confessions.<sup>230</sup> The Bishop argued that the jailor was not allowed to offer Malone a plea bargain for his confession without approval from the Chief Justice to offer the prisoners pardons. Fleming also noted that the jailor was not allowed to offer the plea bargain to Malone first and then Downing, because it created an unequal opportunity for one prisoner to blame the other. The jailor contravened English common law at the time.

The Bishop's accusations were later followed up by Thomas Cochrane, Newfoundland's Governor. By 1825, Cochrane's 26 year career as a Royal Navy officer and earned him the appointment as Newfoundland's first resident governor. Cochrane was known for his opposition to Fleming's political activities, as he believed that the

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<sup>229</sup> O'Flaherty, *Old Newfoundland*, 159-60.

<sup>230</sup> *Ibid.*, 160.

bishop was stirring up the island's Irish population against him. For instance, Cochrane brought a "libel action...against the bishop's chaplain, Father Edward Troy, for allegedly writing a series of articles against the governor" in the *Patriot*.<sup>231</sup> Troy argued that Cochrane was purposely blocking Catholics from the government and that his bigotry was holding the Irish people back.<sup>232</sup> Cochrane believed that Troy acted on Fleming's behalf and the governor acted to have the bishop removed. Fleming also wanted Cochrane removed from his position and sought the people's support to do so. In 1834, Fleming supported the reformers' petition to have Cochrane leave Newfoundland.<sup>233</sup> The feud between Cochrane and Fleming influenced their actions as they each attempted to have the other removed from Newfoundland.

The Governor released his own report on the Harbour Grace and the Supreme Court officials' actions. Cochrane wrote to E.G. Stanley, the British colonial secretary, in March 1834, that several judges and constables from Harbour Grace had overstepped their legal authority. The Governor reported to Stanley that he started an internal investigation after Fleming accused the administration for abusing its power. Cochrane corroborated Fleming's claims that the town's officials, particularly the jailor, "overstepped their authority" and that the Supreme Court's judges were complicit in these acts.<sup>234</sup> He agreed that Downing was wrongfully executed and that Boulton should have waived Malone's pardon. Cochrane reported that he had reprimanded the Harbour

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<sup>231</sup> Frederic F. Thompson, "COCHRANE, Sir THOMAS JOHN," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003–, accessed February 13, 2018, [http://www.biographi.ca/en/bio/cochrane\\_thomas\\_john\\_10E.html](http://www.biographi.ca/en/bio/cochrane_thomas_john_10E.html).

<sup>232</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 159-60.

<sup>233</sup> *Ibid.*, 162.

<sup>234</sup> T. Cochrane to E.G. Stanley, St. John's, 15 March 1834. PANL, CO 194/87 [Reel-B536], 52.

Grace officials by docking their pay. The Governor, however, did not punish Boulton and the other Supreme Court justices because he did not want to tarnish the integrity of the island's legal system.<sup>235</sup>

While Cochrane's report was never released to the public, Fleming made his accusations known. People in Harbour Grace were inspired by Fleming's words to view Downing's execution and gibbetting as a major affront to their sense of justice. The townspeople of Harbour Grace collectively came together on April 29<sup>th</sup> to steal back Downing's corpse.<sup>236</sup> The local magistrates recorded that people from the town dismantled Downing's gibbet by cutting down the gallows and the chains that held the body. One magistrate wrote that there "must have been at least one thousand men in attendance on the night Downey's body were removed and that they composedly walked... past the court house."<sup>237</sup> The difficulty of this task reveals that the crowd's actions were premeditated, as they required the correct tools to cut the chains that held Downing's corpse and they struck the gibbet when the authorities were asleep or unaware that anyone had trespassed onto the hill. The group then paraded the criminal's body across town to Dr. Stirling's home.<sup>238</sup> The townspeople then deposited Downing's corpse with a note that threatened the magistrate to bury this body or the crowd would cause trouble. After they accomplished this task, the group dispersed. When Stirling discovered the body and the note, he complied with the townspeople's wishes and buried Downing

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<sup>235</sup> T. Cochrane to E.G. Stanley, 52-58.

<sup>236</sup> Danson to Cochrane, Harbour Grace, 30 April 1834. PANL GN 2/2, box1, 15.

