



# ROUGH JUSTICE

POLICING, CRIME, AND THE ORIGINS OF THE  
NEWFOUNDLAND CONSTABULARY, 1729-1871

KEITH MERCER

FOREWORD BY  
EDWARD ROBERTS

Rough Justice: Policing, Crime, and the  
Origins of the Newfoundland Constabulary,  
1729-1871

Keith Mercer  
Foreword by Edward Roberts

Flanker Press Limited  
St. John's

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Library and Archives Canada Cataloguing in Publication

Title: Rough justice : policing, crime, and the origins of the Newfoundland Constabulary, 1729-1871  
/ Keith Mercer.

Names: Mercer, Keith, 1978- author.

Description: Includes bibliographical references and index.

Identifiers: Canadiana (print) 20210120916 | Canadiana (ebook) 20210120940 | ISBN 9781774570166  
(hardcover) | ISBN 9781774570173 (EPUB) | ISBN 9781774570180 (Kindle) | ISBN 9781774570197  
(PDF)

Subjects: LCSH: Police—Newfoundland and Labrador—History—18th century. | LCSH: Police—  
Newfoundland and Labrador—History—19th century. | LCSH: Criminal justice, Administration  
of—Newfoundland and Labrador—History—18th century. | LCSH: Criminal justice, Administra-  
tion of—Newfoundland and Labrador—History—19th century.

Classification: LCC HV8159.N6 M47 2021 | DDC 363.209718—dc23

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PRINTED IN CANADA

Edited by Marnie Parsons Cover design by Graham Blair

Index by Joan Ritcey Illustrated by Albert Taylor

FLANKER PRESS LTD.

PO BOX 2522, STATION C

ST. JOHN'S, NL

CANADA

TELEPHONE: (709) 739-4477 FAX: (709) 739-4420 TOLL-FREE: 1-866-739-4420

[WWW.FLANKERPRESS.COM](http://WWW.FLANKERPRESS.COM)

9 8 7 6 5 4 3 2 1



The publisher acknowledges the financial support of the Government of Canada through the Canada Book Fund (CBF) and the Government of Newfoundland and Labrador, Department of Tourism, Culture, Industry and Innovation for our publishing activities. We acknowledge the support of the Canada Council for the Arts, which last year invested \$157 million to bring the arts to Canadians throughout the country. Nous remercions le Conseil des arts du Canada de son soutien. L'an dernier, le Conseil a investi 157 millions de dollars pour mettre de l'art dans la vie des Canadiennes et des Canadiens de tout le pays.

## Dedication



Robert Johnston, known to many as “Bob,” served with the Royal Newfoundland Constabulary for thirty-five years. Enlisting as a constable in 1979, he rose through its ranks to become its chief in 2010, the twentieth officer to lead the RNC since its establishment in 1871. He was universally respected and admired by all with whom he served. The Governor General of Canada appointed him an Officer of the Order of Police Merit in 2012, the only RNC member ever to receive the honour.

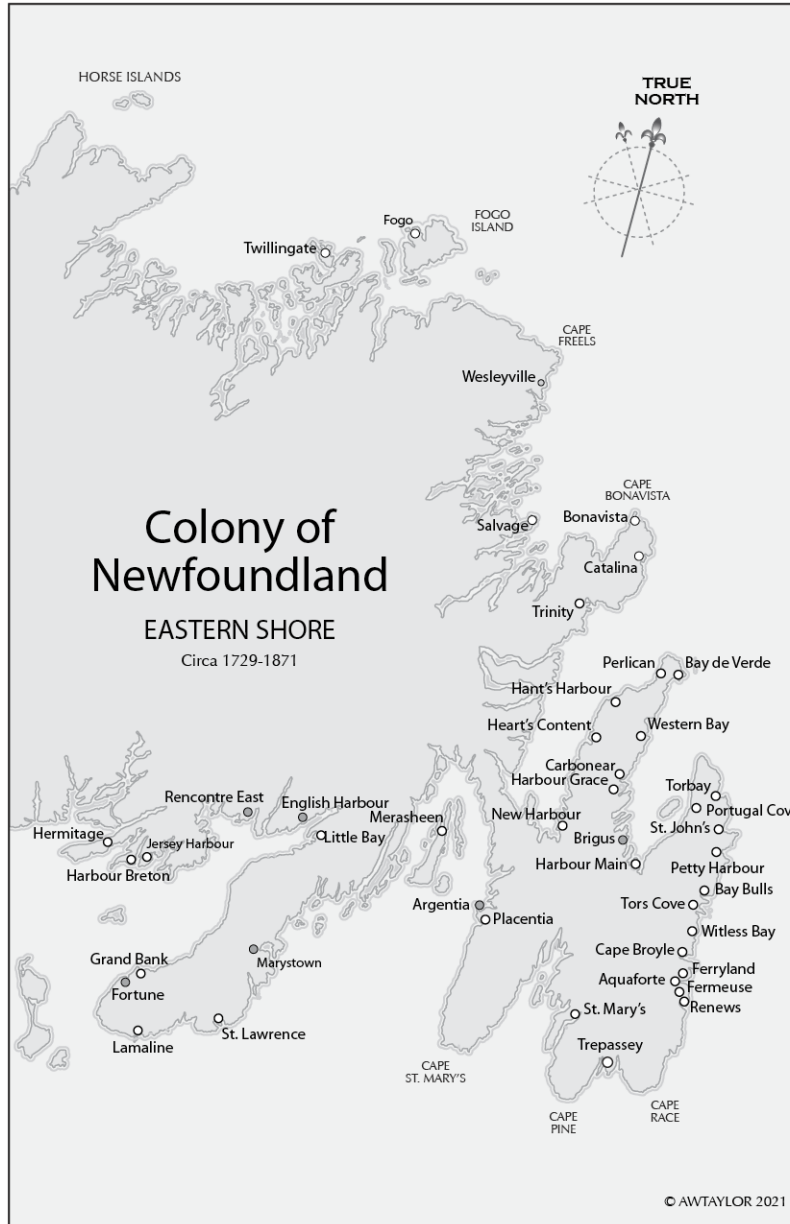
A strong and active supporter of the RNC Historical Society, Robert was a strong and enthusiastic proponent of both the Constabulary Court and the preparation of a history of policing in Newfoundland and Labrador. He was a leader among those who transformed bold ideas into reality.

