

**Newfoundland, Reeveland:**  
**Chief Justice John Reeves as a Conservative Reformer, 1791-1793**

by  
Andy Post

A thesis submitted  
to the School of Graduate Studies  
in partial fulfillment of the  
requirements for the degree of

**Master of Arts in History**  
Department of History  
Faculty of Humanities and Social Sciences  
Memorial University of Newfoundland

© April 2019

St. John's

Newfoundland and Labrador

Canada

### Abstract

This thesis argues that John Reeves's political conservatism is essential to understanding how his job as Law Clerk to the British Privy Council's Committee for Trade and Foreign Plantations influenced his simultaneous appointment as Chief Justice of Newfoundland. Historians of Newfoundland have only recently begun to rediscover Reeves as a leading Tory theorist of the 1790s, but largely continue to regard his politics as separate from his colonial career. However, a closer examination of Reeves's time as Chief Justice from 1791 to 1793 reveals his agenda of justifying constitutional reforms according to a Tory Administration's policy of discouraging colonial settlement. This explains his sense of the Supreme Court's role in enforcing that policy, his efforts to imbue the new Supreme Court with a legislative function, and his efforts as a propagandist as the author of the deceptively populist and violently royalist *History of the Government of the Island of Newfoundland*.

### **Dedication**

*To my great-aunt Esther Post (1938-2011), who died shortly after showing my sister and myself the extent to which she had come to live her best life in Boise, Idaho, and who last knew me as an English major bound for Halifax, Nova Scotia.*

## Acknowledgements

To start at the beginning. It is entirely possible that I would not have begun the project that led to this present thesis had it not been for the encouragement I received from Professor Judith Thompson at Dalhousie University, who supervised my previous master's thesis on John Thelwall's 1801 play, *The Lady of the Lake* (an obscure Arthurian work that I argued was an allegory against the Divine Right of Kings).<sup>1</sup> When Professor Thompson heard that I was taking an audition year of undergraduate and honours coursework at Memorial University of Newfoundland, she was sorry to see me go. But, as I was getting settled into St. John's, she made sure to remind me that the research I had put into my earlier project might still be put to good use.

Judith: Did you know there is a (remote) connection between John Thelwall and Newfoundland?

Me: Oh?

Judith: John Reeves, the guy who started the Association for the Preservation of Liberty and Property against Republicans and Levellers, against whom Thelwall inveighs in *The Peripatetic*, was a lieutenant governor or some such thing in Newfoundland. Like I said, pretty remote. But it would be interesting to see what he did in Newfoundland and whether he was as big a toad as Thelwall makes him out to be!<sup>2</sup>

Since that time, I think I have answered Professor Thompson's challenge satisfactorily—and I find myself able to clarify that while she may have mis-remembered Reeves's office, she accurately if perhaps accidentally captured Reeves's own sense of that office as a sort of deputy executive. Thanks are therefore due to her for seeing me so safely off to MUN's Department of History.

I would next like to thank my present supervisor, Jeff Webb, for his guidance and patience during a project that was at least one more year in the making than it might have been otherwise. This thesis grew out of a midterm paper I wrote in the autumn of 2014 for Professor Webb's seminar in Newfoundland History to 1815, in which I attempted to more or less pick up where Mark Bailey had left off in tracing the political, intellectual, and ideological contours of Reeves's world. My subsequent term paper was much longer than any undergraduate paper had any right to be, but even so it seems to have formed the basis of my admission to the master's programme at MUN, which would have been impossible without Dr. Webb's confidence in my (eventual) ability to accomplish my own designs. His eagerness to see this project through to its final version, and his willingness to entertain my insecurities during the many hours I've spent stammering in his office have gone a long way in helping me write as clearly as I have in the following pages—and, frankly, in helping me finish my programme at all. I doubt the quality of

---

<sup>1</sup> Andy Post, "Political Atheism vs. The Divine Right of Kings: Understanding John Thelwall's *The Fairy of the Lake* (1801)," (MA thesis, Dalhousie University, 2014).

<sup>2</sup> Judith Thompson, personal correspondence with the author, 4 September 2014; used with permission.

research for which I strove would have been possible had not Dr. Webb recommended my project to various organisations as highly and enthusiastically as he did.

This thesis was supported in part by a graduate fellowship with Memorial University's Department of History in the first year of my master's programme, and by the Institute for Social and Economic Research (ISER), also at Memorial University, which latter organisation was kind enough to award me a Fellowship during the 2016-17 school year. Research for this thesis was also supported by two travel grants awarded by MUN's Department of History, which allowed me to spend a considerable amount of time perusing old documents in the National Archives of the United Kingdom, the British Library, and, for one day at least, the National Records of Scotland. None of these awards or opportunities would have been possible without the confidence placed in me by all of these institutions. Such a substantial project as I've managed to piece together would also not have been possible without the assistance of a great many staff at the libraries and archives that I've had the good fortune to take advantage of. I would therefore like to thank all of the staff at Memorial University's Queen Elizabeth II Library, in particular to those who have gotten to know me through the many, many, many times I have reserved books either from the QEII directly or through its Document Delivery service. I sincerely hope my never-ending stream of requests has not proven too strenuous a hassle, and even if it has not, I suspect they will be pleased to know that it is now over. I would also like to thank the archivists at Memorial's Centre for Newfoundland Studies and at the Provincial Archives of Newfoundland and Labrador for assisting me with my research during various stages of my project—particularly for their patience with my tendency to show up during the last hour of business and manage to find exactly what I was looking for. I would also like to thank David Bradley at the Maritime History Archive for encouraging me in my research, and to acknowledge that he has been waiting quite patiently for this project to reach that finished form I promised I would show him one day. For their support of this project, my deepest thanks are therefore due to all the committee members, researchers, librarians, archivists, and other staff with who have assisted my research in St. John's, Greater London, and Edinburgh.

There are a number of other faculty at Memorial University I would like to thank. The first word of thanks goes, I think, to Mike O'Brien for reminding me that "Context is everything in history" while failing my Naval History midterm paper for "provid[ing] none," and for reminding me not to trust Linda Colley's assumption that Edmund Burke was a Tory. And yes, Dr. O'Brien, I did enjoy "the Thompson." I would also like to thank Dr. Valerie Legge for the freedom she gave myself and my classmates to absorb and explore the assigned texts and their contexts, in her lecture course on Early Canadian Literature to 1918, in a manner of our own choosing. I also doubt I would have been able to approach such sources as Hakluyt, Cartier, or Oldmixon with the confidence that I have, had it not been for her repeated lessons—each of them a memorable performance—in how to see through and summarily deconstruct the dense layers of Canada's early colonial literature. Thanks are also due to Dr. Robert Sweeney for the conversation he was willing to indulge me with on the subject of Québec's legal history, a conversation which has borne a considerable influence on the way I've attempted to make sense of both England's and Newfoundland's legal regimes. I would also like to thank Dr. Larry

Mathews for putting up with me during my quest to get inside the head of contemporary Newfoundland nationalism in a class he had assumed was about Contemporary Newfoundland Fiction. I would also be remiss if I did not to extend my belated thanks to the late Dr. Christopher Dunn. In our one meeting, the fact that my knowledge of political science did not extend far beyond Alexis de Tocqueville made it clear that not taking any of his courses was ultimately in both our interests, but he was kind enough to recommend *Native Liberty, Crown Sovereignty* as a helpful aid to picking apart the imperialist dimensions to Reeves's royalism. I would also like to thank Drs. Marica Cassis and Neil Kennedy for their support during especially the latter stages of this thesis's development.

Thanks are also due to my thesis examiners, Kurt Korneski and Philip Girard, for their feedback, encouragement, and critiques of this project. Both professors drew my attention to a number of aspects to the narrative I was trying to tell that were missing, that required further explanation, or that were otherwise underdone (and in a few instances were overdone). As such, I hope they will take some satisfaction in the extent to which their comments and suggestions have gone in improving the quality of this thesis since they last saw it.

Thanks are also due to Dr. Emily de Montluzin, who was kind enough to advise me that the trivium I thought I had conjectured was less likely than I had suspected. Perhaps the next time we talk it can be on a subject of greater interest than whether Reeves was ever his own anonymous biographer. (She has assured me he was not.)

On a more personal note, I would like to thank my family for the incredible support they have shown me during what will hopefully be many more years in Canada. I don't imagine it's easy on my parents or my grandparents knowing that I'm safe and sound across the border, but thanks to their help, their love, and their (at times extreme) generosity, I seem to be making life out here work to my advantage. As for this project specifically, I take some comfort knowing that the very different but very strong strains of Anglophilia running through either side of my family will make this thesis easier to digest by any who choose to read it, as well as something of a macabre satisfaction in my suspicion that parts of it will come across as no less surprising to them. (And while my sister is of course excused from reading this at all, her Christmas gift of a Forgotten Books edition of J.P. Howley's study of *The Beothucks* is gratefully acknowledged.) Meanwhile, apart from the other forms of support I've received from them, I would also like to acknowledge and thank my grandparents Vernon and Dorothy Post for their extraordinary Christmas gift of a high-quality digital camera, without which the amount of "archival dumpster-diving" I've managed to do would have borne considerably less and certainly less ripe fruit. Having off-handedly requested something heavy enough to counteract my tendency to misplace things, I've since been somewhat floored once I realised the faith they placed in me and my research, as evidenced by their investment in it. I would also like to inform my other grandparents, Orley and Jane Swartzentruber, since I don't believe I have mentioned it to them before, but that as their incredible story has been shared at numerous social gatherings in Halifax and St. John's, they are by now no doubt now famous across Atlantic Canada. I may have been raised in suburban New Jersey (at times rather obviously so), but I sometimes get the feeling that I'm also "an Amish boy away from home"—something that former partners of mine can attest to, and

which at least one will insist upon.<sup>3</sup> Nevertheless, I've done my best to make sense of two pieces of advice that Grandpa Swartzentruber gave me. The first was, "You are a nerd." The second was his aphorism that "You have to live in Canada for some time to understand that having a King is not necessarily a medieval concept." I doubt Oscar Wilde could have said it better.

Turning now from family to those who might as well be, I would like to thank my lifelong friend Parag Kapadia for helping build my confidence back up during a particularly dark chapter of this thesis's development, as only a friend can. (Without mercy.) Thanks that this thesis is not considerably longer, and that it was not submitted for examination at a much later date, are due largely to a conversation he and I had at one of our many favourite diners along New Jersey's Route 10 on Tibb's Eve, 2016.

Thanks are also due to Jude Benoit, Stefanie Comeau, André Forget, Sarah Hannon, Eryn Heidel, Connor Ingham, Andrew Marcille, Blair Matthews, Gladdale Matthews, John Matchim, Katie O'Brien, Andrew Steele, Mark Trainor, and Sally Western for their advice, comments, suggestions, and helpful conversations at various stages of this thesis. My conversations with Jo Harris have been regrettably few, but I've nevertheless emerged from them convinced that Reeves's political legacy during the early nineteenth century requires a much more thorough re-evaluation than what this present thesis offers. I would therefore also like to thank all of them, as well as Sheldon Downey, James Edmunds, Clay Everest, David Nicholas Giuseppe-Huebert, Jonathan Harrison, Emily Murphy, Angela Palomer, Glenda Rogers, Mary Jo Snyder, Heather Stuetzle, Nigel Wells, Gabriel Wilson, my old Trivia team at Bitters, and my many other colleagues at MUN's Writing Centre and at Manna European Bakery and Deli for their friendship and all manner of emotional and other support during my time at Memorial University—as well as for their encouragement and assurances that my project was one worth pursuing. Thanks are also due to my employers at both jobs for their encouragement and their willingness to help me arrange my own schedule whereby I could pay for my rent, bills, groceries, sundries, and the odd night out. In particular I would also like to thank Ginny Ryan, Diane Ennis, and Jenny Higgins at the Writing Centre for keeping me on staff there for as long as they have. I doubt this thesis would have been written as well as it was without my experience working as a writing tutor at both the undergraduate and graduate levels—and I hope that any friends, family, and former teachers or professors of mine who find themselves reading this can appreciate the difference that such an experience has made.

Finally, I would also like to thank my favourite anchorite Syd Burton for her unassailable belief in my project from a very early stage, for reading more drafts of my thesis than any friend or human should be asked to consider, for a friendship that has meant a great deal to me during my time in St. John's, and for secretly belonging to my target demographic. I look forward to reading her PhD thesis on the lost world (if not the lost theology) hidden in plain sight among the varied and manifold expressions of gender

---

<sup>3</sup> A. Orley Swartzentruber, "From New Congregations to the Ancient Church," *Mennonite Quarterly Review* 77, no. 2 (April 2003), 213.

identities recorded in the lives of Byzantine saints, and I hope its finished form goes a long way in making our world a better place.

The rest of you know who you are even if I've failed to mention your name when I should have. Y a los otros, ¡que les gusta mi pequeña historia terranovesa!

## Table of Contents

<b>Title Page</b>	<b>i</b>
<b>Abstract</b>	<b>ii</b>
<b>Dedication</b>	<b>iii</b>
<b>Acknowledgements</b>	<b>iv</b>
<b>Table of Contents</b>	<b>ix</b>
<b>Epigraph</b>	<b>xii</b>
<b>Chapter I – Introduction to John Reeves</b>	<b>1</b>
I.i – A Political Biography of John Reeves	11
I.ii – The View from the British Isles: History as Memory, 1822-1855	27
I.iii – A Tory? In Newfoundland?; or, Mr. Reeves’s Politics	30
I.iv – Outline of Subsequent Chapters	40
<b>Chapter II – The Problem of John Reeves: A Rebuttal to “Fence Building”</b>	<b>45</b>
II.i – Origins, Contexts, Transformations, 1791-1819	47
II.ii – Towards an Official History, 1820-1847	53
II.iii – Accepting the Nationalist Orthodoxy, 1860-1965	62
II.iv – The Other View from Newfoundland, 1819-1907	69
II.v – A Break from Prowse?: Revisionist Views, 1911-1984	72
II.vi – Retreat into Historiography, 1978-2009	79
II.vii – In Search of Reeves’s Politics, 1895-1996	85
II.viii – A Royalist by Any Other Name, 1998-2018	93
II.ix – Conclusion	102

<b>Chapter III – “A Sort of Colony”: The Role of Political Faction, 1789-1793</b>	<b>106</b>
III.i – The Economic Conservatives	109
III.ii – The Constitutional Conservatives	119
III.iii – The Silent Faction	124
III.iv – Two Contending Interests: Coalition and Collision	132
III.v – The Search for an “Impartial” Executive	138
III.vi – Hints of Further Alliance	147
III.vii – Conclusion	156
<b>Chapter IV – Chief Justice Reeves and the Legislative Power</b>	<b>159</b>
IV.i – Why a Legislature?	162
IV.ii – Bye-law makers, what?	164
IV.iii – Local Legislatures and Imperial Policy	169
IV.iv – Governors’ Proclamations; or, Funk Island Justice	175
IV.v – Proclamations without a Line	182
IV.vi – Towards the Conquest of Custom	200
IV.vii – Conclusion	208
<b>Chapter V – The Tory Interpretation of History</b>	<b>212</b>
V.i – The Whig Interpretation of History: Tales from the Opposition	215
V.ii – The Case for the Supreme Court	225
V.iii – Establishing the Royal Prerogative: Towards a Tory Interpretation	227
V.iv – King William’s Republic: John Reeves and the Larkin Report	236
V.v – Merchant Anarchy, Crown Sovereignty	241

V.vi – From Revolution to Revolution	248
V.vii – A Product of the Home Front	253
V.viii – Conclusion: The True Law of Free Fisheries	256
<b>Chapter VI – Summary and Conclusion</b>	<b>260</b>
VI.i – Summary	261
VI.ii – Clarifying Reeves’s Mission	271
VI.iii – Propaganda, History, and Politics	275
<b>Bibliography</b>	<b>280</b>
Primary Sources – Archives	282
Primary Sources – Books	260
Secondary Sources – Books, Book Chapters, Reference Articles, etc.	290
Secondary Sources – Peer-Reviewed and Other Periodical Articles	312
Secondary Sources – Graduate and Undergraduate Theses	326
Other Sources	328

“But, soft: I ought to speak of Mr. REEVES with fear and trembling; for he is chief magistrate of the district, and I have not yet forgot the maxim of Homer:

Though we deem the short-liv’d fury past,  
’Tis sure the mighty will revenge at last.

“This chief magistrate ... took his chair, authoritatively, and swore in the witness to be examined against me; when, seeing that these and the jury had withdrawn together, I put the following question:

‘Pray, Mr. Chairman Reeves, am I not to be at liberty to call witnesses also?’

*‘No, Sir, you cannot ... I shall take care that justice is done. But you cannot call any witnesses.’*

‘Pray, Sir, am I to be permitted to be heard in my own defence?’

*‘Not by Counsel, Sir. After the verdict you may say what you please to me yourself. But I shall not hear you at any very considerable length.’*”

— John Thelwall<sup>4</sup>

---

<sup>4</sup> Thelwall, “6 June 1795 – No. XIII. The Lecture ‘On Prosecutions for Pretended Treason,’ delivered on Wednesday the 13<sup>th</sup> of May, 1795, the Anniversary of the Arrest of the Patriots,” in *The Tribune*, 3 vols. (London: Printed for the Author, 1795), 1:296-297.

## Chapter I – Introduction to John Reeves

Off to the side of the Duckworth Street entrance to the Supreme Court of Newfoundland and Labrador sits a deep red plaque. Its bilingual epitaph is written in the familiar gold font of the Historic Sites and Monuments Board of Canada, and bears the seal of the Government of Canada. This plaque, dated 2002, is easy to miss, except perhaps by tourists hungry for local trivia, or the odd restless American graduate student. But those who stop to read it will find it commemorates the legacy of John Reeves, the first Chief Justice of Newfoundland from 1791 to 1792. Its English text runs as follows:

JOHN REEVES  
(1752-1829)

This scholarly English lawyer played a great role in shaping the judiciary system in Newfoundland. On his recommendation a civil Supreme Court was created in 1791, and then a permanent court with added criminal jurisdiction in 1792. Reeves became the island's first Chief Justice. His history of Newfoundland, which argued that English West Country merchants conspired to deny fishermen and settlers their just rights, remained the standard interpretation for nearly two centuries.<sup>1</sup>

A fair summation of Reeves's legacy in Canada (if not of what, if anything, has replaced his view of Newfoundland's history), this public memorial is considerably more neutral in tone than other more glowing impressions of him. Today, the most influential portrait of Reeves is arguably the one found in D.W. Prowse's *History of Newfoundland* from 1895. "Chief Justice Reeves ... had been law adviser to the Board of Trade; he was an admirable official—industrious painstaking, firm, and resolutely impartial."<sup>2</sup> When

---

<sup>1</sup> Historic Sites and Monuments Board of Canada, Commemorative Plaque: *John Reeves (1752-1829)*, St. John's, Newfoundland and Labrador, A1C 5M3. Cf. Joshua Tavenor, "Climate and Capitalism: English Perceptions of Newfoundland's Natural Environment and Economic Value, 1610-1699" (PhD thesis, Wilfred Laurier University, 2017), 9.

<sup>2</sup> Prowse, *A History of Newfoundland* (Portugal Cove-St. Philips: Boulder Publications, 2008), 395.

during the proceedings of a parliamentary enquiry into the Newfoundland Trade in 1793, merchants called as witnesses proved hostile to the court over which Reeves presided, “Reeves, by his firmness, courtesy, and resolute impartiality, finally triumphed over all opposition” during his own testimony.<sup>3</sup> Jerry Bannister’s more recent considerations of Reeves are more reserved. Nevertheless, his remark, in an essay contributed to Newfoundland and Labrador’s Heritage Website, that Reeves’s reports to the imperial government “formed the basis of Newfoundland’s constitution for the next thirty years” after his departure forms a fitting rejoinder to Prowse’s portrait.<sup>4</sup>

Together, these three sources articulate Reeves’s place of honour in what is more or less an official history of the province, both as its first Chief Justice and its first modern historian. This composite narrative is in turn influenced by a long tradition of regarding Reeves as someone who prefigured, but whose legacy presumably justified, the aims of the early nineteenth century’s political reform movement. The creation of the Supreme Court has long been seen as an important milestone in the imperial government’s abandonment of its policy of discouraging permanent settlement, and in colonists’ campaign for representative government in 1832. Within this story of political institutions, Reeves himself appears as a hero in a variously whiggish and nationalist march of progress. This is not to say that Bannister and others who cite Reeves’s articulations of the old naval regime’s internal logic have not begun to re-evaluate Reeves as a defender of the pre-1832 status quo. Indeed, Bannister’s praise of Reeves’s “thirty

---

<sup>3</sup> Prowse, *A History of Newfoundland*, 360.

<sup>4</sup> Bannister, “Naval Government, 1729-1815,” in *Silk Robes and Sou’westers: History of the Law and the Courts*, Heritage Newfoundland and Labrador & Memorial University of Newfoundland (2000), <https://www.heritage.nf.ca/lawfoundation/articles/naval.html>.

year” legacy acknowledges that Reeves’s influence reached its height with the Judicature Act of 1824. But even recent re-considerations of Reeves do not substantially correct the assumption, found throughout the historiography of Newfoundland, that Reeves’s only public office of any significance to Newfoundland’s history was his appointment as Chief Justice of Newfoundland. They also assume that the ultra-conservative politics for which he was so famous in England had little or no influence on his colonial career, or on the shape of his proposals for the shape of Newfoundland’s constitution.

This is almost exactly the opposite impression of John Reeves one finds in the works of historians of the British Isles, who are familiar with Reeves’s legacy as one of the most influential figures in the conservative reaction against the French Revolution, second in influence only to Edmund Burke. The fact that Reeves was a High-Tory monarchist who espoused an authoritarian legalism is well known to scholars of the British Isles’ police, political, and legal history of the late eighteenth and early nineteenth centuries—particularly to specialists in the radicalism and the conservatism of the 1790s.<sup>5</sup> To these same historians, though, Reeves’s role in the creation of Newfoundland’s Supreme Court is at best a blip on the radar compared to his services to the Crown in the imperial capital. With the notable exception of E.P. Thompson’s *The Making of the English Working Class*, scholars who come across Reeves as the founder of the Association for Preserving Liberty and Property against Republicans and Levellers (or “APLP” for short) almost invariably recite the curious fact that he founded the APLP less

---

<sup>5</sup> For an overview of studies of the 1780s and 1790s in which Reeves appears as both a police reformer and a political activist, see the introduction to Robert Thomas Super III, “The Changing British State during the Counterrevolution: The Role of the John Reeves’ Association Movement” (master’s thesis, North Carolina State University, 2013), 1-22, esp. 6-18.

than a week after his final return from Newfoundland.<sup>6</sup> But when this fact appears in studies of the conservative reaction to the French Revolution, it is as an interesting detail and nothing more.<sup>7</sup> The other infamous event that has solidified Reeves's reputation is the argument, in the first letter to his *Thoughts on the English Government* (1795-1800), that neither House of Parliament was strictly necessary to England's fundamentally monarchical constitution; which led to Reeves being charged with, but acquitted of, seditious libel, his prosecution having been ordered by Parliament.<sup>8</sup> But the extent to

---

<sup>6</sup> For another study that limits its discussion of Reeves to a similarly sub-national scope, see Hywell M. Davies, "Loyalism in Wales, 1792-1793," *Welsh History Review* 20, no. 4 (2001): 687-716.

<sup>7</sup> For examples of this practice, see Edward Smith, *The Story of the English Jacobins: Being an Account of the Persons Implicated in the Charges of High Treason, 1794* (London, Paris, & New York: Cassell, Petter, Galpin & Co., 1881), 53; Maurice Quinlan, "Anti-Jacobin Propaganda In England, 1792-1794," *Journalism [and Mass Communication] Quarterly* 16, no. 1 (March 1939): 10-11; Quinlan, *Victorian Prelude: A History of English Manners, 1700-1830* (New York: Columbia University Press, 1941), 71; Austin Mitchell, "The Association Movement of 1792-3," *The Historical Journal* 4, no. 1 (1961): 59n18; Theodore F.T. Plucknett, "John Reeves, Printer," *Columbia Law Review* 61, no. 7 (November 1961): 1202-1203; Eugene Charlton Black, *The Association: British Parliamentary Political Organization, 1769-1793* (Cambridge: Harvard University Press, 1963), 232; J.A.W. Gunn, *Beyond Liberty and Property* (Kingston & Montréal: McGill-Queen's University Press, 1983), 176; Richard Dozier, *For King, Constitution, and Country* (Lexington: The University Press of Kentucky, 1983), 57; Emily Lorraine de Montluzin, *Anti-Jacobins: The Early Contributors to the Anti-Jacobin Review* (London: The MacMillan Press Ltd., 1988), 7, 33, 137; Robert Eccleshall, *English Conservatism since the Restoration: An Introduction and Anthology* (London: Unwin Hyman, 1990), 65-66; Ian Gilmour, *Riot, Risings and Revolution: Governance and Violence in Eighteenth-Century England* (New York & London: Pimlico, 1993), 400; Michael Duffy, "William Pitt and the Origins of the Loyalist Association Movement of 1792," *The Historical Journal* 39, no. 4 (December 1996): 945; Nicholas Rogers, *Crowds, Culture, and Politics in Georgian Britain* (Oxford: Clarendon Press, 1998), 199; Marilyn Butler, *Burke, Paine, Godwin, and the Revolution Controversy* (Cambridge: Cambridge University Press, 1998), 8; Clive Emsley, *Britain and the French Revolution* (London & New York: Routledge, 2000), 31; Judith Thompson, "Introduction" to John Thelwall *The Peripatetic; or, Sketches of the Heart*, ed. Thompson (Detroit: Wayne State University Press, 2001), 23; Gregory Claeys, *Thomas Paine: Social and political thought* (Boston: Unwin Hyman, 2002), 142; Austin Gee, *The British Volunteer Movement, 1794-1814* (Oxford: Oxford University Press, 2003), 16; Michael Durey, "William Wickham, the Christ Church Connection and the Rise and Fall of the Security Service in Britain, 1793-1801," *English Historical Review* 121, no. 492 (June 2006): 726; Allan Blackstock, *Loyalism in Ireland, 1789-1829* (Woodbridge: Boydell Press, 2007), 4, 7; Albert Goodwin, *The Friends of Liberty: The English Democratic Movement in the age of the French Revolution* (London: Routledge, 2016), 264; John-Erik Hansson, "The genre of radical thought and the practices of equality: the trajectories of William Godwin and John Thelwall in the mid-1790s," *History of European Ideas* 43, no. 7 (2017): 779-780.

<sup>8</sup> See Reeves, *Thoughts on the English Government*, 4 vols. (London: Printed for J. Owen, 1795-1800), 1:12-13. For proceedings in Parliament leading up to Reeves's prosecution, see Parliament of Great Britain, "23 November 1795 – Debate in the Commons respecting Mr. Reeves's Libel on the British Constitution," in *Parliamentary History*, 32:608-627; "26 November 1795 – Debate on the Same," in *Parliamentary*

which Reeves's politics were reinforced by or simply reflected his views and impressions of naval governors' authority on the other side of the Atlantic has yet to be addressed.

But if historians of Newfoundland have been slow to look beyond his legacy as "Judge" Reeves, historians of Britain have not taken more than a superficial interest in the colonial career of the man whose pamphlet war with the London radical John Thelwall earned him the nickname "Tomahawk Reeves."<sup>9</sup> Neither have any explained Reeves's career as Chief Justice of Newfoundland, or his *History of Newfoundland*, as products of his conservatism—although A.V. Beedell has detected an echo of Reeves's brusqueness via the *Dictionary of National Biography*'s use of Prowse.<sup>10</sup> Conversely, the founding of the APLP in 1792 and the scandal of 1795-96 have tended to form the basis, or rather the limits, of Newfoundland historians' knowledge of Reeves's politics. An assessment of Reeves as a reformer of the civil magistracies of both Newfoundland and metropolitan London is wanting, as is a single portrait of Reeves as both a Chief Justice of Newfoundland and as an English Tory. As a result, those who see Reeves through the lens Newfoundland Studies might easily conclude that his terms as Chief Justice and his

---

*History*, 32:627-651; "1 December 1795 – Debate on the Same," in *Parliamentary History*, 32:651; "2 December 1795 – Debate in the Lords respecting Mr. Reeves's Libel on the British Constitution," in *Parliamentary History*, 32:681-687; "14 December 1795 – Debate in the Commons respecting Mr. Reeves's Libel on the British Constitution," in *Parliamentary History*, 32:662-681; "15 December 1795 – Debate on the Same," in *Parliamentary History*, 32:681. For the trial itself, see T.B. & T.J. Howell (eds.), "20 May 1796 – 619. Proceedings on the Trial of an Information exhibited Ex-Officio by his Majesty's Attorney General ... against John Reeves, Esquire, for a Seditious Libel [etc.]," in *A Complete Collection of State Trials*, 34 vols. (London: Printed by T.C. Hansard, 1819), 26:529-596.

<sup>9</sup> Steve Poole, "Thunderer, recluse or apostate? Interruptions and continuities in the life of a Jacobin fox," *Romanticism* 16, no. 2 (2010): 207-217, esp. 216n3; see Thelwall, *The Tribune*, 3 vols. (London: 1795-96), 3:150-151; Thelwall, *The Rights of Nature*, 2 vols. (London: H.D. Symonds & J. March, 1796-97), 1:63-64.

<sup>10</sup> Beedell, "John Reeves's Prosecution for Seditious Libel, 1795-96: A Study in Political Cynicism," *The Historical Journal* 36, no. 4 (December 1993): 799-824, esp. 801; Gordon Goodwin, "Reeves, John," in *Dictionary of National Biography*, eds. Sidney Lee et al, 63 vols. (New York: MacMillan and Co., Ltd.; London: Smith, Elder, & Co., 1885-1900) 47:415. See also Philip Schofield, "Reeves, John (1752-1829)," *Oxford Dictionary of National Biography* (3 January 2008); <<https://doi.org/10.1093/ref:odnb/23306>>.

*History of Newfoundland* were free of any political agenda.

To bridge this gap in the literature, this thesis traces the Newfoundland career of a John Reeves who is recognisable as the same John Reeves who appears in studies of the British radicalism and reaction of the 1790s. This thesis argues that Reeves's High-Tory or "Court-Tory" conservatism was the driving force behind his actions as Chief Justice of Newfoundland, as the principal reformer of Newfoundland's judiciary, and as a historian of Newfoundland's colonial government. In so doing, this thesis takes a wider view of Reeves's politics and career, in order to situate Newfoundland as a sort of constitutional laboratory where Reeves decided his task was to help firmly establish—as he understood them—the First Principles of an English system of law and government.<sup>11</sup> The result is a clearer understanding of *why* the High Tory, ultra-loyalist, conservative populist, and latter-day royalist Reeves—who so famously "*lacked* that ambivalence towards authority seen in 'church-and-king' mobs or in the fascist movements of [the twentieth] century"—was so well-poised and uniquely qualified to take a special interest in those institutions keeping the King's Peace, dispensing the King's Justice, and executing his laws in so far-flung a place as His Britannic Majesty's Island of Newfoundland in America.<sup>12</sup>

What makes such a revision necessary is that Newfoundland Studies' own historical revisionist movement has only in the past twenty years rejected the nationalist assumption that Reeves's career is best understood through the lens of Newfoundland's colonial history. This, despite the fact that, in addition to his two summers as

---

<sup>11</sup> "decided"; cf. Reeves, "10 October 1791 – Letter to Henry Dundas," CO 194/38, f. 286. All CO 194 records are held by the National Archives of the United Kingdom; however, the versions consulted were the microfilms housed at Memorial University of Newfoundland's Centre for Newfoundland Studies.

<sup>12</sup> Gunn, *Beyond Liberty and Property*, 190 (my italics).

Newfoundland's first Chief Justice, Reeves's day job was as Law Clerk to the Board of Trade—meaning, that Reeves made his living as law officer to the British Privy Council's forerunner of the Colonial Office. At the time of Reeves's appointment, the President of the Board of Trade, Charles Jenkinson, Baron Hawkesbury (in 1796 created the Earl of Liverpool), was at least as fierce a High Tory as Reeves. As an MP, Jenkinson had largely been responsible for ensuring that several of Sir High Palliser's proclamations as Governor were enshrined in imperial statute—"Palliser's Act"—among other reasons, for the purpose of discouraging settlement in Newfoundland. And yet, the traditional practice is to regard Reeves as a "warm friend," "a true friend of Newfoundland," or even an "advocate" for its settlers. This is due largely to the introduction of his *History of Newfoundland*, which presented that island's political and constitutional history as

the struggles and vicissitudes of two contending interests.—The *planters* and inhabitants on the one hand, who, being settled there, needed the protection of a government and police, with the administration of justice: and the adventurers and merchants on the other; who, originally carrying on the fishery from this country, and visiting that island only for the season, needed no such protection for themselves, and had various reasons for preventing its being afforded to the others.<sup>13</sup>

The assumption has been that his framing of the island's history as a courtroom drama writ large meant Reeves's *History* was a fervent plea on behalf of Newfoundland's settler

---

<sup>13</sup> Ann Gorman Condon, "Chapter Nine – 1783-1800: Loyalist Arrival, Acadian Return, Imperial Reform," in *The Atlantic Region to Confederation: A History*, eds. Phillip A. Buckner & John G. Reid (Toronto: University of Toronto Press; Fredericton: Acadiensis Press, 1994), 207; D.W. Prowse, "Historical Sketch of Newfoundland" in *Canada: An Encyclopædia of the Country*, ed. J. Castell Hopkins (Toronto: The Linscott Publishing Company, 1898), 6:471; James Louis O'Donel, "8 December 1791 – Letter to John Troy," in *Gentlemen-Bishops and Faction Fighters: The Letters of Bishops O'Donel, Lambert, Scallan, and other Irish missionaries*, ed. Cyril J. Byrne (St. John's: Jespersen Press, 1984), 116; Reeves, *History of the Government of the Island of Newfoundland* (London: Printed for J. Sewell, 1793), 1. One historian has even gone so far as to claim that the "enlightened" Reeves "not only brought law and order to the island, but true religious liberty as well." Paul O'Neill, *The Oldest City: The Story of St. John's, Newfoundland* (Portugal Cove-St. Philips: Boulder Publications, 2003), 545; O'Neill, *Upon This Rock: The Story of the Roman Catholic Church in Newfoundland and Labrador* (St. John's: Breakwater Books, 1988), 88.

population. However, this narrative becomes rather complicated once one realises that Reeves originally wrote his *History of Newfoundland* for Lord Hawkesbury's use.

With some notable exceptions, historians often lift Reeves's one-liner, that "Newfoundland has been peopled behind your Back," without context, from his argument that merchants who claimed that institutions of civil government encouraged settlement failed to appreciate that a governor's job was to enforce existing law by clearing the island of any would-be squatters.<sup>14</sup> As Reeves informed Parliament in 1793,

placing a Governor there, whose Business it should be to prevent People settling, would have been a more probable Method of preventing it than continuing the present floating Government, which has no regular Authority to send Persons Home ... The Consequence has been, that Newfoundland has been peopled behind your Back; you have abandoned it to be inhabited by any one who chooses, because you thought appointing a Governor would constitute a Colony and encourage Population.<sup>15</sup>

In the absence of a resident governor, and in the face of merchants' practice of encouraging settlement while complaining of the decline of the migratory fishery, Reeves

---

<sup>14</sup> See W.S. MacNutt, *The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857 – The Canadian Centenary Series*, eds. W.L. Morton & Donald Creighton (Toronto: McClelland & Stewart, 1965), 140; C. Grant Head, *Eighteenth Century Newfoundland: A Geographer's Perspective* (Toronto: McClelland and Stewart, 1970), 230; Ann Gorman Condon, "Chapter 9 - 1783-1800: Loyalist Arrival, Acadian Return, Imperial Reform," in *The Atlantic Region to Confederation: A History*, eds. Philip A. Buckner and John G. Reid (Toronto: University of Toronto Press, 1994), 207; Kevin Major, *As Near to Heaven by Sea: A History of Newfoundland and Labrador* (Toronto: Penguin, 2002), 161. For exceptions to this rule, see Gerald Graham, *Sea Power and British North America, 1783-1820: A Study in British Colonial Policy* (Cambridge: Harvard University Press, 1941), 100; O'Flaherty, *Old Newfoundland: A History to 1843* (St. John's: Long Beach Press, 1999), 110; Bannister, *Rule of the Admirals*, 175.

<sup>15</sup> Reeves, "Third Report from the Committee appointed to enquire into the State of the Trade to Newfoundland," in *House of Commons Sessional Papers of the Eighteenth Century*, 145 vols. (Wilmington, DE: Scholarly Resources Ltd., 1975), 90:410. The first, second, and third reports of the Newfoundland Committee, correspond to pages 90:111-172, 90:173-238, and 90:239-470 respectively in Lambert's facsimile edition. Reeves's testimony to the House of Commons Committee, as it appears in the *Third Report of the Newfoundland Committee*, 107-178, may be found reproduced in Lambert, *House of Commons Sessional Papers*, 90:345-416. A slightly abridged version of Reeves's testimony also appears in *Mr. Reeves's Evidence before a Committee of the House of Commons of the Trade of Newfoundland* (London: Printed for J. Sewell et al, 1793). For the sake of consistency as well as to avoid any oversight, testimony from *all* of the witnesses who appeared before the Newfoundland Committee are cited from that committee's unabridged reports. For the sake of brevity these reports are, however, cited hereafter by short title, and as independent publications; e.g., *First Report of the Newfoundland Committee*, etc.

proposed that Newfoundland's five Anglican priests be appointed Justices of the Peace, for which service they should receive a salary in addition to their missionary stipends.<sup>16</sup> Independence from merchants' patronage, he argued, would make them more agreeable to enforcing the provision in Palliser's Act (stat. 15 Geo. III c. 31 sec. 14) requiring forty shillings to be withheld from servants' wages, in order to pay for their passage "home."<sup>17</sup> But he warned that "[w]hether Clergy, or Lay, are hereafter to be the Justices, most to be relied on, little dependence can be had on their service, if the office is not made in some way or other, profitable to them."<sup>18</sup> A still starker illustration of Reeves's authoritarian paternalism was his proposal to station a Royal Navy warship at the Bay of Exploits, to ensure that no fishermen or furriers would undermine what he hoped would be the early stages of establishing peaceful contact with the Beothuk.<sup>19</sup>

Throughout this thesis, I argue that Reeves was not so much an advocate for settlement as he was a defender of civil institutions of social control—in particular, the Supreme Court—that could exercise the Crown's authority over Newfoundland's settlers more efficiently. To borrow Jeff Webb's phrase, John Reeves was indeed "an advocate of settled government"—someone who felt a permanent government would better enforce the imperial policy and statute law intended to discouraging year-round settlement.<sup>20</sup> The charge having been made, one next has to confront the irony that Reeves's legacy as the

---

<sup>16</sup> In St. John's, Harbour Grace, Trinity, Ferryland, and Placentia; see Reeves, "1792 Report," BT 1/8, ff. 62v-63. All Board of Trade records (BT) are held by the National Archives of the United Kingdom.

<sup>17</sup> See the Appendix to Reeves's *History of Newfoundland*, xxxii-xxxiii.

<sup>18</sup> Reeves, "5 December 1792 – Report respecting Newfoundland," BT 1/8, ff. 63v-64.

<sup>19</sup> Reeves, "5 December 1792 – Report respecting Newfoundland," BT 1/8, ff. 87v-88v; published in Reeves, *Third Report of the Newfoundland Committee*, 163-164.

<sup>20</sup> Webb, "William Knox in the 18<sup>th</sup>-Century Newfoundland Fishery," *Acadiensis* 44, no. 1 (Winter/Spring 2015), 113.

first modern historian of Newfoundland has led to his being adopted as an intellectual founding father of Newfoundland nationalism. Most influentially, the early nineteenth century's political reform movement spawned or seized upon the view that Reeves was exactly as "impartial" a historian as he was reputed to be a judge. The assumption that Reeves was either politically neutral, or at least favoured the cause of put-upon colonists—and in any event was too thorough a scholar to be responsible for politicians misreading his *History*—has only been encouraged by revisionist historians' observations that Reeves's *History* predated and was therefore unaffiliated with later political reform movements. Even the influence of Keith Matthews' essay, "Historical Fence Building," intended as a manifesto announcing a break from nationalist historiography, has allowed the nationalist practice of citing Reeves as a political cipher to survive into the present. The result is that Newfoundland's founding historian is assumed not to have shared in any penchant for politically-motivated interpretations of its history. It is precisely that assumption which this thesis categorically rejects.

In order to make better sense of Reeves's career and legacy in Newfoundland, this thesis attempts to reconcile the several portraits of Reeves one finds in British police, political, and imperial history, and in English legal history to one another.<sup>21</sup> To that end, and to help ground later chapters' discussions of Reeves's Newfoundland career, most of the rest of this chapter forms an overview of his life and opinions. The next section will provide a "political biography" of Reeves, in which special attention is given to his individual efforts and administrative role in the British conservative reaction against the

---

<sup>21</sup> Note that "English" is sometimes preferred to "British," in order to reflect the fact that following the Act of Union in 1707, England and Scotland retained their separate legal systems.

American and French Revolutions. Following this “Life of Reeves,” the next section will discuss the immediate reception of Reeves’s memory among his British and Irish contemporaries who were not hostile to him personally. Having traced the political outlines of Reeves’s life, career, and legacy, the next section will give some firmer definition to Reeves’s conservatism, in order to show that while Reeves’s politics might appear to be more in keeping with the political orthodoxy of the seventeenth rather than the eighteenth century, Reeves cannot be dismissed as a political fossil and instead should be regarded as a missing link between early modern and modern Toryism.

### **I.i – A Political Biography of John Reeves**

John Reeves was born on 20 November 1752, the only son of John and Elizabeth Reeves, of Castle Street, in the parish of St. Martin-in-the-Fields, in the Liberty of Westminster. Ten days later, he was baptised at that parish’s Anglican church.<sup>22</sup> The elder Reeves, a baker wealthy enough to vote and to sit on juries in his home parish, was able to have his son educated as a King’s Scholar (less regally, a “poor scholar”) at Eton College from 1764 to 1771.<sup>23</sup> Following Eton, the younger Reeves studied at Merton College, Oxford, where he obtained a Bachelor of Arts on 31 October 1775. But having spent his formative years after the Seven Years’ War, when the First British Empire was at its greatest territorial height, Reeves received his degree just two months after the Thirteen Colonies were declared to be in rebellion against the Crown. That November,

---

<sup>22</sup> “Baptized November 1792,” Westminster Baptisms, City of Westminster Archives Centre (online facsimile; accessed via findmypast.co.uk). This is the only primary source I’ve found that confirms both Reeves’s year of birth (which many often put a question mark next to) and his mother’s given name.

<sup>23</sup> The online database *London Lives*, the Cambridge University-run companion site to the book of the same name, contains several references to “John Reeves of Castle Street” testifying to the elder Reeves’s status in the parish of St-Martin-in-the-Fields. See also Richard Arthur Austen-Leigh, ed., “Reeves – 1764-71,” in *The Eton College Register 1753-1790* (Eton: Spottiswoode, Ballantyne & Co. Ltd., 1921), 444.

Reeves was elected a scholar of Queen's College, Oxford, and the following May—two months before the United States formally declared independence—Reeves was admitted as a student to the Middle Temple, one of the four Inns of Court from which lawyers were licensed before practising law in England. Reeves continued at Oxford and the Middle Temple, being elected a fellow of Queen's College on 8 October 1777, receiving his Master of Arts degree in 1778, and being called to the bar on 18 June 1779.

That same year, Reeves published his master-piece, a two-page, colour-coded *Chart of Penal Law* showing the historic evolution and divisions of English criminal law, which was well received and widely imitated; and only after the publication of which did Reeves begin to appear in open court. His *Chart's* dedication to Sir James Eyre—whose staunch support of Government against John Wilkes and the City of London Corporation in 1769 had led his being appointed a Baron of the Exchequer in 1772—also appears to have borne its intended fruits. In 1780, Reeves was made a Commissioner of Bankrupts, both the Court of the Exchequer and Bankruptcy courts being courts of equity and thus chancery, which placed Reeves under the nominal patronage of Edward Thurlow, the British Lord Chancellor. In February 1783, as the American War was coming to a close, Reeves published the first volume of his *History of the English Law*, which he dedicated to Lord Thurlow in hopes of obtaining a more profitable career (or as some of his biographers have suggested, a quieter one).<sup>24</sup> His timing was unlucky. Thurlow was out of office in April 1783, and Thurlow's position in Pitt the Younger's ministry, which

---

<sup>24</sup> Reeves, "Dedicatory Preface," *History of the English Law [from the Saxons to the End of the Reign of Henry the Seventh]*, 1<sup>st</sup> edition, 2 vols., (London: T. Wright, 1783-84). See "A Sketch of the Life and Character of John Reeves, Esq., Founder and Promoter of Associations for Preserving Liberty and Property against Republicans and Levellers," *European Magazine and London Review* (June 1818), 73:468.

took office in December of that year, remained precarious. Nevertheless, the Chief Justice of the Court of King's Bench, Lord Mansfield, thought so highly of Reeves's first volume that he encouraged him to proceed with his second one, which Reeves dedicated to Mansfield in 1784.<sup>25</sup> By this time, Reeves had grown bolder in his overtures, and some time that year wrote to the Home Secretary, Lord Sydney, offering his services (in the words of Simon Devereaux) "as a self-appointed 'expert' adviser to government on a variety of subjects," as the Home Office was preparing a bill to reform the municipal administration or, in the language of the times, the "police" of metropolitan London.<sup>26</sup>

What has become known as the London and Westminster Police Bill of 1785 was introduced to the Commons by the Solicitor General; but, while "the Bill had originated in the Home Office, it is clear that its details came entirely from Reeves himself."<sup>27</sup> Had it passed, Reeves's Police Bill would have granted the greater London area the British Isles' first professional police force some eleven years before the Thames River Police first took to the docks, and forty-four years before the Metropolitan Police first took to the streets on 29 September 1829.<sup>28</sup> Instead, a furious opposition from both the City of

---

<sup>25</sup> Reeves, "To the Right Honourable William, Earl of Mansfield, Lord Chief-Justice of his Majesty's Court of King's Bench," *History of the English Law*, 2:iii-iv.

<sup>26</sup> Devereaux, "Convicts and the State: The Administration of Criminal Justice in Great Britain during the Reign of George III" (PhD Thesis, University of Toronto 1997), 212; see also Leon Radzinowicz, "Introduction: That Strange Word 'Police,'" in *A History of English Criminal Law and Its Administration from 1750*, 5 vols. (London: Stevens & Sons Limited, 1948-1986), 3:1-8.

<sup>27</sup> See Ruth Paley, "The Middlesex Justices Act of 1792" (PhD thesis, University of Reading, 1983), 221; Parliament of Great Britain, "23 June 1785 – Debate in the Commons on the London and Westminster Police Bill," in *Parliamentary History*, eds. William Cobbett & T.C. Hansard, 36 vols. (London: T.C. Hansard, 1806-1820), 25:894-895.

<sup>28</sup> For further reading, see Radzinowicz, *A History of English Criminal Law*, 3:108-137; Stanley H. Palmer, *Police and Protest in England and Ireland, 1780-1850* (Cambridge: Cambridge University Press, 1988), 89-92; Devereaux, "Convicts and the State: Criminal Justice under George III," 209-217; John M. Beattie, *The First English Detectives: The Bow Street Runners and the Policing of London, 1750-1840* (Oxford: Oxford University Press, 2012). See also Paul M. Zall, "John Reeves: The Perils of Public Service," *The Wordsworth Circle* 45, no. 3 (Summer 2014): 212-216; Quentin Bailey, "A 'rapid and alarming increase of

London Corporation, and from the judges of counties slated to become part of the proposed District of the Metropolis, convinced the prime minister to shelve Reeves's bill indefinitely.<sup>29</sup> This was Reeves's initiation into public life. But if the British Parliament regarded Reeves's bill as a political liability, the Irish executive saw in it a model for keeping the king's peace.<sup>30</sup> In 1787, the Chief Secretary for Ireland, Thomas Orde, owing as much to the initial success of the police acts as well as to Orde's chronic illness, invited Reeves to assist him in his plan of reforming Ireland's charter schools.<sup>31</sup> Reeves's task was to secure Anglican bishops' consensus for Orde's project, but even this proved untenable, and Reeves went home after only five weeks.<sup>32</sup>

Meanwhile, the initial success of the Irish Police Bills, and perhaps the London Police Bill itself, had also won Reeves the respect, the patronage, and the protection of the veteran Tory politician and "spiritual [ancestor] of ... the modern civil servant" Charles Jenkinson, Lord Hawkesbury.<sup>33</sup> As President of the Privy Council's Committee

---

crimes': Law and Order in Eighteenth-Century England," in *Wordsworth's Vagrants: Police, Prisons, and Poetry in the 1790s* (Farnham, UK & Burlington, VT: Ashgate, 2011), 13-31.

<sup>29</sup> See Parliament of Great Britain, "29 June 1785 – Debate in the Commons on the London and Westminster Police Bill," in *Parliamentary History*, 25:900-913.

<sup>30</sup> See Kevin Boyle, "Police in Ireland before the Union: I," *Irish Jurist*, no. 7 (1972): 115-137; Boyle, "Police in Ireland before the Union: II," *Irish Jurist*, no. 8 (1972): 90-116; Boyle, "Police in Ireland before the Union: III," *Irish Jurist*, no. 9 (1973): 323-348; Palmer, "The Irish Police Experiment: The Beginnings of Modern Police in the British Isles, 1785-1795," *Social Science Quarterly* 56, no. 3 (December 1975): 410-424; Palmer, *Police and Protest in England and Ireland*, 91-136; Brian Henry, *Dublin Hanged: Crime, Law Enforcement and Punishment in Late Eighteenth-Century Dublin* (Dublin: Irish Academic Press, 1994), 137-153; cf. Neal Garnham, *The Militia in Eighteenth-Century Ireland: In Defence of the Protestant Interest* (Woodbridge, UK: The Boydell Press, 2012), 144-145.

<sup>31</sup> James Kelly, "The Context of Thomas Orde's Plan of Education of 1787," *The Irish Journal of Education*, 20, no. 1 (Summer 1986): 21.

<sup>32</sup> Kelley, "The Context and Course of Thomas Orde's Plan of Education of 1787," 22; Donald H. Akenson, *The Irish Education Experiment: The National System of Education in the Nineteenth Century* (London: Routledge & Kegan Paul; Toronto: University of Toronto Press, 1970), 59-69. Reeves otherwise held the Kingdom of Ireland in high regard, but he was not above chastising its Parliament for assuming it would have had any power to appoint the Prince of Wales Regent of Ireland during the Crisis of 1788. See Reeves, *Legal Considerations on the Regency, as far as it regards Ireland* (London: J. Stockdale, 1789).

for Trade and Foreign Plantations, Hawkesbury was a staunch economic conservative committed to preserving the mercantilist regime of the First British Empire—whose policies he had helped shape as an MP. Exactly which project first required Reeves’s services is unclear, but a minute from 13 July 1787 notes that “Their Lordships ha[d] occasionally employed John Reeves Esquire ... for some time past.”<sup>34</sup> On the Board’s recommendation, Reeves’s starting salary of £500 per annum was back-dated to 15 May 1787, and on 10 August 1787, Reeves was formally appointed Law Clerk to the Board of Trade.<sup>35</sup> His expertise in both legal history and property law would prove invaluable when in 1788 the Board began a formal investigation into the African slave trade and the state of plantation slavery in the British West Indies. Indeed, the Board thought so highly of Reeves’s short overview of the legal principles underlying West Indian plantation slavery, that they included it in their 1789 *Report*.<sup>36</sup> A tireless worker, Reeves threw himself into his job with such vigour that it temporarily ruined his health, requiring him to recover at various health spas on the Continent, though the onset of the French

---

<sup>33</sup> William Ranulf Brock, *Lord Liverpool and Liberal Toryism* (Cambridge: Cambridge University Press, 1941), 4. As Secretary of State, Jenkinson had been familiar with the Westminster magistrate and “police” reformer Sir John Fielding’s work. Although Jenkinson had given only lukewarm support to Fielding, owing to the national government’s unwillingness to fund costly municipal schemes, he likely would have recognised Reeves’s potential for expanding upon the Fieldings’ proposals—particularly as he had been Secretary of State for the Southern Department during the Gordon Riots. See Radzinowicz, *History of the English Criminal Law*, 3:61-62; Devereaux, “Convicts and the State,” 17-18; Elaine A. Reynolds, *Before the Bobbies: The Night Watch and Police Reform in Metropolitan London, 1720-1830* (Stanford: Stanford University Press, 1998), 48; Beattie, *The First English Detectives*, 47.

<sup>34</sup> Board of Trade, “13 July 1787 – [Minute on] Law Clerk: John Reeves Esq<sup>re</sup>. appointed,” BT 5/6, f. 319.

<sup>35</sup> Board of Trade, “10 August 1787 – Law Clerk: Order approving the appointment of John Reeves Esq<sup>re</sup>,” BT 5/6, f. 331.

<sup>36</sup> See Reeves, “A General View of the Principles on which [the] System of Laws [respecting Negro Slaves] appears to have been originally founded, marking the Alterations and Improvements that have been made in them from Time to Time,” in the *House of Commons Sessional Papers*, ed. Lambert, 69:475-486. For a modern edition of Reeves’s paper, see Michael Craton et al, eds., *Slavery, Abolition, and Emancipation: Black Slaves and the British Empire*, (London: Longman, 1976), 181-190. For the Board of Trade’s full report, see volumes 69 and 70 in the *House of Commons Sessional Papers of the Eighteenth Century*.

Revolution obliged him to return home. Around this time, Reeves also began to receive more than pecuniary rewards for his efforts. In 1789, he became a fellow of the Royal Society of Antiquaries, and a fellow of the Royal Society the next year. In November 1790 Reeves began his “firm and lasting” friendship with the Maryland-born loyalist, soldier, privateer, and “Director-General of the Creek Nation” William Augustus Bowles or Estajoca. Reeves even advocated on Bowles’ behalf with Lord Hawkesbury, who in turn favoured admitting Muskogee (Creek and Cherokee) shipping to the British West Indies’ free ports, while avoiding committing Britain to war against Spain or the United States.<sup>37</sup> But as Reeves observed to Evan Nepean, “We have not so many friends on the American Continent, that we are to throw away, those who seek us across the Atlantic.”<sup>38</sup>

In 1789, a constitutional crisis on the Island of Newfoundland eventually led to Reeves’s appointment as Chief Judge of a provisional Court of Civil Judicature in 1791.<sup>39</sup> He was eager to be of service. At least while within sight of the British mainland, Aaron Graham, the governor’s secretary, informed the Undersecretary of State Evan Nepean that “your friend Reeves is the best sailor on the ship — He eats drinks & sleeps already much better than those who have been at the business for more than twenty years.”<sup>40</sup>

---

<sup>37</sup> Hawkesbury, “7 January 1791 – Letter to Grenville,” HO 42/18, f. 62; J. Leitch Wright, *William Augustus Bowles: Director General of the Creek Nation*, (Athens: University of Georgia Press, 1967), 90, 99, 103, 108.

<sup>38</sup> Reeves, “10 November 1790 – Letter to Evan Nepean,” HO 42/17, f. 77v. For a contemporary source that Reeves recommended to the Home Secretary, Henry Dundas, shortly before leaving for Newfoundland, see Benjamin Baynton, *Authentic Memoirs of William Augustus Bowles, Esquire, Ambassador to the United Nations of Creeks and Cherokees, to the Court of London* (London: Printed for F. Faulder, 1791). See also Reeves, “1 August 1792 – Letter to Nepean,” HO 42/21, f. 263; Reeves, “2 August 1792 – Letter to Dundas,” HO 42/21, ff. 279v-280. All Home Office records (“HO 42”) are held by the National Archives of the United Kingdom.

<sup>39</sup> Reeves appears to have first expressed his interest in the office of King’s Printer in June or July of 1791; see Reeves, “[?] 1791 – Letter to Evan Nepean,” HO 42/19/12, ff. 25-26v. Reeves would continue to make plain his interest in that office plain; see Reeves, “7 August 1793 – Letter to Henry Dundas,” Melville Papers, National Records of Scotland, GD51/1/34, f. 232/1.

Reeves himself, however, admitted to Hawkesbury that the voyage to Newfoundland was “not much suited to a person of my habit of life.”<sup>41</sup> But he was uniquely qualified for the job in other respects. Once there, he presided over both the experimental Civil Court and the island’s criminal court, the Court of Oyer and Terminer. After observing firsthand the defects of the Judicature Act of 1791, many of his recommendations for an improved act were adopted in the Judicature Act of 1792—most notably in creating a Supreme Court of combined civil and criminal jurisdiction. Proposals falling outside the immediate scope of judicial reform were ignored. During the winter of 1791-92, Reeves also began combing through the Board of Trade’s records on Newfoundland to master that island’s unique constitutional history. During that time, Reeves may also have helped Lt. Christopher Pulling RN plan for his expedition to the borderland between British settlers and the Beothuk, arranging for Pulling’s leave from the Royal Navy while he captained the *Trinity*, a fishing vessel owned by the wealthiest merchant trading to Newfoundland, Benjamin Lester, then also an MP for Poole.<sup>42</sup> In June 1792, Reeves published his *History of the Laws of Shipping and Navigation*, commissioned by Lord Hawkesbury.<sup>43</sup> Soon after, he was named Receiver of Public Offices under the Middlesex Justices Act, making him paymaster to metropolitan London’s newly salaried JPs—the central and

---

<sup>40</sup> Graham, “3 August 1791 – Letter to Nepean,” HO 42/19, f. 386. (Graham wrote his letter within sight of Falmouth, Cornwall.)

<sup>41</sup> Reeves, “21 September 1791 – Letter to Lord Hawkesbury,” Add MS 38227, f. 61. All “Additional Manuscripts” (“Add MSS”) are today held by the British Library (formerly, by the British Museum).

<sup>42</sup> Ingeborg Marshall, *Reports and Letters by George Christopher Pulling relating to the Beothuk Indians of Newfoundland* (St. John’s: Breakwater Books, 1989), 19. Gordon Handcock relates that at the time of his death in 1802, Lester “owned the largest mercantile establishment and trade in Newfoundland. He was also unquestionably the largest property owner in Newfoundland, and the wealthiest active merchant in the Newfoundland trade.” Handcock, *The Story of Trinity* (Trinity: The Trinity Historical Society, 1997), 41.

<sup>43</sup> Reeves, *A History of the Law of Shipping and Navigation*, 1<sup>st</sup> edition (London: Printed for E. & R. Brooke and J. Sewell, 1792).

least controversial feature of his 1785 police bill.<sup>44</sup> But because Reeves was simultaneously appointed the Chief Justice of Newfoundland's new Supreme Court in 1792, he had to leave London in early August. During his term as Chief Justice in September and October, Reeves presided over the Supreme Court's inaugural session in St. John's, as well as several of the new Supreme Court's "surrogate" courts on a northern circuit around Conception and Trinity Bays, and a southern circuit to Ferryland and Bay Bulls. On his return to England, he proved incompetent as Receiver for Middlesex, but his expert knowledge and firsthand experience of Newfoundland proved invaluable for the House of Commons' enquiry into the Newfoundland trade.<sup>45</sup>

Still, it was not his tenure as Chief Justice of Newfoundland, but his volunteer efforts as Chairman of the Association for Preserving Liberty and Property against Republicans and Levellers (i.e., anti-monarchists and democrats), or "APLP" for short, that Reeves considered his greatest service to his country. On 20 November 1792, only a few days after his final return from Newfoundland, Reeves launched a nation-wide "loyal association" movement against the British radical press out of the Crown and Anchor Tavern, on what happened to be his fortieth birthday. France would not declare war against Great Britain for another three months. But, as a pressure group seeking pledges from magistrates and local elites to enforce the Royal Proclamation against Seditious Publications (aimed squarely at Thomas Paine's *Rights of Man*), the APLP effectively made the peacetime use of wartime censorship, surveillance, and intimidation of the

---

<sup>44</sup> From 1792 until the Metropolitan Police Act took effect, these salaried JPs are properly referred to as "stipendiary" magistrates. After the creation of a professional constabulary in 1829, these same stipendiary magistrates would be more commonly referred to as "police" magistrates.

<sup>45</sup> See Paley, "The Middlesex Justices Act," 238-244.

French Republic's potential allies a civic virtue.<sup>46</sup> So committed was he to his crusade against the radical press, that when a jury acquitted an illiterate bill-sticker of any seditious intent in posting political broadsheets by the London Corresponding Society,

Mr. Reeves the associator was a very anxious attendant upon this trial, and was heard in open court to have declared, that no defeat of the combined armies, no loss of fleets could be so prejudicial to the system of this association, as the acquittal of the defendants.<sup>47</sup>

Another early victim of the APLP's campaign was the London radical John Thelwall, whose novel *The Peripatetic* was almost refused publication, as his first publisher, "the bosom friend of a certain municipal inquisitor," demanded that Thelwall either "omi[t] the political reflections, or tur[n] them to the other side of the question."<sup>48</sup> More famously, Reeves's APLP also organised a counter-propaganda campaign, flooding the presses with cheap pamphlets and peddling cheap and staunchly conservative literature for a working-class audience—the most famous product of which was Hannah Moore's *Village Politics*. As a reward for these efforts Reeves, though barred as Receiver from serving as a Middlesex stipendiary himself, was appointed High Steward (informally, "Chief Justice") of the Duchy of Lancaster's manorial court in the Liberty of the Savoy—notably, the same precinct where Thelwall was then delivering the most popular political

---

<sup>46</sup> See Mitchell, "The Association Movement of 1792-3," 56-77; Black, *The Association*, 233-274; E.P. Thompson, *The Making of the English Working Class* (New York: Vintage Books, 1966), 82, 102-115; Donald Ginter, "The Loyalist Association Movement of 1792-93 and British Public Opinion," *The Historical Journal* 9, no. 2 (1966): 179-190; Kevin Gilmartin, "In the Theater of Counterrevolution: Loyalist Association and Conservative Opinion in the 1790s," *Journal of British Studies* 41, no. 3 (July 2002): 291-328; Frank O'Gorman, "The Paine Burnings of 1792-1793," *Past & Present*, no. 193 (November 2006): 111-155; Christina Parolin, *Radical Spaces: Venues of Popular Politics in London, 1790-1845* (Canberra: Australian National University Press, 2010), 105-146; Robert Andrews, *Lay Activism and the High Church Movement of the Late Eighteenth Century: The Life and Thought of William Stevens, 1732-1807* (Leiden & Boston: Brill, 2015), 186-189.

<sup>47</sup> Francis Plowden, *A Short History of the British Empire during the Last Twenty Months; viz. from May 1792 to the Close of the Year 1793* (London: Printed for G.G. and J. Robinson, 1794), 378.

<sup>48</sup> Thelwall, *The Peripatetic*, 73.

lectures of his career.<sup>49</sup> In April 1793, Reeves published his *History of Newfoundland*, justifying that island's Supreme Court as the only humane alternative to the fishing admiral system, which allegedly no longer met the needs of a growing and increasingly permanent colonial population. Its publication coincided with that of the *First* and possibly the *Second Report* of the House of Commons' Committee on Newfoundland. Reeves's testimony, included in the Committee's *Third Report*, denounced merchants who complained about the decline of the migratory fishery as the principal instigators of colonisation by servants who became their debtors. The Committee made no recommendations, but Reeves's testimony was influential enough that unlike the previous two Judicature Bills, the 1793 bill did not need to be printed for MPs' closer inspection. Instead, Reeves's testimony was excerpted from the *Third Report* and printed separately.

After the APLP disbanded in June of 1793, Reeves continued to run a network of spies and informers against political radicals as Government gathered evidence for the Treason Trials of 1794—even assisting the Privy Council's pre-trial interrogation of Thomas Hardy, the founder of the London Corresponding Society.<sup>50</sup> His 1794 report "On Sedition &c.," submitted to the Committee of Secrecy was doubtful that a jury of the same social class as the accused radicals would actually find them guilty of seditious

---

<sup>49</sup> The Duchy of Lancaster is a "duchy palatine," comprising all of the land held by the Duke of Lancaster—who, since the War of Roses, has also been the ruling English monarch, and since 1707 the ruling British one. Upon his creation as Baron Hawkesbury (and later as the first Earl of Liverpool), the Tory politician Charles Jenkinson, in addition to being President of the Board of Trade in 1786, was also appointed the Chancellor of the Duchy of Lancaster. When Reeves later appointed Chief Justice of the Liberty of the Savoy, a neighbourhood between Westminster and the City of London officially styled the Liberty of the Duchy of Lancaster, this made Hawkesbury his patron twice over. Seen another way, in both Newfoundland and the Savoy, Reeves was the "chief justice" who reported directly to a local viceroy.

N.B. The former site of the Beaufort Buildings, where Thelwall delivered his lectures, is today the site of the Savoy Theatre of Gilbert and Sullivan fame.

<sup>50</sup> Thomas Hardy, *Memoir of Thomas Hardy, Founder and Secretary of the London Corresponding Society* (London: James Ridgeway, 1832), 33.

libel, and he was right.<sup>51</sup> But as High Steward of the Savoy, Reeves still made life difficult for Thelwall. Following his and others' acquittals of High Treason, Reeves continued to send spies, informers, and even the Bow Street Runners to Thelwall's political lectures (the first of which was "On the Moral Tendencies of a System of Spies and Informers"), attempting to gather enough evidence to have Thelwall declared a public nuisance. Reeves even went so far as ordering the leet jury of the Savoy's manorial court to attend Thelwall's lectures. But in a lecture from June 1795, Thelwall claimed that this same jury's unwillingness to hold him without any charge prevented him from being press-ganged prior to his arrest in May 1794.<sup>52</sup> In response, on 27 October 1795, Reeves or his allies began the short-lived anti-radical newspaper *The Tomahawk! or, Censor General*, a Tory rag that habitually slandered Thelwall as an "acquitted felon"—meaning that while Thelwall had been spared the death penalty, he still deserved it.<sup>53</sup> Two days later, Reeves anonymously published the first letter to his *Thoughts on the English Government*, which suggested that the monarchy required neither the Lords nor the Commons to function. When his authorship became public knowledge, it was not lost on Charles Sturt, the Foxite Whig MP for Bridport (Dorset), that "the author is a magistrate of Newfoundland, a man directly in the pay, and under the influence of Ministers."<sup>54</sup> Thelwall, who may also have known of Reeves's time in

---

<sup>51</sup> Reeves, "29 April 1794 – Mr. Reeves's Report [to the Committee of Secrecy] on Sedition &c.," TS 11/965 (formerly TS 3150A), National Archives of the United Kingdom.

<sup>52</sup> Kingdom of Great Britain, "1 December 1794 – The Trial of Mr. John Thelwall," in *State Trials for High Treason, Embellished with Portraits*, 3 vols. (London: Printed for B. Crosby, 1794), 3:32; Thelwall, "6 June 1795 – No. XIII. On Prosecutions for Pretended Treason," in *The Tribune*, 1:295-298.

<sup>53</sup> Cf. [Reeves], "Letter IV," *Defence of the Police Bill* (London: Printed for John Stockdale, 1786), 22-27.

<sup>54</sup> Sturt, "23 November 1795 – Debate respecting the pamphlet *Thoughts of the English Government*," in *Parliamentary Register* (London: Printed for J. Debrett, 1796), 43:287.

America, and who was well aware of Reeves's attempt to revive the APLP, did not let the opportunity go to waste.<sup>55</sup> In a lecture on the anniversary of the Revolution of 1688, Thelwall claimed that Reeves's "ghost, of late, has begun to stalk about the streets, in the semblance of a *wild Indian*, with a 'tomahawk' in his hand, hewing down every thing civilized and liberal that comes in his way!"<sup>56</sup> Parliament eventually ordered the Attorney General to prosecute Reeves for seditious libel, which he did *ex officio* while acting as counsel for the defense. Acquitted of libel but censured by the jury, the fact that Reeves was charged at all showed he was too fierce a monarchist for both the Whig opposition and the Tory government of the day.<sup>57</sup> He remained locked in a war of words with Thelwall until the Two Acts forced the latter's "retirement" from politics in 1797.<sup>58</sup>

Towards the end of French Revolution, Reeves also appears to have enjoyed a "retirement" of sorts—into gradual obscurity. Much of his later career took the form of side projects of varying success. Most notably, he offered his house to the family of the Swiss-born royalist *émigré* Jacques Mallet du Pan—whose assumption that Reeves was still Chief Justice of Newfoundland led him to quip "either that justice was not necessary to Newfoundland, or that John Reeves was not necessary to justice."<sup>59</sup> In 1798, Reeves began contributing to *The Anti-Jacobin Review and Magazine*—and even advocated

---

<sup>55</sup> Reeves was identified as "the Chief Justice of Newfoundland" in a 1795 newspaper; see the preface to *The New Annual Register, or General Repository of History, Politics, and Literature, for the Year 1794* (London: Printed for G.G. and J. Robinson, 1795) n.p.

<sup>56</sup> Thelwall, "4 November 1795 – No. XLI. – The Lecture on the Revolution in 1688," *Tribune*, 3:150-151.

<sup>57</sup> Reeves, *Thoughts on the English Government*, 1:12-13; see also Beedell, "John Reeves's Prosecution for Seditious Libel, 1795-96: A Study in Political Cynicism," 799-824.

<sup>58</sup> See Thelwall, *The Rights of Nature*, 2<sup>nd</sup> ed. (London: H.D. Symonds and J. March, 1796-1797), 1:63-64.

<sup>59</sup> Bernard Mallet, *Mallet du Pan and the French Revolution* (London, New York, and Bombay: Longmans, Green, and Co., 1902), 291; see also Simon Burrows, *French Exile Journalism and European Politics, 1792-1814* (Woodbridge & Rochester: The Boydell Press, 2000), 58-60, 100. Cf. Jeremy Bentham, "17 December 1792 – A Card to John Reeves," in *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh: William Tait, 1838), 5:237.

commissioning a suitably Protestant revision of the Jesuit-educated Augustin Barruel's *Memoirs Illustrating the History of Jacobinism*, a royalist pseudohistory casting the French Revolution as a conspiracy between French *philosophes*, English Freemasons, and Bavarian Illuminati.<sup>60</sup> Possibly as a reward for these efforts, in 1799 Reeves resigned as Receiver when he was finally offered the office of King's Printer. This office gave him a monopoly—held jointly with the Universities of Oxford and Cambridge—over the printing of the Church of England's Authorised or “King James” Version of the Bible and its Book of Common Prayer. None of his schemes for a Bible Society bore fruit, but he published a volume of notes to the Bible, and of the Book of Common Prayer, attempting to make Anglican ritual better understood—even attempting to show a lack of substantive difference between the Hebrew and Greek versions of the Psalms.<sup>61</sup> His lasting influence as King's Printer appears to have been a multi-volume Family Bible, which Reeves intended to “surpass in price, and figure, every other volume in the poor man's library.”<sup>62</sup> The “very solemn profession of friendship” Reeves gave Bishop (then Father) O'Donel in 1792 did not stop him from publishing a tract supporting George III's refusal to assent to any bill restoring full civil rights (or granting “emancipation”) to Roman Catholics, on the grounds that he felt doing so would have violated his Coronation Oath.<sup>63</sup>

Reeves never entirely avoided controversies that embarrassed Government after

---

<sup>60</sup> Elizabeth de Montluzin, *The Anti-Jacobins*, 137. Reeves apparently suggested the project to Lord Liverpool, who liked the idea enough to offer the project of erasing evidence of the author's training as a Jesuit to the Bishop of Llandaff, who thought the whole project ridiculous.

<sup>61</sup> See Plucknett, “John Reeves, Printer,” *Columbia Law Review* 61, no. 7 (Nov. 1961): 1201-1209.

<sup>62</sup> Reeves, *Proposal for a Bible Society*, 22; see Plucknett, “John Reeves, Printer,” 1205-1206.

<sup>63</sup> O'Donel, “8 December 1792 – Letter to Troy,” in *Gentlemen-Bishops and Faction Fighters*, 121; see Reeves, *Considerations on the Coronation Oath, to Maintain the Protestant Reformed Religion, and the Settlement of the Church of England*, 2<sup>nd</sup> edition (London: Printed for J. Wright, 1801).

he was acquitted of libel. In 1800, he privately expressed his regret at Ireland's loss of legislative independence, as it meant the death of a separate Parliament he had come to regard rather fondly for its adherence to English constitutional practices.<sup>64</sup> Following the resumption of the Napoleonic Wars, Reeves was made Superintendent of Aliens—head of “the first comprehensive British secret service in the modern sense,” as well as the registrar of all foreign nationals in and entering the United Kingdom.<sup>65</sup> In this capacity he appears to have become “one of the most intimate friends” of the former American Vice-President Aaron Burr.<sup>66</sup> During his exile in England, Burr had hoped that having been born before independence, he might qualify as a British subject—in support of which position Reeves produced two manuscripts, which he eventually published in 1816.<sup>67</sup> The Alien Office was an unpopular wartime institution, though as Superintendent Reeves was respected for acting “with a humaneness, an independence, and a rigorous insistence on the principles of British justice that lost him much goodwill among the hard-liners in

---

<sup>64</sup> On the occasion, Reeves wrote, “I saw in the paper the account of the Irish Parliament meeting for the last time. I protest I am so much of an Irishman as to sympathise in the feelings that most of those present must have had.” On this basis, A.V. Beedell has suggested Reeves to have been of Irish origins himself. In the absence of firmer evidence, a more plausible interpretation of this passage is that it was a fashionably polite way of acknowledging that, like an Irishman, Reeves also regretted Ireland's loss of legislative independence. Furthermore, Beedell ignores Reeves's declaration to the Hon. Charlotte Lawless, in this same letter, that “we are all one now: you and I are countryfolks; that is, we shall be so on 1<sup>st</sup> January, 1801.” Beedell, “John Reeves's Prosecution for a Sedition Libel, 1795-6: A Study in Political Cynicism,” 800n5. Reeves, “7 August 1800 – Letter to the Hon. Charlotte Lawless,” quoted in Valentine Lawless, 2<sup>nd</sup> Baron Cloncurry, *Personal Recollections of the Life and Times, with Extracts from the Correspondence, of Valentine Lord Cloncurry* (Dublin: James McGlashan; London: William S. Orr and Co., 1849), 44. See also Adam Smith, *Theory of Moral Sentiments*, ed. Ryan Patrick Hanley (London: Penguin Books, 2009).

<sup>65</sup> Elizabeth Sparrow, “The Alien Office, 1792-1806,” *The Historical Journal* 33, no. 2 (June 1990): 362.

<sup>66</sup> James Parton, *The Life and Times of Aaron Burr* (New York: Mason Brothers, 1858), 533.

<sup>67</sup> Burr, “27 November 1808 – Journal,” in *The Private Journal of Aaron Burr, during His Residence of Four Years in Europe; with Selections from His Correspondence*, ed. Matthew L. Davis, 2 vols. (New York: Harper & Brothers, 1838), 1:93; Reeves, “23 December 1808 – Letter to Aaron Burr,” in *The Private Journal of Aaron Burr*, 1:12; Burr, “27 March 1809 – Letter to John Reeves,” *Private Journal*, 1:186; Burr, “6 April 1809 – Journal,” *Private Journal*, 1:191. See Reeves, *Two Tracts Shewing, That Americans, Born before the Independence, Are, by the Law of England, Not Aliens* (London: T. Davison, 1816); Patrick Pol-den, “John Reeves as Superintendent of Aliens, 1803-14,” *Journal of Legal History*, 3, no. 1 (1982): 47-48.

government.”<sup>68</sup> As a result, MPs “whose political views were very different from his own” respected his political independence, but “the office of Judge Advocate-General”—that is, presiding judge over the United Kingdom’s highest-ranking military court—“which he coveted narrowly escaped his grasp” in 1806. As Patrick Polden explains,

Where Reeves saw illegality, incompetence or inhumanity he did not hesitate to denounce it in no uncertain terms and the outspokenness of his language and the persistence with which he reiterated his criticisms were far beyond the latitude allowed to a modern civil servant.<sup>69</sup>

Indeed, Reeves had enjoyed exactly the same latitude as Chief Justice of Newfoundland. In 1807, around the time that he updated his *History of Shipping and Navigation*, Reeves again demonstrated his concern for Newfoundland. At the suggestion of the naval governor, Reeves contacted the Irish painter, Amelia Curran (whose father, an Irish MP, he possibly knew through their connection as barristers of the Middle Temple), and commissioned her for a painting showing British sailors and settlers interacting with Beothuk men and women on almost equal terms. The project was mocked by a skeptical Board of Trade, but Curran’s painting was eventually left, with a portrait of George III and other presents, at a former site of the silent trade. The attempt was unsuccessful, but Newfoundland’s governors took thereafter a belatedly enlightened interest in making contact with the Beothuk.<sup>70</sup> But not everyone in Newfoundland maintained the same high opinion of Reeves. In 1809, the merchants of St. John’s accused the former Chief Justice of pocketing half of the salaries of each of his successors. He was formally investigated

---

<sup>68</sup> de Montluzin, *The Anti-Jacobins*, 137.

<sup>69</sup> Polden, “John Reeves as Superintendent of Aliens, 1803-14,” 46.

<sup>70</sup> Marshall, *History and Ethnography of the Beothuk*, 132-133; Fiona Polack, “Amelia Curran’s Newfoundland Painting,” *Keats-Shelley Journal*, no. 60 (2011): 25-29; Polack, “Art in the Bush: Romanticist Painting for Indigenous Audiences in Tasmania and Newfoundland,” *Nineteenth-Century Contexts: An Interdisciplinary Journal* 33, no. 4 (September 2011): 341-347.

by the Board of Trade and was acquitted. It seems Reeves had simply been paid almost twice as much as those successors of his who had no legal training.<sup>71</sup>

It seems fitting that the professional twilight of a man who opened a pre-emptive home front against the French Revolution should be marked by the initial defeat of Napoleon in 1814. With the long wars presumably out of sight prior to the Hundred Days (which event famously prevented the Duke of Wellington from assuming his office as Governor of Newfoundland), Reeves's time as Superintendent of Aliens ended when the unpopular Alien Office was abolished.<sup>72</sup> In June and July 1818, the *European Magazine and London Review*'s published a substantial, two-part "Sketch of the Life and Character of John Reeves, Esq. – Founder and Promoter of Associations for Preserving Liberty and Property against Republicans and Levellers." Its author instructed his readers that

the highest honours of patriotism, and the warmest tributes of public gratitude, ought certainly to be reserved for the man who, in the hour of *internal alarm*, and amidst the DARK BROODING of DOMESTIC TREASON, steps forward by his wisdom, his virtue, and his spirit, to *save* a whole people from the HORRORS of a CIVIL WAR.<sup>73</sup>

Through all this, Reeves remained Law Clerk to the Board of Trade until his retirement in 1823. In recognition for his contribution to the law, Reeves was elected a Bencher of the Inns of Court in 1824. In 1825 he published the final volume to his *History of the English Law*, bringing his history to the reign of Elizabeth I. That same year, a biographer noted that "[f]ew political characters have been more warmly praised by one party, more

---

<sup>71</sup> Prowse, *A History of Newfoundland*, 391n2.

<sup>72</sup> John R. Dinwiddy, *Radicalism and Reform in Britain, 1780-1850* (London: The Hambledon Press, 1992), 162n2; see Cobbett, *Parliamentary History*, 34:971, 1080; Polden, "John Reeves as Superintendent of Aliens, 1803-14," 32.

<sup>73</sup> Anonymous, "Memoir of John Reeves," *European Magazine and London Review* (June 1818), 72:467.

bitterly censured by another, than [John Reeves] has been.”<sup>74</sup> He died intestate, a wealthy bachelor, on 7 August 1829, not quite seventy-seven years old.<sup>75</sup> His funeral was held a week later at Temple Church, the chapel maintained by the Inner and Middle Temples. A man of law to the last, Reeves remains sealed in the vault of the Middle Temple.<sup>76</sup>

### **I.ii – The View from the British Isles: History as Memory, 1822-1855**

There is a curious postscript to Reeves’s life. Reeves died not quite two months before the new Metropolitan Police Force received their commissions on 29 September 1829, their organisation having been modelled on many proposals Reeves made in 1785. In 1832, no less a figure than the United Kingdom’s Tory prime minister, Sir Robert Peel—who as Chief Secretary for Ireland oversaw the creation of Dublin’s Peace Preservation Force in 1814, and who as Home Secretary had introduced the 1829 Metropolitan Police Bill, both according to Reevesian principles—expressed his regret that Reeves’s trial for libel in 1796 had ever been instigated by Parliament.

I believe it is now very generally felt, that it would have been much better to have left Mr. Reeves’s case alone, and to have let him go forward in his foolish extravagance without molestation: the prosecution, however, arose from the folly and the heat of party feeling of the day, which, I must say, was provoked by the still greater folly of the party feeling evinced by the other side.<sup>77</sup>

If Peel disapproved of the Commons ordering the prosecution of libels, still more did he reject one MP’s view that seditious libels were by nature cynical. Indeed, Reeves’s fate was undeserved as a monarchist too honest for his own good: “In vain did Mr. Reeves

---

<sup>74</sup> “John Reeves, Esq.” in *A New Biographical Dictionary, of 3000 Contemporary Public Characters, British and Foreign, of All Ranks and Professions*, 2<sup>nd</sup> edition (London: George B. Whittaker, 1825), 3:223.

<sup>75</sup> Beedell, “John Reeves’s Prosecution for Seditious Libel,” 803n17.

<sup>76</sup> Church of England, *Register of Burials at the Temple Church, 1628-1853* (London: Henry Sotheran and Co., 1905), 83. I am grateful to the Rev. Mark Hatcher, Reader of the Temple Church and Bencher of the Middle Temple, for directing me to Reeves’s entry in this volume.