<sup>237</sup> Harbour Grace, 12 May 1834. PANL GN 2/2, box 1, 80-2.

<sup>238</sup> *Ibid.*, 80-2.

in the wreckage of Bray's home to satisfy the Chief Justice's commands to have the criminal's corpse face the scene of his crime.

The Harbour Grace townspeople's actions demonstrated how Downing's execution was a major issue for the residents of the island. The people came to the defense of a convicted murderer because they saw his body as a symbol of the tyranny of Newfoundland's justice authorities. In particular, the protestors resisted the authorities' decision to gibbet Downing because they believed that it unjustly targeted them for crimes that an individual committed. Sectarianism also played a part, as people viewed the authorities' execution of Downing as another act against the Catholic community. The records do not state whether this protest was committed entirely by Roman Catholic residents or if it was a mixed group of outraged people, but Downing's trial and execution demonstrated to the Catholic population how they were unfairly seen by the Protestants in power as naturally born criminals. The townspeople's collective act of resistance showed how people did not feel that they could trust nor approach their local officials with their concerns. Instead, they took to the streets to have their voices heard on what they considered to be just and how the law should be implemented. In this case, the townspeople were successful in overturning the officials' decision to hang Downing's corpse near the town as a form of deterrent to keep people from breaking the law. The next chapter shows how the common people often turned to themselves, instead of their local magistrates or Supreme Court officials, to have what they believed to be justice implemented.

### Chapter Six: Catherine Snow, 1834

At the same time that Downing and Malone were accused of killing the three residents of the Bray's home, Conception Bay's residents were interested in the murder of John Snow. Port de Grave's Catholic population targeted local law officials during their protest against the authorities' orders to execute, dissect and gibbet Catherine Snow.<sup>239</sup> John Snow was a Port de Grave planter who people considered as a pillar of the community. When his family reported him missing on August 31, 1833, neighbours immediately began a search.<sup>240</sup> The *Newfoundlander* published an extensive article on the authorities' investigation into Snow's murder on January 23<sup>rd</sup>, 1834. The author reported that Robert John Pinsent Esq., a neighbour was called upon by Mr. Jacob, a local merchant and conservator of the Peace, to help look for the missing planter. Jacob stated to Pinsent that 'he was supposed by the people either to be murdered, or that he had made away with himself.'<sup>241</sup> When they investigated Mr. Snow's fish flake in Port de Grave, they suspected that he was murdered. Arthur Spring, John Snow's servant, indicated that fish were strewn about the flake and that he suspected his master was robbed. Pinsent also found blood that led from the fish flake to the nearby shore, which the investigators suspected meant that the missing planter's body had been thrown into the sea.

Suspecting foul play, Pinsent and his fellow investigators questioned Catherine Snow about her husband's disappearance. Mrs. Snow recalled how on August 31<sup>st</sup>, John Snow and herself returned to their house by sundown from delivering fish to Messrs.

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<sup>239</sup> T. Cochrane to E.G. Stanley, St. John's, 15 March 1834. PANL, CO 194/87 [Reel-B536], 52-8.

<sup>240</sup> *The Newfoundlander*, 23 Jan. 1834. CNS.

<sup>241</sup> *The Newfoundlander*, 23 Jan 1834. CNS.

Martin & Jacob. They brought with them Tobias Mandeville to do their accounts. Mrs. Snow mentioned how her husband became angry when he learned that his daughters went with their other servant, Catherine White, to visit Mr. Hele's wake in Cupids. Spring and Mandeville left to look for the Snows' daughters, while John Snow threatened his wife's and their children's lives if they did not return. Catherine reported that John expressed his anger by firing his gun on their porch and that he soon left afterwards to search for their children. That was the last time Catherine saw her husband, as she quickly left with her youngest child to stay at her sister's-in-law house.

Pinsent recalled that Jacob and his fellow authorities arrested Spring on September 5<sup>th</sup> as a suspect of John Snow's disappearance. Jacob believed that the two men were guilty and he laid a trap by "secrete [sic] a man under the magistrates' desk to hear any conversation that might take place between the two" while they saw one another in the jailhouse.<sup>242</sup> However, the prisoners discovered the hidden man as they talked about Snow's murder. Arthur Spring confessed soon after, stating that he, Mandeville and Catherine Snow had plotted to kill John Snow a month before his disappearance. Initially, Mandeville asked Spring to help him murder Snow, claiming that the servant should get his revenge against his master for beating him. Catherine Snow also approached the servant and she agreed to help get rid of her husband.