Robert died in July 2019 after a fierce and courageous battle with brain cancer. He was sixty. His RNCHS colleagues resolved that *Rough Justice* be dedicated to his memory as a tribute to his contribution. We are grateful that Gloria, his wife, has permitted us to do so.



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# Abbreviations

ACHL A.C. Hunter Public Library, St. John's  
ADM Admiralty Papers, NAUK  
CNS Centre for Newfoundland Studies, MUN,  
St. John's  
CO Colonial Office Papers, NAUK  
CPGD Colonial Papers, Governor's Dispatches, CNS  
CPSD Colonial Papers, Secretary of State's  
Dispatches, CNS  
CSP Calendar of State Papers, America and  
West Indies  
CTP Committee of Trade and Plantations  
DA D'Alberti Papers, CNS  
DCB *Dictionary of Canadian Biography*  
DIB *Dictionary of Irish Biography*  
DNE *Dictionary of Newfoundland English*  
ENL *Encyclopedia of Newfoundland and Labrador*  
JHA *Journal of House of Assembly of Newfoundland*  
JLC *Journal of Legislative Council of Newfoundland*  
LSNL Law Society of Newfoundland and Labrador  
MQUP McGill-Queens University Press  
MHA Maritime History Archive, MUN, St. John's  
MUN Memorial University of Newfoundland and  
Labrador  
NAUK National Archives of the United Kingdom,  
London  
NAW New American World  
NLS Newfoundland and Labrador Studies  
ODNB *Oxford Dictionary of National Biography*  
OED *Oxford English Dictionary*  
Osgoode Osgoode Society for Canadian Legal History,  
UTP  
OUP Oxford University Press  
PANL Provincial Archives of Newfoundland and  
Labrador, The Rooms, St. John's  
PCD Privy Council Documents  
RNC Royal Newfoundland Constabulary  
UTP University of Toronto Press  
CSLB Colonial Secretary's Letter Book, PANL

# Foreword

The Vikings – intrepid seamen and adventurers – were the first Europeans to come to Newfoundland; they arrived more than 1,000 years ago. Fishermen – British, French, and Basque – arrived 500 years later, lured by visions of bountiful fisheries. But it wasn't until well into the seventeenth century that Europeans lived on the Island year-round. Some 3,000 hardy souls, most of them English, made their homes here by 1700; another 20,000 came across the Western ocean each spring and returned to Europe with their season's catch each fall.

The story of the safeguarding of civil society in Newfoundland goes back for nearly 300 years. Britain's first governor, Captain Henry Osborne, came to St. John's in 1729. The maintenance of public order in Newfoundland began then. The men and women who serve in today's Royal Newfoundland Constabulary (RNC) are the direct descendants of the justices of the peace and constables appointed by Osborne in 1729. Proclamation of the six judicial districts into which he divided the Island's English shore was the start of the long process that culminated in the formal establishment of today's RNC in 1871, in the era when both Canada and Newfoundland were separate countries within the British Empire. It is the oldest national police force in today's Canada, the Royal Canadian Mounted Police being its junior by two years.

The Royal Newfoundland Constabulary Historical Society (RNCHS) was founded in 1988 by Newfoundlanders who sought to preserve and to celebrate the story of policing in Newfoundland – the tale of maintaining public order in Britain's Oldest Colony. *Rough Justice* is part of their legacy.

This book is the result of fortuitous circumstance. Bill Mahoney, who became chair of the RNCHS in 2004, approached me soon after the end of my term as lieutenant-governor of Newfoundland and Labrador to ask if I would accept the Society's chairmanship. I had come to know him well during my years at Government House, and I shared his interest in the history of the RNC. As chair, he led the effort to establish Constabulary

Court with its Legacy sculpture in the historic centre of St. John's, a project which was officially opened by Canada's Governor General, the Right Honourable Michaëlle Jean, in August 2010.

Bill was a persuasive advocate. I was duly elected chair at the next annual general meeting. He and I agreed that there was a need for a formal history of the RNC and its predecessors. Sergeant Arthur Fox, who served for many years in the Newfoundland Constabulary (as the force was known until it received the Royal designation in 1979), had published a short account during the force's Centennial in 1971. Bill and I suggested that the 150th anniversary of the Constabulary's foundation should be commemorated by the publication of the story of all those who have served and protected the people of Newfoundland since 1729. Our colleagues endorsed our suggestion and empowered us to transform our suggestion into reality. That is how *Rough Justice* came to be. A second volume will bring the RNC's story forward to the 1950s after Newfoundland became a Canadian province.

Bill and I realized that we had two tasks. The first was to raise the money to finance the project, and the second was to find a scholar who would write it. Fortune favours the brave. Elinor Gill Ratcliffe, a Newfoundlander and a philanthropist, had supported the Constabulary Court project. I have known her for many years; indeed, her father and I had worked together as news editors at CJON Radio and TV in St. John's in the late 1950s and early 1960s. With Bill's help, I drafted a solicitation letter that we planned to send to as long a list of likely donors as we could assemble. We decided to send the draft to Elinor, not to ask her for funds but rather to seek her advice and guidance as to whether our approach was workable. I did so and asked for advice as to how it could be improved.

She called me a week or so later and said, "I have read the letter and I think it's exactly what's needed. Count me in!" I was pleased with the response, of course, and told her so. We chatted away. At some point I said, "Elinor, we are delighted beyond words that you've agreed to be the first to support our project, but you haven't told me how much you're prepared to give." Her answer was concise but clear: "I'm in it for the entire amount!" We subsequently appointed her as our principal sponsor. That was the end of our financial campaign.