<sup>77</sup> Peel, “21 May 1832 – Debate on the Behaviour of the Press,” *Hansard Debates*, 12:1169.

say, that he was sincere in his opinion; he was prosecuted ... in spite of his sincerity!”<sup>78</sup>

Ironically, it was not conservative politicians but radical friends of Reeves who were the most at ease discussing Reeves’s politics—with the result that these authors’ politics reinforced Reeves’s own obscurity. In May 1830, the Tory radical William Cobbett lamented that “there he now is in the grave ... without hardly a soul knowing that there ever was such a man!”<sup>79</sup> This was not the first time Cobbett had mentioned Reeves in his writings. Some four years earlier, Cobbett had recalled that

[a] very old courtier said to me, more than twenty years ago, “There are only two ways of going to work at Whitehall: you must kiss their . . . . or *kick* them: the former is the easiest and most profitable of the two: I have chosen that; and I would advise you to do the same.” [“Then,” said I, “I shall kick.” “Well, said he, “I wish you well enough through it; but you will have a rough time of it, I can tell you that.”]”<sup>80</sup>

Once the “very old courtier” was dead, Cobbett revealed him to be his friend Reeves.<sup>81</sup> Relations remained cordial enough that, at Cobbett’s request, Reeves relayed Cobbett’s offer to Government to cease publication of his *Political Register*, in exchange for having charges of libel dropped in 1810.<sup>82</sup> The offer was not accepted, but Reeves visited his friend while in prison at Newgate, where apparently he reminded Cobbett of the advice he had given him at their first meeting.<sup>83</sup> Their friendship did not prevent Cobbett from deriding, in one of his *Rural Rides* from 1822, attempts by “the knaves who assembled at

---

<sup>78</sup> Peel, “21 May 1832 – Debate on the Behaviour of the Press,” *Hansard Debates*, 12:1167.

<sup>79</sup> Cobbett, “1 May 1830 – The Seat in Parliament,” *Cobbett’s Weekly Political Register*, 69.18: 569.

<sup>80</sup> Cobbett, “26 August 1826 – To the Radicals of Manchester,” *Cobbett’s Weekly Register* (London: Printed and published by W. Cobbett, 59.553; the ellipsis is Cobbett’s own. The bracketed text is added from Cobbett, “1 February 1834 – Mr. Harvey,” *Cobbett’s Weekly Political Register*, 83.295.

<sup>81</sup> Cobbett, “1 May 1830 – The Seat in Parliament,” *Cobbett’s Weekly Political Register*, 69.18: 569.

<sup>82</sup> Robert Huish, *Memoirs of the Late William Cobbett* (London: Printed for the Proprietors by John Saunders, 1836), 1:487-488, 2:313-320, 2:332-334.

<sup>83</sup> Cobbett, “1 February 1834 – Mr. Harvey,” *Cobbett’s Weekly Political Register*, 83.295.

the Crown and Anchor in the Strand, in 1793, to put down, ... those whom they called ‘Republicans and Levellers.’”<sup>84</sup> Neither did it stop him, in an 1823 open letter to the younger Lord Liverpool, from naming “John Reeves” as one “disposed to be almost constantly on his knees ‘in humble gratitude’ for the thousands of pounds a year which he receives for nothing; no, not *for nothing*; but *without working*.”<sup>85</sup> (Reeves retired that same year.) Still, by 1830, Cobbett assured the readers of the reborn *Political Register* that Reeves was, “politics aside, as good a man as ever lived. ... I did not break with him on account of politics. We said nothing of them for years.”<sup>86</sup>

Reeves’s politics were of much greater interest to Valentine Lawless, Lord Cloncurry, an Irish radical whom Reeves had befriended by professional happenstance. While a member of the United Irishmen, Cloncurry was briefly held in the Tower of London under suspicion of High Treason—in part because of an enthusiastic letter he had sent to Reeves. His 1849 *Memoirs*, however, fondly recalled “my excellent friend John Reeves, the author of a *History of the Law of England*; but better known as the object of prosecution by the House of Commons, for the publication of ultra-Tory opinions.”<sup>87</sup> Cloncurry noted that one of the best proofs of Reeves’s “kindly and benevolent heart” as well as his “ultra-Toryism” came in the form of some books he had borrowed.<sup>88</sup> During that time, Reeves loaned him Gibbon’s ultra-Whiggish *Decline and Fall of the Roman*

---

<sup>84</sup> Cobbett, “25 September 1822 – From Kensington to Uphusband,” *Rural Rides*, ed. James Paul Cobbett (London & New York: Everyman’s Library, 1912), 1:94.

<sup>85</sup> Cobbett, “23 August 1823 – To Lord Liverpool, On the Farms Now to the Let in France,” *Cobbett’s Weekly Register* 47.8:451.

<sup>86</sup> Cobbett, “1 May 1830 – The Seat in Parliament,” *Cobbett’s Weekly Political Register*, 69.18: 569; original italics. See also Robert Huish, *Memoirs of the Late William Cobbett* (London: John Saunders, 1836), 1:487-488, 2:313-320, 2:332-334.

<sup>87</sup> Cloncurry, *Personal Recollections*, 47, 156.

<sup>88</sup> See Cloncurry, *Personal Reflections*, 90-97, 103-105, 110-111, 127-128, 130-131, 138-140.

*Empire*, but he hoped Lawless might also read the Earl of Clarendon's *History of the Rebellion*. Written by the Royalist (later Tory) Lord Chancellor who served Charles II in exile, Reeves told Charlotte Lawless, Valentine's sister, "Clarendon's history contains the origin of all our political and party questions: they are there set in their true light, such as will ever be a guide in forming a judgment upon the merits of such claims."<sup>89</sup>

Cloncurry also grasped the full extent of Reeves's résumé better than most.

In one respect John Reeves was himself an excellent type of despotic monarchy. He was the most noted pluralist of the day; uniting in his own person the offices of Chief Justice of Newfoundland, a Bow-street Police Magistrate of London, a Commissioner of Bankrupts, of Secretary to the Board of Trade, and finally the prime mover of the Crown and Anchor Association.<sup>90</sup>

Following the deaths of Cobbett and Cloncurry, Cloncurry's biographer seems to have had the best sense of Reeves's legacy as a literal saviour of the Tory party—not as

Chairman of the APLP, but as the author of the *Thoughts on the English Government*.

John Reeves! no, we must not forget you, honest John. Though always mistaken, occasionally unreasonable, and as stubborn as a mule, yet your heart was in the right place ... Years ago you died; years ago your flesh amalgamated with the churchyard clay ... But while ultra-Toryism exists, surely your name deserves to live. Without the aid of you and Arthur Young, it would most probably have tumbled in 1795. By the labours of your mind, and the unceasing activity of your pens, you succeeded in propping the tottering party. *It* died, and *you* lived.<sup>91</sup>

### **I.iii – A Tory? In Newfoundland?; or, Mr. Reeves's Politics**

But the fact is that Reeves's ultramontane politics embarrassed his fellow at a

---

<sup>89</sup> Reeves, "7 August 1800 - Letter to Charlotte Lawless," in Cloncurry, *Personal Reflections*, 44.

<sup>90</sup> Cloncurry, *Personal Recollections*, 45. In fact, Reeves's multiplicity of offices helped the young Lord Valentine regain his liberty for two years. When examined by the British Privy Council on suspicion of being a revolutionary in 1797, "Mr. Reeves, who was then in an adjoining room, being called in, he, at the suggestion of the Lord Chancellor, volunteered himself as bail." He remained a friend to the Lawlesses.

<sup>91</sup> William John FitzPatrick, *The Life, Times, and Contemporaries of Lord Cloncurry* (Dublin: James Duffy, 1855), 114-115. Cloncurry, *Personal Recollection*, 42-47 and 139. See Arthur Young, *The Example of France: A Warning to Britain*, 4<sup>th</sup> edition (London: Printed for W. Richardson, 1794).

time when “the second Tory party” was just beginning to assume a recognisable shape. Although Reeves did not insist upon this point, he was a rare bird in the 1790s—a *self-described* Tory. William Anthony Hay explains that “[f]ew leading politicians accepted the label ‘Tory’ before 1800,” and that the “Whig” label was so prevalent that many leading figures associated with the revival of “the second Tory Party” —Pitt the Younger, Edmund Burke, John Reeves—“either identified themselves as Whigs or had been formed in a Whig milieu.”<sup>92</sup> Donald Ginter “went as far as to declare that the principles of the Loyal Associations were a fairly mainstream statement of Whig principles”; Mark Bailey has similarly identified Reeves as a heterodox Whig even at his most staunchly monarchist.<sup>93</sup> But Reeves was keenly aware of the paradigm shift he was helping to bring about. In 1795, in the first letter of his *Thoughts on the English Government*, he lamented, “I doubt whether it is more reputable to be thought a Whig, than some years ago it was to be thought a Tory.”<sup>94</sup> In 1799, his second letter scolded those who misunderstood the “Revolution” of 1688-89 as a Whig revolution.

[T]hese Gentlemen, and I, do not mean the same thing, when we speak in praise of the Revolution. In this famous transaction, there were two critical passages; there was the pulling down of the old Government, and the settling of the new one. ... They like the Revolution, I like the settlement; they like vacating the Throne, I like the establishing it ... they are Revolution Whigs, and I am a settlement Whig; or, if you will, a settlement Tory. The settlement was concluded with the concurrence of the Tories and Churchmen, and therefore ... [a]fter treating the Bill of Rights as a Tory-measure, the Gentlemen will be a little more

---

<sup>92</sup> Hay, “Ch. 6.—Lord Liverpool: Alliances, Intervention and the National Interest,” in *The Tory World*, 104.

<sup>93</sup> The quotation is from O’Gorman, “2. Origins and Trajectories of Loyalism in England, 1580-1840,” in *Loyalism and the Formation of the British World, 1775-1914*, eds. Blackstock and O’Gorman (Woodbridge: The Boydell Press, 2014), 20. See Ginter, “The Loyalist Association Movement of 1792-93 and British Public Opinion,” *The Historical Journal* 9, no. 2 (1966): 179-190; and Bailey, “John Reeves, Esq. Newfoundland’s First Chief Justice: English Law and Politics in the Eighteenth Century,” *Newfoundland and Labrador Studies* 14, no. 1 (1998): 28-49.

<sup>94</sup> Reeves, *Thoughts on the English Government*, 1:69-70; cf. [Reeves], *Defence of the Police Bill*, 23.

puzzled, how to give me a denomination.<sup>95</sup>

The “settlement Whig” Reeves thus comes the closest to the label “Tory” than either the “Independent Whig” Pitt or the “Old Whig” Burke. But by December 1795 even Burke recognised, if only privately, that it was precisely the reactionary alarm that he and Reeves raised against French and English revolutionaries that had made the “Tory” mantle one that conservatives could take up in stride. In the posthumously published fourth letter of his *Thoughts on a Regicide Peace*, Burke bristled at the suggestion of making peace with Revolutionary France without doing something about radicals at home, complaining that “[s]carcely had the Gallick harbinger of peace and light begun to utter his lively notes, than all the cackling of us poor Tory geese to alarm the garrison of the Capital was forgot.”<sup>96</sup> “Tory” is accordingly preferred as the label that best reflects Reeves’s politics as well as his political legacy.

Once this allowance is made, Reeves’s conservatism may be accurately described as Tory, High Tory, or Royalist for a number of reasons. In the first place, unlike the comparatively “revolution Tory” jurist Sir William Blackstone, Reeves did not accept that the “Glorious” (or “Whig”) Revolution of 1688-89 had somehow made Parliament constitutionally superior to the Crown.<sup>97</sup> In fact he had no patience for overeager Whigs who seized upon Blackstone’s view that Parliament rather than the King himself wielded “the supreme and absolute authority of the state.”<sup>98</sup> Reeves publicly rejected the Divine Right of Kings as nonsense, but he was not above circulating propaganda endorsing that

---

<sup>95</sup> Reeves, *Thoughts on the English Government*, n2:168. Cf. Richard Pares, *Limited Monarchy in Great Britain in the Eighteenth Century* (London: Cox & Wydman Ltd., 1967).

<sup>96</sup> Burke, “Letter IV – To the Earl FitzWilliam” in *Four Letters on the Proposals for Peace with the Regicide Directory of France* (Oxford: At the Clarendon Press, 1892), 334.

<sup>97</sup> See Reeves, *Thoughts on the English Government*, 2:18-19.

doctrine or flirting with Jacobite symbolism—most famously, the Royal Oak—and he has even been observed moving in social circles of the extreme High Church where the Divine Right of Kings had never really fallen out of fashion to begin with.<sup>99</sup> But for Reeves, it was not a matter of theoretical speculation or constitutional nostalgia but historical fact that the monarchy was the *fons et origo* of all law and justice; that the Privy Council, the Parliament, and all other courts of law all derived their authority from the Crown; and that the legislature as well as the judiciary acted as extensions of the monarch's personal authority. Reeves was not philosophically opposed to the existence of Parliament, but he saw its role as “auxiliary towards the maintaining of our rights.” In his view the Crown, rather than the Parliament, was the ultimate guarantor of *its* subjects' rights.<sup>100</sup> This may seem jarring to modern readers, but when, for example, the first Newfoundland Judicature Bill was passed in 1791, both Houses of Parliament received the ceremonial reminder that while their consensus on that and other bills was admirable, “yet nevertheless the same are not of Force and Effect in the Law without Our Royal Assent given and put to the said Acts.”<sup>101</sup> Once law, the Judicature Act was “enacted ... by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons”—that is, by the authority of the King, in

---

<sup>98</sup> It should be noted that Blackstone defined Parliament as consisting in King, Lords, and Commons. Blackstone, *Commentaries on the Laws of England*, 4 vols. (Oxford: Printed at the Clarendon Press, 1765-69), 1:142-143. See Reeves, *Thoughts on the English Government*, 1:38-45; 2:75-84; 4:17-21, 47-53.

<sup>99</sup> Anonymous, “One Penny-Worth of Truth from Thomas Bull, To His Brother John,” in *Association Papers* (London: J. Sewell et al, 1793), 2:1-5; Reeves, *Thoughts on the English Government*, 1:47; Michael Weinzierl, “John Reeves and the Controversy over the Constitutional Role of Parliament in England during the French Revolution,” *Parliament, Estates and Representation* 5, no. 1 (June 1985), 72; Gunn, *Beyond Liberty and Property*, 178; cf. Eccleshall, *English Conservatism since the Restoration*, 36-37.

<sup>100</sup> Reeves, *Thoughts on the English Government*, 4:20.

<sup>101</sup> Great Britain, “6 June 1791 – Bills passed by Commission,” in *Journals of the House of Lords*, 39:241.

agreement with both houses of Parliament, in their capacity as advisors to His Majesty.<sup>102</sup>

The authoritarian undercurrent to Reeves's monarchism also overlaps almost exactly with Gordon T. Stewart's summation of the late seventeenth and early eighteenth centuries' Court Party tradition. Stewart notes that in favouring benevolent autocracy (or "active central government by the king and his appointed secretaries and officials"),

[i]t was possible for many "court" defenders to see themselves as enlightened modernists intent on promoting good, efficient government to improve the whole realm and to depict opponents as old-fashioned defenders of local and special liberties.<sup>103</sup>

Such a philosophy helps explain why Reeves was far less scandalised by innovation than one might assume of a conservative—insofar as that term has come to be identified with hostility towards that bugbear "novelty."<sup>104</sup> When practically every British merchant trading to Newfoundland complained about Lord Hawkesbury's policy of discouraging settlement—and of the new court understood to be his instrument—Reeves would become famous for rejecting, discrediting, and eroding the "special and local liberties" claimed by West Country merchants in favour of a strengthened civil government overseen by the naval governor. And he did so in his dual capacity as Chief Justice of Newfoundland and as legal advisor, not to any ministerial department answerable to Parliament, but to the Committee of the Privy Council for Trade and Foreign Plantations. Recognising the Court impulse to Reeves's Toryism also helps explain how his break with the dominant Whig ideology of his time set him apart as a new kind of Tory: one with a distinct lack of constitutional nostalgia, which is perhaps best illustrated by his

<sup>102</sup> Great Britain, preamble to stat. 31 Geo. III cap. 29, in Reeves, *History of Newfoundland*, Appendix, c.

<sup>103</sup> Stewart, *The Origins of Canadian Politics: A Comparative Approach* (Vancouver: University of British Columbia Press, 1986), 11.

<sup>104</sup> Cf. J.M. Beattie, *The First English Detectives*, 157.

sense of the role of Justices of the Peace in England's own constitutional history. Both his 1785 efforts to help legislate the trading justices of Westminster out of existence, as well as his 1793 crusade against the fishing admirals of Newfoundland, suggests a hostility towards any magistrate who forgot that his principal duty was to represent and enforce the will of the Crown rather than The People. As such, Reeves's understanding of the development of England's civil magistracy, both before and after the Norman Conquest, is essential to understanding his willingness, as an imperial reformer, to so utterly befoul the reputation of the fishing admirals of the British fishery at Newfoundland.<sup>105</sup>

Reeves's preoccupation with the Crown's control over even England's municipal institutions reveals a conspicuous break from the mid-century Toryism of Sir William Blackstone. As his *Commentaries on the Laws of England* explain, Alfred the Great's division of England into counties and smaller units was originally intended to create a strong, unified central authority, rather than an array of independent local ones:

to re-model the constitution; to rebuild it on a plan that should endure for ages ... by reducing the whole kingdom under one regular and gradual subordination of government, wherein each man was answerable to his immediate superior for his own conduct and that of his nearest neighbours: for to him [i.e., Alfred] we owe ... the subdivision of England into tithings and hundreds, if not into counties; all under the influence and administration of one supreme magistrate, the king; in whom ... all the executive authority of the law was lodged.<sup>106</sup>

But Blackstone's optimism was out of place in a post-1780 world, whereas Reeves likely witnessed Alfred's "wise institution [that] has been preserved for near a thousand years unchanged" be swept away by the fury of King Mob during the Gordon Riots.<sup>107</sup> Unlike

---

<sup>105</sup> See also Reeves, *History of the English Law*, 1:2-3.

<sup>106</sup> Blackstone, *Commentaries on the Laws of England*, 4:404.

<sup>107</sup> Blackstone, *Commentaries on the Laws of England*, 4:404.

Blackstone's *Commentaries*, Reeves's *History of the English Law* is more concerned with the establishment of law and order than with panegyrics to king and constitution. It notes mutely that the "parcelling of the kingdom out into small districts, was made subservient to the good government of the police, and the due administration of justice."<sup>108</sup> Reeves also noted that the division into counties was not the sum of Anglo-Saxon jurisprudence. In lands held by a lord or thane, called "thaneland," the thane reserved the right to act as judge in his manorial court. In the absence of a thane, land "over which the king's officer (called in their language *shire-reve*, since sheriff) had jurisdiction, was called *reveland*." Reeves concluded that the ancient reeve was a royal failsafe: "only when the lord had no court, or refused to do justice; then the suit was referred to the king's court; namely, to the *reve-mote* of the sheriff." In any "reeveland," the reeve's attachment to the local populace was less important than that of his office's to the Crown.<sup>109</sup> Reeves may have overstated the case, but the model of a "reeve" as an intermediary between Crown and subjects when local elites fell short of that honour—or when honest ones could not be found—is, we shall see, a recurring theme.

Following the Norman Conquest, Reeves notes that the English "police" grew more sophisticated as the Norman kings asserted tighter control over the old municipal structures. During the reign of Edward I, the Statute of Winchester of 1285 codified the Norman imposition of "watch-and-ward" over the Anglo-Saxon divisions of counties and boroughs. Inhabitants were instructed, "that every man should have harness and arms" for

---

<sup>108</sup> Reeves, "Part I – Introduction – The Saxons," in *History of the English Law*, 1:3-4.

<sup>109</sup> Reeves, *History of the English Law*, 1:3-5; cf. Blackstone, *Commentaries*, 1:328. Cf. Philip Girard, Jim Phillips, & R. Blake Brown, *A History of Law in Canada* (Toronto, Buffalo, & London: Published for The Osgoode Society for Canadian Legal History by the University of Toronto Press, 2018), 1:61-62.

keeping the peace when called upon to do so, “according to the old assize of arms”—originally, a royal proclamation issued by Henry II (and after him Henry III).<sup>110</sup> Though the Statute revived an older tradition of night watches, new standards were issued for how the “hue and cry” was to be raised from town to town until criminals were apprehended. Inhabitants of a criminal’s native district were also made collectively responsible for any damages sustained.”<sup>111</sup> Edward I’s sophistication of Alfred’s “police” thus came the closest to the alleged permanence of Blackstone’s “constitution”—so much so that “on the full execution of it was thought to depend the domestic peace of the whole kingdom.”<sup>112</sup> But following the “imprisonment, deposal, and murder” that ended the otherwise “weak executive” of Edward II, the accession of Edward III to the throne “occasioned the appointment of certain new officers, in whom the court might have more trust than the common conservators [of the peace].” To satisfy this need,

special orders were issued, in the name of the new king, to every sheriff to preserve the peace of the county; and, in a few weeks after, it was ordained by 1 Ed. III. c. 16. for the better keeping and maintenance of the peace, that in every county, good men and lawful ... should be assigned to keep the peace.”

Originally additional “conservators” augmenting the Statute of Winchester’s police, the new Keepers of the Peace gradually assumed an additional role as Justices of the Peace. First, they were “assigned by the king’s commission (in groups of two or three) to hear and determine felonies”; and soon after, a general commission allowed them “to hear and

---

<sup>110</sup> Reeves, *History of the English Law*, 1:442-444 and 1:166-169. See also Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I*, 2 vols. (Cambridge: Cambridge University Press; Boston: Little, Brown, & Company, 1895), 1:552; Theodore Plucknett, *A Concise History of the Common Law*, 5<sup>th</sup> edition (London: Little, Brown, and Co., 1956; reproduced Indianapolis: Liberty Fund, 2010), 19, 86-87.

<sup>111</sup> Reeves, *History of the English Law*, 1:442-444.

<sup>112</sup> Reeves, *History of the Law of England*, 2:122.

determine the keeping of the peace.” Justices’ courts even replaced earlier Anglo-Norman courts of *trailbaston*, which were deemed “oppressive to the people, and contributing nothing towards preserving the peace, nor the punishment of felons or trespassors.” These new-model magistrates, Reeves assures us, “became a favourite in the country, to the exclusion of some institutions which were more antient.”<sup>113</sup>

In Reeves’s considered opinion, the judiciary as well as the legislature augmented rather competed with England’s fundamentally monarchical constitution. The Crown had always reserved the right to re-shape the civil magistracy as it saw fit; Justices of the Peace were merely the most famous examples of that principle. Of course, Reeves was not immune from Whiggish presentism; his closing remarks about the Commission of the Peace at the death of Edward III seems set in John Locke’s amber.

The keepers of the peace were become justices, presiding over a court, where many matters of considerable importance to the order and quiet of society were cognizable ... The consideration of these magistrates was greatly heightened by the ...business that was thrown upon them by later acts of parliament, which have gradually entrusted them with matters of still greater consequence to the property and liberty of the subject.<sup>114</sup>

But flattery contains the seeds of disappointment, as does the passage from Sir Edward Coke’s *Institutes of the Laws of England* (1628-44) that Reeves paraphrased. Coke wrote that “the Jurisdiction and power of Justices of the Peace ... is such a form of subordinate government for the tranquility and quiet of the Realm, as no part of the Christian world hath the like”—but even Coke warned this was so only “if the same be duly executed.”<sup>115</sup>

---

<sup>113</sup> Reeves, *History of the English Law*, 2:123-126.

<sup>114</sup> Reeves, *History of the English Law*, 2:126.

<sup>115</sup> Coke, *Institutes of the Laws of England* (London: Printed by M. Flesher for W. Lee and D. Pakeman, 1628-1644), 4:170. Note also the possible reference to Coke in the long title of Reeves’s *Thoughts on the English Government, addressed to the Quiet Good Sense of the People of England*.

If others might dispense the King's Justice better, then they should. According to Reeves, Justices of the Peace came into being because Edward III, "besides increasing the powers of ancient magistrates, new-modelled some of them, and created new ones which were thought to be better calculated for such an employment."<sup>116</sup> This passage strongly suggests that by 1784, Reeves had concluded that a new kind of magistrate was needed to administer a post-1780 England—at least in London.

The irony is that while Reeves is often held in contempt or perplexed awe for being at the cutting edge of police reform in England, in Newfoundland he is lionised for defending the very institution he had hoped to overhaul in 1785. His actions as a reformer and his simultaneous appointments as Chief Justice of Newfoundland and Receiver of Public Offices for Middlesex, however, shared the same agenda of strengthening the Crown's direct control over local jurisdictions. As a legal historian, Reeves similarly preferred to trace a gradual accumulation of laws and institutions that did not lessen but that merely refined the authority of the monarch. Reeves's *History of Newfoundland* also catalogued an accumulation of Newfoundland's laws and institutions, in the course of rejecting the West Country merchant bloc's argument that that island's constitution should be frozen in time according to the bare text of King William's Act of 1699. The difference was that whereas in Newfoundland, fishing admirals were more "ancient" than JPs, the fact that the former were the magistrates of a migratory fishery meant that the admirals could be easily portrayed as failing to represent the Crown in a settled colony. In any event Newfoundland was no different from any English county in requiring the direct

---

<sup>116</sup> Reeves, *History of the English Law*, 2:122.

oversight of the Crown. In the absence of a functioning aristocracy, it fell to the King's personal representative to ensure that his peace was preserved in that "reeveland"—a duty of which the High-Tory John Reeves had an unusually profound sense.

#### **I.iv – Outline of Subsequent Chapters**

Having thus outlined the biographical, historiographical, and political contexts in which the rest of this study is grounded, the remainder of this thesis considers the immediate effects and lasting influence that Reeves's Toryism had on his career as the first Chief Justice and as the first modern historian of Newfoundland.<sup>117</sup> Chapter II argues that these two legacies cannot be separated since virtually every historian of Newfoundland's impression of Reeves's place in history has, to some extent, relied on Reeves's own version of his role in Newfoundland's history. The propagandising effects of his *History of Newfoundland* have only been reinforced by the romantic nationalists from Carson and Morris to Prowse and Smallwood and beyond—each of whom implicitly accepted a career civil servant as the founding father of Newfoundland nationalism. That chapter also argues that modern historians' acceptance of Reeves as a more trustworthy forerunner of Prowse, as a scholarly and therefore a less "ideological" historian, only preserves the nationalist view of an apolitical and therefore a benevolent Reeves. As a rebuttal to Keith Matthews' essay "Historical Fence Building," Chapter II argues that while Matthews' essay is often regarded as professional historians' break from nationalist mythmaking, historians have, until recently, accepted the nationalist

---

<sup>117</sup> Webb, *Observing the Outposts: Describing Newfoundland Culture, 1950-1980* (Toronto: University of Toronto Press, 2016), 133; cf. Webb, "Preface" to *A Short History of Newfoundland and Labrador*, ed. Shannon Lewis-Simpson (St. John's: Boulder Publications, 2008), vi.

myth that Reeves had no political opinions outside the subject of Newfoundland.

Having established the relative absence of Reeves's politics from any discussions of his time in office, Chapter III explains the broad political appeal that Reeves's *History of Newfoundland* and his testimony before Parliament needed to have, in order to effectively outflank the West Country opposition to the Newfoundland Judicature Acts. Rejecting the assumption that Reeves represented a break from the British government's policy of discouraging settlement at Newfoundland, Chapter III explains the anti-colonial undercurrent to Reeves's justifications for the Supreme Court as a balancing act between several factions, each with a different vision of how Newfoundland might serve their own and the empire's interests. The most important faction was the economic conservatives, led by Lord Hawkesbury, whose strict adherence to neo-mercantilist principles including keeping permanent settlement in Newfoundland to an acceptable minimum. I show that Reeves's actions served the interests of this faction. The second faction, who I refer to as the constitutional conservatives, comprised of a more moderate if disunited opposition to the Newfoundland Judicature Acts, led by West Country MPs and, later, by merchants examined by the Newfoundland Committee. At least in 1791, this faction was divided as to whether King William's Act 1699 or the prerogative establishment of the Commission of the Peace in 1729 formed the most acceptable limits of Newfoundland's constitutional development. I next argue that a third, silent faction also shaped Newfoundland policy; one presided over by the merchant and MP for Poole Benjamin Lester, who had long since incorporated parts of the island's civil administration into his network of political patronage. At the extreme end of this spectrum, I argue that economic ultra-conservatives

who hoped to outlaw settlement in part if not the entire island were, as late as June 1793, hopeful that Newfoundland's colonists might be resettled to Upper Canada. To appease these several factions, Reeves provided cover for the Judicature Acts by establishing the myth that a Supreme Court was beyond the influence of merchant patronage—and that it would therefore not be complicit in allowing Newfoundland's settler population to grow.

Shifting from an imperial to a colonial focus, Chapter IV argues that once Hawkesbury rejected Reeves's proposal for a legislature in early 1792, and, following the passage of less comprehensive reforms than he had originally hoped for, Reeves realised that the Supreme Court might provide what internal regulation the Newfoundland Trade required. By way of offering some necessary ideological and thematic context, I first discuss Reeves's initial proposal and its contexts. I explain the British government's argument that granting a legislature to the province of Lower Canada was essential because local variations in commercial law required the attention of local authorities. I next argue that Reeves designed the legislature's social composition and municipal character to ensure its subordination to the vice-regal executive—as well as to pander to the tastes of Lord Hawkesbury. Following this proposal's rejection, I suggest that Reeves might not have pressed for a legislature in 1792 because he was satisfied with the extent to which the grand juries of Newfoundland's districts already functioned as legislative bodies. I then turn to the role Reeves carved out for the Supreme Court as the ultimate enforcer of parliamentary statute, governors' proclamations, and local custom. As to the first of these, I show how in lieu of statutory reform, Reeves was confident that his new construction of Palliser's Act had effectively ended the practice of illegally withholding

servants' wages when no passage home to England was made. Second, to illustrate the broad authority that Reeves noted governors had in overseeing the fishery and keeping the peace, I consider each of these vice-regal powers separately. I show how Reeves's infamous sentence to publicly flog six and privately whip one man, all convicted of governors' proclamation against destroying birds or their eggs at Funk Island, provided some recognition of the colony's needs, insofar as the man whipped in private was a resident with a wife and children to feed, and was spared the potential damage to his reputation as such. On the subject of the governor's powers to keep the king's peace, I examine Reeves's hope that a more effective enforcement of governors' proclamations might end hostilities directed towards the Beothuk. On the third matter of the Supreme Court's role in maintaining customary law, I show that Reeves's famous defense of Newfoundland's legal customs as legally-binding extensions of the English common law was intended to justify his preference for local custom rather than the law of England in civil cases. I show that having granted the Supreme Court a monopoly over legal custom via the Judicature Act of 1792, Reeves's legal precedents demonstrated that the fishing admirals no longer had jurisdiction in cases concerning customary law. I conclude by arguing that Reeves's place in the Whiggish grand narrative of progress or liberty stemming from constitutional reform is no longer sustainable.

Having demonstrated that Reeves saw the Supreme Court as an instrument of enforcing imperial policy, and having shown that he used that court to provide what local legislation in support of that policy he could, Chapter V concludes the historical portion of this thesis by showing how Reeves wrote his *History of the Government of the Island*

*of Newfoundland* to justify the Supreme Court's continuation as a permanent institution. More specifically, it argues that Reeves's *History* formed a rebuttal to the historical narrative more or less agreed upon among the opposition to the Newfoundland Judicature Acts, which regarded King William's Act of 1699 as a charter or written constitution of the migratory fishery, and from which all prerogative innovations as well as Palliser's Act were unwelcome and allegedly harmful deviations. In response to such charges from both inside and outside Parliament, Reeves arranged his counter-interpretation of Newfoundland's history so as to entirely discredit the fishing admiral system, as codified in King William's Act, by way of arguing that the Supreme Court was a historically necessary extension of the authority of the King—whose right to create institutions of civil government had never been truly accepted by the Western merchants.

Chapter VI concludes by asking to what extent the place of the conservative reformer Chief Justice John Reeves in Newfoundland's history—or for that matter Canadian history—ought to be re-evaluated in light of this thesis's findings.

## Chapter II. – The Problem of John Reeves: A Rebuttal to “Fence Building”

Among historians of Newfoundland, John Reeves is best known for his 1793 *History of the Government of the Island of Newfoundland*, in which he famously argued that Newfoundland’s history could be summed up as “the adventurers and merchants,” who resided in England, preventing Newfoundland’s settlers—the “planters and inhabitants”—from having their own government. Since then, Reeves’s narrative has been periodically adapted to serve the needs of different eras. In the early nineteenth century, William Carson and Patrick Morris adopted Reeves’s *History of Newfoundland* as the manifesto of the reform movement petitioning London for its own parliamentary government.<sup>1</sup> D.W. Prowse’s 1895 *History of Newfoundland* further updated Reeves’s “conflict theory” of Newfoundland’s history to celebrate the modern colony’s triumph over the struggles of its past. But beginning with Keith Matthews’ 1978 essay “Historical Fence Building,” historians have gradually shown Reeves’s “conflict theory” to have been too simplistic an interpretation.<sup>2</sup> Both “Fence Building” and the literature it inspired often reduce Reeves himself to only so much background noise in a much larger complaint against contemporary Newfoundland nationalism.<sup>3</sup> That school’s intellectual roots, Matthews argued, could be traced to Carson and Morris’s politically motivated *use* of Reeves’s less disingenuous scholarly endeavour. Ironically, this latter discourse largely

---

<sup>1</sup> O’Flaherty, *Old Newfoundland: A History to 1843*, 171-172.

<sup>2</sup> Matthews, “Historical Fence Building: A Critique of the Historiography of Newfoundland,” ed. Peter Pope, *Newfoundland and Labrador Studies* 17, no. 2 (2001): 143-165, esp. 145.

<sup>3</sup> Matthews, “Historical Fence Building,” 145; Bannister, “Whigs and Nationalists,” 87. See also James E. Candow, “In Prowse’s Shadow: The General Histories of Newfoundland and Labrador by O’Flaherty, Cadigan, and Major,” *Newfoundland and Labrador Studies* 30, no. 2 (2015): 308; Joshua Tavenor, “Climate and Capitalism: English Perceptions of Newfoundland’s Natural Environment and Economic Value, 1610-1699” (PhD thesis, Wilfred Laurier University, 2017), 9-13, 208-209.

accepted the nationalist thesis that Reeves, rather than later authors who looked to him for inspiration, ought to be regarded as founder of a nationalist school of history-writing. Indeed, since the nineteenth century, historians of Newfoundland have largely shielded Reeves, a Chief Justice of Newfoundland imported directly from the halls of government at Westminster, from any political controversy outside the subject of Newfoundland's own constitutional history. Most recently, this trend has continued in Jerry Banister's portrayal of Reeves as wholly representative of the naval regime's official mind, and in Mark Warren Bailey's casting of Reeves as a harmlessly idiosyncratic Whig. But despite historians' period re-discoveries of Reeves's politics, it is only in 2011 that Fiona Polack first identified Reeves's "toryism" as such, but even she did not explain the significance of his conservatism beyond an interesting biographical detail.<sup>4</sup>

This is not to say that historians have never suspected Reeves's *History of Newfoundland* of having some political motivations. In 1842, Lt.-Col. Sir Richard Henry Bonnycastle RA noted that while Reeves's was "the most faithful, unbiased, and useful document of record, of the legal history of Newfoundland," it was no longer relevant.<sup>5</sup>

*The Legal History* [sic], by Reeves, is out of date, and probably out of print, and the interest excited by it at the time of its appearance in 1793 is gone by; nor is it now a work of any-thing more than a reference, being confined exclusively to a dry historical legal detail.<sup>6</sup>

Charles Fay's 1956 *Life and Labour in Newfoundland* goes one step further. In his portrait of Reeves as one of the province's "architects of liberty," Fay briefly accuses

---

<sup>4</sup> Peter Neary, "Reeves, John," in *Dictionary of Canadian Biography*, 6:636.-637; Polack, "Amelia Curran's Newfoundland Painting," 28; Polack, "Art in the Bush: Romanticist Painting for Indigenous Audiences in Tasmania and Newfoundland," 344.

<sup>5</sup> Bonnycastle, *Newfoundland in 1842* (London: Henry Colburn, 1842), 1:101n, 1:3. See also G.K. Raudens, "Bonnycastle, Sir Richard Henry," in *Dictionary of Canadian Biography*, 7:90-92.

<sup>6</sup> Bonnycastle, *Newfoundland in 1842*, 1:181.

Reeves of sacrificing substance for popular appeal, noting that “there is disappointingly little about legal principles in the writings of Reeves and his coadjutors.” Instead, Reeves focused on financial matters that “have the advantage of falling within the comprehension of the layman.”<sup>7</sup> Though Fay observed the same skills at work Reeves had been putting to use in the months between his return to England and his *History of Newfoundland’s* publication, he stopped short of making this connection himself. The same might be said of Christopher English, who in 1990 more enthusiastically claimed Reeves as “a Newfoundland nationalist.”<sup>8</sup> In 1998, Mark Warren Bailey offered a more comprehensive view of Reeves as a reformer who was also a historian as well as a propagandist.

Reeves ... believed that the organization of the fishery and the island’s economic system encouraged Newfoundlanders to develop habits of idleness and to attempt whenever possible to defraud their creditors. ... The chief purpose of the Judicature Acts of the 1790s was, in Reeves’s opinion, to correct these abuses and to place Newfoundland’s moral and political economy on a sound footing.<sup>9</sup>

But Bailey did not fully reconcile the strong anti-merchant bias pervading Reeves’s *History of Newfoundland* to Sean Cadigan’s observation that the allegedly anti-merchant Reeves also “sympathized with the merchants.”<sup>10</sup> Historians of Newfoundland have only recently begun to question the assumption that Reeves’s politics were irrelevant to his role in the development of Newfoundland’s colonial constitution.

## II.i – Origins, Contexts, Transformations, 1791-1819

---

<sup>7</sup> Fay, “Chapter Seven – The Architects of Law and Liberty,” in *Life and Labour in Newfoundland: Based on Lectures delivered at the Memorial University of Newfoundland* (Toronto: University of Toronto Press, 1956), 109.

<sup>8</sup> English, “The Development of the Newfoundland Legal System to 1815,” *Acadiensis* 20, no. 1 (Autumn 1990): 92.

<sup>9</sup> Bailey, “John Reeves Esq.,” 37.

<sup>10</sup> Cadigan, *Hope and Deception in Conception Bay: Merchant-Settler Relations in Newfoundland, 1785-1855* (Toronto: University of Toronto Press, 1995), 85; cf. Matthews, “A History of the West of England-Newfoundland Fishery” (DPhil thesis, University of Oxford, 1968), 578.

Despite the fact that he was a Tory whose views fell consistently outside the British political mainstream, John Reeves has only very gradually come to be recognised as a political conservative by historians who know him best as a Chief Justice of Newfoundland. It is difficult to overstate the favourable impression Reeves made in Newfoundland; or to overstate the influence of his praise by clergy, reformers, statesmen, or other judges about his two seasons there. In a letter to the Roman Catholic Archbishop of Dublin, the Rev. James Louis O'Donel, the Franciscan priest who later became the first Catholic Bishop of Newfoundland, finally had some good news to report. Earlier in the summer of 1791, Vice-Admiral Mark Milbanke, acting on the rumour that O'Donel was encouraging Irish Roman Catholics to winter in Newfoundland (he was), had refused him permission to build a Catholic chapel at Ferryland.<sup>11</sup> Fortunately,

Providence guided the steps of a Mr Reeves to this country, who has been appointed Judge Advocate for the Island.<sup>12</sup> This truly good & benevolent man would not suffer me even to expostulate with the governor on his foul misrepresentation, as he assured me that state of the Catholic Church should remain unmolested here; and so it happened.<sup>13</sup>

But perhaps the greater miracle was that Reeves had enough administrative influence to deliver on his promise.”<sup>14</sup> In any event, O'Donel's letter is arguably the first account of

---

<sup>11</sup> In Collaboration, “O'Donel (O'Donnell), James Louis,” in *Dictionary of Canadian Biography*, 6:632; O'Neill, *Upon This Rock*, 88.

<sup>12</sup> “Judge-Advocate” is a title more properly reserved for the civil law tradition, which includes both ecclesiastical and military/naval law. O'Donel's use of the term possibly suggests he assumed Reeves to have been an Admiralty judge; that he saw Reeves's position as an extension of naval government; or, that he was aware of the Court of Civil Jurisdiction's standard mode of procedure without juries.

<sup>13</sup> O'Donel, “8 December 1781 – Letter to Archbishop Troy,” in Michael Francis Howley, *Ecclesiastical History of Newfoundland* (Boston: Doyle and Whittle, 1888), 192-193; also in Byrne (ed.), *Gentlemen-Bishops and Faction Fighters*, 116; cf. Raymond J. Lahey, *James Louis O'Donel in Newfoundland, 1784-1807: The Establishment of the Roman Catholic Church*, eds. Shannon Ryan & G.M. Story, Newfoundland Historical Society, *Pamphlet Number 8* (St. John's: Creative Printers & Publishers Ltd., 1984), 20.

<sup>14</sup> See Lahey, “Catholicism and Colonial Policy in Newfoundland, 1779-1845,” in *Creed and Culture: The Place of English-Speaking Catholics in Canadian Society, 1750-1930*, eds. Terrence Murphy and Gerald

Reeves as someone who seemed to personally correct the abuses that settlers had endured from the naval government—even if this account was at first confined to the Avalon peninsula’s growing Irish Roman Catholic population.<sup>15</sup> It didn’t hurt that O’Donel, whose given names bespoke the nascent Jacobitism of Ireland’s Gaelic-speaking gentry was, if not an outright Tory, certainly fiercely loyal to the British Crown and at least hostile as Reeves to the threat of anarchy posed by the French Revolution.<sup>16</sup> His high opinion of Reeves would no doubt have had considerable influence—but not all those who looked to Reeves’s legacy were as staunchly conservative as O’Donel.

The political reformer William Carson saw in Reeves’s *History* an explanation for the lack of a resident government in the earlier nineteenth century. Following peace with America and France in 1815, Carson outlined a plan “to write a book on the resources and people of Newfoundland, a project he abandoned when,” owing to his reputation as a political agitator, “he was denied access to government records.”<sup>17</sup> The absence of an official history of the reformers’ own would be felt for some time.<sup>18</sup> In its place, Carson adopted Reeves’s *History* the official manifesto of the burgeoning reform movement.<sup>19</sup> Patrick O’Flaherty notes that Carson’s 1812 *Letter to the Members of Parliament of the United Kingdom*, written a year after the leading citizens of St. John’s petitioned the

---

Stortz (Montréal & Kingston: McGill-Queen’s University Press, 1993), 54. Cf. Mark Bailey, “John Reeves, Esq.,” *Newfoundland and Labrador Studies* 14.1 (1998): 33-34.

<sup>15</sup> Though admittedly this may have had more to do with the appointment of Richard King as governor, who unlike his predecessor had only the greatest respect for O’Donel’s leadership. See O’Donel, “8 December 1792 – Letter to Troy,” in *Gentlemen-Bishops and Faction Fighters*, 121.

<sup>16</sup> In Collaboration, “O’Donel, James Louis,” *Dictionary of Canadian Biography*, 5:633. Cf. Prowse, *History of Newfoundland*, 363-364; O’Neill, *The Oldest City*, 66, 545-547.

<sup>17</sup> Patrick O’Flaherty, “Carson, William,” in *Dictionary of Canadian Biography*, 7:152.

<sup>18</sup> Indeed, a lasting legacy is historians’ tendency to describe Carson and Morris as politicians who are accomplished amateurs rather than as historians *per se*, unlike later authors who were granted access to imperial archives. Cf. Matthews, “Fence Building,” 146; Bannister, “Whigs and Nationalists,” 87.

<sup>19</sup> Cf. O’Flaherty, *Old Newfoundland*, 198.

Prince Regent for a legislature, was the first work that “transformed Reeves’ unemotional legal analysis” of Newfoundland’s history “into a fierce rhetoric of blame.”<sup>20</sup> In fact he reversed it: Newfoundland had always been intended as a migratory fishery rather than a colony; and, Carson argued, the West Country merchants still controlling Newfoundland remained opposed to colonial settlement, as well as to constitutional reform. In an 1817 letter to the editor of the *Colonial Journal*, Carson was explicit that “[a]ny person, who will read Mr. Reeves’s *History of the Laws of Newfoundland*, will be convinced of these facts.”<sup>21</sup> Carson thus cast Reeves’s historical narrative as a rallying cry, no longer in favour British subjects being deprived of their right to the Crown’s protection in courts of law, but instead as a clarion call for an elected legislature’s check on a still-naval executive. The fact that he did so successfully shows how broad Reeves’s appeal had become. Although Carson was a surgeon, a Scotsman, a nominal Presbyterian, and a radical who “had in him some of the makings of a revolutionary,” his impression of Reeves as Newfoundland’s historian was not so different from Bishop O’Donel’s sense of Reeves as its “Judge-Advocate.” However, as we have seen, this view was almost the perfect opposite of that held by radicals who remained in the United Kingdom.<sup>22</sup>

The Rev. Lewis Amadeus Anspach, a Swiss immigrant to England who also served as an Anglican missionary and stipendiary magistrate for Conception Bay from 1799 to 1812, and who returned to London shortly after war broke out with America in the summer of 1812, first started preparing manuscript material for his own *History of the*

---

<sup>20</sup> O’Flaherty, *Old Newfoundland*, 121.

<sup>21</sup> Carson, “Distress in Newfoundland: To the Editor of the Colonial Journal,” (Toronto: Canadiana House, 196?), 358, Centre for Newfoundland Studies (CNS).

<sup>22</sup> O’Flaherty, *Old Newfoundland: A History to 1843*, 122.

*Island of Newfoundland* after living among colonists who still remembered Judge Reeves. The favourable impression that Reeves made was still strong enough that, after listing a host of naval governors or their secretaries, each responsible for some constitutional milestone or other, Anspach paused to “acknowledge that Chief Justice Reeves most justly holds the first place among these benefactors of the island of Newfoundland.”<sup>23</sup> As a Justice of the Peace himself, Anspach could vouch that “the Newfoundland fishery is, of itself, a very simple concern, requiring only a judicious and impartial administration of justice” to protect “the merchants, the planters, and the servants ... from unfair dealings, dishonesty, or wilful neglect,” and “to inspire general confidence.”<sup>24</sup> Anspach maintained that the impartial justice the settler fishery required was not found until Reeves’s arrival, and that Reeves’s personality and professionalism made him just the man for the job. It was Anspach who first claimed that Reeves’s “prudent, polite, and, at the same time, firm and precise manner, soon silenced all impertinence, and shamed all attempts at opposition” when he first held court in St. John’s in 1791.<sup>25</sup> When Reeves arrived in Conception Bay in 1792, “his time was fully employed” undoing the damage caused by “the perpetual and disgraceful squabbles between the four magistrates of that district.”<sup>26</sup>

As both a missionary and a civil magistrate, Anspach was also a direct beneficiary of Reeves’s legacy—and as a result he may have felt himself indebted to Reeves or, more generally, to the territory’s civil establishment.<sup>27</sup> His readers may have understood that the Judicature Acts of 1792 and 1793 were based on Reeves’s recommendations. He was

---

<sup>23</sup> Anspach, *A History of the Island of Newfoundland* (London: J. Allman et al, 1819), 223.

<sup>24</sup> Anspach, *History of Newfoundland*, 224.

<sup>25</sup> Anspach, *History of Newfoundland*, 217-218.

<sup>26</sup> Anspach, *History of Newfoundland*, 218.

certainly explicit that by those acts, “the administration of justice in Newfoundland was established upon a sure and permanent ground, and the wisest and most equitable regulations.” In Anspach’s view, Reeves’s “knowledge, activity, and penetration, were fully adequate to the arduous and complicated task” of “digesting” his *History* from a disparate mass of imperial and colonial records.<sup>28</sup> As Reeves indicated in his preface, his qualifications, indeed his agenda, as both a historian and a judge were intimately linked—something that Anspach insisted was exactly as it should have been. Following the publication of Reeves’s *History*, Anspach claimed that the 1793 Judicature Act saw “the administration of justice in Newfoundland ... established upon a sure and permanent ground, and the wisest and most equitable regulations.” Such was Reeves’s insight, that this new regime “was by experience found so very beneficial to the trade and fisheries of the island, as to be continued” first on an annual and then a triennial basis, “until the year 1809, when ... the Courts of Judicature ... instituted under that act were made perpetual.”

But Anspach’s praise of Reeves offered no further insight into Reeves’s public life. If anything, he obscured it. Anspach described Reeves as “[a] gentleman, eminently qualified in every respect for the important office,” but left unexplained how Reeves came to access government records in the first place. In so doing, he cast Reeves as a gentleman-researcher who also happened to be a judge—with no other affiliation with the

---

<sup>27</sup> This would have been a secular equivalent to Anspach’s “strict conformity with the Church which has honoured him by receiving him as a Minister.” Frederick Jones and G.M. Story, “Anspach, Lewis Amadeus,” in *Dictionary of Canadian Biography*, 6:10.

<sup>28</sup> This may have been a subtle nod to Anspach’s conscious sense of himself as Reeves’s successor as a historian, and as the maintainer of his legacy as a jurist. See Anspach, *A Summary of the Laws and Commerce and Navigation, Adapted to the present State, Government, and Trade of the Island of Newfoundland* (London: Printed for the Author by Heney and Haddon, 1809). Anspach’s book was printed two years after Reeves published the second edition of his *History of the Laws of Shipping and Navigation*.

British government.<sup>29</sup> Anspach may have been the first of many to follow an unwritten rule in Newfoundland history-writing of not discussing what Reeves saw as the most important contribution to his country—that is, to “England.” Paradoxically, the other unwritten rule Anspach seems to have followed was not deviating from the high regard that British conservatives still had for Reeves. Though different stylistically, his 1819 portrait of Reeves shares much with a two-part “Memoir of John Reeves” published the year before by *The European Magazine and London Review*.<sup>30</sup> Its anonymous author hoped readers might profitably study the life of a man who, following his return from Newfoundland in 1792, averted a revolution if not a civil war through the APLP. Like Anspach’s Chief Justice Reeves, this Reeves also “quelled the turbulent,” “intimidated the audacious,” “confounded the designing”—but his greatest feat was that “he restored deluded thousands to their allegiance and their duty.”<sup>31</sup>

## II.ii – Towards an Official History, 1820-1847

But Reeves’s conservatism was not a subject easily broached in Newfoundland, perhaps because until his retirement in 1823, “the [Board of Trade] was not disposed to alter his judgements” concerning imperial legislation—which until 1824 still included Palliser’s Act.<sup>32</sup> It also seems no accident that the Newfoundland policy held to so rigidly

---

<sup>29</sup> Anspach, *History of Newfoundland*, 219.

<sup>30</sup> “A Sketch of the Life and Character of John Reeves, Esq.,” *European Magazine and London Review*, no. 73 (June 1818): 467-472; no. 74 (July 1818): 41-48, 133-135, 220-225, 322-328, 409-414, 492-494. It is not immediately clear that this June 1818 “Memoir of Reeves” (the work’s short title) was a source for Anspach. If anything, the reverse may have been just as possible. Jones and Story note that Anspach had finished the manuscript of his *History* by March 1818, at which point he “communicated” it “to a literary friend,” leading to its publication year later. Jones & Story, in *DCB*, 6:10. In the right circles, Anspach’s manuscript may have easily informed the exhaustively-researched “Memoir of Reeves.” This is not to suggest that Reeves’s parallel portraiture by Anspach and the *European Magazine* is any less extraordinary.

<sup>31</sup> “Memoir of John Reeves,” *The European Magazine* 73: 467-468.

<sup>32</sup> Neville Thompson, *Lord Bathurst and the British Empire* (Barnsley: Leo Cooper, 1999), 28.

by the first Earl of Liverpool was more or less maintained by his son, the second Earl of Liverpool—a staunch Tory and bureaucrat-at-heart who even as Prime Minister “always quote[d] his father,” and who as a young man had been briefly tutored in law by John Reeves.<sup>33</sup> In February 1821, the citizens of St. John’s and Ferryland petitioned King George IV, complaining that the judiciary comprising of naval surrogates and unqualified chief justices, none of whom had any legal training, denied loyal British subjects the rights they had come to expect as such.<sup>34</sup> But at a time when Reeves still had considerable influence on imperial policy, Liverpool’s ministry rigidly adhered to the letter of Reeves’s *History*.<sup>35</sup> In it, Reeves had conceded that “a local legislature” of some kind “might” be created in future, but he had also overwhelmingly stressed that the colony’s most urgent need was a functioning judiciary.<sup>36</sup> Accordingly the Colonial Secretary, Lord Bathurst, told Governor Hamilton that he would take the issue of judicial reform under consideration, but that His Majesty wished “to discourage all expectation of his sanction being given to” petitioners’ other request for “an independent Legislature.”<sup>37</sup>

---

<sup>33</sup> William Anthony Hay, “Chapter 6 – Lord Liverpool: Alliances, Intervention and the National Interest,” in *The Tory World: Deep History and the Tory Theme in British Foreign Policy, 1679-2014*, ed. Jeremy Black (Farnham, UK & Burlington, VT: Ashgate, 2015) 105.

<sup>34</sup> Inhabitants of St. John’s, “Petition to the King’s Most Excellent Majesty,” in *A Report of Certain Proceedings of the Inhabitants of the Town of Saint John, in the Island of Newfoundland: with the view to obtain the reform of the laws, more particularly in the mode of their administration and an independent Legislature* (St. John’s: Lewis K. Ryan, 1821), 12-20, CNS.

<sup>35</sup> In the judgement of the prime minister’s biographer, “[i]f Liverpool lacked imagination, he lost it following his father’s precepts.” William Ranulf Brock, *Lord Liverpool and Liberal Toryism, 1820 to 1827* (Cambridge: Cambridge University Press, 1941), 4. Neville Thompson further notes that following his appointment as Secretary of State for War and the Colonies in 1812, Liverpool, Bathurst, and the foreign secretary Lord Castlereagh “were effectively an inner cabinet that decided foreign, military, and colonial policy.” By 1822, Castlereagh’s successor, George Canning, “consulted Bathurst less, Bathurst could devote more attention to the colonies.” Thompson, “Bathurst, Henry, Henry, third Earl Bathurst (1786-1834), politician,” *Oxford Dictionary of National Biography* (online version; 3 January 2008).

<sup>36</sup> Reeves, *History of Newfoundland*, 53.

<sup>37</sup> Bathurst to Charles Hamilton (Governor of Newfoundland), quoted by Hamilton, “17 May 1821 – Letter to Patrick Morris,” in *A Report of Certain Proceedings*, 32.

Hamilton forwarded this message to Patrick Morris, a rising Irish merchant in St. John's who had chaired the petitioners' committee, who together with William Carson organised another meeting on 2 August 1821. Morris's opening speech began with a survey of Newfoundland's history that drew heavily from Reeves. He lamented that a "great part of the good that might have been done" by the Judicature Act of 1792

was countermanded by the appointment of incompetent persons to preside over the infant establishment. [This new establishment] not only required persons of great legal acquirements and experience, but also persons who felt a sympathy with the forlorn and long-neglected situation of the people. Unfortunately, persons of this description were not appointed; and the consequence was, that the country suffered nearly as much under the sanction of the Judicature Act, and by the abuse of it, as it did before from the want of such a law.<sup>38</sup>

Morris did not discuss Reeves or any chief justice except "our present venerated Chief Justice" Francis Forbes, whom he lauded as an admirable exception to the rule. At the same time, the suggestion that not even Reeves had any legal training (he was in fact a leading legal historian) seems too glaring to have been deliberate—at least on Morris's part.<sup>39</sup> When Carson rose to his feet later at that meeting to support renewed calls for a legislature, he lambasted Henry Goulburn, then Colonial Undersecretary, for being less informed about Newfoundland's society than Reeves about the existence of "planters."

So far back as the time of William the Third, the English Parliament recognized a description of people in Newfoundland that were neither merchants nor servants. ... [Dr. Carson] was borne out in this assertion by Mr. Chief Justice Reeves in his history of the Laws of Newfoundland.<sup>40</sup>

Carson differed from Reeves in arguing that "the principal object of [King William's

---

<sup>38</sup> Morris, *A Report of Certain Proceedings*, 48.

<sup>39</sup> Such a suggestion, however, would have been entirely consistent with the London radical John Thelwall's 1797 claim that he "never suspected Mr. Reeves of being one, who, if the Thames were a fire, would know where to run for water to put out the flames." Thelwall, *The Rights of Nature*, 1:63.

<sup>40</sup> Carson, *A Report of Certain Proceedings*, 60-61.

Act] was to give to the English merchants and their servants an advantage over planters and native fishermen,” but he found Reeves’s narrative useful for its description of what Morris called “a Newfoundland interest.”<sup>41</sup> Either way, it was not until 1823—the year Reeves retired as Law Clerk—that the Undersecretary of State for War and the Colonies (Goulburn’s successor) introduced a new judicature bill that granted Newfoundland “a local power to make bye laws under certain circumstances.”<sup>42</sup> Not only was this last proposal drawn directly from Reeves’s 1791 report, but

when asked upon what information [the] House could legislate, there being no kind of information respecting the colony before them, except what is contained in petitions from two years ago, the hon. secretary referred them to Reeves’s *History of Newfoundland*, written 20 years ago, for the facts relating to it.<sup>43</sup>

The debates over a new Newfoundland Judicature Bill also produced the first instance, in print, in which a member of the British Parliament—“Joseph Hume, a prominent radical critic of colonial policy”—assured the House of Commons that even thirty years later, Reeves’s *History* still provided enough information to justify constitutional reform.<sup>44</sup>

Following the passage of the Judicature Act of 1824, by a Parliament spurred on by no less an authority than a *History of Newfoundland* by the Law Clerk to a Committee of the Privy Council, Morris’s assessments of Reeves picked up where Carson and Hume had left off. Having arrived in London in 1824 to represent the interests of his fellow

---

<sup>41</sup> Carson, *A Report of Certain Proceedings*, 60; Morris, *ibid*, 54.

<sup>42</sup> Robert Wilmot-Horton, “25 March 1823 – Newfoundland Laws Bill,” in *Parliamentary Debates*, ed. T.C. Hansard, 2<sup>nd</sup> series, 25 vols. (London: T.C. Hansard, 1820-1830), 8:702. I have yet to find the precise date of Reeves’s retirement as Law Clerk.

<sup>43</sup> Hume, “14 May 1823 – Debate in the Commons on the State of Newfoundland,” in *Parliamentary Debates*, 9:246. This would eventually become the clause in the Newfoundland Judicature Act of 1824 under which the first chartered municipal government for the district of St. John’s was created.

<sup>44</sup> Bannister, “The Campaign for Representative Government in Newfoundland,” *Journal of Canadian History* 5, no. 1 (1994): 25; Hume, “14 May 1823 – State of Newfoundland,” in *Parliamentary Debates*, 9:246.

colonists, Morris mingled with such sympathetic MPs as Hume but was denied an audience with Bathurst—whom Morris addressed in a series of public letters instead. His first letter, echoing Reeves, charged that a small clique “who imagine that Newfoundland is their inheritance, and its people their property,” were influencing colonial policy “to the ruin, not only of the local interest of that colony, but also to those of the mother country.” Writing anonymously, perhaps as a precaution against being charged with libel, Morris insisted that he was not to blame for such a dire assessment.

These are not altogether my own opinions; they are also the opinions of one whose authority will not be questioned by your Lordship: Mr. Reeves, in speaking of those to whom I have alluded, in his *History of the Government of Newfoundland*, stated that “they had been in the habit of seeing this species of weakness and anarchy, ever since Newfoundland was frequented, from father to son; it was favourable to their old impressions, that Newfoundland was theirs, and that all the planters and inhabitants were to be spoiled and devoured at their pleasure. In support of this they had opposed ... every attempt to introduce order and government in to that place.”<sup>45</sup>

It seems Morris had learnt a trick or two from both Carson and the Newfoundland reformers’ allies in Parliament, which he continued to apply to his subsequent works.

In 1827 Morris wrote an open letter to Nicholas Vansittart, Lord Bexley, in his capacity as a Vice-President of the Newfoundland and British North America School Society. Having peppered his rebuttal to a speech of Bexley’s at that Society with quotations from Reeves’s *History of Newfoundland*, Morris paused to explain himself.

I have been particular in quoting from Mr. Reeves, he is well known to the British public, and I am sure will be considered by your Lordship as the best authority; I have done so with the more pleasure, as it gives me an opportunity of stating that the people of Newfoundland are greatly indebted to him.<sup>46</sup>

---

<sup>45</sup> Morris, “17 May 1824 – Letter I,” in *Observations on the Government, Trade, Fisheries, and Agriculture of Newfoundland; in a Series of Letters addressed to the Right Honourable the Earl Bathurst* (London: Printed by A. Hancock, 1824), microfilm, 3-4, CNS.

Morris did not say what Reeves was “well known” for, though the hint would have been understood by Bexley, who in the 1790s had been Reeves’s fellow Tory pamphleteer.<sup>47</sup> But Morris’s claim to Reeves’s legacy was not absolute. In 1828 Benjamin Lester Lester, the Liberal MP for Poole (and grandson of the Trinity-Poole merchant), wrote a pamphlet plagiarising Reeves’s remark that “Newfoundland was originally attempted to be settled by means of Charters granted by the Crown,” but starting from the premise that Newfoundland’s soil obliged its residents to preserve their society’s “original character of a *fishery*.”<sup>48</sup> Morris answered him that year, challenging his readers to “glance over Reeves’s or any other History of Newfoundland” to see how badly Lester misrepresented the island’s resources.<sup>49</sup> He insisted that “Newfoundland will no longer be a plantation of the merchants of Poole, and her people no longer their slaves.” Morris followed this declaration of Newfoundland’s independence from the West Country by letting quotes from Reeves be submitted to a candid world. But before he did so, he insisted that unlike himself, Reeves was absolutely uninfluenced by, well, anything.

Fearing, Sir, that my language ... may be considered too intemperate, and rather emanating from exciting feelings, or interested motives, than warranted by facts, I will quote the words of one whose wisdom, learning, and high character, must give weight to his opinions and assertions, and who, not having any personal interest to actuate or influence him, must, in common candour, be supposed to have given the subject calm and dispassionate consideration.<sup>50</sup>

---

<sup>46</sup> Morris, *Remarks on the State of Society, Religion, Morals, and Education at Newfoundland* (London: Printed by A. Hancock, 1827), 9-11.

<sup>47</sup> Morris’s praise of Reeves would also not have gone unnoticed by Reeves himself, a life member and a Vice-President of the Newfoundland Schools Society as of 1825. See *Proceedings of the Society for Educating the Poor of Newfoundland: Fifth Year, 1827-1828* (London: Gunnell and Shearman, 1828), 4.

<sup>48</sup> Lester, *A View of the Rise, Progress, and Present State of the Newfoundland Fishery* (Poole: Printed by Moore and Sydenham, 1828), 6, 11 (original italics).

<sup>49</sup> Morris, *Arguments to Prove the Policy and necessity of Granting to Newfoundland a Constitutional Government* (London: Published by Hunt and Clarke, 1828), 20-21, CNS.

<sup>50</sup> Morris, *Arguments*, 12.

So far as his readers in St. John's were concerned, Morris may have won the argument, but the argument over whether Reeves spoke for Newfoundland's colonists or for the imperial government does not appear to have been resolved more firmly until the death of Lord Liverpool in December 1828, and that of Reeves in August 1829.

Morris's prestige only increased when Roman Catholic emancipation and the establishment of representative government, both in 1832, allowed him to serve as a Justice of the Peace and Member of the House of Assembly for St. John's. Morris's erudition and transatlantic political savvy served him well in both capacities; his works from 1828 onward (on the eve of Catholic emancipation in the United Kingdom) suggest an increasing awareness of Reeves's importance to the law in Newfoundland. In a speech he made as an MHA in 1837, Morris more confidently cited "the celebrated Mr. Reeves," on whose advice Parliament passed the 1792 and 1793 Judicature Acts.<sup>51</sup> But he did so in the course of railing against recent innovations in the fisheries' credit arrangements. Quoting evidence taken by the House of Commons Newfoundland Committee in 1793, he excoriated Chief Justice Boulton's apparent disregard for "the great perfection of the British constitution and laws," which derived from its ability to

be adapted to the peculiar circumstances and situation of the people in every quarter. ... I am borne out in this opinion by no mean authority, Chief Justice Reeves, the first Chief Justice of Newfoundland. He says, ... "It is a peculiar property of the law of England to give sanction and effect to local usages and customs that have prevailed for length of time."<sup>52</sup>

He concluded that surely the sanction that Chief Justice Reeves and all his successors had

---

<sup>51</sup> Morris, *Speech Delivered in the House of Assembly on Friday, August 25, 1837 by Patrick Morris, Esq., J.P. ... on Moving for a Committee to Enquire into the Administration of Justice in Newfoundland* (St. John's: Ordered by the House of Assembly to be Printed, 1837), 5, CNS.

<sup>52</sup> Morris, *Speech Delivered in the House of Assembly*, 21-22. See Hereward and Elinor Senior, "Boulton, Henry John," in *Dictionary of Canadian Biography*, 9:70.

given to local customs which every chief justice after him proved their “inviolability”—and that “Judge Boulton” was hardly “warranted in setting them aside.”<sup>53</sup> Morris continued to appeal to conservative principles when, in an 1847 lecture, he claimed that during his time as Chief Justice, Reeves had suffered “the hatred and vengeance of the monopolists,” but that for his sacrifice Reeves nevertheless enjoyed “the high honour of transplanting into the soil of Newfoundland the impartial spirit of British Justice.”<sup>54</sup> By this time, the political value of Reeves’s *History* and *Evidence* to reformers had established a tradition of strategically exaggerating the benevolence of Judge Reeves by avoiding the suggestion that he ever had any political opinions of his own.

Radical politicians and conservative clergy were not the only lettered colonists to influence later historians’ views of Reeves. Lawyers, and especially judges among them, were comparatively more at ease discussing the role Reeves played in preserving the legal regime of the fishery while reforming its outward institutions. In the wake of the Judicature Acts, Reeves’s *History* became an important resource for those arguing before and presiding over the Supreme Court—particularly in Chief Justice Francis Forbes’s rulings on cases concerning the reception of English law in Newfoundland.<sup>55</sup> Lawyers’ arguments and justices’ rulings citing colonial rather than imperial official records also tended to reinforce Anspach’s and Morris’s glowing impression of Reeves. Indeed, they may have drawn on them—although Chief Justice Richard Tucker, an Inner Templar,

---

<sup>53</sup> Morris, *Speech Delivered in the House of Assembly*, 23-23.

<sup>54</sup> Morris, “Letter I. – Newfoundland from 1497 to 1832,” in *A Short Review of the History, Government, Constitution, Fishery and Agriculture, of Newfoundland in a Series of Letters addressed to the Right Honourable Earl Grey* (St. John’s: J. Woods, 1847), 7.

<sup>55</sup> Forbes, “August 1819 – Rex v. Patrick Kough et al,” *Decisions of the Supreme Court of Newfoundland: The Reports, 1817-1949*, 15 vols. (St. John’s: J.W. Withers et al, 1901-1998), 1:173; Forbes, “March 1822 – R. Yonge v. James Blaikie,” *Decisions of the Supreme Court of Newfoundland*, 1:283.

may also have hinted at a familiarity with Reeves's other works (and possibly his career) in his ruling on *Dawe v. Broom et al.*<sup>56</sup> Deciding that the 1824 Judicature Act had not invalidated the powers granted by earlier courts of oyer in terminer, and citing the usage of commissions of oyer and terminer in England and Newfoundland, Tucker noted that

John Reeves, Esq., ... whose legal acquirements preclude the supposition that he could have been ignorant of the form of the commission of Oyer and Terminer used in England, had sat as first commissioner under a commission of nearly the plaintiff now sought to invalidate; and that a commission, which had been sanctioned by the approbation of so good a lawyer as Mr. Reeves ... must not only be substantially right, but also suitable in point of form, to the circumstances and condition of the country in which it has been used.<sup>57</sup>

Following the advent of representative government in 1832, the Nova Scotia-born Tory attorney general for Newfoundland, Sir Edward Mortimer Archibald, had no pressing need to insist on Reeves's benevolence. In his 1847 *Digest of the Laws of Newfoundland* Archibald briefly investigated—indeed, justified—the consistency of one of Reeves's rulings with the aims of naval government and imperial policy. He noted that the Real Chattels Act of 1833 was consistent with Reeves's ruling in *Tucker v. Kennedy* that “land and plantations in Newfoundland are nothing more than chattel interests, and should, in cases of intestacy, be treated as such.” The Act was also consistent with Forbes's ruling in *Williams v. Williams*. Archibald further noted that “[t]he decisions of Mr. Reeves and Mr. Forbes ... were pronounced” while both King William's Act and Palliser's Act

were in full force, and doubtless were influenced by the peculiar policy of those statutes, by which Newfoundland was considered in the light of a fishery only and not as a colony or plantation properly so called. The occupancy of the soil was intended to be but temporary, and for the purposes of the fishery, and indeed until

---

<sup>56</sup> Leslie Harris & P.G. Cornell, “Tucker, Richard Alexander,” in *DCB*, 9:794-795.

<sup>57</sup> Richard Alexander Tucker (Chief Justice), “December 1823 – William Dawe v. John Broom et al,” *Decisions of the Supreme Court of Newfoundland*, 1:385-386.

the passing of the [1824 Judicature Act], ... the titles of the crown ... were only licenses of occupation.

Archibald conceded that such a view came as a surprise to later chief justices, but he argued that Newfoundland's history as a fishery both "from the first" and according to "the policy of the Imperial Government in reference to Newfoundland tended to ... discountenanc[e]" the English law of primogeniture.<sup>58</sup> Writing as a jurist rather than as a historian *per se*—in fact he rejected Reeves's assertion that Newfoundland had always been intended for colonial settlement—Archibald came the closest of his contemporaries to describing Reeves's role in enforcing imperial policy and statute. By this time, though, Archibald's was a dissenting voice while Morris continued to speak for the majority.

### II.iii – Accepting the Nationalist Orthodoxy, 1860-1965

Following the advent of responsible government in 1855, Reeves's place in nationalist historiography was further legitimised by histories written by emigrant clergy from the British Isles. The most influential among these by far was the Roman Catholic Archbishop of Newfoundland, the Rt. Rev. John Thomas Mullock.<sup>59</sup> Like his predecessors, Mullock was born in Ireland; but unlike them, he embraced Newfoundland as his home, and encouraged his flock to do the same.<sup>60</sup> To that end, his *Two Lectures on Newfoundland*, which he gave at St. Bonaventure College in 1860, were "calculated to

---

<sup>58</sup> Archibald, *Digest of the Laws of Newfoundland* (St. John's: Printed by Henry Winton, 1847), 125n.

<sup>59</sup> Others included the Revs. Charles Pedley and William Wilson, Congregationalist and Methodist ministers respectively, both of whom emigrated from England. Pedley and Wilson relied heavily on Reeves but accepted his *History* at face value. See Pedley, *The History of Newfoundland* (London: Longman et al, 1863); Wilson, *Newfoundland and Its Missionaries* (Cambridge: Printed by Dakin & Metcalf; Halifax: Sold at the Wesleyan Book Room, 1866). See also Minerva Tracy, "Pedley, Charles," *Dictionary of Canadian Biography (DCB)*, 10:587-588; and Philip E.L. Smith, "[Review:] *The Greatest Fishing Station in the World* [etc.]," *Newfoundland and Labrador Studies* 13, no. 1 (Spring 1997): 110-113.

<sup>60</sup> Frederick Jones, "Mullock, John Thomas," in *Dictionary of Canadian Biography*, 9:582.

foster” a “sacred feeling of patriotism among the youth.”<sup>61</sup> His history was unabashedly nationalist: he saw Reeves’s appointment to the Supreme Court as one of those degrees whereby “improvements [were] slowly introduced, and the English government tacitly recognized the population of as having a right to live in the land they had chosen.” That Reeves designed the Supreme Court, or that he had any other affiliation with the British government other than as Chief Justice of Newfoundland, went unnoticed by Mullock who, echoing Anspach, only observed, “Mr. Reeves appears to have been a gentleman well qualified for his station.” For Mullock, Reeves was the antithesis of an outdated system of law; the “qualified” Reeves ended the “tyranny” of both the fishing admiral system and the Royal Navy. In particular, the “energetic” “inhabitants of this island” had been “exposed to all the petty tyranny of ignorant fishing admirals, and of governors who proved their devotion to England by depopulating Newfoundland.” Reeves’s appointment ensured that these and other unspecified “abuses” and “practices which existed for ages” were put to a stop, and “the subject could ... obtain a regular hearing of his cause and legal decision.”<sup>62</sup> But whereas O’Donel had no qualms about describing the Anglican Reeves as “heaven-sent” by “Providence,” Mullock preferred to cast Reeves not as a Christian saint but a hero out of Greek myth who had been given the “Herculean task to clear away” centuries’ worth of historical abuses. Mullock’s more attentive students would have caught the reference to the Augean Stables—as well as the implication that Reeves’s greatest miracle was cleansing the old regime of its accumulated horseshit.

Of course, Protestant laymen were just as capable of spinning patriotic yarns. In

---

<sup>61</sup> Mullock, “First Lecture,” in *Two Lectures on Newfoundland* (New York: John Mullaly, 1860), 3.

<sup>62</sup> Mullock, *Two Lectures on Newfoundland*, 23.

his 1895 *History of Newfoundland*, Daniel Woodley Prowse, an Anglican and a judge for the Central District Court of St. John's, described Reeves as "an admirable official—industrious, painstaking, firm, and resolutely impartial." This honourable man, Prowse tells us, suffered unjustly when during the proceedings of House of Commons' Newfoundland Committee "the West Country merchants fought as resolutely against the courts as they had formerly done against the settlers."<sup>63</sup> In his testimony, however, "Reeves, by his firmness, courtesy, and resolute impartiality, finally triumphed over all opposition." Having once repurposed Anspach's "triumph," which had referred only to Reeves's time in St. John's in 1791, Prowse would not deviate from this stiff-upper-lip view of "the Chief."<sup>64</sup> In fact, he expanded on this view of Reeves in a 1906 review of Reeves's *History* for the *Newfoundland Quarterly*. This same article revealed, however, that once the Newfoundland affair was over, Prowse seems to have had the impression that Reeves's life after Newfoundland was just plain boring.

Reeves spent the summer of his days ... occup[ying] himself with a great work in four volumes—*The History of English Law*. It is a learned and laborious treatise, shows research and wide reading. Without gifts of style it fell dead flat. It is distinctly learned, but the damning attribute of dullness was fatal to its popularity. Comparisons were made between Reeve's production and the elegant classic commentaries of Blackstone.<sup>65</sup>

The only mention of Reeves's anti-revolutionary activity is lifted from the *History of Newfoundland*'s dedication: "The Chief took a warm interest in the distressed French Protestant Clergy driven from home by the Revolution, and all the proceeds of his various literary works were devoted to their support."<sup>66</sup> (Except Reeves's own words are

---

<sup>63</sup> Prowse, *A History of Newfoundland*, 359-360.

<sup>64</sup> Prowse, *A History of Newfoundland*, 360.

<sup>65</sup> Prowse, "Books about Newfoundland," 10. Prowse does not say if these comparisons were favourable.

“distressed French clergy.”<sup>67</sup>) Prowse’s description of Aaron Graham as “a London Police Magistrate” further ignores the fact that Reeves was ever the Receiver of Public Offices over Graham, or that Reeves had drafted legislation for a salaried magistracy for London some thirty-four years before the Metropolitan Police Act of 1829. The irony is that among Prowse’s many proofs that the fishing admirals were the antithesis of law and order was that they wore everyday work clothes and not “the flowing judicial robes” or “the simple and sober black of the police magistrate”—the police magistrate being a type of specialised Justice of the Peace owing its design, at least in part, to John Reeves.<sup>68</sup>

The casting of Reeves as one of Carlyle’s great men of universal history reached its apex in *The Story of Newfoundland*, a school textbook written by J.A. Cochrane in 1938 and revised by A.W. Parsons in 1949. It relied heavily on Prowse.

[When] the Supreme Court was established, ... it was fortunate that the first judge was a particularly able man; he was Chief Justice Reeves, one of the notable figures in Newfoundland history. He was learned, painstaking, firm, and absolutely impartial. He gave favour to none and justice to all. A man’s station in life did not affect his chance at the court. It was a happy change for the poor man. Opposition by the merchants to the new court was strenuous at first, and there was many a scene; but finally Reeves, backed by the British authorities, triumphed, and the Supreme Court then established has survived to the present day.<sup>69</sup>

What’s perhaps surprising about this version of Reeves is that it’s arguably the best communication of Reeves’s sense of a judge’s role as the Crown’s representative on earth. However, it achieves this by grafting onto Reeves elements of Prowse’s preceding discussion of Prince William Henry (later King William IV), in order to emphasise the

---

<sup>66</sup> Prowse, “Books about Newfoundland,” 10.

<sup>67</sup> Reeves, *History of Newfoundland*, n.p.

<sup>68</sup> Prowse, *History*, 226. See Frank Milton, *The English Magistracy* (London: Oxford University Press, 1967), 16-17; Norma Landau, “The Trading Justice’s Trade” in *Law, Crime, and English Society: Essays in Honour of J.M. Beattie* (Cambridge: Cambridge University Press, 2002), 46-47.

<sup>69</sup> Cochrane & Parsons, *The Story of Newfoundland* (Toronto: Ginn and Company, 1949), 72-73.

pre-1791 civil magistracy's corruption.<sup>70</sup> It was not without some historical irony that, writing during Newfoundland's loss of self-rule under the Commission of Government, Cochrane and Parsons largely paralleled the Whig historian John Oldmixon's 1708 portrayal of Newfoundland as a sad republic in desperate need of a Roman-style dictator or some other civilising monarch—a view Reeves also shared.<sup>71</sup> It was only “[u]nder the rule of governors”—that is, once “the authority of the King’s representative came to be recognized”—that “the colony began to show signs of prosperity and contentment.”<sup>72</sup>

Prowse continued to dominate public intellectuals' views of Reeves—most notably, the journalist and historian Albert Perlin. In his “Outline of Newfoundland History,” which he contributed to the first volume of Joseph Smallwood's *Book of Newfoundland* in 1937, Perlin fixed his praise of Reeves squarely against Reeves's own infamous targets, claiming that the establishment of a Supreme Court in 1792 “put an end at last to the gross travesty on justice that was perpetuated in the rule of the Fishing Admirals.”<sup>73</sup> His view of Reeves was admiring but muted: less important than his time as a singularly qualified judge were the fruits of his research.

The first Chief Justice was John Reeves, a humane man, wise and just, who administered the law, such as it was, with discretion. He held office for only a brief few months, but in that time was able to write a history which has proved a

---

<sup>70</sup> Prowse, *A History of Newfoundland*, 356-357; Cochrane & Parsons, *The Story of Newfoundland*, 72-73. For a similar if fictional grafting of a less savoury anecdote about Reeves onto the unpopular chief justice Thomas Tremlett, see Tom Cahill, “Scene Two: The Supreme Court of Newfoundland in session in St. John’s, 1812,” *Rough Justice: A Play in One Act* (1991), Heritage Newfoundland and Labrador.

<sup>71</sup> Oldmixon, “The History of Newfoundland,” in *The British Empire in America*, 1<sup>st</sup> ed. (London: Printed for John Nicholson et al, 1708), 1:1-19; 2<sup>nd</sup> ed. (London: Printed for J. Brotherton et al, 1741), 1:1-27; Reeves, *Third Report of the Newfoundland Committee*, 173. See also Pat Rogers, *Grub Street: Studies in a Subculture* (New York: Methuen & Co. Ltd., 1972) and Rogers, “An Early Colonial Historian: John Oldmixon and *The British Empire in America*,” *Journal of American Studies* 7, no. 2 (Aug. 1973): 113-123.

<sup>72</sup> Cochrane and Parsons, *The Story of Newfoundland*, 72.

<sup>73</sup> Perlin, “An Outline of Newfoundland History – Chapter XVIII. Treaty of Versailles,” in *The Book of Newfoundland*, 1:184.

valuable source-book for a student of the Island's history.<sup>74</sup>

Perlin assumed that Reeves's only public office was Chief Justice of Newfoundland—and that Reeves's only contribution to the judiciary was his mere presence. He repeated the same story in 1959, in *The Story of Newfoundland*, with some important distinctions. Here, it was not the fishing admirals alone but also “the quarter-deck courts of Naval Governors” that the 1791 and 1792 Judicature Acts “abolished.” Reeves was no longer “humane,” but “a wise and just man who wrote the first important history of Newfoundland”—even if his presence “only in the summer” meant a less robust legacy.<sup>75</sup> Perlin also still assumed Reeves had nothing to do with officials who in the 1780s told governors “that what the settlers wanted raw they were to be given roasted, and what they loved to have roasted, they were to be given raw,” or who claimed that “Newfoundland is in no respect a British colony and is never so considered in our laws.”<sup>76</sup> In 1966 Perlin produced yet another “Outline of Newfoundland History,” this time in a speech to the Officers' Club at the American naval base at Argentia, parts of which he reproduced a year later in *The Newfoundland Quarterly*. His view of Reeves's legacy almost directly echoed Mullock in holding up Reeves as a witness, not to Newfoundland's historical record but to its present reality. Like Mullock, Perlin's final sketch of Reeves was also firmly in the tradition of colonial nationalism.

[T]he people hung on with remarkable tenacity, ignored without law or government or rights, victims of the Fishing Admirals in summer and of a hard climate and frightening distress in winter. And by hanging on they won eventually the right to remain. But that was a long time coming. ... But when a lawyer sent

---

<sup>74</sup> Perlin, *The Book of Newfoundland*, 1:184.

<sup>75</sup> Perlin, “A Short History of Newfoundland – Chapter XV. Civil Rights Established,” in *The Story of Newfoundland* (Printed in Canada, 1959), 28.

<sup>76</sup> These were Lord North and Lord Grenville respectively. Perlin, *The Story of Newfoundland*, 28.

out as chief justice in 1791 reported that the country was being settled behind the backs of the British government, the effort to expel the settlers ceased.<sup>77</sup>

Perlin did not name Reeves, but ironically his depiction of Newfoundland as Reeves found it took to the logical extreme many of Reeves's *History*'s own premises.