Contrary to Catherine Snow's earlier statement, Spring stated that John Snow left to pick up Mandeville by himself, instead of leaving to go find his daughters. Catherine gave Spring her husband's gun and she told him to go meet Mandeville at John Snow's

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<sup>242</sup> *The Newfoundlander*, 23 Jan 1834. CNS.

fish flake. Spring then indicated that Catherine sent her two oldest daughters and Catherine White to Mr. Hele's wake. When the servant arrived at the fish flake, he found that he could not shoot John Snow. He said that Mandeville took the gun from him and shot Mr. Snow in the chest, where he dropped dead on the stage. The two men then tied a grapnel to Snow's body and dumped his corpse in the middle of the bay. Mandeville corroborated Spring's account in his own confession, but he argued that he did not fire the gun. Instead, Spring shot John Snow and the servant told Mandeville he was pleased that he got his revenge. Similar to the Downing and Malone murder case, the authorities were unsure who committed the killing because the only evidence that they had of John Snow's murder was the prisoners' confessions.

Authorities arrested Catherine Snow soon after Spring and Mandeville implicated her in their murder of her husband. While Spring reported that Catherine was a willing accomplice, Mandeville claimed that she was the mastermind behind her husband's death. However, Catherine defended her original story when authorities interviewed her in jail. Catherine stated that she was only aware of Spring's and Mandeville's murder of her husband after they were arrested. The local magistrates believed that all three of the prisoners were guilty based upon the circumstantial evidence of Spring's hatred for his master and Mandeville's affair with Catherine.

Conception Bay's residents were interested in John Snow's murder because of the nature of the crime. People were appalled that a servant killed a prominent planter, and

the involvement of the planter's wife made it more sensational.<sup>243</sup> People believed that Mandeville and Spring were guilty, but some were not convinced that Catherine Snow helped to murder her husband. They saw that the authorities had only circumstantial evidence against Catherine, and believed that the authorities based their conclusion of the woman's guilt on her affair with Mandeville.

The Supreme Court and the jury did not share this view. On January 23<sup>rd</sup>, 1834, the three suspects appeared before the court. The prosecution presented its case that Mandeville, Spring and Snow colluded to kill John Snow. While there was no solid evidence that the three accused committed the crime, the jury believed that the circumstances surrounding their actions and the murder were connected.<sup>244</sup> Namely, the jury accepted the witnesses' statements that Mandeville and Spring plotted John Snow's murder as true. Catherine Snow was also implicated because of her affair with Mandeville. People viewed her as an immoral adulteress who was capable of killing her husband. Snow's daughters, who told the court that their parents were fighting, further emphasized that Catherine hated her husband.

While the prosecution presented little physical evidence that the three were involved, the jury believed that Mandeville, Spring and Catherine Snow murdered the missing planter. The only physical evidence that the prosecution delivered was the blood found on the fish flake. It was enough evidence, including the confessions, for the jury to declare the "fatal verdict 'Guilty' against all the prisoners" and that they were to be

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<sup>243</sup> *The Newfoundlander*, 23 Jan 1834. CNS.

<sup>244</sup> *The Newfoundlander*, 23 Jan 1834. CNS.

executed in Port de Grave the day after the trial occurred.<sup>245</sup> Catherine Snow's sentence, however, was commuted when the authorities discovered that she was pregnant. Chief Justice Boulton decided to keep Snow in jail until she delivered her baby and then have her executed in St. John's.

Boulton's decision to delay Catherine Snow's execution gave the public time to react to the circumstances surrounding the jury's verdict. The number of people who believed that Snow was innocent grew after the trial, and many people criticized the justices for sentencing a woman based on circumstantial evidence.<sup>246</sup> The biggest critic of the Supreme Court's decision to kill Snow was Fleming's personal aide, and an annoyance to the government authorities, Father Troy. The priest visited Snow in jail to provide her spiritual assistance before her execution and came to believe that Snow was a dutiful Catholic who was innocent.<sup>247</sup> Like Fleming, Troy argued that the court sentenced Catherine Snow based on her actions during and after John Snow's disappearance, instead of basing their conclusions on the evidence.