We then turned to our second imperative – to find a scholar who could research and write the text. With Bill's approbation, I turned to Dr. James Hiller, a highly regarded historian at Memorial University. Acting on his

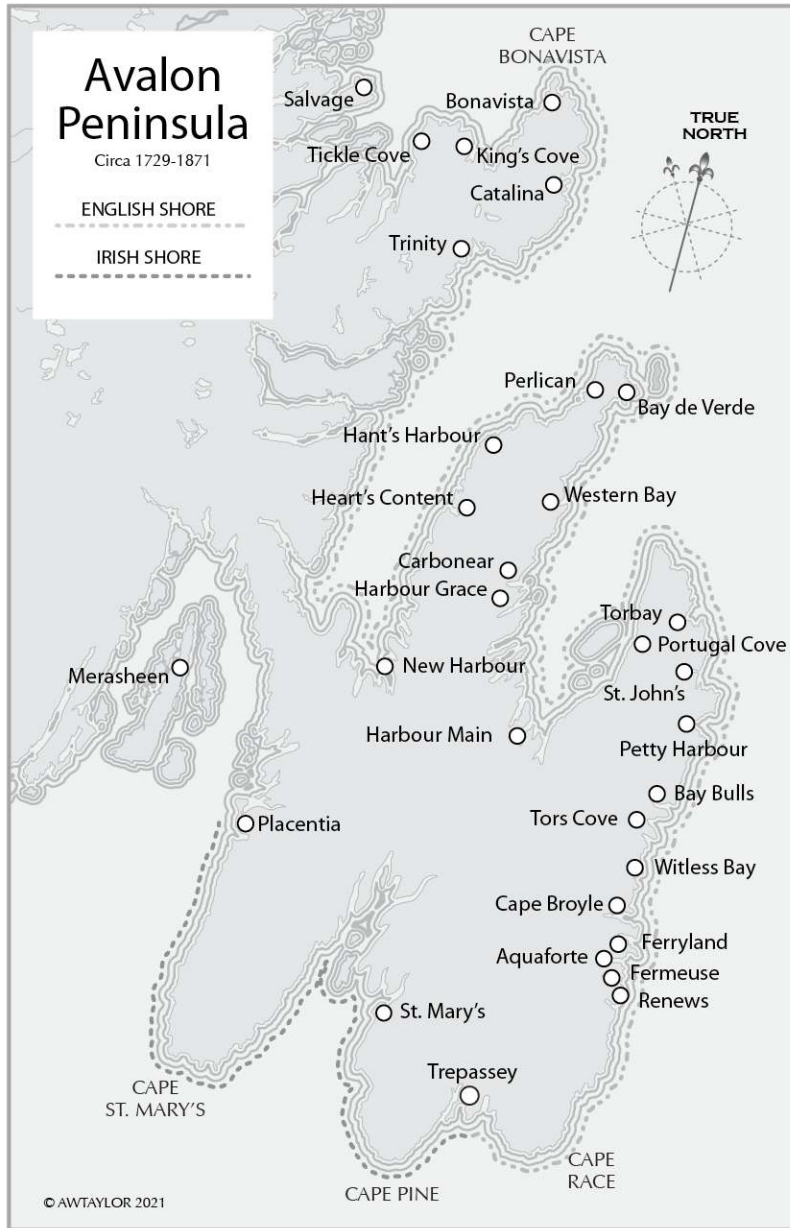
advice, we approached Keith Mercer, a young Newfoundlander who had just earned a Ph.D. degree under the mentorship of Dr. Jerry Bannister, another Newfoundlander, and the author of *The Rule of the Admirals: Law, Custom, and Naval Government in Newfoundland, 1699-1832*, a book which has been widely acclaimed as a groundbreaking reinterpretation of a critical period in Newfoundland's colonial development.

*Rough Justice* is a fitting acknowledgement of the work of the men and women who have served and protected the people of Newfoundland and Labrador for the nigh on 300 years since Henry Osborne brought his ship, HMS *Squirrel*, into St. John's in the summer of 1729. I believe it will be a notable addition to our understanding of our history.

My colleagues and I in the Royal Newfoundland Constabulary Historical Society acknowledge the support of Elinor Gill Ratcliffe and the achievements of Keith Mercer with pride and gratitude. I believe *Rough Justice* will take its place in the front ranks of Newfoundland and Labrador's written history.

Edward Roberts





# Chapter 1

## INTRODUCTION

On 18 August 2010, a legacy sculpture was unveiled in downtown St. John's to recognize the Royal Newfoundland Constabulary (RNC). At 9:30 a.m., members of the Constabulary marched from police headquarters to City Hall, where Mayor Dennis O'Keefe officially conferred the Freedom of the City upon the force and renamed the parkette in which the sculpture would reside "Constabulary Court." From there officers past and present, together with RNC cadets and others, dressed in their finest uniforms and accompanied by music from the Signal Hill Tattoo, marched to Constabulary Court. The Right Honourable Michaëlle Jean was on hand for the ceremony. "You are a part of the heritage of which Canadians are proud and grateful," she told the crowd of several hundred but addressing the Constabulary's rank and file directly, in one of her final public acts as Governor General, and she continued, emphasizing that the Constabulary was largely "responsible for the peace that characterizes our communities."