Following Confederation with Canada, the Newfoundland nationalist view of Reeves was more or less absorbed into new the regional historiography of Atlantic Canada. In *The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857*, his 1965 contribution to *The Canadian Centenary Series*, the noted Maritime historian William Stewart MacNutt accepted the assumption of Reeves was unaffiliated with the imperial government, though he more clearly articulated Reeves's role in achieving a shift in imperial policy. MacNutt gave a fair outline of the larger story in which one "Sir John Reeves" played a part, noting that the Board of Trade endorsed the principle if not the perfect legality of the 1789 Court of Common Pleas.<sup>78</sup> One hears an echo of Prowse in MacNutt's claim that "the urgencies of the colony" rather than Reeves personally "triumphed over the traditionalists." Despite his two two-month appointments, Reeves "gave to the life of Newfoundland a whole new element of stability and continuity." Part of this glowing praise, however, is due merely to Reeves's defence of long-standing practices—most notably that Reeves convinced Parliament to recognise the role of naval surrogate courts, so "that a degree of justice should come to the outports as well as to St John's." The "stability" Reeves helped Newfoundland's colony achieve was also not guaranteed, as the changes to its government that he oversaw and recommended "were

---

<sup>77</sup> Perlin, "An Outline of Newfoundland History: Extracts from a Speech delivered at the Officers Club of the U.S. Naval Base at Argentia in April, 1966," *Newfoundland Quarterly* 66, no. 1 (1967): 2.

<sup>78</sup> MacNutt, *The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857*, eds. W.L. Morton et al (Toronto: McClelland & Stewart Inc., 1989), 304, 110.

frankly experimental.”<sup>79</sup> Without addressing Hawkesbury’s influence, MacNutt contrasted Reeves against “honest mercantilists like William Knox and Sir Hugh Palliser [who] continued to fulminate against the Newfoundland community.”<sup>80</sup> He also pitted Reeves against the “disorder endemic to the colony” and his other traditional adversaries.

The West Country merchants, whose battle was lost, still propagandized for the depopulation of the island, but the British government appeared to have finally accepted the truth of the words of Chief Justice Reeves that “Newfoundland has been people behind your back.”<sup>81</sup>

MacNutt’s point was that increased settlement meant progress or rational administration was inevitable, meaning that not Reeves himself so much as a distinctly Canadian notion of good sense prevailed: “the colony had now become so populous and so deeply rooted that it was no longer rational to think in terms of dismantlement and deportation.”<sup>82</sup> That said, MacNutt’s acceptance of the traditional view of Reeves hardly prevented him from contributing other, more valuable insights to his legacy. It was MacNutt who first noticed that after the Napoleonic Wars, it became “the more obviously ridiculous to deny the demands of Carson and the agitators for representative government, demands that were given more repute by the earlier suggestions of Chief Justice Reeves.”<sup>83</sup>

#### **II.iv – The Other View from Newfoundland, 1819-1907**

At the same time, even the founders of this traditional school were never so taken with Reeves that they could not scrutinise his record. Anspach noted that while Reeves was an able lawyer and judge, he was hardly the prime mover of law in Newfoundland.

---

<sup>79</sup> MacNutt, *The Atlantic Provinces*, 110.

<sup>80</sup> MacNutt, *The Atlantic Provinces*, 111.

<sup>81</sup> MacNutt, *The Atlantic Provinces*, 140.

<sup>82</sup> MacNutt, *The Atlantic Provinces*, 111.

<sup>83</sup> MacNutt, *The Atlantic Provinces*, 177.

Reeves accomplished a great deal, true, but “upon his arrival at Saint John’s, [he] found that Mr. Aaron Graham, under the auspices of Admirals Elliot and Milbanke, had, in great measure, cleared the way before him.”<sup>84</sup> Anspach also saw firsthand that Reeves’s legacy was frustratingly impermanent. Reeves may have made an admirable show of force in Conception Bay, but the man who Anspach replaced, “one single magistrate of the old school ... still persevered in every respect in the system of the late Court of Vice-Admiralty.”<sup>85</sup> Morris was comforted by the “slow advancement to something like rational government” since Reeves’s departure, but he rejected the paternalism underlying Reeves’s narrative—even going so far as to denounce the prerogative authority of the Star Chamber as “illegal.”<sup>86</sup> Rather than accepting that constitutional reform reflected only the Crown’s authority, by 1847 Morris—then a seasoned politician—insisted that governors were only appointed once “the power of the Fishing Admirals fell under the execration and contempt of the people” rather than the imperial government.<sup>87</sup>

As the nineteenth century wore on, both emigrants to Newfoundland and native-born historians incorporated elements of O’Donel’s, Anspach’s, Carson’s, Morris’s, and Mullock’s several portraits of Reeves. By 1860, the English-born surveyor and historian Frederick R. Page was less insistent on Reeves’s pride of place in constitutional history, and was more comfortable placing him at the end of an arc of judicial reform dating back to the founding of the Court of Common Pleas in 1789. During the years when Mark Milbanke was governor (1789-91) and Reeves was Chief Justice (1791-92), “the country

---

<sup>84</sup> Anspach, *History of the Island of Newfoundland*, 223, 217.

<sup>85</sup> Anspach, *History of the Island of Newfoundland*, 237-238; cf. Jones and Story, *DCB*, 6:10.

<sup>86</sup> Morris, *A Report of Certain Proceedings*, 44.

<sup>87</sup> Morris, *Remarks on the State of Society Religion, Morals, and Education at Newfoundland*, 9.

benefitted wonderfully; sad abuses that had heretofore crept into the inferior courts were remedied, and order and regularity established on a firmer basis.”<sup>88</sup> The Rev. Philip Tocque, an Anglican priest from Carbonear, in his 1878 book *Newfoundland: As It Was, and As It Is in 1877* revived the old legal grievances.<sup>89</sup> Toque saw “a mass of infamy and corruption” recorded in Reeves’s *History*; but, rather than the fishing admirals, Tocque emphasised the maladministration of justice by both naval and civil magistrates prior to Reeves’s arrival.<sup>90</sup> Five years later, Joseph Hatton and the Rev. Moses Harvey, an Ulster-Scots Presbyterian minister, did not see Reeves as anyone who held the reins of power.<sup>91</sup> Hatton came closest to outright skepticism when he observed that “Justice was held in greater respect, when Law was absent, then when ignorant and interested skippers administered it on the quarterdecks of their commercial ships.”<sup>92</sup> Prowse’s footnotes make much of Reeves’s allegedly outdated sense of justice in sentencing a Greenspond egg thief caught poaching at Funk Island to be “*privately* flogged” rather than “*publicly* whipped” on account of his family.<sup>93</sup> In a review of Reeves’s *History* he wrote for the *Newfoundland Quarterly* in 1906, Prowse decided his subject needed to be more explicitly humanised. Although he claimed that “[a]mongst the distinguished men who

---

<sup>88</sup> Page, *A Concise History and Description of Newfoundland* (London: R.H. Laurie, 1860), 21.

<sup>89</sup> Marjorie M. Doyle and Patrick O’Flaherty, “Tocque, Philip,” *DCB*, 12:1060-1062.

<sup>90</sup> Tocque, *Newfoundland: As It Was, and As It Is in 1877*, 21-22, 112.

<sup>91</sup> Hatton & Harvey, *Newfoundland: Its History, Its Present Condition, and Its Prospects in the Future* (Boston: Doyle & Whittle, 1883), 61; see also F.A. Aldrich, “Harvey, Moses,” in *DCB*, 13:455-456.

<sup>92</sup> Hatton, “Preface to the English Edition” in Hatton & Harvey, *Newfoundland: Its Past, Its Present, and Its Prospects for the Future* (Boston: Doyle & Whittle, 1883), vi, 41.

<sup>93</sup> Prowse, *A History of Newfoundland*, 359n1 (original italics); Bannister, “Whigs and Nationalists,” 86. See Robert Saunders, “The Greenspond Saga – In History, Song and Story,” *The Newfoundland Quarterly* 54, no. 4 (December 1955): 24; W. Hynes, “The Postman Knocks: Early Justice,” *The Newfoundland Quarterly* 59, no. 4 (Winter 1960): 14; see also Allan Dwyer, “Atlantic Borderland: Natives, Fishers, Planters, and Merchants in Notre Dame Bay, 1713-1802” (PhD thesis, Memorial University of Newfoundland, 2012), 217-221. For whipping as public spectacle, see Beattie, *Crime and the Courts in England, 1660-1800* (Princeton: Princeton University Press, 1986), 461-463.

made Newfoundland, there is no more distinguished name than John Reeves,” he also insisted that Reeves “was neither brilliant nor eloquent, but he was the man for the crisis in our history. A good lawyer, honest, and capable; an upright judge, thoroughly impartial and fearlessly independent.” But as Prowse informed his readers, Reeves’s book, as well as being painfully dull, was quite flimsy besides.

Reeves’s ... *History of the Government of Newfoundland* ... is a paltry little book poorly bound and printed on very inferior paper. ... Everything is written down in rather a dry sort of manner. The Chief had no literary graces and he seems also to have been denied the divine gift of humour, all the same it is one of the most useful and informing works on some dark pages in the history of the Colony.<sup>94</sup>

But in a 1907 series on *Local Government in Canada*, Prowse remarked that “[p]opular opposition” to earlier courts “resulted in the establishment of a regular supreme court in 1791. The first chief justice was a trained lawyer and proved to be an excellent choice.”<sup>95</sup> Ironically, Prowse’s more muted article bridged the gap between the romantic nationalist school of the nineteenth century and the emerging standards of professional history.

## **II.v – A Break from Prowse?: Revisionist Views, 1911-1984**

Prowse’s exhaustive use of archival sources also provided a scholarly impetus to surpass his attention to detail. But in doing so, early- and mid-twentieth-century scholars, based mostly out of Oxford and Cambridge, nevertheless continued to follow Prowse in downplaying Reeves’s historical agency while confining his lack of agency to Newfoundland’s history, and only to Newfoundland’s history. In his 1911 contribution to an Oxford survey of the *Historical Geography of the British Colonies*, John D. Rogers

---

<sup>94</sup> Prowse, “Books about Newfoundland – History of the Government of Newfoundland, London, 1793, by John Reeves, F.R.G.S., Chief Justice,” *Newfoundland Quarterly* 5, no. 4 (March 1906): 9.

<sup>95</sup> Prowse, “Local Government in Newfoundland,” in *Municipal Government in Canada*, ed. S. Morley Wickett (Toronto: Printed at the University of Toronto Library, 1907), 275.

conceded that Reeves and others might “write with authority about events in which they took place.”<sup>96</sup> But Rogers was skeptical of any influence Reeves could have had, since prior to 1792, “the Criminal Court was periodically created and destroyed, recreated and redestroyed, like the mythical heroes of Valhalla.”<sup>97</sup> Descending from heaven to earth (and not to be outdone by Prowse’s flair for sardonic presentism) Rogers exhibited the constitutional crisis from 1789 to 1791 as a fossil record of legal maxims, when law both “in its origin [was] interested brute force” and “in its nature [was] disinterested moral suasion.”<sup>98</sup> Little changed when the 1791 Court “began every action, except trifling actions, by the drastic method of arresting the defendant and attaching his goods”—a practice made “discretionary and alternative” in 1792.

John Reeves, the well-known historian of English law, was the first Chief Justice of the new Court, and it would seem that legal institutions were at last adequate and complete. But this was not quite the case, and permanence was not yet secured. Reeves only stayed in the island during his long vacations, and was succeeded by ex-surgeons, merchants, and customs officials.

Had Reeves stayed longer, Newfoundland would have fared better—if only the imperial government had not still preferred an impermanent regime: “the Acts of 1791 and 1792 were only annual Acts, which were renewed at first annually and afterwards triennially, for the annual and triennial habit of mind clung to the land like one of its own fogs.”<sup>99</sup>

In 1930 a former Governor of Newfoundland, Sir Charles Alexander Harris, writing for the *Cambridge History of the British Empire*, saw Reeves as little more than

---

<sup>96</sup> Rogers, *A Historical Geography of the British Colonies, Vol. V – Part IV. Newfoundland* (Oxford: Clarendon Press, 1911), 158. See also Alison C. Bates, “Rogers, John Davenport,” in *Encyclopedia of Newfoundland and Labrador*, 5 vols. (St. John’s: Harry Cuff Publications Ltd., 1991-1994), 4:620.

<sup>97</sup> Rogers, *Newfoundland*, 152.

<sup>98</sup> Rogers, *Newfoundland*, 153.

<sup>99</sup> Rogers, *Newfoundland*, 154.

an honoured cog in the imperial machine. When Milbanke took the first “definite steps ... for establishing courts upon a sounder footing” than the “incompetence and corruption” of the Court of Oyer and Terminer,” “this did not suit the merchants, who at once impugned the legality of the act: their view was admitted by the law officers of the Crown.”<sup>100</sup> Harris preferred to graft the traditional praise of the “impartial” Reeves onto the Supreme Court that Reeves designed. “Chief Justice Reeves, though he presided over the Court for only two years, laid the foundations of a sound and impartial administration of justice.” Neither was Reeves’s influence immediate or absolute: “His successors were not always lawyers, yet the value of the Court was maintained, until it was made a permanent part of the administration.”<sup>101</sup> Reeves’s lasting legacy was less personal than it was institutional. And yet, Harris saw no need to refer to other institutions under which Reeves held public office—the most obvious example being the Board of Trade.

The text that set the bar for later historians’ portrayals of Reeves was the thesis that the Canadian historian William Lewis Morton wrote for his Bachelor of Letters (B.Litt) while at St. John’s College, Oxford. Morton’s 1935 study of “Newfoundland in Colonial Policy, 1775-1793” identified Reeves as a sub-ministerial civil servant who did the real work of cultivating “if not a colonial policy, at least a sense of administrative responsibility.”<sup>102</sup> In so doing, he set Reeves’s alleged humanitarianism in opposition to Hawkesbury’s preference “to give no countenance to the establishment of a colonial government, but ... to see that order and justice were preserved.” Morton nevertheless

---

<sup>100</sup> Harris, “Newfoundland, 1783 to 1867: Development at the End of the Eighteenth Century,” in *Cambridge History of the British Empire* (Cambridge: Cambridge University Press, 1930), 6:423-424.

<sup>101</sup> Harris, “Newfoundland, 1783 to 1867,” *Cambridge History of the British Empire*, 6:424.

<sup>102</sup> Morton, “Newfoundland in Colonial Policy, 1775-1793” (BLitt thesis, University of Oxford, 1935), 165.

recognised Reeves's role in maintaining imperial policy. He warned that Reeves is "[n]ot to be considered a radical" who accepted "the incompatibility of [established] policy in the long run with the evolution of the resident fishery as the most economic mode of conducting the fishery as a whole."<sup>103</sup> Morton also recognised that Reeves's legacy lay in his revealing "by implication the need of a fuller civil government."<sup>104</sup> Morton argued Reeves's appointment signified that no more would

the imperial government ... legislate for the fishery on the grounds of general policy only. Henceforth it would have before it specific and sympathetic knowledge of the inhabitants and the mode of life in Newfoundland.<sup>105</sup>

This is not to say that Morton deviated from Prowse's praise of him (he repeated many familiar phrases), but he made a point of clarifying Reeves's credentials as well as shedding light on Reeves's attention to detail.<sup>106</sup> Morton was also the first to scrutinise Reeves's roles both in the story of the Beothuk and in the colony's constitutional history in a single work. On the former subject, Morton was sympathetic but critical:

when he claimed that the Indians as inhabitants of the territory over which the British Crown was sovereign had a right to the protection of the Crown, he revealed that the old mode of treating natives as equals and competent to fend for themselves, had given way to the concept of trusteeship. It was a revolution in imperial policy.<sup>107</sup>

Morton also initiated the scholarly practice of reviewing Reeves's 1791 report in detail while skipping over his 1792 report. He only slightly overshot his praise of Reeves in his 1963 work, *The Kingdom of Canada*, assuming that following the arrival of Chief Justice in 1791, "[t]hereafter law and order were represented the year round in St. John's at

---

<sup>103</sup> Morton, "Newfoundland in Colonial Policy, 1775-1793," 198.

<sup>104</sup> Morton, "Newfoundland in Colonial Policy, 1775-1793," 199.

<sup>105</sup> Morton, "Newfoundland in Colonial Policy, 1775-1793," 197.

<sup>106</sup> Morton, "Newfoundland in Colonial Policy, 1775-1793," 198.

<sup>107</sup> Morton, "Newfoundland in Colonial Policy, 1775-1793," 178.

least.” Even so, Morton produced one of the clearer pictures of Reeves’s role in “the administration of reform that the loss of the old colonies provoked.”<sup>108</sup>

In 1941, the New Zealand historian Alexander McClintock’s University of London doctoral thesis on *The Establishment of Constitutional Government in Newfoundland, 1783-1832*, was published by the Royal Empire Society.<sup>109</sup> In it, McClintock expanded upon Prowse’s view of Reeves. He was glad to have Reeves as a witness to history as well as a chief justice. “The choice was excellent. Not only did Reeves prove painstaking and conscientious but he also possessed a sound and impartial judgment which makes his observations and reports so valuable.”<sup>110</sup> Indeed, “the evidence of reputable and impartial witnesses such as Reeves and Graham” in 1793 “revealed unmistakably the exaggerated and biased complaints of the trade.”<sup>111</sup> When in 1791 Reeves drew up plans for a local legislature and a tax on rum to offset the costs of the civil magistracy, any “far-seeing proposals” were ignored out of fear that they “would foster colonisation and run counter to the national policy of the day.”<sup>112</sup> McClintock also noticed that Reeves’s legacy was never guaranteed. Although in 1792 Reeves “had ruled that the governors’ proclamations must be considered as the law of the land, their legality was frequently challenged.” Even “the British government did not consider they possessed the force of law”; and throughout Newfoundland, “proclamations were

---

<sup>108</sup> Morton, *The Kingdom of Canada: A General History from the Earliest Times*, 2<sup>nd</sup> edition (Toronto: McClelland & Stewart, 1969), 178.

<sup>109</sup> See Edmund Bohan, “McClintock, Alexander Hare,” in *Te Ara – The Encyclopedia of New Zealand* (1998), <http://www.teara.govt.nz/en/biographies/4m24/mclintock-alexander-hare>.

<sup>110</sup> McClintock, *The Establishment of Constitutional Government in Newfoundland, 1783-1832: A Study of Retarded Colonisation* (London: Longman’s, Green, & Co, 1941), 70.

<sup>111</sup> McClintock, *The Establishment of Constitutional Government in Newfoundland*, 75.

<sup>112</sup> McClintock, *The Establishment of Constitutional Government in Newfoundland*, 153.

flagrantly disregarded by the community as a whole.” McClintock insisted that while Reeves’s ruling attempted “to introduce some semblance of order into the island chaos”; by contrast, his successors, “only too anxious to please their dictatorial overlords, ... supported this view” until the arrival of Sir Frances Forbes.<sup>113</sup> But having set Reeves in opposition to his successors’ alleged sycophancy, McClintock’s chronicling of Reeves’s own zeal for vice-regal authority left the question of his monarchism unexplored.

The Oxford professor Vincent Harlow’s monumental study of *The Founding of the Second British Empire* included a startlingly casual glimpse of Reeves. Harlow noted that when in 1788 Bermudian slave fishermen arrived on Newfoundland’s shores and proved themselves better fishermen than indentured servants, it was Reeves who the Board of Trade ordered to draft legislation prohibiting crews departing from anywhere except British dominions in Europe.<sup>114</sup> Harlow identified Reeves among a coterie of British civil servants who “became encyclopaedic in their specialised knowledge, spent the rest of their careers in the same office, and were a notable addition to the professional, as distinct from the semi-political, group of officials.”<sup>115</sup> Though he fudges his timeline slightly, he noted that the President of the Board of Trade, Charles Jenkinson, Lord Hawkesbury, one of the guiding hands and staunchest adherents to the First Empire’s mercantilist policies, firmly opposed colonial growth in Newfoundland. Harlow assumed Jenkinson’s 1786 report on Newfoundland, displaying his “usual thorough and substantial report” made use of “[m]uch evidence ... and statistical data” was written in

---

<sup>113</sup> McClintock, *The Establishment of Constitutional Government in Newfoundland*, 142.

<sup>114</sup> Harlow, *The Founding of the Second British Empire*, 2 vols. (London: Longmans, Green and Co. Ltd., 1952-64), 1:279. See Prowse, *A History of Newfoundland*, 345-348.

<sup>115</sup> Harlow, *The Founding of the Second British Empire*, 1:246.

collaboration with Reeves, one of his “expert officials.”<sup>116</sup> Actually, Reeves would not be made Law Clerk until 10 August 1787.<sup>117</sup> Still, even a corrected timeline suggests that either Reeves’s forensic *Evidence* or his *History* likely filled the same function as Hawkesbury’s earlier efforts: namely, of convincing Parliament to adopt the Board of Trade’s preferred policy as statute law. But Harlow did not take notice of Reeves’s thoughts on the Island’s role in the emerging Second Empire, and perhaps for this reason few if any historians of Newfoundland have been as explicit as Harlow in portraying Reeves as Jenkinson’s creature.

In his 1968 Oxford University doctoral thesis, Keith Matthews took an interest in Reeves’s reconciliation of West Country merchants to the government he represented, as well as to his (Reeves’s) own prejudices. Matthews argued that the Board of Trade was so eager to ensure that the 1791 Judicature Act “did not lead to a ‘more regular government,’” that they took the unusual step of appointing “their own legal advisor John Reeves” as Chief Judge; “a man who could be trusted to ensure that the new system did not encourage residence.”<sup>118</sup> The 1792 Judicature Act further demonstrated the imperial government’s caution as “a sincere attempt to rectify the defects pointed out in 1791.” Any suggestion that Reeves’s own views were of any significance is obscured by the sober observation that “Government would take notice only of his proofs that the growth of settlement had been caused by merchant-magistrates.” But a sense of Reeves’s social politics emerges from the hint that within “one year Reeves had (through no liking for

---

<sup>116</sup> Harlow, *The Founding of the Second British Empire*, 1:280.

<sup>117</sup> “Committee of the Privy Council for Trade and Plantations, 1786-1870: General Department” in *Office-Holders in Modern Britain*, ed. J.C. Sainty, 11 vols. (London: University of London, 1972-2006), 3:39-65.

<sup>118</sup> Matthews, “A History of the West of England-Newfoundland Fishery,” 566.

them) become converted to the merchant advocacy of ‘Property’” as a stabilising force against the commons of the ships’ rooms.<sup>119</sup> In his *Lectures on the History of Newfoundland*, Matthews perhaps hinted at Reeves’s earlier campaign against the trading justices of Westminster when he mentioned that Reeves was “no great admirer of any sort of merchant.”<sup>120</sup> But he did not elaborate on this point. However, writing for the *Dictionary of Canadian Biography* in 1983, Matthews noted that the Trinity-Poole merchant—and from 1790 to 1796, MP for Poole—Benjamin Lester’s “substantial political interest” was felt strongly in Reeves’s absence. In 1785, Lester obtained “[the position] of controller of customs for D’Ewes Coke, a surgeon at Lester’s main fishery in Trinity Bay” who succeeded Reeves as Chief Justice. That, and in 1782, Lester “had managed to obtain the post of collector of customs” for Richard Routh, Newfoundland’s third chief justice.<sup>121</sup> But Matthews did not contrast this against Reeves’s defence of both Coke and Routh, before the House of Commons’ Newfoundland Committee (on which Lester sat), as model magistrates whose salaries as customs officers meant that they were allegedly beyond the financial influence of the fishery. However, in his thesis, he had noted that once “the merchants” warmed to the Supreme Court by 1798, the formerly “suspicious” merchants “indeed used John Reeves as a kind of intermediary to the Board of Trade”—citing a petition to the Board of Trade by the merchants of Poole.<sup>122</sup>

## II.vi – Retreat into Historiography, 1978-2009

The Devon-born and Oxford-educated Keith Matthews’ appointment as Professor

---

<sup>119</sup> Matthews, “A History of the West of England-Newfoundland Fishery,” 578.

<sup>120</sup> Matthews, *Lectures on the History of Newfoundland*, 177.

<sup>121</sup> Matthews, “Routh, Richard,” in *Dictionary of Canadian Biography*, 5:725.

<sup>122</sup> Matthews, “A History of the West of England-Newfoundland Fishery,” 574.

of History at Memorial University of Newfoundland put him in a unique position to pick up where MacNutt had left off in reconciling the emerging and diverging schools of McClintock and Prowse to one another. Had his DPhil thesis been published, it might have forced a re-consideration of Reeves's role in Newfoundland's history. But Matthews' discussion of Reeves as a historian rather than a historical figure, in the essay "Historical Fence Building," would have more influence among other historians—many of whom either worked with or studied under him at Memorial University, where his legacy continues to be felt the most strongly.<sup>123</sup> In "Fence Building," first delivered as a speech in 1972 and then published in 1978 in the *Newfoundland Quarterly*, Matthews took issue with Reeves's interpretation of Newfoundland's history. Attempting to undo the long-term effects of Reeves's skill as a propagandist, Matthews argued that "[t]he first published identification of the West Country merchants with villainy was that of John Reeves." However, he blamed not the "Board of Trade barrister, appointed the first Chief Justice ... in the 1790s," but later generations of political reformers, for accepting Reeves's narrative at face value. Matthews' own argument was that both servants and merchants regarded England and Newfoundland as two hubs of a single, bicoastal community, for whom the North Atlantic served as a highway rather than a barrier. The implication is that Reeves ignored this reality. Matthews did not speculate as to why Reeves cast Newfoundland's history as a transatlantic class conflict, except that his anti-merchant bias reflected "contemporary official attitudes."<sup>124</sup> But he did not clarify which "contemporary official attitudes" made Reeves such an ideologically driven historian.

---

<sup>123</sup> See Webb, "Revisiting Fence Building: Keith Matthews and Newfoundland Historiography," *Canadian Historical Review* 91, no. 2 (June 2010): 315-338.

In his 1979 survey of Newfoundland literature, *The Rock Observed*, Patrick O’Flaherty built upon Matthews’ argument, providing a brief overview of where the scholarship in Reeves’s *History* stops and where the impulse towards proto-nationalist myth-making starts. O’Flaherty readily conceded that Reeves too quick “to equate legislative intention with actual implementation,” and that Reeves did not appreciate King William’s Act as “a careful attempt to outline the respective rights of migratory fishermen and settlers.”<sup>125</sup> Even so, O’Flaherty was well aware of the pride of place that Reeves’s *History of Newfoundland* enjoyed in the province’s literary canon.

It is possible that [Reeves’s *History*] was the most influential book ever written about Newfoundland, for so stunningly simple and plausible was his reading of the colony’s past that most subsequent historians merely repeated or amplified his ideas, which then passed into school textbooks and the popular imagination.<sup>126</sup>

O’Flaherty is rather forgiving of Reeves himself, who “was not responsible for some of the emotional excesses of nineteenth-century nationalist historians, [who] embellish[ed] ... the ... evidence supplied by his book.”<sup>127</sup> One-upping Matthews, O’Flaherty took issue with the “two middle-class outsiders” Carson and Morris for sounding like seventeenth-century propagandists, accusing Reeves of sympathising too strongly with Newfoundland’s settlers—a crime easily forgiven.<sup>128</sup> But his description of Reeves as “a barrister” who based his *History* “on a study of records pertaining to the colony in the files of the Board of Trade” repeated the old assumption that Judge Reeves was only an amateur gentleman-researcher with no other connection to the imperial government.<sup>129</sup>

---

<sup>124</sup> Matthews, “Fence Building,” 145.

<sup>125</sup> O’Flaherty, *The Rock Observed*, 52-53.

<sup>126</sup> O’Flaherty, *The Rock Observed*, 54.

<sup>127</sup> O’Flaherty, *The Rock Observed*, 51.

<sup>128</sup> O’Flaherty, *The Rock Observed*, 52 (original italics).

Peter Neary would galvanise Matthews' interpretation of Reeves's legacy even further, acknowledging Reeves's controversial politics, but treating them as separate from both his public career and his scholarly endeavours. In 1980, Neary identified Reeves as the first of many historians who "addressed himself to a question [of] ... the relationship between the ancient transatlantic fishery of the West Country of England and the colonization of Newfoundland." He explained that the House of Commons' enquiry into the Newfoundland trade led Reeves to "produc[e] his history of Newfoundland," but omitted any mention of Reeves's position as Law Clerk to the Board of Trade. He noted that Reeves wrote a *History of the English Law*, but did not explain its significance to Reeves's *History of Newfoundland*.<sup>130</sup> In a 1984 survey of "Historical Writing," Neary observed that "[a] notable Eighteenth Century work is the *History of the Government of the Island of Newfoundland*, published by the English jurist John Reeves in 1793," was the oldest in a "body of writing about the Newfoundland and Labrador past [that] is ancient, rich and diverse."<sup>131</sup> Writing for the *Dictionary of Canadian Biography* in 1987, Neary observed that Reeves "had begun his career as a prolific author of works on legal, political, and constitutional questions," but he did not suggest any ideological continuity between the *History of Newfoundland* and any other works authored by "the ultra-royalist Reeves." Indeed, Neary said little about "the first comprehensive account of the island's past," except to mention its opening argument and its influence on other historians.<sup>132</sup>

---

<sup>129</sup> O'Flaherty, *The Rock Observed*, 51.

<sup>130</sup> Neary, "The Writing of Newfoundland History: An Introductory Survey," in *Newfoundland in the Nineteenth and Twentieth Centuries: Essays in Interpretation*, eds. James Hiller and Peter Neary (Toronto: University of Toronto Press, 1980), 3.

<sup>131</sup> Neary, "Historical Writing," in *Encyclopedia of Newfoundland and Labrador*, 2:974-975.

<sup>132</sup> Neary, "Reeves, John," in *Dictionary of Canadian Biography*, 6:637.

Sean Cadigan's historiographical comments have also largely followed Matthews in separating Reeves from his *History of Newfoundland's* adoption by nationalist reformers and others appealing to imperial tastes in the nineteenth century. Reeves's name is absent from Cadigan's 1992 explanation that

[a]n early historiographic school, dominated by L.A. Anspach and D.W. Prowse, suggested that a combination of West Country merchants and government officials long opposed settlement and agriculture in Newfoundland as a possible obstruction of their migratory fishery."<sup>133</sup>

In 2009, Cadigan noted "[p]olitical reformers argued that Newfoundland would have kept pace if its development had not been stymied by a mythic cabal of fish merchants and officials. This reform fiction appealed to British authorities."<sup>134</sup> However, Cadigan did not name Reeves as one of those British authorities to whom similar fictions appealed.

Jerry Bannister has similarly deferred to Matthews' judgement that the nationalist interpretation of Newfoundland that looked to Reeves's *History* for inspiration should not be blamed on Reeves but those who cited Reeves to validate their own politics. His 1994 study of "The Issue of Class in the Writing of Newfoundland History" did not mention Reeves directly, but his description of Prowse's school easily applies to Reeves.

[T]he simple model of oppressor and oppressed, merchant and settler, has exerted a profound and lasting influence over the way historians conceptualize the structure of Newfoundland society. ... The result was a crude portrait, infused with moral overtones, of honest fishermen suffering in virtual serfdom under despotic merchants.<sup>135</sup>

Bannister later noted that "by establishing the paradigm of repression, Reeves spawned

---

<sup>133</sup> Cadigan, "The Staple Model Reconsidered: The Case of Agricultural Policy in Northeast Newfoundland, 1785-1855," *Acadiensis* 21, no. 2 (Spring 1992): 48.

<sup>134</sup> Cadigan, "Not A Nation! (Or why Newfoundland nationalism doesn't make historical sense)," *Newfoundland Quarterly* 102, no. 1 (Summer 2009): 40.

<sup>135</sup> Bannister, "'A Species of Vassalage': The Issue of Class in the Writing of Newfoundland History," *Acadiensis* 24, no. 1 (Autumn 1994): 135.

the nationalist outlook which so greatly influenced Prowse.”<sup>136</sup> As for how Reeves arrived at this paradigm, Bannister assumed that as a “trained jurist ... Reeves saw Newfoundland history through the lens of conflict.”<sup>137</sup> Though perhaps oversimplified, Bannister’s suspicion nevertheless forms a telling departure from Frederic Thompson’s earlier praise of Reeves as “a trained jurist and a man of great integrity.”<sup>138</sup> At the same time, while Bannister’s 2003 study of naval government, *The Rule of the Admirals*, noted that “Reeves began his book by setting out the heroes and the villains,” he did not explain how Reeves was eventually won over by the villains of his own story—only that he was. Having arrived with “a prejudice ... against coarse merchants,” “spending a summer on the island changed his mind entirely.”<sup>139</sup>

Christopher English’s contribution to a series of *Essays in Canadian Law* in 2005 would leave an even more curious separation of Reeves’s politics from his *History*, which English acknowledged to be a heavily political work—indeed, as his only “political” work—“political,” that is, because it focused on Newfoundland.

During the cases that he heard during his summer visits, Reeves offered commentary on the imperial fishery statutes that showed a nice historical sense, and he would go on to publish scholarly volumes on English history and a raft of *sometimes contentious* ephemera and pamphlets. As to his political perspective, Reeves enunciated the thesis that merchants of the English West Country were responsible for the backward and undeveloped state of Newfoundland.<sup>140</sup>

English explained that “Reeves’s commentary on the imperial statutes between 1699 and

---

<sup>136</sup> Bannister, “Making History: Cultural Memory in Twentieth-Century Newfoundland,” *Newfoundland and Labrador Studies* 18, no. 2 (Fall 2002): 178.

<sup>137</sup> Bannister, “Whigs and Nationalists: The Legacy of Judge Prowse,” 87.

<sup>138</sup> Thompson, “Milbanke, Mark,” in *Dictionary of Canadian Biography*, 5:596. For a study dispelling the myth of the coarse merchant, see Bannister, “Citizen of the Atlantic: Benjamin Lester’s social world in England, 1768-1769,” *Newfoundland Quarterly* 96, no. 3 (Fall 2003): 32-37.

<sup>139</sup> Bannister, *Rule of the Admirals*, 241.

<sup>140</sup> English, “The Legal Historiography of Newfoundland,” in *Essays in Canadian Law*, 9:20 (my italics).

1775 that governed the seasonal fishery remains seminal” to the province’s jurists as well as its historians.<sup>141</sup> His summary of Reeves’s *History* also revealed him to be Reeves’s ablest defender: “Newfoundland was an imperial pawn plundered to the advantage of a private interest; the small settled population was exploited, without the standing, self-respect, or potential to become an English colony.”<sup>142</sup> But English avoided saying outright that one can a political agenda at work in Reeves’s *History of Newfoundland*.

## II.vii – In Search of Reeves’s Politics, 1895-1996

Awareness of Reeves’s public life has nevertheless been building since the mid-twentieth century—if not much earlier. When D.W. Prowse included a portrait of Reeves in his 1895 *History of Newfoundland*, it was an 1818 engraving of an 1814 portrait of him; the result was a portrait showing Reeves to be twenty-two years older than he was when he was in Newfoundland.<sup>143</sup> The original portrait by Samuel Drummond, likely coinciding with Reeves’s retirement as Superintendent of Aliens, is today housed at Eton College. But the engraving Prowse used was in 1818 commissioned for the *European Magazine*’s two-part “Sketch of the Life and Character of John Reeves” —the same “Sketch” mirroring Anspach’s.<sup>144</sup> It was not until 1967 that the *Book of Newfoundland*’s article on “The Legal Profession in Newfoundland” by Rupert Bartlett, later a Supreme Court justice, seemed quietly to re-open these floodgates.<sup>145</sup> Bartlett made no reference to Reeves’s career outside Newfoundland, but the portrait included with article, Thomas

---

<sup>141</sup> English, *Essays in Canadian Law*, 9:19.

<sup>142</sup> English, *Essays in Canadian Law*, 9:21.

<sup>143</sup> Prowse, *A History of Newfoundland*, 358.

<sup>144</sup> “Memoir of John Reeves, Esq.,” *European Magazine and London Review* 73: 467.

<sup>145</sup> Bartlett, “The Legal Profession in Newfoundland,” in *The Book of Newfoundland*, 3:519-527; Ettie L. Gordon Murray, “Bartlett, Rupert Wilfred,” in *Encyclopedia of Newfoundland and Labrador*, 1:139.

Hardy's 1792 portrait, shows Reeves at his desk holding a letter addressed "To John Reeves, Esq. at the Crown and Anchor," with a manuscript reading "Association for Preserving Liberty and Property against Republicans and Levellers" at his elbow.<sup>146</sup> Neither Bartlett nor the editors provided a transcription of this text.<sup>147</sup> But in 1975, one of those editors, no less a historian than Joseph Smallwood—also writing for *The Book of Newfoundland*—noted that Reeves, "to combat the effect of the French Revolution, ... organized an association for preserving liberty and property against levellers and republicans" in November 1792.<sup>148</sup> Smallwood's editorial team then cropped everything out of Hardy's portrait that wasn't Reeves's face or cravat.<sup>149</sup> This truncated version of Reeves's portrait would later be used, without comment, in Smallwood's successor-project, the *Encyclopedia of Newfoundland and Labrador*, alongside articles by Patricia Sheppard and Carla Krachun, and by Alison Bates.<sup>150</sup> And yet, the use of Hardy's portrait was perfectly in keeping with the *Encyclopedia's* editorial preference "to show the subject engaged in the activity for which he or she is best known."<sup>151</sup> But neither Smallwood nor his fellow encyclopedists suggested any ideological continuity between Reeves's loyal association movement and his career in Newfoundland.<sup>152</sup>

---

<sup>146</sup> Bartlett, "The Legal Profession in Newfoundland," in *The Book of Newfoundland*, 3:521. Note that the painter Thomas Hardy is not to be confused with the founder of the London Corresponding Society.

<sup>147</sup> See also O'Neill, *Upon This Rock*, 102.

<sup>148</sup> Smallwood, "A Dictionary of Newfoundland Biography," in *The Book of Newfoundland*, 5:537, 603.

<sup>149</sup> Smallwood, "A Dictionary of Newfoundland Biography," in *The Book of Newfoundland*, 5:603.

<sup>150</sup> Sheppard and Krachun, "Judiciary: Supreme Court," in *Encyclopedia of Newfoundland and Labrador*, 3:145; Bates, "Reeves, John," in *Encyclopedia of Newfoundland and Labrador*, 4:547.

<sup>151</sup> "Note on Illustrations," in *Encyclopedia of Newfoundland and Labrador*, 3:xv. The only citation for the portrait is "Newfoundland Book Publishers." *Encyclopedia of Newfoundland and Labrador*, 3:681, 4:678.

<sup>152</sup> In another important respect, Smallwood may very well have suspected more than he let on. The historical portion of Smallwood's book, *The New Newfoundland*, did not mention either Reeves or the founding of the Supreme Court. But, having once recorded Governor Milbanke's 1789 opinion that it was "not in the interest of Great Britain to encourage people to winter in Newfoundland," he noted that anti-

The 1987 article on Reeves that Peter Neary contributed to the *Dictionary of Canadian Biography* signalled a renewal of interest in Reeves's political views, as well as a shift in historians' increasing willingness to cast Reeves as a defender of the status quo, if not yet as a spokesman for the old regime. Neary noted that "Reeves stepped out of the conventional life of his profession" as legal advisor to the Board of Trade when in 1791 he was appointed Chief Judge of an experimental Court of Civil Judicature—an experiment made necessary by the fact that Governor Milbanke's Court of Common Pleas had been "denied" legal sanction "by the English law officers."<sup>153</sup> After his time in Newfoundland, Reeves sought to expand the 1791 court's influence beyond St. John's by successfully legitimising naval surrogate courts in statute law. Neary further noted that in 1793, Reeves even went so far as to recommend to Parliament that "a court ... function in the absence of the chief justice," on which might sit "no other than the very Persons who sat in the Court of Common Pleas." These proposals bore fruit, even if his attempts to establish a formal acknowledgement of the Crown's title to the land in the form through quit-rents did not. At the same time, Neary's only discussion of "the ultra-royalist" Reeves's politics was that his *Thoughts on the English Government* "exaggerated the power of the monarch in the constitution at the expense of parliament and juries," and that his trial for seditious libel was "an unusual fate for a conservative spokesman."<sup>154</sup>

---

settlement policies against building permanent houses remained in effect until 1811. As a devoted student of Prowse, he would have been familiar with the outline of Newfoundland's history during that period. Had he expanded his narrative, though, he would have had to explain why Reeves's influence was unable to reverse this policy. Smallwood, "Chapter XXI – History—A Bit Syncopated," in *The New Newfoundland* (New York: The MacMillan Company, 1931), 229. (I am grateful to Matt Howse of Broken Books, a used bookstore in downtown St. John's, for drawing this chapter of *The New Newfoundland* to my attention.

<sup>153</sup> Neary, "Reeves, John," *Dictionary of Canadian Biography*, 6:636.

<sup>154</sup> Neary, *Dictionary of Canadian Biography*, 6:637.

One of the more sustained challenges to assumptions about Reeves's role in Newfoundland's history has come from Ingeborg Marshall's research into the history of the Beothuk. Marshall's 1989 edition of the *Reports and Letters by George Christopher Pulling* first suggested that Reeves took a more active role in trying to formulate a policy to restrain settler incursions to Beothuk territory than had been previously supposed.<sup>155</sup> Prior to Reeves's appointment, Lt. Pulling RN had expressed an interest in a fact-finding expedition into Beothuk territory, but Marshall suspected it was likely Reeves who helped set Pulling's expedition in motion.<sup>156</sup> She showed that towards the end his testimony before the House of Commons, Reeves endorsed Pulling's suggestion of stationing a Royal Navy ship at the Bay of Exploits for the Beothuks' protection.<sup>157</sup> But Marshall's pursuit of hints from Matthews' thesis also threw a serious wrench into Morton's narrative—and indeed Reeves's—by revealing the extent to which even Reeves relied on merchant capital to even propose reforms. True, his *History* complained of “the merchants,” but the vessel Pulling commanded for his *in cognito* fact-finding mission was the *Trinity*, a Trinity-built vessel in the merchant fleet of Benjamin Lester, the wealthiest merchant trading to both Newfoundland and Labrador—as well as an MP for Poole. In 1996, Marshall's *History and Ethnography of the Beothuk* showed that Reeves remained an advocate if not a judge, if somewhat hamstrung by his hopes of advocating for the rights of both settler and indigenous populations. The results were predictable: “neither Pulling's report, as proposed by Pulling and recommended by Reeves, are

---

<sup>155</sup> Frederick Rowe, *Extinction: The Beothuks of Newfoundland* (Toronto: McGraw-Hill Ryerson, 1977), 36; Rowe, *A History of Newfoundland and Labrador* (Toronto: McGraw-Hill Ryerson, 1980), 50, 162.

<sup>156</sup> Marshall, *Letters and Reports of George Pulling*, 17.

<sup>157</sup> Marshall, *Letters and Reports of George Pulling*, 25.

mentioned in the official records” of Parliament, “and it is doubtful that they were even discussed.”<sup>158</sup> Neither could Reeves motivate Parliament into any action, try as he might. “Reeves argued that it was the duty of the English to grant Beothuk the rights and civil society, principles that might have appealed to the commission where pleas for humanity had not.”<sup>159</sup> But if Marshall followed Morton in assuming Reeves’s humanitarian leanings were atypical of his age, such a view was not entirely without justification. As she observed, “the efforts of Chief Justice Reeves and others to bring about changes in the attitude towards native peoples began to bear fruit [by the early 1800s] inasmuch as the ill treatment of Beothuk was becoming public knowledge.”<sup>160</sup> The Board of Trade was skeptical of Reeves’s claim that the Beothuk “are as much British Subjects as people born in the Strand” and entitled to rights as such, but he had much better luck convincing naval governors—to whose authority he looked to enforce those rights.<sup>161</sup> But while Marshall observed Reeves’s bias towards propertied classes, as well as the faith he placed in the royal prerogative, she did not explore the political dimensions of either.

Christopher English’s research into Newfoundland’s legal history would leave a more nuanced impression of Reeves as the tireless black sheep of mercantilist policy-makers. In his 1990 article on “The Development of Newfoundland’s Legal System to 1815,” English stressed both the reluctance of the imperial government’s preference for more effectual but still minimal changes to the island’s naval regime.<sup>162</sup> The 1791

---

<sup>158</sup> Marshall, *History and Ethnography of the Beothuk* (Montréal & Kingston: McGill-Queens University Press, 1996), 117; Marshall, *The Beothuk* (St. John’s: Breakwater Books, 2009), 46.

<sup>159</sup> Marshall, *A History and Ethnography of the Beothuk*, 119.

<sup>160</sup> Marshall, *A History and Ethnography of the Beothuk* 127.

<sup>161</sup> Marshall, *A History and Ethnography of the Beothuk*, 119; see also Marshall, *Reports and Letters*, 26.

<sup>162</sup> English, “The Development of Newfoundland’s Legal System to 1815,” 114-115.

Newfoundland Judicature Act “was specifically restricted” to amending Section 18 of Palliser’s Act, “yet the aim of the court ... seemed to extend further.” In English’s view, the appointment of “John Reeves, legal adviser to the Board of Trade,” as Chief Judge in 1791 act was “a gauge of continuity” rather than comprehensive reform. English observed Reeves’s own preference for “continuity rather than change” when he proposed, alongside a new Judicature Bill, “a ‘regulating’ bill to tighten up enforcement of Pallister’s Act.” The 1792 Judicature Act, the only plan approved by Parliament, “marked a clear departure from the previous statutory regime,” but its acceleration “towards reconciling statute with [established] 18<sup>th</sup> century practice.”<sup>163</sup> English stressed that by 1792 Reeves’s pragmatism was perfectly in keeping with “the official mind-set of the policy makers and those called upon to put it into practice,” who preferred “a pragmatic *ad hoc* response fashioned to serve traditional aims.”<sup>164</sup> He offered Reeves’s suggestions for “how to assure the independence of the magistrates in the outports” from the control of merchants as one example of this mentality. Perhaps most startling is his sense that Reeves believed “the population was not ready for representative institutions.” Instead, he recommended “the continued use of the royal prerogative via proclamations by the Governor” to “avoid the inconvenience of going to Parliament on every issue.”<sup>165</sup> But despite describing evidence of what in England would be recognised as Reeves’s staunch Toryism, English assumes that, like Prowse, Reeves was also “a Newfoundland nationalist” of a “whiggish” disposition.<sup>166</sup> He stumbled somewhat in later efforts to

---

<sup>163</sup> English, “The Development of Newfoundland’s Legal System to 1815,” 115.

<sup>164</sup> English, “The Development of Newfoundland’s Legal System of 1815,” 117.

<sup>165</sup> English, “The Development of Newfoundland’s Legal System to 1815,” 117-118.

<sup>166</sup> English, “The Development of Newfoundland’s Legal System to 1815,” 92.

make sense of Reeves's politics, and concluded that they did not affect his time as Chief Justice. In a 1996 study of popular protest in Newfoundland from 1789 to 1815, English noted that Reeves's 1795-96 trial for seditious libel occurred during a "revolutionary age" marred by "dissent, street demonstrations, and official fears of insurrection," but he brushes past this context without mentioning Reeves's *anti*-revolutionary activism.<sup>167</sup>

Sean Cadigan has been more skeptical of both Reeves and his legacy. His 1991 study of "the Decline of Wage Labour in the Newfoundland Fishery" noted more bluntly what English hinted at: that Reeves's only duty, other than sitting as Chief Judge in 1791, "was to recommend changes for a more permanent judiciary act for Newfoundland."<sup>168</sup> In service of this end, Reeves realised "that Palliser's Act assumed that merchants directly manufactured salt cod."<sup>169</sup> Reeves's own bias lay with the wealthier merchant class, and in fact he regretted that landed property had no legal protections.<sup>170</sup> Cadigan also cast Reeves as a sympathetic if patrician mediator of class conflict. He "sympathized with the merchants of the Newfoundland trade" as "the entire codfishery depended on merchant credit," but he also felt "these residents, the planters, suffered most" since Palliser's Act had guaranteed servants' wages but not those of others who relied on servant labour as well as merchant credit.<sup>171</sup> He concluded that Reeves intended a Supreme Court to set the

---

<sup>167</sup> English, "Chapter 9 – The Official Mind and Popular Protest in a Revolutionary Era: The Case of Newfoundland, 1789-1819," in *Canadian State Trials*, eds. F. Murray Greenwood & Barry Wright, 2 vols. (Toronto: University of Toronto Press, 1996), 1:296.

<sup>168</sup> Cadigan, "Seamen, Fishermen and the Law: The Role of the Wages and Lien System in the Decline of Wage Labour in the Newfoundland Fishery," in *Jack Tar in History: Essays in the History of Maritime Life and Labour*, eds. Colin Howell and Richard Twomey (Fredericton, NB: Acadiensis Press, 1991), 109.

<sup>169</sup> Cadigan, "Seamen, Fishermen and the Law," in *Jack Tar in History*, 109.

<sup>170</sup> Cadigan also challenged Reeves's rigid division of Newfoundland's society into merchants, planters, servants, surgeons, clergy, and no one else. See Cadigan, "Artisans in a Merchant Town: St. John's, Newfoundland, 1776-1816," *Journal of the Canadian Historical Association* 4, no. 1 (1993): 95-119.

<sup>171</sup> Cf. M.F. Howley, *Ecclesiastical History of Newfoundland* (Boston: Doyle and Whittle, 1888), 192-193.

law above mutual exploitation.<sup>172</sup> In his 1995 *Hope and Deception in Conception Bay*, Cadigan further distinguished between Reeves's zeal and the caution of those he served.

His hands tied by the imperial government's commitment to the letter of the act, Reeves could only recommend that naval surrogate judges arbitrate disputes between servants, planters, and merchants as impartially as possible under the appellant authority of the Supreme Court.

He also clarified that Reeves's commitment to impartial justice was a rejection of merchants' tendency "to blame all planter's misfortunes on negligent servants."<sup>173</sup>

In her contribution to *The Atlantic Region to Confederation: A History* (1994), Ann Gorman Condon updated MacNutt's view of Reeves, uniting traditional grievances and an imperially-oriented skepticism with the lessons of social history. "True to its ancient policy, and prodded by ever-greedy English merchants, the Empire continued to resist giving the island a proper colonial government" after the American War. At best, Reeves's stint as Chief Justice was a half-measure; the imperial government

only required that he reside on the island during two summer months. ... Reeves's winters in England probably helped the colonists more than his summer tours, for he became a warm advocate of the need for more government on the island.

But Condon did not mention that Reeves's winters were spent as Law Clerk to the Board of Trade. For Condon, Reeves was a witness to "the consolidation of the resident fishery" who did little more than tell Parliament the obvious, but whose *Evidence before Parliament* and whose *History of Newfoundland* inspired "the growing community of resident merchants, who organized a Society of Merchants in 1800 and began to demand more public institutions." There is more than a little irony to Condon's view of Reeves as

---

<sup>172</sup> Cadigan, "Seamen, Fishermen and the Law," in *Jack Tar in History*, 110.

<sup>173</sup> Cadigan, *Hope and Deception in Conception Bay*, 85.

a judge-advocate who remained separate from the movement that he inspired, in which the colony's principal inhabitants formed themselves into political (one might say "loyal") associations. Condon at least recognised that while Reeves's connection to Newfoundland's political issues most enthused its propertied classes, "for the average fisherman, the local merchant had simply replaced the English merchant ... and ... the chronic problems of debt and dependency would continue to plague his existence." Reeves's own views on liberty and property are, however, left by the wayside.<sup>174</sup>

## II.viii – A Royalist by Any Other Name, 1995-2018

A number of more recent studies, focusing to varying degrees on the province's legal history, have begun to lay the foundation for a much more nuanced view of Reeves that incorporates hints of his politics, as well as the agenda of those he served.<sup>175</sup> In his 1995 Master of Laws (LLM) thesis, "Decolonizing *Ktaqmkuk Mi'kmaw* History," Jerry Wetzel was perhaps the first scholar of Newfoundland's history to explicitly accuse Chief Justice Reeves of some rather dubious myth-making. In fact he cited Reeves's argument, that local customs in Newfoundland had the force of law under England's own common law, as one example of "the transformation of myth based customs and traditions into common law" that continues to be "asserted by contemporary Canadian Courts in rejecting claims by First Nations to their homelands."<sup>176</sup> But if Wetzel regarded Reeves an uncomfortably colonialist jurist, his critique of Reeves's less metaphysical account of

---

<sup>174</sup> Condon, *The Atlantic Region to Confederation: A History*, 207.

<sup>175</sup> Wetzel came close to describing Reeves's politics, or at least the shape of his legalism, in an article he published the same year he submitted his thesis. See Wetzel, "Liberal Theory as a Tool of Colonialism and the Forced Assimilation of the First Nations of Newfoundland and Labrador," *Dalhousie Journal of Legal Studies*, no. 4 (1995): 110, quoting James (Sákéj) Youngblood Henderson, "The Doctrine of Aboriginal Rights in the Western Legal Tradition," in *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*, eds. Menno Boldt and J. Anthony Long (Toronto: University of Toronto Press, 1985), 191.

how Newfoundland's colonial constitution functioned—or rather, how it didn't—was more muted. Wetzel noted that governors' proclamations, "directed to the British fisherman and furriers in Newfoundland ... between 1768 and 1810, ordering that they stop murdering *Pi'taw* [Beothuk] people had no effect," but he did not discuss Reeves's role in enforcing or ignoring them. Reeves's observations on the seasonal nature of naval government, as well as "the limited geographic reach of the Governor's authority and ... limited legal jurisdiction" were foundational to Wetzel's conclusion "that there was no energetic or consistent enforcement of the Royal Proclamation of 1763."<sup>177</sup> Following Marshall, Wetzel also did not fault Reeves for failing to act as the link between Lt. Pulling and the House of Commons Newfoundland Committee that he should have. Despite the fact that Pulling's capture prevented him from conveying "additional information on the Indians he wished to report to Reeves verbally," Reeves, after all, still managed to publicly endorse Pulling and George Cartwright's "proposals of putting a naval force in the area to protect the *Pi'taw* people from English fishermen" in his own evidence to the Newfoundland Committee.<sup>178</sup> Instead, Wetzel argued that "[t]he evidence ... points to a high level decision made by English politicians not to do anything about the extermination of the *Pit'aw* people by English fishermen in *Ktaqmkuk*." He conceded that "[w]ho, or what interests, influenced their decision" to ignore Reeves's and other's testimony "is yet to be explored"—but without identifying him as such, he strongly suspected Reeves's patron.<sup>179</sup> Wetzel also assumed that *Lord* Hawkesbury chaired the

---

<sup>176</sup> Wetzel, "Decolonizing *Ktaqmkuk Mi'kmaw* History" (LL.M. thesis, Dalhousie University, 1995), 3n10. Other influential myths Wetzel cites are the Doctrine of Discovery and the Mi'kmaq Mercenary Myth.

<sup>177</sup> Wetzel, "Decolonizing *Ktaqmkuk Mi'kmaw* History," 245.

<sup>178</sup> Wetzel, "Decolonizing *Ktaqmkuk Mi'kmaw* History," 236, 241.

House of Commons Newfoundland Committee, and as Chairman prevented Pulling's report from being entered into evidence.<sup>180</sup> But Hawkesbury's influence as President of the Board of Trade makes Wetzel's main observation no less unsettling: the fact that

the original of the Pulling Manuscript was [not] found in the personal records of ... Charles Jenkinson, the First Earl of Liverpool ... [until] the 1960's ... raises the question if it was Sir Charles himself who kept the Pulling Report hidden for over 150 years. ... Further research to explore if Jenkinson had ties with the West Country merchants might provide some insight into why he withheld this report and never acted on the proposals to protect the *Pi'tawk'ewaq*.<sup>181</sup>

Wetzel, however, regarded "Chief Justice Reeves" as one of many "Newfoundland colonial officials ... who did testify at the Parliamentary Enquiry of 1793."<sup>182</sup> While he did not add Reeves's position as Law Clerk to the Board of Trade into the equation of Hawkesbury's personal influence, his remains a challenge that few have answered.

A less critical but still insightful sketch of Reeves, also exploring his role in the story of the Beothuk, is found in Sidney Haring's study 1998 *White Man's Law: Native People in Nineteenth-Century Canadian Jurisprudence*. Perhaps ironically, the American Haring's study addresses the question of Reeves's politics more directly than either Marshall or Wetzel, taking their observations to a logical if unexpected conclusion. While Haring did not explicitly identify Reeves as a conservative, his first chapter observed

---

<sup>179</sup> Wetzel, "Decolonizing Ktaqmkuk Mi'kmaw History," 243.

<sup>180</sup> There was indeed a "Mr. Jenkinson" on the Newfoundland Committee, but this would have been Robert Banks Jenkinson, Charles Jenkinson's son. The likeliest chairmen appear to have been Dudley Ryder, who requested a number of documents from the Board of Trade, and who presented the Committee's first report; and—perhaps the likelier candidate—Michael Angelo Taylor, who presented the Committee's second and third reports to the House. See Parliament of Great Britain, "11 March 1793 – Representations, &c. relating to the Newfoundland Trade and Fishery presented," "26 March 1793 – Report [on the] Newfoundland Trade," "24 April – Report [on the] Newfoundland Trade," "17 June 1793 – Report [on the] Newfoundland Trade," *Journals of the House of Commons*, 48:376, 456, 679.

<sup>181</sup> Wetzel, "Decolonizing Ktaqmkuk Mi'kmaw History," 243n534. (Hawkesbury is not often referred to as "Sir Charles"—but he did inherit the Jenkinson baronetcy upon the death of Sir Banks Jenkinson in 1790.)

<sup>182</sup> Wetzel, "Decolonizing Ktaqmkuk Mi'kmaw History," 236.

that “[t]he rulers and ruling class of Canada were Tories, living embodiments of conservatism in all its forms.”<sup>183</sup> Harring clarified that by 1791, the behaviour of Tory policy-makers on either side of the Atlantic stemmed from their regard for “the rule of law”—that is, “[t]he rich substance of the common law, interpreted in a formalistic manner by a conservative judiciary and a government under the powerful unifying symbol of the crown.”<sup>184</sup> Tracing the quest to correct the excesses that had led to the loss of the United States, Harring viewed Reeves’s concern for the Beothuk as entirely consistent with his historic role as a Tory official striving for superior administration.

John Reeves ... took special interest in the uncontrolled killings of Beothuk and believed that the cause was a failure of law ... Reeves believed that the enforcement of existing laws would ameliorate the situation, although he conceded that it would be difficult in the far reaches of the colony.<sup>185</sup>

Harring noted that Reeves’s legalism contrasted with authorities’ earlier unwillingness to address Newfoundland’s frontier genocide, though his contextualising use of Reeves, as an early example of an informed official whose recommendations fell on deaf ears, has the curious effect of casting Reeves as a well-intentioned but ineffective liberal.

Mark Warren Bailey would produce an oddly similar portrait of Reeves in his intellectual history of “John Reeves, Esq. Newfoundland’s First Chief Justice: English Law and Politics in the Eighteenth Century.” Bailey’s 1998 article included a close reading of the loyalist propaganda issued by the APLP, including literature supporting the Divine Right of Kings, and a re-examination of the first letter of Reeves’s “Thoughts on

---

<sup>183</sup> Harring, *White Man’s Law: Native People in Nineteenth-Century Canadian Law* (Toronto: University of Toronto Press, 1998), 17.

<sup>184</sup> Harring, *White Man’s Law*, 17.

<sup>185</sup> Harring, *White Man’s Law*, 177.

the English Government.”<sup>186</sup> However, he seems to have taken literally either Richard Sheridan’s 1795 lament that Reeves was once a member of the Whig Club, or E.P. Thompson’s 1975 sardonic jibe that practically everyone in eighteenth-century England was a Whig.<sup>187</sup> Bailey also interpreted Matthews’ remark that Reeves’s *History* reflected “contemporary official attitudes” to mean that “Matthews properly identified Reeves’s attitudes with the Whig political ideology that dominated English politics until the end of the eighteenth century.”<sup>188</sup> His reading of the *History*’s unpublished manuscript further convinced him that Reeves’s classist paternalism was consummately Whiggish.<sup>189</sup> In the absence of a civil judiciary or an established church, “the lower classes in Newfoundland were ‘under no control of any regular civil Government, except what arises from the inefficient Establishment of Justices of the Peace.’”<sup>190</sup> Most convincing was his observation that Reeves directed readers’ prejudices against the lower classes towards Newfoundland’s merchants as the wrong kind of elites. “In the *History of Newfoundland*, the primacy of landed wealth and political ideas of the English gentry were implicitly assumed.”<sup>191</sup> But Bailey’s article also devoted itself to the thesis that Reeves rejected everything dear to the Whig worldview without eventually becoming a Tory; and his overview of Reeves’s intellectual milieu engaged with none of the relevant scholarship

---

<sup>186</sup> Note that historians’ references to Reeves as a “loyalist” invariably refer to a British Loyalism against the ideology of the French Revolution, rather than the United Empire sense of loyalty to the Crown after the colonial rebellion of the American Revolution. Though as Bowles’ biographer has convincingly noted, “For Reeves nothing was more detestable than a passionate republican, whether in France, Britain, or elsewhere.” Leitch, *William Augustus Bowles: Director General of the Creek Nation*, 99.

<sup>187</sup> Bailey, “John Reeves, Esq.,” 43-45; Sheridan, “26 November 1795 – Proceedings in the Commons respecting Mr. Reeves’s Libel on the British Constitution,” in Cobbett, ed., *Parliamentary History*, 32:628; E.P. Thompson, *Whigs and Hunters* (London: Breviary Stuff, 2013), 153.

<sup>188</sup> Bailey, “John Reeves, Esq.,” 30.

<sup>189</sup> Bailey, “John Reeves, Esq.,” 33.

<sup>190</sup> Bailey, “John Reeves, Esq.,” 33-34.

<sup>191</sup> Bailey, “John Reeves, Esq.,” 34.

exploring Reeves's role in the high or low politics the late eighteenth century.<sup>192</sup>

Jerry Bannister's more forensic archival research would produce an equally opaque view of Reeves from the opposite direction—one that allowed a more detailed understanding of Reeves's role in Newfoundland's colonial government, but that only superficially discussed Reeves's career in London. Bannister's 1998 study of "Convict Transportation and the Colonial State in Newfoundland" confusingly described Reeves as "a legal advisor to the British government"—in the course of citing Reeves's high regard for D'Ewes Coke and Jonathan Ogden's abilities as seasoned magistrates.<sup>193</sup> Since then, Bannister's view of Reeves has largely adhered to a view of Reeves as an ideal civil servant: competent but expendable, and with few if any opinions of his own that did not serve the immediate interests of the state. While testifying before Parliament, "Reeves exaggerated both the influence of English merchants and the degree of official neglect ... but he accurately identified the gap between policy and practice" on the question of settlement.<sup>194</sup> When he overstated the case, he simply toed the official line too eagerly. Most importantly, whenever he made proposals more elaborate than what was required, they did not interfere with the more serious business of governing. Indeed, Bannister saw Reeves's "innovative" proposals as consistent with administrative pragmatism, noting that Newfoundland's "[g]overnment after 1792 continued to function basically as it had during Milbanke's tenure."<sup>195</sup> When not speaking as a theorist of legal custom or as the

---

<sup>192</sup> For a study of one of Reeves's contemporaries who might be more accurately described as a monarchist Whig, see L.F.S. Upton, *The Loyal Whig: William Smith of New York & Quebec* (Toronto: University of Toronto Press, 1969). See also William Smith, *The Diary and Selected Papers of Chief Justice William Smith, 1784-1793*, ed. L.F.S. Upton, 2 vols. (Toronto: University of Toronto Press, 1963).

<sup>193</sup> Bannister, "Convict Transportation and the Colonial State in Newfoundland, 1789," *Acadiensis* 27, no. 2 (Spring 1998), 101, 101n35.

<sup>194</sup> Bannister, "Convict Transportation and the Colonial State," 117.

author of official reports, the most agency Reeves has in *The Rule of the Admirals* is when he advised Governor King not to interfere with the Court of Vice-Admiralty's trial of a fishing servant accused of murdering his master at sea.<sup>196</sup> Bannister did draw the distinction that in Reeves's view, "the [fishing] admirals" rather than all merchants *per se* "were unfit for any type of public office."<sup>197</sup> He argued that Reeves's portrayal of the Royal Navy's "officers as champions of the rule of law" to be an honest if over-zealous relaying of "the fact that they were *seen* to represent law and order."<sup>198</sup> He further noted that in 1792, "Reeves warned that acquiring a sufficient number of qualified men to serve as justices for reasonable pay was the judiciary's most pressing problem." However, he did not explore any connection between this proposal and Reeves's simultaneous appointment as Receiver of Public Offices for Middlesex.<sup>199</sup>

In the wake of Bailey and Bannister's articles, others have continued to elaborate on earlier views of Reeves set forth in previous decades. Having in his 1988 article "The Seeds of Reform" described governors' rule by proclamation as "paternalistic and anachronistic, but ... by no means a harsh tyranny," Patrick O'Flaherty sidestepped the question of Reeves's alliance to such a regime.<sup>200</sup> In his 1999 book *Old Newfoundland: A History to 1843*, he noted that from 1792 to 1820, the Supreme Court had functioned as a

---

<sup>195</sup> Bannister, "Convict Transportation and the Colonial State," 120.

<sup>196</sup> Bannister, *Rule of the Admirals*, 155.

<sup>197</sup> Bannister, *Rule of the Admirals*, 38.

<sup>198</sup> Bannister, *Rule of the Admirals*, 155.

<sup>199</sup> Bannister notes that when in 1751 a parliamentary committee was established to recommend penal reforms, "writers" Henry Fielding and Samuel Johnson volunteered their opinions. But because Bannister considers these two only as literary figures, he does not explain that Fielding was also chief justice of Westminster and a police reformer—or that the year before he had formed the Bow-Street Runners. Bannister, *Rule of the Admirals*, 105; J.M. Beattie, *The First English Detectives*, 14-24.

<sup>200</sup> O'Flaherty, "The Seeds of Reform: Newfoundland, 1800-1818," *Journal of Canadian Studies* 23, no. 3 (1988): 41.

legislature, but did so without explaining if or why Reeves had pushed the Court in that direction.<sup>201</sup> Expanding on Morton's caution that Reeves "was no radical reformer," O'Flaherty noted that while Reeves may have proposed a local legislature in 1791, he never suggested an elected one.<sup>202</sup> But he also still identified Reeves as "the first man of parts *outside* government ... to get an intellectual grasp of Newfoundland."<sup>203</sup> In 2009, Sean Cadigan's *Newfoundland and Labrador: A History* explained that Reeves's hope of establishing property rights was a challenge to semi-resident merchants and the naval state. But he also blamed Reeves for preserving the migratory fishery's legal regime while pretending to bring about a revolution in it—warning his readers not to be deceived by Reeves's populism. Cadigan identified Reeves as "at heart, a conservative defender of the values of the English gentry," but his paraphrase of Bailey does not explain why this worldview led Reeves to believe "that merchants wanted to let nothing interfere with their power over fishing people."<sup>204</sup> Fiona Polack has the honour of being the first scholar of Newfoundland to explicitly describe Reeves as a Tory, in her 2011 studies of Reeves's role in 1807 efforts to establish peaceful contact with the Beothuk—articles, it must be said, that owe more to Ingeborg Marshall than to Keith Matthews. But Polack did not regard Reeves's "toryism" as anything more than an interesting biographical detail.<sup>205</sup>

Most recently, Philip Girard, Jim Phillips, and R. Blake Brown's first volume of *A History of Law in Canada* (2018) has included a discussion of how the "highly

---

<sup>201</sup> O'Flaherty, *Old Newfoundland*, 133-134.

<sup>202</sup> O'Flaherty, *Old Newfoundland*, 110.

<sup>203</sup> O'Flaherty, *Old Newfoundland*, 109 (my italics).

<sup>204</sup> Cadigan, *Newfoundland and Labrador: A History* (Toronto: University of Toronto Press, 2009), 81; cf. Bailey, "John Reeves, Esq.," 45.

<sup>205</sup> See Polack, "Amelia Curran's Newfoundland Painting," 28; Polack, "Art in the Bush: Romanticist Painting for Indigenous Audiences in Tasmania and Newfoundland," 344.

conservative” Reeves engineered a 1792 Judicature Act that both “spoke to continuity” and “represented a break with the past.” Citing Bannister, Girard, Phillip, and Brown do not claim that Reeves himself “administered justice impartially” but that the Royal Navy already fulfilled this function long before Reeves’s arrival. These authors also see Reeves’s appointment as part of a much longer arc than the constitutional crisis of 1789, explaining that the establishment of the Supreme Court and *its* surrogate courts in 1792 “insulat[ed] Governor Rodney’s innovation” of gubernatorial and surrogate courts “from further attack.” They note that at Reeves’s recommendation, the 1792 Judicature Act decreed that in criminal cases, the Supreme Court “was to follow English law, while in civil cases English law ‘as far as can be applied to suits and complaints’ arising in Newfoundland was to be the rule for decision.”<sup>206</sup> Girard et al. also assume that the fishing admiral system was outlawed under the Act—in fact it was never explicitly abolished—though as the authors note, Reeves did ensure that much of the admirals’ jurisdiction was annexed to the Supreme Court and other civil courts. But while they limit the discussion of the effects of Reeves’s conservatism to the number of courts that the Newfoundland Judicature Acts recognised, Girard, Phillips, and Brown’s unusually personal sketch of Reeves suggests that his politics were vital to his appointment.<sup>207</sup>

Citing a parallel between Reeves and William Osgoode, they note that both chief justices

came from undistinguished parentage, read law and became barristers, were highly conservative in politics and exuberant supporters of the monarchy, became accomplished writers (though Reeves’s output left a greater mark than Osgoode’s), spent relatively little time in their judicial posts in British North

---

<sup>206</sup> Girard, Phillips, & Brown, “Chapter 14 – The British Commercial Territories: Newfoundland and Rupert’s Land,” in *A History of Law in Canada*, 1:258-259.

<sup>207</sup> Girard, Phillips, & Brown, *A History of Law in Canada*, 1:259.

America before returning to Britain (Osgoode a decade, Reeves only two [fishing] seasons), and died wealthy bachelors. Their careers illustrate the way in which, for those of obscure social origins, a legal career coupled with the right political ideas could lead to highly prestigious posts in the empire, if not at home.<sup>208</sup>

In making this conclusion, Girard et al. skip over Reeves's position as Law Clerk to the Committee of the Privy Council for Trade. And yet, theirs is still a fair if acerbic portrait of a civil servant who enjoyed more notoriety than prestige at home, but whose written works ensured he enjoyed almost nothing but prestige in Newfoundland.

## II.ix – Conclusion

Historians of Newfoundland's constitutional development have only very recently begun to shed earlier historians' agreed-upon thesis that Reeves had no agenda of his own as a reformer of Newfoundland's judiciary, as the first Chief Justice of Newfoundland, or as the author of the *History of the Government of the Island of Newfoundland*. This view of Reeves was developed by the province's nineteenth- and twentieth-century colonial intelligentsia—clergy, magistrates, politicians—who had come to rely on an inward-looking tradition that regarded Reeves as a “pro-settlement” and therefore a proto-nationalist figure in his own right. But this traditional view of Reeves may have thrived for so long because his views on topics more controversial than the shape of Newfoundland's local government were ignored; as was his role in a fiercely High-Tory and neo-mercantilist (“anti-colonial”) Administration. The glowing reputation Reeves enjoyed in Newfoundland has largely resulted from professional historians' failure to ask why those invoking Reeves's legacy for political purposes did not publicly discuss

---

<sup>208</sup> Girard, Phillips, & Brown, *A History of Law in Canada*, 1:259-260. Their observation certainly parallels the more enthusiastic reception that Reeves's ideas for police reform received in Ireland than in England.

Reeves's own politics. This is not to suggest that even those standard histories that have, in turn, standardised discussions of Reeves have not suspected that all was not as it seemed. Later-nineteenth- and twentieth-century historians of the nationalist school, despite their colonialist chest-thumping, nevertheless laid the foundation for a healthy skepticism towards the legacy of a man who, after all, spent not quite four months of his life on the Island. Indeed, earlier twentieth-century British-trained historians' accounts of Reeves's career in Newfoundland continued to reveal the limits of Reeves's influence within the imperial government. Those who contributed most to this same school would prove to be one Canadian and one New Zealander—who, combined with Harlow's study of the imperial government's internal politics, provided a comprehensive window into Reeves's relationships to higher-ranking policy-makers. But Prowse's domineering influence over the historiography of Newfoundland both inside and outside the academy is evident even in Keith Matthews' attempt to de-mythologise the fishing admirals once and for all in his "Fence Building" essay. The retreat into historiography that Matthews' influence inspired has also not significantly departed from the early nationalists' or indeed standardised constitutional histories' position that Reeves's career after his second summer as Chief Justice was simply not worth asking about.

Cracks in the ice have come slowly—but because the biggest axes have been swung by specialists in Newfoundland, this led to only a superficial engagement with Reeves's politics by those less familiar with British or British imperial history during the politically volatile 1790s. Smallwood first brought Reeves's role as leader of the APLP to the attention of the public if not the academy in 1975, but this odd little factoid's

appearance in *The Book of Newfoundland* rather than an academic journal left that aspect of Reeves's career undiscussed until 1998. Neary's 1987 biography of Reeves contained a more explicit introduction to the fact that Reeves harboured many heterodox political ideas, but he regarded these as isolated from his career as Chief Justice. With the exceptions of Morton and Marshall, discussions of Reeves's time in Newfoundland have tended to view Reeves as a fortunate fixture of the colonial government, rather than as a specialised instrument of the imperial one. All continue to rely on both Neary's *DCB* article and Mark Warren Bailey's 1998 article on "John Reeves, Esq." for information concerning Reeves's politics. Bailey's attempt to broaden the focus of Newfoundland Studies' understanding of Reeves, while at times insightful, is marred by an uncritical over-emphasis on the intellectual contexts of the eighteenth-century common law, natural law, and the Enlightenment (whose cosmopolitanism Reeves rejected), offers little insight into the high or low politics of the 1790s. Advances in the province's legal history have also been slow to recombine with advances in the study of its Indigenous histories—or for that matter imperial history. The irony is that Reeves's proposal that restrict colonial expansion might also help impose a stricter border with, and a subsequently paternalistic oversight of, the Beothuk—together with his legal argument that the Beothuk already were British subjects who deserved the Crown's protection as such—form perhaps the starkest illustrations of his Court-inflected High-Tory paternalism on the subject of Newfoundland. The effects of academic specialisation on Reeves's story are by no means limited to the settler-Indigenous divide within Newfoundland Studies. No historian of Newfoundland has touched on Reeves's role in the police history of the British Isles, few

have explained the ideological continuities of Reeves's other works to his *History of Newfoundland*, and no examination of Reeves's time as Chief Justice has explained the significance of his other job as Law Clerk to the Committee of the Privy Council for Trade and Foreign Plantations—that is, the policy-makers of the British Empire. Views of him remain geographically confined.

### Chapter III. – “A Sort of Colony”: The Role of Political Faction, 1789-1793

John Reeves’s career as Law Clerk to the Board of Trade, an office that he held from 1787 until his retirement in 1823, is an often under-appreciated facet to his two-month terms as Chief Judge of Newfoundland’s Court of Civil Judicature in 1791, and as Chief Justice of that island’s Supreme Court in 1792. In one important respect, this is understandable. As a colonial judge, and in that capacity an expert witness to the House of Commons’ Newfoundland Committee in 1793, Reeves appears to have been an advocate for the legal rights of Newfoundland’s colonists. The implication, to borrow a phrase from Prowse, is that Reeves somehow “triumphed over all opposition”—including that of the British government. But from his appointment as Law Clerk in 1787 until 1804, John Reeves’s political patron “through thick and thin” was the President of the Board of Trade, the veteran Tory politician Charles Jenkinson, created Baron Hawkesbury in 1786 (and Earl of Liverpool as of 1796).<sup>1</sup> This meant that Reeves made his living providing legal advice in service of Lord Hawkesbury’s project of adapting the empire’s mercantilist regime to the realities of American independence—an agenda that included trying to ensure that Newfoundland had as few year-round residents as possible.<sup>2</sup> Shortly before his retirement as President of the Board of Trade in 1804, Jenkinson, then the Earl of Liverpool, had come to accept that

Newfoundland has for a long time been gradually increasing in population, and in that respect is become a sort of colony, and in the end it will become so entirely. It is proper, however, to counteract this tendency as long as possible: at the same time, concessions must occasionally be made as so as to prevent tumult and disorder among the people of the island, who are in general of a very low and a

---

<sup>1</sup> James Gillray, “The Crown & Anchor Libel,” 28 November 1795, British Library.

<sup>2</sup> See Harlow, *The Founding of the Second British Empire, 1763-1793*, 2:254-280.

very bad description.<sup>3</sup>

Far from a revolution in policy single-handedly effected by Reeves's defiance of his patron, Jenkinson's late-career resignation to the "sort of colony" at Newfoundland represented a compromise between the rigid mercantilist orthodoxy that Jenkinson had helped shape at various stages of his career, and the reality on the ground that John Reeves's firsthand knowledge and experience in Newfoundland on Jenkinson's behalf.

To that end, this chapter argues that both Reeves and Hawkesbury (as he was styled during this time) saw the Supreme Court of Newfoundland, the Newfoundland Judicature Acts, and other prerogative reforms intended to strengthen the island's judiciary were the best means of enforcing the imperial Administration's existing Newfoundland policy. That said, this chapter also argues that that while an anti-colonial policy guided Reeves's words and actions as Chief Justice, this was not an automatic process. From 1791 to 1793, Reeves's evolving view of a high court's purpose in Newfoundland was forced into clearer shape by an increasingly organised mercantile and parliamentary opposition to Lord Hawkesbury's policies. To show how Reeves's consistent justification of the Supreme Court and its predecessors were the logical attitude of a devoted servant of the Committee of the Privy Council keeping pace with a belligerent House of Commons, this chapter focuses on the political factions that influenced his 1791 and 1792 reports, his 1793 *History of Newfoundland*, and his evidence before the Newfoundland Committee. The first faction considered is the economic conservatives, led but not necessarily controlled by Hawkesbury, who seemed

---

<sup>3</sup> Charles Jenkinson, 1<sup>st</sup> Earl of Liverpool, "Letter to James Gambier," quoted in Paul O'Neill, *The Oldest City: The Story of St. John's, Newfoundland* (St. John's: Boulder Publications, 2008), 585.

almost obsessed with the Newfoundland fishery's mythic role in providing manpower to the Royal Navy. This allows us to understand why the Privy Council effectively *endorsed* the Court of Common Pleas that Governor Milbanke created in 1789. Following the British Lord Chancellor's refusal to make the royal prerogative an even bigger political target by forcing the issue into Parliament in 1791, the narrative shifts to the objections of the faction I call the constitutional conservatives; that is, West Country merchants' representatives in the House of Commons who opposed any constitutional development beyond King William's Act of 1699. This in turn allows us to appreciate the more mundane nature of Reeves's 1791 report, which was primarily concerned with explaining that a high court was necessary and much sought after—particularly by local merchants.

Further rejecting the notion that West Country merchants were as a bloc opposed to all civil government in Newfoundland, I offer the conjecture that Benjamin Lester, whom I identify as the patron of "the silent faction," objected to the 1792 Judicature Bill because the Supreme Court was not yet under his patronage. Such an interpretation, I argue, helps explain the early retirement of Aaron Graham. Tracing the progress of the bill, I examine the more organised Parliamentary opposition to the three bills that Reeves proposed for Newfoundland. I suggest that the "constitutional conservatives" retaliated to Lester's alliance with Hawkesbury by excluding Customs officers from the Commission of the Peace under the 1792 Judicature Act. Following Reeves's final return from Newfoundland, I offer further hints of an alliance between Lester and Hawkesbury, as seen in Lester's support of Reeves's loyal association movement, and between Reeves's increasingly favourable view of outport merchants as the Newfoundland fishery's natural

equivalent to English landed gentry. I then show that neither Reeves nor Hawkesbury belonged to the most extreme faction jostling to realise their visions of Newfoundland's role within the empire. The ultra-conservative or reactionary proposal to remove Newfoundland's entire colonial population, once public, continued to be entertained into the summer of 1793 but was not acted upon. I conclude by arguing that if Reeves is still to be allowed his customary place in history as a "judge-advocate" on behalf of colonists, our understanding of that reputation must account for Reeves's own sense of his role.

### **III.i – The Economic Conservatives**

Having begun his political career as a private secretary to the Tory prime minister Lord Bute, Charles Jenkinson was highly influential among Tory policy-makers following the Seven Years' War, and was later assumed to be the power behind the throne during the Tory ministry of Lord North.<sup>4</sup> Although as an MP Jenkinson could perhaps not make imperial policy quite the "private kingdom" that he later would as President of the Board of Trade, he was a zealous economic and political conservative eager to see Great Britain consolidate its territorial gains following the Peace of Paris.<sup>5</sup> Prior to the American Revolution, Jenkinson was well known among those who favoured administering the colonies "in such a manner as will keep them useful to the Mother Country"—that is, in preferring a centrally administered seaboard mosaic of staple economies to unrestrained settlement in the American hinterland.<sup>6</sup>

---

<sup>4</sup> See John Brooke, "Jenkinson, Charles (1729-1808), of Addiscombe, Surrey," in *The History of Parliament: The House of Commons, 1754-1790*, eds. Lewis Namier and J. Brooke (Woodbridge: Boydell and Brewer, 1964); online version at < <http://historyofparliamentonline.org/volume/1754-1790/member/jenkinson-charles-1729-1808>>.

<sup>5</sup> Keith Matthews, *Lectures on the History of Newfoundland*, 126.