Troy claimed that there was no solid evidence that Catherine Snow was involved in the murder. He believed that the jury, five of whom were Protestants, convicted Snow because she was a Roman Catholic.<sup>248</sup> Many Protestants largely associated Catholics with Irish stereotypes, including that these people were naturally violent and immoral.<sup>249</sup> Troy argued that when the jury heard that Snow committed adultery they concluded that she

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<sup>245</sup> *The Newfoundlander*, 23 Jan 1834. CNS.

<sup>246</sup> *The Newfoundland Patriot*, 15 July 1834. CNS.  
*The Newfoundland Patriot*, 2 Sept. 1834. CNS.

<sup>247</sup> O'Flaherty, *Old Newfoundland*, 160-1.

<sup>248</sup> *Ibid.*, 160-1.

<sup>249</sup> Bannister, *The Rule of the Admirals*, 215.

likely murdered her husband. It is hard to determine if the jury actually acted this way, but Troy's argument emboldened people to criticize the administration for their unfair bias against Catholics. People submitted editorials to the *Patriot* and the *Newfoundlander* arguing that Snow was innocent. One person wrote to the *Newfoundland Patriot* that people had the "deepest sympathy for the wretch thus doomed to suffer law's last punishment after having now for many months endured that most intense of human miseries."<sup>250</sup> Another writer argued that Boulton should have told the jury to "divest their minds of every prejudice, and found their verdict simply upon such portions of the evidence as were in law admissible as against her."<sup>251</sup> People continued to argue that there was no solid evidence that indicated that Snow was involved in any way, but that the jury decided that she was guilty based on her behavior. Different editorialists stated that the Court's decision to execute Snow was another example that Newfoundland's administration was biased against Catholics.

It is hard to determine why exactly the jury believed that Catherine Snow was guilty, but the court's decision to execute her encouraged people to believe Fleming's and Troy's arguments. Troy and the other editorialists effectively demonstrated that the authorities only had circumstantial evidence to support their claims that Snow assisted the two other men accused in killing her husband. The priest gained 300 signatures for his petition to have the authorities retry Snow.<sup>252</sup> The priest argued in his memorial that she had suffered enough while imprisoned and that she had eight daughters to look after.

<sup>250</sup> *The Newfoundland Patriot*, July 15, 1834. CNS.

<sup>251</sup> *The Newfoundland Patriot*, September 2, 1834. CNS.

<sup>252</sup> Phyllis Creighton, "TROY, EDWARD," in *Dictionary of Canadian Biography*, vol. 10, University of Toronto/Université Laval, 2003–, accessed December 5, 2017, [http://www.biographi.ca/en/bio/troy\\_edward\\_10E.html](http://www.biographi.ca/en/bio/troy_edward_10E.html).

Additionally, he stated that the jury unfairly judged the evidence and that new proof was available that showed Snow was innocent. The Chief Justice agreed, and set July 18<sup>th</sup> as the date that he would accept new evidence. Troy also sent a memorial to Governor Cochrane to ask that Snow's trial be held in London before the English Supreme Court. Cochrane did not reply to this petition, and on July 21<sup>st</sup> Catherine Snow was executed in St. John's.<sup>253</sup> *The Newfoundland Patriot* wrote that Snow continued to believe that the authorities would show her mercy and asked the priest attending to her "Ah, sir is there no hope?"<sup>254</sup> Moments before her death, Snow continued to profess her innocence to the authorities, but she was never given any respite.

While the authorities did not record any incidents that occurred during the execution, they documented a protest that happened after the hanging. On July 21<sup>st</sup>, the authorities transported Snow's body from St. John's to Port de Grave to have her dissected and gibbeted in the town where she supposedly committed her crime. The surgeon Edward Kielley was selected to perform the dissection. Kielley learned how to be a surgeon while in Newfoundland from Daniel Coughlan in 1814 and he honed his craft in the Royal Navy. By 1826, Kielley had befriended Cochrane and the Governor appointed him as the surgeon for St. John's jail replacing the political reformer William Carson. O'Flaherty stated that Kielley "professed a desire to stay away from political matters," but as a Roman Catholic he sought greater rights for his fellow practitioners.<sup>255</sup> Some Catholics and reformers saw Kielley as an enemy because of his appointment, even

<sup>253</sup> *The Newfoundland Patriot*, 22 July 1834. CNS.