Like Jean, RNC Chief Robert Johnston explained that it was important to honour the force's rich history and to take measures to ensure that it remain a part of public consciousness and memory. "Today's historic event commemorates our commitment to one another and provides a tribute to the members who had come before us." Johnston was referring not only to the contributions of RNC veterans in the audience, but also to the force's nearly 300 years of public service – dating back to the appointment of the first constables in 1729 – which makes it the oldest continuous police service in Canada. Standing guard in the newly landscaped park, artist Luben Boykov's bronze sculpture features a late-nineteenth-century constable in period uniform, holding a lantern in one hand and the hand of a young girl with the other. It symbolizes the force's historical role in keeping communities safe, often through lone officers working hand in hand with their neighbours.<sup>1</sup>

Behind the scenes, this event was organized by the Royal Newfoundland Constabulary Historical Society, which was established in 1988 to preserve

the force's legacy for future generations and to undertake commemorative activities. Over time the Society has consisted primarily of active and retired RNC members, business people, philanthropists, politicians, and academics. Taken together, the sculpture and Constabulary Court have been its most ambitious project to date. Speaking to the *Telegram* newspaper just days before the ceremony, spokesman Bill Mahoney stated that recognition of the Constabulary's history was long overdue: "People looked to the constabulary members for more than just policing services. They were really the leaders in the community. The constabulary was very much part of the fabric of the province, of the island of Newfoundland and Labrador, for virtually all of her history." Inspiration for the sculpture, which was a decade in the making, came from a quote by John McCowen, the long-time inspector general of the Constabulary during the late nineteenth and early twentieth centuries: "There is nothing that recommends a police officer to the favourable notice of the public as much as kindness to the poor, to the helpless, and to the children." This powerful message is written on a plaque affixed to the base of the monument – a fitting and timeless motto.<sup>2</sup>

Among the Society's other commemorative activities is its successful application (made in 2010) to the Provincial Historic Commemorations Program to have the founding of the Newfoundland Constabulary in 1871 be designated an "Event of Provincial Significance."<sup>3</sup> In a memorable transatlantic ceremony in 2005, an RNC delegation exchanged colours with An Garda Síochána – "the Guardians of the Peace" – the national police service of Ireland and one of the successors of the Royal Irish Constabulary (RIC), with which the RNC has historical associations, rooted especially in the late nineteenth century. In fact, the Newfoundland Constabulary was partly modelled after the Irish force. Retired deputy chief Gary Browne, reflecting on this visit to Dublin and the ceremony at Phoenix Park (headquarters of the Irish police since 1842), called the exchange a "dream come true" and a homecoming for the Newfoundlanders. To this day, the RNC continues to have strong Irish connections.<sup>4</sup> Closer to home, in 2013 the Society spearheaded a commemoration in Badger to remember the infamous loggers strike of 1959, specifically the death of twenty-four-year-old Constable William Moss of the Constabulary, who was struck in the head with a piece of wood during a riot between loggers and the combined forces of the Constabulary and the Royal Canadian Mounted Police (RCMP). Moss's death was tragic, but it would lead to important reforms in

both labour relations and the provincial forestry industry in the years ahead.<sup>5</sup> Finally, in 2016 the Society helped bring all of this history alive in the form of a new interpretive exhibit in the lobby of the RNC's headquarters in St. John's. Open to the public, this display is an extension of the RNC Archives and Museum, which are housed in the same building.<sup>6</sup>

The RNC has always been proud of its history. Arthur Fox, a twenty-five-year veteran of the force, spent years researching it in archives and libraries before publishing *The Newfoundland Constabulary* in 1971. His was the first book-length history of policing in Newfoundland. "Art" Fox was drawn to policing through his father, who had served with the Constabulary's detachment at Harbour Grace.<sup>7</sup> When the Society was formed in 1988, with the energetic support and leadership of Ed Coady, who not coincidentally became the chief of police a year earlier, it henceforward had a solid foundation upon which to launch new projects aimed at preserving this rich and proud heritage. Coady and the Society concentrated on two related initiatives: a museum, and an oral history project that would interview retired and senior members of the force. The Royal Newfoundland Constabulary Museum was opened in 1989 at RNC headquarters, after several years of planning and appeals to the public and retired policemen to donate artifacts, photographs, and documents. At the museum's opening, Coady stated that it is "very exciting to finally see the museum become a reality. We are now able to preserve the legacy and traditions of the early origins of policing in Newfoundland and Labrador which is also so much a part of the history of our own force – the RNC."<sup>8</sup>

Paul Kenney, the museum's curator and project manager, took groups of people, including dozens of retired Constabulary members, on guided tours. Kenney also spearheaded the oral history project, whose interviews were included in the museum galleries. With the support of Shannon Ryan, a history professor at Memorial University of Newfoundland (MUN) and president of the Newfoundland and Labrador Historical Society, Kenney's team conducted dozens of interviews. As Ryan told the *Telegram*, the goal was "to talk to any and all veterans still living to get their life stories and accounts of personal experiences, narratives, stories or unusual happenings during their careers. Written documents are safe, but oral information disappears as more and more of the older veterans die." Some of those interviews included first-hand accounts of life as a police officer in the early twentieth century, by the veterans themselves and also by elderly family

members.<sup>9</sup> Kenney captured some of this research in *On the Beat: A Pictorial and Oral History of the Royal Newfoundland Constabulary*, an illustrated book that he wrote with RNC superintendent Sim Wentzell in 1990.<sup>10</sup> The following year, Kenney helped put together a special issue of the *Newfoundland Quarterly* for the Constabulary's 120th anniversary. The beginning of this issue reprinted the first page of the magazine's inaugural issue from 1901, which featured a photograph of John McCowen, the inspector general of both the Constabulary and the St. John's Fire Department.<sup>11</sup> In 2001, the Society had the opportunity to purchase McCowen's medals, bringing them home to St. John's, where they are now displayed in the museum's new exhibit.<sup>12</sup> In a letter published in this special issue of the *Newfoundland Quarterly* in 1991, Chief Coady highlighted several recent accomplishments, including the museum and *On the Beat*, but noted as well that plans were under way for an academic history of the force. That study never materialized, but the Society did not give up hope, and the volume you are reading today is the result of its determination in capturing the Constabulary's history and ensuring that this legacy reaches a wide public audience. *Rough Justice* tells the story of policing and crime from the first constables in 1729 to the establishment of the Newfoundland Constabulary in 1871.<sup>13</sup>