In Newfoundland's case, the saltfish trade meant Newfoundland's fishing grounds were, in theory, of greater value to the empire than its fish. At least in the constitutional rhetoric of the time, the fishery was considered a "nursery for seamen"; a trade breeding up experienced sailors who could be impressed into the Royal Navy when needed.<sup>7</sup> In practice, however, while "ships returning with passengers from Newfoundland were fair game" for British press gangs, merchants resident in Newfoundland habitually objected to sacrificing their debtors to His Majesty's Navy.<sup>8</sup> In service of this far-reaching policy Rear-Admiral Hugh Palliser, Newfoundland's naval governor from 1764-1768, did everything he could to discourage settlement so as "to encourage the fishery."<sup>9</sup> Palliser did not limit his hostility to either Roman Catholic Irish settlers, New England merchants, or recently-settled French colonists at St Pierre and Miquelon eager for trading partners. Even his attempts to prevent Mi'kmaq families, long accustomed to moving between their traditional territories in Cape Breton Island and Newfoundland, from residing in *Ktaqamkuk* on a more permanent basis, were consistent with his extreme view that

none of His Maj[esty's] Subjects whether Indians or others from the Plantations [i.e., the colonies] can by Law, or ever have been permitted, to resort to this Government, except to bring Supply's of Provisions for the British Fishers during the Fishing Season, and even such are by the King's Express Commands to quit this Country when I do.<sup>10</sup>

---

<sup>6</sup> Jack P. Green, "The Seven Years' War and the American Revolution: The Casual Relationship Reconsidered," in *The British Atlantic Empire before the American Revolution*, eds. Peter Marshall and Glyndwr Williams (London: Frank Cass and Company Limited, 1980; re-published London and New York: Routledge, 2017), 92.

<sup>7</sup> Cf. George Chalmers, *Opinions on Interesting Subjects of Public Law and Commercial Policy arising from American Independence* (London: Printed for J. Debrett, 1785), 72-73.

<sup>8</sup> Derek Beamish et al, *The Pride of Poole, 1688-1851* (Poole: Printed and Published by the Borough and County of the Town of Poole, 1974), 15. See Keith Mercer, "The Murder of Lieutenant Lawry: A Case Study of British Naval Impressment in Newfoundland, 1794," *Newfoundland and Labrador Studies* 21, no. 2 (Fall 2006): 255-289.

<sup>9</sup> John E. Crowley, "Empire versus Truck: The Official Interpretation of Debt and Labour in the Eighteenth-Century Newfoundland Fishery," *Canadian Historical Review*, 70, no. 3 (Sept. 1989): 324.

In 1774, the now-knighted Sir Hugh Palliser was elected a Tory MP for Scarborough, and in that capacity collaborated with Jenkinson on what became known as “Palliser’s Act”—which (among other things) required forty shillings (£2.0s.0d) of each servant’s wages to be withheld to pay for his passage “home.” In 1775, Lord North saw in Palliser’s bill a chance “to make Newfoundland as much as possible an English island, rather than an American colony” by excluding the provinces of New England from the Newfoundland fishery. The task of shepherding Sir Hugh’s bill through the Commons fell to Jenkinson.<sup>11</sup> William Knox would later recall that in support of the policy behind this Act, as late as 1786 Lord North, then a Secretary of State, had instructed Newfoundland’s naval governors that absolutely no encouragement was to be given to settlers.

To prevent the Increase of Inhabitants on the Island, ... Governors ... [were] instructed to withhold from [settlers] whatever might serve to encourage them to remain on the Island; ... whatever they loved to have roasted, he was to give them raw, and whatever they wished to have raw, he was to give them roasted.<sup>12</sup>

Whether Jenkinson was by this time toeing Lord North’s line or (as Keith Matthew seems to suggest) Lord North was toeing his, having lost the United States to revolution, neither man was about to lose Newfoundland to population.

In its 17 March 1786 report on Newfoundland, the Committee—of which Jenkinson was an influential member though not yet its President—was much more adamant “[t]hat Your Majesty’s Subjects who may from Time to Time reside in

---

<sup>10</sup> Palliser, “22 October 1765 –Letter to Lt.-Col. Robert Pringle (Governor of the Fortress of Louisbourg),” GN 2/1/A/3, p. 345. See Olaf Uwe Janzen, “The Royal Navy and the Interdiction of Aboriginal Migration to Newfoundland, 1763-1766,” in *War and Trade in Eighteenth-Century Newfoundland* (St. John’s: International Maritime Economic History Association, 2013), 173-192, esp. 182-188; Dennis A. Bartels and Janzen, “Micmac Migration to Western Newfoundland,” *Canadian Journal of Native Studies* 10, no. 1 (May 1990): 71-96. I am grateful to Jude Benoit for drawing this episode to my attention.

<sup>11</sup> Frederick, Lord North, 2<sup>nd</sup> Earl of Guildford, “27 April 1774,” in *Parliamentary Register*, 1:441.

<sup>12</sup> Knox, *Second Report of the Newfoundland Committee*, 16-17; cf. Prowse, *History of Newfoundland*, xix.

Newfoundland, ought never to be allowed to form themselves into a Colony.” The Committee acknowledged that “a certain Number” of over-winterers who kept fishing rooms in working order allowed “our Fishermen” to enjoy a longer fishing season. But it also recommended that “the Number so suffered to remain should not exceed the number absolutely necessary for that purpose.”<sup>13</sup> Ten days after the Board of Trade submitted its report to His Majesty, Jenkinson (still an MP prior to his elevation to the peerage that August) coolly repeated its precepts to Parliament. Policy, he assured the Commons, was

to preserve [Newfoundland] entirely a British fishery; and this could only be done by confining it to British ships, navigated from Great Britain, and by no means permitting any stationary settlement to be made on the island of Newfoundland.<sup>14</sup>

As he further explained:

[i]f a colony were to be settled there, courts of judicature must be instituted, and a civil government established, the obvious consequences of which would be, the loss of the fisheries to this country, as had been the case with respect to the New-England fisheries.<sup>15</sup>

For now, Jenkinson was perfectly ease defending the policy he would soon inherit.

But in 1789, Jenkinson—now Lord Hawkesbury—was forced to eat his words when Governor Mark Milbanke created a court of judicature on his own initiative, in response to new settlers of “a very bad description.” That year, two boatloads of Irish convicts sentenced to transportation were marooned outside Bay Bulls, and were rounded up in St. John’s, where the governor could keep a closer eye on them.<sup>16</sup> When merchants

---

<sup>13</sup> Board of Trade, “17 March 1786 – Report of the Lords of the Committee of Privy Council for Trade, on the Subject of the Newfoundland Fishery (Copy),” 2, in *House of Commons Sessional Papers*, 90:50.

<sup>14</sup> Jenkinson, “27 March 1786 – Debate in the Commons on Mr. Jenkinson’s proposition relative to the Newfoundland trade and fishery,” in *Parliamentary Register*, 19:441.

<sup>15</sup> Jenkinson, “27 March 1786 –Mr. Jenkinson’s proposition relative to the Newfoundland trade and fishery,” in *Parliamentary Register*, 19:441; referenced in Anspach, *History of Newfoundland*, 212-213.

complained of an increase in crime, Milbanke called their bluff by creating a Court of Common Pleas—and soliciting “voluntary” funds to house (gaol) and feed the convicts until most were eventually deported.<sup>17</sup> Milbanke’s secretary, the veteran bureaucrat Aaron Graham, had assured him that while recent legal challenges had established that governors could only sit as appellate judges over fishing admiral courts, his commission enabled him to appoint “judges and justices” of courts who might hear civil suits instead.<sup>18</sup> By December 1789, the original issue was rendered moot when Lord Grenville, the Home Secretary, insisted to John FitzGibbon, the Irish Lord Chancellor, that

Newfoundland is in no respect a British colony, and is never so considered on our laws. On the contrary, the uniform tenor of our laws respecting the fishery there, and of the King’s instructions founded upon the goes ... to restrain the subjects of Great Britain from colonizing in that island.<sup>19</sup>

On that basis, it was agreed that sentences of transportation could not be served out in Newfoundland, and most of the convicts were returned.<sup>20</sup> The fiasco wore heavily enough

---

<sup>16</sup> See Bannister, “Convict Transportation and the Colonial State in Newfoundland, 1789,” *Acadiensis* 27, no. 2 (Spring 1998): 95-123. The initial confusion arose from the fact that the Irish Lord-Lieutenant was allowed to send up to four boatloads of convicts to serve out their transportation in any of His Majesty’s dominions each year—under the Dublin Police Act of 1786. It so happens, though, that while still Attorney General, FitzGibbon (later Lord Clare) had adapted the Dublin Police Act from Reeves’s failed Westminster Police Bill of 1785, which had no provision concerning transportation.

<sup>17</sup> Bannister, *Rule of the Admirals*, 173-174. Like Nova Scotia’s Court of Common Pleas, Newfoundland’s was similarly “staffed with lay judges to handle civil causes at first instance.” Girard, Phillips, & Brown, *A History of Law in Canada*, 1:232.

<sup>18</sup> Although this was later rejected by the Crown’s law officers, Graham’s argument was not entirely without some historical justification. Governors had, on the prerogative authority of their commissions, established such institutions as the Commission of the Peace, the Commission of Oyer and Terminer, Courts of Vice-Admiralty, and even Courts of Sessions—the latter two of which were explicitly recognised by Palliser’s Act; and all of which were eventually recognised by the Judicature Acts. In creating the Court of Common Pleas, however, Milbanke acted without the authority of an Order-in-Council.

<sup>19</sup> Grenville, “2 December 1789 – Letter to FitzGibbon,” quoted in Bannister, “Convict Transportation and the Colonial State in Newfoundland,” 116. Bannister cautions that “Grenville’s statement represented no more than an attempt to solve the immediate problem of the Irish convicts, and formed neither a general nor an accurate statement on the operation of the island’s government.” Bannister, *Rule of the Admirals*, 175. Even so, Grenville’s remark was consistent with what British officials felt Newfoundland policy *should* be.

<sup>20</sup> Bannister, “Convict Transportation and the Colonial State in Newfoundland,” 116-118.

on Milbanke that upon his return to England, he wrote a lengthy report to the Board of Trade on the subject of Newfoundland's judiciary, in which he defended the actions he had taken that season. Milbanke accepted that he may have exceeded his authority in his ignorance of the finer points of the law, but he was hopeful that any mistake he might have made ensured might help precipitate some necessary reforms. (In fact when merchants complained to the Board of Trade, the Solicitor and Attorney Generals were later forced to agree that the Court of Common Pleas had no basis in law.)

But as Milbanke made clear in his report, the Administration had more pressing concerns than the legality of a court of judicature. The fact was that local government was inadequate to the task of enforcing imperial policy. The colony at Newfoundland was growing. During the first season as governor, Milbanke did what he could, issuing a proclamation (echoing earlier ones) that the King had commanded him

not suffer any buildings to be Erected (except ... such ... as shall be absolutely necessary for Curing, salting, drying, and husbanding of Fish) in and about the Town of St Johns; and to direct that in case any Buildings, Erections, Ships, or Fences already Erected or made shall clearly appear to me to be nuisances to the Fishery, that the same shall be removed.<sup>21</sup>

To discourage unauthorised settlement, this same proclamation also ordered that the houses of known dieters (over-winterers) in St. John's were to be destroyed; that anyone known to harbour dieters in their homes would find themselves on the first ship back to Great Britain or Ireland; and that any houses that had sheltered dieters were to be destroyed. Milbanke also ordered the town's magistrates to direct local constables to take a sort of census of "what number of Persons, and of what description, inhabit the several

---

<sup>21</sup> Milbanke, "13 October 1789 – Proclamation concerning non-essential buildings and dieters in the Town of St. John's," CO 194/21, f. 224; cf. Smallwood, *The New Newfoundland*, 229.

Houses” in St. John’s, and for magistrates to send the constables’ reports to the governor.

But Milbanke’s proclamation also betrayed his unease that it would not be enforced.

And that the Inhabitants may not suppose that the Magistrates have a discretionary power vested in them to tolerate a breach of these orders, they are hereby informed to the contrary, that it will not, even on the part of the Magistrates, be admitted as an Excuse, that the Houses have been built or repaired without their knowledge, for if they do their Duty properly (and it cannot be doubted that they will) the Constables may be so employed as to render it impossible for such a circumstance to happen.

Milbanke did the best he could with the tools that he had, using his prerogative powers to conscript the fishery and the colony’s hybrid “police” into enforcing imperial policy—and issuing his proclamations just three days after most contracts had expired, when the most fishermen were ashore (many of them suing for their wages), ensuring that his message would be received.<sup>22</sup> But he also knew neither this nor another proclamation forbidding over-winterers at other outposts from moving to Town would effectively constrain even the most obvious centre of Newfoundland’s over-population.<sup>23</sup>

As Milbanke’s report explained, the most troubling explanation for the colony’s growth was that both merchants and servants regularly took advantage of the fact that Palliser’s Act contained no provision for how it was to be enforced. There was a clear

Want of an Obligation on the Part of somebody to provide a Passage for the Servant, and an Authority to compel him to embark on Board the Vessel which shall be provided for him ... but ... if ... the Servant should refuse to go, I do not see (as the Law now stands) by what Authority he could be compelled to it. The

---

<sup>22</sup> Since 1711, the fishery had maintained a sort of constabulary at Newfoundland; the third of “Crowe’s Laws” ordered: “A body of seamen or others should keep guard in the night ... should be raised as follows, viz., from the complements of the ship in the harbour, one man for every fifteen, and one man for every three boats of inhabitants and by boat keepers; a commander of a ship and a merchant to command them each night.” Both constables and magistrates were appointed by the governor since 1729. Prowse, *History of Newfoundland*, 271, 287; Bannister, *Rule of the Admirals*, 75, 127-128, 336n99; Cadigan, *Newfoundland and Labrador: A History*, 58; cf. Reeves, *History of Newfoundland*, 53, 99.

<sup>23</sup> Milbanke, “13 October 1789 – [Proclamation? Circular Letter to JPs?],” GN 2/1/A/12, ff. 40-41.

Consequence is, that many Hundred of these poor Creatures, too unthinking to seek for a Passage [home] while they have a Farthing of their Wages remaining, are Annually left in the Country, and their Forty Shillings either forfeited to their Employers ... or spent in Riot and Debauchery.<sup>24</sup>

To ensure that someone other than self-interested merchants should take responsibility for their servants' passage money, Milbanke suggested that "the Chief Magistrate of St. John's (supposing such a Person to be appointed) should be Receiver General of Passage Money in Newfoundland, and have Authority to appoint Deputies at the Out Ports."<sup>25</sup> (In fact there already was such a person: Aaron Graham, the *custos rutolorum* or, informally, the "chief justice" for the District of St. John's.) As further incentive against colonisation, the passage money withheld from the wages of men who wintered in Newfoundland

(as well as those who deem themselves Natives of Newfoundland, as those who go out from England or Ireland) should be forfeited to the Public, and appropriated to the Purpose of sending home such Seamen and Fishermen as may not have been employed during the Fishing Season, or by any other Means shall be unable to provide themselves with Passages.

Milbanke reasoned that "in a few Years it will create a Fund more than sufficient to provide Passages for all unemployed Seamen and Fishermen, and for defraying the Expences of Receivers."<sup>26</sup> Acknowledging that his proposals were not the final word on the matter, "the strait-laced old admiral" was certain of at least one thing:

let what will be done to establish a proper Judicature in the Island, it cannot fail to meet with the Disapprobation of the Memorialists, whose Representations, in general, are ill-founded, but on this Subject, in particular, ... so very inconsistent, and betray such a Want of Knowledge even of their own Interest, or (which is much worse) such a determined Resolution to sacrifice the real Interest of the Fishery to their private Views, that I am free to declare, it is hardly worth while to

---

<sup>24</sup> Milbanke, "31 December 1789 – Report upon the Judicature of Newfoundland," 33, in *House of Commons Sessional Papers*, 90:97.

<sup>25</sup> Milbanke, *House of Commons Sessional Papers*, 90:98.

<sup>26</sup> Milbanke, *House of Commons Sessional Papers*, 90:99.

pay Attention to any Thing they may choose to say upon it.<sup>27</sup>

Milbanke did not pretend to understand “the Mysteries of the Trade”—and he dismissed at least one petition’s suggestion that all statutes since 1699 should be repealed.<sup>28</sup> But he was adamant “that the Prosperity of the Fishery, inasmuch as the Return of the Seamen and Fishermen every year to Great Britain and Ireland is to be deemed a principal Object of it, depends entirely” on the relevant sections of Palliser’s Act being complied with.<sup>29</sup>

This last warning weighed heavily on Hawkesbury—not least of all because it was corroborated by a former colleague of his. On 24 March 1790, Hawkesbury received a letter from William Knox, a former Undersecretary of State and colonial agent, as well as “political consultant for hire” now trying to recover his fortune in the Newfoundland fishery.<sup>30</sup> Knox confirmed that Newfoundland’s merchants were in fact using the extra 40 shillings per head to invest in goods that they oversold to their servants—keeping them in Newfoundland on the pretence of paying off their debts.<sup>31</sup> If he had been uncertain before, Hawkesbury was now convinced that some sanction should be given to the Court

---

<sup>27</sup> Prowse, *History of Newfoundland*, 363; Milbanke, “20 February 1790 – Letter [to the Board of Trade],” 43, in *House of Commons Sessional Papers of the Eighteenth Century*, 90:107. Milbanke was writing in response to merchants’ petitions to Board of Trade that the Committee then forwarded to him. See Board of Trade, “5 February 1790 – Newfoundland: [Minute on the] Memorial of the Merchants of Dartmouth, relative to the Establishment of a Court of Common Pleas,” BT 5/6, ff. 24-v; Board of Trade, “16 February 1790 – Newfoundland: Letter from Vice-Admiral Milbanke read,” BT 5/6, f. 30v. Board of Trade, “17 February 1790 – Newfoundland: Memorial of the Merchants of Exeter, Topsham & Teignmouth; transmitted to Vice-Admiral Milbanke,” BT 5/6, f. 31.

<sup>28</sup> Milbanke, *House of Commons Sessional Papers of the Eighteenth Century*, 90:107.

<sup>29</sup> Milbanke, *House of Commons Sessional Papers of the Eighteenth Century*, 90:108..

<sup>30</sup> Patrick M. Geoghegan, “Knox, William,” in James McGuire and James Quinn, eds., *Dictionary of Irish Biography*, (Cambridge, 2009) <http://dib.cambridge.org/viewReadPage.do?articleId=a4613>; cf. Webb, “William Knox and the 18<sup>th</sup>-Century Newfoundland Fishery,” 116.

<sup>31</sup> Knox, “24 March 1790 – Letter to Hawkesbury,” Add MS 38225, ff. 98-103v. Aging mercantilists were not the only ones to regard the underhanded settlement of Newfoundland as a pressing social evil or a moral failure. In the wake of Palliser’s Act’s unintended consequences, one variation of the folk ballad *The Newfoundland Sailor*, printed and possibly authored by the Exeter printer Elizabeth Brice in 1782, tells of a sailor who seduces a young woman, marries and carries her to Newfoundland, abandons her and their child

of Common Pleas, or to something like it. Curiously, the Committee set the question of public receivers aside. But the policy that proposal was meant to support was no less in force when, three days of receiving Knox's letter, the Board of Trade desired

Mr. Attorney and Solicitor General ... to take Notice, that the Government of this Country, having always considered the Trade of Newfoundland merely as a Fishery ... it has always been the Wish of Government ... to prevent their establishing themselves as a Colony in Newfoundland. ... That of late years a greater number of His Majesty's Subjects continue to reside in Newfoundland during the Winter, after the fishing Season is at an End, than formerly. That the Committee of Privy Council see this Circumstance with Regret, thinking it contrary to ancient Policy, and the true Interests of this country, and wish to prevent it as much as possible. The Attorney and Solicitor General are desired also to take Notice, that much of the greater Number of the Fishermen are extremely poor and ignorant, and thereby very much exposed to be defrauded by those with whom they deal.<sup>32</sup>

The Attorney General advised that the King-in-Council might alter the governor's commission and create a new prerogative court; this was done, and a second commission was prepared naming Aaron Graham as that court's first Chief Justice.<sup>33</sup> But Edward Thurlow, the Lord Chancellor, refused to put the Great Seal to either commission on the grounds that only Parliament had the authority to legislate for Newfoundland, and even if not, it would not to for the Privy Council to seem to exceed its authority.<sup>34</sup> To sanction so great a departure from King William's Act would require another Act of Parliament.

---

to fate—and seems an unusually perceptive allegory of fishing servants being tricked into living as colonists. See Ian Maxted, "The printed broadsides of Devon," in *Traditional songs of Devon and its neighbours* (12 April 2014), <<http://bookhistory.blogspot.ca/2014/04/devon-printed-broadsides.html>>.

<sup>32</sup> Text taken from Board of Trade, "10 May 1790 – Copy of a Representation of the Lords of the Committee of Privy Council for Trade and Foreign Plantations, on the Subject of establishing a Court of Civil Jurisdiction in the Island of Newfoundland," 3-4, in *House of Commons Sessional Papers*, 90:67-68. This text follows almost verbatim Board of Trade, "27 March 1790 – Newfoundland: Consideration of the Memorial of the Merchants of Dartmouth &c. resumed, and Questions referred to Attorney & Solicitor General," BT 5/6, ff. 83v-84. Cf. Morton, "Newfoundland in Imperial Policy," 191-192.

<sup>33</sup> Morton, "Newfoundland in Imperial Policy," 192. For Graham's unused commission, see George III, "7 August 1790 – Additional Instructions of Governor Milbanke, etc.," CO 194/41, ff. 50-53v.

<sup>34</sup> Morton, "Newfoundland in Imperial Policy, 1775-1793," 194; McClintock, *The Establishment of Constitutional Government in Newfoundland, 1783-1832*, 67. Cf. Bannister, *Rule of the Admirals*, 176-177.

Unfortunately, Milbanke did not receive news that the new commission was refused. As the issue appeared to be unresolved, upon his arrival Milbanke revived the Court of Common Pleas for a second season. As late as 22 April 1791, Hawkesbury still hoped that an order-in-council or a royal charter might sanction a Court of Civil Judicature for Newfoundland—and that the keeper of the king’s conscience just might budge a bit. As Hawkesbury explained in a letter to Lord Grenville, “My Sentiments as well with respect for the law, as the Policy of the Measure, are very particularly stated in the report ... made to the King in Council.” But he conceded that

if a Bill is so brought into a Parliament, instead of having a Charter, nothing remains to be done but to order the Attorney & Solicitor to prepare it in conformity to the beforementioned Report.<sup>35</sup>

Thurlow did not budge.<sup>36</sup> On 4 May 1791, the Crown’s law officers were accordingly advised “that it will be more proper that this Measure should receive the Sanction of parliament ... conformably to the plan recommended by this Committee ... to His Majesty,” and were ordered to prepare a bill for Parliament’s consideration.<sup>37</sup>

### **III.ii – The Constitutional Conservatives**

Parliament, however, needed some convincing—and the Privy Council were not the only ones to try. On 25 May 1791, a petition from the merchants of Dartmouth (Devon) reached the House of Commons, the day after the Newfoundland Judicature

---

<sup>35</sup> Hawkesbury, “22 April 1791 – Letter to Grenville,” CO 194/38, ff. 284-v. Hawkesbury never proposed a colonial charter but was instead referring to a royal charter for the new court.

<sup>36</sup> Grenville, “23 April 1791 – Letter to Hawkesbury,” Add MS 38226, ff. 136-v; Board of Trade, “3 May 1791 – [Minute on] Newfoundland respecting the Establishment of a Court of Civil Judicature read,” “4 May 1791 – [Minute on] Newfoundland: Consideration of Lord Grenville’s letter respecting the establishment of a Court of Civil Judicature resumed,” BT 5/7, ff. 66v-67, 68v.

<sup>37</sup> Board of Trade, “4 May 1791 – [Minute on] Newfoundland: Draft of Bill to be prepared for establishing a Court of Civil Judicature,” BT 5/7, f. 69.

Bill's second reading, complaining that the proposed Court "is quite unnecessary in that Island, and ... will totally ruin the Newfoundland Fishery."<sup>38</sup> The next day, a procedural delay allowed another petition to be received from Bristol, complaining of "the Inutility of the Regulations since the Act of King William the Third," which had only served to accelerate the impending doom that "the Fishery must dwindle away, and be totally lost to this Country."<sup>39</sup> When Edmund Bastard, one of two MPs for the city of Dartmouth, spoke against the Newfoundland Judicature Bill, it was only natural that he gave further voice to his constituents. Bastard objected that the men who sat as judges in the Court of Common Pleas were again to sit on the new Civil Court:

The first was the Admiral's secretary, the next a Custom-house officer, another the Ordinance store-keeper, and another the Surgeon's mate of the hospital. He made no doubt Mr. Graham might be a very good secretary, he made no doubt Mr. Coke might be a very good Custom-house officer, he made no doubt Mr. [Bollard] might be a very good store-keeper, or that Mr. Ogden might be a very good surgeon's mate; but, said he, when we see a Court of law with persons of that description at the head of it, we are not to wonder at the ill consequence that we may see arise from it. If a Court of law was necessary, which he denied to be the case here, it was as necessary that people conversant in the law should preside in it; or else ... they legalized the oppression which ensued.<sup>40</sup>

What particularly irked Bastard was the fact that, unlike earlier stages of Newfoundland's constitutional development, the proposed Judicature Bill did not reflect the practices of the fishery itself, but it was instead directly modelled on Milbanke's Court of Common Pleas. In the second place, it was corrupt—first charging no fees, and then hearing no

---

<sup>38</sup> Kingdom of Great Britain, "25 May 1791 – Petition from Dartmouth against the Newfoundland Judicature Bill," in *Journals of the House of Commons*, 46:640.

<sup>39</sup> Kingdom of Great Britain, "26 May 1791 – Petition from Bristol against the Newfoundland Judicature Bill," in *Journals of the House of Commons*, 46:646-647.

<sup>40</sup> Bastard, "26 May 1791 – Debate on the Newfoundland Judicature Bill," in *Parliamentary Register*, 29:537-538. Bastard notably omitted any reference to Jacob Waller, Herbert Sawyer, and John Trigge—the Royal Navy officers who had sat on the Court of Common Pleas in 1789—although his speech's original reference to a "Mr. Ballen" suggests a possibly portmanteau of "Bollard" and "Waller."

cases but by those who paid exorbitant ones. In the second place, the fact that the 1789 court met only at the height of the fishing season meant that empanelling juries took away from fishing. In the third place, it was a constitutional innovation as inconvenient as it was unnecessary. Bastard preferred the simplicity of the Constitution of 1699. But, unlike the Bristol merchants, he was willing to accept institutions created under the sole authority of the king-in-council and the governor: namely, Justices of the Peace; and naval “surrogates,” to whom appeals could be brought against decisions made by fishing admirals, and who extended the governor’s authority to the outports.<sup>41</sup> This concession, however, revealed that the opposition to the Judicature Bill was not entirely united.

This made it easier when the Attorney General, Sir Archibald Macdonald, refused to deny most of the charges against the bill. The new court, he freely admitted, was *supposed* to be inconvenient—so as to make the threat of the law its own incentive for employers to resolve cases against them as fairly as possible. The court was, furthermore, as morally necessary as it was politically desirable. Both “the poor at Newfoundland were calling out for a Court of justice, and the Governor desired to have one instituted”—and “hard indeed would be the lot of their servants, if they were left wholly at their masters’ mercy.” Besides, the new court wasn’t needed for anything other than “settling debts and matters of account” between colonists—seasonal fishing crews need not worry. He probably also thought that the court’s being modelled on Gibraltar’s Court of Common Pleas, in which two lay Assessors assisted a Chief Judge, was ideal for this other coastal society whose permanent population was seen from London as an afterthought.<sup>42</sup> At any

---

<sup>41</sup> Bastard, “26 May 1791 – Debate on the Newfoundland Judicature Bill,” in *Parliamentary Register*, 29:535-536.

rate, Newfoundland's Court of Civil Judicature was an experiment; and, like Gibraltar's, its chief judge was to be "a gentleman professionally bred" to the law of England.<sup>43</sup> That, and having designed the new court a year before, and having just rewritten its plan as a bill for Parliament's consideration, he was certainly ready to defend this innovation.<sup>44</sup>

What Macdonald left unsaid, or what may have been undetermined at the time—or what was perhaps a concession to those uneasy about Graham resuming his role as the new court's presiding judge—was that the English barrister to serve as Chief Judge was the Board of Trade's own law officer. But if Reeves's appointment was meant to unite Hawkesbury's policy (the royal prerogative) with statute law (the Parliament), it was an uneasy compromise. In the first place, the 1791 Act was valid only for a year, subject to the discretion of Parliament; Reeves's appointment led to his recommendations for a revised annual bill. In the second place, Reeves was not above making enemies. As he informed the Home Secretary, Henry Dundas, once he was in Newfoundland,

I have stepped out of the way of my official situation [i.e., as Chief Judge] to pick up information where it is to be found—and I hope I shall be able to deal with that sort of trash, which is imposed upon government either as fact, or argument,

---

<sup>42</sup> Macdonald, "26 May 1791 – Debate on the Newfoundland Judicature Bill," *Parliamentary Register*, 29:540-541. John Grocott and Gareth Stockey, *Gibraltar: A Modern History* (Cardiff: University of Wales Press, 2012), esp. 7-28. The naming of Sir Dudley Ryder and William Murray (later Lord Mansfield) as the framers of Gibraltar's judiciary—that is, when the two were Attorney and Solicitor General—dates that scheme to the Third Charter of Justice of 1754. This charter was itself a revision of the First and Second Charters of 1720 and 1742, the First Charter being the source of Gibraltar's own Court of Common Pleas. See Stephen Constantine, *Community and Identity: The making of modern Gibraltar since 1704* (Manchester: Manchester University Press, 2009), 76-78.

<sup>43</sup> Macdonald, "26 May 1791 – Debate on the Newfoundland Judicature Bill," in *Parliamentary Register*, 29:541.

<sup>44</sup> The Board of Trade had requested the Attorney and Solicitor General "to prepare the Draft of a Bill to be prepared to parliament, for establishing a court of civil Judicature in the Island of Newfoundland, conformably to the plan recommended by this Committee in their Representation to His Majesty in Council dated 10<sup>th</sup> May 1790, such Act to continue in Force 'till the end of the next session." Board of Trade, "4 May 1791 – [Minute on] Newfoundland: Draft of Bill to be prepared for establishing a Court of Civil Judicature," BT 5/7, f. 69.

respecting the fishery & trade of Newfoundland.<sup>45</sup>

It seemed he had good reason to do so. The new Court had exclusive jurisdiction over cases concerning servants' wages while the Governor was resident; even so, "the strict Injunction [was] more than once expressed to me, that the Court should not be held *till after the Fishing Season*[,] which would not close till 10<sup>th</sup> October."<sup>46</sup> Nevertheless, once Reeves arrived in St. John's he found that many people not engaging in the fishery "were pressing for Judicial Relief."<sup>47</sup> Even local merchants had asked Reeves to convene the Court of Oyer and Terminer (the island's criminal court) before October 10<sup>th</sup>,

because *after* that day, they would be so much engaged in settling with their Servants, and winding up their concerns for the next Season, as not to be able so well to attend on Juries before that day.<sup>48</sup>

He therefore decided that if the Court of Civil Judicature "was held *so as not to interrupt* the Fishery, it mattered nothing whether it was held *during* the Actual Season of the Fishery, or after."<sup>49</sup> Once he began that court's session, he found that the citizenry of St. John's were "more disposed to acquiesce in everything recommended by the Court," and indeed they "wish[ed] no other Court than such as they have had this Season." The Court's hybrid nature—"[c]onsisting of a Judge ... professionally bred to the Law, and of two Assessors, who were acquainted with the nature of the Trade & Fishery"—made it a particularly respectable form of vernacular equity that had long been local practice.<sup>50</sup>

Reeves also cited a more practical reason for having a court in the first place: namely,

---

<sup>45</sup> Reeves, "10 October 1791 – Letter to Dundas," CO 194/38, f. 287v.

<sup>46</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 294v-295 (Reeves's italics).

<sup>47</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, f. 294v.

<sup>48</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 295v-296.

<sup>49</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194-38, f. 295.

<sup>50</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 297-v.

that four-fifths of the total sum of capital at stake was in cases between merchants—and

I do not think any thing is needed, or sought by the *Merchants*, but the establishment of the Court, in which they can confide, for an Impartial hearing, and sound Judgment in the decision of their causes.<sup>51</sup>

More pressingly, three-fourths of cases heard were between merchants and boatkeepers or merchants and planters. Having in 1788 given his opinion “that ... Seamen and Fishermen ... have no Charge upon the Fish and Oil, that has been suffered to pass into the Hands of others by a fair sale,” Reeves confessed that while he “went to Newfoundland with strong prejudices against the Merchants, upon the score of their conduct towards Boatkeepers,” he had since come to appreciate the mutual exploitation governing that fishery’s class relations.<sup>52</sup> Yes, merchants might prematurely seize a boatkeeper’s catch, but boatkeepers often sold their fish to other merchants while they still had fish and a boat to sell. Reeves’s conclusion was Hobbesian and grim.

Where there is much of Debtor & Creditor of this sort, there will be fraud; and where the Law is not easily accessible there will be violence. The nature of things at Newfoundland unhappily leaves Room for both.<sup>53</sup>

If the trade was in decline (and Reeves was convinced that it was not), it was because a lack of effective courts had allowed this sort of mutual exploitation to run rampant.

### III.iii – The Silent Faction

To correct this evil, Reeves proposed a new Judicature Bill featuring a simplified “Supreme” Court with criminal and civil jurisdiction, a bill to keep servants’ passage money in the hands of public receivers rather than private merchants, and a bill placing a

---

<sup>51</sup> Board of Trade, “15 December 1787 (read); 26 April 1788 (again considered) – Opinion of Mr. Reeves upon the 14, 15, 16 Sec. of [Palliser’s Act],” CO 194/21, f. 95; Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, ff. 306v-307.

<sup>52</sup> Reeves, “28 November 1791 – Report to Dundas,” CO 194/38, f. 305.

<sup>53</sup> Reeves, “28 November 1791 – Report to Dundas,” CO 194/38, f. 306.

tax on West Indian rum.<sup>54</sup> The Committee accepted all three measures as a matter of course, but they nevertheless decided it was best to give Parliament fair notice that new bills would be pending. When Reeves's report was read on 21 December 1791, it was ordered that MPs from London, Bristol, Poole, Dartmouth, Liverpool, Weymouth, Exeter, Chester, Glasgow, Barnstaple, Southampton—in short, every major port city with a financial stake in the Newfoundland fishery—be notified that the Committee would resume their considerations of Reeves's report on 17 January 1792, giving any who wished to bring additional information to the Board's attention time to do so.<sup>55</sup> Though it seems they had already made up their minds. When discussion resumed Reeves was ordered to "prepare Clauses of a Bill for establishing a Supreme Court and other courts of Judicature, during the Fishing Season, in the ... Island of Newfoundland upon the plan suggested in his Report."<sup>56</sup> Any Chief Justice was to report to the Board of Trade rather than the Home Secretary—to the Privy Council rather than Parliament.

Ordered ... That the Supreme Judge be instructed to report to this Committee, at his return to Great Britain after the Fishing Season yearly, all circumstances that may affect the Judgment of this Committee in the Advice that may be offered to His Majesty for establishing Regulations from time to time, for preserving order among His Majesty's subjects who resort to the said Island for the purposes of carrying on the Fishery.<sup>57</sup>

Meanwhile, Hawkesbury wrote to his former colleague, Admiral Palliser, now Governor of Greenwich Hospital, asking his opinion on a bill modelled on Milbanke's proposal to

---

<sup>54</sup> This last proposal was made in imitation of Nova Scotia's own recently-introduced tax on West Indian rum—a "provincial Duty" also intended for the benefit of "the internal Government." See Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 320-v.

<sup>55</sup> Board of Trade, "21 December 1791 – Minute on Newfoundland," BT 5/7, f. 165v.

<sup>56</sup> Board of Trade, "17 January 1792 – Minute on Newfoundland," BT 5/7, f. 173.

<sup>57</sup> Board of Trade, "17 January 1792 – Minute on Newfoundland," BT 5/7, f. 173-v. This appears to be the explanation for why Reeves's second report is found in the Board of Trade's own papers, rather than the "Colonial Office" records consisting of correspondence with the Secretary of State.

“give authority to the magistrates to compel the Fishermen to leave Newfoundland at the end of the fishing Season, and to return home.”<sup>58</sup> Palliser tentatively gave his approval, provided that “people can be found to be depended on for the Execution & if the Governor & his Surrigates will exert their authority for the purpose.”<sup>59</sup>

Hawkesbury had expected that the “Merchants of Poole and Dartmouth” would object to any bill giving Palliser’s Act teeth “because it will deprive them of the Sum which would otherwise be expended in the purpose of articles at their Stores.”<sup>60</sup> But when Benjamin Lester, who had also been a merchant resident at Trinity, Newfoundland, and was now the wealthiest merchant trading to Newfoundland as well as Labrador raised his objections to the bill, he (Lester) took a decidedly different tone. Writing directly to the Prime Minister on 27 February 1792, members of whose extended family Lester knew personally (he had replaced William Morton Pitt as MP for Poole), he upbraided Pitt for Hawkesbury’s insolence, arguing that Parliament ought to set imperial policy.

The Trade has not applyed to ministry for any alteration in their ancient mode of Government, but some Person or Persons for their own Emolument to make an office, have offered to his Majesty’s ministers a new mode of Administration of Justice at Newfoundland, without consulting the Trade on this Subject, & its only when the said Bill is before the House that the Trade will have an opportunity to make their objections. To support his new Court a Tax is to be Laid on this Island from certain merchandise [i.e., rum] into this Island from our Colonys. New Taxes are very Disagreeable things to be laid on a Trade (that requiring every assistance that can be given to support it) to pay Salarys to Officers who are not wanted. America was lost by it. The consequences will be it will become a Colony fill’d with Lawyers, all Harmony will subside, and the Ruin of that valuable Branch of Trade and Fishery will be fatal to this Country.<sup>61</sup>

---

<sup>58</sup> Hawkesbury, “23 January 1792 – Copy of a Note sent to Sir Hugh Palliser, inclosing a Plan for sending home the Fishermen from Newfoundland,” Add MS 38227, f. 223.

<sup>59</sup> Hugh Palliser, “26[?] January 1792 – Letter to Lord Hawkesbury,” Add MS 38227, f. 228.

<sup>60</sup> Hawkesbury, “23 January 1792 – Copy of a Note to Sir Hugh Palliser,” Add MS 38227, f. 223v.

Lester soon grew impatient in his overtures to Pitt. Four days later, on 2 March 1792 (it was a leap year), John Robinson, a senior Tory MP who had been one of Hawkesbury's more reliable allies since the American War, wrote that "Mr Lester [the] Member for Poole" had asked him to forward a letter to his lordship. Robinson advised Hawkesbury to at least meet with the man for fifteen minutes, and then make whatever decision he might please, but that it would be best not to ignore him. "Mr Lester ... is rich, I believe, but I am sure he has great Weight in Poole, he likes a little Civility & Attention, and who my dear Lord does not, but he is *testy* if slighted, and this he feels."<sup>62</sup>

Lester's correspondence from this period is sparse, and his diary falls silent when he attended his duties as a Member of Parliament, but several biographical hints suggest that of any of Newfoundland's West Country merchants, Lester *should* have been the Board of Trade's most natural ally. Under King William's Act, the fact that Lester was an alderman of Poole meant that he was, *ex officio*, also Justice of the Peace for Poole—and as such, that he would have been responsible for hearing suits by merchants and servants returning from Newfoundland. But the fact was that however much he complained that the fishery's "ancient mode of government" was being roughshod over, Lester had long been a beneficiary of prerogative innovations. In fact his great-uncle, Jacob Taverner, was one of the first Justices of the Peace commissioned by Governor Osborne in 1729.<sup>63</sup> Lester simply continued this family tradition, serving as a Justice of the Peace for Trinity

---

<sup>61</sup> Lester, "27 February 1792 – Copy of a Letter to William Pitt," Add MS 38227, ff. 265-v. Oddly enough, it may not have been London radicals but Benjamin Lester who first insinuated that Reeves was little more than an opportunistic placeman proposing autocratic schemes he could be paid to see through.

<sup>62</sup> Robinson, "2 March 1792 – Letter to Hawkesbury," Add MS 38227, ff. 263-v.

<sup>63</sup> Gordon Handcock, *So long as there comes noe women: Origins of English Settlement in Newfoundland* (St. John's: Breakwater Books, 1989), 47.

since 1750. From 1770 until his return to England in 1776, as a “naval officer” he sat as a judge in Trinity’s Court of Vice-Admiralty.<sup>64</sup> Neither was Lester’s alliance to the royal bureaucracy limited to the judiciary. In 1782, Lester had Richard Routh, a clerk in his firm at Poole, appointed Collector of the Customs for Newfoundland.<sup>65</sup> When the position of Comptroller of the Customs at Newfoundland opened up in 1785, Lester awarded the office to D’Ewes Coke, who had been a JP for St. John’s since 1764, but who began his career as a naval surgeon at Trinity in 1759. Both men still had their Customs offices by the time of the Judicature Acts—and both regularly enjoyed annual appointments as Justices of the Peace for St. John’s.

The fact is that Lester had no leg to stand on when he complained of new offices, or for that matter new taxes, since he was perfectly at ease making governments work to his advantage in both Newfoundland and in England. As a JP for Trinity—and one of the only JPs on the island who did not resist the French invasion in 1762—Lester had used his position to ensure that he had less competition in Trinity after the French occupiers left.<sup>66</sup> But ironically, he emerged from the Peace of Paris the strongest claim of any at the interests of the Newfoundland Trade—that is, his own—were the same as those of the empire. He continued to expand his empire from Trinity and Bonavista to Notre Dame Bay, to Tilting, Fogo Island, and to Red Bay, Labrador. He further allied himself with the forces of reaction when in 1774, as Massachusetts was declared to be in rebellion, Lester recommended banning all the New England provinces from the Newfoundland trade—

---

<sup>64</sup> Dwyer, “Atlantic Borderland,” 174.

<sup>65</sup> Matthews, “Routh, Richard,” in *Dictionary of Canadian Biography*, 5:725-726.

<sup>66</sup> Bannister, *Rule of the Admirals*, 144-145; Mark Humphries, ““A Calamity From Which No Relief Can Be Expected”: Empire, Authority, and Civilian Responses to the French Occupation of Newfoundland, June-September 1762,” *Acadiensis* 43, no. 1 (2014): 51-52.

which was done.<sup>67</sup> In fact, Lester would later name one of his ships the *Lord North*. But when to express its gratitude the Continental Congress set a bounty on Lester's head in 1776, he only very narrowly escaped Trinity with his life. Lester, however, continued to manage his trade from his home town of Poole, where he took up the other family business of dominating local politics, serving four terms as mayor from 1779-80 and from 1781-1784. By 1789, Lester was the single largest rate-payer in Poole, the wealthiest merchant in the Newfoundland trade, the owner of the most ships in the saltfish trade, the single largest importer of salmon, a rising magnate in the inland fur trade, the leading pioneer of the commercial seal fishery, and the leading patron of Newfoundland's royal bureaucracy. These several contexts suggest that what Lester was really complaining about in his letter to Pitt—and presumably in his meeting with Hawkesbury—was that as the leading merchant in Newfoundland's several expanding and lucrative trades, it was unfair that the Supreme Court was not also his.

In at least one respect, however, Lester's personal empire stretching from Labrador to St. John's was a political liability. When he was elected an MP for Poole, he was ineligible to take his seat, as he still had a contract building sixth-rate vessels for the Royal Navy at Trinity—a contract which Governor Elliot seems to have helped him secure in 1786.<sup>68</sup> This embarrassment may have informed his caution when, following his re-election in 1791, he held his peace as other MPs objected to the first Judicature Bill; in fact, Poole does not appear to have submitted a petition that year. Instead, Lester seems

---

<sup>67</sup> See Lester, "15 March 1775 – Debate in the Lords on the Bill for restraining the Trade and Commerce of the New England Colonies," *Parliamentary History*, ed. Cobbett, 18:426-428.

<sup>68</sup> Bannister, *Rule of the Admirals*, 167; see Elliot, "30 November 1786 – Letter to Sir Philip Stephens (First Secretary of the Admiralty)," ADM 1/472, ff. 227-v.

the likeliest mover of a bill allowing for the duty-free importation of seal skins cured with foreign salt for one year—a nice little coup for Lester, who bought his salt from Portugal, Spain, and Italy; and who was one of the leading pioneers of the commercial seal fishery.<sup>69</sup> But by early 1792, the last straw seems to have been Reeves's scheme to fund the whole of Newfoundland's government with a duty on West Indian rum—an insult to Lester's accustomed subsidies. The Supreme Court as it likely would have continued in Reeves's absence was also an insult to the network of political patronage that Lester had carefully cultivated. In any event, Lester seems to have gotten the meeting with his old ally that he had demanded, or at least a mutual understanding. Relations between the two were cordial enough that when Lt. George Pulling RN received leave to enquire into relations between the Beothuk and settlers on 5 March 1792—leading a fact-finding mission in “the merchant service of Newfoundland”—Pulling was given command of the *Trinity*, a new Trinity-built addition to Lester's fleet.<sup>70</sup> He was also given to understand that he should send his reports to Reeves. This may have been an information exchange: Reeves sent Pulling's report to Hawkesbury, and Hawkesbury sent a copy of Reeves's 1792 report to Richard Routh.<sup>71</sup> As Jerry Wetzel has suggested, the fact that Pulling's reports were not found in the Liverpool Papers until 1960 “raises the question of whether it was [Hawkesbury] himself who ... side-tracked Cartwright's, Pulling's and ... Reeves' proposals” for a military presence to prevent settlers from entering Beothuk territory.<sup>72</sup>

---

<sup>69</sup> Great Britain, “21 May 1791 to 6 June 1791,” in *Journals of the House of Commons*, 46:626, 630, 634, 635, 639, 640, 647, 656, 658, 661, 668, 685; “30 May 1791 to 6 June 1791,” in *Journals of the House of Lords*, 39:221, 223, 229, 230, 238, 239. See also Dwyer, “Atlantic Borderland,” 132-138, 176-182.

<sup>70</sup> Marshall, *Letters and Reports*, 19-20.

<sup>71</sup> See Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 85-88; Routh, “6 February 1793 – Letter to Hawkesbury (Observations on Mr. Reeves's Report),” CO 194/21, ff. 406.

Meanwhile, the Board of Trade (whose meetings Pitt was now attending more frequently) continued to proceed with Reeves's Newfoundland Bills, and continued to stress the urgency of stemming the tide of over-winterers—while still imploring the inhabitants of port cities concerned in the trade to send them any useful information.<sup>73</sup> Within two weeks after the Committee's 17 March 1792 meeting, Aaron Graham, who had served as secretary to Newfoundland's naval governors since 1779, found he would not be asked to serve under Rear-Admiral Sir Richard King. This came as quite a shock to Graham, who had gotten comfortable—perhaps too comfortable—in what was becoming his regular testimony before the Board of Trade. When summoned to testify before the Board of Trade only a month before, Graham boasted that the statistics seeming to blame a declining fishery on the Court of Common Pleas are “are merely Estimates, being composed from Materials collected long before the Fishery is over and of course cannot be very accurate.”<sup>74</sup> Graham assured the Committee that “the Custom House Books may be depended upon for their accuracy.” But he was also more than willing to malign merchants' tendency to complain about their ill luck “in order to diminish the price of the Fish which they purchase of the Boat keepers”—and to “safely declare that in the Fifteen Years I have been at Newfoundland I have never heard one [merchant] say that he had sent his Cargo to a *good* Market.”<sup>75</sup> This sort of testimony was

---

<sup>72</sup> Wetzel, “Decolonizing *Ktaqmkuk Mi'kmaw* History,” 243n543; cf. Rowe, *Extinction*, 36; Rowe, *History of Newfoundland*, 50. These proposals are discussed in greater detail in Chapter IV of this thesis.

<sup>73</sup> Board of Trade, “10 March 1792 – [Minute on] Newfoundland: Heads of the Bill for establishing a Court of Judicature,” BT 5/7, f. 281v; Board of Trade, “17 March 1792 – [Minute on] Newfoundland: Committee Report upon the Heads of a Bill for establishing Courts of Judicature &c.,” BT 5/7, ff. 201v-202v; Board of Trade, “17 March 1792 – [Minute on] Newfoundland: Circular Letter with Copies of the proposed Bill to be written to Members of Parliament,” BT 5/7, f. 203.

<sup>74</sup> See Board of Trade, “4 February 1792 – Minute on Newfoundland: Examination of Mr. Graham,” BT 5/7, ff. 184v-187; cf. Webb, “Revisiting Fence Building,” 324.

useful and informative to be sure, but perhaps too honest. Graham's political fortunes had also become too closely tied to Milbanke's policies. It had, after all, been on Graham's advice that Milbanke created the court whose successors was now so hotly contested in Parliament. That Milbanke seems to have been grooming him for the office that was given to Reeves was likely not unnoticed. But Milbanke's term as governor was up—and not being asked to return to Newfoundland in any capacity meant that Graham was no longer physically in place to succeed Reeves as Chief Justice.<sup>76</sup> In fact, Reeves's first report noted that Graham lived in the same house where the Court did its business in 1791, and that Graham "was always in the way"—that is, the hallway—"when any thing was to be done at the Office."<sup>77</sup> That no longer being the case, Reeves's successors were men Lester had hand-picked to represent his interests in (or not interfere with them from) the Customs—D'Ewes Coke and Richard Routh. In Graham's absence, Reeves depended on Coke, Routh, and Jonathan Ogden, the Ordnance storekeeper at Fort Townshend as well as Deputy Comptroller of the Customs, for their knowledge of local law. All three men later succeeded Reeves as Chief Justice, until Thomas Tremletts's appointment in 1801, "the last year of Benjamin Lester's life," signalled that "control of patronage in Newfoundland seems to have passed from the town of Poole ... to Dartmouth."<sup>78</sup>

### III.iv – Two Contending Interests: Coalition and Collision

If taking Graham out of the picture was the result of a compromise between Lester and Hawkesbury, this same agreement may also have been reflected in another

---

<sup>75</sup> Graham, "4 February 1792 – Newfoundland: Examination of Mr. Graham," BT 5/7, f. 186.

<sup>76</sup> See Aaron Graham, "2 April 1792 – Letter to Lord Hawkesbury," Add MS 38227, ff. 302-303.

<sup>77</sup> Reeves, "28 November 1791 – Report on the Judicature of Newfoundland," CO 194/38, f. 296v.

<sup>78</sup> J.M. Bumsted and Keith Matthews, "Tremlett, Thomas," in *Dictionary of Canadian Biography*, 6:784.

compromise in which Reeves's more comprehensive schemes, one by one, were allowed to die. In his 1791 report, Reeves had proposed a revised judicature bill; a bill imposing a duty on rum; and, in support of Milbanke's 1789 proposal, a bill giving greater effect to the original spirit of Palliser's Act by placing the forty shillings owed each servant in the hands of public receivers. The bill on rum appears not to have enjoyed a second reading—and was enough of a non-issue that no petitions seem to have been made against it, other than Lester's personal appeal.<sup>79</sup> But almost as soon as the other two bills were introduced (and by 26 April, there were only two), petitions started flooding in against them.<sup>80</sup> The Judicature Bill inspired opposition from expected quarters, namely from the merchants and even some independent boatkeepers from practically every western British port city as far north as Glasgow—*except* for Poole.<sup>81</sup> Opposition to Reeves's bills—or as MPs saw them, Lord Hawkesbury's—was also as diverse as it was united.<sup>82</sup> The first to demand that further legislation on be put on hold was Michael Angelo Taylor, the other MP for Poole, a Foxite Whig, and Lester's rival. When he rose

---

<sup>79</sup> Kingdom of Great Britain, "2 April 1792 – Duties on Importation of Spirits into Newfoundland to be considered," in *Journals of the House of Commons*, 47:675; "4 April 1792 – Report respecting Duties on Importation of Spirits into Newfoundland," in *Journals of the House of Commons*, 47:688.

<sup>80</sup> See William Pitt, "26 April 1792 – Mr. Taylor makes his promised Motion relative to the Newfoundland Trade," in *Parliamentary Register*, 32:420.

<sup>81</sup> Merchants of Dartmouth, "4 April 1792 – Petition from Dartmouth against the Newfoundland Judicature Bill," in *Journals of the House of Commons*, 47:684; Merchants of Dartmouth, "4 April 1792 – Petition against the Bill to amend Act 15 Geo. III for Encouragement of the Fisheries," in *Journals of the House of Commons*, 47:688; Merchants of the City of Bristol, "4 April 1792 – Petition against the Bill to amend Act 15 Geo. III for Encouragement of the Fisheries," in *Journals of the House of Commons*, 47:689-690; Merchants and Boatkeepers of Teignmouth, Newton Bushell, and Torbay, "20 April 1792 – Petition against the Bill to amend the Act for Encouragement of the Fisheries," in *Journals of the House of Commons*, 47:713; Merchants of Totnes, "25 April 1792 – Petition against the Newfoundland Judicature Bill, and Bill for Encouragement of the Fisheries," in *Journal of the House of Commons*, 47:733; Traders, Manufacturers, and Inhabitants of Dartmouth, "26 April 1792 – Petition against the Bill for Encouragement of the Fisheries," in *Journals of the House of Commons*, 47:735.

<sup>82</sup> Parliament of Great Britain, "5 April 1792 – State of the Newfoundland Fishery—and Account of Shipping, &c. Outwards there, ordered; ... presented," in *Journals of the House of Commons*, 47:695.

to speak on the Newfoundland bills, he apologised for “bring[ing] forward a business, to which few gentlemen gave much attention.”<sup>83</sup> In another version of the debates, Taylor claimed that Palliser’s Act—“carried through the Legislature under the auspices of Lord Hawkesbury”—was directly responsible for the fishery’s decline. He accused the Board of Trade of “spurning at information; and talked of Lord Hawkesbury’s bill as extremely impolitic.”<sup>84</sup> At least according to the official version of the debates, while Taylor

did not wish to speak harshly of the Board of Trade, or of the noble Lord who presided at it ... he must contend, that the views of that Board, taken up from the act of Parliament, supposed to have been framed upon the suggestion of Sir Hugh Palliser, were highly injurious to the trade.

What might surprise some readers is Taylor’s admonition at the sort of injury caused:

“The British Council had proved, that they did not understand the interests of the trade, for they had encouraged the bank fishery, and discouraged the residents on the shore.”<sup>85</sup>

If accurate, then Taylor equivocated when he assured the House that

far from wishing to break in upon the established policy of the country, and in any shape colonize the islands of Newfoundland ... all he wished for, in respect to the judicature bill, was to have established a jurisdiction adapted to the nature of the case, and competent to the occasions that generally offered themselves, and called for legal decision, at Newfoundland.<sup>86</sup>

---

<sup>83</sup> Taylor, “26 April 1792 – Debate on the Judicature Bill,” in *Parliamentary Register*, 32:418.

<sup>84</sup> Taylor, “26 April 1792 – Debate on the Newfoundland Trade and Newfoundland Judicature Bills,” in *The History and Proceedings of the Lords and Commons, during the Second Session of the Seventeenth Parliament of Great Britain* (London: Printed for John Stockdale, 1792), 246. (Hereafter *Parliamentary Debates*.) This version also makes clearer that Taylor made no claims about Newfoundland’s value as a nursery of seaman for the Royal Navy, but instead cited the concern that “the French, Americans, and Danes ... for various reasons ... were enabled to undersell us in foreign markets.” Taylor, *ibid.*, 245.

<sup>85</sup> Taylor, “26 April 1792 – Debate on the Newfoundland Judicature Bill,” *Parliamentary Register*, 32:419. At least one other member of Parliament had challenged the prevailing economic orthodoxy. Two years earlier, the Marquis of Lansdowne (better known as the Earl of Shelburne) had also remarked that the fact that Newfoundland was “likely to fall into the hands of a superior force” during wartime “proved the absurdity of having a nursery for seamen at so great a distance.” William Petty, 1<sup>st</sup> Marquess of Lansdowne, “Debate in the Lords on the Convention with Spain,” in *Parliamentary History*, 28:946-947.

<sup>86</sup> Taylor, “26 April 1792 – Debate on the Newfoundland Bills,” *Parliamentary Debates*, 246.

He then motioned for the House to resolve itself into a committee of the whole “to inquire into the state of the Newfoundland trade, and into the nature of the grievances complained of by the merchants employed in this fishery.”<sup>87</sup>

Taylor was seconded by Edmund Bastard of Dartmouth. “The merchants,” he agreed, “had never ceased to remonstrate against the regulations adopted by the Board of Trade. They petitioned year after year, but to no purpose.”<sup>88</sup> But when he called on Lester to vouch for the fishery’s decline, Lester kept his speech profound but vague—and short.

Mr. Lester said, he had been fifty years concerned in the Newfoundland trade, but if something was not done to relieve it from the oppressions it laboured under, the trade could not be carried on.<sup>89</sup>

Lord Sheffield, a Whig MP for Bristol, voiced his constituents’ concerns in his own call for a parliamentary enquiry into the trade, acknowledging

that there ... prevailed a very great difference of opinion among the merchants concerned in the Newfoundland fisheries. That each having a separate interest felt for himself in a different manner, but as they all concurred in complaining of the laws, and of the new bills, as ill adapted to their objects, he could not but conceive that their ground of complaint might be worthy an inquiry.<sup>90</sup>

Sheffield was seconded by John Rolle, the Tory knight of the shire for Devon.<sup>91</sup> Even James Watson, a ministerial MP for Bridport, confessed “that no less than thirty of his own constituents, whether with reason or not he knew not, were among those who considered their interests as neglected and injured by the pending bill.”<sup>92</sup> Having thus led

---

<sup>87</sup> Taylor, “26 April 1792 – Debate on the Newfoundland Bills,” in *Parliamentary Debates*, 246.

<sup>88</sup> Bastard, “26 April 1792 – Debate on the Judicature Bill,” in *Parliamentary Register*, 32:420.

<sup>89</sup> Lester, “26 April 1792 – Debate on the Newfoundland Bills,” in *Parliamentary Debates*, 347.

<sup>90</sup> John Baker Holroyd, Baron Sheffield, “26 April 1792 – Debate on the Newfoundland Bills,” in *Parliamentary Debates*, 347. (Holroyd’s barony was an Irish peerage, so he sat in the British House of Commons until his creation as a British peer in 1802.)

<sup>91</sup> Rolle, “26 April 1792 – Debate on the Newfoundland Bills,” in *Parliamentary Debates*, 347-348.

<sup>92</sup> Watson, “26 April 1792 – Debate on the Newfoundland Bills,” in *Parliamentary Debates*, 347.

a united all-party front among the West Country's MPs, Bastard renewed his attacks against Lord Hawkesbury, complaining that the Board of Trade

had sent circular letters to the merchants interested, stating, that at a period specified ... they should take into consideration a report of material consequence to the general interests of all who were interested in the fisheries, and called upon the merchants to ... com[e] forward with any information ... or any inquiries they wished to make relative to the said report, although, at the same time, they refused to let the merchants see the report in question. Mr. Bastard being called on to produce the letters, read one or two from the Board of Trade to Mr. Lester.<sup>93</sup>

At this, the Prime Minister rose to his feet. He agreed that the petitions raised matters worthy of a formal enquiry, "particularly as he wished to attend it himself." (It seems he had received Lester's letter after all.) Pitt cautioned the House that a "judicature bill must pass for the purpose of the approaching session the session." But he conceded that

the regulating bill did not press equally in power of time, although one great object of it was, to adhere to the established policy of making Newfoundland as little like a colony as possible, which could only be done by not establishing a sedentary fishery there. ... He was willing, therefore, to suspend the regulating act till next session, and then a Committee might be appointed at a period of the session when it could prove of most use and effect; but a judicature bill must ... pass without delay.<sup>94</sup>

In the official record, Taylor graciously offered Pitt the compromise of passing an annual Judicature Bill in exchange for withdrawing the "regulating bill" until after the House conducted a thorough inquiry in the next session.<sup>95</sup> Either way, the result was that, for now, merchants' extra-legal colonisation through debt peonage remained unchallenged by Parliament, and no new tax on West Indian rum would ruffle any feathers. For now, this compromise between economic and constitutional conservatives also temporarily

---

<sup>93</sup> Bastard, "26 April 1792 – Debate on the Newfoundland Bills," in *Parliamentary Debates*, 348.

<sup>94</sup> Pitt, "26 April 1792 – Debate on the Newfoundland Bills," in *Parliamentary Debates*, 349. See also Pitt, "26 April 1792 – Debate in the Commons," in *Parliamentary Register*, 32:420.

<sup>95</sup> Pitt and Taylor, "26 April 1792 – Debate in the Commons," in *Parliamentary Register*, 32:420.

allowed a Supreme Court to uphold the legacy of Milbanke's Court of Common Pleas.

West Country MPs, however, were not content to allow Parliament's concessions to the Privy Council to go unchecked—and they were certainly not about to allow Lester more than the lion's share of Newfoundland's civil patronage that he already enjoyed. On 8 May 1792, after the Judicature Bill was sent to committee following its second reading, "A Clause was offered to be added to the Bill, that no Officer of the Customs shall act as a Justice of the Peace in the Island of Newfoundland."<sup>96</sup> As the amendment was offered to a thin House, it was agreed to without debate. Helpless from Whitehall, Reeves was furious. His remarks to Hawkesbury suggest that the amendment come from Edmund Bastard, who perhaps felt slighted by Lester's underwhelming support.

My Lord, The Attorney General has been satisfied that the clause about Custom-House Officers is a foolish regulation; but he says, and Mr Rose thinks, that the member for Dartmouth & other places having gone out of Town under a confidence that no further alteration would be made, it could not be now moved.<sup>97</sup>

Reeves then went on to ask Hawkesbury to voice his disapproval of this amendment, should the bill meet with any debate in the Lords. If there was any debate, however, it is not in the published record; and in any event, the House of Lords agreed to the bill without amendment.<sup>98</sup> Strangely, MPs seemed not to want to support a "colony," but they also did not want to support any additional reforms intended to encourage the "fishery." Amidst this confusion, the new office of Chief Justice of the Supreme Court of Newfoundland was awarded to its previous holder, John Reeves.<sup>99</sup>

---

<sup>96</sup> Kingdom of Great Britain, "8 May 1792 – Newfoundland Judicature Bill reported," in *Journals of the House of Commons*, 47:778.

<sup>97</sup> Reeves, "[?] June 1792 – Letter to Lord Hawkesbury," Add MS 38227, f. 376.

<sup>98</sup> Great Britain, "7 June 1792 – Newfoundland Judicature Bill," in *Journals of the House of Lords*, 39:467.

### III.iv – The Search for an “Impartial Executive”

In the absence of more comprehensive reforms, Reeves did what he could from the Supreme Court, setting to right individual cases where merchants had withheld their servants’ passage-money for years on end on the pretense of debt—even ensuring that those who regarded Newfoundland as their home did not also have “their” passage-money withheld. But Reeves recognised the irony that resident Justices of the Peace rather than the seasonal Supreme Court were best positioned to enforce imperial policy of discouraging residency. In his 1792 report to the Board of Trade, he was clear that

it is upon them, that we must depend for executing Stat. 15 Geo. 3 and seeing carried into Effect, the Regulations respecting master and Servant, and the Passages home, all which are thought to be closely connected with the value of this Island, as a Home Fishery.<sup>100</sup>

He “d[id] not pretend ... to give an opinion” whether Newfoundland ought to remain a home fishery rather than a colonial one, but if the former was truly Government’s wish,

it comes to this Question: Is it worth incurring some Expence, and how much, in order to procure a due Execution of Stat. 15<sup>th</sup> Geo. 3<sup>d</sup>? Clear I am, that without some such Expence, it will remain a dead Letter, as it hitherto has been.<sup>101</sup>

Reeves was not over-confident so much as he was desperate to find Justices of the Peace as reliable as officers of the Customs had been—or as public receivers would have been.

The subject of a salaried judiciary had been raised before. The 1791 Judicature Act required judges, clerks, and officers of the court to be paid salaries “in lieu of all other profits and emoluments whatever.”<sup>102</sup> Edmund Bastard had even praised the utility of

---

<sup>99</sup> Reeves received news of his appointment on or before 25 July 1792; Reeves’s re-appointment as Chief Justice may also have been made around that time. The earliest reference to Reeves’s expected “absence” from that office, however, is from a letter dated 2 August 1792. See Reeves, “25 July 1792 – Letter to Dundas,” HO 42/21, ff. 196-v; Reeves, “2 August 1792 – Letter to Dundas,” HO 42/21, ff. 277v-278.

<sup>100</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 60.

<sup>101</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 64.

“paying the Judges a certain salary, and not permitting them to pay themselves ... by the fees which they exacted.”<sup>103</sup> In other words, he was relieved that, unlike the Court of Common Pleas, the Civil court did not invite the same kind of profiteering alleged of England’s trading justice system. Reeves’s 1791 report echoed his concession, noting that salaries were “designed for keeping the Officers of the Court correct in their Conduct, and above all unworthy suspicions”—though perhaps not “to forbid the payment of Fees altogether, which,” he admitted, “might operate as a bounty on litigiousness.”<sup>104</sup> And yet, it was not until his 5 December 1792 report—written after he had resumed his duties as Receiver of Public Offices for Middlesex—that Reeves raised the issue of appointing a salaried commission of the peace in Newfoundland. “The great and pressing evil at Newfoundland has been, and still is,” Reeves wrote, “the Want of a regular and firm Administration of Justice,” which the “transient and ambulatory” Supreme Court only gave for two months.<sup>105</sup> Navy officers had even begun telling Reeves “they wish[ed] to have nothing to do with Courts; and they hope, that their Duty at Newfoundland ... will hereafter be confined to that a Captain in His Majesty’s Navy and that only.”<sup>106</sup> Reeves had hoped that this would happen anyway, but even so he insisted that the Supreme Court’s surrogate judges (one each for the northern and southern fisheries)

should, in one respect, be the same as that of the Captains of Ships; they should, like them, come from some other Place, and be on that Account, free from those partialities and Inclinations, that are seen, sometimes, to warp the Administration of Justice here in the Island of resident magistrates.<sup>107</sup>

---

<sup>102</sup> Kingdom of Great Britain, 31 Geo. III. cap. 29 sec. 1.

<sup>103</sup> Bastard, “26 May 1791 – Debate in the Commons” in *Parliamentary Register*, 29:539.

<sup>104</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 298.

<sup>105</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 53v, 58.

<sup>106</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 56.

The greater challenge, however, was to apply these same principles to the Commission of the Peace, who would be principally responsible for enforcing Palliser's Act.

The problem, Reeves felt, was that even the resident fishery's internal disputes could not be settled fairly by any magistrates who had a financial interest in the commercial cod fishery—and in Newfoundland, “[t]here are no Residents, but such as are in the Pursuit of Gain in some Way or other.” Neither merchants, nor boatkeepers, nor planters were appropriate for the magistracy, as all were bound to harbour some “secret feeling, where the dispute is, between Master and Servant, about Wages, neglect of Duty, or the Passage-Money” withheld from wages as per Palliser's Act.<sup>108</sup> Even the “Surgeon, or medical man” resident in every harbour, if not quite a member of the merchant's household, depended on his patronage—as it was the merchant who distributed his servants as patients, and it was from their wages that the surgeon was paid.<sup>109</sup> Surgeons' educations might make them superior candidates for the civil magistracy, but in an economic monoculture, residency itself was a corrupting influence. “[I]t often happens that the Surgeon tries his Fortune in the Fishery, and so gives up the small Pretension, that remained to him, of being disinterested in matters of Trade.”<sup>110</sup> Reeves even recommended against importing a new set of JPs from England, since “such Persons, when become residents, might be tempted to engage in the Trade and Fishery in some secret way, that would soon assimilate them to those around them.”<sup>111</sup>

---

<sup>107</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 56v. Reeves proposed sending one surrogate on circuit “in Conception Bay, Trinity Bay, and the Northward,” and another “in St. Mary's Bay, Placentia Bay, and Fortune Bay.” The Chief Justice's own circuit was to include St. John's, Ferryland, and the eastern Avalon. Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 56v-57.

<sup>108</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 58v.

<sup>109</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 59-v.

<sup>110</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 59v.

Instead, magistracy ought to be raised above the fishery. To that end, it would be wise to look to men already raised above it by means other than merchant patronage.

Reeves complained that “every Justice in the Island has more or less of that Interest, and feeling which should not enter into the mind of such a Person,” but he nevertheless spoke very highly of those who had been barred from serving as JPs under the 1792 Act—and who likely would have received additional salaries as receivers under Milbanke’s plan.<sup>112</sup>

[I]n truth there is nothing incompatible in the Office of Collector or Comptroller of the Customs (which was the Officer principally aimed at) and that of a Justice of the Peace. And in Newfoundland there is a special Reason for uniting them in the same Person; the choice being so small, and the Custom-house Officers, being the most respectable and fittest Persons for magistrates, in all Parts of the Island.<sup>113</sup>

Reeves praised D’Ewes Coke in particular, “the Comptroller of the Customs at St John’s who has no Concern, or Employment whatsoever, but that of his Office,” who alongside Aaron Graham had been one of the Civil Court’s assessors in 1791. The fact that Coke was no longer a practising surgeon also made him “perfectly independent of every Body.”<sup>114</sup>

Oddly enough, customs officers were the *only* suitably neutral parties on the island.

[E]very Justice in the Island has more or less of that Interest, and feeling which should not enter into the mind of such a Person; But from this Predicament one magistrate, and only one, is to be excepted and that is the Comptroller of the Customs at *St John’s*, who has no Concern, or Employment whatsoever, but that of his Office; is perfectly independent of every Body.<sup>115</sup>

JPs’ and the Customs’ interests, Reeves later told the Newfoundland Committee, were identical. “The Custom House Officers should be Persons who are not concerned in the

---

<sup>111</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 62.

<sup>112</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 59v-60.

<sup>113</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 54v.

<sup>114</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 60.

<sup>115</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 59v-60.

Fishery; so should Justices of the Peace.” Indeed, “it seems to me peculiarly proper, that a Comptroller of the Customs should have the Authority of a Justice to do the Peace, to enable him to discharge his duty to the Crown.”<sup>116</sup> Routh went one step further:

with respect to the Out Bays, ... there are no Persons so proper to be Justices of the Peace [as Customs House Officers]; and I will dare to assert, that I believe every Governor, who has been to Newfoundland, will be of the same Opinion.

Routh had certainly proven his commitment to performing that *other* great duty to which civil magistrates were notoriously expected to attend.

[F]or my own Part, a few Years ago I had the Satisfaction to assist in preventing a Riot and Plunder of the most alarming Nature, by a set of Men who had been defrauded by a Person of St. John’s of their Wages; and it is well known, that when the Irish Convicts were landed at Newfoundland, the Town of St. John’s would have been burnt and plundered by those Men, but for the Vigilance of the Officers of the Customs.<sup>117</sup>

Surely this was a ringing endorsement for Reeves’s view that only men who were already civil servants used to performing the unsavoury duties of the magistracy could be prevailed upon—and thereafter relied upon—to clear the coastlines before each winter.

But in the course of convincing Parliament to pass the 1793 Judicature Act with appropriate amendments, Reeves did not push for additional changes to the judiciary beyond defending the Supreme Court—at least not in public. But in the absence of a Judicature Act, Reeves had suggested in his 1792 report to the Board of Trade that the five Anglican missionaries then resident—one each at St. John’s, Harbour Grace, Trinity, Ferryland, and Placentia—were the best candidates to be “made independent of the Merchants, by allowing them a fixed salary.” This was never intended as a cure-all. Of

---

<sup>116</sup> Reeves, *Third Report of the Newfoundland Committee*, 140.

<sup>117</sup> Routh, *Second Report of the Newfoundland Committee*, 44.

the twelve districts, only five of them had one missionary each, and many districts had as many as four JPs. Nevertheless, Reeves may have hoped that if a subsidy of £100 per annum, paid on top of their £70 missionary stipends, could ransom the consciences of these fishers of men, then these men might lead by example.<sup>118</sup>

If they were made independent of the Merchants, by allowing them a fixed salary, there would be every reason to rely on them for doing the duty of a Magistrate without Bias; because they cannot engage in the Trade or Fishery, or in any worldly concern; and, having once obtained a certain and competent maintenance,

---

<sup>118</sup> Cf. English, "The Development of the Newfoundland Legal System to 1815," 117. Favouring salaried constables and magistrates over their non-salaried counterparts ("trading justices" and volunteer parish watches) had been a feature of the London and Westminster Police Bill of 1785. Radzinowicz, *History of the English Criminal Law*, 3:112; Beattie, *The First English Detectives*, 154.

Reeves may also have been aware of a local precedent for state patronage lessening missionaries' dependence on merchants. By the time Reeves arrived in Newfoundland, the chaplain of the Royal Army garrison at Placentia was a well-looked-after social fixture. When the SPG's first missionary there, the Rev. John Harries, arrived in 1788, he was at first obliged to live in the house of Thomas Saunders, "the principal Merchant & Inhabitant of Placentia," but the cramped quarters of Saunders' house "rendered an enlargement necessary." The next year, the arrival of the Rev. John Evans, another SPG missionary at Placentia, perhaps occasioned Harries' appointment as chaplain to the Placentia garrison. Harries' new position entitled him to a residence in a lieutenant's quarter's, as well as rations of food, firewood, and candles for both himself and "his Servant." When Harries transferred to St. John's in 1791, his replacement at Placentia, the Rev. John Evans, found himself similarly looked after. By 1794, if not much earlier, room and rations were also being issued to Harries' wife, Elizabeth Collins (from a local planter family), and, by 1795, their children. Significantly, after being appointed the garrison chaplain, Evans was also one of two Justices of the Peace appointed for Placentia District in September 1791 and during Reeves's time in Newfoundland, Evans was one of two SPG missionary who was also a JP. The other was the Rev. Samuel Cole, recently appointed as the missionary to Ferryland, who was appointed a JP for the Districts of Ferryland and Bay Bulls. Harries, "20 October 1788 – Letter to the SPG (Summary)," *Journal of the SPG*, 25:128, CNS; Milbanke, "12 September 1789 – Letters to Harries et al.," GN 2/1/A/12, ff. 2-5; John Paul Bradford, *A History of the Collins Family of Placentia, Newfoundland* (16 November 2013), 34-39, <<http://collins.dnagen.org/northamerica/biographies/canada/>>; Milbanke, "27 September 1791 – Letter to Brown and Evans," GN 2/1/A/12, f. 112; King, "27 October 1792 – Letter to Cole," GN 2/1/A/12, f. 192.

Reeves never made it to Placentia, but in the wake of the 1792 Judicature Act, Evans travelled to St. John's in October 1792, in order to get advice concerning the payment or non-payment of servants' wages. Evans' trip to St. John's, together with Reeves own excursions to Harbour Grace, Trinity, and Ferryland, also meant Reeves would have met all five SPG missionaries stationed in Newfoundland in 1792; Harries' report to the SPG took notice of "the great attention of ... Mr. Reeves to religious matters." Reeves's proposal was communicated by the Board of Trade to the SPG in February 1793, and was subsequently agreed to. In October 1793, the Revs. Evans, Cole, and Clinch were each appointed one of several JPs for the Placentia, Ferryland, and Trinity Districts respectively. James Downes (Agent for Saunders and Sweetman), "8 October 1792 – Letter to Richard Routh," Saunders and Sweetman Letterbook, MG 49/40, n.p., PANL; SPG, summary of Harries, "4 January 1793 – Letter to the SPG," *Journal of the SPG*, 26:109, CNS, Micro Film 567; SPG, "15 February 1793 – [Proceedings a]t the Anniversary Meeting of the Society," *Journal of the SPG*, 26:111; Newfoundland, "11 October 1793 – List of persons to be appointed Justices of the Peace for Newfoundland," GN 2/1/A/12, f. 212.

for which they were obliged to the crown alone, they could propose to themselves no object superior to that, and the preserving of their clerical character.<sup>119</sup>

But even if “for the sake of obtaining a proper Magistracy,” it was not necessary to supplement missionaries’ incomes all across English Newfoundland, Reeves insisted that Palliser’s Act would remain a dead letter, “as it hitherto has been,” unless the imperial government were willing to exercise the Crown’s patronage as a direct check on that of Newfoundland’s merchants.<sup>120</sup> “Whether Clergy, or Lay, are hereafter to be the Justices, most to be relied on, little dependence can be had on their service, if the office is not made in some way or other, profitable to them.”<sup>121</sup>

The problem with taking Reeves at his word, though, is that his recommendations to raise the magistracy above the fishery seemed to assume that *any* civil government sanctioned by London would automatically be free from the influence of merchant patronage. Perhaps the starkest illustration of the Supreme Court’s failure to rise above the fishery’s internal class struggles is that when in 1792 Governor Richard King created a new district north of Bonavista, Moses Cheater, the new Chief Justice for Fogo District, was not even a merchant in his own right but was Lester’s agent at Tilting.<sup>122</sup> The Rev. John Clinch, a surgeon, Anglican priest, SPG missionary, and the first stipendiary magistrate for Trinity, benefited indirectly from Lester’s patronage, having been recommended to his office by Richard Routh—and Gordon Handcock observes that even Clinch “indulged in the fishery by acquiring fishing rooms at Bay de Verde.”<sup>123</sup> Reeves

---

<sup>119</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 62v.

<sup>120</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 63v.

<sup>121</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 63v-64. Prowse notes that the salaries of “the stipendiary magistrate” were not made a permanent fixture of the imperial budget until the administration of Governor Sir Erasmus Gower. Prowse, *A History of Newfoundland*, 383.

<sup>122</sup> King, “19 September 1792 – Letter to Cheater,” GN 2/1/A/12, f. 157.

also neglected to mention that the “impartial” assessors and civil surrogates he praised also had financial stakes in the fishery. Even Graham imported salt and other navy victuals—and in 1791 it was “some young Men belonging to the Ship, under the direction of the Governor’s Secretary” whose services were enlisted in lieu of court officers—and whose status as hired hands saved the imperial government the trouble of paying them a further salary.<sup>124</sup> It is tempting to suggest that his indirect connection to the fishery was a factor in the decision not to re-hire him as the governor’s secretary in 1792, but Graham was not the least interested judge in Newfoundland. Reeves assured the Newfoundland Committee that Coke’s lack of a medical practice made him ideal for the commission of the peace, but Prowse notes that “[f]rom the Census of 1794 it appears that at that date Chief Justice D’Ewes Coke owned and operated a fishing room at Quidi Vidi.”<sup>125</sup>

Furthermore, the fact that Coke was uniquely qualified for Newfoundland’s magistracy did not mean he or Routh were as dedicated to public service as Reeves made them out to be. Rather than obey Governor Waldegrave’s 1798 order for the Chief Justice to reside permanently in Newfoundland, Chief Justice Coke resigned. Routh only very reluctantly accepted the job next, and even then, he continued to defy orders by making regular voyages back to England—with the result that he was lost at sea in 1801.

---

<sup>123</sup> Frederick Jones, “Clinch, John,” in *Dictionary of Canadian Biography*, 5:190; Handcock, “Trinity Harbour: From Sir Richard Whitbourne to Dr. Donna Butt,” in *Discourse and Discovery: Sir Richard Whitbourne Quatercentennial Symposium, 1615-2015 and Beyond*, eds. Melvin Baker, Christopher Curran, & J. Derek Green (St. John’s: Print Three for the Law Society of Newfoundland and Labrador, 2017), 10.

<sup>124</sup> Evans, “Graham, Aaron,” in *Dictionary of Canadian Biography*, 5:361; Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 298v.

<sup>125</sup> Prowse, *A History of Newfoundland*, 383n3. Of course, it was not until 1795 that the salaries for services rendered by Chief Justices between 1791 and 1794 were actually paid, so Coke perhaps had good reason to be concerned for his income. Reeves knew of Coke’s financial anxieties and helped put them at ease. In a letter from 1799, Coke recalled that following his appointment as Chief Justice in 1793, Reeves expressed his regret that exacting fees for issuing probates of wills was “the only thing for which you can take a shilling.” Coke, “24 February 1799 – Letter to William Waldegrave (Governor),” CO 194/42, f. 44.

Once again, a Chief Justice was assigned not from the English bar but the local bureaucracy—Jonathan Ogden having served as deputy customs comptroller under Coke, and as Chief Surrogate for St. John's at the time of Routh's death. It seems that no English barrister, fresh from the Inns of Court, with five years of practice successful enough to merit the favour of the Privy Council, and who knows how many years of comfortable London living under his belt, was as willing as Reeves to risk the voyage to Newfoundland, and even less its winters.<sup>126</sup> As Reeves himself admitted, "An expedition of this kind is not much suited to a person of my habit of life."<sup>127</sup> That, and the over-qualified Reeves had cost a thousand pounds for his own four months of service.

Lester, for his part, remained a shrewd observer from his vantage point in Poole. On 4 November 1792, while Reeves was three days out from St. John's, Lester received a letter from Routh, dated 10 October 1792, informing him that "the Judge is at Ferryland [and] that he is not so popular as last year, but that the Governor is much liked."<sup>128</sup> More mundane news came from another "Letter from Mr Routh dated 17<sup>th</sup> September advising what was done at Trinity"—possibly informing him of Reeves's activities while on circuit there, or possibly concerning Lester's agent John Hare, master of the good ship *Fly*, who had cast a damaged French ship adrift after promising its captain to tow it in exchange for a spare sail, which Governor King ordered to be returned.<sup>129</sup> But the good news was that Judge Cheater was busy networking to make the Supreme Court work to Lester's advantage, "Recommend[ing] our Trade to the different Surrogates."<sup>130</sup> Lester

<sup>126</sup> Keith Matthews, "Routh, Richard," in *Dictionary of Canadian Biography*, 5:726.

<sup>127</sup> Reeves, "21 September 1791 – Letter to Hawkesbury," Add MS 38227, f. 61.

<sup>128</sup> Lester, "Sunday, 4 November 1792," *Benjamin Lester Diaries*.