<sup>254</sup> *The Newfoundland Patriot*, 22 July 1834. CNS.

<sup>255</sup> Patrick O'Flaherty, "KIELLEY, EDWARD," in *Dictionary of Canadian Biography*, vol. 8, University of Toronto/Université Laval, 2003–, accessed February 23, 2018, [http://www.biographi.ca/en/bio/kielley\\_edward\\_8E.html](http://www.biographi.ca/en/bio/kielley_edward_8E.html).

though he was a fellow Roman Catholic. Kielley's political indifference would soon be challenged after his summer appointment when he recalled to Cochrane how he faced significant trouble conducting his dissection of Catherine Snow.<sup>256</sup> Kielley reported to the Governor that the community was greatly agitated when Snow's body arrived. The surgeon refused to follow the court's orders to dissect the corpse in public because he feared that the people would attack him.

The surgeon's fears were well founded. When the authorities delivered Snow's body to Kielley, the town's Catholic priest formed a group of people to march to the jail to retrieve the woman's body.<sup>257</sup> Once the protestors reached Kielley's place of work, they demanded that the surgeon release her remains to them. The surgeon feared that the protestors would attack him and he made a single cut to the body's neck to fulfill his obligation to dissect the criminal's corpse. As Kielley reported to Cochrane when he defended himself for not completing Catherine Snow's dissection, "with all due attention [he] performed that duty so far as the...circumstances" allowed him.<sup>258</sup> The protestors then took the body to a local Catholic cemetery, where the priest celebrated a final mass for Snow and buried her. After they accomplished their task, the protestors dispersed and returned to their homes.

Port de Grave's Catholic community felt that the law officials unfairly mistreated them by executing Catherine Snow. The protestors believed that the island's authorities were punishing them as a town and as a religious community because of Snow's

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<sup>256</sup> Edward Kielley to T. Cochrane, Port de Grave, 22 July 1834. PANL, GN 2/2, box1, 349-59.

<sup>257</sup> T. Cochrane to E.G. Stanley, St. John's, 15 March 1834. PANL, CO 194/87 [Reel-B536], 52-8.

<sup>258</sup> Edward Kielley to T. Cochrane, 369.

infidelity. As in the case of in Harbour Grace, the Port de Grave protestors resisted authorities' attempts to have the body gibbeted in their town. The actions of these two groups of protestors suggest that they saw the display of these corpses as indecent, and that it went against their beliefs that bodies should be respected. This corresponds with McNally's descriptions of English protests against authorities executing and gibbetting criminals. He argued that the protestors were not satisfied until the law officials respected the deceased by placing them in the proper graveyards.<sup>259</sup> Newfoundland's residents were no different; they believed that the authorities unduly punished them and tarnished their ideas of justice by displaying corpses of executed criminals.

The protests against Downing's and Snow's executions demonstrate that the two communities did not agree with the court's implementation of the law. Both the Harbour Grace townspeople and the Port de Grave Catholics saw justice differently than the authorities. To the protestors, justice was about fair treatment; individuals should pay for their actions, but whole communities should not suffer because of the actions of individuals. This was reflected in both the Harbour Grace townspeople and Port de Grave protestors who buried the executed criminals because they did not want to be subjected to the indecent exposure of decaying corpses. They saw gibbetting as a communal punishment.<sup>260</sup> Yet, the government's power was not absolute, and the people, especially Catholic residents, fought the administration and the merchants to have their concepts of justice acknowledged. While it is impossible to accurately determine if entire groups of people felt similarly about how justice should be implemented, the actions of various

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<sup>259</sup> McNally, *Monsters of the Market*, 20-1.

<sup>260</sup> Fitzgerald, "Conflict and Culture in Irish-Newfoundland Roman Catholicism, 1829-1850," 156.

groups during the 1815-1840 period suggested that they held common ideals or at least similar goals.