In the opening decades of the twenty-first century, the RNC is proud of its past but is also embracing modern social and technical challenges. In 2005, the first class of RNC cadets graduated from a diploma program in police studies at MUN, while in 2008 the university launched a new multidisciplinary major in police studies aimed at engaging senior officers in critical and social thinking. The 2019 cadet class was the most diverse ever, reflecting changes in recruitment that targeted under-represented groups – including Indigenous peoples and new Canadians, women, and men already in mid-level careers and with families – and that saw recruits paid and the program shortened.<sup>14</sup> The force is involved in numerous community initiatives and charities, and has teamed up with the health care system to partner constables with mental health professionals. Gender imbalances are improving but still stark, as they are for most police services and armed forces in Canada and beyond. In 2018, women accounted for 120 of 404 constables, but only eight of seventy-four officers.

Initially, the Constabulary was the only police force in the colony, until a political and economic crisis led to the creation of the Newfoundland



Rangers in 1935. Patterned after the RCMP, the iconic Rangers not only policed remote areas, but served as health inspectors, game wardens, and forestry officers. They worked for the Department of Natural Resources. Following Confederation in 1949, the Ranger force was disbanded and absorbed into the RCMP, while the Constabulary was restricted to St. John's. Since the 1980s, however, the RNC has extended its reach to the growing Avalon capital region, Corner Brook, Labrador West, and most recently to Conception Bay South in 2018 – these combined areas cover nearly half of the province's population. Generally, the RNC polices urban communities while the RCMP, contracted by the provincial government, is responsible for smaller towns, rural districts, and highways.<sup>15</sup> Other key milestones in the RNC's modern history include: its role during the World Wars, on the home front but also overseas through constables who served and died in combat; the creation of the Constabulary Association in 1969, part of a labour battle that led to the resignation of a chief of police; Queen Elizabeth II's "Royal" designation in 1979, giving the province the distinction of having both of its police forces honoured by the Crown; the introduction of the first female constables the following year; and the re-establishment of the Constabulary's beloved mounted unit in 2003. In 2014, the RNC's new headquarters was officially opened in downtown St. John's. Costing nearly \$60 million, this state-of-the-art complex, complete with a firing range and training facilities, is built for the future but located near the archaeological ruins of Fort Townshend, the vacated British Army bastion that served as the Constabulary's first command centre and barracks following its establishment in 1871. It is also home to the RNC Archives and Museum.<sup>16</sup>

The term "rough justice" has many contexts. It can speak to the sometimes violent resistance that the Irish and servant classes exercised in eighteenth-century Newfoundland in response to the rough, discretionary punishments meted out by the British colonial state, or extra-legal customs such as charivaris that were used by plebeian groups to self-regulate social mores in nineteenth-century British North America.<sup>17</sup> A play about Newfoundland's early judicial system is even titled *Rough Justice*.<sup>18</sup> In this book, rough justice has a double meaning. In colonial Newfoundland, constables experienced rough justice on a daily basis. Positioned between courts and magistrates on the one hand, and criminals and communities on the other, they brought the law to people's doorsteps. Then as now, policing was dangerous work. Constables pursued violent offenders, suffered insults



and physical attacks, and were ordered to punish felons and vagrants corporally for the good of the state and the social order. In other words, rough justice was a badge of honour for these junior officers who enforced the law and helped make the justice system work over the eighteenth and nineteenth centuries.

Turning conventional wisdom on its head, this book focuses squarely on constables and contends that rather than peripheral figures, they were vital to the court system and to their communities. For the most part they were part-time policemen, untrained and unsalaried, but without them the courts could not have functioned. These early policemen have also suffered rough justice from their critics. From political commentators and Whig historians in the nineteenth and early twentieth centuries, to legal scholars over the past couple of generations, constables have been mocked as crude amateurs before the establishment of modern, professional law enforcement in the mid-nineteenth century – often dismissed as “Pre-Police,” or the “Police before the Police.” I challenge these arguments and terminology. Although this book traces the development of Newfoundland’s police service and legal institutions in a narrative framework, from their early eighteenth-century origins to the Newfoundland Constabulary in 1871, it argues that the nineteenth century largely brought continuity rather than major changes on the ground. Policing evolved slowly over time – as a custom of the country, and arm of municipal administration – rather than from political or constitutional milestones, at least until reform was forced upon the island suddenly during the 1870s, after decades of local resistance. This narrative is not a Whiggish march toward progress and modernization. Constables are purposely referred to as “police” throughout this book, because the services they provided to courts and communities, and the way in which regular people experienced law enforcement, changed relatively little from one generation to the next. Constables of the early nineteenth century provided the same basic services and level of professionalism as their “modern” successors, with many officers’ careers spanning both of those eras. The establishment of the Constabulary in 1871 – sometimes called the Terra Nova Constabulary in the early days – should be remembered as a landmark event, but it was not the start of policing in Newfoundland. It was preceded by almost 150 years of steady law enforcement and community service.

*Rough Justice* is the first detailed study of policing in early Newfoundland. Sergeant Fox’s book, now almost fifty years old, broke new ground in

introducing the Constabulary's history to a wider audience, especially the chapters on the later nineteenth and twentieth centuries that are based on primary research. Similarly, Melvin Baker, as part of a larger study on the municipal history and government of nineteenth-century St. John's, penned an important essay on policing in the capital.<sup>19</sup> But these studies are the exceptions in a historiography that has neglected law enforcement prior to the twentieth century. Beginning with Christopher English's formative article, "The Development of the Newfoundland Legal System," published in 1990, the legal history of Newfoundland has become an exciting field.<sup>20</sup> Supported by Project Daisy publications from the Law Society of Newfoundland and Labrador, many excellent studies have appeared on topics such as courts and legislation, crime and punishment, judges and lawyers, and increasingly on the role of customary law and gender – but not policing. In a recent survey of the legal historiography of Newfoundland, English skipped over it entirely.<sup>21</sup>