<sup>129</sup> Lester, "Friday, 9 November 1792," *Benjamin Lester Diaries*; King, "5 October 1792 – Circular letter to the Justices of the Peace for Trinity District," GN 2/1/A/12, ff. 173-174.

almost certainly would have been interested to know that once Aaron Graham was no longer in office, Reeves “had nothing to depend on” for his knowledge of local legal custom “but the voluntary Assistance of Mr. Coke, which he gave me very readily.”<sup>131</sup>

### III.v – Hints of Further Alliance

Other clues hint at a compromise between the prerogative and capital, between economic conservatives and merchants, between Hawkesbury and Lester. In the period between Reeves’s return from Newfoundland and the proceedings of the Newfoundland Committee, individuals representing both forces continued to aid Reeves’s conservative groundswell against British radicals. On 20 November 1792, four days after arriving in England, Reeves announced the creation of the Association for Preserving Liberty and Property against Republicans and Levellers (APLP), loosely based on a plan submitted to the Home Office.<sup>132</sup> The APLP’s main task was to answer the Royal Proclamation against Seditious Publications, issued on 21 May 1792, which had asked for magistrates’ and loyal subjects’ help rooting out such seditious libels against the Constitution as Thomas Paine’s *Rights of Man*. The inhabitants of cities, boroughs, towns, and counties across Great Britain were asked to form their own loyal associations, and report any seditious or suspicious activity to the APLP’s chairman at the Crown and Anchor Tavern in The Strand (who forwarded any useful information to the Home Office). They were also asked to aid the APLP in distributing cheap loyalist propaganda intended to combat the

---

<sup>130</sup> Lester, “Friday, 9 November 1792,” *Benjamin Lester Diaries*.

<sup>131</sup> Reeves, *Third Report of the Newfoundland Committee*, 174.

<sup>132</sup> Reeves and King arrived at Spithead on 16 November 1792. See Reeves, “16 November 1792 – Letter to Dundas,” WO 1/15, f. 187. For the plans for an “Anti-Levelling Society instituted for supporting the Civil Power in suppressing Tumults and for Maintaining the Constitutional Government of this Country” (etc.), see Anonymous, “17 November 1792 – Letter to[?] the Home Office,” HO 42/22, ff. 401-408.

influence and popularity of political radicals' own.<sup>133</sup> One Northern cleric (also a magistrate) writing to the APLP approvingly observed that this tactic had effectively suffocated popular support for William Wilberforce's motion to abolish the slave trade only some months before.<sup>134</sup> But it is worth considering that the distribution of free or cheap literature supporting the civil and religious establishment was suggested to Reeves by his time in Newfoundland. It seems no accident that the Governor of Greenwich Hospital (a home for retired Royal Navy sailors), Sir Hugh Palliser, who was intimately familiar with the value of "small tracts" to the SPG's missionary work, recognised the moral imperative to Reeves's movement.<sup>135</sup> Within two weeks of the Association's launch, Sir Hugh informed Reeves that the Crown and Anchor's cause was now his own.

Sir, I have subscribed to your association ... and desire ... you to direct the Bookseller who you Employ to send me from time to time such handbills & Pamphlets as have been or may be published with the approbation of the Association, and I will pay him for them; I intend to destribute [*sic*] them to the ale-houses in the Parish & Neighbourhood where I have some property in the country, for the right information of those who resort to those Houses, and in order to prevent the Carefull Effect of the Industrious & secret communication of [Paine's] Book and other Treasonable papers.<sup>136</sup>

Palliser was not the only ally of Hawkesbury to join Reeves's association.

Generally speaking, Reeves's most fervent responders were from the southern counties of England—the ones most vulnerable to a French invasion—and the West Country was singularly zealous in its response to Reeves's calls to associate. But perhaps

---

<sup>133</sup> For the text of the proclamation, see Great Britain, "25 May 1792 – Debate in the Commons on the King's Proclamation against Seditious Writings," in *Parliamentary History*, 29:1476-1477.

<sup>134</sup> "Anonymous, "2 November [December?] 1792 – Letter to [Reeves] (Suggestions: Itinerant Preachers to be watched; Cheap Publications to be sent to Clergy in the Country)," Add MS 38218, f. 1.

<sup>135</sup> See summary of Harries, "4 November 1791 – Letter to the SPG," *Journal*, 25:445. See also SPG, "15 February 1793 – [Proceedings a]t the Anniversary Meeting of the Society," in *Journals*, 26:109-111.

<sup>136</sup> Palliser, "7 December 1792 – Letter to John Reeves," Add MS 16921, f. 7.

the single strongest group of “Associators” were none other than the mayor and aldermen of Poole—a group over whom Lester loomed large as local patriarch.<sup>137</sup> It so happened that on St. Stephen’s Day 1792, a local chapter of the Society of the Friends of the People (at the time, one of the more moderate political reform societies) met at the Old Antelope—a public house owned by Lester.<sup>138</sup> In response to the Crown and Anchor’s clarion call, Lester noted in his diary that “the Association against Levellers &ce. met at the Old Antelope by Adjournment of the last Meeting.” The Poole Association agreed to write to “the Secretary at the Crown & Anchor to have their advise as to the Meeting of the Friends of the People.”<sup>139</sup> It then fell to the Mayor of Poole—John Lester, Benjamin’s son—to write to Reeves, asking how advisable it was to tolerate these “Friends.”<sup>140</sup>

You will please to observe that the meeting of these Men (who at present are few in number) is not known to us otherwise than a select body who convened themselves in a private manner. And as we are ignorant of their real intentions and understanding the promoters thereof to be Republicans in principall [*sic*] we are most watchful on our parts and wish to be advised how far any caution to them may be prudent.<sup>141</sup>

What he failed to mention was that one of these Friends of the People was Michael Angelo Taylor, Poole’s other MP, who had managed to kill the bill to amend Palliser’s Act while pressing for a Committee on the Newfoundland Trade—and who would later chair that same committee.<sup>142</sup> Poole’s chapter of the Friends of the People were advocates for electoral reform, and it was in that same spirit that Taylor led a protest to Parliament,

---

<sup>137</sup> Handcock notes that in addition to being “the leading magnate of the Newfoundland trade,” Lester was also “the principal citizen and largest rate payer in Poole.” Handcock, *Discourse and Discovery*, 11.

<sup>138</sup> Cecil N. Cullingford, *A History of Poole* (Chichester: Phillimore & Co. Ltd, 2003), 158.

<sup>139</sup> Lester, “Monday 31 December 1792,” *Benjamin Lester Diaries*.

<sup>140</sup> “With the storming of the Bastille, the cause of moderate reform was entirely discredited overnight, and as the terror rose, the fervour of the conservative element rose with it, until even to imply that the British Constitution was less than perfect had bloody connotations.” Beamish et al, *The Pride of Poole*, 42.

<sup>141</sup> John Lester, “1 January 1793 – Letter to John Reeves,” Add MS 16924, ff. 3-v.

claiming that Lester's election as MP was invalid. Taylor alleged that the Sheriff of Poole, acting under orders from Lester, only accepted votes from the mayor and burgesses of Poole, to the exclusion of less wealthy freeholders. But this practice that had been ongoing since at least 1769, and Lester was later declared duly elected by a parliamentary inquiry.<sup>143</sup> In the meantime, meetings of the Poole Association continued. On 21 January, after hearing Captain Cheater's news about "the Brooks at the Sploits [i.e., the Exploits]," Lester again recorded that he "went to the Association Club in the Evening, & agreed to some resolutions"—but by then, the town's elders were more concerned with recruiting volunteers for the Royal Navy. It seems Louis XVI of France had been executed in Paris earlier that same day, news of which reached Poole four days later.<sup>144</sup> Of course, Lester and Reeves's alliance this does not mean that they were necessarily of one mind, but Reeves clearly had no problem making common cause with at least one merchant who one might assume was his natural adversary after a cursory reading of his *History of Newfoundland*.

At the same time, even if Reeves was successful in winning Anglican merchant elites to his cause across England, their counterparts in Newfoundland were having no trouble winning Reeves over to theirs.<sup>145</sup> In the autumn of 1792, Governor King

---

<sup>142</sup> R.G. Thorne, *The History of Parliament: The House of Commons, 1790-1820*, 5 vols. (London: Published for the History of Parliament Trust by Secker & Warburg, 1986), 1:134. See also Black, "Reeves and the Constitution," in *The Association*, 253.

<sup>143</sup> Great Britain, "13 March 1793 – Poole Election determined," *Journals of the House of Commons*, 48:397; Great Britain, "3 December 1790 – Poole Election; Petition of Mr. Taylor and Mr. Kingsmill," *Journal of the House of Commons*, 46:25-26; "24 February 1792 – Petition from Poole, respecting the Right of Election," *Journals of the House of Commons*, 47:426-427; Black, *The Association*, 253; Bannister, *Rule of the Admirals*, 157.

<sup>144</sup> Lester, "Thursday, 24 January 1793; Friday, 25 January 1793," *Lester Diaries*.

<sup>145</sup> Cf. Alan Booth, "Popular Loyalism and Public Violence in the North-West of England, 1790-1800," *Social History* 8, no. 3 (October 1983): 295-313, esp. 296.

originally ordered Lt. Jahleel Brenton RN, captain of HMS *Trepassey*, to transport Reeves, “his Servant, and [his] Baggage, and proceed with him to Harbour Grace, and such other Places or Harbours which the said Chief Justice may think proper to visit.”<sup>146</sup> Following a short stay in Harbour Grace, Reeves decided to press on to Lester’s old headquarters at Trinity. Once there, he wrote to Hawkesbury that “we mean by a sight of this harbor, to get a tolerable idea of Trinity Bay, and the northern part, within the English limits.”<sup>147</sup> What he saw there was enough to satisfy any urban Tory’s nostalgia for the steady paternalism of the rural gentry. Reeves surmised that around St. John’s and in Conception Bay, West Country merchants’ preference for colonial fishers as cheaper, more reliable labour was not in and of itself responsible for the much-maligned post-1775 population boom. Instead, the blame ought to lay with new merchants from outside the West Country proper hoping for the same return on their investments. But the resulting increase in population caused a lack of social cohesion “where People are less united, and more at Liberty to engage with any new merchants that present themselves,” leaving them vulnerable to exploitation by strangers. By contrast,

in Trinity Bay, ... [t]he Merchants there are few; every One knows his own Dependents; their own Boatkeepers and Servants must, at any Rate, be maintained by the respective Merchants, and knowing that, the Merchants are solicitous to remove the Evil as soon as it appears, and are ready enough to prevent it. Thus in a small Society private Interest becomes a public Virtue.<sup>148</sup>

So strong were the connections between master and servant, between creditors and boatkeepers, that even though debt was the tie that bound outport society together, the

---

<sup>146</sup> Brenner for King, “7 September 1792 – Letter to Lt. Brenton,” GN 2/1/A/12, ff. 147-148.

<sup>147</sup> Reeves, “17 September 1792 – Letter to Hawkesbury,” Add MS 38229, ff. 63-v.

<sup>148</sup> Reeves, *Third Report of the Newfoundland Committee*, 170. Cf. Matthews, “A History of the West of England-Newfoundland Fishery,” 549; Hancock, *So longe as there comes noe women*, 226.

experience of generations had developed a “Sort of Honour, which is well understood in the Island,” in which “the Merchant who has [a Servant’s] Fish during the Summer” is “bound...to supply him during the winter.”<sup>149</sup> When boatkeepers tried to make something of themselves, it was not simply debt they were escaping, it was the protection of their local patron against the elements.<sup>150</sup> When a boatkeeper at Perlican, after using his passage-money to try his luck at Harbour Grace the next season, wanted his old merchant at Trinity to pay for his passage to England, Reeves “thought the first Merchant perfectly right.” As Reeves explained to the Board of Trade, that merchant “had done his Duty, while he had any Obligation on him.”<sup>151</sup> In short, Reeves recognised in Newfoundland’s outport merchants exactly the sort of men he hoped to recruit to the APLP. At first glance, it may seem a shame that those merchants’ interests lay in directly counteracting, undermining, and when possible ignoring the strict neo-mercantilist policy to which Lord Hawkesbury had been so personally attached for decades. Conditions in Trinity were at least favourable enough to the spirit of Palliser’s Act that, of all of the SPG missionaries stationed in Newfoundland at the same time Reeves was, only the Rev. Clinch at Trinity made any contemporary references to his parishioners’ having “sailed for England to seek relief from their Parishes” in his reports to the SPG—notably, in 1790, the year *before* Reeves’s appointment as Chief Judge.<sup>152</sup> Perhaps Lester’s frontier empire was just the “sort of colony” that Hawkesbury was willing to tolerate.

---

<sup>149</sup> Reeves, *Third Report of the Newfoundland Committee*, 170.

<sup>150</sup> Cf. Rosemary E. Ommer, “Rosie’s Cove: Settlement Morphology, History, Economy, and Culture in a Newfoundland Outport,” in *Fishing Places, Fishing People: Traditions and Issues in Canadian Small-Scale Fisheries*, eds. Dianne Newell and Ommer (Toronto: University of Toronto Press, 1999), 20, 26-27.

<sup>151</sup> Reeves, *Third Report of the Newfoundland Committee*, 170.

An alliance with Lester's benefactors in the Customs, and with Lester himself, long accustomed to making limited colonial settlement work to his advantage, would also explain why during the Newfoundland Committee's enquiry in 1793, Reeves had no interest in entertaining the idea of removing the island's settlers already there. So long as the reigning controversy was the Newfoundland Judicature Acts, Knox had laid low—but he did not stay entirely quiet either. When the House of Commons began its proceedings in 1793, Knox was among the first witnesses called. It was Knox who famously declared that in the eyes of the law, Newfoundland was nothing more than “a great English ship moored off the Grand Banks” during his testimony in which he spoke openly about his proposal for island-wide resettlement. If the desire to settle was a given, then Knox had a solution: surely Irish Catholics living on the Island (Knox was an Irish Protestant)

would readily accept of Settlements in Canada, if Government would transport them there, and grant them Lands, and furnish them with Implements of Husbandry to cultivate them and Provisions for their Subsistence.<sup>153</sup>

At least one faction of West Country MPs—all of whom sat on the Newfoundland Committee—took Knox quite seriously. Not even Edmund Bastard had suggested outright that colonists ought to be removed (though this was perhaps implied when he asked, “Will you have a fishery or a colony?”), but the constitutional conservatives now made common cause with the economic ultra-conservative Knox. Even the Labrador merchant George Cartwright was now publicly calling for an end to settlement on the

---

<sup>152</sup> This was notably in the year before Reeves's arrival. Summary of Clinch, “2 December 1790 – Letter to the SPG,” in SPG, “18 March 1791 – [Proceedings at] a General Meeting of the Society &c.,” in *Journal of the SPG*, 25:346. Cf. Merchant Adventurers of the City of Bristol, “4 April 1792 – Petition against the Bill to amend Act 15 Geo. III. for Encouragement of the Fisheries,” in *Journals of the House of Commons*, 47:690. Cf. Handcock, *So long as there comes noe women*, 132-133.

<sup>153</sup> Knox, *Second Report of the Newfoundland Committee*, 20.

northeast coast of Newfoundland on humanitarian grounds—insisting that creating a “royal” or “Indian District” there was the only way to prevent the complete annihilation of the Beothuk by rapacious settlers.<sup>154</sup> Emboldened by his faction’s strength in its growing diversity, Bastard—identified by one early-twentieth-century editor as the “agent in England for Newfoundland”—appears to have taken the lead when members of the Newfoundland Committee reached out to John Graves Simcoe, then Lieutenant-Governor of Upper Canada.<sup>155</sup> Simcoe agreed that Newfoundlanders would be more welcome than the Late Loyalists then pouring in from the United States. His go-between to the Committee, Charles Stevenson, echoed Knox’s suggestion that Newfoundlanders “might establish sturgeon fishing on the Upper Lakes, [where] they would add to the strength of the country.”<sup>156</sup> Strictly speaking, the decision was not Simcoe’s but Lord Dorchester’s, then Governor-General, though it was ultimately the Secretary of State Henry Dundas—a personal friend of Simcoe’s—who proved the plan’s greatest obstacle when he was unable to guarantee on what terms Newfoundlanders might be resettled in Upper Canada.<sup>157</sup> It may be worth noting that Dundas had been working closely with the Board of Trade on the Newfoundland question since his appointment in 1791; that it was from Dundas that Reeves received his appointments as Chief Justice of Newfoundland and Receiver for Middlesex; and that it was to Dundas who Reeves reported in efforts to

---

<sup>154</sup> Cartwright, *First Report of the Newfoundland Committee*, 40-42.

<sup>155</sup> E.A. Cruishank, ed., *The Correspondence of Lieut. Governor John Graves Simcoe* (Toronto: Ontario Historical Society, 1923), 1:358n2.

<sup>156</sup> Dominion of Canada, summary of Charles Stevenson, “16 May 1793 – Letter to Henry Dundas” in *Sessional Papers of the Dominion of Canada* (Ottawa: Printed by S.E. Dawson, Printer to the Queen’s Most Excellent Majesty, 1892), 25:54. See also Charles Stevenson, “27 April 1793 – Letter to John Graves Simcoe,” in *The Correspondence of Lieut. Governor John Graves Simcoe*, 1:319.

<sup>157</sup> Stevenson, “18 June 1793 – Letter to Simcoe,” in *Correspondence of John Graves Simcoe*, 1:385.

gather information on political radicals.<sup>158</sup> In any event, by June 1793, Stevenson was resigned that the imperial government was unwilling to fund the scheme.<sup>159</sup>

Although as Chief Justice Reeves submitted copies of his reports to Dundas, and it was to Dundas that Reeves owed his appointment as Receiver for Middlesex as well as Chief Justice of Newfoundland, as Law Clerk to the Committee of Trade and Plantations, any recommendations Reeves made on the subject of Newfoundland were meant to appease the tersely pragmatic economic conservatism of his patron.<sup>160</sup> Rather than a departure from Hawkesbury's agenda, Reeves's views on Newfoundland did not signal a paradigm shift in the official mind so much as the next permissible step in his Lordship's way of thinking, confirming Knox's reports but dismissing his advice. In his testimony, Reeves recalled that "when the Island was thought to be overrun with Inhabitants," others had suggested "sending People to Nova Scotia, and other Places, where Inhabitants were wanted, but I do not remember that these were ever carried into effect." He did not believe the fishery could return to any sort of golden past, but he agreed with Knox that

Newfoundland is still nothing but a great Ship, dependent upon the Mother Country for every Thing they eat, drink, and wear, or for the Funds to procure them; the Number of Inhabitants seems to me rather to increase this Dependence, inasmuch as their Necessities are thereby increased.

It seemed almost unthinkable that colonists at Newfoundland might have any interests

---

<sup>158</sup> Dundas seems to have hoped that "to make [Reeves] a sort of middle man" between the Home Office and the Middlesex bench—in answer to which, Reeves expressed his regret that such a design was "no part of the duty enjoined" under the Middlesex Justices Act, and that his position as Receiver was not analogous to the office of police commissioner that he (Reeves) had proposed for the Metropolis in 1785. Reeves, "2 August 1792 – Letter to Dundas," HO 42/21, f. 228. See Beattie, *The First English Detectives*, 168. See also Reeves, "21 January 1794 – Letter to Dundas (Note from Mr. Reeves Inclosing address published by the London Corresponding Society &c.)," GD51/1/237/1-2, Melville Papers, National Records of Scotland.

<sup>159</sup> Stevenson, "18 June 1793 – Letter to Simcoe," in *Correspondence of John Graves Simcoe*, 1:385.

<sup>160</sup> For the less frequently cited manuscript of his 1791 report, see Reeves, "Report of John Reeves Esq. on the Government and Judicature of the Island of Newfoundland (Copy)," BT 1/2 Part 2, ff. 53-85.

separate from those of the empire. If anything, Reeves had observed firsthand that the island's distinctly regionalised society, "the People ... have little Knowledge, or Connection, with one another, to unite them"—except their dependence on England.<sup>161</sup>

It appears to me, that since the Peace of 1783, Newfoundland has been more completely our own; that it has been a more genuine British Fishery, and of more Value to the Mother Country, than it ever was before.<sup>162</sup>

Only four months after Great Britain joined the French Revolutionary Wars, and one month before Reeves's loyal association movement declared victory and disbanded, by June 1793 Reeves was confident that a colony scattered throughout Newfoundland's infinite harbours, coves, and tickles was in no danger of following America's example.

### III.vi – Conclusion

John Reeves's reports on Newfoundland were not written in a political vacuum, and neither was he the "judge-advocate" on behalf of colonists *qua* colonists that nationalist historiography has made him out to be. There were many political factions competing for the future of Newfoundland in the early 1790s in, close to, or otherwise represented in different wings of the British government. The economic conservatives, to which Reeves belonged, hoped to minimise colonial settlement in Newfoundland, but were ultimately unwilling to reverse what permanent settlement had already taken place. Reeves recognised that Newfoundland fishery that even mid-century policy-makers wished it to be, but he nevertheless agreed with Lord Hawkesbury as to how and why that a Supreme Court should serve imperial interests. In opposition to the Judicature Acts, the constitutional conservatives, comprising West Country MPs and merchants trading to

---

<sup>161</sup> Reeves, *Third Report of the Newfoundland Committee*, 172.

<sup>162</sup> Reeves, *Third Report of the Newfoundland Committee*, 171.

Newfoundland, cast the trade's opposition to the Judicature Bills as a betrayal of King William's Act. Even so, Parliament passed the first Judicature Act with ease; Reeves's 1791 report seems to have been satisfied that the considerable amount business the Civil Court had to attend to was its own justification. But Reeves's optimism that a Supreme Court and other proposals expanding Newfoundland's government's powers would be adopted as a matter of course saw an overconfident Administration face a much more organised opposition. And yet, apart from the rest, Benjamin Lester's behind-the-scenes objection to the Supreme Court seems to have been that as a leading merchant in the Island's various lucrative and expanding trades, the patronage of the Crown threatened that of Lester's. When Parliament took up the issue of Newfoundland in 1792 with not one but three bills, it was not a Tory merchant but an opposition Whig who (at least in the official record) delivered the *coup-de-grâce* convincing Pitt to abandon efforts to regulate the trade, in exchange for an annual judicature bill and a full inquiry into the trade.

In response to all of these factions' machinations, and in the absence of an act of parliament to reform Palliser's Act, it fell to Chief Justice Reeves to find means whereby to enforce the policy that that Act had been intended to support. Among a plethora of suggestions for ridding Newfoundland of surplus settlers during the off-season, Reeves decided that the royal prerogative might reasonably create, among the island's Anglican missionaries, a salaried magistracy loosely similar to the one he was soon to oversee as Receiver for Middlesex. Reeves's proposals to enlist men as magistrates who already had some measure of financial independence also included his advocacy for officers of the Customs, whose financial independence and political patronage allowed them greater

freedom to be unpopular with their neighbours. But if minimal reform favouring authoritarian government was the result of a conservative alliance between the royal prerogative and the leading merchant prince of Poole, by 1793, opposition to reform coalesced into an ultra-mercantilist coalition represented by William Knox and West Country MPs who remained stalwart constitutional fundamentalists. In such a political landscape, even conscientious opposition Whigs like Taylor could find a respected niche. But even Taylor confined his advocacy to expressing a negative, complaining that Hawkesbury had wanted to discourage settlement since 1774. No one explicitly claimed that it was in the Empire's interests to actively colonise Newfoundland and simply allow its migratory fishery to die out. And not even Reeves ever argued that *more* colonists were the answer to any of Newfoundland's problems.

#### **Chapter IV. – Chief Justice Reeves and the Legislative Power**

In the previous chapter, we saw that from 1791 to 1793, John Reeves understood both the Supreme Court and a reformed civil magistracy as the best means of enforcing existing law—Palliser’s Act in particular—as well as Lord Hawkesbury’s preferred policy of discouraging settlement in Newfoundland. But having established that the creation of a Supreme Court was judged to serve imperial interests, we have yet to consider how Reeves understood that Court’s function within the larger whole of island’s government; or how Reeves’s politics may have informed that understanding; or whether his various designs bore any relation to his activities as a colonial office-holder. To that end, Reeves’s earlier proposal for a colonial legislature, and his subsequent pioneering of the Supreme Court’s legislative function, are highly instructive. Historians who have considered the subject, however, have tended to separate Reeves’s 1791 proposal of a legislature from the opening session of the Supreme Court in 1792 that established that body’s legislative function. Jerry Bannister’s comment that Reeves “abandoned the concept of a legislature in favour of more pragmatic measures” also does not explain any transition in Reeves’s thinking.<sup>1</sup> More glaringly, Patrick O’Flaherty observes that Reeves had “suggested using the Supreme Court as a quasi-legislature,” and that Chief Justice Francis Forbes rejected its use as such, but does not explain whether Reeves ever put his own suggestion into practice.<sup>2</sup> A similar gap remains in O’Flaherty’s observation that Reeves rather liked the legislative authority of governors’ proclamations, but that Forbes ended the role that the Supreme Court had at some unspecified time taken on in enforcing

---

<sup>1</sup> Bannister, *Rule of the Admirals*, 177.

<sup>2</sup> O’Flaherty, *Old Newfoundland*, 135.

them.<sup>3</sup> Discussions of Reeves's "authoritarian" support of the royal or vice-regal prerogative's legislative powers also have yet to be contrasted against his "humane" calls for an increased use of prerogative powers in order to compensate that multiple governors' proclamations outlawing capital crimes against Indigenous people were, by the early 1790s, ignored. The previous chapter's explanation of how Reeves hoped any local regime should serve the interests of the British Empire's Newfoundland fishery also means that a more three-dimensional view of Reeves acknowledging his simultaneous roles in "Newfoundland state formation and the European invasion of Indigenous territories" is wanting.<sup>4</sup> This chapter therefore explores Reeves's sense of how local government was to function as a unified whole under the Judicature Acts.

This chapter argues that the transition from a legislature for enacting by-laws sanctioned by the Supreme Court, to a Supreme Court's sanctioning both governors' proclamations and local custom as law to be enforced, should be understood as a single conservative reform resulting both from the question of where legislative authority should reside, and from the realisation that the local exercise of such authority was preferable to over-legislation by a distant Parliament. To this end, the first part of this chapter traces the origins, outline, and fate of Reeves's proposal. Only a month before the House of Commons debated the first Newfoundland Judicature Bill, the Pitt ministry and its allies had argued that creating local legislature was essential for regulating the unique commercial law of Lower Canada. This idea most likely convinced Reeves of the utility

---

<sup>3</sup> O'Flaherty, *Old Newfoundland*, 135-136; cf. O'Flaherty, "The Seeds of Reform, 1800-1818," 41-42.

<sup>4</sup> Lianne C. Leddy, "Historical Sources and the Beothuk: Questioning Settler Interpretations," in *Tracing Ochre: Changing Perspectives on the Beothuk*, ed. Fiona Polack (Toronto: University of Toronto Press, 2018), 202.

of granting Newfoundland its own legislature, or at least led him to assume that the Administration would either expect one, or agree to grant it one, on that basis. I then outline Reeves's proposal, noting his assumption that a local legislature would save Parliament the trouble of hammering out any detailed fishery bills in future—as well as his intent for it to remain subordinate to both the colonial and the imperial executives. I further examine how the municipal design for this legislature was a precisely calculated, if unsuccessful, attempt to appease Hawkesbury's politics. I conclude that Hawkesbury's rejection of the plan notwithstanding, Reeves's proposal was nevertheless a thoroughly if idiosyncratically Tory vision of what a colonial legislature should look like.

The second part of this chapter examines how Reeves attempted to use the Supreme Court as a substitute for a representative legislature. It shows how his 1792 report hints at a view of the Court in more or less legislative terms and explains Reeves's method of giving force to governor's proclamations. I then summarise the five proclamations issued by Governor Richard King in 1792, and discuss Reeves's uneven attempts to give three categories of governors' proclamations greater effect. The first, which King issued his own versions of, announced that, in keeping with the policy of discouraging permanent settlement, Palliser's Act would be rigidly enforced. The second, also issued by King, prohibited egg-poaching at Funk Island. The third group of proclamations, which neither Milbanke nor King reinforced during their terms as governor, forbid settlers from robbing and murdering Indigenous people. I contrast these earlier proclamations against Reeves's rejected proposal for a single Royal Navy vessel to prevent settlers entering the mouth of the Exploits River. After surveying the pattern

Reeves established of enforcing both parliamentary statute and governors' proclamations, I explain how his use of customary law laid the foundation for the Supreme Court's agenda of wresting the Island's legal regime he left behind from merchants' control. I conclude this chapter's study of Reeves's place in constitutional history by rejecting the notion that Reeves can still be seen as the pro-settlement advocate that the Whig interpretation of Newfoundland's history has hitherto made him out to be.

#### **IV.i – Why A Legislature?**

That Reeves proposed to grant Newfoundland a legislature in 1791 was no accident. The debates concerning the “Quebec Government Bill” (the Constitutional Act of 1791) seems to have provided him with the standard according to which he assumed granting a legislature to yet another North American colony would be acceptable—if not expected. Following a message to Parliament expressing His Majesty's desire to partition the old Province of Québec into Upper and Lower Canada, Pitt's ministry also planned on granting legislative assemblies to both provinces, belatedly fulfilling the promise of representative government made in the Royal Proclamation of 1763.<sup>5</sup> But granting a legislature to a province where the British Crown preserved the laws of New France (in civil if not criminal cases) sat more easily with ministerial Tories than it did with opposition Whigs. Charles James Fox in particular was concerned that “the French and English inhabitants of Canada should be united ... into one body, [so] that the different distinctions of the people might be extinguished for ever.” But Fox was equally adamant

---

<sup>5</sup> George III, “25 February 1791 – King's Message respecting the Government of Quebec,” *Parliamentary History*, 28:1271; “7 October 1793 – Proclamation Establishing New Governments in America,” in *British Royal Proclamations Relating to America, 1603-1783* (New York: Burt Franklin, 1911), 212-214.

that “the people of that country [should] adopt the English laws from choice, and not from force.”<sup>6</sup> From the other side of the House, the Attorney General Archibald Macdonald countered that, rather than rely on Parliament, it was necessary to trust “a legislature on the spot” to “adopt so much of the English law as should be necessary.”<sup>7</sup> The Prime Minister equivocated, explaining that a Lower Canadian assembly was indeed intended for “those who were attached to the French laws,” since he agreed with Fox that French Canadians ought to be “led universally to prefer the English laws.” But, like Fox, Pitt “admitted that they ought to be governed to their satisfaction”; meaning, they should be governed according to their own laws, as they would chafe the least under them.<sup>8</sup>

In particular, Government and its allies argued that a local legislature was essential for regulating Lower Canada’s trade. One William Hussey argued that

[c]ommerce was the chief point of view in which Quebec was of importance to this country. It behoved the House, therefore, ... to introduce the English commercial law, and leave the House of Assembly to make such alterations as they should find expedient by their own peculiar circumstances.<sup>9</sup>

Hussey’s proposal was rejected by William Grant, a Scottish barrister who had studied the civil law in the Netherlands and the common law in England; who, as acting Attorney General for Québec (1775-77), had drafted the first judicial reforms since the Québec Act; whose advice Pitt had sought on the Québec Government Bill, and who he then recruited to sit as MP for Shaftesbury.<sup>10</sup> According to Grant, the fact that Québec already had its own commercial law was precisely why it should be kept.<sup>11</sup> He denied

---

<sup>6</sup> Fox, “8 April 1791 – Debate on the Quebec Government Bill,” in *Parliamentary Register*, 29:73.

<sup>7</sup> Macdonald, in *Parliamentary Register*, 29:386-387.

<sup>8</sup> Pitt, in *Parliamentary History*, 29:113.

<sup>9</sup> Hussey, “11 May 1791 – Committee on the Quebec Bill,” in *Parliamentary Register*, 29:378.

<sup>10</sup> See Jacques L’Heureux, “Grant, Sir William,” in *Dictionary of Canadian Biography*, 6:294-296.

that the commercial law of England was different from that of Canada. ... [T]here existed no material difference in substance, however they might differ in appearance, from the commercial laws of different countries.<sup>12</sup>

The Attorney General clarified that although “[m]ercantile law” was “almost universally similar in its leading principles, [it] was in its detail perhaps the most local of any other subjects of law.”<sup>13</sup> Local legislatures were therefore necessary for maintaining the *lex mercatoria* or “law merchant” that ostensibly already governed all European merchants.

#### IV.ii – Bye-law makers, what?

Seafaring merchants trading to Newfoundland for three hundred years were hardly unacquainted with the law merchant. At the very least, its usage according to practices made popular under the Lord Chief Justice Mansfield was well known.<sup>14</sup> In 1788, a group of four merchants successfully sued Thomas Lewis of Harbour Grace, complaining that when they sued him some months ago back in Bristol, a special jury of merchants had found Lewis guilty of keeping bills of exchange “contrary to the Law and Custom amongst Merchants.”<sup>15</sup> But if Newfoundland’s civil government was equipped to handle such cases, Reeves concluded that hearing and determining civil suits between

---

<sup>11</sup> Grant, “11 May 1791 – Committee on the Quebec Bill,” in *Parliamentary Register*, 29:387.

<sup>12</sup> Grant, “11 May 1791,” *Parliamentary History*, 29:407.

<sup>13</sup> Macdonald, in *Parliamentary Register*, 29:386.

<sup>14</sup> The law merchant very well have been the basis of fishing admiral law—or the latter a variant of the former. See *Lex Mercatoria and Legal Pluralism: A Late Thirteenth-Century Treatise and Its Afterlife*, ed. and trans. Mary Elizabeth Basile et al (Cambridge, MA: Ames Foundation, 1998); Gerard de Malynes, *Vel Lex Mercatoria; or, the Antient Law-Merchant* (1622), 443-444; Blackstone, *Commentaries on the Laws of England*, 4:67; Nathan Isaacs, “The Merchant and Law,” *Journal of Political Economy* 23, no. 6 (June 1915): 529-561. See also S. Todd Lowry, “Lord Mansfield and the Law Merchant: Law and Economics in the Eighteenth Century,” *Journal of Economic Issues* 7, no. 4 (December 1973): 609.

<sup>15</sup> Newfoundland, “15 September 1788 – Phillip Barry et al v. Thomas Lewis,” *Court House, Harbour Grace: Records of Court of Session, 1788-1790*, GN 5/4/B/1, Box 177, p. 1. See also see also Plucknett, “Chapter 5: Law Merchant and Admiralty” in *A Concise History of the Common Law*, 5<sup>th</sup> ed. (New York: Little, Brown, and Co., 1956; reproduced Indianapolis: Liberty Fund, 2010), 657-674; Lochlan F. Shelfer, “Special Juries in the Supreme Court,” *Yale Law Journal* 123.1 (2013): 208-252.

merchant and merchant was not enough. In his 1791 report, he concluded that a growing colony of merchants, boatkeepers, and servants “requires a better System of Judicature, & Magistracy more extensively spread over the Island, founded upon unquestionable authority.”<sup>16</sup> But Reeves then went on to suggest that this society also

need[ed] a legislative power, which being resident on the place can make regulations for correcting little irregularities in the police, either of the Island, or the Fishery for which no sufficient provision can be made by the British parliament, or any authority residing in the Mother Country.<sup>17</sup>

As the Pitt ministry had with Lower Canada, Reeves recognised that Newfoundland’s commercial law also required local attention to local detail—with as little meddling as possible from Westminster.<sup>18</sup> Otherwise, Government ran the risk of being too easily misled—and besides, “arranging ... local Matters is perhaps below the Dignity of the British Parliament and the Executive Government at Home.”<sup>19</sup> To ensure that no future regulations would become as ineffective as Palliser’s Act, Reeves rather literally suggested bringing Newfoundland into political communion with Great Britain; “that the Parliament should give out of its hands, a small Portion of its Legislative Authority and confer it, where it can be exercised with more Circumspection and Effect.”<sup>20</sup> But this did not mean that Reeves meant for Newfoundland’s legislature to be an independent body.<sup>21</sup>

Rather than copy the British Parliament, where prime-ministerial or (in colonial terms) “responsible” government was becoming the norm, Reeves proposed a legislature

---

<sup>16</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, ff. 307-v.

<sup>17</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 307v.

<sup>18</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 295.

<sup>19</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 316v.

<sup>20</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 317.

<sup>21</sup> Cf. J.M. Bumsted, “The Consolidation of British North America, 1783-1860,” in *Canada and the British Empire*, ed. Phillip Buckner, (Oxford: Oxford University Press, 2010), 46.

closer in principle to that of Ireland or the other British North American provinces, where representative assemblies remained subordinate to a vice-regal executive. As with Québec's Legislative Council, Newfoundland's legislative council was also "to consist of ... Persons resident there, not exceeding twenty-three" appointed members, whom the Governor "may please to summon."<sup>22</sup> Unconcerned with any experiment to copy the class structure of England, Reeves nevertheless appears to have seen a clear delineation of social rank as a means of achieving consensus through deference. The assembly was to include, and possibly to be presided over by, the Chief Justice, with his two surrogate justices in tow. Beneath the Island's law lords were to be "Persons not being more than five Justices of the Peace," who, presumably, would have seen the Supreme Court's judges as their superiors and followed their lead. In addition to—or rather, below—the island's judges and justices, the fishery's interests were also to have a voice, in the form of "five Merchants, five Boatkeepers, and five other Persons," perhaps surgeons or well-to-do artisans.<sup>23</sup> But this was to be no democracy: if the people were to be represented in theory, they were not to have the final say. Unlike the practice of the British monarch rubber-stamping Parliament's requests to give its bills royal assent, Reeves preferred subordinating this legislature's powers to the naval executive. He proposed "that the Governor of Newfoundland should be authorized with the advice (but not to be

---

<sup>22</sup> Kingdom of Great Britain, stat. 14 George III (Québec Act), c. 83, sec. 12; Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, f. 317.

<sup>23</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, f. 317. See Bannister, "Surgeons and Criminal Justice in Eighteenth-Century Newfoundland" in *Criminal Justice in the Old World and New*, 104-134; Cadigan, "Artisans in a Merchant Town: St. John's, Newfoundland, 1755-1816," *Journal of the Canadian Historical Association* 4.1 (1993), 95-119. Reeves was not ignorant of the other classes of persons resident on the island beyond the simplistic division of merchant, planter, servant, and surgeon. But he assumed that the dominance of the saltfish trade meant that the interests of all would be served if the state of law and magistracy reflected the interests of those concerned in that trade.

controuled by such advice)” of the assembly. Finally, even if the governor gave his assent to any by-laws, Reeves proposed giving the Board of Trade “Authority to revoke, or alter” any legislation that the Governor reported to the imperial government.

An internal imbalance of power was not the only feature that Reeves assumed Lord Hawkesbury would approve of. Reeves argued that the main benefit of having a legislature was that it would force settlers into “better carrying into Execution any Act of Parliament made for the Island or Fishery” themselves, convinced that any local assembly would know better than the British Parliament how to make sure that Palliser’s Act would actually be enforced.<sup>24</sup> In doing so, he also went out of his way to make his legislature a reflection of his patron’s mid-century Toryism. As Undersecretary of the Treasury, Jenkinson had, several months before the American War of Independence broke out, flatly rejected colonists’ complaints against taxation without representation. Answering Edmund Burke’s claim that England “cannot be said to have ever formally taxed” Ireland once it was granted its own legislature, Jenkinson countered:

It was ... a mistake, [to assume] that the establishment of a parliament in Ireland precluded Great Britain from taxing that Kingdom. [He said, t]hat the right of taxing it, had always been maintained and exercised too ... whenever the British parliament judged proper; having no other rule ... but its own discretion. That all inferior assemblies were only like the corporate towns of England, who had a power, like them, of making bye-laws, and nothing more.<sup>25</sup>

In keeping with this philosophy, Reeves proposed giving Newfoundland not a colonial legislature so much as a municipal one. He hoped its “trade and Fishery ... may enjoy the accommodation, which has been thought necessary for most Municipal and Commercial

<sup>24</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 317v.

<sup>25</sup> Jenkinson, “22 March 1775 – Debate in the Commons on Mr. Burke’s Resolutions for Conciliation with America,” in Cobbett, ed., *Parliamentary History*, 18:539. See Burke, *Parliamentary History*, 18:510-511. Cf. Blackstone, *Commentaries*, 1:100.

Societies”—that is, city corporations and trade guilds—“of a Power lodged somewhere to make bye Laws, and Regulations for the interior Government, and Police of the place.”<sup>26</sup>

His proposed assembly’s municipal character also helps explain why he felt that “such Regulations should have force from their being proclaimed and registered in the Supreme Court.”<sup>27</sup> Reeves’s *History of the English Law* relates how during the reign of Henry VII,

[t]hat corporations might not carry the right they had to make bye-laws too far, it was ordained, by stat. 19 Hen. VII. c. 7. that all acts and ordinances made by the wardens, masters, and fellowships of crafts and mysteries, and by rulers of guilds and fraternities, shall be approved by the chancellor, treasurer, or chief justices of either bench, or three of them; or by the justices of assize in their circuit; and that otherwise they should be void.<sup>28</sup>

Treating Newfoundland as a sort of regional municipality seems to have struck Reeves as the best strategy for bringing its merchants to heel, to the satisfaction of Westminster and Whitehall, while also satisfying any nascent demands for representative government. Had Hawkesbury heard Reeves out, he would have found his loyal savant rather pleased with his proposal to help regulate if not resuscitate the allegedly declining fishery.

As it happened, though, Hawkesbury was entirely uninterested in Reeves’s proposal. In a 1792 letter, Reeves seems almost personally affronted that Hawkesbury was so unwilling to grant Newfoundland anything more than a court of judicature.

I am afraid your Lordship misunderstood my proposal about a legislature to make bye laws, when you apprehend so much about Colonization — Especially when you, at the same time, express a wish to have a body there, who may represent[?] on the subjects of complaint, that may arise.<sup>29</sup>

Of course, Reeves’s tacit confession that a tax on West Indian rum was necessary to fund

---

<sup>26</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 316.

<sup>27</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 317v.

<sup>28</sup> Reeves, *History of the English Law*, 4:135.

<sup>29</sup> Reeves, “[? November?] 1792 – Letter to Hawkesbury,” Add MS 38228, f. 183v.

the whole experiment certainly did his scheme no favours.<sup>30</sup> When the Board of Trade met to consider Reeves's 1791 report, only minimal reforms—a revised judicature bill, a fishery bill, and a bill to reform Palliser's Act—were thought worth the attention of the Crown's other law officers. Even less was agreed to by the House of Commons, who proposed creating only a Supreme Court to the House of Lords and to His Majesty. At some point, Reeves seems to have accepted that no one else was clamouring for further constitutional reform. As he conceded to Dundas, "If any thing is moved about the fishery & trade at large, it will come soon enough, if it comes from the Merchants themselves."<sup>31</sup> For his part, Reeves never abandoned the view that a local legislature could save Parliament the trouble of managing Newfoundland's internal affairs. When considering the precedent of the "voluntary assembly" called by Captain Josias Crowe in 1711 and 1712 in his 1793 *History of Newfoundland*, Reeves supposed

it is worth considering whether such a local legislature, which the people seem in this instance to have created for themselves, might not be legally lodged somewhere, for making bye-laws and regulations, as occasion should require.<sup>32</sup>

In the meantime, Reeves had had the chance to observe firsthand that a quasi-legislative body, if not a legislative assembly, might still be found on the Island—and to this end, it would not be strictly necessary to involve even the British Legislature.

#### IV.iii – Local Legislatures and Imperial Policy

One explanation for Reeves's willingness to abandon plans for a legislature was

---

<sup>30</sup> See Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 319v-321v.

<sup>31</sup> Reeves, "21 October 1792 – Letter to Dundas," WO 1/15, f. 164. Historians have recognised the quasi-municipal character of these earlier assemblies. Most tellingly, Bannister notes that "Crowe presided over a series of public meetings attended by merchants and other prominent townspeople, which approved local by-laws." Bannister, *Rule of the Admirals*, 128. Cf. Prowse, *History of Newfoundland*, 254-255; O'Flaherty, *Old Newfoundland*, 60; Cadigan, *Newfoundland and Labrador: A History*, 58.

<sup>32</sup> Reeves, *History of Newfoundland*, 53.

that in the course of implementing the more limited judicial reforms he had helped draft, Reeves discovered that Newfoundland's residents accepted the legislative function that courts of law already served. Reeves's term as Chief Justice in 1792 was essentially an extended circuit, in which he held court in Trinity Bay, Conception Bay, St. John's, Bay Bulls, and Ferryland. In Ferryland, where Reeves "did the Whole of the Surrogate's Business," court records (the best kept from 1791-92) describe a curious experiment in municipal government.<sup>33</sup> Having begun proceedings on 9 October 1792, on 12 October Reeves paused to ask the grand jury why the courthouse and its prison were in such shoddy condition. It seems that during the crisis of authority that the island's judiciary had experienced since 1789, Ferryland's main "resource had failed of late years"—namely, the "fines, & forfeitures that" normally "accrued within the district." In fact, there were no funds "for any of the contingent expences incident to the administration of justice" whatsoever—not even enough to pay the gaoler.<sup>34</sup> On hearing this, Reeves ordered the grand jury to make a list of any necessary expenses and repairs,

upon which presentment, he informed them, the Justices of the Peace might reasonably ground an assessment upon the inhabitants of the District for paying the expences; in like manner as in England, the Justices are authorised to do, where a presentment for similar purposes, has been made at the Assizes.<sup>35</sup>

The jury agreed to raise funds for repairing the steps to the courthouse, for other repairs for the building's upkeep (including a fresh coat of paint)—and for bridges to be built across the La Manche, Spout, and Freshwater Rivers, allowing easier access by land.

Upon receiving this presentment, The Chief Justice informed them, that this was

---

<sup>33</sup> Reeves, *Third Report of the Newfoundland Committee*, 174.

<sup>34</sup> Newfoundland, "12 October 1792 – [Reeves's charges to the Grand Jury]," GN 5/4/C/1, Box 196, p. 19.

<sup>35</sup> Newfoundland, "12 October 1792 – [Reeves's charges to the Grand Jury]," GN 5/4/C/1, Box 196, pp. 19-20 (spelling slightly modernised).

not the course in which he meant to have put the business, but there could be no objection to the Grand Jury, or any set of gentlemen taking upon them to carry on a public work, and trusting the contributions of others for reimbursing them, what they had laid out.

The experiment was successful enough that the next day, Reeves decided to see how many other improvements could be undertaken by this assembly.

He asked the Grand Jury to see if they could fix the roads of the district as well, owing both to Ferryland's status as a regional commercial centre ("the resort of many persons, who came on business"), as well as the fact that it was "residence of the Justice, and the place where they must attend if they have any law-business, might become more accessible."<sup>36</sup> In this instance, though, Reeves seems to have overplayed his hand. That he wished local infrastructure to be improved mostly for the sake of legal business rather than "business" seemed perhaps too openly consistent with Hawkesbury's vision of using courts of judicature to manage what colonial population had arisen, rather than to govern it according to residents' sense of their own needs. Having responded eagerly to the Chief Justice's nudge once, the grand jurors were hesitant to toe his line unreservedly a second time. At any rate, they did not wish to act unilaterally. They informed Reeves that,

[h]aving taken into our consideration the improving of the Roads in this District, we think it necessary to have a general meeting of the inhabitants, and then we have no doubt we shall have it in our power, to make the repairs that may appear requisite.<sup>37</sup>

Such a meeting was held several days later, allowing delegates time to make their way to the district's capital, where Reeves's request was assented to—perhaps owing in part to

---

<sup>36</sup> Newfoundland, "12 October 1792 – [Reeves's charges to the Grand Jury]," GN 5/4/C/1, Box 196, p. 22.

<sup>37</sup> Grand Jury of Ferryland District, "13 October 1792 – [Presentment to Chief Justice Reeves]," GN 5/4/C/1, Box 196, ff. 22-23.

the conditions endured on the way to this general meeting, on poorly maintained roads as far south as Fermeuse and as far north as Brigus.<sup>38</sup> This procedural rebuke to Reeves's more authoritarian style notwithstanding, the enthusiasm with which his charges were attended to may have convinced Reeves that, on such a large island where the political culture was still emphatically regional, what legislative function grand juries and general meetings already served was sufficient for the colony's needs.<sup>39</sup> Newfoundland did not need one municipal legislature when it already had a full dozen.<sup>40</sup>

Reeves's view that the Newfoundland's internal regulations were beneath the dignity of the Mother Parliament was also not shaken. Upon his return from Ferryland, he seemed convinced that the Supreme Court could provide what regulation was necessary.

Writing from St. John's in mid-October 1792, Reeves told Dundas that while he

had a wish to make some alterations in the Acts relating to this Island, ... it now seems to me so much of this attention may be brought about gradually, by legal Courts giving construction to the acts, from time to time, with a leaning towards certain legal principles (the *astutia* which lawyers very well understand) that I think it is hardly worth while to go to parliament to obtain, what cannot be compassed in this way.<sup>41</sup>

Such an expedient was desirable, not least because of the fierce opposition that even the Judicature Bills had received from the House of Commons. In fact, Reeves assured Dundas that allowing the Supreme Court to regulate the fishery by way of legal precedent rather than acts of parliament "will save a great deal of the trouble, which we were

---

<sup>38</sup> Grand Jury of Ferryland, "13 October 1792 – [Presentment to Reeves]," GN 5/4/C/1, Box 196, f. 23.

<sup>39</sup> See Matthews, "Lecture XXVII – The Rise of St. John's" and "Lecture XXVIII – The Regional Nature of Newfoundland's Development," in *Lectures on the History of Newfoundland*, 166-174.

<sup>40</sup> As of 1792, Newfoundland's twelve districts were listed as St. John's; Harbour Grace, Trinity, Bonavista, Fogo, Ferryland, Trepassey, Placentia, St. Lawrence, Fortune Bay, and St. Mary's. See Newfoundland, "7 September 1792 – List of persons to be appointed His Majesty's Justices of the Peace for the several Districts," GN 2/1/A/12, p. 146.

<sup>41</sup> Reeves, "21 October 1792 – Letter to Dundas," WO 1/15, ff. 164-v.

looking forward to next Session, and I dare say, all parties will be better satisfied.”<sup>42</sup>

Reeves’s second report on Newfoundland, submitted on 5 December 1792, argued that the Supreme Court was the best means of enforcing Palliser’s Act according to the spirit in which it was intended—if not better. As Reeves assured Hawkesbury, that act

[p]roceeded upon a Persuasion, that every Seaman and Fisherman, went out from hence at the opening of the Season, and returned, or ought to return, at the Close of it. But, this was by no means the Truth, nor was it so, I believe, even when the Statute passed.<sup>43</sup>

Furthermore, the common practice was not to return home after one season but several, if that: Irish servants in particular adhered to the rhythms of the old Newfoundland season of two summers and a winter, but “having done that, they are very likely to continue longer.”<sup>44</sup> The larger problem was that while each year masters were required to withhold forty shillings from their servants’ wages, “allowing them to purchase a Passage Home,” in practice they deducted that amount each year, regardless of whether return trips were booked.<sup>45</sup> “But,” asked Reeves, “what becomes of the money, which the master has stopped? It remains in the master’s Pocket ... [as] a source of Profit.”<sup>46</sup> Even worse, the bill to place passage-money in the hands of public receivers had been successfully opposed “with a unanimity, that had never before been seen” among the merchants never seen before.<sup>47</sup> Amid such dysfunction, legislating from the bench was the surest way to remedy the evils for which Palliser’s Act was inadvertently responsible.

To this end, Reeves “brought forward this Point of the Passage money to be

---

<sup>42</sup> Reeves, “21 October 1792 – Letter to Dundas,” WO 1/15, f. 164v.

<sup>43</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 73-v.

<sup>44</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 74-v.

<sup>45</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 73v.

<sup>46</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, ff. 75-76.

<sup>47</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 76.

spoken upon in Court ... several times.” To give his rulings the greatest possible effect, he made sure to do so “when merchants, Boatkeepers, and Servants were present”: at times, that is, when the three estates of the fishery performed a function analogous to the Lords and Commons in Parliament assembled, at least insofar as their presence bore witness to the laws of the realm.<sup>48</sup> Without public receivers, Reeves admitted that the question of where the money should be reposed before any passage home was granted “was a *casus omissus* in the Act.” Merchants exploited this gap, giving different reasons for withholding passage-money from their servants; each offering his own “Construction of the Act [that] tended, as it seemed to me, to keep as much of this money as possible from passing out of the merchant’s Pocket.”<sup>49</sup> To resolve the matter once and for all, Reeves “ventured to put a different Construction on the Act.” His official opinion was that while the Act was indeed silent on whose hands to trust, “money is to be stopped for the Use of the Servant himself to purchase him a Passage *home*, but if his *home* is in Newfoundland, or if he does not actually have a Passage home,” then the reason for which that money was to be set aside no longer applied.<sup>50</sup> In such cases,

I made Orders of Court upon Several masters to pay 40 Shillings, which they had stopt from Servants, three, four, or five Years back: and, during my Stay, I caused several sums of money to be so refunded.<sup>51</sup>

The results of these rulings seemed to offer a basis whereby the Court could assist in the Board of Trade in preventing the colony from taking further root. At the same time, Reeves did not say how many servants actually used their refunded wages to return to

---

<sup>48</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 77.

<sup>49</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 77v.

<sup>50</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 78 (original italics).

<sup>51</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 78v.

Europe, or how many preferred to continue working in the fishery, or how many had to use their back-dated passage money to pay off their debts. But, if only in “those Parts of the Island, where there is any regularity and firmness in administering Justice,” the implication was clear enough. So far as Reeves was concerned, the Supreme Court had achieved what Parliament failed to—even if “the loss which the merchants ... sustained, by doing this Piece of Justice to the Servants and the Public, was considerable.”<sup>52</sup>

#### **IV.iv – Governors’ Proclamations; or, Funk Island Justice**

Another facet of Newfoundland’s constitution at Reeves’s disposal was the practice of vice-regal or gubernatorial proclamations. On this point, Reeves was much more open about his hope of using such proclamations, rather than bye-laws of a local legislature, to regulate the trade. His 1791 report had been ambivalent on the issue, claiming “the Proclamations issued from time to time, by the Governors add nothing” to Newfoundland’s body of law, “as they contain nothing more than the points enjoined [*sic*] in some or other of their Instructions.”<sup>53</sup> But in his 1792 report, he claimed that he only proposed a legislature because he assumed Newfoundlanders would expect one.

I wished some ... Legislative authority to be lodged somewhere by a plain enactment in a Statute, because some Persons might entertain Doubts whether the Proclamations issued by the Governors, from time to time, had there the binding force of Laws.

But by 1792 he could safely report “there is not much doubt upon that Head, as I believed there was.”<sup>54</sup> With a colonial population used to accepting governors’ proclamations as law, the potential for such legislation was virtually limitless. Just as ministerial MPs

---

<sup>52</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 79.

<sup>53</sup> Reeves, “28 November 1791 – Report on Newfoundland,” CO 194/38, f. 316.

<sup>54</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 81.

assumed that any acts produced by the Legislative Assembly of Lower Canada would be primarily concerned with that province's commercial law, Reeves also claimed that because the Governor of Newfoundland "has also a general Instruction to keep the Peace, and protect the Fishery," he was unlikely to ever issue a proclamation "that would not come under one or other of these Heads."<sup>55</sup> On this basis, Reeves assured his patron that "I am ... not so anxious, as I once was, to have some such Authority as this, plainly given by Act of Parliament," which was fortunate, since Hawkesbury preferred to administer the colonies through the royal prerogative anyway.<sup>56</sup>

Legal precedent also ensured that governors' proclamations continued to be seen as legitimate sources of law. Reeves conceded this remained a sensitive issue, but

a Case having occurred this Year, where I was obliged judicially to deliver my opinion, upon this delicate Point, I have gone so far as to leave myself at least no Room to countenance any doubt upon it in future.<sup>57</sup>

The case Reeves referred to arose from the fact that once the northeast coast of the island no longer part of the French Shore following the 1783 Treaty of Versailles, furriers and salmoniers began exploiting that region's natural resources more aggressively. The islands along Notre Dame Bay and the Bay of Exploits—Funk Island in particular—were home to large colonies of seabirds, and as such were an invaluable source of food, to both indigenous Beothuk as well as to Europeans.<sup>58</sup> Their value meant competition.<sup>59</sup> As late as July 1792, the Tilting planter John McDonald made the trek to Funk Island "to get

---

<sup>55</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, ff. 81v-82.

<sup>56</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, f. 82. See McClintock, *The Establishment of Constitutional Government in Newfoundland*, 82.

<sup>57</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, ff. 81-v.

<sup>58</sup> See Bertram G. Riggs, "Funk Island" in *Encyclopedia of Newfoundland and Labrador*, 2:435-439; see also Marshall, *History and Ethnography of the Beothuk*, 67-68.

<sup>59</sup> See Aaron Thomas, *History of Newfoundland*, 126-128.

Birds' Eggs &c," only to find that "upwards of an hundred Indians" had the same idea—and to have fended off his competitors with grapeshot.<sup>60</sup> (Though he likely exaggerated their numbers.) And neither was competition confined to that between Beothuk and British. Colonial law may have been slow to catch up to its own colonists, but when it did, it did so in the interests of the migratory fishery. In the autumn of 1784, Governor John Campbell could claim that both "the Inhabitants and Fishermen, residing, and employ'd upon the Coast of Newfoundland" were concerned about a new generation of aggressive frontiersmen not using the area's resources properly. On 28 October 1784, he issued a proclamation forbidding "the destruction of Birds upon the Funk Islands, by persons, who destroy them for their Feathers only"; seabirds' feathers providing an extremely lucrative trade in direct competition with those "who oftentimes depend[ed] upon Birds for Bait for carrying on the Fishery as also for Food."<sup>61</sup> Such a practice so injurious to the fishery would not be tolerated, and JPs at Greenspond and Fogo were ordered to destroy any shelters. He further ordered that "no Person or Persons whatever shall presume to go to the said Islands and destroy any of the Birds without permission in writing from a Magistrate"—and even this was forbidden during "improper seasons."<sup>62</sup>

But having condemned the thriving feather trade to the black market, Campbell's proclamation was ignored. In July 1786, the magistrates of St. John's (including D'Ewes Coke and Richard Routh) informed Campbell's successor, Rear-Admiral John Elliot,

---

<sup>60</sup> George Christopher Pulling, "28 July 1792 – A few facts by G.C. Pulling, respecting the Native Indians of the Isle of Newfoundland," in *Reports and Letters of Christopher Pulling relating to the Beothuk Indians of Newfoundland*, ed. Ingeborg Marshall (St. John's: Breakwater Books, 1989), 120.

<sup>61</sup> Campbell, "28 October 1784 – Proclamation against the Killing of Seabirds," GN 2/1/A/10, p. 137. Cf. Jeremy Gaskell, *Who Killed the Great Auk?* (Oxford: Oxford University Press, 2000), 100-101.

<sup>62</sup> Campbell, "28 October 1784 – Proclamation against the Killing of Seabirds," GN 2/1/A/10, pp. 137-138.

that notwithstanding the exemplary Punishment that was last year inflicted upon some individuals of this Island for the violation of Governor Campbell's Proclamation respecting the Killing of Birds on the Funk Islands there are still divers Persons daring enough to be guilty of the like Offence this Season.<sup>63</sup>

The JPs complained that "if this Practice of killing them is not put a Stop to, it will greatly injury the Fishery," for whom the oily seabirds "have long been found of great Advantage for Bait to the Fishermen in the Harbours adjacent thereto."<sup>64</sup> Their request for Elliot to apprehend illegal featherers was granted.<sup>65</sup> Within a week, both the High Sheriff of Newfoundland and the JPs for Trinity Bay and Harbour Grace were ordered to send men to seize both criminals and contraband—"all and every pack or parcel of Feathers and Barrels of Birds which they may find."<sup>66</sup> Finally, in mid-August of 1786, Capt. Edward Pellew of HMS *Winchelsea* triumphantly returned to St. John's with prisoners in tow, and the bundles of feathers to prove their guilt.<sup>67</sup> Even so, Elliot regretfully informed the Admiralty "that several Thousand Tons of Birds were destroyed in the two last Season for the Purpose only of taking their Feathers."<sup>68</sup> Still, the public example of the trials that found men guilty of poaching from the commons demonstrated the full force as well of the limits of governors' jurisdiction over the fishery.

When Governor Sir Richard King arrived in St. John's in September 1792, he issued a very precisely recorded series of proclamations. The first announced King's appointment as governor, that as such he was forbidden from acting contrary to acts of

---

<sup>63</sup> Magistrates of St. John's, "29 July 1786 – Letter to Gov. Elliot," ADM 1/472, f. 231; a copy of this letter may also be found in the same volume, at ff. 298-v.

<sup>64</sup> Magistrates of St. John's, "29 July 1786 – Letter to Elliot," ADM 1/472, f. 231.

<sup>65</sup> Magistrates of St. John's, "29 July 1786 – Letter to Elliot," ADM 1/472, f. 231v.

<sup>66</sup> Elliot, "4 August 1786 – Letter to the JPs for Trinity Bay and Harbour Grace," GN 2/1/A/11, pp. 17-18.

<sup>67</sup> Elliot, "20 August 1786 – Letter to the JPs for St. Johns," GN 2/1/A/11, pp. 32-33.

<sup>68</sup> Elliot, "30 November 1786 – Letter to Sir Phillip Stephens (First Secretary of the Admiralty)," ADM 1/472, f. 227v; also found in a copy of the letter, in the same volume, at f. 301.

Parliament, and that in keeping with imperial policy residency was to be discouraged.<sup>69</sup>

The second announced that under a new Judicature Act, a Supreme Court of criminal and civil jurisdiction would soon hold its first session.<sup>70</sup> The other three were King's own proclamations. The first of these forbid anyone from interfering with the French fishery now confined to a western French Shore.<sup>71</sup> The second ordered the fishery's magistrates, the fishing admirals, to ensure that no poorly made fish would tarnish the Newfoundland Trade's good name at the time when Icelandic cod ("whose fish," Knox admitted to Hawkesbury, "is really better than ours and is preferred to it") outsold Newfoundland's in Mediterranean markets.<sup>72</sup> The third revived earlier proclamations against killing seabirds for their feathers. It warned that any who did so "shall be punished with the utmost severity of the law made and provided in such Cases against the aforesaid offences and Offenders."<sup>73</sup> King had his own interest in issuing and enforcing this latter proclamation, since serving the interests of those who had brought the issue to Campbell's attention in the first place helped his administration remain in their good graces.

The establishment of the Supreme Court also meant that Reeves was eager to ensure that, as the Crown's representative in Newfoundland, the naval governor was recognised as a legitimate source of law in local affairs. The opportunity came when

---

<sup>69</sup> George III, "19 July 1792 – Order-in-Council appointing King as Governor," GN 2/1/A/12, pp. 126-134. This would have been an order-in-council written as a letter to King, which he would have read aloud as a royal proclamation announcing and confirming his own authority upon arriving in St. John's.

<sup>70</sup> George III, "2 July 1792 – Royal Proclamation respecting the Supreme Court," GN 2/1/A/12, pp. 135-37.

<sup>71</sup> King, "4 September 1792 – Proclamation against disturbing the French Fishery," GN 2/1/A/12, p. 138.

<sup>72</sup> King, "4 September 1792 – Proclamation respecting Fishing Admirals' duties," GN 2/1/A/12, p. 139; Knox, "1790 – Letter to Hawkesbury," Add MS 38225, ff. 99v-100. Knox specifically complained that the recent success of the Danish fishery at Iceland exacerbated the competition that the British fishery at Newfoundland already endured from both Nova Scotia and the United States. Cf. Mark Kurlansky, *Cod: A Biography of the Fish that Changed the World* (Toronto: Vintage Canada, 1997), 102-104.

<sup>73</sup> King, "4 September 1792 – Proclamation against the Killing of Seabirds," GN 2/1/A/12, p. 140.

several men's illegal feather operation on Funk Island was raided, and the offenders were brought to St. John's for trial.<sup>74</sup> John Barber, Daniel Coffee, John Shea, Richard Fitzgerald, Michael Lines, Edward Shea, and one other man who Prowse identifies only as Clarke were indicted for violating governor's proclamations against the killing of seabirds.<sup>75</sup> Reeves informed the Board of Trade that "on the Trial I told the Jury, that the Governors' Proclamations must be considered as the Law of the Land." The jury delivered their verdict accordingly: "the men were convicted, and punished."<sup>76</sup> Upon being found guilty, Reeves sentenced Barber, Coffee, Shea, Lines, Fitzgerald, and Shea to be publicly whipped; all of whom were "flogged at a Cart's Tail" through the streets of St. John's on 1 October 1792.<sup>77</sup> Three days later, Governor King ordered all Justices of the Peace across the entire Island of Newfoundland

to cause the names of the abovementioned persons with their Crimes and the punishment which was inflicted on them for the same, to be stuck up on the most conspicuous places within your District in order to warn all persons from committing the like offence, as in future all persons so offending will be published in a more exemplary manner.<sup>78</sup>

Reeves knew that the farther away from St. John's people were, the less likely it was that the influence of the Supreme Court or the Royal Navy would be felt; even so, he could

---

<sup>74</sup> A 1960 letter to the editor of the *Newfoundland Quarterly* from one "Mrs. W. Hynes" identifies the man sentenced to a private whipping as one "James Barter," but the chance that this might be a mis-rendering of "John Barber" seems too great to ignore. For that reason, Prowse's use of "Clarke" is retained above, but this is not to suggest that Prowse's authority is infallible. In any event, Governor King's letter to JPs is only concerned with public whippings rather than private ones, and Reeves's report does not mention whipping at all except indirectly; neither document mentions anyone named Clarke or Barter. See Hynes, "The Postman Knocks: Early Justice," *Newfoundland Quarterly* 59, no. 4 (Winter 1960): 14.

<sup>75</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, f. 81v; Prowse, *History*, 359.

<sup>76</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, f. 81v. Cf. English, "The Development of the Newfoundland Legal System to 1815," 117.

<sup>77</sup> Thomas, *History of Newfoundland*, 129. Cf. Sarah Glassford, "Seaman, Sightseer, Storyteller, and Sage: Aaron Thomas's 1794 *History of Newfoundland*," *Newfoundland and Labrador Studies* 2, no. 1 (2006): 149-175.

<sup>78</sup> King, "4 October 1792 – Letter to the Magistrates of Newfoundland," GN 2/1/A/12, pp. 171-172.

claim some victory for the executive's jurisdiction over the island's fishery.

As with the new construction Reeves gave to Palliser's Act from the bench, however, the case of *Rex v. Barber et al.* produced its own acknowledgement of the interests of settler society. In the first place, the language of Governor Campbell's original 1784 proclamation suggests that migrant fishing crews and resident inhabitants were equally concerned about the adverse effects of so opportunistically diversifying the Island's economy. In the second place, while Reeves makes no mention of any additional complexity to this case, Prowse records that during the course of the trial,

it was proved that one of the culprits, Clarke, lived at Greenspond; he was in want of food for his family, and the eggs were taken solely to obtain some for his wife and children. While sentencing the other prisoners to be *publicly* whipped, [Reeves] solemnly ordered that, out of regard to these mitigating circumstances in Clarke's case, he was only to be *privately* flogged.<sup>79</sup>

Especially considering that during this time, the (declining) spectacle of public whipping was in England calculated to inflict as much humiliation as possible, the fact that Reeves chose to have Clarke privately whipped meant that, for the sake of social cohesion, he spared the public reputation of the featherers' one resident inhabitant and head of household.<sup>80</sup> Clarke remained guilty of visiting Funk Island without a licence from a magistrate, and in this disregard for the Crown-in-Newfoundland's authority he remained guilty of violating governors' proclamations against killing seabirds. Still, having as a

---

<sup>79</sup> Prowse, *A History of Newfoundland*, 359n1. Prowse's musing, "We do not think this unfortunate victim of a cruel law appreciated the distinction," it must be said, is rather disingenuous. Prowse's own *Manual for Magistrates* cites a statute from 1874 that allowed Newfoundland magistrates, at their own discretion and in addition to whatever punishment was already prescribed by law for a first offence, to order male felons or misdemeanants convicted of a second offence to "be once, twice, or thrice, publicly or privately whipped," provided "that not more than twenty-five strips shall be given at any one time." Prowse, *Manual for Magistrates in Newfoundland, being a Guide to their Ordinary Duties as Justices of the Peace, with Appendix of Forms* (St. John's: J.C. Withers, Queen's Printer, 1877), 251n1.

<sup>80</sup> Beattie, *Crime and the Courts in England, 1660-1800*, 463-464.

colonist committed only a more minor infraction under those proclamations, mercy might reasonably be granted on behalf of His Majesty. Either way, Reeves seemed just satisfied enough with this demonstration that the governor's word was law.

#### IV.v – Proclamations without a Line

But if Reeves was satisfied that governors had the authority to reserve birds at Funk Island and other northern islands for the exclusive use of the migratory fishery, he was more open about the state's inability to enforce other laws intended to protect the Beothuk from settler incursions in that same region. This despite the fact that what to the English was the "frontier," particularly along the coasts and outlying islands in Notre Dame Bay and the Bay of Exploits, remained the heart of Beothuk territory—both as their preferred burial grounds and, as we have seen, an invaluable source of food.<sup>81</sup> In theory, the official policy of discouraging settlement at Newfoundland should have harmonised exactly with the Royal Proclamation of 1763's command that

all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands ... which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.<sup>82</sup>

But few resources and fewer reforms at his disposal, Reeves preferred to uphold existing laws that "encouraged" the removal of settlers under very specific circumstances on a limited rather than a large scale. That, and the "above" and "aforesaid" contexts referred to protections extended to Indigenous nations with which the Crown had formal relations.

---

<sup>81</sup> See Todd J. Kristensen and Donald Holly, "Birds, Burials and Sacred Cosmology of the Indigenous Beothuk of Newfoundland, Canada," *Cambridge Archaeological Journal* 23, no. 1 (February 2013): 41-53; cf. Dwyer, "Atlantic Borderland," 23-62.

<sup>82</sup> George III of Great Britain, "7 October 1763 – Proclamation Establishing New Governments in America," in *British Royal Proclamations relating to America*, 215. Cf. John Slattery, "The Land Rights of Indigenous Canadian Peoples" (DPhil thesis, University of Oxford, 1979), 281.

The Proclamation had promised only

that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not have been ceded to or purchased by Us, are reserved to them ... as their Hunting Grounds.<sup>83</sup>

Reeves was also not inclined to regard the Crown's sovereignty over that island as anything other than absolute—and to that end, he does not appear to have entertained the idea that Newfoundland was anything other than a British dominion.<sup>84</sup>

Nevertheless, what has long been regarded as Reeves's "humanitarianism" was based on the argument that even while Great Britain and the Beothuk had no formal ties, the latter might still be considered the natural subjects of the Crown; and that on that basis, the Crown still had an obligation to protect Beothuks' lives if not their territory through the naval governor's broad powers to guard against violations of "the peace." (Or as Reeves's *History of the English Law* more broadly defined that term, "the whole of the criminal law."<sup>85</sup>) To that end, in Reeves's view the best way to protect "the wild Indians," as he called them, from "violence" (as he called it) was "by executing the present Laws against Offenders" under the colonial constitution.<sup>86</sup> Reeves was referring to governors' practice of issuing proclamations concerning specific applications of King William's Act,

---

<sup>83</sup> George III of Great Britain, "7 October 1763 – Proclamation Establishing New Governments in America," in *British Royal Proclamations relating to America*, 215.

<sup>84</sup> Reeves's views were entirely consistent with the administrative paradox whereby "the imperial government ... in the eighteenth century recognized the liberty of the indigenous peoples not to be molested or disturbed on their unceded territories" while "claim[ing] overall sovereignty" over them. Bruce Clark, *Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada* (Montréal & Kingston: McGill-Queen's University Press, 1990), 3. See also J. Anthony Long, Leroy Little Bear, and Menno Boldt, "Federal Indian Policy and Indian Self-Government in Canada," in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, eds. Long, Little Bear, and Boldt (Toronto: University of Toronto Press, 1984), 75.

<sup>85</sup> Reeves, *History of the English Law, from the Time of the Saxons, to the End of the Reign of Philip and Mary*, 2<sup>nd</sup> edition, 4 vols. (London: Printed for E. Brooke, 1787), 2:468.

<sup>86</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, f. 88.

which were in turn intended as a local application of the empire's North American policy. In early 1763 Governor Thomas Graves was instructed to report what steps were necessary for "establishing and carrying on a Commerce with the Indians residing in or resorting to" Newfoundland.<sup>87</sup> The Royal Proclamation was not issued in October 1763, and news of it may not have reached St. John's prior to Governor Graves's departure. But in 1764 the Governor Palliser issued an order, and in 1765 a formal proclamation, forbidding the "Plundering and Killing" of Labrador Inuit, promising that "all such as are found offending herein shall be Punished with the utmost Severity of the Law."<sup>88</sup> It was in further support of the Royal Proclamation that Palliser, Moravian missionaries, and Labrador Inuit negotiated the British-Inuit Treaty in 1765—*after* which Palliser made explicit that the latter group were under the direct protection of the King.<sup>89</sup> But while efforts to enforce the Royal Proclamation were at first confined to the coast of Labrador, the Labrador precedent suggests that later vice-regal proclamations against killing and robbing Indigenous people on the island of Newfoundland were intended as a prelude to a peaceful trade or some kind of formal relations with the Beothuk. When, however, proclamations were issued in defence of the "Native Indians" of Newfoundland, however, they were styled as extensions of the more familiar King William's Act.<sup>90</sup> That Act had ordered "[t]hat all robberies, murders, and felonies, and all other capital crimes"

---

<sup>87</sup> Wetzel, "Decolonizing *Ktaqmkuk Mi'kmaw* History," 217. Note that these instructions would appear to have been intended to apply to both the Mi'kmaq, who imperial officials invariably regarded as "Nova Scotia Indians" or "Foreign Indians," as well as the Beothuk, who they assumed were Newfoundland's only "Native Indians."

<sup>88</sup> Jonathan Horsnaill for Palliser, "8 April 1765 – Order for Establishing a Communication & Trade with the Esquimeaux Savages [*sic*] on the Coast of Labradore," GN2/1/A/3, p. 282.

<sup>89</sup> NunatuKavut, *The Labrador Treaty of 1765* (Happy Valley-Goose Bay: NunatuKavut, ca. 2010-16); Palliser, "10 August 1765 – Order to the French Fishing Ships at Quirpon," GN 2/1/A/3, p. 203.

<sup>90</sup> Byron, "8 July 1769 – Proclamation against Killing the Beothuk," GN 2/1/A/4, pp. 143-144.

committed at Newfoundland to be tried in England. In 1750, the creation of a Court of Oyer and Terminer allowed capital crimes to be tried on the Island—but even so governors were reluctant to seek redress in local courts.<sup>91</sup> Following an expedition into the interior led by Lt. John Cartwright RN and Capt. George Cartwright RA, Governor Byron ordered “all Officers and Magistrates ... to apprehend all Persons ... Guilty of Murdering any ... Native Indians, in order that such Offenders may be sent over to England” for trial.<sup>92</sup> Governor Shuldham accordingly repeated these warnings in 1772.<sup>93</sup>

The problem was not one of lawlessness—there was clearly an abundance of law—so much as a distinct lack of political will or administrative ability to enforce existing law. In either event, naval governors preoccupied with the American War of Independence were more concerned with reinforcing earlier proclamations intended to

---

<sup>91</sup> England, stat. 10 & 11 Will. III cap. 25. sect. 13; quoted in Reeves, *History of Newfoundland*, Appendix, xi. When the Jersey-Poole merchant Peter Ougier wished the Newfoundland Committee to understand that prior to 1775, which he set as the date when the government of Newfoundland still reflected the interests of the trade rather than imperial policy-makers, he insisted that the system worked so well that “a Grand Jury would at this Time have readily ... found a Bill against the Murderer of an Indian, and the Petty Jury on Proof would have convicted him.” Though an exaggeration, the issue that important enough to Ougier, who knew of Labrador Inuit who “have been in the Service of English Merchants as Boatmasters in the Cod Fishery, to which they have been very excellent”—including one Inuk who, following a residence in Dartmouth, “returned to Labradore, ... joined with his Countrymen; [and] is now the Cause of a considerable Traffic between them.” Ougier was also keenly aware that only “the humane Treatment of His Majesty’s Subjects towards” Inuit and Mi’kmaq allowed for a beneficial trade with them. Ougier, *First Report of the Newfoundland Committee*, 44; Ougier, *Second Report of the Newfoundland Committee*, 27.

<sup>92</sup> Byron, “8 July 1769 – A Proclamation,” GN 2/1/A/4, pp. 143-144. If Byron did not expand the legal definition of murder to include those of non-Europeans, he was at least to be the first official to make explicit that the lack of such distinction that Palliser had made explicit in Labrador in 1764-65 also applied in Newfoundland. Prior to 1769, equality under English law was to be inferred. Section 13 of King William’s Act allowed “all robberies, murders, felonies, and all other capital crimes whatsoever” to be tried in English Courts of Oyer and Terminer or Gaol-Delivery. But the Western Charter of 1634 had specified that such crimes were to be tried by the Earl Marshall’s Court—which court’s jurisdiction, during that Court’s revival from 1622 to 1640, had been over “all murders and homicides committed by any of the King’s subjects outside England, Scotland, and Ireland.” England, stat. 10 & 11 Will. cap. 25 sect. 13 in Reeves, *History of Newfoundland*, Appendix, xi; England, “[Western Charter of 1634],” in Prowse, *History of Newfoundland*, 154; G.D. Squibb, *The High Court of Chivalry: A Study of the Civil Law in England* (Oxford: Clarendon Press, 1959), 54.

<sup>93</sup> Shuldham, “24 June 1772 – [Proclamation],” GN 2/1/A/5, p. 56.

protect the Labrador Inuit, with whom the Crown had a formal treaty, rather than the Beothuk of Newfoundland, with whom it did not.<sup>94</sup> But after the Peace of Versailles, and perhaps in response to a report that George Cartwright, now a Labrador merchant, sent to the imperial government in 1784, Governor John Campbell issued his own proclamations in 1785. Campbell was silent on the question of trial's locations, but as late as 1786 Governor Elliot was clear that any guilty of capital crimes against Indigenous people would not be sent to England for trial.<sup>95</sup> But neither governor under whom Reeves served issued a proclamation concerning the Beothuk (and it was not until 1819 that anyone was actually charged with violating earlier ones). In fact, in the summer of 1791, no one prosecuted those responsible for murdering a Beothuk husband and wife at Charles Brook, near the mouth of the Exploits River. Instead, their daughter Oubee was taken to the home of Thomas Stone, Lester's business partner and agent at Trinity. If she was still in Trinity that September, Reeves likely would have made a point of seeing her himself.<sup>96</sup> He was certainly not ignorant of her presence there. In December 1792, a letter from Lt. George Christopher Pulling's informed the Chief Justice that Oubee had been "[taken] as a fair prize" to Stone's Poole mansion.<sup>97</sup> Even so, in these proclamations—or as he made sure the grand jury at St. John's understood them, "the present Laws"—Reeves saw a means of bringing murderers as well as poachers (if not kidnappers) to justice.<sup>98</sup>

<sup>94</sup> See Edwards, "29 July 1779 – Proclamation concerning Labrador," GN 2/1/A/7, pp. 88-89.

<sup>95</sup> Campbell, "14 September 1785 – Proclamation [against killing of Beothuk]," GN 2/1/A/10, pp. 165-166; Graham for Elliot, "16 October 1786 – Proclamation," GN 2/1/A/11, pp. 118-119.

<sup>96</sup> Reeves, "5 December 1792 – Report on Newfoundland," BT 1/8, f. 88. Reeves retained his reference to "last year" in his 1793 evidence before Parliament, which would more safely place his charge to the grand jury to the 1792 fishing season. However, if he was referring to a charge made during the 1791 season, this may have referred to circumstances surrounding Oubee's capture.

<sup>97</sup> Bland, "16 August 1797 – Letter to J.P. Rance (Secretary)," GN 2/1/A/13, pp. 77-79; Bland, "247-252 – Letter to Rance," GN 2/1/A/13, pp. 247-252; Christopher Pulling, "1 December 1792 – Letter to John Reeves," in *Reports and Letters*, 59; cf. Marshall, *History and Ethnography*, 125-126.

But despite his view “[t]hat Magistracy should be raised and strengthened, instead of being exposed to be disregarded and contemned,” Reeves’s proposal for resolving this crisis depended on admitting just how much power Newfoundland’s government, on either side of the Atlantic, either did not have or would not use.<sup>99</sup> In 1786, a Royal Navy lieutenant, George Pulling requested that an expedition to establish peaceful contact with the Beothuk be granted official sanction, led by himself as naval surrogate. This was not agreed to for several reasons. First, such an appointment would have put him in the awkward position of having only appellate jurisdiction over the migratory cod fishery, on an expedition to ultimately put a stop to atrocities committed by salmon-fishers, furriers, and above all else settlers. Second, his plan to enlist the aid of residents willing to assist him, provided “that any Cruelties they may already have been obliged to commit may be buried in oblivion,” depended on not enforcing governors’ proclamations that the lives of those who murdered or stole from Indigenous people would be forfeit. Third, Indian Agents were at this time drawn from the ranks of the British Army’s Indian Department, and were primarily responsible for maintaining relationships with “the several Nations or Tribes of Indians, with whom we are connected” by treaty.<sup>100</sup> This department’s extension so far east of the North American interior might have proven awkward on an island where an admiral rather than a general was commander-in-chief.<sup>101</sup>

Nevertheless, while any prerogative fiddling with Newfoundland’s territorial

---

<sup>98</sup> Reeves, “5 December 1792 – Report on Newfoundland,” BT 1/8, f. 87v.

<sup>99</sup> Reeves, *Third Report of the Newfoundland Committee*, 173.

<sup>100</sup> George III of Great Britain, “7 October 1763 – Proclamation Establishing New Governments in America,” in *British Royal Proclamations relating to America*, 215.

<sup>101</sup> See Robert S. Allen, “The British Indian Department and the Frontier in North America, 1755-1830,” *Canadian Historic Sites*, no. 14 (1975): 5-126. Cf. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009), 146-147.

government was ill-advised in a volatile political climate, a fact-finding mission of some kind was decided to be of some value. On 5 March 1792, well over a month before any parliamentary enquiry was suggested or agreed to, Pulling was granted a leave of absence to join the merchant service, and in that capacity to gather information that could be used to establish peaceful contact.<sup>102</sup> Ingeborg Marshall has suggested that Reeves had a hand in securing Pulling's leave, which would help explain how the question of criminal jurisdiction was resolved (it was removed), but Benjamin Lester's influence cannot be ruled out either. Pulling's leave was granted at a time when any compromise between Lester and Hawkesbury would have been agreed to, and Pulling's maternal uncle, Christopher Jolliffe, was, like Lester, an alderman and former mayor of Poole (1780-81); Pulling's grandfather (also Christopher Jolliffe) had been a Newfoundland merchant himself. Such class connections, together with his officer's uniform—at least during his expedition's planning stages—gives an uneasy dimension to Pulling's early conviction that merchants trading to northeastern Newfoundland “would lend me every assistance in their power.”<sup>103</sup> Even the vessel Pulling captained was Lester's new Trinity-built brig, the *Trinity*—and Pulling's debt to Lester's firm did not stop there.<sup>104</sup> While Oubee was still in Trinity, Pulling visited her and compiled a Beothuk wordlist that he hoped to use on his expedition (and which, along with the rest of his reports, found its way into

---

<sup>102</sup> Marshall, *Letters and Reports*, 50.