When we compare the townspeople's actions in the Snow case to the other examples of collective resistance discussed above, a pattern can be seen. Newfoundland's residents resisted the local authorities when these officials indirectly punished whole communities for the actions of a few. The authorities during the 1816-17 food riots and the 1834 protest against Downing's gibbetting punished the town's residents because they believed that the working populations were likely to commit crimes.<sup>261</sup> As McNally argued, courts used major crimes as opportunities to discipline their subjects into submission, instead of using the law to only punish the offenders.<sup>262</sup> In this case, the Harbour Grace and Supreme Court authorities made Downing into an example of what happened if people broke the law. However, the townspeople saw his gibbeted corpse as a symbol of how their legal officials unjustly punished them for their position in society. The officials' efforts to discipline the entirety of Harbour Grace resulted in people from different backgrounds coming together to resist the local magistrates. Unlike the previously discussed cases, the magistrates recorded that the townspeople acted together to have the local authorities bury Downing's corpse.<sup>263</sup> In the cases I discussed above, the legal officials often referred to protestors as a single group within communities. For the 1816-17 Harbour Grace food riots, the court clerk and the other magistrates called the

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<sup>261</sup> Bannister, *The Rule of the Admirals*, 249.

<sup>262</sup> McNally, *Monsters of the Market*, 19.

<sup>263</sup> Harbour Grace, 12 May 1834. PANL GN 2/2, box 1, 80-2.

protestors “rioters” or a “mob.”<sup>264</sup> During the 1832 Sealers Strike, the magistrates stated that it was only the sealers who organized the strike and who attacked Ridley’s ship.<sup>265</sup>

The only other time that the authorities referred to the protestors as “townspeople” was in 1815.<sup>266</sup> In that case there was no evidence to indicate which group within St. John’s drafted and posted the petition to the courthouse. Chief Justice Colclough, however, believed that it was the Irish population of the community who protested against his order to have the dogs exterminated. Yet, in this case, it seemed the townspeople of Harbour Grace acted collectively. While the magistrates’ documents do not objectively record the events, they support the idea that different factions within the town collectively resisted the authorities and solved a common problem. Sectarianism did not constantly divide communities, since people of different religions and classes in Harbour Grace came together to resist authorities. Even though, Downing’s execution did not necessarily unite the people together into a community, they felt that something needed to be done to solve this problem.

The Harbour Grace townspeople collectively saw this as an extreme circumstance that required them to respond to it as a community, instead of as separate factions. In the instance of Snow’s execution, sectarianism brought the Catholic population of Port de Grave closer together as they relied on one another to fight back against what they saw as the authorities’ decision to punish them for their beliefs. The Catholics were not united together based on an emergency that threatened their town’s sense of decency, but they

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<sup>264</sup> Minutes of the General Sessions, Harbour Grace, 6 Nov. 1816. PANL, GN 5/4/B/1, box 1, 93.

<sup>265</sup> R.A. Tucker to Viscount Goderich, 16 March 1832, PANL, CO 194/83 [Reel B-534], 41.

<sup>266</sup> Colclough’s Letter About Mad Dogs to Unknown, St. John’s, February 7<sup>th</sup>, 1815. CO 194/56-[Reel B-685], 11-16.

came together as a religious group to defend their right to practice their denomination and their religious identity. The sectarianism of these conflicts demonstrated how class and ethnic identities were also tied to people's religious identities. Protestors in Port de Grave, and to some extent in Harbour Grace, perceived the authorities as attacking their sense of decency because they were Irish and working people. While not all of Newfoundland's working population were Irish, the majority of them were and the island's officials often associated stereotypes of criminal tendency of Ireland's inhabitants with the lower classed. People were frustrated with the legal system and its authorities as they believed that the Protestant elite who held the majority of the government positions looked down on them as natural born criminals.