The same is true of general histories of the province. Judge D. W. Prowse, writing in his celebrated *History of Newfoundland* (1895), did not mention the formation of the Constabulary in 1871 despite being a prominent member of the legal establishment for decades who lived through and participated in these events, including commanding a high-profile special police force in 1870–71 to temporarily fill the void left by the British Army's departure. Constables are silent actors in Prowse's narrative.<sup>22</sup> More recent surveys, whether of a scholarly nature by Sean Cadigan and Patrick O'Flaherty, or those geared toward popular and student audiences by Kevin Major and the Newfoundland and Labrador Historical Society, largely ignore policing, too.<sup>23</sup> This neglect of early law enforcement does not constitute a myth, in the same category of myths that Senator Frederick Rowe debunked in the late 1970s when writing his own tome on the history of Newfoundland and Labrador, but it is a problem of historical inaccuracy and the main issue addressed in this book. In discussing the myth of illegal settlement in Newfoundland, Rowe used Keith Matthews's recently published article, "Historical Fence Building," to note that even if laws and regulations restricting settlement had been passed, that does not mean that they were enforced: "...implementation required law-enforcement agencies and since these were usually non-existent in Newfoundland, most of the legislation and decrees were no more effective than the multitude of dog acts that have been passed in the Newfoundland legislature during the past

hundred years.”<sup>24</sup> But Rowe was in danger of perpetuating his own myth on the absence of policing. While that was true of the seventeenth century, with the appointment of the first constables in 1729, police began to play key roles in the courts and communities of every district. Ironically, it was policemen who enforced the dog acts that Rowe dismisses with such flourish. It was the Victorian constable’s distasteful task, making him unpopular with his neighbours, to enforce nuisance regulations and protect the growing sheep industry. During the nineteenth century, constables shot dogs by the thousands.

In the British context, the Whig narrative focused on the establishment of the London Metropolitan Police in 1829 and the Irish Constabulary (later RIC) in 1836. Each force had a major influence on the spread of law enforcement and police reform in Britain and the Empire, well into the twentieth century. Unlike the justice of the peace, that cornerstone of British justice at home and in the colonies, constables received harsh treatment from Victorian reformers and early historians of the British police. Both offices date back to medieval England, but whereas the magistrate was a respected and even revered figure, the parish constable and night watchman were lampooned in popular culture – if not weak, old, and incompetent, then the early policeman was corrupt and sinister. The comically bumbling Dogberry from William Shakespeare’s play *Much Ado About Nothing*, written at the turn of the seventeenth century, is perhaps the best example of this mockery. The comedy is set in Messina, Italy, with Dogberry the head of the citizen-police and night watch. In his instructions to Verges, his sidekick, and to the rest of the watchmen, Dogberry explained:

If you meet a thief, you may suspect him, by virtue of your office, to be no true man; and, for such kind of men, the less you meddle or make with them, why the more is for your honesty.

In reply, the men ask Dogberry if they do come across a thief during their nightly patrols, should they take him. He responds:

Truly, by your own office you may; but I think they that touch pitch will be defiled. The most peaceable way for you, if you do take a thief, is to let him show himself what he is and steal out of your company.

In answering Don Pedro, who asked Dogberry why the police had arrested

two of his men:

Marry, sir, they have committed false report; moreover, they have spoken untruths; secondarily, they are slanders; sixth and lastly, they have belied a lady; thirdly, they have verified unjust things; and, to conclude, they are lying knaves.

And, finally, Dogberry for posterity:

But, masters, remember that I am an ass; though it be not written down, yet forget not that I am an ass.<sup>[25](#)</sup>

Shakespeare's satire was a commentary on policing in Tudor-Stuart London. He was familiar with constables and watchmen, not only because he lived in the city but also from his father, who served as a constable in their ward.<sup>[26](#)</sup> By the 1970s, the Dogberry caricature was replaced by a more scholarly assessment of policing, which reflected social historians' new interest in crime and society. Ideological debates swirled about the uses of the law, whom it served, and the role of discretion and decision makers.<sup>[27](#)</sup> Historians such as Clive Emsley, Joan Kent, Stanley Palmer, Peter King, J. M. Beattie, and V. A. C. Gatrell have shown that the evolution of policing in the British Isles was more gradual than previously thought, with earlier reforms in London, Scotland, and Ireland. The rise of the "new police" in 1829 was a process, not an event. That process may have had just as much to do with centralizing authority as it did the bobby's new-found professionalism. Even the much-ridiculed night watch is now seen as anticipating some preventative police duties of the modern era.<sup>[28](#)</sup>

Stemming largely from the Osgoode Society for Canadian Legal History, legal historians in Canada have been producing voluminous work for years.<sup>[29](#)</sup> As historian Greg Marquis explains, police studies in Canada have focused primarily on the North West Mounted Police (1873), forerunner of the RCMP, and the creation of the new police in urban British North America: "full-time, uniformed and salaried public servants that appeared in the middle of the nineteenth century, initially to preserve order and enforce criminal law and bylaws in cities," in places like Saint John, Toronto, and Hamilton.<sup>[30](#)</sup> The London and Irish forces of the 1820s and 1830s were influential in shaping Canadian police reform. According to Allan Greer in

his seminal article, “The Birth of the Police in Canada,” these developments have forced historians to ask new questions about state formation, the “colonial leviathan,” and social control.<sup>31</sup>