<sup>103</sup> Marshall, *Letters and Reports*, 50. Marshall seems to hint that Reeves was the “influential acquaintance” who suggested that Pulling submit a proposal without a date or addressee, as a way of ensuring that his proposal could be “pass[ed] on to a higher administrative level” more easily. A similar tactic, however, had been employed by Cartwright in his 1784 proposal addressed only to “His Majesty's Government”; and he could have easily learnt this bureaucratic trick while serving as aide-de-camp to the Marquess of Granby, Commander-in-Chief of the British Army, from 1760 to 1762.

<sup>104</sup> See Benjamin Lester, “17 October 1792,” *Lester Diaries*.

Hawkesbury's personal papers). After a brief meeting with Reeves at Trinity—where the Chief Justice likely would have wanted to see her for himself—the Pulling's report frequently referred to other of Lester's employees who were widely known "Indian killers," and to others who wished they had been. Above them loomed Captain Moses Cheater, Lester's agent at Tilting who was also Chief Justice for Fogo. Judge Cheater's sly cavalier attitude towards settlers' vendetta against their Beothuk neighbours was at once callous, approving—and evasive.<sup>105</sup> It was little wonder that Reeves had to admit that "in the present circumstances of the Island & its Government," he hardly knew how to ensure that "the fear of the Law" did what it was supposed to do.<sup>106</sup>

Upon his return to England, Reeves also had only Pulling's preliminary plans to hand, and a cursory if vivid sense of the state of settler-indigenous relations on the island. But if Reeves's own knowledge was incomplete, it could not then be helped. Pulling had decided to sell his catch in Naples, where on 1 December 1792 he sent his preliminary report to Reeves. However, Reeves would not have received this report in time to include its findings in his own report to the Board of Trade, which he submitted only four days later. Set at the end of a 180-page report, Reeves's four paragraphs on the Beothuk did not include any information that he could not have gotten from Pulling's letter outlining his plans in September 1792, from Cartwright's 1784 proposal on which Pulling had based his own plan, from Cartwright's *Journal of Transactions and Events on the Coast*

---

<sup>105</sup> Cf. Marshall, *History and Ethnography of the Beothuk*, 135-136.

<sup>106</sup> Reeves, "5 December 1792 – BT 1/8, ff. 87v-88. For a contemporary and equally paternalistic view that the preventive features to England's own criminal justice system no longer inspired the humane terror that they were supposed to, see Martin Madan, *Thoughts on Executive Justice* (London: J. Dodsley, 1785). Madan's view of how the system ought to work has since proven foundational to Marxist histories of English law. Cf. Hay, "Property, Authority and the Criminal Law," in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Verso, 2011), 17-18.

of Labrador.<sup>107</sup> Shortly after France declared war against Great Britain, Pulling was taken prisoner by the French Navy, but he managed to send Reeves his final report in April 1793. Reeves may have received Pulling's report before testifying to the Newfoundland Committee—he seems to have forwarded it to Hawkesbury—but even if he did, he not deviate at all from what he had submitted to the Board of Trade the previous December.

What Reeves had prepared in the meantime was a plea that did not explicitly refer to the Royal Proclamation of 1763, but which was calculated to make the legal argument that the Beothuk, with whom the Crown had no treaty, nevertheless already lived under its protection as its subjects, have as much moral force as possible. In the absence of Pulling's report, Reeves selected what he needed from at least two other sources. One source appears to have been a passage from the unpublished diary of the influential naturalist Sir Joseph Banks, the President of the Royal Society (of which Reeves was a Fellow) and a close ally of Hawkesbury who, by 1797, would later join the Board of Trade. During his expedition to Newfoundland and Labrador in 1766, Banks, though he was skeptical of reports he had heard, still recorded in his diary:

Our People who fish [in the neighbourhood of Fogo] Live in a continual state of warfare with [the Indians] firing at them whenever they meet with them & if they chance to find their houses or wigwams as they call them Plundering them immediately ... They in return Look upon us in exactly the same Light as we Do them Killing our people whenever they get the advantage of them & Stealing or Destroying their nets whenever they find them.<sup>108</sup>

---

<sup>107</sup> See Cartwright, *Journal of Transactions and Events*, 1:12-13.

<sup>108</sup> Even when writing for himself, Banks followed this and other accounts with the disclaimer that “if half of what I have written about them is true, it more than I expect, tho’ I have not the Least reason to think But that the man who told it to me believ’d it & had heard it from his own people & more of the neighbouring Planters & fishermen.” Banks, “The Voyage to Newfoundland: Nfland Indians,” in *Joseph Banks in Newfoundland and Labrador, 1766: His Diary, Manuscripts and Collections*, ed. A.M. Lysaght (Berkeley & Los Angeles: University of California Press, 1971), 132; also in Howley, *The Beothuks or Red Indians: The Aboriginal Inhabitants of Newfoundland* (Cambridge: at the University Press, 1915), 28.

Reeves's second source was Cartwright's three-volume *Journal of Transactions and Events*, which he published in December 1792. In it, Cartwright explained that having undertaken an expedition into Beothuk country with his brother John Cartwright in 1769, he understood that the Beothuk had withdrawn into the interior and were largely avoiding contact with the British—and that during that time they had certainly avoided *him*. But he feared that their survival strategy was no match for a diversified and expanding colonial economy that (thanks to merchants like him) were making the Beothuk helpless, passive, and pitiable refugees in their own lands whose days were numbered.

[F]or the fishing trade continually increasing, almost every river and brook which receives salmon is already occupied by our people, and the bird-islands are so continually robbed, that the poor Indians must now find it much more difficult than before, to procure provisions in the summer; and this difficulty will annually become greater. Nor do they succeed better in the winter; for our furriers are considerably increased in number, much improved in skill, and venture further south into the country than formerly.<sup>109</sup>

Cartwright's public hand-wringing and Pulling's private reports thus furnished a case for exercising tighter controls over the territory's supposedly unwanted colonists.

But were they? Reeves accepted Cartwright's view that "our people's" increasing expansion into, and increasing control over, the Beothuk's coastal territory was necessarily genocidal—the result, to use Elizabeth Mancke's phrase, of an unrestrained "commercial occupation" giving way to an unrestrained colonial one.<sup>110</sup> And yet, the presence of settlers seems to have been an essential part of Reeves's appeal. Reeves

---

<sup>109</sup> Cartwright, *A Journal of Transactions and Events during a Residence of Nearly Sixteen Years on the Coast of Labrador*, 3 vols. (Newark: Printed and sold by Allin and Ridge, 1792), 1:6-7; cf. Edward Langdon (JP for Bonavista), "6 September 1786 – Letter to Gov. Elliot," ADM 1/472- ff. 296v. See also Ralph Pastore, "The Collapse of the Beothuk World," *Acadiensis* 19, no. 1 (Fall 1989): 52-71.

<sup>110</sup> See Mancke, "Early Modern Imperial Governance and the Origins of Canadian Political Culture," *Canadian Journal of Political Science* 32, no. 1 (March 1999), 3-20, esp. 9-11; quotation from page 9.

retained the basic shape of Banks's note while updating its details and its rhetoric with Cartwright's accusations, but in doing so he removed any suggestion of a borderland vendetta. Instead, Reeves's characteristically vague phrasing allowed his audience to assume that violence was perpetrated and endured by only one side.

It ... is a known to Hundreds in the Northern Part of the Island, that there is no Intercourse or Connection whatsoever between our People and the Indians, but Plunder, Outrage, and Murder. If a Wigwam is found, it is plundered of the Furs it contains, and is burnt; if an Indian is discovered, he is shot at exactly as a Fox or a Bear.<sup>111</sup>

Reeves, in other words, avoided explicitly acknowledging that the very people whose rights he argued should have been guaranteed by the Crown were perhaps already actively defending their territory against British squatters on their own. Instead, his testimony offered a state of affairs in which the Beothuk seemed to appear much less able to inflict any violence on settlers. (In fact, Beothuk warriors would later stage apparently targeted raids on Tilting in 1798 and 1809.<sup>112</sup>) This allowed him to more forcefully denounce settlers' hostility towards their Beothuk neighbours as a collective, blatant

---

Neither Cartwright nor Reeves assumed the Beothuk's extinction was a forgone conclusion, only that it *would* have been, if certain shadows remained unaltered by the future. Wetzel cautions that contrary to assumptions of the their extinction in 1829, the grandfathers of "some of the *Ktaqmuk Mi'kmaw* elders of *Miawpukek* ... had seen *Pi'taw* camps in the interior as late the 1870's." Wetzel, "Decolonizing *Ktaqmuk Mi'kmaw* Memory," 105-106. For a cursory survey of other sources supporting those accounts, and for a multi-disciplinary challenge to the view that the Beothuk's displacement from their territory amounted to a complete extinction, see Polack, ed., *Tracing Ochre: Changing Perspectives on the Beothuk* (Toronto: University of Toronto Press, 2018).

<sup>111</sup> Reeves, *Third Report of the Newfoundland Committee*, 162. See Cartwright, "[n.d.] 1784 – The Case of the Wild or Red Indians of Newfoundland," CO 194/35, f. 338v. See also Cartwright, *Journal of Transactions and Events*, 1:5-6.

<sup>112</sup> Holly, "The Beothuk on the Eve of Their Extinction," 87-88. Mi'sel Joe (Saqamaw of Ktaqamkuk District and Chief of the Miawpukek First Nation) explains that "[t]he Beothuk people were warriors like our people was. They had a system in place where they had a group of people that were warriors. They went out and fought to protect their lands, their territories, no different than our people." Mi'sel Joe and Christopher Aylward, "Chapter 5 – Beothuk and Mi'kmaq: An Interview with Chief Mi'sel Joe," in *Tracing Ochre*, 125. This gives an added dimension to Allan Dwyer's suggestion that the 1798 raid on Tilting, "in which cows were killed and assorted gear carried off ... might be interpreted as an attack on

disregard for the rule of law that the Crown could ill afford to ignore. If anything, reports of frontier violence only strengthened his case against merchants and merchants' MPs who looked to the limited government of King William's Act. As Reeves himself argued:

such has been the Policy respecting this Island, that the Residents for many Years had little Benefit of a regular Government for themselves ... [T]he Bay of Exploits, and ... Gander Bay, to the Northward ... is a lawless Part of the Island, where there are no Magistrates resident within many Miles, nor any Controul, as in other Parts, from the short Visit of a Man of War during a few Days in the Summer; so that People do as they like, and there is hardly any Time of Account for their Actions.<sup>113</sup>

However sincere Reeves's concern may have been, his calculated expression of it was not somehow separate from his larger agenda of justifying Hawkesbury's view that the growing colony at Newfoundland required a more effective judiciary.<sup>114</sup> While nearer to St. John's merchants complained of viceroys over-reaching their authority, in the "out-bays" settlers saw little evidence that the law had any authority over them.

Reeves's third source of information was Lt. Pulling's letters and reports. But discussing Pulling's expedition, Reeves seems to have suggested that there was no real solution to the problem as he understood it. Reeves certainly did nothing to assuage the epistemological ethics of empire, claiming that information about the Beothuk could only be obtained through the same commercial infrastructure driving them farther inland. Members of the Committee familiar with Reeves's latter-day royalism must have raised an eyebrow at when he seemed to recommend against prosecuting known criminals.<sup>115</sup>

---

symbols of European territorial advance." Dwyer, "Atlantic Borderland," 54. To take Dwyer's suggestion one step further, perhaps we should also consider the possibility that Beothuk in the area targeted Tilting precisely because they knew of its importance as Lester's regional base of operations.

<sup>113</sup> Reeves, *Third Report of the Newfoundland Committee*, 162-163.

<sup>114</sup> See Leddy, "Chapter 9 – Historical Sources and the Beothuk: Questioning Settler Interpretations," in *Tracing Ochre*, 199-219, esp. 202-204.

Some [Furriers of the Bay of Exploits and Gander Bay, and of the Places thereabouts] have been conversed with last Summer, and I understand, if they were relieved from the Danger of Enquiry into what is past, they would open upon the Subject, and make themselves useful in commencing any new System of Treatment and Conduct.<sup>116</sup>

That said, the promise of “burying” past atrocities “in oblivion” was not Reeves’s idea but Pulling’s—one which, as early as 1786, Pulling assumed was a necessary condition for bringing precisely that sort of information to light.<sup>117</sup> Having struck this devil’s bargain, Pulling found what he was looking for in ample supply. Very little of Pulling’s reports would have contradicted Reeves’s claim that “there is no Intercourse or Connection whatsoever between our People and the Indians, but Plunder, Outrage, and Murder.”<sup>118</sup> In fact, if Marshall is correct that Reeves did receive Pulling’s reports in time to testify before Parliament, this would have meant that Reeves preferred to ignore any nuance to them. Pulling described a frontier where individual settlers were reputed to be on good terms with, or at least not hostile to, their Beothuk neighbours. (“[F]or,” as one of them remarked to him, “God forbid all the northern Furriers & Salmon catchers shou’d be alike.”)<sup>119</sup> But Reeves did not propose enlisting any such men on this basis.

---

<sup>115</sup> When the new session of Parliament began in December 1792, no less a figure than Charles James Fox, the leader of the Whig opposition and MP for Westminster, sarcastically applauded “Chairman Reeves” and the APLP “for the sincerity of [their] practice,” but claimed that its propaganda supporting the Divine Right of Kings “would have been prosecuted as high treason” in the wake of the Jacobite Risings of 1715 and 1745—and was in any event no way to inspire genuine loyalty. Fox, “13 December 1792 – Debate in the Commons on the Address of Thanks at the Opening of the Session,” in Cobbett’s *Parliamentary History*, 30:22. See also Fox, “1 February 1793 – Debate in the Commons on the King’s Message for an Augmentation of the Forces,” in *Parliamentary History*, 30:313; Richard Brinsley Sheridan (MP for Stafford), “28 February 1793 – Debate on Mr. Sheridan’s Motion relative to the Existence of Seditious Practices,” in *Parliamentary History*, 30:523; Fox, *ibid.*, 30:547; William Windham (MP for Norwich), in *Parliamentary History*, 30:549; Sheridan, “22 March 1793 – Debate in the Commons on the Traitorous Correspondence Bill,” in *Parliamentary History*, 30:620–621.

<sup>116</sup> Reeves, *Third Report of the Newfoundland Committee*, 163.

<sup>117</sup> See Marshall, *Letters and Reports*, 50.

<sup>118</sup> Reeves, *Third Report of the Newfoundland Committee*, 162 (my italics).

Reeves also stumbled in his explanation as to why capital crimes were going unpunished in the first place. In doing so, he was not the only one to avoid implicating Lester's empire in the miseries he reported the Beothuk were enduring. In his testimony before Parliament, Cartwright had claimed that the nearest JPs tended to reside at too great a distance for "preventing these horrors" effectively. But even Cartwright, who had taken advantage of Lester's shipping trade of "my friend Benjamin Lester, Esq." towards the end of his Labrador career—and who even sub-contracted "Moses Cheater, master" of the good ship *Susan*, to transport four convicts from Poole to Labrador on behalf of the Home Department in 1785—avoided suggesting that perhaps Judge Cheater had some pull as Lester's regional paymaster.<sup>120</sup> Had Reeves gone into the details of Pulling's report, he too would have had to publicly accuse the agent of one of the MPs sitting on the Newfoundland Committee of failing to bring known criminals to justice.<sup>121</sup> Instead, admitting that murder, theft, and arson were not only rampant but went unpunished, and were thus tolerated—but without saying by whom—Reeves argued that this want of an effective "police" merely resulted from the Crown's failure to exert its influence, rather than individual magistrates' failures to do their duty. In Reeves's more grandiose view, the question was a legal one of the Crown's duty to protect those rights to which, Reeves argued, the Beothuk were already entitled. He did not recognise their sovereignty,

---

<sup>119</sup> Pulling, "A few facts by G.C. Pulling respecting the native Indians of the Isle of Newfoundland," in Marshall, *Letters and Reports*, 122.

<sup>120</sup> Cartwright, "18-28 April 1785 – The Sixth Voyage," *Journal of Transactions and Events*, 3:40-42; also referenced in Deveraux, "Convicts and the State: The Administration of Criminal Justice in Great Britain during the Reign of George III," 275. See also Cartwright, "7 July 1783; 5 November 1783; 7-8 February 1784 – The Fifth Voyage," in *Journal of Transactions and Events*, 3:3, 34, 37.

<sup>121</sup> In addition to Lester, the Newfoundland Committee was also composed of all "Merchants in the House." Parliament of Great Britain, "26 February 1793 – Committee appointed to enquire into the Newfoundland Trade," in *Journals of the House of Commons*, 48:282.

claiming instead that “[t]hese Indians inhabit a Country, the Sovereignty of which is claimed and exercised by His Majesty.”<sup>122</sup> But, paradoxically, Reeves argued that unlike other Indigenous peoples, their isolation left them with a form of property rights meriting the Crown’s protection from the colonial frontier’s avaricious state of nature.

Unlike the wandering Tribes upon the Continent, ... these People are confined to this Island, and in that View are more peculiarly our own People than any other of the Savage Tribes; they and every Thing belonging to them is in our Power; they can be benefited by none others; they can be injured by none others: In this Situation they are entitled to the Protection of the King’s Government, and to the Benefit of good Neighbourhood from His Subjects; but they enjoy neither; they are deprived of the free Use of the Shores and the Rivers [Reeves said nothing of the northern islands], which should entitle them to some Compensation from us; but they receive none; instead of being traded with, they are plundered; instead of being taught, they are pursued with Outrage and Murder.<sup>123</sup>

In this plea for “the King’s Government” to govern, one can see the high-minded paternalism of liberal empire in early High-Tory bloom—as in Reeves’s 1795 claim that the Beothuk “are as much British subjects as people born in the Strand.”<sup>124</sup>

---

<sup>122</sup> Reeves, *Third Report of the Newfoundland Committee*, 162. Reeves’s earlier *History of the Law of Shipping and Navigation* is more frank, acknowledging that prior to the Treaty of Utrecht in 1713, it was not certain whether Great Britain could claim sovereignty over Newfoundland. However, this was not owing to any tension between Britain and Indigenous nations but rather other European powers.

<sup>123</sup> Reeves, *Third Report of the Newfoundland Committee*, 162. Cf. Emer de Vattel, *The Law of Nations*, trans. anon., 2 vols. (London: Printed for J. Newbery et al, 1769), 1:91, §209. See also Canada, *Report of the Royal Commission on Aboriginal Peoples*, 5 vols. (Ottawa: Canada Communication Group, 1996), 1:47-49; *The Final Report of the Truth and Reconciliation Commission of Canada*, 6 vols. (Montréal & Kingston: McGill-Queen’s University Press, 2015), 1.1:17-18. These two reports note that Reeves’s contemporaries justified the Americas’ classification as *terra nullius* by citing a lack of European-style agriculture. That Reeves did not claim Newfoundland to be *terra nullius* on this basis is perhaps not surprising. As Reeves himself observed, in Newfoundland, most Europeans could grow “nothing but Potatoes,” and even the most determined “reap[ed] no Produce but what can be furnished by a Garden,” Reeves, *Third Report of the Newfoundland Committee*, 171. Reeves did, however, accept that Sir Humphrey Gilbert’s charter had given him “licence ... to discover, finde, search out, and view such remote, heathen and barbarous lands, countreys and territories not actually possessed of any Christian prince or people.” Kingdom of England, “11 June 1578 – Letters Patent to Sir Humphrey Gilbert,” in *America’s Founding Charters: Primary Documents of Colonial and Revolutionary Era Governance*, ed. Jon L. Wakelyn, 3 vols. (Westport, CT: Greenwood Press, 2006), 1:18.

<sup>124</sup> Reeves, quoted in Marshall, *History and Ethnography of the Beothuk*, 199. Sidney Herring observes that while “[f]rom 1791 British legal authorities apparently assumed that all provisions of English and Canadian

The elevated language of Reeves's appeal was, however, undermined by a distinct lack of coordination between himself, Lt. Pulling, and George Cartwright. One wonders if this had anything to do with the fact that Reeves, at the time the Newfoundland Committee was sitting, was at political loggerheads with Major John Cartwright, George's brother, whose earlier plan for parliamentary reform (and who himself) was adopted by the same radical societies Reeves and the APLP wished to extirpate.<sup>125</sup> But Reeves was likely familiar with the proposal that George Cartwright included in a 1784 letter, to create something resembling either a Second Line of Proclamation or a First Nations reserve, by making Notre Dame Bay and the Bay of Exploits into a single royal or "Indian" district. Seasonal entry was to be permitted only to fishing crews departing from and destined for Europe; at all other times, all British subjects were to be forbidden from entering this district for any reason. Settlement was to be forbidden, with an explicit ban on fishing and trapping to remain permanently in place. Nothing less, Cartwright told the Newfoundland Committee, would prevent the Beothuk's complete extermination—since merchants, as a rule, did nothing to prevent the outrages perpetuated by their servants and employees, and never asked where their furs or feathers came from. Pulling,

---

law equally applied to all persons, including Indians, ... there was clearly an ambivalent commitment to this policy." Herring, *White Man's Law*, 17.

<sup>125</sup> In fact, the first letter of Reeves's *Thoughts on the English Government* would later denounce "Cartwright and others of the Geneva Discipline" (i.e., Calvinistic republicans or latter-day Puritan revolutionaries) for spreading the political heresy that "[t]he People" were "the origin of all Civil Authority." Reeves, *Thoughts on the English Government*, 1:30-31. See also E.P. Thompson, *The Making of the English Working Class*, 84-88. At the same time, Jerry Bannister notes that while he had been naval surrogate for Trinity District as commander of HMS *Guernsey*, Cartwright, "[a] vigorous administrator, maintained excellent relations with the English fish merchants. During these years, Benjamin Lester, ... the most prominent merchant in the region, never lost a major suit." Bannister, "Law and Labor in Eighteenth-Century Newfoundland," in *Masters, Servants, & Magistrates*, 166.

N.B. John Cartwright was a Royal Navy lieutenant while posted to Newfoundland from 1766 to 1770, but later references to him as "Major Cartwright" refer to his rank in the Nottinghamshire Militia. See John W. Osborne, *John Cartwright* (Cambridge: Cambridge University Press, 1972), 2.

for his part, did not propose a ban on either cod- or salmon-fishing or on trapping. Instead, he likely modified Cartwright's plan, proposing that an Indian Agent command a sloop of war permanently stationed at the mouth of the Exploits River. Reeves was perhaps not so much removed from the realities on the ground as aware that such a ship would have been the *only* Royal Navy ship permanently stationed in Newfoundland, which may have informed his recommendation was that a Royal Navy warship's presence might protect initial efforts to establish peaceful relations rather than stand sentry in perpetuity. (It was not until 1797 that the Bonavista magistrate John Bland suggested that soldiers might be more effective than sailors in deterring settlers from travelling over land.)<sup>126</sup> Furthermore, the fact that Pulling's expedition was confined to the northern fishery's coastal borderland meant that Reeves's recommendations did not take into account Cartwright's or anyone else's knowledge concerning either those "Parts of the Island where some Intercourse is maintained" with the Mi'kmaq, or of those "other Parts" where the Beothuk maintained similar ties with the Innu.<sup>127</sup>

An otherwise zealous defender of the royal prerogative, Reeves found himself proposing two solutions, which he acknowledged were in their early stages, and which MPs may have found distasteful. The first proposal was Reeves's own: that of sending not an Anglican but, building on their success in Labrador, a Moravian missionary to help facilitate peaceful relations, and to instruct the Beothuk in "religion."<sup>128</sup> But having only

---

<sup>126</sup> See Bland, "1 September 1797 – Letter to John Rance," GN 2/1/A/13, pp. 247-252.

<sup>127</sup> George Cartwright, *First Report of the Newfoundland Committee*, 41.

<sup>128</sup> Reeves, *Third Report of the Newfoundland Committee*, 163. Reeves's phrasing seems to have echoed Palliser's assurance that he had "invited Interpreters and Missionary's to go amongst [the Inuit] to go amongst them to instruct them in the Principles of Religion, to improve their minds & remove their Prejudices against us." Palliser, "8 April 1765 – Proclamation," GN 2/1/A/3, p. 283.

just established the Church of England in Upper Canada, and the Roman Catholic Church in Lower Canada, granting even a kindred “ancient Protestant Episcopal Church” more influence than it already enjoyed might have been a political hot potato.<sup>129</sup> The second proposal, following Pulling’s plan, relied on the expertise of the same furriers in the Bay of Exploits and Gander Bay “who are deepest in the Outrages, that have been committed against them”—which may have convinced even concerned MPs that the situation in Newfoundland was exactly as hopeless as Reeves feared it was.<sup>130</sup> Reeves’s admission that neither scheme would work unless the Royal Navy’s guns stood on guard against settlers was perhaps too much for a wartime House of Commons to swallow. Finally, his resignation that “the Mode and Manner of carrying into Execution such a Scheme is for the Consideration of the Committee” of the House rather than the Privy Council was inconsistent with Reeves’s view that it was “hardly worth while to go to parliament to obtain, what cannot be compassed” by the efforts of the colonial executive.<sup>131</sup> But no proclamation issued by Milbanke or King, there was no public signal that the new Supreme Court would protect Indigenous people’s rights to life and property that even

---

<sup>129</sup> In 1749 an Act of Parliament recognised the Moravian Church as “an ancient Protestant Episcopal church”; i.e., that its reformation, predating the Church of England’s own, had similarly preserved the “episcopal” structure of bishop (*episkopos*), priest or presbyter, and deacon. See Colin Podmore, *The Moravian Church in England, 1728-1760* (Oxford: Clarendon Press, 1998).

<sup>130</sup> Reeves, *Third Report of the Newfoundland Committee*, 163.

<sup>131</sup> Reeves, “21 October 1792 – Letter to Dundas,” WO 1/15, f. 164v. In one important respect, this was essential. When in local interest in establishing peaceful contact with the Beothuk was revived, it was not an Act of Parliament but Governor Holloway’s proclamations that warned that any crimes against the Beothuk would be prosecuted as if the same were committed against his own person. That said, none were. It was not until the capture of Desmasduit and killing of her husband Nonosabasut in 1819 that a Newfoundland grand jury had to consider the criminal liability of the settlers responsible. The four men, including John Peytons Sr. and Jr. were found to have been “fully justified under all the circumstances in acting as they did.” In January 1823, when Twillingate furriers James Carey and Stephen Adams were tried before the Supreme Court for killing Shanawdithit’s paternal uncle and his daughter (three months before the capture of Shanawdithit herself, her mother, and her sister), Chief Justice Richard Tucker informed the jury that the facts of the case precluded murder. The jury instead found Carey and Stephen not guilty of manslaughter. Marshall, *History and Ethnography of the Beothuk*, 132, 162-166, 184-186.

Newfoundland's colonial constitution recognised. With no arrests, no trials—certainly no convictions—confirmed governors' warnings that the law applied to all, forcing Reeves's remarks to be tentative at best. And yet even Reeves could flatter settlers' view that their law was supreme to that of England's.

#### **IV.vi – Towards the Conquest of Custom**

In addition to enforcing parliamentary statute and governors' proclamations, Reeves's vision of regulating the fishery and colony with the Supreme Court had yet a third goal: making the Supreme Court the ultimate repository of Newfoundland's legal customs. That design was perhaps logical, if not obvious, to at least one other public official who had seen firsthand the extent to which new courts designed by a distant Parliament could not be relied on to know the first thing about justice in Newfoundland. Aaron Graham's value as an expert administrator was recognised when the Board of Trade admitted that the office they preferred be executed by "an English Barrister of five years standing" (following the model of Gibraltar) might also be performed by "some other person who ... may be thought equally well qualified for this Station."<sup>132</sup> A year after Graham was denied the office of Chief Justice, the Attorney General assured the House of Commons that the Court of Civil Judicature would be headed by "a gentleman professionally bred" to the law of England.<sup>133</sup> But whether because of an amendment or because Macdonald was already referring to Reeves, the final text of the Newfoundland Judicature Act of 1791 did not specify *any* requirements that the Chief Judge of the Court

---

<sup>132</sup> Board of Trade, "10 May 1790 – Newfoundland: Representation to His Majesty for establishing a Court of Civil Jurisdiction," BT 5/6, ff. 109v-110.

<sup>133</sup> Macdonald, "26 May 1791 – Debate on the Newfoundland Judicature Bill," in *Parliamentary Register*, 29:541.

of Civil Judicature needed to have.<sup>134</sup> The Judicature Act of 1792 was no different. The fact is that Newfoundland's government had been lucky with Reeves's two appointments, but this was because men like Graham had lent him every assistance, and Graham knew it. He also likely knew from Reeves himself that the new Judicature Bill would override all other courts' jurisdiction in civil suits, historic or otherwise. Writing on the occasion of his dismissal as the island's "virtual governor" the day before the new Judicature Bill was introduced, Graham warned Hawkesbury of the damage that could be done if such a comprehensive Judicature Act was implemented by men who did not understand it.<sup>135</sup>

[I]f ... the New Governor, with his Secretary, are totally unacquainted with the locality of the Country, the internal intricacies and police, ... as well as the temper and genius of the people, which can only be acquired by habits of long residence and experience, various and complicated are the evils, disadvantages, discords, which must perpetually, more or less, interrupt the good offices of Government.<sup>136</sup>

Graham did not single out the Chief Judge's own lack of familiarity with local law, but his self-advocacy was very likely meant to remind Hawkesbury of the obvious example of another high-placed official who had clearly needed his help.

But as had been the case the year before, Reeves's unfamiliarity with local law did not necessarily prevent him from being able to do his job. As Jerry Bannister

---

<sup>134</sup> Published parliamentary records indicate that when the Judicature Bill was committed, the committee "had gone through the Bill, and made several Amendments thereunto," but the official version of the Committee of the House's debates makes no reference to any such amendments. Such an omission may have been to save public face, something that the licensed editors of the *Parliamentary Register* apparently had no problem doing. (For example, it was not the official and more contemporary *Parliamentary Register* but Cobbett's later *Parliamentary History* that included the more inflammatory confrontation between national and municipal authorities precipitated by Reeves's London and Westminster Police Bill in 1785.) See Parliament of Great Britain, "26 May 1791 – Committee on the Newfoundland Judicature Bill," in *Journals of the House of Commons*, 46:647; cf. Parliament of Great Britain, "26 May 1791 – Debate in the Commons on the Newfoundland Judicature Bill," in *Parliamentary Register*, 29:536-541.

<sup>135</sup> Prowse, *History of Newfoundland*, 359n2; see Great Britain, "n.d. [November 1791?] – Newfoundland Judicature Bill [manuscript or draft copy], sect. 12," CO 194/38, f. 347.

<sup>136</sup> Graham, "2 April 1792 – Letter to Hawkesbury," Add MS 38227, f. 302v.

explains, according to English common law, legal custom was “ancient” and therefore binding whenever “the memory of man runneth not to the contrary.”<sup>137</sup> In Newfoundland as in England, memory was essential in determining the laws as well as the facts of any case where local custom was concerned. At least as late as 1787, fishing admirals continued to interview a given area’s oldest inhabitants to resolve property disputes.<sup>138</sup> In fact, in 1792, when James Cummins, William Knox’s own agent, was looking for a stretch of beach to use as ship’s rooms in Fermeuse, “two very ancient inhabitants” confirmed that a spot no longer in use might reasonably revert to the commons of the king’s grounds.<sup>139</sup> By then, though, the Newfoundland Judicature Act of 1792 had created a competition with fishing admiral courts over the same source of law: the memories of the people. But before it was clear that there was any such contest, public examples were needed to show who had won it. During Reeves’s circuit to Ferryland, William Tucker, a fishing admiral of Renewes, alleged that Christopher Pullman had taken over “his” area of the commonable ship’s rooms—from which he should have had first pick by rights as an admiral. But it soon appeared, “upon the testimony of several witnesses, who were old inhabitants there,” that Tucker had nothing to complain about. His preferred stretch of beach “was not of a certainty part of a ship’s room,” and at any rate there was plenty of suitable shoreline to choose from.<sup>140</sup> But the defendant then revealed that he knew he was perfectly entitled to Tucker’s favourite spot because one the

---

<sup>137</sup> Bannister, *Rule of the Admirals*, 15.

<sup>138</sup> Bannister, *Rule of the Admirals*, 53-56.

<sup>139</sup> See Charles Brewer (Secretary) for Richard King (Governor), “28 September 1792 – Proclamation concerning the Ship’s Rooms at Fermeuse Harbour,” GN 2/1/A/12, pp. 167-168.

<sup>140</sup> Supreme Court of Newfoundland, “9 October 1792 – William Tucker v. Christopher Pullman,” GN 5/4/C/1, Box 196, p. 12.

captain of a ship in his employ was also an admiral of the harbour, who he had ordered to hold an admiral's court. "This Court, he said, had condemned the place in question as a Ship's room." Chief Justice Reeves then informed Captain Pullman that his seizure was illegal, as the court he assumed he controlled had, in fact, no jurisdiction in the matter, owing to the fact that "the Jurisdiction of the Fishing Admirals, in such cases, was taken away by the 12<sup>th</sup>. sect. of Stat. Geo. 3. c. 46, The Judicature Act of last year."<sup>141</sup> That section had made it no longer

lawful for any court in the island of Newfoundland ... (except for the supreme court and the surrogate courts appointed by virtue of this act) to hold plea of any suit or complaint of a civil nature, any law, custom, or usage to the contrary notwithstanding.<sup>142</sup>

Strictly speaking, the issue would appear to be that a fishing admiral court had assumed jurisdiction in a civil case. But Reeves was also able to publicly circumvent one merchant's self-interest by asking longtime residents just what was the custom of the country—and to block the other merchant's legal manoeuvring with a technicality of his own. For the moment, local custom remained a commonable resource—but as Reeves mused in his *History of Newfoundland*, "all judges have the quality which is invariably supposed to belong to the best, that is, of enlarging the sphere of their cognizance."<sup>143</sup>

Another subtle way that Reeves ensured the Supreme Court annexed customary law to itself was to grant it a virtual monopoly over local inheritance law. On Reeves's recommendation, the 1792 Judicature Act had given the Supreme Court exclusive jurisdiction over cases involving both probates of wills and intestacy.<sup>144</sup> This made the

---

<sup>141</sup> Newfoundland, "9 October 1792 – Tucker v. Pullman," GN 5/4/C/1, Box 196, p. 13.

<sup>142</sup> Great Britain, stat. 32 George III cap. 46 sect. 12; quoted in Reeves, *History of Newfoundland*, cxiii.

<sup>143</sup> "Boni judicia est ampliare jurisdictionem" (Reeves's note). Reeves, *History of Newfoundland*, 153.

Supreme Court the sole means of redress where, in a territory with a minimum of public institutions, settlers regularly died without a written will (or worse, a disputed one).<sup>145</sup>

During his circuit to Ferryland, one Mary Kennedy sued her brother, William Tucker, for withholding her share of their family's plantation (or rather, its rent), against which he claimed that their father had died without a will—and that he was entitled to the whole of

---

<sup>144</sup> Christopher English has observed that at Reeves's recommendation, the 1792 Judicature Act granted the Supreme Court's jurisdiction over law and equity over a century before the United Kingdom's high court's combined the two. In the first place, we ought to concede that the design, in its original form, was most likely not Reeves's. Though Reeves was likely involved, Hawkesbury did not name him in a letter to Lord Grenville that listed the Master of the Rolls (Sir Richard Arden, later Lord Alvanley), the Attorney General (Sir Archibald Macdonald), the Solicitor General (Sir John Scott), and himself (Hawkesbury) as the authors of the unused 1790 order-in-council. The other collaborator he named was Sir William Wynne, a member of the Board of Trade who was also a highly accomplished judge and practitioner of the civil law. Most notably, as King's Advocate-General, he represented the Crown in ecclesiastical courts. But he was also a Judge of the Prerogative Court at Canterbury, which had jurisdiction over deceased persons' estates—and was a former Admiralty Advocate to boot. Wynne therefore seems the likeliest candidate to have suggested that Newfoundland's Court of Civil Jurisdiction "should have Power to grant Probates of Wills, and Letters of Administration." English, "Newfoundland's Early Laws and Legal Institutions: From Fishing Admirals to the Supreme Court of Judicature I 1791-92," *Manitoba Law Journal*, no. 23 (1995), 70-71; Hawkesbury, "22 April 1791 – Letter to Grenville," CO 194/38, ff. 284-v; Board of Trade, "10 May 1790 – Representation of the Lords of the Committee of Privy Council for Trade and Foreign Plantations, on the Subject of establishing a Court of Civil Jurisdiction in the Island of Newfoundland (Copy; printed 11 March 1793)," 4, in Lambert, *House of Commons Sessional Papers of the Eighteenth Century*, 90:68. Cf. Macdonald and Scott, "4 May 1790 – Report of the Attorney and Solicitor General to the Board of Trade," CO 194/21, ff. 333-334; also referenced in Morton, *Newfoundland in Colonial Policy*, 192.

Reeves supported this feature of the court's design, for a number of reasons. First, although Reeves was a common lawyer, prior to his appointment as Law Clerk, his experience with courts of equity as a Commissioner of Bankrupts likely convinced him of the usefulness of not being limited by the common law. Second, as Chief Justice, Reeves observed that the interconnected nature of Newfoundland did not always lend itself to the common law's expectations of adversarial proceedings. In his 1791 report, he observed that "[m]uch of the Business cannot conveniently be put into the Shape of Plaintiff, and Defendant; and it is often proper to call together several Parties, and to do what is right between them all, according to the discretion *boni viri*." Under these circumstances he endorsed the 1790 design "that a complete authority both legal, & equitable be lodged in the Court for all Complaints of a civil Nature relating to the Person, or to Property." In the third place, Reeves's design for the Supreme Court's blended jurisdiction may have owed something to the fact that the Governor of Bermuda, in his capacity as Ordinary for the island (i.e., representative of the King in his capacity as Supreme Governor of the Church of England), maintained sole jurisdiction over probates of wills in the absence of ecclesiastical courts. In fact, shortly after Reeves's death it was argued that *all* colonial governors maintained a similar jurisdiction. Theodore T.F. Plucknett, "John Reeves, Printer," *Columbia Law Review* 61, no. 7 (1961), 1201-1202; Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, f. 310v. See Board of Trade, "27 June 1793 – [Minute on] Colony Laws: considering sundry Acts passed in the Islands of St. John, Grenada, Nova Scotia, Bermuda, Bahamas, St. Vincent," BT 5/9, f. 14. See also United Kingdom, "Basham v. Lumley" in *Reports of Cases Argued and Determined in the English Courts of Common Law*, eds. Thomas Sergeant and John C. Lowber (Philadelphia: P.H. Nicklin and T. Johnson, 1830), 14:405-409.

<sup>145</sup> Reeves, "28 November 1791 – Report on Newfoundland," CO 194/38, ff. 310-v;

the estate as heir at law. But “at a time when Newfoundland was legally a considered a fishing base [where] land was intended for temporary use,” Reeves did not agree that Newfoundland’s planters had the same rights as England’s landed gentry.<sup>146</sup> In the opinion of the court, “lands and plantations in Newfoundland are nothing more than Chattel Interests, and should, in case of Intestacy, be distributed as such.” The plaintiff was accordingly ordered to receive her equal share of the family estate in perpetuity, whenever she should care to claim it.<sup>147</sup> While records makes no reference to local custom, Reeves appears to have preferred local practice in Newfoundland that followed or at least resembled the common-law practice of dividing chattels among surviving family members.<sup>148</sup> Favours customary law in this case also served imperial interests: seen from Whitehall, Reeves’s subversion of otherwise patriarchal legal norms was entirely appropriate, since his ruling began from the premise, and established the precedent, that not even local law regarded Newfoundland’s settlers as colonists.

Following the success of this and other cases, Reeves wrote to Dundas that he hoped “by the decisions, which come from me, that the law, & the usages of the island

---

<sup>146</sup> Trudi Johnson, “Matrimonial Property Law in Newfoundland to the End of the Nineteenth Century” (PhD thesis, Memorial University of Newfoundland, 1998), 145; see also Johnson, “Chapter 7 – Defining Property for Inheritance: The Chattels Real Act of 1834,” in *Essays in Canadian Law*, 9:202-203.

<sup>147</sup> District of Ferryland, “Pleas in the Supreme Court of Judicature – Mary Kennedy v. William Tucker” (*Kennedy v. Tucker*), GN 5/4/C/1, Box 196, ff. 25-26; also quoted in Archibald, *Digest of the Laws of Newfoundland*, 125n. Although Chief Justice Forbes did not have the Ferryland court records to hand, he reached a similar conclusion as Reeves in his own ruling in *Williams v. Williams* in 1818. It was not until 1821 that the Privy Council “applied the English Law of Inheritance, to fishing plantations.” Bruce Kercher and Judie Young, “Chapter 6 – Formal and Informal Law in Two New Lands: Land Law in Newfoundland and New South Wales under Francis Forbes,” in *Essays in Canadian Law*, 9:197-199, 204.

<sup>148</sup> See Johnson, *Essays in Canadian Law*, 9:197-199. D’Ewes Coke, a long-serving JP for St. John’s, may have informed Reeves of a precedent from October 1785. When Richard Tucker, a planter at St. John’s, died intestate that year, his plantation on the north side of St. John’s passed to four daughters and one son. The Dartmouth merchant firm Newman & Co. took pains to document the purchase of one of his sister’s shares. See John & Elizabeth Boone (née Tucker), “19-20 October 1785 – Indenture; Endorsement; Terms of Sale,” GN 2/1/A/11, ff. 1-15. (Further research is needed to confirm whether the Tuckers in St. John’s and Ferryland’s records were the same family, branches of an extended family, or of no relation.)

shall become fixed, & be better known.”<sup>149</sup> But as he admitted to the Newfoundland Committee, merchants were suspicious that as Chief Justice he had favoured local custom so heavily, and had demanded to know why he had not heard their civil suits according to English law.<sup>150</sup> Reeves’s answer to such charges was that according to English law, Newfoundland’s demonstrably “ancient” customs *were* English law; meaning, that none of those merchants had a legitimate case against *him*. As a legal scholar and law officer to the Board of Trade besides, Reeves could assure the Newfoundland Committee:

[i]t is a particular Property of the Law of England to give Sanction and Effect to local Usages and Customs that have prevailed for [a] Length of Time. If the Law of England is the Rule of Decision in Newfoundland, the Customs and Usages of Newfoundland would thereby become established, because the Law of England opens and receives the Customs and Usages of the Place into itself as Part of it, and the Usage and Custom would then become the Law of the Land by virtue of the Force and Efficacy given them by the Law of England.

Appealing to the same conservative logic William Pitt had used to justify preserving the commercial law of New France in Lower Canada, Reeves assured the Newfoundland Committee “that for making People happy no less than for doing Justice, nothing is more necessary than preserving inviolate those Rules of Action to which they have been long habituated.” Reeves may have permitted himself a small sneer when he reminded the Committee that according to the principles of the common law, “the custom of the country” already had the force of law, and that this “would have been the Case if the Parliament had been silent upon the Subject.” But to set the Committee’s members at ease, he assured them that under the Newfoundland Judicature Act of 1792, the Supreme Court’s mandate was to “determine Suits and Complaints of a civil Nature according to

---

<sup>149</sup> Reeves, “21 October 1792 – Letter to Dundas,” WO 1/15, f. 164.

<sup>150</sup> Reeves, *Third Report of the Newfoundland Committee*, 147-148.

the Law of England, *as far as the same can be applied* to Suits and Complaints arising in the Island of Newfoundland”—from which mandate he had not deviated in favouring local custom (my italics). Reeves explained that he took this passage in the act to mean “that the Custom and Usage of Newfoundland should have the Ascendency whenever they can be ascertained to have the genuine Property of Custom and Usage.” It did not matter whether MPs were aware of Newfoundland’s legal customs: Parliament, Reeves assured the Committee, made it the Supreme Court’s job to uphold that island’s unwritten law. Loophole or no loophole, though, he might have mentioned that he had drafted the very bill that he had just quoted back to the Committee as an Act of Parliament.

Reeves’s elevation of custom in the rhetoric of his testimony was, furthermore, necessary for defending the Supreme Court’s annexation of customary law. So was Reeves’s other solution for “fixing” unwritten laws in place by simply writing them down. As he explained to the Committee, since cases often hinged on customary law,

such Cases I put into Writing, because I thought, if a Collection of them were made and printed for the Use of Magistrates and People there, it would ... make the Law certain, and enable People better to conduct themselves in all their Dealings.

Writing down any customs he came across in court would also mitigate the instability under the island’s seasonal and “triennial” naval government, as well as “the Feebleness and Instability of every Thing relating to Courts” he had encountered. Certainty of law would, furthermore, help remedy the “perpetual Distrust, [as to] whether what was Law under their present Rulers would be Law under those who succeeded.”<sup>151</sup> Once

the Usages and Customs of that Place ... are ... collected, they will become the

---

<sup>151</sup> Reeves, *Third Report of the Newfoundland Committee*, 148.

Law of the Place, without needing any Sanction from Parliament, in the same Manner as the Law of England is to be found in the Books where Decisions are reported.<sup>152</sup>

Unfortunately, if Reeves ever prepared such a manuscript, it has since been lost; the task of producing such a manual for magistrates would fall to Anspach, who would also go on to become Reeve's successor-historian. In the meantime, whereas in the City of London, Lord Mansfield had popularised the use of special juries of merchants to help determine the law merchant to settle commercial cases, preserving the *lex mercatoria* in legal precedents, in Newfoundland, the Supreme Court's annexation of customary law over which merchants had no monopoly meant that the trial itself rather than special juries was a more fit instrument for preserving the "ancient" law in the newest Court.

#### IV.vii - Conclusion

In his essay on *The Whig Interpretation of History*, Herbert Butterfield warns that in "hold[ing] liberty and constitutional government as issues in the perennial clash of the principles of good and evil," the Whig historian "is apt to imagine the British constitution as coming down to us safely at last, in spite of so many vicissitudes; when in reality it is the result of those very vicissitudes of which he seems to complain."<sup>153</sup> We saw in the previous chapter that the view of Reeves as a visionary who guided Newfoundland's early political destiny, and who was allegedly the principal defender of settlers' right to live undisturbed in the former, falls apart on closer inspection. Although highly regarded as Newfoundland's first Chief Justice, Reeves's other job as Law Clerk to the Board of Trade meant that his every recommendation as Newfoundland's Chief Justice was meant

---

<sup>152</sup> Reeves, *Third Report of the Newfoundland Committee*, 149.

<sup>153</sup> Butterfield, *The Whig Interpretation of History* (New York: W.W. Norton & Co., 1965), 128, 41.

to appease that Committee's policy against colonisation. In service of this end, the creation of the Supreme Court was never meant to be a constitutional milestone for its own sake, but was instead intended as a means of adapting imperial policy to serve the needs of the present. Though long interpreted as representing the British government's recognition of settlers' right of occupancy, Newfoundland's Supreme Court was designed, endorsed, and justified by anti-colonialists—among them John Reeves.

This chapter examined the limits of the strictly minimal concessions that Lord Hawkesbury's Board of Trade was willing to grant to the British colony at Newfoundland. While front-bench MPs justified the 1791 Court of Civil Judicature as something explicitly for the colony rather than the fishery, Hawkesbury was not willing to entertain any proposal for a legislature that was also explicitly for the use or benefit of the Island's residents. Despite Reeves's careful attempts to design a legislature he thought would appease his patron's particular tastes, in 1792 as in 1786, Hawkesbury was only willing to support creating courts of judicature and nothing more, except legislation designed to strengthen what government was already in place, more or less for the sole purpose of encouraging Britain's migratory fishery to Newfoundland. In the absence of an island-wide legislature, Reeves reconciled himself to Newfoundland's simpler constitution by annexing the function of a legislature to the Supreme Court; and, more specifically, by ensuring that the legal precedents set by the Supreme Court gave due encouragement to the fishery rather than to colonial settlement. One strategy at Reeves's disposal was to issue verdicts giving Palliser's Act new interpretations, which would establish how that act was to be enforced. As Chief Justice, Reeves made sure to preserve nuanced

interpretations of Acts of Parliament in the amber of legal precedent, in addition to violent reminders that governors' proclamations had the force of law—and that vice-regal proclamations were to be adhered to no less than royal ones. In enforcing proclamations against poaching at Funk Island on the grounds that the birds there were useful to the fishery as bait, Reeves nevertheless did implicitly legitimate the colony that did exist, insofar as he spared a local head of household the social shame of a public whipping. At the extreme end of his vision for this constitution was his paternalistic hope that the naval viceroy's ability to rule by decree might save the Beothuk from a hopeless situation. Unfortunately, neither effort to curb the self-interest of the growing colony was particularly effective—owing in large part to Hawkesbury's cold assumption that only as a migratory fishery could Newfoundland be governed “in a manner useful to the Mother Country,” and that a Supreme Court was accordingly the only concession necessary to maintain public order. The result was that while Reeves was a natural advocate for the imperial Leviathan, he was confronted with the reality that on either side of the Atlantic, Newfoundland's government was content to derive its authority from those it was prepared to govern, and perhaps its legitimacy from those it preferred not to.

But if Newfoundland's colonial executive was unequipped to exercise the power Reeves assured the Grand Jury it had the right to, efforts to regulate the fishery by his *ex cathedra* confirmations of the Governor's authority were at least consistent with his larger design of making the Supreme Court rather than a non-existent legislature the ultimate repository of local law. Reeves justified Newfoundland's distinct legal customs on the basis that the law of England recognised British subjects' established customs,

wherever they resided, as extensions of the common law. But Reeves's populist tone belied the fact that he had established the Supreme Court as the arbiter of the people's customs. Legal precedents ensured that local laws became "fixed and better known," and the Court's annexation of custom would also lessen the influence of actual merchants, so long as a legislature was not in place that would supposedly serve the same purpose.

Reeves intended Newfoundland's potential legislature and understood its new judiciary as necessarily conservative reforms. Reeves's proposals did not deviate from Hawkesbury's view that the migratory fishery ought to be given priority over the colony, or that stronger government was necessary for keeping Newfoundland's residents under the Empire's watchful eye. As merchants' financial interests lay in encouraging settlement and thwarting this policy, their influence had to be curbed at every step. Giving Newfoundland a municipal-style legislature, in which merchants would form a sizeable minority bloc, ensured that merchants could not mistake their authority as co-equal with that of the governor's. Failing that, a Supreme Court able to interpret and enforce parliamentary statute and vice-regal proclamations could end merchants' ability to give their *own* constructions to such regulations as Palliser's Act. Finally, a Supreme Court dedicated to enforcing imperial policy also ensured that Newfoundland's ancient laws could finally be placed in the care of magistrates and judges more fit to administer them. But to justify such a brazen coup, Parliament had to be convinced that the constitution established under an experimental, annual Judicature Act was preferable to a regime supposedly left to its own devices since 1699. This came in the form of John Reeves's *History of the Government of the Island of Newfoundland*.

## Chapter V – The Tory Interpretation History

In his study of *The Origin of Canadian Politics*, Gordon Stewart explains that in opposition to the later seventeenth and early eighteenth century's "Court" Party,

"country" spokesmen were suspicious of central power and looked to Parliament as an important check on aggrandisement and royal administration. ... "Country" attitudes tended to be more locally oriented, concerned with protecting traditional liberties and property rights against the encroaching power of royal government.<sup>1</sup>

John Reeves embodied exactly what the early Country supporters had despised: he was a staunch defender of centralised government, and an influential placeman who used the occasion of judicial reform to increase the influence of both the royal administration from London and the vice-regal administration from St. John's. His disregard for "traditional liberties" took direct aim at what opponents of the Judicature Acts wished to uphold the most: the allegedly perfect freedom that Newfoundland already enjoyed under the limited constitutional government of King William's Act (stat. 10 & 11 Will. III cap. 25). But if Reeves worked on behalf of official interests, he was not, prior to April or June 1793, widely known as a master of everything there was to know about Newfoundland, except perhaps by the Board of Trade—and even Lord Hawkesbury took a second opinion once in a while.<sup>2</sup> Furthermore, during the Newfoundland Judicature Bill debates, opponents of the Judicature Act, it was not the Administration but the opposition—MPs, merchants, and even the West Country's last bye-boat keepers—who emerged as having the most natural sense of Newfoundland's affairs. Specifically, they appeared to have the best understanding of the island's history, making these "constitutional conservatives," as I've

---

<sup>1</sup> Stewart, *The Origin of Canadian Politics*, 12.

<sup>2</sup> Routh, "6 February 1793 – Letter to Hawkesbury (Observations on Mr. Reeves's Report)," CO 194/21, f. 402; see also George Chalmers, "19 April 1793 – Letter to Hawkesbury," Add MS 38229, ff. 3-11.

referred to them, seem to speak as Newfoundland's natural governing party, to the embarrassment of Lord Hawkesbury. To silence this opposition once and for all, a pro-Administration counter-interpretation of Newfoundland's history had to inform the public of exactly what Hawkesbury wished it to know. And who better for such a task than England's leading arch-loyalist and reliably Tory legal historian, Chairman John Reeves of the Association for Preserving Liberty and Property against Republicans and Levellers, the Chief Justice of Newfoundland recently returned home.

This chapter shows how Reeves's *History of Newfoundland* continued and supplemented his conservative justifications of the Newfoundland Judicature Acts. This chapter argues that Reeves's *History of Newfoundland* adheres to a recognisably Tory interpretation of history; one that, in direct opposition to Whig history, did not see constitutional liberty but the maintenance of public order and fulfillment of obligations to the Crown as its greatest good, and deviations therefrom as its most menacing evil. Doing so served Reeves's purpose of giving the British Administration—Lord Hawkesbury in particular—the necessary cover for disavowing the fishing admiral system as anathema to the very law and order it was once intended to provide. Reeves based his *History of Newfoundland* on the argument that the interests of the fishery and the colony were fundamentally opposed to one another, in order to claim that the Supreme Court and other courts' eventual replacement of the fishing admiral system served a moral purpose. To provide the context for this argument, I explain the political needs that Reeves's *History* met, first, by outlining the variously “Whig” or “Country” interpretation of Newfoundland's constitutional history adhered to by opponents to the Judicature Bills. I

show that this interpretation drew its legitimacy from its appeal to King William's Act—cast as the Newfoundland commercial fishery's written constitution—and show how the opposition's history remained in full force during the proceedings of the Newfoundland Committee of 1793. Amidst this sea of discontent, I argue that Reeves wrote his *History* to convince Parliament to sanction the Judicature Acts' over-riding of local privileges otherwise enshrined in royal charter and confirmed by parliamentary statute.

Turning to the text of Reeves's *History of Newfoundland*, I show how each of its sections adhered to his overall plan. I begin by explaining how, rather than an explicit defence of settlers' rights *per se*, Reeves wrote the preamble to his *History* as a justification of the Supreme Court as the institution most fit to represent the Crown's authority and dispense the King's Justice. I then argue that the portion of his *History* describing the events that led to the passage of King William's Act forms a deliberately one-sided narrative, undermining the opposition's claim to prefer parliamentary statute over His Majesty's Orders-in-Council. I continue by arguing that the portion of Reeves's *History* covering the period immediately following the passage of that Act—as reported by the Admiralty barrister George Larkin in his 1701 report—lays the foundation for Reeves's master narrative of anarchy versus monarchy, of lawlessness versus order, of the Fishing Admirals versus the Crown. Essentially claiming that merchants' open neglect of their duties as magistrates had remained the same for ninety years, I show that Reeves's relation of the years leading up to the passage of Palliser's Act was meant to show merchants' hypocrisy in venerating only those parliamentary statutes that served their interests. I then show how the final portion of Reeves's *History* argued that the

constitutional crisis, in which he was maintaining an active role, was the direct result of Newfoundland merchants' historic opposition to all institutions of civil government. As such, this was a deliberate echo of his public denunciations of political radicals as crypto-republicans, whose public appeals to "the constitution" were merely cover for their alleged designs of overthrowing it. I conclude that Reeves's legalistic narrative characterised opponents to the Newfoundland Judicature Acts as dupes of, or spokesmen for, avaricious merchants hostile to the sovereignty of the Crown.

### **V.i – The Whig Interpretation of History: Tales from the Opposition**

Prior to the publication of Reeves's *History of Newfoundland*, and his *Evidence* before the Newfoundland Committee, opposition to the Judicature Acts came from a wide swath of boatkeepers, merchants, and MPs who either were Newfoundland merchants or who were their spokesmen. Opponents to the Judicature Bills regularly claimed that if the Newfoundland Trade had simply been left to its own devices under "King William's Act" of 1699, then the migratory fishery could revive. Under this act, the captain of the first English ship to enter a given harbour became the "admiral" of that harbour; the second, the "vice-admiral"; and the third, the "rear-admiral." Admirals had their first choice of "ship's rooms"—either beachfront or, more commonly, collectively-maintained wooden structures where salted codfish could be dried. But their first duty was to serve as the fishery's internal magistrates. As such, it was their responsibility to enforce the imperial government's regulations concerning the usage of the land and the shore. Most importantly, admirals were so called because they had the right and duty, for the remainder of that fishing season, to adjudicate disputes that arose between the

captains and crews of more than one ship. Even clergy were not strictly necessary, since admirals were responsible for holding Church of England services on Sundays. But King William's Act also granted the commodore of the Royal Navy's Newfoundland Squadron (which since the English Civil War regularly sailed in convoy with the merchant fleet) appellate jurisdiction over cases that had been heard in an admiral's court. Capital crimes were to be tried in England, so long as both parties and witnesses could be produced.<sup>3</sup>

This balance of minimal government was long in use by the migratory fishery—and, the argument ran, if the old law were adhered to, then the trade would flourish as it once had, once free from additional regulations preventing it from doing so. As the Poole merchant John Jefferey informed the Committee in March 1793,

With respect to the Regulations and Principle of the Legislature of Newfoundland, every Person who has attended to that Subject must have reflected with Pleasure on the glorious Acts of King William and Queen Mary; Laws wisely calculated to promote the interests and success of that Trade, and the only Laws necessary for that purpose.<sup>4</sup>

Such Whiggish primitivism froze King William's Act as Newfoundland's true constitution or, in the words of the Jersey-Poole merchant Peter Ougier, "a Charter for the Newfoundland Fishery"; an almost sacred text against which the shortcomings of the present were measured; the blueprint for the true and original purpose Newfoundland, or rather its waters, ought to serve.<sup>5</sup>

This is not to say that elaborations to the Constitution of 1699 were unwelcome.

Among the more rank-and-file opposition, Orders-in-Council were not considered

---

<sup>3</sup> Bannister, "Chapter Four – Law and Labor in Eighteenth-Century Newfoundland," in *Masters, Servants, and Magistrates in Britain and the Empire, 1562-1955*, eds. Douglas Hay & Paul Craven (Chapel Hill: University of North Carolina Press, 2004), 159.

<sup>4</sup> Jefferey, *First Report of the Newfoundland Committee*, 12.

<sup>5</sup> Ougier, *First Report of the Newfoundland Committee*, 42.

harmful so long as they did not betray the spirit of King William's Act. In the 1791 Judicature Bill debates, Edmund Bastard had praised that statute as "concise and simple, and fully adequate to the purposes of the fishery," though he could begrudgingly accept the "more advanced state" of the Island's constitution. Bastard accepted the decision, in 1729, to appoint the commodore of the Royal Navy's Newfoundland Squadron as governor of that island, since that court did not interfere with the fishing season. Bastard similarly approved of a Commission of the Peace and juries, since they allowed "every concern of the fishery [to be] decided."<sup>6</sup> By 1793, the list of acceptable institutions had grown: naval surrogate judges; Courts of Sessions, Assize, Oyer and Terminer; a High Sheriff, who, being a merchant, required no fees or salary; as well as juries, constables, "and all regular Peace Officers," who, again, cost the fishery only a negligible amount of money for their trouble. Even the Court of Vice-Admiralty had been welcomed because its judge, being a merchant, was "acquainted with the Interests of the Fishery"—which also led to his customary appointment as Chief Justice for the district of St. John's. What's more, all of these courts tried causes "according to the Laws of England," and at no expense to litigants.<sup>7</sup> Merchants did not oppose modifications to Newfoundland's civil infrastructure so long as they were not personally or financially inconvenienced. As the Dartmouth merchant Robert Newman explained, even the Customs House in St. John's was only established by a 1764 Order-in-Council responding to complaints of Irish merchants trading to Newfoundland illegally. But though "the Cause of the Establishment

---

<sup>6</sup> Bastard, "26 May 1791 – Debate on the Newfoundland Judicature Bill," in *Parliamentary Register*, 29:537-538.

<sup>7</sup> Ougier, *First Report of the Newfoundland Committee*, 44.

of a Custom House at Newfoundland does not now Exist, as the Importation from Ireland to Newfoundland is open,” its fees continued to be sanctioned under Palliser’s Act.<sup>8</sup>

Underlying the praise for King William’s Act, however, was widespread condemnation of Palliser’s Act. Everyone had one reason or another to complain about the administration of Newfoundland since 1775—which, in addition to the legislation itself, formed an openly coded objection to the policy Hawkesbury had helped formulate, implement, and insist upon. Prior to Charles Jenkinson’s alliance with Sir Hugh Palliser, Ougier informed the Committee that

no Laws nor Regulations have taken Place, but from the Application of Traders to Government, before the Act of the 15<sup>th</sup> [regnal year] of His present Majesty, nor were any former Laws enacted without the Opinion of the Traders.<sup>9</sup>

Ougier assured the Committee that “the Trade, by whom he is deputed,” wished the Committee to understand that if Parliament were to revive “all the Customs and Regulations” prior to the passage of Palliser’s Act, “the Fishery would increase.”<sup>10</sup>

Palliser’s Act also exacerbated merchants’ hostility to the one prerogative institution that they were willing to criticise *en masse*—the Customs. And no one seemed able to explain Bastard’s charge that since 1788—just before the creation of the Court of Common Pleas—there was a sharp decline of ships trading to Newfoundland, based on statistics that appeared to lay the blame for the fishery’s decline at Jenkinson’s feet.<sup>11</sup> Furthermore, if the claim that civil government would cause Newfoundland to follow America’s example had an unusually strong rhetorical staying power, it was because this argument,

---

<sup>8</sup> Newman, *First Report of the Newfoundland Committee*, 131-133.

<sup>9</sup> Ougier, *First Report of the Newfoundland Committee*, 32.

<sup>10</sup> Ougier, *First Report of the Newfoundland Committee*, 42.

<sup>11</sup> Bastard, “26 May 1791 – Debate on the Newfoundland Judicature Bill,” in *Parliamentary Register*, 29:541-542.

made by opponents to the Judicature and other Bills, accused Hawkesbury of engineering the very thing he feared: a settled colony no longer managed “in a manner useful to this country.” Mere weeks after the Québec Government Bill debates, in which MPs wrangled about the form of government best for a province where parallel European societies competed for the same resources, Bastard issued his own challenge.

Mr. Bastard ... wished to argue ... with a view to the fishery only, and not with any view to the colony, for in that light only could he consider it of any advantage to this country. If he were told that the fishery and the colony were so blended, that this bill was necessary to answer the purposes of both, he should not hesitate to say, he wished distinctly to separate one from the other. It was impossible they could both exist together: as the one rises, the other must fall; and as they had established the colony, they would lose the fishery. What had been the case of New England? As soon as it established a colony, ... they took the fisheries into their own hands. ... Mr. Bastard concluded with ... the very short question—will you have a fishery, or a colony?

For his part, Bastard thought it was better to encourage resettlement to England “than to pursue a system of introducing Courts of Judicature, and civil establishments, that might induce them to remain here”—hinting rather broadly that Hawkesbury was endorsing the courts and thus the settlement (the “colonisation”) he had once claimed to abhor.<sup>12</sup>

With so much hostility towards the exercise of royal and vice-regal prerogatives, and acts of parliament reflecting neo-mercantilist policy rather than the wishes of merchants themselves, it was no accident that Hawkesbury refused Reeves’s request that he say a few words in the House of Lords against the 1792 Judicature Bill’s exclusion of Customs officers from serving as JPs. In Newfoundland, both the Customs and the Commission of the Peace were creations of the royal prerogative, making silence the

---

<sup>12</sup> Bastard, “26 May 1791 – Debate in the Commons on the Newfoundland Judicature Bill,” in *Parliamentary Register*, 29:540. See also Lester, “27 February 1792 – Letter to William Pitt,” Add MS 38227, f. 265v; and Knox, *Second Report of the Newfoundland Committee*, 20.

most prudent course of action. But there was probably another reason why Hawkesbury held his peace. Since his first return from Newfoundland in 1791, Reeves's research revealed that the "ancient" rights confirmed to British merchants in King William's Act had in fact first been granted or acknowledged by royal charters dating to 1634, if not 1610. So far, this information had not yet entered into the public discourse, allowing 1699 to become as sacred a year to the Newfoundland Trade as 1689 was to Protestant England. Within these limits, opposition to the Judicature Bills had so far taken the form of West Country MPs holding up merchants' rights under King William's Act, giving the debates a royalist-versus-parliamentarian feel—and the royalists were losing badly. Had Hawkesbury spoken to the propriety of Customs officers serving as JPs, opponents could have accused him of even greater disregard for Newfoundland's "ancient constitution."

So far, Hawkesbury had been lucky. But if he was backed into a corner on the issue of the Newfoundland fishery, he had no problem echoing the Judicature Bill's opposition in favour of another privileged trade. In a speech from the House of Lords in May 1792, in which he voiced his disapproval on a motion to abolish the African slave trade, his arguments were conspicuously constitutional.

He begged their Lordships might consider themselves a Court of Judicature, as well as humanity, and have some respect for charters granted, and acted upon for more than a century and a half, which, in his mind, they were either pledged to adhere to, or to make compensation for those who were sufferers [i.e., slavers and slave owners], and deceived by the sanction they had so long received.<sup>13</sup>

---

<sup>13</sup> Hawkesbury, "5 May 1792 – Lord Stormont brings forward the Consideration on the Abolition of the Slave Trade," in *Parliamentary Register*, 33:399-400. "Lord Hawkesbury... reflected that the slave trade had been carried on during the course of a century and a half, under charter from the crown, and under the repeated sanction of both Houses of Parliament." Cobbett, "8 May 1792 – Debate in the Lords on the Abolition of the Slave Trade," in *Parliamentary History*, 29:1353. Cf. Bastard, "26 May 1791 – Debate on the Newfoundland Judicature Bill," 29:540.

Hawkesbury seems to have recognised that he would have to address similar concerns about the Newfoundland fishery's own chartered rights—as evidenced by the fact that Reeves's research into the regulations concerning the African slave trade seems to have yielded a blunt constitutional solution to this other political puzzle. The Royal African Company's charter had been temporarily suspended from 1769 to 1783, and its rights and territories were later restored. But Reeves noted that while, during those years when

the Company were divested of all forts, settlements, and factories, from the port of [Salé] as far south as Cape Rouge inclusive, ... the same were vested in his majesty. The trade to the territory so vested in his majesty was declared to be open to all the king's subjects, and to be liable to no regulation but such as his majesty should think proper to make for the better government thereof.<sup>14</sup>

Though Reeves appears to have been skeptical of the sudden, regional abandonment of the Company's monopoly (which extended to the Cape of Good Hope), we nevertheless see an illustration of the principle that even royal charters continued to be subject to the approval of His Majesty's government. And this at a time when, as Reeves observed, not even the Hudson's Bay Company had a statutory equivalent to King William's Act.<sup>15</sup>

What Hawkesbury needed, therefore, was a way to publicly acknowledge that the Newfoundland Judicature Acts—and the Supreme Court in particular—were *supposed* to encroach upon the chartered rights of the British fishery at Newfoundland; and to do so in a way that would leave him blameless. The first real defense of Hawkesbury's evolving policy appeared in Reeves's *History of the Law of Shipping and Navigation*, the same work quoted above. Dedicated to Lord Hawkesbury, its appearance in June 1792 suggests that its publication was withheld until after the Newfoundland Judicature Bill had been

---

<sup>14</sup> Reeves, *History of the Law of Shipping and Navigation* (London: E. Brooke et al, 1792), 379, 157-158.

<sup>15</sup> Reeves, *History of the Law of Shipping and Navigation*, 155.

passed by the House of Commons, if not the Lords and King as well.<sup>16</sup> The project was at least a year and a half in the making. Reeves first sat down to draft “the little Tract we talked of, upon the laws of Shipping & Navigation” in early December 1790—and given Hawkesbury’s interest in the subject, it seems likely that his influence was considerable.<sup>17</sup> Its finished form also included the first proper answer Edmund Bastard received to his question as to whether the Administration meant to have a fishery or a colony at Newfoundland. It was true that, in 1698, the Solicitor General assumed Newfoundland was neither a plantation nor a colony, “having no settled governor there, nor the king pretending to any dominion therein.”<sup>18</sup> But, having reviewed the relevant statutes, Mr. Solicitor acknowledged that Newfoundland was “reckoned ... among his majesty’s plantations.” In any event, Reeves noted, there could be no doubt of the King’s sovereignty following the Treaty of Utrecht in 1713, after which Newfoundland “unquestionably *belonged* to his majesty.” A popular assumption persisted that “this island, being used merely for the fishery, was not a colony or plantation. Yet this question was never raised” by His Majesty’s ministers, “but it was answered, that this island was to all intents a colony and plantation.”<sup>19</sup> This in turn sanctioned the creation of colonial institutions. Reeves even defended the patriation of the Customs in 1764 on this basis:

for although [Newfoundland] has lately been regarded only as a fishery, and the

---

<sup>16</sup> The Newfoundland Judicature Bill was passed by the House of Commons on 5 June 1792, and it was passed without amendment by the House of Lords on 11 June 1792. It was given Royal Assent on 15 June 1792; Parliament was prorogued that same day. Kingdom of Great Britain, “5 June 1792 – Newfoundland Judicature Bill passed,” in *Journals of the House of Commons*, 47:1030; “11 June 1792 – Newfoundland Judicature read a Third Time,” in *Journals of the House of Lords*, 39:482; “15 June 1792 – Bills passed; Parliament prorogued,” in *Journals of the House of Lords*, 39:490; “15 June 1792 – Royal Assent to Bills; Parliament prorogued,” in *Journals of the House of Commons*, 47:1090.

<sup>17</sup> Reeves, “8 December 1790 – Letter to Lord Hawkesbury,” Add MS 38226, f. 3.

<sup>18</sup> Reeves, *History of the Law of Shipping and Navigation*, 114.

<sup>19</sup> Reeves, *History of the Law of Shipping and Navigation*, 124–125.

policy of the government has long been to prevent planting and colonization there, yet the original design was to plant that island, as well as Virginia, or any other part of America: and after that policy was changed, yet the first charters having been granted to *planters* as to merchants adventurers, the interest of the planters has been considered more or less, in all the regulations concerning that island; and the term Planter and Plantation is known there, as well as in any part of America, or the West-Indies.<sup>20</sup>

In previewing the tack he would take during the enquiry of 1793, Reeves revealed such evidence to be not so much a sudden shift in imperial policy in favour of settlement but rather legal ammunition against the pretensions of the migratory fishery; as suppressing fire in support of such civil institutions as the Supreme Court and the Customs.

By December 1792, Reeves had completed the manuscript of his *History of Newfoundland*. Like his *History of the Law of Shipping and Navigation*, which he published following the passage of the 1792 Newfoundland Judicature Act, it was originally produced for use by the Board of Trade—or in his own words, “those, who had at the time to consider the subject of Newfoundland.” In his preface, he insisted that he had not intended to publish his History, claiming instead (in eighteenth-century fashion) that circumstances beyond his control had forced his hand if not his pen. “If [the] public enquiry had not been instituted” by the House of Commons, “the story here told would have been confined to the circle for which it was originally intended.” Bastard’s opposition to the Judicature Bills was bad enough, and Government had only narrowly avoided the legislative paralysis that a flood of petitions that local officials, merchants, and boatkeepers from across the West Country had hoped to induce. But now the

---

<sup>20</sup> The justification for patriating the Customs was that in 1764, the Board of Trade viewed Newfoundland as “a colony, and plantation; and conformably with that opinion the duties of customs were ordered to be received there, under the authority of stat. 4. *Geo.* 3. c. 15. which imposes duties on goods imported into the *colonies* and *plantations* in America.” Reeves, *History of the Law of Shipping and Navigation*, 125.

Newfoundland Committee was entertaining, giving greater voice and sanction to, and even publishing the claims of, Newman, Ougier, Knox, and others in their two reports. In response, Reeves offset the Committee's findings by offering his credentials as an expert witness on the subject of Newfoundland to the general public. The resulting *History of Newfoundland* hardly constituted a politically neutral chronicle of bare fact, to be innocently or demurely thrown "among the other materials under examination."<sup>21</sup>

Reeves's *History* also bore the subtle *imprimatur* of the Administration. The start of the French Revolutionary Wars in September 1792 saw a massive influx of Roman Catholic bishops, priests, monks, and nuns fleeing to the British Isles as refugees. When an Emigrant Relief Committee solicited for funds on their behalf, Britain's policy of neutrality towards France meant no cabinet ministers made any contributions—except for Lord Hawkesbury, who donated £50 in December 1792. War was declared that February, and Henry Dundas donated £100 in March.<sup>22</sup> Reeves followed suit in April 1793, announcing, "I give the Profits of this Book for the Relief of the suffering Clergy of France, Refugees in the British Dominions." What's more, he asked his publisher, the bookseller John Sewell, "to undertake the trouble of managing the Publication to the best Advantage for that purpose."<sup>23</sup> Sewell had previously co-published Reeves's *History of the Law of Shipping and Navigation*, as well as the proceedings of Reeves's Association

---

<sup>21</sup> Reeves, "Preface," *History of the Government of the Island of Newfoundland*, n.p.

<sup>22</sup> Dominic Bellenger, "'Fearless resting place': the Exiled French Clergy in Great Britain, 1789-1815," in *The French Émigrés in Europe and the Struggle against Revolution, 1789-1814*, eds. Kirsty Carpenter and Philip Mansel (London: Macmillan Press Ltd.; New York: St. Martin's Press, Inc., 1999), 217-219.

<sup>23</sup> Reeves, *History of Newfoundland*, n.p. Bellenger notes that the Emigrant Relief Committee's public appeals regularly and "carefully glossed over the Roman Catholic convictions of the French clergy," and instead "called directly on benevolence and charity"—a tactic that helps explain Reeves's own omission as well as Prowse's error. Bellenger, *The French Émigrés and the Struggle against Revolution*, 219.

for Preserving Liberty and Property (APLP)—and had in fact been one of the first members of the Association as of 29 November 1792.<sup>24</sup> By aligning himself with the Privy Council, the Cabinet, and the vanguard of the anti-revolutionary APLP, Reeves was re-entering the public arena in his now familiar manner as both a private citizen and as a public official—and in both roles as a staunch supporter of the imperial Administration.

### V.ii – The Case for the Supreme Court

The opening argument of Reeves's *History of the Government of the Island of Newfoundland* is so iconic, and so often quoted, but so frequently divorced from the political controversy that gave rise to it, that it merits some detailed consideration. It bears repeating that Reeves's *History* was not written for the sake of mere scholarship. At a time when opponents of the Judicature Acts complained that the favour once shown to the migratory fishery was now being malevolently and counter-intuitively bestowed upon the colonial fishery, Reeves's task was to fight for the survival of a new Supreme Court. To this end, Reeves accepted Bastard's argument that Newfoundland's two European societies were necessarily in competition with one another. According to Reeves himself:

I intend to give a short history of the Government and Constitution of the island of Newfoundland. This will comprise the struggles and vicissitudes of two contending interests.—The planters and inhabitants on the one hand, who, being settled there, needed the protection of the government and police, with the administration of justice: and the adventurers and merchants on the other; who, originally carrying on the fishery from this country, and visiting the island only for the season, needed no such protection for themselves, and had various reasons for preventing its being afforded to others.<sup>25</sup>

---

<sup>24</sup> Reeves, "29 November 1792 – At a Meeting of the Society at the Crown and Anchor Tavern in the Strand," *Proceedings of the Association for Preserving Liberty and Property against Republicans and Levellers* (London: Printed by J. Sewell et al, 1793), 1:9. See also John Sewell, *Critique on the French Revolution, in a Speech Delivered at the Society for Free Debate* [etc.] (London: R. Faulder, 1793).

<sup>25</sup> Reeves, *History of Newfoundland*, 1.

That Reeves wrote his history to justify the Supreme Court's very existence is easy to miss. At first glance, the above passage seems to imply that Reeves set out to write his *History* on behalf of settlers whose sufferings might be relieved by receiving a proper government. But Reeves's populist rhetoric betrays a staunchly paternalist agenda. Historically, settlers "needed" the protections of civil government; they "needed ... the administration of justice" as well—even if no institutions of law or justice are named. Historically, merchants "prevented" government, law, and justice from taking root—an argument for why merchants in Reeves's own time were hostile to both the prerogative Court of Commons Pleas as well as the statutory Supreme Court. His intent becomes clearer if we use Reeves's own favourite technique of split-column paraphrase.<sup>26</sup>

I intend to give a short history of the Government and Constitution of the Island of Newfoundland.

This book summarises the history of the administration, and evolution of the form of government, unique to the island of Newfoundland.

This will comprise the struggles and vicissitudes of two contending interests.—

Its narrative may be likened to that of a court trial writ large, as it follows two parties' rival claims before the law.

The planters and the inhabitants on the one hand, who, being settled there, needed the protection of a government and police, with the administration of justice:

On the one hand, the island's colonists were historically deprived of a resident governor and other civil institutions, which has long made the establishment of the Supreme Court or something like it as unlikely as it was necessary.

and the adventurers and merchants on the other; who, originally

On the other hand, because ships' captains and merchants prosecuting

---

<sup>26</sup> See [Reeves], *Defence of the Police Bill* (London: Printed for John Stockdale, 1786), 34-39; Reeves, *The Malecontent: A Letter from an Associator to Francis Plowden, Esq.* (London: Printed for J. Sewell and J. Owen, 1794), 24-25; Reeves, *Thoughts on the English Government*, 2:145, 4:47-53.

carrying on the fishery from this country, and visting that island only for the season, needed no such protection for themselves, and had various reasons for preventing its being afforded to the others.

a British fishery only needed to be present during the fishing season, Newfoundland's non- and semi-resident elites have been historically hostile to extending to residents of Newfoundland the same protections that they themselves enjoy as subjects of the Crown resident in England—on the grounds that any institutions granting those same protections to colonists threatened those very chartered rights that they have anciently enjoyed.

With such an agenda, it was no wonder that the Irish nationalist Patrick Morris could praise Reeves for planting in Newfoundland “the impartial spirit of British Justice.”<sup>27</sup>

### **V.iii – Establishing the Royal Prerogative: Towards a Tory Interpretation**

Following this opening salvo, each of his *History*'s four sections set forth a series of historic wrongs that the Supreme Court's creation allegedly righted. The first part chronicled events leading to the passage of King William's Act; the second, events leading to the appointment of a governor in 1729; the third, events leading to the passage of Palliser's Act in 1775. The fourth part focused on more recent history, finishing as it did with the constitutional crisis of 1789 that led to the Judicature Acts of 1791 and 1792. But Reeves was no Whig historian. In response to the opposition's narrative that held to a written constitution granted by Parliament as its ultimate good, and betrayals of constitutional liberties granted thereunder as its opposite, Reeves's narrative instead followed a recognisably royalist or Tory interpretation of history. Following the circuitous legalism of Clarendon rather than the quasi-republican moralising of Gibbon,

---

<sup>27</sup> Morris, *A Short Review of the History, Government, Constitution, Fishery and Agriculture, of Newfoundland*, 7.

Reeves's *History* judged its subjects according to their adherence or opposition to the will of the Crown; assessed their performance to their duties to the Crown; and let fall the implication that rights granted by the Crown could and perhaps should be revoked.

The first portion of Reeves's *History* undermined the opposition's reverence for statute law by showing that King William's Act was little more than the accumulation of prerogative regulations made for the fishery, whose members' claims were secondary to those of colonists. To make such a ploy convincing, Reeves wrote his narrative as if settlement predated the migratory fishery. Unlike the "History of Newfoundland" in John Oldmixon's 1708 study of *The British Empire in America*, Reeves omitted any reference to Henry VII, John Cabot, or Henry VIII, as this would have forced him to explain why Sir Humphrey Gilbert needed to assert England's claim to Newfoundland a second time.<sup>28</sup> And yet, Reeves was aware that the fishery predated efforts to codify its practices. A statute cited from the reign of Edward VI in his *History of the Law of Shipping and Navigation* revealed that the Newfoundland fishery fell under the same regulations as the English fishery prosecuted at Ireland, where the Tudors' wars of conquest and consolidation were perpetual, and Greenland, where England yielded to Denmark's claim of sovereignty.<sup>29</sup> But Reeves's strict adherence to a history told only through government records did not invite comparisons with accounts in Hakluyt, which described "admirals" at St. John's whose practice (at least among the Portuguese) was to rotate their admiralty each week—and without whose help Gilbert's efforts would have proven fruitless.<sup>30</sup> In

---

<sup>28</sup> Oldmixon, "The History of Newfoundland," in *The British Empire in America*, 1:1.