The Harbour Grace and Port de Grave people's protests against the executions of Downing and Snow were about more than frustrations with the legal system. While the protestors were focused on correcting what they saw as injustices perpetrated against them by the local authorities, the townspeople were also aware of the greater implications of these executions. In particular, both groups participated in acts of collective resistance because they wanted to show the authorities that they would no longer stand to be submissive. They realized that if they did not resist the Supreme Court judges' and the magistrates' decisions to execute these criminals that their rights as individuals would deteriorate as the authorities would continue to subject them to blanket punishments to deter them from crime. The Harbour Grace and Port de Grave protestors wanted to protect their social standing within Newfoundland's society by resisting actions that threatened their ideas of morality and decency. At the same time, the Catholic

communities within these towns, and in the larger Avalon region, wanted greater rights to prevent the Protestants who dominated Newfoundland's government from subjecting them to unfair punishments based on their religious denomination or ethnic background. Many of the island's Irish and native Catholics were steadfast in believing that the Protestants were bigoted against them because of their cultures' past conflicts. The court records and the newspaper accounts, particularly the editorials, confirm that these perceptions existed on both sides of these sectarian conflicts.

How either group mistrusted the other prevented the protestors and the authorities from communicating effectively with one another. The townspeople and the Catholic populations felt that they had to take matters into their own hands to defend their social and political identities from the authorities' actions. While Newfoundland's courts were never battlegrounds in the cases discussed in this thesis, they were contested terrains. Where law authorities used official channels to have their definition of the law implemented, the Harbour Grace and Port de Grave townspeople circumvented the legal system by taking to the streets to have their own voices heard. Newfoundland's working population on the Avalon considered the executions of Downing and Snow to be important as they protested to protect their social and political identities.

The protestors also collectively resisted the authorities' decisions because they wanted to determine their place in Newfoundland's changing society. Much like the earlier cases discussed, the island's residents perceived that major changes were taking place on Newfoundland. Where earlier protestors were worried about underlying economic tensions that occurred after the end of the Napoleonic War in 1815, the

Harbour Grace and Port de Grave townspeople were concerned about their social and political identities after Newfoundland was granted Representative Government in 1832. At this time, the island's Catholic population was spurred on by their religious leaders, such as Fleming, and the reformers to seek greater rights. Newfoundland's political and social dimensions underwent major changes that the working population adapted to by fighting for greater power. Downing's and Snow's bodies represented more than the people's frustrations with Newfoundland's legal system. They each stood as symbols of the working population's efforts to fight for greater rights and to find their place in Newfoundland's new social and political orders.

## Conclusion

Each of the conflicts discussed in this thesis show how different groups interpreted what was fair and how they reacted to their respective circumstances. When the cases are examined together, it becomes clear that Newfoundland's working population collectively resisted more than just the island's legal system and its local authorities. Instead, the acts of collective resistance that occurred from 1815 to 1840 demonstrated how the island's residents were working together to protect their livelihoods or to gain better rights when Newfoundland experienced major economic, political, social and legal changes. The workers' acts of collective resistance can be seen as major indicators of what underlying concerns people were most worried about. As such, Newfoundland's working population fought against the legal authorities because they were both frustrated with the officials' decisions and were worried about their place in the island's changing society.

In 1815, anonymous petitioners threatened the St. John's magistrates with protests if they refused to rescind their orders to have the town's dogs exterminated. The petitioners believed it was unfair that the authorities would kill their dogs on the behest of the principal inhabitants, while the officials saw it as their duty to react to this threat and to protect the town. The evidence suggests that the administration did not go through with its plan, because they feared that the town's poor would protest their actions.

In 1816-17, the Harbour Grace fishing servants marched on merchant's stores and houses during a winter of starvation. The servants felt betrayed by their masters because

the local administration chose to have them shipped off the island rather than grant them winter supply as merchants and planters had in previous seasons. The Harbour Grace magistrates, on the other hand, feared that there was not enough food in the town to feed everyone, and that the servants would riot if they were not fed. The fishing servants based their appeal for provisions on paternalism and their masters' obligation to feed them under the truck system, even though the town's supplies of food dictated that this was not possible. The workers' act of collective resistance from 1815 to 1817 indicated that the residents of the Avalon were concerned by their economic rights after the fishery declined in 1815.

The protestors in St. John's and Harbour Grace protested the authorities' decisions because they felt that their traditional rights were threatened. Already in a precarious position, the servant population did not agree with the island's elite that they should give up their rights to own dogs or to forgive their masters' debts to them to prevent what the officials saw as immediate crises. Both groups, the workers and the authorities, viewed the dangers of these underlying economic tensions at this time, but they believed that different approaches should be implemented. In this case, the workers' efforts to overturn the authorities' decisions were successful as they protected their traditional rights.