Yet we still know remarkably little about constables in the eighteenth century, especially in Atlantic Canada. Jim Phillips has produced a masterful collection of articles on crime and the courts in Nova Scotia during the eighteenth and early nineteenth centuries, but constables only get passing references.<sup>32</sup> In another important study, Donald Fyson takes issue with Quebec’s historiographical orthodoxy. He argues that constables exhibited far more professionalism than they have been given credit for, and that there existed significant continuity in how *habitants* experienced “everyday policing” between the French and British regimes, and between the eighteenth and nineteenth centuries. This mirrors my own revisionist arguments about the gradualism of law enforcement and police reform in Newfoundland in this book.<sup>33</sup> Apart from the much-romanticized Mounties of the Canadian West, following the Confederation of Canada in 1867, another scholarly gap is our understanding of rural policing – a major vacuum, because until the twentieth century most Canadians did not live or work in towns and cities. The impression we are left with is that the old system of part-time constables and amateur justices of the peace changed little over time. In Newfoundland, by comparison, constables stretched from the south shore to the northeast coast, almost anywhere there was British settlement during the eighteenth and nineteenth centuries. And while their duties remained much the same from one generation to the next, rural constables served in significant numbers and played vital roles as officers of the court and in community regulation. If they were more important to Newfoundland’s justice system than constables elsewhere, this may have been because they were part of a larger “provincial” or colonial police service.<sup>34</sup>

Exceptionalism is a tenet of Newfoundland historiography. The traditional argument is that the island was an outlier, which followed a unique colonial path that had little in common with its British North American neighbours. Peter Pope and Jerry Bannister, on the seventeenth and eighteenth centuries respectively, have drawn upon Atlantic world and Canadian scholarship to question that exceptionalism. Pope shows how the Newfoundland plantation played a key role in the Atlantic economy and that it developed on a similar scale as colonies in Maine and Acadia. In his thesis

on Newfoundland's naval state in the eighteenth century, Bannister argues that while different in appearance and composition, the key elements of that state – governor, courts, magistrates, penal system – performed the same function as in other British jurisdictions.<sup>35</sup> One could make the same observation about policing in Newfoundland. The middle of the nineteenth century, reflecting trends in Britain and Ireland, saw a major shift with the creation of modern and professional police services in Canada. That shift was real, but what I found in Newfoundland is that the evolution of law enforcement was gradual, with significant continuity from one generation to the next. By the 1820s, St. John's had a small urban constabulary with a hierarchy, rules, beats, and uniforms, and the men who worked on that force were salaried, full-time, and accountable. There is no question that this force became more organized, bureaucratic, and professional over time, but that process was slow, not abrupt. Many of the same constables on the force in the 1820s also served in the 1810s and 1830s. In other words, many of the part-time amateurs from the old system were now full-time professionals. On the ground, the tasks that constables carried out in the criminal justice system and in town administration were largely the same, and the way civilians experienced law enforcement did not change in a tangible way.

None of this diminishes the importance of the “new police,” but it is important to understand that change happened slowly, unevenly across British North America, with significant continuity in the form and function of police units and individual constables across generations. Indeed, when comparing St. John's to other Canadian cities, there are many similarities. For instance, Marquis shows that the duties of constables in the nineteenth century – in all places – were more about public order than crime control, with much of their time spent on miscellaneous functions related to community administration and regulation. St. John's may not have had a town council in the 1820s, but there was still municipal administration, with constables performing the same functions as in other Canadian urban centres. The nature of those institutions may have looked different, but everyday policing and urban justice did not. Generally, what struck me in reading Marquis's discussion of early police reforms is that many of these same things were happening in St. John's at roughly the same time: such as the relative size of the force, uniforms, weapons, command structure, rules and districts, lack of training, transition to full-time and salaried officers, establishment of a process for disciplining and firing constables, and the



formal separation of the magistracy and police.<sup>36</sup>

As James Candow and David Facey-Crowther have shown, there were also striking parallels in how army garrisons were used after 1832 to provide aid to the civil power – the civil authorities, law officers, and staff of local government – in British North American cities. Not only did they face down sectarian-fuelled crowds in places like St. John's and Montreal, often at election time, but those jurisdictions all used the troops as an excuse not to bolster or reform their police services. Britain wanted colonies under responsible government to take control of their own security, but that was expensive, and the cost of the army and navy was borne overwhelmingly by London. Not surprisingly, police reform would coincide with Britain's military withdrawal from Canada.<sup>37</sup> Newfoundland is also part of a larger narrative on policing in the Empire. Both the Constabulary in 1871 and the North West Mounted Police in 1873 were shaped to some degree by the paramilitary RIC, as would be new police forces in Australia, Africa, and India in the decades to follow. But was there an Irish model of colonial policing, or did local factors and power structures play a more important role? This has been much debated in the historiography. In Newfoundland, the new police of the 1870s was structured after the RIC, wore similar uniforms, perhaps followed the same ethos, and many early police chiefs were trained in the RIC. On the other hand, the Constabulary was never a police "force" like in Ireland and some of the later colonies of settlement, where law enforcement also provided military security and were resented as imperial intruders. The Constabulary was a police "service," as its predecessors had been, more like the example in London. Policing in Newfoundland, and throughout the Empire, was therefore a complicated endeavour in which each jurisdiction followed its own unique trajectory.<sup>38</sup>

This book is a social and legal history of Newfoundland. It reflects what British historian Eric Hobsbawm once called grassroots history or "history from below," which tells the story of ordinary people and their everyday lives and struggles, often with authority and governments – focusing on peasants instead of lords, workers instead of employers, and constables instead of police chiefs and magistrates.<sup>39</sup> Of course, constables in Newfoundland, even in the old days, were instruments of the state and the courts, and by extension law enforcement was intertwined with the larger political and economic development of the island. In other words, there is plenty of discussion of governors, politicians, and elites in this volume. In the spirit of

grassroots history, however, this book focuses specifically on the office of the constable and the lived experiences of the largely anonymous men who enforced the law over the eighteenth and nineteenth centuries – dedicated officers such as William Phippard in St. John’s and Richard Sullivan at Ferryland. As Greg Marquis notes, with an emphasis on the period before the mid-nineteenth century, one of the most important but least researched topics in Canadian police studies pertains to the social history of the police: “What, above all, did they do on a day-to-day basis?”<sup>40</sup> That is the question this book seeks to answer. From the vantage point of the twenty-first century, some early police work may appear mundane or even boring, but enforcing court orders and providing community services were critically important, just as they are now. Nor were these activities always routine or safe. The diaries of High Constable Luke Fallon in Harbour Grace during the 1870s, and particularly of Sergeant Thomas Wells at Little Bay in the 1880s, illustrate this point vividly – from night patrols and regulating booze, to hunting dogs and facing down angry miners. Unfortunately, both of these first-hand accounts are slightly beyond the time frame of this volume.<sup>41</sup>