<sup>29</sup> Reeves, *History of the Law of Shipping and Navigation*, 29-30.

short, Reeves gave history from below as little oxygen as possible.<sup>31</sup>

By beginning his *History* with Gilbert's voyage to Newfoundland in 1583, Reeves did not begin *in media res* so much as he traced the beginnings of government to a time when Spain would soon no longer be able to challenge England's claim to Newfoundland under the Treaty of Tordesillas. His story delimited, its characters reflected Reeves's hope that any future civil government would be "exercised by persons of approved discretion and character."<sup>32</sup> When Gilbert asserted England's claim to the island, he did so owing to a royal charter that in 1578 granted him explicit authority to do so. It was Gilbert's and subsequent proprietary colonies' charters on which Reeves based his claim that "Newfoundland, like other new discovered lands in America, was endeavoured to be settled, and improved by means of charters granted from the Crown." The hope was "that individuals would, in this manner, be tempted to pursue the public advantage, through the medium of their private interest."<sup>33</sup> But self-interested parties were never expected to be the only source of law and order. After Sir John Guy planted the London and Bristol Company's colony in 1610, the Crown reserved the right to commission Richard Whitbourne to hold courts of Vice-Admiralty in 1615, owing to the lawlessness of the coast.<sup>34</sup> It would not be the last time that the fishery felt a central authority over it.

Reeves's decision to tell his story using a limited swath of official records also

---

<sup>30</sup> See Edward Hayes, "A report of the voyage and successe thereof, attempted in the yeere of our Lord 1583 by sir Humfrey Gilbert knight [etc.]," in Richard Hakluyt, ed., *The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation* (Edinburgh: E. & G. Goldsmith, 1889), 12:336-338.

<sup>31</sup> Such a tactic is consistent with Reeves denial of Blackstone's supposition, in his own *History of the English Law*, that the Anglo-Saxon reeve, shire-reeve, or sheriff (*vicomes*) derived the local earl (*comes*) of the county. Instead, Reeves argued that the sheriff anciently derived his authority from the King directly. See Blackstone, *Commentaries on the Laws of England*, 1:328; Reeves, *History of the English Law*, 1:4-5.

<sup>32</sup> Reeves, "8 December 1792 – Report on Newfoundland," BT 1/8, f. 307v.

<sup>33</sup> Reeves, *History of Newfoundland*, 5.

<sup>34</sup> Reeves, *History of Newfoundland*, 7.

allowed him to portray the Fishing Admiral System as a creation of the royal prerogative, rather than as the Crown's recognition of existing practice. Hakluyt records the Elizabethan practice of merchant fleets appointing an admiral, vice-admiral, and rear-admiral to settle disputes for the duration of longer transoceanic voyages.<sup>35</sup> Reeves, by contrast, withholds the mention of any such convention until the reign of Charles I. Those familiar with such procedures might have inferred that West Country merchants and ship-owners' "petition and complaint" to the Star Chamber of the English Privy Council contained its own recommendations.<sup>36</sup> But, thanks to Reeves's phrasing, this nuance is easily lost on the reader. Instead, after receiving "a petition and complaint"—petitioning to what purpose, or complaining of what, we do not hear—all Reeves tells us is that the Star Chamber "was pleased to issue the ... order, for better regulating the trade," which Order-in-Council became known as the Western Charter of 1634.<sup>37</sup> It was, furthermore, the Star Chamber whose charter delineated the rules—or as Reeves unambiguously referred to them, "the laws"—that would govern the fishery and trade thereafter. That these same laws might have been proposed by those privileged by them is, at best, eluded. At the same time, while the Privy Council granted rights and responsibilities to the West Country adventurers, the admirals were not to be left to their own devices—and in any event they were to have no jurisdiction in criminal cases. In keeping with medieval practice, capital crimes committed outside England were to be tried by military courts of

---

<sup>35</sup> Hakluyt, ed., "A voyage with three tall ships, the *Penelope* Admirall, the *Merchant royall* Viceadmirall, and the *Edward Bonadventure* Rereadmirall, to the East Indies [etc.]," *Principal Navigations*, 11:272-290.

<sup>36</sup> See Ralph Lounsbury, "Chapter II. – The First Western Charter," *The British Fishery at Newfoundland, 1634-1763* (Hamden: Archon Books: 1969), 70-75; Peter Pope, *Fish Into Wine: The Newfoundland Plantation in the Seventeenth Century* (Chapel Hill: The University of North Carolina Press), 32.

<sup>37</sup> Reeves, *History of Newfoundland*, 8.

civil law rather than civilian courts of common law—Courts of Vice-Admiralty having jurisdiction over crimes committed at sea, and the Earl Marshall’s Court or High Court of Chivalry having a parallel jurisdiction over capital crimes committed on land.<sup>38</sup>

Reeves implied that the Restoration of the English monarchy and aristocracy was simultaneous with the loss of both counterweights against the self-interest of the Third Estate—to the detriment of settled colonists, who also had a claim to royal charters sanctioning their presence. True, it had not been the Stuart monarchy but Oliver Cromwell’s Council of State that appointed Newfoundland’s first governor, John Treworgie, in 1650.<sup>39</sup> But the republican office of governor was not transmogrified into a permanent viceroyalty following the Stuart Restoration. This missed opportunity to appoint a personal representative of the Crown also coincided with the extinction of the second Lord Baltimore’s claim to the Province of Avalon in 1660, after which neither the English aristocracy nor any royally-chartered joint-stock company acted as an effective counter-weight against independent West Country merchants. Almost immediately afterwards, in 1663, the Privy Council amended the Western Charter to prohibit transporting passengers not listed as crew—that is, potential settlers.<sup>40</sup> It was also during this period that Reeves saw the first inklings of anarchy since 1615 re-appear. The extraordinary step of Parliament’s involvement resulted in a statutory prohibition, in 1664, against “destroy[ing] the fry of fish, ... burn[ing] or destroy[ing] boats left in the harbour, [and] pull[ing] down houses or stages built by the English to live in during the fishing

---

<sup>38</sup> Plucknett, *A Concise History of the Common Law*, 5<sup>th</sup> edition (London: Little, Brown and Co., 1956), 662. The High Court of Chivalry or *Curia militaris* exercised its jurisdiction over Newfoundland at least once, in 1634. See G.D. Squibb, *The High Court of Chivalry*, 54-56.

<sup>39</sup> Reeves, *History of Newfoundland*, 9.

<sup>40</sup> Reeves, *History of Newfoundland*, 10-11.

season.”<sup>41</sup> Reeves did not miss the irony that “notwithstanding the objections made by many to the appointment of a governor, those very persons felt the need of government and regulation.”<sup>42</sup> Indeed, it was this same anti-settlement camp whose petition to the Privy Council that “additional powers might be granted for regulating the fishery,” resulted in “additional rules” to the Western Charter in 1670.<sup>43</sup> Among these were orders that fishing admirals “Should bring to England offenders of any sort—Should proclaim on the 20<sup>th</sup> of September, yearly, his majesty’s orders.—Should keep journals.”<sup>44</sup> In lieu of a royal governor, the representation and exercise of the King’s authority was instead devolved to the migratory fishery’s lords of the harbours.

During this period, Reeves saw those patterns emerge that explained the shape of the present crisis. Perhaps most glaringly, he noted that along with the Additional Rules to the Western Charter in 1670, the Board of Trade had asked the attorney general to propose “some way of judicature, for the determining of causes at Newfoundland.” Nothing, however, came of the Privy Council’s judgement that a high court with criminal jurisdiction in Newfoundland served imperial interests. Instead, familiar complaints began to surface. When in 1675, the Lords of Trade received a petition requesting the appointment of a governor, “the merchants and owners of ships in the west of England, who protested against a settlement,” protested, not that encouraging the colonial fishery was a bad idea, but that a colony was unsustainable and that appointing a governor for one was ill-advised.<sup>45</sup> The Board took these arguments seriously in their report to King

---

<sup>41</sup> Reeves, *History of Newfoundland*, 11.

<sup>42</sup> Reeves, *History of Newfoundland*, 14.

<sup>43</sup> Reeves, *History of Newfoundland*, 15.

<sup>44</sup> Reeves, *History of Newfoundland*, 16.

Charles II. The most obvious arguments against colonisation were that the harsh climate and the poor quality of the soil made colonists dependent on imported goods—which pulled Newfoundland out of England’s commercial orbit and into that of New England. In a country where any natural resources were precious ones, settlers (“the inhabitants and planters”) regularly violated the Western Charter’s prohibition against felling or rinding trees within six miles of the shore. Even worse, Newfoundland planters were enticing fishing servants into their debt and into settlement with wine and spirits. This proved as much an administrative as a moral problem, since men who became indebted drunkards in Newfoundland forced their wives and families into the parish pay (early modern welfare) back in England.<sup>46</sup> But the most compelling argument against expanding the Crown’s direct influence was that to do so would be to invite ridicule at the inefficacy of its power—not because settlement was so great but so sparse;

[t]hat the inhabitants lived scattered in five-and-twenty different harbors, almost eighty leagues asunder; and that in all the winter, when abuses were chiefly committed, there was no passing from one place to another, so that near forty harbors would have no government, though the governor were actually in the country.<sup>47</sup>

Reeves seems to have been skeptical at the Board’s conclusion that a migratory fishery rather than a settled colony was the best way of keeping Newfoundland in the empire, implying that “the methods proper ... to maintain the king’s dominion and sovereignty” in the event that kicking colonists out might invite the French in were perhaps too impractical to admit of the scheme.<sup>48</sup> But once the case was made that removing settlers

---

<sup>45</sup> Reeves, *History of Newfoundland*, 17.

<sup>46</sup> Reeves, *History of Newfoundland*, 18.

<sup>47</sup> Reeves, *History of Newfoundland*, 18-19.

<sup>48</sup> Reeves, *History of Newfoundland*, 17n.

as a means of strengthening the empire by eliminating lawlessness on its frontier,

[t]his report, from the Lords of the committee of council for trade and plantations was approved by his majesty, and order was thereupon given for carrying into effectual execution, what was there recommended.<sup>49</sup>

Reeves avoided saying outright that the King-in-Council had ordered the resettlement of English settlers to other colonies.<sup>50</sup> He was, however, quick to presage the necessity of his own appointment by observing that when Sir John Barry was appointed commodore of the Newfoundland convoy, his subsequent firsthand account of its population was very “different ... from [the account] lately made by the adventurers, and which had induced the committee of council to report in the terms we have just heard.”<sup>51</sup>

Amid this uncertainty, Reeves continued to give both sides a fair hearing, noting that in their tussle over imperial policy,

we plainly discover the two contending interests in the Newfoundland trade: the one, that of the planters and inhabitants; the other, that of the adventurers and merchants; and we shall see ... that according to the views of these different description of persons, representations were at various times made to the government at home, for promoting or opposing regulations and establishments in the island.<sup>52</sup>

In any struggle between fishery and colony, however, the victor was the Crown. To resolve the contending interests between colonists, and merchants and ships’ captains, in 1677 Charles II decided his government needed to give him better advice, ordering

both the adventurers and planters [to] be heard by their counsel. And thus was the question ... of a colony solemnly argued at the [privy] council. After which it was referred to the committee for trade, to propose some regulation between the adventurers and planters, which might consist with the preservation of the interest

---

<sup>49</sup> Reeves, *History of Newfoundland*, 21.

<sup>50</sup> See Joshua Tavenor, “Weighing the Evidence: Restoration Policymaking and the 1675 Order to Evict Newfoundland’s English Residents,” *Acadiensis* 47, no. 1 (Winter/Spring 2018): 41-61.

<sup>51</sup> Reeves, *History of Newfoundland*, 22.

<sup>52</sup> Reeves, *History of Newfoundland*, 21-22.

of the crown, and the encouragement of navigation and the fishing trade.<sup>53</sup>

The question was not taken up again until 1698, and neither was the problem that the Earl Marshall's Court had not existed since 1643 (though common-law courts of Oyer and Terminer assumed the former court's jurisdiction under King William's Act). Reeves had remarkably little to say about King William's Act itself, but he rejected Ougier's view that that statute was effectively a charter for the migratory fishery and for that fishery alone. Reeves's own comment concerning that statute was simply that it appeared

to be founded on the policy of former times; and it is, in truth, little more than an enactment of the rules, regulations, and constitution that had mostly prevailed there for some time.<sup>54</sup>

The "policy of former times" is a vague phrase, seeming to hint at time immemorial, but Reeves used it here to reject any notion that the fishery's golden age ever resembled a Whiggish fantasy in which the trade knew no laws but those of commerce, and submitted only to the wisdom of Parliament. If anything, Reeves's rebuttal to such myths reflected his peculiar brand of "settlement Toryism."<sup>55</sup> His version of Newfoundland's golden age was a time when Parliament still acknowledged the wisdom of laws promulgated by the King-in-Council (whether the Star Chamber or the Lords of Trade); a time when the trade had long since grown accustomed to happily obeying and submitting to such laws; and a time when the King was acknowledged by all parties to sit in judgement over them. At least, such an impression, at the conclusion of this portion of Reeves's *History*, was meant to stand in vivid contrast to the dark age recorded in the next one.

---

<sup>53</sup> Reeves, *History of Newfoundland*, 29.

<sup>54</sup> Reeves, *History of Newfoundland*, 31.

<sup>55</sup> See Reeves, *Thoughts on the English Government*, 2:168n.

#### V.iv – King William’s Republic: Reeves and the Larkin Report

In the second part of his *History*, which spanned from the passage of King William’s Act to the appointment of a naval governor and the first JPs in 1729, Reeves was more explicit about his purpose in chronicling Newfoundland’s constitutional history to discredit the fishing admiral system. Both despite and because of the admirals’ claims to being the island’s natural governing magistrates, Part II argued that anti-colonial pretensions to the glorious constitution of King William’s Act had no basis in history. But it was precisely the claim that that Act was a charter to the fishery and the migratory fishery only that Reeves rejected. In the first place, King William’s Act was meant “to be generally beneficial.”<sup>56</sup> Second, even if the fishery had some claim to ascendancy,

this act was, in the first place, no novelty; in the second place it seems never, from the very beginning, to have been completely executed; and thirdly, it gave power and jurisdiction to hands that were unfit to exercise it: and I shall presently shew ... that, at the very time it was passed, it was in no way carried into execution as the parliament intended.<sup>57</sup>

Yes, the Western merchants had a legal claim to chartered rights, but they had no moral claim or proven interest in attending to their chartered responsibilities.

The centrepiece of this section was a report from George Larkin, a Vice-Admiralty lawyer (“a gentleman bred to the civil law”) whose report on the state of

---

<sup>56</sup> Reeves, *History of Newfoundland*, 33. The phrase “nursery of seamen” appears in the preamble to Palliser’s Act, it does not occur in the text of King William’s Act. Whereas Palliser’s Act reflects the neo-mercantilist policy of reserving Newfoundland as a training ground for the Royal Navy at the expense of settlement, the preamble to King William’s Act instead reflects the classical mercantilist notion of the fishery as one colony’s economic contribution to the greater good of the empire. In 1699, “the trade and fishing at Newfoundland” was regarded as “beneficial” to England, “not only in the employing [*sic*] great numbers of provisions and manufactures of this realm, whereby many tradesmen and poor artificers and kept at work, but also in bringing into this nation, by returns of the effects of the said fishery from other countries, great quantities of wine, oil, plate, iron, wool, and sundry other useful commodities, to the increase of his Majesty’s revenue, and the encouragement of trade and navigation.” Reeves, “Appendix” to *History of Newfoundland*, xvi, I; cf. Tavenor, “Climate and Capitalism,” 95.

<sup>57</sup> Reeves, *History of Newfoundland*, 33.

affairs in Newfoundland immediately following the passage of King William's Act was by far the most comprehensive of his time, and whose assessment of Newfoundland's society, Reeves insisted, was still relevant ninety years later.<sup>58</sup> Larkin noted that the Act gave some planters a title to their land, but such validation of their settled colony was regrettable, if only because the colony taking root in Newfoundland was acknowledged by colonists themselves to be an embarrassment:

it was the opinion of all, since he had come there, that it had been better if all plantations had been discouraged, for the island was becoming a sanctuary and place of refuge for all people that broke in England.<sup>59</sup>

Most disturbingly, the levelling effects of frontier life exacerbated the impermanent nature of what justice could be dispensed: "in the rigour of the winter season, masters beat servants, and servants their masters."<sup>60</sup> These squabbles, furthermore, spoke to an already intense mutual exploitation among the different classes. Masters did not pay their servants' wages until August, but it was not uncommon for creditors to make off with a fisherman's catches in June or July, forcing "the rest of his creditors to go without any satisfaction." Larkin marvelled that under such conditions "the planters and inhabitants could procure hands from England to fish for them, considering how ill they used them," but at the same time he was not above reproaching

the inhabitants and planters of Newfoundland [as a] poor, indigent, and withal a profuse sort of people, that cared not at what rates they got into debt, nor what obligations they gave, so long as they could have credit.<sup>61</sup>

It was not merchants from England but New England (as well as local planters) who,

---

<sup>58</sup> Reeves, *History of Newfoundland*, 34-35.

<sup>59</sup> Reeves, *History of Newfoundland*, 40-41.

<sup>60</sup> Reeves, *History of Newfoundland*, 42.

<sup>61</sup> Reeves, *History of Newfoundland*, 38-39.

Larkin reported, encouraged servants to get themselves into debt.

According to Larkin, the very men who should have prevented such abuses, the fishing admirals, were implicated in them. As captains of ships themselves they had little interest in interrupting their own operations in the fishery. “The admirals, before the 20<sup>th</sup> of August, used to hear some complaints, but after that, none were made to them, they being generally the greatest aggressors themselves.” Wholly unsuited to the mercantile magistracy (to say nothing of the civil one), the fishing admirals

ought to see to the preservation of the peace and good government among the seamen and fishermen, that the order and regulation of the fishery be put in execution; and they should keep journals: but instead of this, they were the first to break these orders, and there was not one of them, where *he* had been, who had kept any journal at all.

When individuals appealed fishing admirals’ rulings to the commodore—still as the “commander-in-chief” rather than as a governor—he did what he could, and ordered the fish or a fine to be paid to aggrieved parties.

But there being five or six and twenty different harbours, besides coves, and it being a great distance from Bonavista to Fermeuse, to St. John’s to make complaints; ... the admirals ... did not concern themselves at all, but left all to the commander.<sup>62</sup>

Not content with allowing the anarchy of Hobbes’s “war of all against all” to fester on the frontier, merchants actively contravened still other provisions of the very statute from whence they claimed any authority as admirals. Trees continued to be rinded, “and the woods destroyed, as much as before the passing the act.” What flakes were not actively demolished at the end of the season “were most of them made use of by the inhabitants for firing in the winter.”<sup>63</sup> That Newfoundland winters were occasions to make firewood

---

<sup>62</sup> Reeves, *History of Newfoundland*, 40.

seems to have been lost on Larkin, but his point that the fishing admiral system was no respectable magistracy was plain enough.

To solve the paradox of a legal system that provided neither law nor order, Larkin recommended almost exactly the same institutions that Reeves would more famously justify some ninety years later: a civil magistracy, and a superior court of judicature whose chief justice could serve as the imperial government's agents. Larkin proposed a direct challenge to each admiral's jurisdiction, by appointing "one of the most substantial inhabitants ...in every harbour in the nature of a justice, for preservation of the peace, and tranquility among them."<sup>64</sup> Larkin also appears to have first suggested Reeves's formula of enlisting prominent colonists to curb the excesses of the fishery on behalf of the Crown. But despite his proposals for "justices," Larkin might not have assumed the common law to hold ascendancy on the island. A civilian himself, it seems that Larkin envisioned Newfoundland's superior court to have been a court of civil law—possibly as a logical extension of the local law merchant's superintendence by a naval judiciary.<sup>65</sup> Either way, he had a precise sense of the office that someone like Reeves should occupy.

[S]ome one, who understood the law, should be sent with the commander in chief, or should reside there, as should be thought most convenient, in the nature of a judge advocate, to decide all differences, and matters of *meum* and *tuum* between masters of ships, inhabitants, planters, and servants ... in a summary way. ... [H]e should go every year to ... Bonavista, Trinity, New Perlican, Carbonear, St. John's, Bay of Bulls, and Ferryland, to stay a week or a fortnight or three weeks at each of them.<sup>66</sup>

Furthermore, a judge so placed and commissioned would be able to provide "a true

---

<sup>63</sup> Reeves, *History of Newfoundland*, 35.

<sup>64</sup> Reeves, *History of Newfoundland*, 42.

<sup>65</sup> In this context, the terms "civilian" and "commoner" (or "common lawyer") refer to practitioners of the civil and the common law respectively.

<sup>66</sup> Reeves, *History of Newfoundland*, 42-43.

account” as to “how all matters were transacted at Newfoundland.”<sup>67</sup>

Reeves’s point in quoting Larkin so exactly was that his own time as Chief Justice had helped bring about more or less (however imperfectly) the comprehensive scheme that Larkin proposed. In fact Reeves’s greatest contribution as a historian seems to have been demonstrating that conditions in Newfoundland had undergone so little essential change, that a ninety-year-old solution was the obvious answer to a ninety-year-old problem—and in so doing, demonstrating the paradox that Newfoundland’s ancient constitution had been unsustainable for almost a century.<sup>68</sup> He may also have recognised in Larkin a kindred spirit whose comprehensive proposals for judicial reform were similarly atomised for their essential elements by the imperial government at an agonisingly slow rate. It was not until 1728 that the Board of Trade recommended that while “an *intire* [*sic*] *remedy* for the evils complained of” (in Larkin’s report as well as Reeves’s) “could not be effected, without the assistance” of Parliament, it was, however, in the King’s power to grant the Commodore

power to appoint judges, and justices of the peace, to decide disputes between inhabitants, and distribute justice amongst them during the winter season. This they thought would alleviate the misery of those unhappy people, which was great enough without additional evils from the anarchy in which they lived

—even if their preference was for “the Newfoundland-men” to be resettled “with their wives and children” in Nova Scotia, “where inhabitants were wanted.”<sup>69</sup> In keeping with Larkin’s recommendations, the Lords of Trade proposed that “a person skilled in the laws” should accompany the Commodore, in his new capacity as governor, to help with

---

<sup>67</sup> Reeves, *History of Newfoundland*, 43.

<sup>68</sup> This is arguably the closest that Reeves’s *History* draws to that of Gibbon’s.

<sup>69</sup> Reeves, *History of Newfoundland*, 67-68 (Reeves’s italics).

appointing justices of the peace, and establishing some form of civil government among the people who had settled themselves in that island, that they might not be left in a state of anarchy, upon the departure of his majesty's ships of war.<sup>70</sup>

Once it came time to execute this plan, however, rather than anything resembling Reeves's own office of Chief Justice, the Board of Trade instead issued eleven gilt-leather editions of Shaw's *Practical Justice of the Peace*, "together with thirteen printed copies of Stat. 10 & 11 Will. 3, and a bundle containing the acts relating to the trade and navigation of this kingdom."<sup>71</sup> Reeves said nothing as to the wisdom of this measure, though elsewhere he strongly hinted that professionals versed in the law were essential to any meaningful reforms.<sup>72</sup> Such a half-measure was, furthermore, occasion for Reeves to remind his readers that King William's Act

was ineffective and inadequate from the very beginning. What is inapplicable in its origin, is not likely to become more useful in a course of time. It will be found, in fact, that in all the time that elapsed between passing that act, and the year 1729, disorder and anarchy increased more and more; and nothing remained but to try another system.<sup>73</sup>

Reeves then interrupted his otherwise chronological narrative, and proceeded to quote in rapid-fire succession representations from the next several naval governors that did not significantly depart from the observations made by Larkin in 1701.

### V.v – Merchant Anarchy, Crown Sovereignty

The third part of Reeves's narrative began with the creation of Justices of the Peace in 1729 and ended with the passage of Palliser's Act in 1775. It illustrates how,

---

<sup>70</sup> Reeves, *History of Newfoundland*, 69.

<sup>71</sup> Shaw's manual was issued to Placentia, St. John's, Carbonear, Bay Bulls, St. Mary's, Trepassey, Ferryland, Bay de Verde, Trinity, Bonavista, and Old Perlican. Reeves, *History of Newfoundland*, 73-74.

<sup>72</sup> In any event, Reeves certainly failed to mention that "Shaw's *Justice*" was, in the words of Robert Saunders, "the best [book] then in print on law in its lower phases. Robert Saunders, "The Greenspond Saga—In History, Song and Story," *Newfoundland Quarterly* 54, no. 4 (December 1955): 23.

<sup>73</sup> Reeves, *History of Newfoundland*, 74-75.

having failed in previous generations to prevent colonial settlement entirely, “the admirals” and their successors, “the merchants,” continued to oppose civil institutions that might keep pace with the colony’s growth.<sup>74</sup> During this period, they continued to take advantage of the fact that “the civil governor and his justices” did not “deriv[e] their authority from parliament, but only from the king in council.” Reeves had little patience for this strategy, since “it had its effect in staggering many, and contributing to bring the office, and persons bearing it, into great question, if not contempt.”<sup>75</sup> That said, it was not only the fishing admirals who doubted JPs’ authority. Even the Attorney General, Sir Philip Yorke, doubted whether Newfoundland’s JPs had the power to levy taxes to build public works such as prisons—though he (Yorke) noted that when they had done so, such measures, fortunately, were consented to by local populations.<sup>76</sup> Yorke concluded that “the justices could not decide differences relating to property,” since their jurisdiction was “restrained wholly to the criminal matters mentioned in their commission.” Neither did he consider that “the justices had power to raise any tax for *repairing churches*, or any other public work,” except when acts of Parliament explicitly granted power over them.<sup>77</sup> According to Reeves, JPs’ prerogative origins would later make the imperial government “regret, that they had not taken the advice of the board of trade, to bring forward a bill in parliament for correcting all the abuses, then subsisting there.”<sup>78</sup>

Scorn soon gave way to more heated opposition. Upon returning to Newfoundland in 1730, Governor Osborne “had hoped that a proper submission and

---

<sup>74</sup> Reeves, *History of Newfoundland*, 97-98.

<sup>75</sup> Reeves, *History of Newfoundland*, 98.

<sup>76</sup> Reeves, *History of Newfoundland*, 100-101.

<sup>77</sup> Reeves, *History of Newfoundland*, 102.

<sup>78</sup> Reeves, *History of Newfoundland*, 98.

respect would have been paid to the orders he had given, and to the magistrates he had appointed” the previous season.” Instead,

the *fishing admirals*, and some ... masters of ships ... had brought the powers given them by the fishing act in competition with that of the justices, and had no even scrupled to touch upon that of the *governor*. ... Indeed, says he, I find by their will, they would be sole rulers, and have nobody to control them in their arbitrary proceedings.<sup>79</sup>

The JPs who Osborne appointed also complained that

the fishing admirals ... had taken upon them the whole power and authority of the justices, bringing under their cognizance all riots, breaches of the peace, and other offences, and had seized, fined, and whipped at their pleasure; they had likewise appointed public-houses to sell liquor, without any licence from the justices; and the admirals told the justices, *they were only winter justices*.<sup>80</sup>

The admirals made themselves perfect Parliamentarians against the viceroy and his

lackeys.<sup>81</sup> Even the counties and major cities of the West Country—whose aldermen and mayors already *were* Justices of the Peace for Newfoundland—accused the new resident JPs of the same outrages perpetrated by merchants from England and New England.<sup>82</sup>

They petitioned that JPs should only have jurisdiction in the absence of the admirals, and that the Royal Navy resume assisting the latter magistrates in their customary duties.<sup>83</sup>

Only once merchants realised “that no opposition could induce his majesty’s ministers to withdraw this small portion of civil government,” did the “fishing admirals then became as quiet, as useless as before, and contented themselves with minding their own business, in going backwards and forwards to the banks.”<sup>84</sup> Even so, the Board of

---

<sup>79</sup> Reeves, *History of Newfoundland*, 104-105.

<sup>80</sup> Reeves, *History of Newfoundland*, 106 (original italics).

<sup>81</sup> Reeves, *History of Newfoundland*, 106-107.

<sup>82</sup> Reeves, *History of Newfoundland*, 107-108; cf. O’Flaherty, “The Seeds of Reform,” 41.

<sup>83</sup> Reeves, *History of Newfoundland*, 108.

<sup>84</sup> Reeves, *History of Newfoundland*, 110-111.

Trade continued to doubt whether it had the authority to patriate criminal courts of Oyer and Terminer to Newfoundland, and did not attempt to do so until 1750. Its fears were justified, as a familiar constitutional fundamentalism continued to offer a conservative Country opposition to Court innovations. The Commission of Oyer and Terminer, Reeves informs us “has not been executed without some question being raised as to its legality” —again, owing to its prerogative rather than any statutory origins. Such opposition to both civil and criminal magistracy, Reeves noted, resulted from

the interested and inclination of many at Newfoundland to contest every thing that was not founded upon the same parliamentary authority as stat. 10 and 11 Will. 3. But this spirit, whether of ignorance or wilfulness, has worn off, in a great measure, ... though it is occasionally at work even now.<sup>85</sup>

As a rule, merchants opposed municipal institutions with the same vigour that they had since 1729. Not all continued to do so—but those that did only followed the old rule.

Following “some scattered acts of no great importance” after the Seven Years’ War, parliamentary dithering meant that in the sixty years since King William’s Act, “nothing was done towards correcting or repealing an act that had been condemned so often by public and private opinions of persons best able to judge of its merits.”<sup>86</sup> In the absence of any further legislation, Reeves continued to defend prerogative institutions—including the Board of Trade, proof of whose benevolence included its hope that King William’s Act might be scrapped entirely. Acting on reports of Newfoundland’s postwar population boom, their representation to George III in 1764 the Board marvelled that

[t]he regulations intended for the fishery were in general by no means applicable to the present state of it, and such of them as might be of use were not enforced by

---

<sup>85</sup> Reeves, *History of Newfoundland*, 116.

<sup>86</sup> Reeves, *History of Newfoundland*, 116, 124.

proper penalties. And, considered as a regulation of government and civil jurisdiction, this act, they said, was the most loose and imperfect that could have been framed, and necessity had already introduced deviations from it in many essential points. ... [T]he fishery of the island being altogether changed from what it was, when the act was passed, it appeared to them to be disgraceful to suffer it to remain in the statute-book.<sup>87</sup>

Yet due to the lateness of the Parliamentary session, no repeal was attempted.<sup>88</sup> In the meantime, the royal prerogative continued to patriate various institutions to the island in response to its colonial society's increasingly complex demands. Among the conditions justifying the creations of the Customs were the fears that St-Pierre and Miquelon, ceded to France "merely as a shelter to the French fishermen," was in danger of becoming a base of operations for an expanded French fishery, as well as for "an illicit trade carried on with the Indians"—fears exacerbated by "[t]he ruinous state of [British] forts and fortifications in Newfoundland."<sup>89</sup> In Reeves's judgement such pragmatic statecraft was admirable, since "by the establishment of a custom-house, and the introduction of the laws of navigation, was another pillar added to the civil government of that place."<sup>90</sup> But in addition to the patriation of the Customs on the basis of Newfoundland's being classed as a "plantation" (and in a departure from his 1792 *History*, his 1793 *History* here avoided the word "colony"), opposition to civil institutions whatsoever remained as robust as ever.<sup>91</sup> Merchants not only opposed but "questioned" the Customs' authority a creation of the Privy Council rather than Parliament, "in the same manner, and upon the

---

<sup>87</sup> Reeves, *History of Newfoundland*, 123.

<sup>88</sup> Reeves, *History of Newfoundland*, 123-124.

<sup>89</sup> Reeves, *History of Newfoundland*, 126. And note that Reeves here omitted mentioning what he made explicit in his *History of the Law of Shipping and Navigation*: that hostility towards Irish merchants was the original cause for the Customs to be made a permanent institution. Then again, Reeves's *History* does not mention *any* occasion or issue in which hostility between British and Irish was at all evident.

<sup>90</sup> Reeves, *History of Newfoundland*, 128.

same ground, as the commissioners of the peace, and of oyer and terminer.”<sup>92</sup> Of course, the real reason for such opposition was still plain thirty years later: “the fees of the custom-house are a cause of complaint up to this very day.”<sup>93</sup>

The monotony of Reeves’s narrative, in which merchants’ politicking against the royal bureaucracy failed to consider whether its innovations served the greater good, was interrupted by the appointment of Sir Hugh Palliser as naval governor. The first thing Reeves noted of Palliser’s term was that he “contributed to bring forward the old debated question of property in stages and flakes” at a time when the commons of the fishery was losing ground to enclosures by colonists who expected a right to individual property, but that despite referrals of this question by the Board of Trade to the Crown’s law officers, it was one that “remained for examination in after-times.”<sup>94</sup> It was, after all, precisely the question of property that demonstrated Palliser’s zeal for what Reeves characterised as being, more properly, the interests of Newfoundland’s merchant bloc rather than the policies of the Board of Trade *per se* prior to 1786. Reeves noted that Palliser attempted to expand Newfoundland’s migratory fishery to Labrador, which fishery he was “so determined to maintain upon its original principles.” Reeves did not bother to correct this impression, but noted that Palliser’s attempts to annex Labrador to the commons of the Newfoundland fishery directly conflicted with property grants issued by governors of New France and the Province of Canada.<sup>95</sup> Upon their own consideration of the matter, in

---

<sup>91</sup> Reeves obliquely related that Newfoundland was placed under the same regulations as “the other British colonies and plantations,” but he noted that Newfoundland’s customs officers “saw no reason to doubt its being a part of his majesty’s plantations.” Furthermore, the header for the paragraph in which he related this information reads simply “Newfoundland a plantation.” Reeves, *History of Newfoundland*, 127-128.

<sup>92</sup> Reeves, *History of Newfoundland*, 128-129.

<sup>93</sup> Reeves, *History of Newfoundland*, 128-129.

<sup>94</sup> Reeves, *History of Newfoundland*, 129-132.

1772 the Board of Trade recommended that Labrador be re-annexed to what became the Province of Québec (which was done in 1774), on the basis that regulations originally intended for a migratory cod fishery, in which settlement was discouraged, were unsuitable for a region where the larger seal fishery “needed the encouragement of exclusive property.”<sup>96</sup> Having once cited the seal fishery as a reason to encourage colonisation, the hint would not have been lost on merchants opposed to the Judicature Bill that Newfoundland’s own seal fishery—in a word, the diversification of its economy—was its own reason not to forbid settlement outright.

Reeves had little to say about Hawkesbury’s old ally himself, and only very subtly referenced Hawkesbury and Palliser’s alliance by observing that “Sir Hugh Palliser’s act” was so called, “it being supposed to have originated from the advice and assistance, principally, of that gentleman”—another impression that Reeves saw no reason to correct.<sup>97</sup> In any event, for the purposes of Reeves’s story it was less important who drafted it than who opposed it. Reeves himself had tussled in court with merchants over that Act’s infamous requirement that forty shillings be withheld from servants’ wages to pay for their passage home to England or Ireland. His impression of those who claimed that provision to be an injustice, on the basis that it forced masters to pay their servants, was, to say the least, soured. But having established that merchants wished the true form of Newfoundland’s government was not an imperial monarchy but a capitalist anarchy, Reeves mused that not only “the nature of the provisions of this act, [but also] the rigour

---

<sup>95</sup> Reeves, *History of Newfoundland*, 132.

<sup>96</sup> Reeves, *History of Newfoundland*, 134.

<sup>97</sup> Reeves, *History of Newfoundland*, 135-136 (italics removed).

with which it was easy to enforce them, contributed to make this law very unpopular in the island.” Nevertheless, the merchants having been outmanoeuvred by Palliser’s Act “being an act of the legislature, it was submitted to with silent discontent.”<sup>98</sup>

Reeves then paused to explain the ulterior motive behind opponents to the present Judicature Acts’ selective preference for statutory law over orders-in-council.

When persons concerned in this trade complain of the innovations made of late years in the trade of Newfoundland, and express a wish to be put on the footing of Stat. 10 and 11 Will. 3, they mean, that they wish to be relieved from this act of parliament; and they have, many of them, no scruple to say, that since *Sir Hugh Palliser’s act*, it is with the greatest difficulty that merchants can carry on the fishery with profit to themselves.<sup>99</sup>

Reeves did not end this section with any particular flourish, except to note that under Palliser’s Act, the Court of Session had been given jurisdiction over wage disputes, and that the Court of Vice-Admiralty had been charged with enforcing penalties. Without citing any specific grumbles made on this head, it was left to the reader to expect merchants’ continued opposition to any measure that strengthened the island’s judiciary, no less in 1775 than in 1793.

### **V.vi – From Revolution to Revolution**

The fourth and final part of Reeves’s *History of Newfoundland* began with an overview of recent statutes re-calibrating Newfoundland’s trade with the United States, but it was primarily concerned with explaining the constitutional crisis that had led to the creation of the Supreme Court.<sup>100</sup> As Reeves understood it, the problem was that the evolution of a regime intended for a migratory fishery left a now much larger population

---

<sup>98</sup> Reeves, *History of Newfoundland*, 136.

<sup>99</sup> Reeves, *History of Newfoundland*, 136-137 (original italics).

<sup>100</sup> Reeves, *History of Newfoundland*, 139-144.

with an incomplete system of jurisprudence. His view almost exactly anticipates Hawkesbury's assessment of the situation in Newfoundland over a decade later.

While this place continued merely a fishery, the causes of action between parties were simple and of less magnitude; but of late years the population had increased, and among the persons resident there were dealings of a mercantile nature to a great extent, and of a sort to need a judicature, that would command more confidence than any of the old establishments had been thought entitled to.<sup>101</sup>

Far from declining since 1699, wealthier merchants now required higher courts of law than a mere magistrate's court could provide. But while these merchants were steadily growing more wealthy, influential, and powerful, the weakness of Newfoundland's incomplete government allowed these saltfish magnates to place less and less faith in the Crown's legal right to govern them at all. Reeves's closing argument in favour of the Supreme Court, then, was that the reason merchants did not want this institution to take root was that, having been placed above the laws for so long, they resented any reminders that the King rather than themselves was the source of all legitimate law and government.

The fault for allowing such a conundrum to take root did not lie with the merchants, so much as the fact that the foundation of law in Newfoundland was precisely the opposite of law in England, where the King's duties as a judge were by degrees delegated to increasingly specialised courts. Instead, "The first regulation that looked at all like a court," was the very limited authority granted to fishing admirals

to hear and determine differences between the masters of ships, and the inhabitants, or any bye boat-keeper, concerning the right and property of fishing rooms, stages, flakes, or any other buildings of conveniency for fishing or curing fish.<sup>102</sup>

---

<sup>101</sup> Reeves, *History of Newfoundland*, 145.

<sup>102</sup> Reeves, *History of Newfoundland*, 145-146.

Above this limited jurisdiction, King William's Act had set the commodore of the Royal Navy squadron as an appellate judge—and, prior to 1729, not yet a governor. Reeves noted that this system only seemed to apply to the fishery's middling and lower classes: merchants and adventurers (ships' captains) did not fall under admirals' jurisdictions and thus not the governor's.<sup>103</sup> Furthermore, this court went against the theory that government was supposed to protect property: "*debts* still remained without any mode of recovery, as well as all other personal wrongs of a civil nature."<sup>104</sup>

Having thus delimited the jurisdiction of the courts, King William's Act limited their duties in enforcing the fishery's regulations. The Act was specifically intended "to preserve peace and good government among the Seamen and Fishermen, as well as in their respective harbours, as on the shore"—again, granting them power over the fishery's hands but not its heads. Reeves noted that their authority so described "was a sort of police ... which might be considered as partaking both of a civil and criminal authority"—a forerunner of the Supreme Court's own dual nature.<sup>105</sup> But, he further observed that the admirals—and by extension the commodore—had no explicit authority that could be exercised "over the merchants and adventurers, who seem to be considered by this act as persons who might have right done them; but against whom it was not necessary to do any justice whatsoever." This paved the way to make robber barons of local merchants who, "having possessed themselves of plantations or fish, or anything else, in payment of debts, real or pretended, there subsisted ... no power whatsoever to

---

<sup>103</sup> See "adventurer" in Story et al (eds.), *Dictionary of Newfoundland English*, 5. By Reeves's time, an "adventurer" more properly referred to a ship's captain in the migratory fishery, rather than as an investor in a joint-stock company. Cf. Webb, "William Knox and the 18<sup>th</sup>-Century Fishery," 118.

<sup>104</sup> Reeves, *History of Newfoundland*, 146.

<sup>105</sup> Reeves, *History of Newfoundland*, 146-147.

call them to account.” These merchants avidly venerated King William’s Act to justify their tyranny, “declaring that a free fishery ... was all they wanted, and complaining that every regulation made since that act has invariably operated to injure the trade and fishery.”<sup>106</sup> Reeves conceded that imperial policy had been to allow any British ship to prosecute the fishery, as well as to minimise competition by “prevent[ing] settlement.” He did not express any misgivings about that policy in and of itself, but he concluded that the policy of discouraging settlement failed precisely because of the trust placed in merchants to enforce this policy as admirals.<sup>107</sup> If the fishing admiral system was meant to dispense justice among the migratory fishery, its sanction under King William’s Act was a gross miscalculation in the failure to acknowledge that “that the admirals were the servants of the merchants, inasmuch as they were the masters of some of their ships; [and] that ... justice was not to be expected from them.”<sup>108</sup> What justice could be expected was hardly up to metropolitan standards, since, according to Reeves, ships’ captains were hardly qualified to settle disputes of even the fishery’s property law.<sup>109</sup>

Here Reeves grew bolder, acknowledging that in the face of such weak limitations, the naval executive very often did the only humane thing it could do, which was to exceed the legal limits of its powers. The Royal Navy commodore’s court, though originally an appellate court only, was “obliged” to assume an original jurisdiction in civil cases—which they did “by degrees.”<sup>110</sup> Indeed, Reeves reported having come across the records of many cases in which naval officers and fishing admirals formed courts of a

---

<sup>106</sup> Reeves, *History of Newfoundland*, 147.

<sup>107</sup> Reeves, *History of Newfoundland*, 148-149.

<sup>108</sup> Reeves, *History of Newfoundland*, 149.

<sup>109</sup> Reeves, *History of Newfoundland*, 150.

<sup>110</sup> Reeves, *History of Newfoundland*, 150-151.

unique form of vernacular equity. But this undifferentiated state of jurisprudence, Reeves assures his readers, was in fact a competition in which there would inevitably be a single victor. In addition to officers' presumably superior education,

It is not to be wondered, that the commanders of the king's ships ... having thus blended their appellate jurisdiction with the original one lodged in the admirals, should at length wholly dispense with their attendance of the fishing admirals (who would be glad enough to be excused), and so in time succeed to a complete original exercise of juridical authority in the place of the admirals.

Reeves did not relate that at least as late as 1785, admirals continued to assist the governor in settling property disputes; or that naval officers were the ones who informed Reeves that they wished to be done with judicial business. Instead, he claimed that when merchant-admirals bothered to assert their statutory privileges, they only ever did so out of their old hostility towards "any attempt to introduce a better system of law and order into Newfoundland"—whether in 1729 or in 1792.<sup>111</sup> A merchant might acquiesce to prerogative courts of off-season and limited civil jurisdiction, because he knew that those courts had no means of enforcing rulings against him—but he still preferred to use the appearance of law to collect debts owed him.<sup>112</sup> Under these circumstances, the Court of Sessions, the Court of Vice-Admiralty, surrogate courts, and the governor's own came to possess "all the judicature in the island, civil as well as criminal," not due to any usurpation, but only with "the concurrence and support of the majority of those most interested": namely, of ships' captains who preferred to let someone else be a judge.

Reeves could prophesy "a time was coming, when a judicature, that stood on so weak a foundation, was to be shaken."<sup>113</sup> The weakness of what ought to have been a

---

<sup>111</sup> Reeves, *History of Newfoundland*, 151.

<sup>112</sup> Reeves, *History of Newfoundland*, 157-158.

functioning viceroyalty first revealed itself in 1780, when Governor Edwards found himself privately censured by at Quarter Sessions at Exeter for personally assuming an original jurisdiction which was not his; a censure forcing his successors to sit, not as judges, but as arbiters issuing hypothetical recommendations rather than illegal rulings.<sup>114</sup> Nevertheless, colonists' desire to have *someone* sit in judgement over them allowed the Courts of Session and Vice-Admiralty to assume a more important role than before, but this spoke to a thing wished for rather than provided; "their authority was still as feeble as before," and their rulings could only be enforced under "precarious circumstances." What seemed to offer redemption from this precarity was the persistent fact of the colony's own growth. "As the population of St. John's increased" (an opaque reference to its Irish residents), "and as the light of later times, which spreads every where, had reached that place, it became necessary to have something more than opinion and sufferance to found a judicial authority upon."<sup>115</sup> His appeal was to the numbers rather than the will of the people *per se*; but, in keeping with Hawkesbury's philosophy, it allowed him to justify the necessity of "something of a court ... that might stand on unquestionable authority," which was unsuccessfully attempted in the Court of Common Pleas in 1789. But even this court's dubious legality spoke to a still-unmet need for a high court on the Island.

#### V.vii – A Product of the Home Front

Reeves began his *History of Newfoundland* by offering himself as both an impartial historian and an impartial judge, assessing the case of two contending interests.

---

<sup>113</sup> Reeves, *History of Newfoundland*, 159.

<sup>114</sup> Reeves, *History of Newfoundland*, 159-161.

<sup>115</sup> Reeves, *History of Newfoundland*, 161.

He added to this impression of impartiality by signing his book's title page as "John Reeves, Esq., Chief Justice of the Island."<sup>116</sup> But having increasingly passed the role of judge onto the reader, Reeves, still in his judge's robes, concluded his *History* by acting more plainly as counsel for the prosecution. His *coup-de-grâce* was a string of accusations echoing the language and formula of the day's prosecutions for seditious libel that Reeves was trying to precipitate as Chairman of the APLP. Yes, the Western merchants had submitted a written complaint to Parliament about the 1789 court, but

[t]heir great objections, which they do *not* state, but which I will venture to do for them is this: that they now saw a court established (as they believed) upon good authority, with which they could not trifle, as they had been used to do with the feeble judicatures before-mentioned; those inefficient courts they preferred, because they could make use of them when they needed their assistance, and could intimidate the justices, and obstruct their proceedings, whenever they themselves were to be the objects of animadversion.<sup>117</sup>

His characterisation of Western merchants paralleled his view of radical reformers as little better than anarchists peddling revolutionary slogans, whose public love for the established constitution only betrayed their desire to overthrow it.<sup>118</sup> The Western merchants, Reeves claimed, more openly adhered to "their old impressions, that Newfoundland was *theirs*," forgetting that it was not theirs but was instead "His Britannic Majesty's Island of Newfoundland in America" (as the legal formula went), to do with what he pleased. Their hypocrisy was laid bare for all to see: having claimed as statutory rights privileges first granted by royal charter,

they questioned the king's right to appoint a civil governor, to appoint justices of

---

<sup>116</sup> Reeves may have left Newfoundland in November 1792, but until the appointment of D'Ewes Coke as Chief Justice in the summer of 1793, the office continued to be held by Reeves.

<sup>117</sup> Reeves, *History of Newfoundland*, 164 (punctuation slightly modified for clarity).

<sup>118</sup> Reeves, "At a Meeting of Gentlemen at the Crown and Anchor Tavern, in the Strand," in *Proceedings of the Association for Preserving Liberty and Property* [...] (London: J. Sewell, 1793), 1:1-2.

the peace, to appoint commissioners of oyer and terminer; ... they complained of the custom-house, and even talked of presenting it as a nuisance, because erected on ship's room; ... they treated Stat. 15. Geo. 3. as destructive to the fishery, because it compels the payment of servants' wages; and that they brought forward a bill in 1785, in order to expose the servants once more to the will of their masters, as to the payment of their wages.<sup>119</sup>

This was not only a textbook case of the Crown's duty to protect fishing servants from naked avarice, it was one resulting from merchants' ungrateful libel against the Crown.

Citing merchant's claims "that the fishery should be *free*, and that a fishery carried on from this country ... was the old and true policy for Newfoundland," Reeves countered,

their claims to a free fishery seem to be these: namely, to be free of all inspection from government; no justices, no courts, no custom-house. This is what they mean, when they wish all *restraints* to be taken off the fishery, so as they may carry it upon the footing of stat. 10 and 11 Will. 3.<sup>120</sup>

By now his theme was familiar—making it easier to assume he was right.

Resuming his role as a historian, Reeves explained that "[t]he pretences urged by the merchants against the court were seen through by his majesty's servants," who preferred to ignore them by creating a high court through the royal prerogative. Unable to implement this design, in 1791 the Board of Trade presented a bill to Parliament "instituting a court of the sort they had recommended in the representation made in 1790." This bill was passed, to last for a year; in 1792 a second bill was passed, also for a year. Reeves's concluding observation, in April 1793, that Parliament now had to decide "what courts are to be established in the island for the administration of justice in future," was no neutral remark, but instead were the words with which he rested the prosecution's case. When he did, anyone reading his book knew the Supreme Court was ready and

---

<sup>119</sup> Reeves, *History of Newfoundland*, 165.

<sup>120</sup> Reeves, *History of Newfoundland*, 165-166.

waiting to continue its task of righting what Reeves now alleged were Newfoundland's historic wrongs. Yet, thanks to his arguments, the opposition to anything beyond King William's Act now seemed to deny what political radicals were denouncing as farce, but which even they were honest enough to acknowledge was the system in place:

Our estates are the king's dominions. ... Our representatives are his parliament. Our courts of law are his deputies. All magistrates throughout the realm are the king's officers. His name occupies the foremost place in all statutes and decrees. He is the prosecutor of every criminal. He is "Our Sovereign Lord the King."<sup>121</sup>

And just who were these upstart merchants to claim that justice did not flow from their anointed King, but from mercenary lords of the harbours on an island whose inhabitants they themselves had damned to licentious anarchy in a sad republic?

#### **V.viii – Conclusion: The True Law of Free Fisheries**

John Reeves's *History of the Government of the Island of Newfoundland* was the direct result of his efforts to justify the Privy Council's view that the Supreme Court, or something like it, was essential for making the Crown known and felt to be ultimate source of law and justice in Newfoundland. Written several months before the Newfoundland Committee began its proceedings, Reeves's *History* relied on a stereotypical characterisation of the opposition to the Judicature Acts to tell its story. Of course, as we have seen in earlier chapters, opposition to the Supreme Court and the Judicature Acts was only loosely united. Had the primary aim of constitutional reform been to establish a court of judicature for its own sake, rather than to enforce the "forty shillings" clause of Palliser's Act, opposition to the Supreme Court might have been

---

<sup>121</sup> William Godwin, *An Enquiry Concerning Political Justice*, ed. Mark Philp (Oxford: Oxford University Press, 2013) 228.

more amorphous. But when the subject of Newfoundland was before Parliament, the fact that the same politician who had shepherded Palliser's Act through the House of Commons now advocated for a Supreme Court to enforce that Act's unpopular policies meant that, from the Administration's vantage point, it was time to call the bluff behind merchants' traditional veneration of King William's Act. However, this had to be done with a care to acknowledge the opposition's grievances and its interpretation of Newfoundland's constitutional history—if only to circumvent both.

What allowed Reeves's *History of Newfoundland* to do so was the fact that, prior to the passage of the Newfoundland Judicature Acts, the fishing admiral system was the foundation of law in Newfoundland. Though he overstated the case, the West Country merchant bloc's veneration for a system of law and government that operated in parallel to the formal infrastructure of common-law courts seemed to set the fishing admiral system in direct opposition to the law of England. Indeed, that representatives of the fishery had in 1675 claimed the appointment of a governor was as unnecessary as a colony was undesirable provided an unusually strong evidence in Reeves's case that the fishery's advocates acknowledged the duties that the Crown had to its subjects, but wanted to see none of them carried out. Indeed, the implied fiction that the two systems of law were *always* opposed to one another also seems grounded in the opinion of the Solicitor General, rooted in the doctrines of *terra nullius*, offered in 1730. Namely, that all of England's statute laws remained in force among colonists at the time of their settling in Newfoundland, "it being a settlement in an infidel country"—but that following such a settlement, statute laws no longer applied to Newfoundland except when

they were specifically said to.<sup>122</sup> As we have seen, this opinion almost certainly informed Reeves's own argument that the distinctive nature of legal custom in Newfoundland meant, because it developed among English settlers, made it legally binding under English common law. What Mr. Fane left unspecified was the question of when such a settlement could be said to have occurred in Newfoundland. Reeves tirelessly exploited this gap in the record, arguing by implication that the laws were one thing, but the *rule* of law among colonists could not take root without appropriate institutions, and that it was the rule of law that the Western merchants set in opposition to their own system.

The result was the narrative structure of his *History of Newfoundland*. Merchants were not content with a legal pluralism sanctioned by two founding sets of royal charters. Instead, their goal of eliminating their competition meant they opposed both settlement and any institutions establishing the rule of law among settlers. Colonisation had been the plan since 1610 if not 1576, but merchants remained jealous of the commercial threat posed by settled colonies. Once the restoration of the monarchy removed the mediating influence of governors, merchants were free to exert their influence over Newfoundland by insisting it was in the empire's interest, as well as their own, to prevent colonisation. The codification of earlier laws issued in royal charters, merchants' alleged inactivity and inattention to their duties as magistrates under both orders-in-council and statute law in 1699 revealed that King William's Act was not some sacred constitution to be reverently frozen in time, but was only alleged to be such in opposition to the appointment of a governor and justices of the peace in 1729. Privileges granted to the migratory fishery

---

<sup>122</sup> Reeves, *History of Newfoundland*, 112.

under that Act were assumed to be superior to the authority of courts and other institutions created solely by the royal prerogative, but this argument had to be re-thought following the passage of Palliser's Act. That Act, after all, signalled that imperial officials now accepted merchants' argument that only as the site of a migratory fishery was Newfoundland was of any value to the empire. Forced to agree with their own fictions, the "constitutionally conservative" merchant bloc could accept certain courts of law on a limited basis, so long as they could safely control them. Milbanke's prerogative innovations and the first two Judicature Acts had provided a temporary cure, but a high court set above the interests or abuses of fishery had yet to be made a permanent institution. The implied answer to this allegedly historic need was the Supreme Court. When merchants claimed that their rights under King William's were being eroded by the Newfoundland Judicature Acts, Chief Justice Reeves's great objection to their claim—which he does not state, but which I will venture to do for him, is this: that in keeping with perfectly royalist logic, what were claimed by mere subjects as "rights" were in fact only privileges that, in the case of the fishing admirals, certainly deserved to be revoked; and that His Majesty's government continued to reserve the "right" to do so to itself.

## Chapter VI – Summary and Conclusion

In the last twenty years, historians have not been the only ones to feel that something was not quite right about how Reeves was remembered in Newfoundland; that something else about his story needed to be explained if the rest of it was to make any sense. In his 1998 novel *The Colony of Unrequited Dreams*, Wayne Johnston dedicated a short chapter, excerpted from the fictional Sheilagh Fielding's condensed *History of Newfoundland*, to lampooning Reeves's dual legacy as a historian and judge.

The evolution of the Newfoundland justice system culminates in 1792 with the establishment of the Supreme Court of Newfoundland. John Reeves (deemed by Prowse "a most admirable selection"—judge not the judge, Judge, lest ye be judged) becomes its first chief justice. Unfortunately, his objectivity is called into question in 1793, when he publishes the first history of the oldest colony and in it sets forth the thesis that England has for three hundred years been exploiting Newfoundland.<sup>1</sup>

Through the mask of satire, Johnston further hints that Reeves's use of source material is elementary in comparison to modern standards of archival research demanding a more exhaustive scrutiny—a judgement that historians today can hardly disagree with. Even more perceptively, Johnston also doubts that the anti-merchant bias pervading Reeves's *History of Newfoundland* was free of any ulterior motive.

[O]ur *History* would fall short of being definitive ... did we not point out that John Reeves was a peevish crank who wrote an entire history of Newfoundland just to get back at some West Country merchants who, he said, "are so miserly that, were I to allow it, they would be constantly contesting in my court some Newfoundlander's right to breathe their air." What do we find upon reading Reeves's successors, Anspach, Harvey, Pedley, Prowse, et al., but that they repeat in their histories this heinous lie of his as though it were the gospel truth.<sup>2</sup>

It is no accident that while Johnston's Fielding claims she does "not wish to cast

---

<sup>1</sup> Johnston, *The Colony of Unrequited Dreams* (Toronto: Vintage Canada, 1999), 209.

<sup>2</sup> Johnston, *The Colony of Unrequited Dreams*, 209. (The quotation appears to be Johnston's own.)

aspersions on the man whom some have called Newfoundland's Herodotus," her backhanded civility subtly alludes to Herodotus's own dual reputation as the Father of History to his disciples and, to his critics, as the Father of Lies.<sup>3</sup> Though placed in the mouth of a fictional ironist, Johnston's critique of Reeves reflected the concerns of revisionists who, since the end of the Smallwood era, increasingly rejected the historiographical dominance of Reeves and especially of Prowse—at a time when the academy's mounting skepticism of nationalist orthodoxy had been pushing against the influence, or even the propriety, of relying on the lives and minds of great men to narrate any passably universal history.

### VI.i – Summary

John Reeves has long been recognised as an important figure in Newfoundland's history. But whether as a spokesman for the naval regime or as an influential historian, historians have only recently begun to question the assumption that Reeves was as impartial or as apolitical as nineteenth-century reformers and historians made him out to be. Few historians have attempted to explain how the allegedly impartial architect of liberal government in Newfoundland was also the same High-Tory populist who so notoriously defended the royal prerogative to excess. Even fewer have attempted to reconcile Reeves's reputation as "a Newfoundland nationalist," or something like one, to Reeves's day job as Law Clerk to the Board of Trade, a committee of the Privy Council presided over by the equally conservative Lord Hawkesbury. And yet it was precisely Reeves's efforts to serve and expand the influence of the royal bureaucracy in England that, to a reactionary Administration still bitter from the loss of America, made Reeves an

---

<sup>3</sup> Johnston, *The Colony of Unrequited Dreams*, 210; see James Allen Stewart Evans, "Father of History or Father of Lies: The Reputation of Herodotus," *The Classical Journal* 64, no. 1 (October 1968): 11-17.

ideal man to serve as Chief Justice of Newfoundland. Both as a historian or as an office-holder (and Reeves held many offices in his lifetime), Reeves's profound conservatism was rooted in his historically-oriented view that the Crown was the only legitimate source (or at least the highest arbiter) of law and government. What may be alternatively described as his High-Tory or Court-Tory zeal for the prerogative also helps explain his legalistic disdain, not only for any legislature that assumed it had any independence from the Crown, but also for any judges or local magistrates who forgot that their job was to exercise the personal authority and executive powers of the monarch—and to do so *against* local interests rather in support of them. Such an arsenal of information leaves us better able to understand how Reeves's reactions to the American and French Revolutions laid the ideological foundation for the role he would play, as a reformer, in attempting to strengthen Newfoundland's judiciary; as a judge, in establishing the role, range, and usage of the Supreme Court's powers; and, as a historian, in discrediting the fishing admiral system with an uncommon vigour.

Chapter II explained that such a re-evaluation of Reeves's Newfoundland career was necessary because of his lasting influence as the author of the first modern history of Newfoundland. Father (later Bishop) O'Donel first privately described Reeves as "heaven-sent" in 1791, and Anspach and later nationalist reformers continued to praise both Reeves as both Chief Justice and as a historian. But in order to retroactively claim Reeves's *History of Newfoundland* as their movement's founding manifesto, Carson and Morris tended to celebrate Reeves as an impartial observer of Newfoundland's history, rather than as someone complicit in Newfoundland's lack of representative government.

Ironically, both reformers also appealed to Reeves's reputation as a respected British conservative, without mentioning any specifics of Reeves's career that might alienate readers who did not share his politics. By mid-century, Bishop Mullock more firmly adopted Reeves as an expertly qualified witness to the historic wrongs suffered by Newfoundland's colonists. Prowse, the most influential historian of the nationalist school, absorbed and expanded upon the conclusions of his predecessors. But ironically, Prowse's scholarship also bridged the gap between amateur nationalist histories and the emerging standards of increasingly professionalised history. Even so, Prowse's half-triumphalist, half-obstructionist view of Reeves continued to dominate impressions of him well into the twentieth century. In fact, this ossified impression of Reeves likely prevented hints of his politics outside the issue of Newfoundland's judiciary to have any lasting influence. For a time, this insular impression of Reeves was challenged by twentieth-century Oxbridge historians' more imperially-oriented studies of him. Keith Matthews' appointment to Memorial University seemed to promise to bridge a widening historiographical gap between Prowse and McClintock. However, in criticizing the *use* of Reeves's historical narrative by nationalist reformers, rather than questioning the political agenda of Reeves himself, Matthews' essay, "Historical Fence Building" perpetuated the nationalist myth that Reeves was above Newfoundland's politics. Subsequent portraits of Reeves have only very slowly begun to drop hints about his politics, which continue to be regarded as separate from Newfoundland his career. This chapter thus established the need for a comprehensive portrait of Reeves, re-combining the hints scattered in the scholarship of emerging and diverging subfields into a single narrative.

Chapter III offered the first layer of such a re-appraisal, treating Reeves not as one of Thomas Carlyle's "great men" of universal history, but instead as what I like to call a "great small man"—both administratively and socially, at least one level below the political class who Sir Lewis Namier dubbed "ordinary men"—in his capacity as Law Clerk to the Committee of the Privy Council for Trade and Foreign Plantations.<sup>4</sup> More generally, that chapter examined how the role of political faction shaped the Privy Council's attempt to have something like a Supreme Court recognised as a necessary institution for Newfoundland: an attempt in which Parliament initially played a subordinate role; and which effort was guided by the advice of John Reeves. The main argument of this chapter is that Reeves represented the rigidly economically conservative agenda of Lord Hawkesbury who, as President of the Board of Trade, favoured a policy of discouraging a settled or colonial fishery, and of encouraging a large migratory fishery. Reeves's historic role was not in opposition to his own patron's faction, but in helping Lord Hawkesbury formulate the pragmatic argument that, Newfoundland's permanent population having increased in late years, a civil government stronger than the present one was necessary to managing the less savoury elements of that population. This was an endorsement of the Court of Common Pleas that Governor Milbanke had exceeded his authority in creating in 1789. Parliamentarians' recognition of strategy, during the Newfoundland Judicature Bill debates of 1791 and 1792, led the spokesman for the constitutional conservatives, Edmund Bastard, to argue that Newfoundland's constitution, as it existed from 1699 to 1729, was the most conducive to the migratory

---

<sup>4</sup> See Carlyle, *On Heroes, Hero-Worship, & The Heroic in History* (London: James Fraser, 1841); Namier, *The Structure of Politics at the Accession of George III* (London: MacMillan & Co. Ltd., 1963).

fishery. Events leading to the passage of the Judicature Act of 1792 revealed the influence of a third group: a silent faction presided over by the Trinity-Poole merchant Benjamin Lester, who in practice had no objection to prerogative institutions of civil government, since he controlled the patronage of the Customs in Newfoundland. His influence not only led to Poole being the only city that did not submit a petition against the Judicature Bill in 1792; but his pull also very likely led to the removal of Aaron Graham as Secretary to the Governor. That allowed the next three Chief Justices after Reeves to be men who continued to benefit from Lester's patronage. Further hints of Lester's influence are found in the fact in Reeves's argument, not made until 1792, that officers of the Customs were the imperial government's most natural allies. Indeed, barring their ability to serve as JPs, Reeves argued that men like them, who enjoyed a steady and reliable income independent of the fishery, were the best hope Government had of ensuring that Newfoundland's surplus population could be made to leave before each winter. Hints that such an alliance was reciprocal may be found in the Lester family's enthusiasm for Reeves's loyal association movement, contemporaneously with Reeves's blossoming respect for the *marchande oblige* in the outports outside the St. John's area. Their alliance was solid enough that when Knox's reactionary proposal to resettle Newfoundland's colonists to Upper Canada became public, and Bastard attempted to take him up on it, Reeves's and Hawkesbury's other ally, Secretary Dundas, just might have helped stymie such a scheme. During this process, Reeves remained firmly in Hawkesbury's camp and served his patron's interests at every possible turn. Reeves might have been skeptical of the policy he helped defend; and yet, he was never "pro-

settler” in the sense that he argued that *more* settlers were in the Empire’s interests—only that those already in Newfoundland did not threaten them.

Having established that Reeves’s role as an imperial administrator was as an emissary rather than as the adversary of anti-colonial forces, Chapter IV showed how Reeves attempted to implement the reforms he proposed as a colonial judge. This chapter argued that Reeves’s initial proposal for a legislature in 1791, together with the personal stamp he put on the Supreme Court’s opening session in 1792, formed the basis of a single conservative reform, through which a legislative authority beyond the governor’s own was arrived at as a means of providing local regulations that a distant Parliament could not. That Reeves assumed, in his 1791 report, that a legislative assembly or council of some kind was essential for maintaining commercial law amidst a staple economy was most likely borrowed from the Pitt ministry’s own defense of its plan to grant the province of Lower Canada a Westminster-style legislature. That he suggested modelling Newfoundland’s legislature according to an explicitly municipal design further reflected the High Tory imperialism of his patron, who regarded all colonial legislatures as necessarily subordinate to Britain’s own.

But if Reeves’s efforts to appease the various wings of Administration failed, and once Parliament ensured that the only tools at Reeves’s disposal would be a Supreme Court, Reeves’s term as Chief Justice convinced him that several legislative powers already existed, and that the Supreme Court only channel their authorities through itself. The time Reeves spent in Ferryland may have persuaded him that, as in England, the grand juries that the Supreme Court and the Courts of Session had at their disposal

already functioned as quasi-legislatures; and that, in a pinch, a judge's address to the grand jury might serve as a rough analogue to a speech from the throne. But while most grand juries maintained a distinctly regional jurisdiction, Reeves's hopes for the Supreme Court in St. John's (and, when applicable, its attendant grand jury) lay in the hope of establishing its role as the defender of three sources of law recognised across the island: imperial statute, governors' proclamations, and local custom. In the absence of any Act of Parliament amending or reinforcing the "forty shillings" clause of Palliser's Act, Reeves established the Supreme Court's role in issuing interpretations of statute law that reflected realities Parliament had not anticipated—most notably, by setting forth the precedent that "home" could mean Newfoundland as well as England or Ireland. Governors' proclamations, Reeves noted, were also widely acknowledged as legitimate sources of local law; and yet, this authority was not without its severe limits. So long as governors adopted the concerns of settler or migrant fishers as their own, as with the case of reserving Funk Island to use by the commercial fishery rather than as a source of extra income or as country food for frontier colonists, magistrates might still make exemplary arrests, and juries might issue convictions, and governors could rest assured that their word was law. The same could not be said when governors' proclamations intended to give force to the Royal Proclamation of 1763 were in direct opposition to the will of the people. Even after Pulling's report made its way to Reeves, no means of assuring that magistrates would actually enforce governors' proclamations against killing Indigenous people was proposed. At best, a single Royal Navy ship, placed directly in between British colonists and territory still controlled by the Beothuk, might prevent murders from

being perpetuated that would then need to be punished. The third source of law the Supreme Court less problematically sought to enforce was local custom: jurisdiction over which was formally annexed from fishing admiral courts under the new Judicature Act, which act also allowed for Reeves's favouring of colonial custom over "the law of England," precisely in order to wrest the ability to enforce and interpret the law from the hands of at least those merchants who opposed the Judicature Acts.

Having established the historical context in which Reeves's own agenda might be more forcefully articulated, Chapter V argued that Reeves's *History of Newfoundland* was written (or at least published) to convince Parliament to renew the Newfoundland Judicature Acts, in order to undo the damage allegedly caused by King William's Act just as much as Palliser's Act. Reeves's narrative was not merely an official history, but was crafted as a rebuttal to the historical arguments used by an increasingly varied opposition to the Judicature Acts. In answer to the tendency to venerate King William's Act as the parliamentary statute beyond which any prerogative innovations were harmful to the migratory fishery, and also in answer to Edmund Bastard's question, "Will you have a fishery, or a colony," Reeves's stratagem was to assert that England had always regarded Newfoundland as a colony or plantation. This was done to argue for the propriety of institutions (courts) more appropriate for a settled population than a seasonal one. Hawkesbury's policy of opposing settlement at that plantation, though new, did not deny that Newfoundland was a plantation. As such, the Board of Trade had not betrayed the spirit in which English dominion over Newfoundland was intended. This, at least, was the gauntlet that Reeves quietly dropped towards the end of the parliamentary session, with

the 1792 Judicature Act as the sole survivor of a maelstrom of popular opposition.

When the furore resumed during the hearings of the House of Commons Committee on the Newfoundland Trade, Reeves issued a scathing rebuttal to the Judicature Acts' opponents, claiming in his *History of Newfoundland* that this was typical of a clique of West Country merchants, who, as a body, had *always* opposed *all* institutions of civil government throughout *all* of Newfoundland's colonial history. Merchants and captains of ships were, as a rule, allegedly hostile to institutions of civil government that took away from the independence of their own judiciary. This bold claim downplayed fishing admirals' active collaboration with the naval state, and denied that merchants' suits against each other in civil courts reflected a sincere respect for courts beyond their control. It did, however, allow Reeves to direct his legalism—arguably his defining literary quality—against any magistrate who, like any over-eager Whig MP, assumed Montesquieu's theory of independent branches of government actually described how England's monarchical constitution was meant to function. Having begun with this spectre hovering over the elusive prose of his preface, he proceeded to argue that Newfoundland had always been intended to serve as a colony. He did not deny but he acted as though settlement predated the commercial fishery. This was so as not to argue that royal charters permitting colonisation predated the royal charters granted to the migratory fishery. He showed that the absence of any functional monarchy or aristocracy gradually allowed for a rapacious merchantocracy hostile to competition from outside the West Country, and especially from the island closest to their favourite fishing grounds. Reeves did not accept that King William's Act was a charter for such a

fishery, but instead observed that it had been intended to represent the interests of both settler and seasonal populations. Furthermore, fishing admirals' disregard for the duties that had accrued under the Western Charters and King William's Act proved their lack of reverence for what their successors claimed as the source of rights granted by Parliament. Their early contempt for the Commission of the Peace only revealed their disdain for both the Governor and, ran the implication, for the King he represented—as did their continued hostility towards institutions patriated to Newfoundland by authority of the royal prerogative. When Palliser's Act put merchants at odds with parliamentary statute, their disregard for any oversight by the imperial government that did not personally enrich them was made plain when they simply bullied the Courts of Session and Vice-Admiralty into playing their game. What Reeves made less explicit was that, in direct opposition to the spirit of that act, their surreptitious encouragement of colonisation jeopardised Newfoundland's role as a nursery for seamen—making appeals to such constitutional rhetoric demonstrate Dr. Johnson's maxim that patriotism is the last refuge of a scoundrel. Justice may have suffered under the weak executive of the Royal Navy's seasonal government—in which governors and surrogates, it was true, regularly exceeded their prescribed authority—but the fact that surrogates were looked upon so favourably revealed colonists' desperation for the protections that the laws of the realm were supposed to provide. The Supreme Court was positioned to dispense the King's justice, and justices were at the ready to keep the King's peace—and yet it was allegedly not to the King but themselves to whom the Western merchants looked as the legitimate source of all law and government in Newfoundland. Thus the peals of Reeves's thunder.

In this thesis, I have argued that Reeves's *History of Newfoundland* was a direct response to the main, or at least the most vocal, political divisions over the issue of Newfoundland's status within the empire in the 1790s. I have, however, done so with the understanding that the facets to the political climate that Reeves did not publicly address speaks volumes to how his *History*, his *Evidence* before Parliament, his official reports, and his mission as Chief Judge ought to be appreciated as reflecting a much more mild paradigm shift in imperial policy than is often assumed. To this end, I have taken issue with the fact that Reeves preferred to cast eighteenth-century politics as a struggle internal to Newfoundland society, rather than as a contest between factions within the imperial government vying to update but not abrogate the imperial policy that his patron had helped shape in the preceding decades. Lord Hawkesbury's is an invisible hand throughout Reeves's *History*, and indeed it was for Hawkesbury's Board of Trade that Reeves wrote his *History* in the first place. It was Hawkesbury who felt that a Supreme Court might help keep settlement in Newfoundland to a minimum—precisely because an “impartial” magistracy was needed to enforce the letter as well as the spirit of Palliser's Act. Bitter opposition to any island-wide court other than the governor's appellate court produced the equal and opposition reaction: a Supreme Court of Civil and Criminal Jurisdiction, the defense of which would necessarily lead to a wholesale disavowal of the fishing admiral system—or at least an unforgettably spirited discrediting of it.

#### **VI.ii – Clarifying Reeves's Mission**

What allowed the imperial government to publicly wash its hands of an institution whose rights had been granted by royal charter and confirmed by parliamentary statute

was the zeal and determination with which Reeves gathered information he thought would be useful to the Board of Trade. The fact that his politics seemed to (almost) perfectly reflect those of his patron probably made him approach his work all the more enthusiastically. When Reeves handed Dundas and Hawkesbury the blueprints to a paradigm shift on the single issue of Newfoundland, he produced no radical design to plant the flag of liberty, but a plan at least as conservative as the constitutions of the remaining British North American provinces, if not more so. When objections were raised that the most basic of these steps—the establishment of a Supreme Court—was harmful to the “home” fishery, Hawkesbury knew he could count on Reeves to help overawe any opposition into inaction through excess of information. For his own part, Reeves concluded that his role in Newfoundland was not confined to the mere text of his commission as Chief Justice. As he informed Dundas,

In order to qualify myself to speak on these subjects from my own knowledge, I have stepped out of the way of my official situation to pick up information where it is to be found—and I hope I shall be able to deal with that sort of trash, which is imposed upon government either as a fact, or argument, respecting the fishery & trade of Newfoundland.<sup>5</sup>

His single-minded determination to out-class anyone else’s knowledge on Newfoundland—or, more charitably, to speak with authority on it—resulted in Reeves assuming that his mission went far beyond his commission as Chief Judge or Chief Justice, and was instead more like the instructions issued to the Royal Commission of Inquiry on the Isle of Man in April 1792.

The Manx question was in many respects remarkably similar to the terms in

---

<sup>5</sup> Reeves, “10 October 1791 – Letter to Dundas,” CO 194/38, f. 287v.

which Reeves would later cast the story of Newfoundland's colonial government. Though by 1792 it was a protectorate of the Crown of Great Britain, until 1765 the Isle of Man had been a fief of the Duchy of Athol. On the one hand, the Duke of Athol never missed an opportunity to complain that the terms of its sale to the Crown cheated him out of profits unfairly represented to him at the time of sale. On the other hand, the Manx inhabitants seemed rather glad to be rid of the Duke's influence. To resolve the dispute between these two contending interests, Dundas instructed commissioners:

you will take due pains to inform yourselves of the ancient constitution of the Island, the nature and functions of its Legislature, the courts of civil and criminal jurisdiction, the nature of its magistrates and police, together with its revenues, and mode of collection; and you will report what variations those different institutions have recently undergone ... [I]n the prosecution of your inquiry you will omit no object which may suggest itself to your observation as tending to throw light either on the former or present state on the Isle of Man.<sup>6</sup>

Simply change the name of the island in question, and these instructions describe almost exactly the sum of Reeves's *History of Newfoundland* and his two reports.

It also hardly seems an accident that Reeves's *History* has acquired the nickname, "The Reeves Report," since Reeves's posting to Newfoundland seems oddly analogous to another fact-finding mission, following which Lord Durham published his infamous *Report on the Affairs of British North America*—better known as the Durham Report. The comparison is not an obvious one. Reeves never received a peerage, a knighthood, a seat in Parliament, or even a kind word from the government he served, yet he was as zealous a High Tory as they made them; the Earl of Durham was by contrast a popular, radical

---

<sup>6</sup> Henry Dundas, "8 September 1792 – Instructions to Commissioners," quoted in *The Constitution of the Isle of Man, consisting of Part the Third of the Report of the Commissioners of Inquiry for the Isle of Man, made in the year 1792*, ed. Richard Sherwood (Douglas: Printed for the Manx Society, 1882), page x.

Whig seated comfortably in the House of Lords.<sup>7</sup> But their aims and missions shared several important elements. In the first place, both were appointed to the highest rungs of their respective colonial executives, a comparison that becomes clearer once we recall that neither Reeves nor his contemporaries distinguished between the executive and judicial branches of government. In the second place, both Reeves and Durham sought to create strong, centralised, colonial regimes. Each was in his own way a “liberal” imperialist, advocating a break from an allegedly unenlightened past in the name of modern and/or English standards of law and justice. Both also argued that the survival of institutions predating English settlement was anathema to social concord, imperial good governance, and the moral well-being of what was or ought to be an “English” colonial hegemony—the struggles of Newfoundland’s migratory and settler populations forming one pro-imperial meta-narrative, the rancours of French and English existing in yet another allegedly hostile parallel with one another forming the other.<sup>8</sup> But most strikingly like Reeves, the recommendations in Durham’s report came only after Lord Durham had personally exercised, rather than simply observed, the levers of power of a colonial government—unlike, for instance, the 1791-92 Royal Commission of Enquiry to the Isle of Man, to say nothing of the Amulree Commission of 1933. In other words, Durham’s appointment as fact-finding Viceroy and director of constitutional reform has a much more direct analogue in Reeves’s role (official or otherwise) as fact-finding Lord Chief Justice and constitutional reformer than has previously been considered. Events, however, have since resulted in Lord Durham being villified for suggesting that

---

<sup>7</sup> Sack, *From Jacobite to Conservative*, 114.

<sup>8</sup> At least in the Canadas; Durham did not extend his narrative to the Maritime Provinces.

“Canada” should have one government instead of two, and in Mr. Reeves being lionised for demanding that Newfoundland should have *a* government instead of none.

### VI.iii – Propaganda, History, and Politics

Where does this leave Reeves in the historical canon? I would argue we are now in a much better position to understand Reeves’s *History of Newfoundland* as the product of the polarisation of British political opinion taking shape and accelerating in the early 1790s. We can now with greater confidence refer to Reeves’s *History* as what it was: propaganda. Informative, yes, but hardly impartial for that reason. Reeves’s *History* was written with the very specific agenda of assisting the Board of Trade’s effort to formally sanction some version of, or substitute to, Milbanke’s Court of Common Pleas in statute law—and to do so in the face of opposition to both that court and to the Newfoundland Judicature Acts. This was the basis of Reeves’s argument that West Country merchants then opposing those Acts belonged to the same monolithic merchants class who had *always* opposed *all* institutions of civil government in *all* periods of Newfoundland’s history. This does not mean his *History* has no inherent value. Reeves was, after all, a dedicated researcher and an able chronicler. What documents he cites do still exist, what events he described did happen, and what historic facts he brings to the reader’s attention cannot be ignored. Whether or not his interpretation of them holds up to scrutiny is another matter. Where Reeves overstated his case, omitted useful information, glided over other facts with a verbal sleight of hand, or otherwise managed to say what was technically true while avoiding the heart of the matter, I have done my best to show how such choices shaped his distinct characterisation of Newfoundland’s *History*.

The fact that Reeves was just as skilled a propagandist as historians who followed in his wake should also not be a reason for rejecting Reeves's interpretation of history out of hand. The essence of Keith Matthews' challenge to Reeves's narrative—namely, that his casting Newfoundland's history in terms of absentee landlords versus neglected colonists ignored the fact that much of its population regarded the North Atlantic as a highway than a barrier—has been handily answered by Gordon Hancock's demographic studies. Reeves's oversimplification of Newfoundland's class structure has similarly been answered by Sean Cadigan's study of skilled labour in late-eighteenth-century St. John's. Reeves's failure to engage with these nuances also does not mean that he misjudged the larger shape of Newfoundland's political history, even if some nuance (or if one prefers, "fence-building") is required to establish its boundaries. In his recent PhD thesis, Joshua Tavenor has shown that Reeves's master-narrative of entrenched conflicts between the interests of the fishery and the early colonies bears little resemblance to actual events in the early seventeenth century.<sup>9</sup> At the same time, in *Fish Into Wine*, Peter Pope concedes that Reeves's *History* nicely captures the political intrigues of the later seventeenth century, though he laments that the uncritical extension of Reeves's "factional analysis ... to the question of settlement itself" has distorted later impression of the historical record.<sup>10</sup> And despite himself, Patrick O'Flaherty concedes that the "two contending interests" alleged by Reeves translated very readily into the political factions of the early-to-mid-nineteenth century's push towards representative and responsible government. By the 1880s, appeals to Reeves's rhetoric may have fallen flat—but even this shows that so

---

<sup>9</sup> Tavenor, "Climate and Capitalism," 70-71.

<sup>10</sup> Pope, *Fish Into Wine: The Newfoundland Plantation in the Seventeenth Century*, 204.

long as conditions in Newfoundland and the shape of its government (or at least its political landscape) still bore a meaningful resemblance to what was described by Reeves, his *History* continued to resonate strongly among its readers.<sup>11</sup>

Newfoundland was not immune from the conservative reaction to two revolutions that would come to define both Britain and its empire in the nineteenth century and beyond. A simple re-reading of “the Reeves Report” would have proven unsatisfactory without also rejecting the long-established tradition of regarding Reeves as someone who vanishes from any real historical significance as soon as he left Newfoundland. I have therefore drawn attention to factors one ought to take into account when trying to understand who put his “personal stamp” on the judiciary, the historiography, the nationalism, the “Indian” policy, and the constitutional and political history of Newfoundland. I have also accordingly emphasised the attitudes of Reeves’s superiors in order to show Reeves to be an extension of the British rather than Newfoundland’s official mind. Indeed, where Reeves’s articulations of the old regime’s internal logic have been assumed to speak on its behalf, I have instead regarded them as speaking on behalf of the Board of Trade. Reeves’s *History of Newfoundland* was a rebuttal to Edmund Bastard and his allies, in addition to offering Lord Hawkesbury a way out of the corner he had backed himself into since 1786. Reeves’s appointment as Chief Justice allowed him to verify, on behalf of his lordship, that a high court was a necessary innovation. A sort of colony did exist, and courts of judicature were necessary, precisely because merchants prosecuting the fishery at Newfoundland saw a colony dependent on them and

---

<sup>11</sup> O’Flaherty, *Old Newfoundland: A History to 1843*, 198; O’Flaherty, *Lost Country: The Rise and Fall of Newfoundland, 1843-1933* (St. John’s: Jespersen Press, 2005), 142.

none others as a financial benefit to themselves. Information required to make this case was accordingly searched for, found—and produced. The appearance, both of Reeves’s *History*, and of himself before Parliament, accordingly served the interests of those who preferred to keep Newfoundland’s colonial population small but firmly in place. Reeves may very well have been “pro-settler” in spite of himself, this did not affect his duty to his decidedly “anti-colonial” patron. We also cannot dismiss the fact that whatever his sympathies towards Newfoundland’s settlers, he recognised that if the Beothuk had any hope of not being completely driven from their territory, then the migratory fishery, the inland fur trade, and the process of colonial settlement itself all needed to be stopped by the colonial state’s exercise of much more forceful and unilateral powers—and more costly measures—than the Administration was willing to use. Indeed, Reeves’s strength as a reformer and a propagandist was also his weakness as an administrator: namely, that he did not accept that the Will of the People should ever be set in opposition to the Crown; and that, when it was, the former and not the latter lost what legitimacy it had.