In 1832, Carbonear sealers and the owners of vessels fought over the nature of their compensation. The sealers argued that it was unjust that their masters and local suppliers benefitted more from their labour than they did, by paying them their share of the voyage in goods rather than cash. The workers used this argument to justify their

attack on Thomas Ridley's ship, because he refused to accept their demands. The magistrates, however, saw the sealers' attack as a breach of the peace and that they needed to protect the public. Even though the local officials cracked down on the strikers' actions, the sealers convinced their masters to grant them a cash wage. Much like the earlier protests from 1815 to 1817, the sealers collectively came together to protect their livelihoods during a time great of economic stress. Instead of protecting their traditional rights, the workers in this case fought for more rights to give them greater advantages in Newfoundland's changing economic atmosphere. The first three cases discussed in this thesis demonstrated how workers were concerned with the economy during the early 1800s after the fishery declined and how this fear still plagued them well into the later 1830s. To protect their livelihoods, workers came together to form strikes to seek greater economic pursuits from their masters and the local merchants.

In 1834, Harbour Grace's townspeople and Port de Grave's Catholic population protested the administration's decision to execute and gibbet two criminals. Harbour Grace's townspeople were angered that the officials publicly displayed Peter Downing's corpse in their town after he was executed. The residents saw the execution and gibbetting of Downing as a symbol of how officials abused their power. The administration believed that it was just to gibbet criminals' corpses since it served as deterrence from further criminal behavior from the island's working population. The townspeople responded by cutting Downing's corpse down, and forcing the town's magistrates to bury his body.

Similar events took place in Port de Grave, when the community's Catholic residents were angered by the authorities' execution and gibbetting of Catherine Snow. Port de Grave's Catholic residents saw Snow's execution as another example of the administration's failure to treat their denomination fairly. They looked to the leadership of Bishop Fleming, who sided with political reformers in their portrayal of the English administration as cruel toward the native born Catholics and the Irish immigrant alike. The townspeople rallied together under the local Catholic priest to liberate Snow's body from the surgeon before he could complete his dissection of her corpse. The Catholic protestors were only satisfied when Snow was given a proper burial, which they believed was the right thing to do. Newfoundland's legal authorities, on the other hand, saw Snow's execution and gibbetting as necessary to reinforce the message that immoral behavior would not be tolerated. The evidence suggests that the authorities and the jury agreed to execute Snow because she was motivated to kill her husband because of her affair with Mandeville. As such, the authorities wanted to make an example of Snow to demonstrate to the island's residents that the rule of law and of common decency, in this case wives' loyalty to their husbands, should not be broken. The protests against Downing's and Snow's executions were different from the other cases because they show how the island's classes disputed over ideas of morality, as well as economic equality.

Where the earlier cases showed how Newfoundland's working population were concerned with the island's economy, the people's protests against the executions of Downing and Snow demonstrated how they were later worried about their identities in the island's society. Newfoundland's adoption of the Representative Government in

1832, in tandem with Catholics seeking greater rights during the 1800s, created underlying social and political tensions. Workers wanted to determine where they stood in Newfoundland's changing society as they fought for greater social and political rights. In this case, the townspeople of Harbour Grace and the Catholic population of Port de Grave fought against authorities to prevent the local officials from giving out blanket punishments to deter crime. At the same time, the protestors wanted to ensure that their social and political power was protected from what they perceived as further abuse from Newfoundland's government.

Each of these cases of Newfoundland's working population collective resistance of their authorities, masters or the elite indicated what people were concerned about. Court records and the newspapers are windows into how people perceived their economic, social and political positions during a time when the island's society was changing. While these documents were written mainly by the elite, what the records do and do not say was important in ascertaining how people acted upon these underlying tensions. How Newfoundland's residents dealt with their concerns as a group translated into how they defined justice and implemented the law. Sometimes these ideals were shared. Everyone agreed that the rule of law was necessary to keep society together, but these groups differed with one another when their definitions of justice threatened the others' livelihoods or perceptions of morality. While Newfoundland's classes did not directly state how they defined justice, their actions as groups show what they valued most, and how they thought these morals should be upheld.

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