Up to the 1840s and 1850s, and significantly later in the outports, constables are largely invisible in the documentary record. Even in court documents, on which so much of the research for this book is based, constables appear only in passing, in depositions, petitions, trial summaries, and financial tables. Nevertheless, court records have been invaluable, because they are one of the few primary sources the historian possesses to investigate the lives of ordinary people in the early-modern period, sometimes even in their own words. This book is based on a detailed survey of court records for every district up to the 1820s: including the Assizes and Supreme Court, Surrogate Courts, and Quarter Sessions. Structurally, it follows a chronological framework, but thematically makes frequent use of storytelling and case studies ranging from Ferryland on the southern Avalon Peninsula to Trinity running up the east coast. Geographically, a concerted effort was made to weave as many communities as possible into the narrative, regardless of whether they were rural or urban, because one of the distinguishing features of law enforcement in Newfoundland both before and after 1871 is that it was a colony-wide endeavour. The study area roughly comprises the old English Shore – that sphere of British influence from Fortune Bay in the south to Notre Dame Bay in the northeast. With few exceptions, this volume does not discuss Labrador in significant detail,

Indigenous governance, nor the vast expanse of the French Shore – that sovereign, evolving fishing territory on the north, west, and south coasts held by France until 1904.

This narrative begins with the facts and folklore surrounding the infamous fishing admirals. Chapter 2 explores the legal and policing vacuum that existed in Newfoundland prior to the 1730s, when successive British governments failed to formulate a consistent vision for the island that balanced the economic interests of the migratory fishery, strategic considerations in a period of endemic Anglo-French warfare, and the reality and responsibilities that came with permanent settlement. On paper, fishing admirals and early governors enjoyed wide-ranging judicial powers, but they did not exercise them in practice. During the 1670s, in the context of a political debate over the future of settlement, the Royal Navy assumed a governing, bureaucratic, and legal authority on the island. By the opening decades of the eighteenth century, naval surrogates held courts of law at St. John's and along the coast, but the fear of crime and disorder remained a problem after the Newfoundland squadron departed each fall. The home government was reluctant to introduce colonial and legal infrastructure, rejecting a 1705 petition for appointing magistrates and constables. In 1729, after decades of legal confusion, it finally ordered the naval commodore to double as the colonial governor, with broad powers to establish courts, law officers, and penal institutions. Chapter 3 explores the birth of the police in Newfoundland. During the 1730s, Governor Henry Osborne appointed the first magistrates and constables within a new district legal system, but he encountered stiff and occasionally violent opposition from some fishing admirals and West Country merchants. This chapter places policing in Newfoundland in its larger British context, allowing for comparisons of the circumstances of these part-time constables and their socio-economic status. From middling backgrounds, they were men of action and respectability in their communities. Though not much else is known about them, they played a key role in regulating drinking and community norms, particularly on the Sabbath or Lord's Day. By the 1750s they had emerged as officers of the court in attending the courts in session and executing a wide range of court orders, such as warrants, attachments, and summonses. For the St. John's Assizes, they arrested criminals in some of early Newfoundland's most notorious trials, such as the murder of William Keen in 1754. This put them in harm's way, particularly when working alone or after dark. Constable John

Worth found this out the hard way while serving on the night watch at St. John's in 1754. Finally, a case study of Trinity Bay reveals that rural policing had just as much to do with moral regulation, as stipulated by the church, than it did with justice and the courts of law.

Moving into the second half of the eighteenth century, Chapter 4 examines these officers of the court in more detail. It argues that constables were pillars of the early legal system, not just in St. John's but also in regional centres such as Harbour Grace and in many rural and isolated districts. Newfoundland's court system operated on several levels. In St. John's, constables were entrenched in the apparatus of the Assizes (later the Supreme Court) and testified at major criminal and commercial trials. However, both St. John's and the outports also depended on inferior tribunals, such as naval Surrogate Courts and the Quarter Sessions. Using local court records, this chapter investigates policing at Placentia and Ferryland. Located on the south coast – or southern shore, a general term for the territory from the south Avalon in the east to Harbour Breton in the west – these were heavily Irish Catholic communities. Despite laws in Britain and Newfoundland that barred Catholics from holding public office, those official restrictions against Catholicism were somewhat relaxed for constables on the ground. But the civil power was no match for large crowds and popular demonstrations, as seen in Prince William's visit to Placentia in 1786 and in the Ferryland Affray of 1788. This chapter also compares policing in Newfoundland with other Canadian colonies. As strange as it sounds, by the 1790s, a system had developed in St. John's whereby tavern keepers (called publicans, as operators of public houses) were forced to moonlight as constables to obtain their liquor licences. The tavern-keeper system was no joke. John Widdecombe, owner of the Rose and Crown tavern, actively served as a policeman throughout the Napoleonic era. Police reform developed incrementally. An independent and salaried St. John's magistracy exercised increasing control over the police, while in 1812 Governor John Duckworth established the town's first full-time constabulary in the context of the War of 1812. Led by High Constable William Phippard, it consisted of twelve officers. Using colourful examples, Chapter 5 analyzes constables' role in punishing offenders, even whipping them with the bloody cat-o'-nine-tails, as well as assisting the military in pursuing deserters and providing wartime security. These trends also played out in the outports, where constables continued to serve as officers of the court. The Napoleonic