But if Reeves remains a problematic figure, this does not lessen his *History*’s value as either a work of political history or as an informative primary source, especially if we allow Reeves the same courtesy that we extend to one of his fellow historians. D.W. Prowse’s other highly influential *History of Newfoundland* remains as an invaluable resource for researchers, and even professional historians who complain about Prowse’s politics will still cite him. One is reminded of the words that Christopher Marlowe puts in the mouth of Machiavelli’s ghost:

To some perhaps my name is odious;  
But such as love me guard me from their tongues ...

Admired I am of those that hate me most.  
Though some speak openly against my books,  
Yet will they read me.<sup>12</sup>

Perhaps John Reeves can now enjoy a similar honour.

---

<sup>12</sup> Marlowe, *The Jew of Malta*, Prol.5-6, 9-11, in *Doctor Faustus and Other Plays*, eds. David Bevington & Eric Rasmussen (Oxford: Oxford University Press, 2008), 248.

## **Bibliography**

### **Primary Sources – Archives**

#### **United Kingdom: England**

British Library (BL) – London, England, United Kingdom

##### *Liverpool Papers*

Add MS 38225	Vol. XXXVI. Official Correspondence: January-November 1790
Add MS 38226	Vol. XXXVII. Official Correspondence: Dec. 1790 – July 1791
Add MS 38227	Vol. XXXVIII. Official Correspondence: August 1791 – July 1792
Add MS 38228	Vol. XXXIX. Official Correspondence: August 1792 – March 1793
Add MS 38229	Vol. XL. Official Correspondence: 1 April 1793 – 15 August 1794
Add MS 38310	Vol. CXXI. Letterbooks: 23 July 1787 – 31 January 1799

##### *Reeves Papers*<sup>1</sup>

Add MS 16919	Vol. I
Add MS 16921	Vol. III
Add MS 16924	Vol. VI

National Archives of the United Kingdom (NAUK) – Richmond, England, United Kingdom

##### *Admiralty*

ADM 1/472	Letters from Senior Officers – Newfoundland: 1782-1792
-----------	--

##### *Board of Trade*

BT 1/8	General In-Letters and Files: 1 January – 31 March 1793
BT 5/5	Minutes: January 1788 – December 1789
BT 5/6	Minutes: January-December 1790
BT 5/7	Minutes: January 1791 – March 1792
BT 5/8	Minutes: April 1792 – May 1793
BT 5/9	Minutes: June 1793 – March 1795

##### *Colonial Office – Newfoundland*

CO 194/2	Original Correspondence – Board of Trade: 1700-1703
CO 194/21	Original Correspondence – Board of Trade: 1730-1793
CO 194/23	Original Correspondence – Secretary of State: 1709-1805
CO 194/35	Original Correspondence – Sec. of State: 1780-1784
CO 194/37	Original Correspondence – Sec. of State: 1787; misc. 1783-1786
CO 194/38	Original Correspondence – Sec. of State: 1788-1789

---

<sup>1</sup> Despite its title, this manuscript collection comprises only of correspondence directed to and issued by the Association for Preserving Liberty and Property against Republicans and Levellers between November 1792 and July 1793. A single collection of Reeves's papers has yet to be found, but researchers are advised that as Reeves died intestate, his personal property would have been divided among his surviving relatives.

CO 194/41 Original Correspondence – Sec. of State: 1771-1798  
 CO 194/44 Original Correspondence – Sec. of State: 1804-1805

*Home Office*

HO 42/17 Domestic Correspondence: 1 September 1790 – 31 December 1790  
 HO 42/18 Domestic Correspondence: 1 January 1791 – 30 June 1791  
 HO 42/19 Domestic Correspondence: 1 July 1791 – 31 December 1791  
 HO 42/21 Domestic Correspondence: 1 July 1792 – 30 September 1792  
 HO 42/22 Domestic Correspondence: 1 October 1792 – 30 November 1792  
 HO 42/25 Domestic Correspondence: 1 March 1793 – 30 June 1793

*Domestic Records of the Public Record Office, Gifts, Deposits, Notes, and Transcripts*

PRO 30/8/170 Chatham Papers: Correspondence of William Pitt the Younger, 2<sup>nd</sup>  
 Series: Letters to William Pitt, from: Raby, [through] Rhudde,  
 Rev. D. (2)

*Treasury Solicitor's Office*

TS 11/965 Papers relating to the London Corresponding Society and the  
 Constitutional Society: Meetings held 9 December 1791 – 9 May  
 1794

*War Office*

WO 1/15 In-Letters and Papers: Newfoundland (Governor) – 1791-1794

**United Kingdom: Scotland**

National Records of Scotland (NRS) – Edinburgh, Scotland, United Kingdom

*Melville Papers*

GD51/1/1-194 Government, Parliament and Politics, and Constitutional Matters,  
 including applications for peerages and other marks of favour,  
 1778-1830

**Canada: Newfoundland and Labrador**

Centre for Newfoundland Studies (CNS) – St. John's, Newfoundland and Labrador,  
 Canada

*Journal of the Society for the Propagation of the Gospel*

Micro Film 567 Volume 25. 1787-1792  
 Volume 26. 1792-1795

Maritime History Archives (MAH) – St. John's, Newfoundland and Labrador, Canada

*Lester Diaries*

Provincial Archives of Newfoundland and Labrador (PANL) – St. John's, Newfoundland and Labrador, Canada

*Colonial Secretary's Letterbook*

GN 2/1/A/3	Colonial Secretary's Letterbook, 1759-1765
GN 2/1/A/4	Colonial Secretary's Letterbook, 1766-1771
GN 2/1/A/5	Colonial Secretary's Letterbook, 1771-1774
GN 2/1/A/7	Colonial Secretary's Letterbook, 1777-1779
GN 2/1/A/8	Colonial Secretary's Letterbook, 1779-1780
GN 2/1/A/10	Colonial Secretary's Letterbook, 1783-1785
GN 2/1/A/11	Colonial Secretary's Letterbook, 1785-1789
GN 2/1/A/12	Colonial Secretary's Letterbook, 1789-1797
GN 2/1/A/13	Colonial Secretary's Letterbook, 1797

*Court of Sessions – Northern Circuit*

GN 5/4/B/1	Box 177 – Harbour Grace, 1788-1790
------------	------------------------------------

*Court of Sessions – Southern Circuit*

GN 5/4/C/1	Box 196 – Ferryland, 1791-1794
------------	--------------------------------

*Saunders and Sweetman Family Fonds*

MG 49/40	Letterbook, 8 April 1788 – 20 July 1804
----------	---

### Primary Sources – Books

Banks, Joseph. *Joseph Banks in Newfoundland and Labrador, 1766 – His Diary,*

*Manuscripts and Collections.* Ed. A.M. Lysaght. Berkeley & Los Angeles:

University of California Press, 1971.

Barlow, Theodore. *The Justice of Peace: A Treatise containing the Power and Duty of*

*that Magistrate.* The Savoy: Printed by Henry Lintot for John and Paul Knapton,

and John Nourse, 1745.

Bever, Thomas. *A Discourse on the Study of Jurisprudence and the Civil Law; being an*

*Introduction to a Course of Lectures.* Oxford: Printed at the Clarendon Press,

1765.

Blackstone, William. *Commentaries on the Laws of England.* 4 volumes. Oxford: Printed

at the Clarendon Press, 1765-1769.

Boswell, James. *The Life of Samuel Johnson*. Ed. David Womersley. London: Penguin, 2008.

Burke, Edmund. *Reflections on the Revolution in France*. Ed. L.G. Mitchell. Oxford: Oxford University Press, 2009.

———. *Four Letters on the Proposals for Peace with the Regicide Directory of France*. Oxford: At the Clarendon Press, 1892.

Burn, Richard. *The Justice of the Peace, and Parish Officer*. 2 volumes. The Savoy: Printed by Henry Lintot for A. Millar, 1750.

Burr, Aaron. *The Private Journal of Aaron Burr, during His Residence of Four Years in Europe; with Selections from His Correspondence*. Ed. Matthew L. Davis. 2 volumes. New York: Harper Brothers, 1838.

Cartwright, George. *A Journal of Transactions and Events, during a Residence of Nearly Sixteen Years on the Coast of Labrador*. 3 volumes. Newark: Printed by Allin and Ridge, 1792.

———. *Labrador, A Poetical Epistle*. Doncaster: Printed by C. Plummer, 1781.

Chalmers, George. *Opinions on Interesting Subjects of Public Law and Commercial Policy arising from American Independence*. London: Printed for J. Debrett, 1785.

Church of England. *The Bible – Authorized King James Version*. Eds. Robert Carroll and Stephen Prickett. Oxford: Oxford University Press, 2008.

———. *Register of Burials at the Temple Church, 1628-1853*. London: Henry

Southeran and Co., 1905.

Clarendon, Edward Hyde, 1<sup>st</sup> Earl. *The History of the Rebellion and Civil Wars in England, Begun in the Year 1641*. 3 volumes. Oxford: Printed at the Theater, 1707.

Coke, Edward. *The Institutes of the Lawes of England*. 4 volumes. London: Printed for the Society of Stationers; Printed by M. Flesher, 1628-1644.

Colquhoun, Patrick. *A Treatise on the Police of the Metropolis, Explaining the Various Crimes and Misdemeanors which at Present Are Felt as a Pressure upon the community; and Suggesting Remedies for their Prevention*. London: Printed by H. Fry for C. Dilly, 1796.

De Veil, Thomas. *Observations on the Practice of a Justice of the Peace: Intended for such Gentlemen As Design to Act for Middlesex and Westminster*. London: Printed for Edward Withers, 1747.

Eton College. *The Eton College Register, 1753-1790*. Eton: Spottiswoode, Ballantyne & Co. Ltd., 1921.

Fielding, John. *An Account of the Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle in the Year 1753, upon a Plan presented to his Grace by the late Henry Fielding, Esq.* London: Printed for A. Millar, 1758.

Godwin, William. *An Enquiry Concerning Political Justice*. Ed. Mark Philp. Oxford: Oxford University Press, 2013.

Great Britain, Kingdom of. *Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the*

- Present Time*. Eds. Thomas Bayly Howell et al. 34 volumes. London: Printed for T.C. Hansard, 1809-26.
- . *House of Commons Sessional Papers of the Eighteenth Century*. Ed. Sheila Lambert. 145 volumes. Wilmington, DE: Scholarly Resources, Inc., 1976.
- . *Parliamentary History of England*. Eds. William Cobbett et al. 36 volumes. London: T.C. Hansard, 1806-1820.
- . *The Parliamentary Register* [First Series]. 18 volumes. London: Printed for J. Almon, 1775-1780.
- . *The Parliamentary Register* [Second series]. 45 volumes. London: Printed for J. Debrett, 1781-1796.
- . *State Trials for High Treason, Embellished with Portraits*. 3 volumes. London: Printed for B. Crosby, 1794.
- Hakluyt, Richard. *The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation*. Ed. Edmund Goldsmith. 18 volumes. Edinburgh: E. & G. Goldsmith, 1889.
- Hale, Matthew. *The History of the Common Law of England*. The Savoy: Printed by J. Nutt for J. Walthoe, 1713.
- . *The History of the Pleas of the Crown*. 2 volumes. The Savoy: Printed by E. and R. Nutt and R. Gosling for F. Gyles, T. Woodward, and C. Davis, 1736.
- Hardy, Thomas. *Memoir of Thomas Hardy, Founder of the London Corresponding Society*. London: James Ridgeway, 1832.
- Hutchins, John. *The History of the Town and County of Poole*. Ed. Joseph Moore.

London: Printed for Joseph Moore, 1788.

Kames, Henry Home, Lord. *Principles of Equity*. Ed. Michal Lobban. *Natural Law and Enlightenment Classics*. Indianapolis: Liberty Fund, 2014.

Kippis, Andrew. *The New Annual Register, or General Repository of History, Politics, and Literature, for the Year 1795*. London: Printed for G.G. J. and J. Robinson, 1796.

Locke, John. *Political Essays*. Ed. Mark Goldie. Cambridge: Cambridge University Press, 2006.

———. *Two Treatises of Government*. Ed. Peter Laslett. Cambridge: Cambridge University Press, 2008.

Madan, Martin. *Thoughts on Executive Justice, with Respect to our Criminal Laws, Particularly on the Circuits*. London: Printed for J. Dodsley, 1785.

Mainwaring, William. *An Address to the Grand Jury of the County of Middlesex, At the General Session of the Peace holden at the County Session-House, on Monday the 12<sup>th</sup> of September, 1785*. London: Printed by H. Reynell, 1785.

Morris, Patrick et al. *A Report of Certain Proceedings of the Inhabitants of the Town of Saint John, in the Island of Newfoundland, with the view to obtain the reform of the laws, more particularly in the mode of their administration and an independent Legislature*. St. John's: Lewis K. Ryan, 1821. Centre for Newfoundland Studies (CNS), FF1031.R46.

Newfoundland, Supreme Court of. *Decisions of the Supreme Court of Newfoundland: The Reports, 1817-1949*. 15 volumes. St. John's: J.W. Withers et al, 1901-1998.

- Oldmixon, John. *The British Empire in America, Containing the History of the Discovery, Settlement, Progress and present State of all the British Colonies, on the Continent and Islands of America*. 1<sup>st</sup> edition. 2 volumes. London: Printed for John Nicholson et al, 1708.
- . *The British Empire in America, containing the History of the Discovery, Settlement, Progress and State of the British Colonies on the Continent and Islands of America*. 2<sup>nd</sup> ed. 2 vols. London: Printed for Brotherton et al, 1741.
- Plowden, Francis. *A Short History of the British Empire during the Last Twenty Months; viz. from May 1792 to the Close of the Year 1793*. London: Printed for G.G. and J. Robinson, 1794.
- . *A Short History of the British Empire during the Year 1794*.
- . *Jura Anglorum – The Rights of Englishmen*. Dublin: Printed by George Bonham, 1792.
- Reeves, John. *Association Papers*. London: Printed for J. Sewell et al, 1793
- . *A Collation of the Hebrew and Greek Texts of the Psalms*. London: Printed by A. Strahan, 1800.
- [———.] *Defence of the Police Bill: In Answer to a Charge Delivered by W. Mainwaring, Esq. at the Sessions of the Peace held for the County of Middlesex in September 1785 – Respectfully submitted to the Rt. Hon. The Chancellor of the Exchequer*. London: Printed for J. Stockdale, 1786.
- . *A History of the English Law, [from the Saxons to the End of the Reign of Henry*

- the Seventh*].<sup>2</sup> London: Printed by T. Wright for E. Brooke, 1783-84.
- . *History of the English Law, from the Time of the Saxons, to the End of the Reign of Philip and Mary*. London: Printed for E. Brooke, 1787.
- . *History of the English Law, from the Time of the Romans, to the End of the Reign of Elizabeth*. Ed. W. F. Finlason. London: Reeves & Turney, 1869.
- . *History of the Government of the Island of Newfoundland*. London: Printed for J. Sewell et al, 1793. Reprinted Whitefish, MT: Kessinger Publishing, 2009.
- . *A History of the Law of Shipping and Navigation*. 1<sup>st</sup> edition. London: Printed for E. and R. Brooke and J. Sewell, 1792.
- . *The Law of Shipping and Navigation, from the Time of Edward III. to the End of the Year 1806*. 2<sup>nd</sup> edition. London: Printed for W. Clarke and Sons and J. Asperne, 1807.
- . *Legal Considerations on the Regency, as far as it regards Ireland*. London: Printed for J. Stockdale, 1789.
- . *The Malecontent – A Letter from an Associator to Francis Plowden, Esq.* London: Printed for J. Sewell and J. Owen, 1794.
- . *Mr. Reeves's Evidence before a Committee of the House of Commons on the Trade of Newfoundland*. London: Printed for J. Sewell et al, 1793.
- . *Observations on (What Is Called) the Catholic Bill, Lately introduced into Parliament by Lord Howick*. Dublin: Printed by R. Smith for the Author, 1808.

---

<sup>2</sup> Reeves's *History of the English Law* was first published as two separate works, which were nevertheless Parts I and II of the same work: the first, published in 1783, was *A History of the English Law, from the Saxons to the End of the Reign of Edward the First*; the second, published in 1784, *A History of the English Law, from the Beginning of the Reign of Edward the Second to the End of the Reign of Henry the Seventh*.

- . *Proposal of a Bible Society for Distributing Bibles, on a New Plan. Submitted, with the Hope of Making Thereby the Holy Scriptures More Read and Better Understood*. London: Published for G. and W. Nicol, 1805.
- . *Thoughts on the English Government. Addressed to the Quiet Good Sense of the People of England in a Series of Letters*. 4 volumes. London: Printed for J. Owen, 1795-1800.
- . *The Tomahawk! or, Censor General*. London: Published for the Proprietors by J. Downes, 1795-1796.
- . *Two Tracts Shewing, that Americans, Born before the Independence, Are, by the Law of England, Not Aliens*. 2<sup>nd</sup> edition. London: Printed for W. Reed by T. Davison, 1816.
- Shaw, Joseph. *The Practical Justice of Peace: or, A Treatise shewing the Power and Authority of that Office in all its Branches*. 2 volumes. The Savoy: Printed by E. and R. Nutt, and R. Gosling for Thomas Ward, 1728.
- Simcoe, John Graves. *The Correspondence of Lieut. Governor John Graves Simcoe*. Ed. E.A. Cruishank. 2 volumes. Toronto: Ontario Historical Society, 1923.
- Smith, Adam. *The Theory of Moral Sentiments*. Ed. Ryan Patrick Hanley. London: Penguin Books, 2009.
- . *The Wealth of Nations*. Ed. Edwin Cannan. New York: The Modern Library, 1994.
- Thelwall, John. *The Peripatetic; or, Sketches of the Heart*. Ed. Judith Thompson. Detroit: Wayne State University, 2000.

———. *The Rights of Nature*. 2 volumes. London: Published by H.D. Symonds and J. March, 1796.

———. *The Tribune*. 3 volumes. London: Printed for the Author, 1795.

United Kingdom of Great Britain and Ireland. *Parliamentary Debates*. Ed. T.C. Hansard. 2<sup>nd</sup> series. 25 volumes. London: T.C. Hansard, 1820-1830.

Vattel, Emer de. *The Law of Nations*. Trans. anonymous. 2 volumes. London: Printed for J. Newbery et al, 1769.

Williams, Griffith. *An Account of the Island of Newfoundland, with the Nature of its Trade, and Method of carrying on the Fishery. With Reason for the great Decrease of that most Valuable Branch of the Trade*. London: Printed for Thomas Cole and by W. Owen, 1765.

Young, Arthur. *The Example of France: A Warning to Britain*. 4<sup>th</sup> edition. London: Printed for W. Richardson, 1794.

### **Secondary Sources – Books, Book Chapters, Reference Articles, etc.**

Akenson, Donald H. *The Irish Education Experiment: The National System of Education in the Nineteenth Century*. London: Routledge & Kegan Paul; Toronto: University of Toronto Press, 1970.

Andrews, Robert. *Lay Activism and the High Church Movement of the Late Eighteenth Century; The Life and Thought of William Stevens, 1732-1807*. Leiden & Boston: Brill, 2015.

Anonymous. "A Sketch of the Life and Character of John Reeves, Esq.," *European*

- Magazine and London Review*, no. 73 (June 1818): 467-472; continued in *European Magazine and London Review*, no. 74 (July 1818): 41-48, 133-135, 220-225, 322-328, 409-414, 492-494.
- . “John Reeves, Esq.” in *A New Biographical Dictionary, of 3000 Contemporary Public Characters, British and Foreign, of All Ranks and Professions*. 2<sup>nd</sup> edition. 3 volumes. London: Printed for George B. Whittaker, 1825: 3:223-228.
- . “John Reeves, Esq.” in *The Annual Biography and Obituary: 1830*. London: Printed for Longman, Rees, Orme, Brown, and Green, 1830.
- Anspach, Lewis Amadeus. *A History of the Island of Newfoundland: Containing a Description of the Island, the Banks, the Fisheries, and Trade of Newfoundland, and the Coast of Labrador*. London: Printed for the Author, 1819.
- . *A Summary of the Laws of Commerce and Navigation, Adapted to the Present State, Government, and Trade of the Island of Newfoundland*. London: Printed for the Author by Heney and Haddon, 1809.
- Archibald, Edward Mortimer. *Digest of the Laws of Newfoundland*. St. John’s: Printed by Henry Winton, 1847.
- Babington, Anthony. *Military Intervention in Britain: From the Gordon riots to the Gibraltar incident*. London and New York: Routledge, 1990.
- Bailey, Quentin. *Wordsworth’s Vagrants: Police, Prisons, and Poetry in the 1790s*. Farnham, UK & Burlington, VT: Asghate, 2011.
- Baker, Melvin, Christopher Curran, and J. Derek Green, eds. *Discourse and Discovery: Sir Richard Whitbourne Quatercentennial Symposium, 1615-2015 and Beyond*.

St. John's: Print Three for The Law Society of Newfoundland and Labrador, 2017.

Bannister, Jerry. "Canada as Counter-Revolution: The Loyalist Order Framework in Canadian History, 1750-1840," in *Liberalism and Hegemony: Debating the Canadian Liberal Revolution*. Eds. Jean-François Constant & Michel Ducharme. Toronto: University of Toronto Press, 2009:98-146.

———. *The Rule of the Admirals: Law, Customs, and Naval Government in Newfoundland, 1699-1832*. Toronto: University of Toronto Press for the Osgoode Society, 2003.

Baugh, Daniel A., ed. *Aristocratic Government and Society in Eighteenth-Century England: The Foundations of Stability*. New York: New Viewpoints, 1975.

Beames, Michael. *Peasants and Power: The Whiteboy Movements and Their Control in Pre-Famine Ireland*. Sussex & New York: The Harvester Press & St. Martin's Press, 1983.

Beamish, Derek et al. *The Pride of Poole, 1688-1851*. Poole: Printed and Published by the Borough and County of the Town of Poole, 1974.

———. *Mansions and Merchants of Poole and Dorset – Volume One*. Poole: Poole Historical Trust, 1976.

Beattie, John M. *Crime and the Courts in England, 1660-1800*. Princeton: Princeton University Press, 1986.

———. *The First English Detectives: The Bow Street Runners and the Policing of London, 1750-1840*. Oxford: Oxford University Press, 2012.

Bellenger, Dominic Aidan. “‘Fearless resting place’: the Exiled French Clergy in Great Britain, 1789-1815,” in *The French Émigrés in Europe and the Struggle against Revolution, 1789-1814*. Eds. Kirsty Carpenter and Philip Mansel. Basingstoke & London: MacMillan Press Ltd; New York: St. Martin’s Press, Inc., 1999: 214-229.

Birkenhead, Frederick Edwin Smith, 1<sup>st</sup> Earl. *Fourteen English Judges*. London: Cassell and Company, Ltd., 1926.

———. *The Story of Newfoundland*. London: Horace Marshall & Son, 1920.

Black, Jeremy, ed. *Deep History and the Tory Theme in British Foreign Policy, 1679-2014*. Farnham, UK & Burlington, VT: Ashgate, 2015.

Blackstock, Allan. *Loyalism in Ireland, 1789-1829*. Woodbridge: Boydell Press, 2007.

Bohan, Edmund. “McClintock, Alexander Hare” in *Dictionary of New Zealand Biography* (1998); reproduced in *Te Ara – The Encyclopedia of New Zealand* <http://www.teara.govt.nz/en/biographies/4m24/mclintock-alexander-hare>.

Boldt, Menno and J. Anthony Long, eds. *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*. Assoc. ed. Leroy Little Bear. Toronto: University of Toronto Press, 1985.

Bonnycastle, Richard Henry. *Newfoundland in 1842: A Sequel to “The Canadas in 1841.”* 2 volumes. London: Henry Colburn, 1842.

Borrows, John. *Canada’s Indigenous Constitution*. Toronto: University of Toronto Press, 2010.

Brock, William Ranulf. *Lord Liverpool and Liberal Toryism*. Cambridge: Cambridge

University Press, 1941.

Brooks, Colin. "John Reeves and His Correspondents: A Contribution to the Study of British Loyalism, 1792-93," in *Après 89: La Révolution – modèle ou repoussoir*. Toulouse: Presses Universitaires du Miral, 1991: 49-76.

Buckner, Phillip, ed. *Canada and the British Empire*. Series ed. William Roger Lewis. *Oxford History of the British Empire Companion Series*. Oxford: Oxford University Press, 2010.

Burrows, Simon. *French Exile Journalism and European Politics, 1792-1814*. Woodbridge & Rochester: A Royal Historical Society publication by The Boydell Press, 2000.

Butler, Marylin. *Burke, Paine, Godwin, and the Revolution Controversy*. Cambridge: Cambridge University Press, 1998.

Byrne, Cyril J (ed.). *Gentleman-Bishops and Faction Fighters: The Letters of Bishops O Donel, Lambert, Scallan and other Irish Missionaries*. St. John's: Jespersen Press, 1984.

Cadigan, Sean. *Hope and Deception in Conception Bay: Merchant-Settler Relations in Newfoundland, 1785-1855*. Toronto: University of Toronto Press, 1995.

———. *Newfoundland and Labrador: A History*. Toronto: University of Toronto Press, 2009.

———. "Seamen, Fishermen and the Law: The Role of Wages and Lien System in the Decline of Wage Labour in the Newfoundland Fishery" in *Jack Tar in History: Essays in the History of Maritime Life and Labour*. Eds. Colin and Richard

Twomey. Fredericton: Acadiensis Press, 1992.

Campbell, John 1<sup>st</sup> Baron. *The Lives of the Chief Justices of England from the Norman Conquest till the Death of Lord Tenterden*. 3 volumes. London: John Murray, 1849-1857.

Campey, Lucille H. *Planters, Paupers, and Pioneers: English Settlers in Atlantic Canada*. Ed. Jane Gibson. Toronto: Durndurn Press, 2010.

Canada, Dominion of. *The Final Report of the Truth and Reconciliation Commission of Canada*. 6 volumes. Montréal & Kingston: McGill-Queen's University Press, 2015.

———. *Report of the Royal Commission on Aboriginal Peoples*. 5 volumes. Ottawa: Canada Communication Group, 1996.

Carson, William. *A Letter to the Members of Parliament of the United Kingdom of Great Britain and Ireland, On the address of the Merchants and Inhabitants of Saint Johns, in the Island of Newfoundland, to the Prince Regent*. Greenock: Printed by William Scott, 1812.

———. "Distress in Newfoundland: [Letter t]o the editor of the Colonial Journal." Toronto: Canadian House, 196?: 358-362.

de Castro, John Paul. *The Gordon Riots*. London: Oxford University Press, 1926.

Claeys, Gregory. *Thomas Paine: Social and political thought*. Boston: Unwin Hyman, 2002.

Clark, Bruce. *Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada*. Montréal & Kingston: McGill-Queen's University Press,

1990.

Cobbett, William. *Rural Rides*. Ed. James Paul Cobbett. London & New York:

Everyman's Library, 1912.

Cochrane, James Arthur. *The Story of Newfoundland*. Ed. Archibald William Parsons.

Toronto: Ginn and Company, 1949.

Condon, Ann Gorman. "1783-1800: Loyalist Arrival, Acadian Return, Imperial Reform"

in *The Atlantic Region to Confederation: A History*. Eds. Phillip A. Buckner and John G. Reid. Fredericton: Acadiensis Press, 1994: 184-209.

Constantine, Stephen. *Community and Identity: The making of modern Gibraltar since 1704*. Manchester: Manchester University Press, 2009.

Cullingford, Cecil N. *A History of Poole*. 2<sup>nd</sup> edition. Chichester: Phillimore & Co. Ltd, 2003.

*Dictionary of Canadian Biography*. Eds. George Williams Brown et al. 16 volumes. Toronto: University of Toronto Press, 1966-2018.

*Dictionary of Newfoundland English*. Eds. George M. Story, William Kirwin, and John Widdowson. 2<sup>nd</sup> edition. Toronto: University of Toronto Press, 1990.

Dinwiddy, John R. *Radicalism and Reform in Britain, 1780-1850*. London: The Hambledon Press, 1992.

Ditchfield, G.M. *George III – An Essay in Monarchy*. New York: Palgrave-Macmillan, 2002.

Durham, John George Lambton, 1<sup>st</sup> Earl. "Report on the Affairs of British North

America, from the Earl of Durham, Her Majesty's High Commissioner, &c. &c.

- &c.” in *Lord Durham’s Report on the Affairs of British North America – Volume II: Text of the Report*. Ed. C. P. Lucas. Oxford: At the Clarendon Press, 1912.
- Eccleshall, Robert. *English Conservatism since the Restoration: An Anthology & Introduction*. London: Unwin Hyman, 1990.
- Ehrman, John. *The Younger Pitt*. 3 volumes. London: Constable & Company Ltd., 1969-1996.
- Elmsley, Clive. *Britain and the French Revolution*. London & New York: Routledge, 2000.
- English, Christopher. “Chapter 9 – The Official Mind and Popular Protest in a Revolutionary Era: The Case of Newfoundland, 1789-1819” in *Canadian State Trials*. Eds. F. Murray Greenwood & Barry Wright. 2 volumes. Toronto: University of Toronto Press, 1996: 1:296-322.
- English, Christopher, ed. *Essays in the History of Canadian Law – Volume IX. Two Islands: Newfoundland and Prince Edward Island*. Toronto: University of Toronto Press, 2005.
- English, Christopher and Christopher P. Curran. *Silk Robes & Sou’westers: The Supreme Court, 1791-1991 – A Cautious Beginning: The Court of Civil Jurisdiction*. St. John’s: Jespersen Press Ltd., 1991.
- Fay, Charles Ryle. *Channel Islands and Newfoundland: Continuing the author’s Life and Labour in Newfoundland*. Cambridge: W. Heffer and Sons Limited, 1961.
- . *Life and Labour in Newfoundland: Based on Lectures delivered at the Memorial University of Newfoundland*. Toronto: University of Toronto Press, 1956.

Fielding, Sheilagh. *History of Newfoundland*. St. John's: Printed for the Author, 1923.

FitzPatrick, William John. *The Life, Times, and Contemporaries of Lord Cloncurry*.

Dublin: James Duffy, 1855.

Fretwell, John. *Newfoundland and the Jingo: An Appeal to England's Honor*. Boston:

George H. Ellis; Toronto: Hunter, Rose, & Co.; Westminster, UK: Archibald

Constable & Co., 1895.

Garnham, Neal. *The Militia in Eighteenth-Century Ireland: In Defence of the Protestant*

*Interest*. Series eds. Marie Therese Flanigan et al. *Irish Historical Monograph*

*Series*. Woodbridge, UK: The Boydell Press, 2012.

Gash, Norman. *Lord Liverpool: The Life and Political Career of Robert Banks*

*Jenkinson, Second Earl of Liverpool, 1770-1828*. Cambridge: Harvard University

Press, 1984.

Gaskell, Howard. *Who Killed the Great Auk?* Oxford: Oxford University Press, 2000.

Gee, Austin. *The British Volunteer Movement, 1794-1814*. Oxford: Oxford University

Press, 2003.

German, Linsey and John Rees. *A People's History of London*. London: Verso, 2012.

Gilmour, Ian. *Riot, Risings and Revolution: Governance and Violence in Eighteenth-*

*Century England*. New York & London: Pimlico, 1993.

Girard, Philip, Jim Phillips, & Barry Cahill. *The Supreme Court of Nova Scotia, 1754-*

*2004: From Imperial Bastion to Provincial Oracle*. Toronto: Published for The

Osgoode Society for Canadian Legal History by The University of Toronto Press,

2004.

Girard, Philip, Jim Phillips, & R. Blake Brown. *A History of Law in Canada*. 2 vols.

Toronto: Published for The Osgoode Society for Canadian Legal History by the University of Toronto Press, 2018-?.

Goodwin, Albert. *The Friends of Liberty: The English Democratic Movement in the Age of the French Revolution*. London: Routledge, 2016.

Goodwin, Gordon. "Reeves, John (1752?-1829)," in *Dictionary of National Biography*.

Eds. Sidney Lee et al. 63 volumes. New York: MacMillan and Co., Ltd.; London: Smith, Elder, & Co., 1885-1900, 47:415.

Graham, Graham. *Sea Power and British North America, 1783-1820: A Study in British Colonial Policy*. Cambridge, MA: Harvard University Press, 1941.

Grocott, John and Gareth Stockey. *Gibraltar: A Modern History*. Cardiff: University of Wales Press, 2012.

Gunn, J.A.W. *Beyond Liberty and Property: The Process of Self-Recognition in Eighteenth-Century Political Thought*. Kingston and Montréal: McGill-Queen's University Press, 1983.

Handcock, W. Gordon. *So longe as there comes noe women: Origins of English Settlement in Newfoundland*. St. John's: Breakwater Books, 1989.

———. *The Story of Trinity*. Trinity: The Trinity Historical Society, 1997.

Harlow, Vincent T. *The Founding of the Second British Empire, 1763-1793*. 2 volumes. London: Longmans, Green and Co. Ltd., 1952-64.

Harring, Sidney L. *Native People in Nineteenth-Century Canadian Jurisprudence*.

Toronto, Buffalo, & London: Published for The Osgoode Society for Canadian

Legal History by the University of Toronto Press, 1998.

Harris, C. Alexander. "Chapter XVII – Newfoundland, 1783 to 1867" in *The Cambridge History of the British Empire*. Eds. J. Holland Rose et al. 8 volumes. Cambridge: Cambridge University Press, 1930: 6:422-437.

Harvey, Moses. *A Short History of Newfoundland: England's Oldest Colony*. London & Glasgow: William Collins, Sons, & Co., Limited, 1890.

———. *Text-Book of Newfoundland History for the Use of Schools and Academies*. 2<sup>nd</sup> ed. London & Glasgow: William Collins, Sons, & Co., Limited, 1890.

Hatton, Joseph and Moses Harvey. *Newfoundland: Its History, Its Present Condition, and Its Prospects in the Future*. Boston: Doyle & Whittle, 1883.

Hay, Douglas et al. *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*. Revised edition, London and New York: Verso, 2011.

Hay, Douglas and Paul Craven, eds. *Masters, Servants, and Magistrates in Britain and the Empire, 1562-1955*. Chapel Hill and London: The University of North Carolina Press, 2004.

Hayter, Tony. *The Army and the Crowd in Mid-Georgian England*. Totowa: Rowman and Littlefield, 1978.

Haywood, Ian and John Seed, eds. *The Gordon Riots: Politics, Culture and Insurrection in Late Eighteenth-Century Britain*. Cambridge: Cambridge University Press, 2013.

Head, C. Grant. *Eighteenth Century Newfoundland: A Geographer's Perspective*. Toronto: McClelland and Stewart Limited, 1976.

- Henry, Brian. *Dublin Hanged: Crime, Law Enforcement and Punishment in Late Eighteenth-Century Dublin*. Dublin: Irish Academic Press, 1994.
- Herzog, Don. *Poisoning the Minds of the Lower Orders*. Princeton: Princeton University Press, 1999.
- Higgins, Padhraig. *A Nation of Politicians: Gender, Patriotism, and Political Culture in Late Eighteenth-Century Ireland*. Series eds. James S. Donnelly, Jr. and Thomas Archdeacon. *History of Ireland and the Irish Diaspora*. Madison: The University of Wisconsin Press, 2010.
- Hitchcock, Tim and Robert Shoemaker. *London Lives: Poverty, Crime and the Making of a Modern City, 1690-1800*. Cambridge: Cambridge University Press, 2015.
- Hornsby, Stephen J. *British Atlantic, American Frontier: Spaces of Power in Early Modern British America*. Lebanon: University Press of New England, 2005.
- Howley, James Patrick. *The Beothucks or Red Indians: The Aboriginal Inhabitants of Newfoundland*. Cambridge: Cambridge University Press, 1914. Reprinted London: Forgotten Books, 2015.
- Howley, Michael Frances. *Ecclesiastical History of Newfoundland*. Boston: Doyle and Whittle, Publishers, 1888.
- Huish, Robert. *Memoirs of the Late William Cobbett*. 2 volumes. London: Printed for the Proprietors of John Saunders, 1836.
- Innis, Harold. *The Cod Fisheries: The History of an International Economy*. Toronto: University of Toronto Press, 1978.
- Irving, David. *An Introduction to the Study of the Civil Law*. 4<sup>th</sup> edition. London: A.

Maxwell; Edinburgh: T. Clark; Dublin: Milliken & Son, 1837.

Johnston, Edith M. *Great Britain and Ireland, 1760-1800 – A Study in Political Administration*. Edinburgh & London: Published by Oliver and Boyd for the University Court of the University of St Andrews, 1963.

Jupp, Peter, ed. *Crowds in Ireland, c. 1720-1920*. London & New York: Macmillan Press Ltd. & St. Martin's Press, 2000.

Kelly, James. *Prelude to Union: Anglo-Irish Politics in the 1780s*. General ed. Nicholas Canny. *Studies in Irish History*. Cork: Cork University Press for the Irish Committee of Historical Studies, 1992.

Kennedy, John C. *Encounters: An Anthropological History of Southeastern Labrador*. Kingston & Montréal: McGill-Queen's University Press, 2015.

Kurlansky, Mark. *Cod: A Biography of the Fish that Changed the World*. Toronto: Vintage Canada, 1997.

Lahey, Raymond J. "Catholicism and Colonial Policy in Newfoundland, 1779-1845" in *Creed and Culture: The Place of English-Speaking Catholics in Canadian Society, 1750-1930*. Eds. Terrence Murphy and Gerald Stortz. Montréal & Kingston: McGill-Queen's University Press, 1993: 49-78.

———. *James Louis O'Donel in Newfoundland, 1784-1807: The Establishment of the Roman Catholic Church*. Eds. Shannon Ryan and G.M. Story. Newfoundland Historical Society. *Pamphlet Number 8*. St. John's: Creative Printers & Publishers Ltd., 1984.

Landau, Norma. *Justices of the Peace, 1679-1760*. Berkely: University of California

Press, 1984.

———, ed. *Law, Crime and English Society, 1660-1830*. Cambridge: Cambridge University Press, 2002.

Lecky, William Edward Hartpole. *A History of Ireland in the Eighteenth Century*.

5 volumes. London, Bombay, and Calcutta: Longmans, Green, and Co., 1913.

Lester, Benjamin Lester. *A View of the Rise, Progress, and Present State of Granting to Newfoundland a Constitutional Government*. London: Printed by Moore and Sydenham, 1828.

Little Bear, Leroy, Menno Boldt, and J. Anthony Long, eds. *Pathways to Self-Determination: Canadian Indians and the Canadian State*. Toronto: University of Toronto Press, 1984.

Lounsbury, Ralph. *The British Fishery at Newfoundland, 1634-1763*. Hamden, CT: Archon Books, 1969.

MacNutt, William Stewart. *The Canadian Centenary Series – 9. The Atlantic Provinces: The Emergence of Colonial Society, 1712, 1857*. Series eds. William Lewis Morton and Donald Creighton. Toronto: McClelland & Stewart Inc., 1965.

Maitland, Frederic William. *The History of English Law before the Time of Edward I*. 2 volumes. Cambridge: Cambridge University Press; Boston: Little, Brown, & Company, 1895.

———. *Justice and Police*. London: MacMilland and Co., 1885.

Major, Kevin. *As Near to Heaven by Sea*. Toronto: Viking Press, 2001.

Mallet, Bernard. *Mallet du Pan and the French Revolution*. London, New York, &

Bombay: Longmans, Green, and Co., 1902.

The Manx Society. *The Constitution of the Isle of Man, consisting of Part the Third of the Report of the Commissioners of Inquiry for the Isle of Man, made in the Year 1792 [etc.]*. Ed. Richard Sherwood. Douglas: Printed for the Manx Society, 1882.

Marshall, Ingeborg. *A History and Ethnography of the Beothuk*. Kingston & Montréal: McGill-Queens University Press, 1996.

———. *Letters and Reports by George Christopher Pulling relating to the Beothuk Indians of Newfoundland*. St. John's: Breakwater Books, 1989.

Marshall, Peter and Glyndwr Williams, eds. *The British Atlantic Empire before the American Revolution*. London: Frank Cass and Company Limited, 1980; re-published London & New York: Routledge, 2017.

Matthews, Keith. *Lectures on the History of Newfoundland, 1500-1830*. Ed. Shannon Ryan. *Newfoundland History Series*. St. John's: Breakwater Books, 1984.

MacNutt, William Stewart. *The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857*. Eds. W.L. Morton et al. *The Canadian Centenary Series, No. 9*. Toronto: McClelland & Stewart Inc., 1989.

McClintock, Alexander Hare. *The Establishment of Constitutional Government in Newfoundland, 1783-1832: A Study of Retarded Colonisation*. Longmans, Green and Co., 1941. *Royal Empire Society Imperial Studies*. Gen. ed. Arthur Percival Newton.

McDowell, Robert Brendan. *Ireland in the Age of Imperialism and Revolution, 1760-1801*. Oxford: Clarendon Press, 1979.

McGrath, Carmelita et al. *Their Lives and Times – Women in Newfoundland and Labrador: A Collage*. St. John's: Killick Press, 1995.

McGregor, John. *British America*. 2 volumes. Edinburgh: William Blackwood; London: T. Cadell, 1832.

Miller, James Roger. *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*. Toronto: University of Toronto Press, 2009.

———. *Skyscrapers Hide the Heavens: A History of Native-Newcomer Relations in Canada*. 4<sup>th</sup> edition. Toronto: University of Toronto Press, 2018.

Milton, Frank. *The English Magistracy*. London: Oxford University Press, 1967.

Morris, Patrick. *Arguments to Prove the Policy and Necessity of Granting to Newfoundland a Constitutional Government*. London: Published by Hunt and Clark, 1828. CNS. Rare Books JL205 .A1 M65 1828.

———. *Observations on the Government, Trade, Fisheries, and Agriculture of Newfoundland; in a Series of Letters addressed to the Right Honourable the Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies*. London: Printed by A. Hancock, 1824. CNS. Micro Film 106.

———. *Remarks on the State of Society, Religion, Morals, and Education at Newfoundland [etc.]*. London: Printed by A. Hancock, 1827.

———. *A Short Review of the History, Government, Constitution, Fishery and Agriculture of Newfoundland in a Series of Letters addressed to the Right Honourable Earl Grey*. London: J. Woods, 1847.

———. *Speech Delivered in the House of Assembly on Friday, August 25, 1837 by*

- Patrick Morris, Esq., J.P. ... on Moving for a Committee to Enquire into the Administration of Justice in Newfoundland.* St. John's: Ordered by the House of Assembly to be Printed, 1837. CNS. JL208 .M68 1837.
- Morton, William Lewis. *The Kingdom of Canada: A General History from the Earliest Times.* Toronto: McClelland and Stewart, 1963.
- Mullock, John Thomas. *Two Lectures on Newfoundland, delivered at St. Bonaventure's College, January 25, and February 1, 1860.* New York: John Mullaly, 1860.
- Namier, Lewis. *England in the Age of the American Revolution.* 2<sup>nd</sup> ed. London: MacMillan & Co. Ltd.; New York: St. Martin's Press, 1963.
- . *The Structure of Politics at the Accession of George III.* London: MacMillan & Co. Ltd.; New York: St. Martin's Press, 1963.
- Newfoundland Historical Society. *A Short History of Newfoundland and Labrador.* St. John's: Boulder Publications, 2008.
- NunatuKavut. *The Labrador Treaty of 1765.* Happy Valley-Goose Bay: NunatuKavut, ca. 2010-2016.
- O'Brien, Gerard, ed. *Parliament, Politics and People: Essays in Eighteenth-Century Irish History.* Dublin: Irish Academic Press, 1989.
- O'Flaherty, Patrick. *Lost Country: The Rise and Fall of Newfoundland, 1843-1933.* St. John's: Long Beach Press, 2005.
- . *Old Newfoundland: A History to 1843.* St. John's: Long Beach Press, 1999.
- . *The Rock Observed: Studies in the Literature of Newfoundland.* Toronto: University of Toronto Press, 1979.

- O’Gorman, Frank. “2. Origins and Trajectories of Loyalism in England, 1580-1840” in *Loyalism and the Formation of the British World, 1775-1914*. Eds. Allan Blackstock and Frank O’Gorman. Woodbridge: The Boydell Press, 2014.
- O’Neill, Paul. *The Oldest City: The Story of St. John’s, Newfoundland*. Portugal Cove-St. Philip’s: Boulder Publications, 2008.
- . *Upon This Rock: The Story of the Roman Catholic Church in Newfoundland*. St. John’s: Breakwater Books, 1984.
- Ommer, Rosemary E. “Rosie’s Cove: Settlement Morphology, History, Economy, and Culture in a Newfoundland Outport,” in *Fishing Places, Fishing People: Traditions and Issues in Canadian Small-Scale Fisheries*. Eds. Dianne Newell and Rosemary E. Ommer. Toronto: University of Toronto Press, 1999: 17-31.
- Page, Frederic R. *A Concise History and Description of Newfoundland, being a Key to the Chart of the Island Just Published*. London: R.H. Laurie, 1860.
- Palmer, Stanley H. *Police and Protest in England and Ireland, 1780-1850*. Cambridge: Cambridge University Press, 1988.
- Pares, Richard. *Limited Monarchy in Great Britain in the Eighteenth Century*. London: Cox & Wydman Ltd., 1967.
- Parolin, Christina. *Radical spaces: Venues of Popular Politics in London, 1790-1845*. Canberra: Australian National University Press, 2010.
- Parton, James. *The Life and Times of Aaron Burr*. New York: Mason Brothers, 1858.
- Pedley, Charles. *The History of Newfoundland from the Earliest Times to the Year 1860*. London: Longman, Green, Longman, Roberts, & Green, 1863.

- Perlin, Albert. *The Story of Newfoundland*. [St. John's?]: Printed in Canada, 1959.
- Philpin, C.H.E., ed. *Nationalism and Popular Protest in Ireland*. Cambridge: Cambridge University, 1987. Gen. ed. Paul Slack. *Past and Present Publications*.
- Podmore, Colin. *The Moravian Church in England, 1728-1760*. Oxford: Clarendon Press, 1998.
- Polack, Fiona et al. *Tracing Ochre: Changing Perspectives on the Beothuk*. Ed. Polack Toronto: University of Toronto Press, 2018.
- Pope, Peter E. *Fish Into Wine: The Newfoundland Plantation in the Seventeenth Century*. Chapel Hill: University of North Carolina Press, 2004.
- Prowse, Daniel Woodley. *A History of Newfoundland*. 2nd edition. Portugal Cove-St. Philip's: Boulder Publications Ltd., 2007.
- . "Historical Sketch of Newfoundland" in *Canada: An Encyclopædia of the Country*. Ed. J. Castell Hopkins. Toronto: The Linscott Publishing Company, 1898, 6:461-472.
- . "Local Government in Newfoundland" in *Municipal Government in Canada*. Ed. S. Morley Wickett. *University of Toronto Studies: History and Economics*. Toronto: Published by the Librarian of the University of Toronto, 1907: 2:271-278.
- . *Manual for Magistrates in Newfoundland: Being a Guide to their Ordinary Duties as Justices of the Peace, with Appendix of Forms*. St. John's: J.C. Withers, Queen's Printer, 1877.
- Quinlan, Maurice. *Victorian Prelude: A History of English Manners, 1700-1830*. New

- York: Columbia University Press, 1941.
- Radzinowicz, Leon. *A History of English Criminal Law and its Administration from 1750*. 5 volumes. London: Stevens & Sons Limited, 1948-86.
- Reece, Bob. *The Origins of Irish Convict Transformation to New South Wales*. New York: Palgrave, 2001.
- Reynolds, Elaine A. *Before the Bobbies: The Night Watch and Police Reform in Metropolitan London, 1720-1830*. Stanford: Stanford University Press, 1998.
- Rogers, John Davenport. *A Historical Geography of the British Colonies, Vol. V – Part IV. Newfoundland*. Oxford: Clarendon Press, 1911.
- Rogers, Nicholas. *Crowds, Culture, and Politics in Georgian Britain*. Oxford: Clarendon Press, 1998.
- Rogers, Pat. *Grub Street: Studies in a Subculture*. New York: Methuen & Co. Ltd., 1972.
- Rowe, Frederick. *A History of Newfoundland and Labrador*. Toronto: McGraw-Hill Ryerson Limited, 1980.
- . *Extinction: The Beothuks in Newfoundland*. Toronto: McGraw-Hill Ryerson Limited, 1977.
- Rudé, George. *Paris and London in the Eighteenth Century: Studies in Popular Protest*. London: William Collins Sons & Co. Ltd, 1970.
- Ryan, Shannon. *A History of Newfoundland in the North Atlantic to 1818*. St. John's: Flanker Press Limited, 2012.
- Sack, James J. *From Jacobite to Conservative: Reaction and Orthodoxy in Britain, c. 1760-1832*. Cambridge & New York: Cambridge University Press, 1993.

- Sider, Gerald M. *Culture and class in anthropology and history: A Newfoundland illustration*. Gen. ed. Jack Goody. *Cambridge Studies in Social Anthropology*. Cambridge: Cambridge University Press, 1986.
- Smallwood, Joseph Roberts. *The New Newfoundland*. New York: MacMillan, 1931.
- Smallwood, Joseph Roberts et al., eds. *The Book of Newfoundland*. 6 volumes. St. John's: Newfoundland Book Publishers, Ltd, 1937-1967.
- . *The Encyclopedia of Newfoundland and Labrador*. 5 vols. St. John's: Harry Cuff Publications Ltd., 1981-1994.
- Smith, Edward. *The Story of the English Jacobins: Being an Account of the Persons Implicated in the Charges of High Treason, 1794*. London, Paris, & New York: Cassell, Petter, Galpin & Co., 1881.
- Squibb, George Drewry. *The High Court of Chivalry: A Study of the Civil Law in England*. Oxford: Clarendon Press, 1959.
- Stewart, Gordon T. *The Origin of Canadian Politics: A Comparative Approach*. Vancouver: University of British Columbia Press, 1986.
- Thompson, Edward Palmer. *The Making of the English Working Class*. New York: Vintage, 2011.
- . *Whigs and Hunters: The Origin of the Black Act*. London: Breviary Stuff Publications, 2015.
- Thompson, Neville. *Lord Bathurst and the British Empire*. Barnsley, UK: Leo Cooper, 1999.
- Tocque, Philip. *Newfoundland: As It Was, and As It Is in 1877*. Toronto: John B. Magurn,

1878.

Truth and Reconciliation Commission of Canada. *The Final Report of the Truth and Reconciliation Commission of Canada – Volume 1, Part 1. Canada’s Residential Schools: The History, Part I – Origins to 1939*. Montréal & Kingston: Published for the Truth and Reconciliation Commission by McGill-Queen’s University Press, 2015.

Tucker, Ephraim W. *Five Months in Labrador and Newfoundland, during the Summer of 1836*. Concord: Israel S. Boyd and William White, 1839.

Watkin, Thomas Glyn. *The Legal History of Wales*. Cardiff: University of Wales Press, 2012.

Webb, Jeff A. *Observing the Outports: Describing Newfoundland Culture, 1950-1980*. Toronto: University of Toronto Press, 2015.

Wilson, William. *Newfoundland and Its Missionaries*. Cambridge: Printed by Dakin & Metcalf, 1866.

Williams, Mark. “Notions of Empire: Anglo-French Rivalry in the Newfoundland Fisheries in the 18<sup>th</sup> Century” in *Europe and Its Empires*. Eds. Mary N. Harris and Csaba Léval. Pisa: Pisa University Press, 2008.

Wix, Edward. *Six Months of a Newfoundland Missionary’s Journal, from February to August, 1835*. 2<sup>nd</sup> edition. London: Smith, Elder and Co., 1836.

Wright, J. Leitch. *William Augustus Bowles: Director General of the Creek Nation*. Athens: University of Georgia Press, 2010.

### Secondary Sources – Peer-Reviewed and Other Periodical Articles

Ajzenstat, Janet. "Liberalism and Nationality." *Canadian Journal of Political Science* 14, no. 3 (September 1981): 587-609.

Alexander, David. "Newfoundland's Traditional Economy and Development to 1934." *Acadiensis* 5, no. 2 (Spring 1976): 56-78.

Allen, Robert S. "The British Indian Department and the Frontier in North America, 1755-1830." *Canadian Historic Sites*, no. 14 (1975): 5-126.

Bailey, Mark Warren. "John Reeves, Esq. – Newfoundland's First Chief Justice: English Law and Politics in the Eighteenth Century." *Newfoundland and Labrador Studies* 14, no. 1 (1998): 28-49.

———. "Review: Daniel Warner and the Paradox of Religious Democracy in Nineteenth-Century America." *Canadian Journal of History* 34, no. 3 (December 1999): 486-488.

Bannister, Jerry. "The Campaign for Representative Government in Newfoundland." *Journal of the Canadian Historical Association* 5, no. 1 (1994): 19-40.

———. "Citizen of the Atlantic: Benjamin Lester's social world in England, 1768-1769." *Newfoundland Quarterly* 96, no. 3 (Fall 2003): 32-37.

———. "Convict Transportation and the Colonial State in Newfoundland, 1789." *Acadiensis* 27, no. 2 (Spring 1998): 95-123.

———. "The Fishing Admirals in Eighteenth-Century Newfoundland." *Newfoundland and Labrador Studies* 17, no. 2 (2001): 166-219.

———. "Making History: Cultural Memory in Twentieth-Century Newfoundland."

- Newfoundland and Labrador Studies* 18, no. 2 (Fall 2002): 175-194.
- . "The Naval State in Newfoundland, 1749-1791." *Journal of the Canadian Historical Association* 11, no. 1 (2000): 17-50.
- . "A River Runs Through It: Churchill Falls and the End of Newfoundland History." *Acadiensis* 41, no. 1 (Winter/Spring 2012): 211-255.
- . "'A Species of Vassalage': The Issue of Class in the Writing of Newfoundland History." *Acadiensis* 24, no. 1 (Autumn 1994): 134-144.
- . "Whigs and Nationalists: The Legacy of Judge Prowse's *History of Newfoundland*." *Acadiensis* 32, no. 1 (Autumn 2002): 84-109.
- Barnable, Gerald J. "The Ferryland Riots of 1788." *An Nasc*, no. 7 (Summer 1994): 4-9.
- Barnard, T.C. "The Gentrification of Eighteenth-Century Ireland." *Eighteenth-Century Ireland*, no. 12 (1997): 137-155.
- Beattie, John M. "Sir John Fielding and Public Justice: The Bow Street Magistrates' Court, 1754-1780." *Law and History Review* 25, no. 1 (Spring 2007): 61-100.
- Beedell, A.V. "John Reeves's Prosecution for a Seditious Libel, 1795-6: A Study in Political Cynicism." *The Historical Journal* 36, no. 4 (December 1993): 799-824.
- Bellah, Robert N. "Civil Religion in America." *Daedalus* 134, no. 4 (Fall 2005): 40-55.
- Black, Jeremy. "Foreign Policy and the Tory World in the Eighteenth Century." *Journal for Eighteenth-Century Studies* 37, no. 3 (September 2014): 285-297.
- Bond, Beverly W. "The Quit-Rent System in the American Colonies." *The American Historical Review* 17, no. 3 (April 1912): 496-516.
- Booth, Alan. "Popular Loyalism and Public Violence in the North-West of England,

- 1790-1800." *Social History* 8, no. 3 (October 1983): 295-313.
- Boyle, Kevin. "Police in Ireland before the Union: I." *Irish Jurist*, no. 7 (1972): 115-137.
- . "Police in Ireland before the Union: II." *Irish Jurist*, no. 8 (1973): 90-116.
- . "Police in Ireland before the Union: III." *Irish Jurist*, no. 9 (1973): 323-348.
- Burrows, Simon. "The cultural politics of exile: French émigré literary journalism in London, 1793-1814." *Journal of European Studies* 29, no. 2 (June 1999): 157-177.
- Butterfield, Herbert. "Charles James Fox and the Whig Opposition in 1792." *Cambridge History Journal*, no. 9 (1949): 293-330.
- Cadigan, Sean. "Artisans in a Merchant Town: St. John's, 1776-1816." *Journal of the Canadian Historical Association* 4, no. 1 (1993): 95-119.
- . "Merchant Capital, the State, and Labour in a British Colony: Servant-Master Relations and Capital Accumulation in Newfoundland's Northeast-Coast Fishery, 1775-1799." *Journal of the Canadian Historical Association* 2, no. 1 (1991): 17-42.
- . "The Moral Economy of the Newfoundland Cod Fishery, 1815-1855." *Labour / Le Travail*, no. 43 (Spring 1999): 9-42.
- . "Not A Nation! (Or Why Newfoundland Nationalism Doesn't Make Historical Sense)." *Newfoundland Quarterly* 102, no. 1 (Summer 2009): 40-43.
- . "Power and Agency in Newfoundland and Labrador's History." *Labour / Le Travail*, no. 54 (Fall 2004): 223-243.
- . "The Privilege of History." *Labour / Le Travail*, no. 71 (Spring 2013): 187-192.

- . “Recognizing the Commons in Coastal Forests: The Three-Mile Limit in Newfoundland, 1875-1939.” *Newfoundland and Labrador Studies* 21, no. 2 (2006): 209-233.
- . “The Staple Model Reconsidered: Agricultural Policy in Northeast Newfoundland, 1785-1855.” *Acadiensis* 21, no. 2 (Spring 1992): 48-71.
- Candow, James E. “In Prowse’s Shadow: The General Histories of Newfoundland and Labrador by O’Flaherty, Cadigan, and Major.” *Newfoundland and Labrador Studies* 30, no. 2 (2015): 308-327.
- Cass, Alan. “Mr. Nisbet’s Legacy, or the Passing of King William’s Act in 1699.” *Newfoundland and Labrador Studies* 22, no. 2 (2007): 505-543.
- Clarke, Howard B. “The 1192 Charter of Liberties and the Beginnings of Dublin’s Municipal Life.” *Dublin Historical Record* 46, no. 1 (Spring 1993): 5-14.
- Coley, W.B. “Fielding’s Two Appointments to the Magistracy.” *Modern Philology* 63, no. 2 (November 1965): 144-149.
- Connolly, S. J. “Jacobites, Whiteboys and Republicans: Varieties of Disaffection in Eighteenth-Century Ireland.” *Eighteenth-Century Ireland*, no. 18 (2003): 63-79.
- Crowley, John E. “Empire versus Truck: The Official Interpretation of Debt and Labour in the Eighteenth-Century Newfoundland Fishery.” *Canadian Historical Review* 70, no. 3 (September 1989): 311-336.
- Davies, Hywell M. “Loyalism in Wales, 1792-1793.” *Welsh History Review* 20, no. 4 (December 2001): 687-716.
- Davis, Jenifer. “A Poor Man’s System of Justice: The London Police Courts in the

- Second Half of the Nineteenth Century.” *The Historical Journal* 27, no. 2 (June 1984): 309-335.
- Devereaux, Simon. “Imposing the Royal Pardon: Execution, Transportation, and Convict Resistance in London, 1789.” *Law and History Review* 25, no. 1 (Spring 2007): 101-138.
- Dickinson, H.T. “The Eighteenth-Century Debate on the Sovereignty of Parliament.” *Transactions of the Royal Historical Society*, no. 26 (1976): 189-210.
- Donnelly, James S. “Irish Agrarian Rebellion: The Whiteboys of 1769-76.” *Proceedings of the Royal Irish Academy: Archaeology, Celtic Studies, History, Linguistics, Literature*, no. 83c (1983): 293-331.
- . “The Whiteboy Movement, 1761-5.” *Irish Historical Studies* 21, no. 81 (March 1978): 20-54.
- Donnelly, James S. and James J. Donnelly. “The Rightboy Movement 1785-8.” *Studia Hibernica*, no. 17/18 (1977/1978): 120-202.
- Doyle, Thomas. “Jacobitism, Catholicism and the Irish Protestant Elite, 1700-1710.” *Eighteenth-Century Ireland*, no. 12 (1997): 28-59.
- Duffy, Michael. “William Pitt and the Origins of the Loyalist Association Movement of 1792.” *The Historical Journal* 39, no. 4 (December 1996): 943-962.
- Durey, Michael. “William Wickham, the Christ Church Connection and the Rise and Fall of the Security Service in Britain, 1793-1801.” *English Historical Review* 121, no. 492 (June 2006): 714-745.
- Eastwood, David. “John Reeves and the Contested Idea of the Constitution.” *Journal for*

- Eighteenth-Century Studies* 16, no. 2 (September 1993): 197-212.
- English, Christopher. "Collective Violence in Ferryland District, Newfoundland, in 1786." *Dalhousie Law Journal* 21, no. 2 (Fall 1998): 475-489.
- . "The Development of the Newfoundland Legal System to 1815." *Acadiensis* 20, no. 1 (Autumn 1990): 89-119.
- . "Newfoundland's Early Laws and Legal Institutions – From Fishing Admirals to the Supreme Court of Judicature, 1791-92." *Manitoba Law Journal*, no. 23 (1995): 55-78.
- . "[Review:] *The Rule of the Admirals: Law, Custom, and Naval Government in Newfoundland, 1699-1832*." *Canadian Historical Review* 86, no. 2 (June 2005): 356-359.
- Evans, James Allen Stewart. "Father of History or Father of Lies: The Reputation of Herodotus." *The Classical Journal*. 64, no. 1 (October 1968): 11-17.
- Garnham, Neal. "Riot Acts, Popular Protest, and Protestant Mentalities in Eighteenth Century Ireland." *The Historical Journal* 49, no. 2 (June 2006): 403-423.
- Gilmartin, Kevin. "In the Theater of Counterrevolution: Loyalist Association and Conservative Opinion in the 1790s." *Journal of British Studies* 41, no. 3 (July 2002): 291-328.
- Ginter, Donald. "The Loyalist Association Movement of 1792-93 and British Public Opinion." *The Historical Journal* 9, no. 2 (1966): 179-90.
- Glassford, Sarah. "Seaman, Sightseer, Storyteller, and Sage: Aaron Thomas's 1794 *History of Newfoundland*." *Newfoundland and Labrador Studies* 21, no. 1 (2006):

149-175.

Gunn, J.A.W. "Influence, Parties and the Constitution: Changing Attitudes, 1783-1832."

*The Historical Journal* 17, no. 2 (June 1974): 301-328.

Hampsher-Monk, Iain. "Civic Humanism and Parliamentary Reform: The Case of the

Society of the Friends of the People." *Journal of British Studies* 18, no. 2 (Spring

1979): 70-89.

Hansson, John-Erik. "The genre of radical thought and the practices of equality: the

trajectories of William Godwin and John Thelwall in the mid-1790s." *History of*

*European Ideas* 43, no. 7 (2017): 776-790.

Hay, Douglas. "Patronage, Paternalism, and Welfare: Master, Workers, and Magistrates

in Eighteenth-Century England." *International Labor and Working-Class History*,

no. 53 (1998): 27-48.

Hay, Douglas and Paul Craven. "Master and Servant in England and the Empire: A

Comparative Study." *Labour / Le Travail*, no. 31 (Spring 1993): 175-183.

Hill, Jacqueline R. "Popery and Protestantism, Civil and Religious Liberty: The Disputed

Lessons of Irish History 1690-1812." *Past & Present*, no. 118 (February 1988):

96-129.

Holly, Donald H. "The Beothuk on the Eve of Their Extinction." *Arctic Anthropology*

37, no. 1 (2000): 79-95.

———. "Environment, History and Agency in Storage Adaptation: On the Beothuk in

the 18<sup>th</sup> Century." *Canadian Journal of Archaeology* 22, no. 1 (1998): 19-30.

Humphries, Mark Osborne. " 'A Calamity From Which No Relief Can Be Expected':

- Empire, Authority, and Civilian Responses to the French Occupation of Newfoundland, June-September 1762." *Acadiensis* 43, no. 1 (2014): 35-64.
- Hunt, Edmund. "The Strategic Ruse of Benjamin Lester." *The Atlantic Advocate* 50, no. 11 (July 1960): 107.
- Hynes, W. "The Postman Knocks: Early Justice." *The Newfoundland Quarterly* 59, no. 4 (Winter 1960): 14.
- Innis, Harold. "Significant Factors in Canadian Economic Development." *Canadian Historical Review* 18, no. 4 (December 1937): 374-384.
- Isaacs, Nathan. "The Merchant and His Law." *Journal of Political Economy* 23, no. 6 (June 1915): 529-561.
- Kelly, James. "The Context and Course of Thomas Orde's Plan of Education of 1787." *The Irish Journal of Education* 20, no. 1 (Summer 1986): 3-26.
- . "Inter-Denominational Relations and Religious Toleration in Late Eighteenth-Century Ireland: The 'Paper War' of 1786-88." *Eighteenth-Century Ireland*, no. 3 (1988): 39-67.
- . "The Parliamentary Reform Movement of the 1780s and the Catholic Question." *Archivium Hibernicum*, no. 43 (1988): 95-117.
- Kerr, W.B. "Newfoundland in the Period before the American Revolution." *The Pennsylvania Magazine of History and Biography* 65, no. 1 (Jan. 1941): 56-78.
- Kowaleski, Maryanne. "The Expansion of the South-Western Fisheries in Late Medieval England." *The Economic History Review*, New Series 53, no. 3 (August 2000): 429-454.

- Krikler, Jeremy. "The *Zong* and the Lord Chief Justice." *History Workshop Journal*, no. 64 (Autumn 2007): 29-47.
- Kristensen, Todd J. and Donald H. Holly Jr. "Birds, Burials and Sacred Cosmology of the Indigenous Beothuk of Newfoundland, Canada." *Cambridge Archaeological Journal* 23, no. 1 (February 2013): 41-53.
- Langford, Paul. "Property and 'Virtual Representation' in Eighteenth-Century England." *The Historical Journal* 31, no. 1 (March 1988): 83-115.
- Linker, R.W. "English Catholics in the Eighteenth Century: An Interpretation." *Church History* 35, no. 3 (September 1966): 288-310.
- Lounsbury, Ralph Greenlee. "Yankee Trade at Newfoundland." *The New England Quarterly* 3, no. 4 (October 1930): 607-626.
- Lyall, Andrew. "The Irish House of Lords as a Judicial Body, 1783-1800." *The Irish Jurist*, no. 28-30 (1993-1995): 314-360.
- Lyman, J. L. "The Metropolitan Police Act of 1829: An Analysis of Certain Events Influencing the Passage and Character of the Metropolitan Police Act in England." *Journal of Criminal Law and Criminology*, 55, no. 1 (March 1964): 141-154.
- Mancke, Elizabeth. "Another British America: A Canadian model for the early modern British Empire," *The Journal of Imperial and Commonwealth History* 25, no. 1 (January 1997): 1-36.
- . "Early Modern Expansion and the Politicization of Oceanic Space." *Geographical Review* 89, no. 2 (April 1999): 225-236.

- . “Early Modern Governance and the Origins of Canadian Political Culture.” *Canadian Journal of Political Science* 32, no. 1 (March 1999): 3-20.
- Mannion, Patrick. “Victualling a Fishery: Newfoundland Diet and the Origins of the Irish Provisions Trade, 1675-1700.” *International Journal of Maritime History* 12, no. 1 (June 2000): 1-60.
- Marshall, Ingeborg. “An Unpublished Map Made by John Cartwright between 1768 and 1773 Showing Beothuck Indian Settlements and Artifacts and Allowing a New Population Estimate.” *Ethnohistory* 24, no. 3 (Summer 1977): 223-249.
- . “Methodists and Beothuk: Research in Methodist Archives.” *Newfoundland and Labrador Studies* 2, no. 1 (1986): 19-28.
- Martin, Jed. “Convict Transportation to Newfoundland in 1789.” *Acadiensis* 5, no. 1 (Autumn 1975): 84-99.
- Martijn, Charles A. “Early Mi’kmaq Presence in Southern Newfoundland: An Ethnohistorical Perspective, c. 1500-1763.” *Newfoundland and Labrador Studies* 19, no. 1 (2003): 44-102.
- Matthews, Keith. “The Class of ’32: St. John’s Reformers on the Eve of Representative Government.” *Acadiensis* 6, no. 2 (Spring 1977): 80-94.
- . “Historical Fence Building: A Critique of the Historiography of Newfoundland.” *Newfoundland Quarterly* 74, no. 1 (Spring 1978): 21-30.
- . “Historical Fence Building: A Critique of the Historiography of Newfoundland.” ed. Peter Pope. *Newfoundland and Labrador Studies* 17, no. 2 (2001): 143-165.
- Mercer, Keith. “The Murder of Lt. Lawry: A Case Study of British Naval Impressment in

- Newfoundland, 1794." *Newfoundland and Labrador Studies* 21, no. 2 (Fall 2006): 255-289.
- Milne, Kenneth. "Irish Charter Schools." *The Irish Journal of Education* 8, no. 1 (July 1974): 3-29.
- Mitchell, Austin. "The Association Movement of 1792-3." *The Historical Journal* 4, no. 1 (1961): 56-77.
- Morley, Vincent. "The Continuity of Disaffection in Eighteenth-Century Ireland." *Eighteenth-Century Ireland*, no. 22 (2007): 189-205.
- . "George III, Queen Sathbh and the Historians." *Eighteenth-Century Ireland*, no. 17 (2002): 112-120.
- O'Donnell, Katherine. "The Image of a Relationship in Blood: Párliaiment na mBan and Burke's Jacobite Politics." *Eighteenth-Century Ireland*, no. 15 (2000): 98-119.
- O'Flaherty, Eamonn. "Burke and the Catholic Question." *Eighteenth-Century Ireland*, no. 12 (1997): 7-27.
- O'Flaherty, Patrick. "The Seeds of Reform: Newfoundland, 1800-18." *Journal of Canadian Studies* 23, no. 3 (Fall 1988): 39-59.
- O'Gorman, Frank. "The Paine Burnings of 1792-1793." *Past & Present*, no. 193 (November 2006): 111-155.
- Palmer, Stanley H. "The Irish Police Experiment: The Beginnings of Modern Police in the British Isles, 1785-1795." *Social Science Quarterly* 56, no. 3 (December 1975): 410-424.
- Paley, Ruth and Elaine A. Reynolds. "Politicians, Parishes and Police: The Failure of the

- 1812 Night Watch Bill." *Parliamentary History* 28, no. 3 (Oct. 2009): 375-391.
- Pastore, Ralph. "The Collapse of the Beothuk World." *Acadiensis* 19, no. 1 (Fall 1989): 52-71.
- Patterson, James G. "White Terror: Counter-Revolutionary Violence in South Leinster, 1798-1801." *Eighteenth-Century Ireland*, no. 15 (2000): 38-53.
- Patterson, Stephen E. "Indian-White Relations in Nova Scotia, 1749-61: A Study of Political Interaction." *Acadiensis* 23, no. 1 (Autumn 1993): 23-59.
- Perlin, Albert. "An Outline of Newfoundland History: Extracts from a Speech delivered at the Officers Club at the U.S. Naval Base at Argentia in April 1966." *Newfoundland Quarterly* 65, no. 4 (June 1967): 2-4.
- . "An Outline of Newfoundland History: Extracts from a Speech delivered at the Officers Club at the U.S. Naval Base at Argentia in April, 1966, Part II." *Newfoundland Quarterly* 66, no. 1 (September 1967): 2-4.
- Philp, Mark. "Vulgar Conservatism, 1792-3." *The English Historical Review* 110, no. 435 (February 1995): 42-69.
- Plucknett, Theodore F.T. "John Reeves, Printer." *Columbia Law Review* 61, no. 7 (November 1961): 1201-1209.
- Polden, Patrick. "John Reeves as superintendent of aliens, 1803-14" *The Journal of Legal History* 3, no. 1 (1982): 31-51.
- Polack, Fiona. "Amelia Curran's Newfoundland Painting." *Keats-Shelley Journal*, no. 60 (2011): 25-29.
- . "Art in the Bush: Romanticist Painting for Indigenous Audiences in Tasmania

- and Newfoundland.” *Nineteenth-Century Contexts* 33, no. 4 (September 2011): 333-351.
- Poole, Steve. “Thunderer, recluse or apostate? Interruptions and continuities in the life of a Jacobin fox.” *Romanticism* 16, no. 2 (2010): 207-217.
- Pope, Peter E. “Outport Economics: Culture and Agriculture in Later Seventeenth-Century Newfoundland.” *Newfoundland and Labrador Studies* 19, no. 1 (2003): 153-186.
- Prowse, Daniel Woodley. “Books about Newfoundland – [Review:] *History of the Government of Newfoundland*, London 1793, By John Reeves, F.R.G.S., Chief Justice.” *Newfoundland Quarterly* 5, no. 4 (March 1906): 9-10.
- Quinlan, Maurice J. “Anti-Jacobin Propaganda In England, 1792-1794.” *Journalism [and Mass Communication] Quarterly* 16, no. 1 (March 1939): 9-15.
- Reece, Bob. “Irish Anticipations of Botany Bay.” *Eighteenth-Century Ireland*, no. 12 (1997): 116-136.
- . “‘Such a Banditti’: Irish Convicts in Newfoundland, 1789. Part I.” *Newfoundland and Labrador Studies* 13, no. 1 (1997): 1-29.
- . “‘Such a Banditti’: Irish Convicts in Newfoundland, 1789. Part II.” *Newfoundland and Labrador Studies* 13, no. 2 (1997): 127-141.
- Richardson, H.G. “Magna Carta Hiberniae.” *Irish Historical Studies* 3, no. 9 (March 1942): 31-33.
- Rogers, Pat. “An Early Colonial Historian: John Oldmixon and the British Empire in America.” *Journal of American Studies* 7, no. 2 (August 1973): 113-123.

Rudé, George F. E. "The Gordon Riots: A Study of the Rioters and Their Victims: The Alexander Prize Essay." *Transactions of the Royal Historical Society*, no. 6

(1956): 93-114.

———. "The London Mob of the Eighteenth Century." *The Historical Journal* 2, no. 1 (1959): 1-18.

Ryan, Shannon. "Fishery to Colony: A Newfoundland Watershed, 1793-1815."

*Acadiensis* 12, no. 2 (Spring 1983), 34-52.

Saunders, Robert. "The Greenspond Saga – In History, Song and Story." *The*

*Newfoundland Quarterly* 54, no. 4 (December 1955): 24.

Sider, Gerrald. "Christmas Mumming and the New Year in Outport Newfoundland." *Past*

*& Present*, no. 71 (May 1976): 102-125.

———. "The Ties That Bind: Culture and Agriculture, Property and Propriety in the Newfoundland Village Fishery." *Social History* 5, no 1 (January 1980): 1-39.

Sinha, Chittaranjan. "Doctrinal Influences on the Judicial Policy of the East India Company's Administration in Bengal, 1772-1833." *The Historical Journal* 12, no. 2 (1969): 240-248.

Smith, Philip E.L. "[Review:] *The Greatest Fishing Station in the World* [etc.]."

*Newfoundland and Labrador Studies* 13, no. 1 (Spring 1997): 110-113.

Sparrow, Elizabeth. "The Alien Office, 1792-1806." *The Historical Journal* 33, no. 2

(June 1990): 361-384..

Thompson, E.P. "The Moral Economy of the English Crowd in the Eighteenth Century."

*Past and Present*, no. 50 (February 1971): 76-136.

- Torrance, J.R. "Sir George Harrison and the Growth of Bureaucracy in the Early Nineteenth Century." *The English Historical Review* 83, no. 326 (January 1968): 52-88.
- Webb, Jeff A. "Confederation, Conspiracy, and Choice: A Discussion." *Newfoundland and Labrador Studies* 14, no. 2 (1998): 169-187.
- . "Leaving the State of Nature: A Locke-Inspired Political Community in St. John's, Newfoundland, 1723." *Acadiensis* 21, no. 1 (1991): 156-65.
- . "Revisiting Fence Building: Keith Matthews and Newfoundland Historiography." *Canadian Historical Review* 91, no. 2 (June 2010): 315-338.
- . "William Knox and the 18<sup>th</sup>-Century Newfoundland Fishery." *Acadiensis* 44, no. 1 (Winter/Spring 2015): 112-122.
- Weinzierl, Michael. "John Reeves and the Controversy over the Constitutional Role of Parliament in England during the French Revolution." *Parliament, Estates and Representation* 5, no. 1 (June 1985): 71-77.
- Whitely, William H. "Governor Hugh Palliser and the Newfoundland and Labrador Fishery, 1764-1768." *Canadian Historical Review* 50, no. 2 (June 1969): 141-163.
- Zall, Paul M. "The Cool World of Samuel Taylor Coleridge – John Reeves: The Perils of Public Service." *The Wordsworth Circle* 9, no. 3 (July 1978): 315-320.
- . "The Cool World of Samuel Taylor Coleridge – 3. John Reeves: The Perils of Public Service." *The Wordsworth Circle* 45, no. 3 (Summer 2014): 212-215.

### Secondary Sources – Graduate and Undergraduate Theses

- Devereaux, Simon Paul Ross. “Convicts and the State: The Administration of Criminal Justice in Great Britain during the Reign of George III.” PhD thesis, University of Toronto, 1997.
- Field, Agnes M. “The Development of Government in Newfoundland, 1638-1713.” MA thesis, University of London, 1924.
- Johnson, Trudi Dale. “Matrimonial Property Law in Newfoundland to the End of the Nineteenth Century.” PhD thesis, Memorial University of Newfoundland, 1998.
- Matthews, Keith. “A History of the West of England-Newfoundland Fishery.” DPhil thesis, University of Oxford, 1968.
- McKown, Eslpeth. “Imagining ‘An Other England’ in the North Atlantic, 1577-1625.” MA thesis, Dalhousie University, 2011.
- Morton, William Lewis. “Newfoundland in Imperial Policy, 1775-1793.” BLitt thesis, University of Oxford, 1935.
- Paley, Ruth. “The Middlesex Justices Act of 1792: Its Origins and Effects.” PhD thesis, University of Reading, 1983.
- Pendleton, Gayle. “English Conservative Propaganda during the French Revolution, 1789-1802.” PhD thesis, Emory University, 1976.
- Post, Andy. “Political Atheism vs. The Divine Right of Kings: Understanding John Thelwall’s *The Fairy of the Lake* (1801).” MA thesis, Dalhousie University, 2014.
- Sanderson, Mary Louise. “‘Our Own Catholic Countrymen’: Religion, Loyalism, and Subjecthood in Britain and Its Empire.” PhD thesis, Vanderbilt University, 2010.

Slattery, Brian. "The Land Rights of Indigenous Canadian Peoples, as Affected by the Crown's Acquisition of Their Territories." DPhil thesis, University of Oxford, 1979.

Super III, Robert Thomas. "The Changing British State during the Counterrevolution: The Role of John Reeves' Association Movement." MA thesis, North Carolina State University, 2013.

Tavenor, Joshua. "Climate and Capitalism: English Perceptions of Newfoundland's Natural Environment and Economic Value, 1610-1699." PhD thesis, Wilfred Laurier University 2017.

Wetzel, Jerry. "Decolonizing *Ktaqmkuk Mi'kmaw* History." LLM thesis, Dalhousie University, 1995.

Zbrizher, Yevgeniya. "Representations of Riot: The Transformation of the Gordon Riots from History into Cultural Myth." Honours thesis, Rutgers University, 2011.

### Other Sources

Austen, Jane. *Pride and Prejudice*. Ed. Vivien Jones. London: Penguin, 2003.

Bell, David. *Loyalist Rebellion in New Brunswick: A Defining Conflict for Canada's Political Future*. Halifax: Formac Publishing Company Limited, 2013.

Boswell, James. *The Life of Samuel Johnson*. Ed. David Womersley. London: Penguin, 2008.

Carlyle, Thomas. *On Heroes, Hero-Worship, & The Heroic in History*. London: James Fraser, 1841.

Dickens, Charles. *Barnaby Rudge*. Ed. Clive Hurst. Oxford: Oxford University Press, 2008.

Foucault, Michel. *History of Madness*. Ed. Jean Khalfa. Trans. Jonathan Murphy and Jean Khalfa. London and New York: Routledge, 2006.

Johnson, Samuel. *A Dictionary of the English Language*. Dublin: Printed for W.G. Jones, 1768.

Johnston, Wayne. *The Colony of Unrequited Dreams*. Toronto: Vintage Canada, 1999.

———. “[Review:] *A History of Newfoundland* [by] D.W. Prowse [and] *The Newfoundland Journal of Aaron Thomas* [by] Aaron Thomas” in *Lost Classics*. Ed. Michael Ondaatje et al. [Toronto?:] Alfred A. Knopf Canada, 2000.

Mann, Charles C. *1491: New Revelations of the Americas before Columbus*. 2<sup>nd</sup> edition. New York: Vintage Books, 2011.

Marlowe, Christopher. “The Jew of Malta,” in *Doctor Faustus and Other Plays*. Eds. David Bevington and Eric Rasmussen. Oxford: Oxford University Press, 2008: 247-322.

Newman, Peter C. *Company of Adventurers*. 3 volumes. Markham, ON: Penguin Books Canada Ltd., 1985.

Shakespeare, William. *Henry VI, Part Two*. Ed. Roger Warren. Gen. ed. Stanley Wells. Oxford: Oxford University Press, 2008.

———. *Much Ado About Nothing*. Ed. Sheldon P. Zitner. Gen. ed. Stanley Wells. Oxford: Oxford University Press, 2008.

———. *The Winter's Tale*. Ed. Stephen Orgel. Gen. ed. Stanley Wells. Oxford: Oxford

University Press, 2008.

Wood, Gordon S. *Empire of Liberty: A History of the Early Republic, 1789-1815*. Series ed. David M. Kennedy. *The Oxford History of the United States*. Oxford: Oxford University Press, 2009.