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John Reeves, Esq. Newfoundland's First Chief Justice: English Law and Politics in the Eighteenth Century

MARK WARREN BAILEY

JOHN REEVES, Newfoundland's first chief judge, was appointed by the Board of Trade in 1791 to head Newfoundland's newly-formed Court of Civil Judicature and in 1792 to act as the Chief Justice of the Supreme Court of Judicature. Reeves spent only two seasons in Newfoundland, a relatively short period in a long and distinguished legal and literary career. He is significant today for his important influence, as the author of the island's first comprehensive history, on the character of its historiography. Reeves's ideas have exercised an enduring intellectual influence on both scholarly and popular perceptions of Newfoundland's history, and his perception of Newfoundland's history and society provide a fascinating portrait of the intellectual, legal, and political milieu of Georgian England.

John Reeves was born the son of John Reeves of St. Martin-in-the-Fields, London, in 1752 or 1753. He was educated at Eton and, after failing to obtain a fellowship at King's College at Cambridge, continued his education at Merton College, Oxford, from which he matriculated in 1771. He graduated from Oxford University with a B. A. degree in 1775 and in the autumn of that year was elected a Michel scholar at Queen's College. During the autumn of 1777, he completed his M.A. degree and was appointed a fellow at Queen's. Reeves undertook his legal education at the Inns of Court in London, where he was called to the bar at the Middle Temple in 1779. The following year, he was appointed a commissioner of bankrupts — an office marking the start of his long career in public service. In 1787, he was appointed legal counsel to the Board of Trade and was serving as a law clerk for the Board's American Department when he received his appointment as chief judge of the Newfoundland court in 1791.[1] Reeves was a political follower of William Pitt and benefited from this connection in the years after his sojourn in

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Newfoundland. In 1794, he received a payment of five hundred pounds for each of his two terms in Newfoundland and was later appointed as a superintendent of aliens and as the King's printer.

Reeves energetically pursued the scholarly interests he had developed at Oxford throughout his life and achieved notable success as a legal historian and political writer, publishing many works on a wide range of topics. In 1779, he published *An Enquiry into the Nature of Property and Estates* and a graphical history of crimes and punishments.[2] In 1789 he was elected a fellow of the Royal Society of Antiquaries in recognition of his extensive research into the history of the common law and became, in 1790, a fellow of the prestigious Royal Society. These honours recognized the steady flow of historical, legal, and political works which, for three decades, had flowed from Reeves's pen.

Also in 1789, he examined the legal implications of the regency government for English rule in Ireland and in 1801 the constitutional implications of the Act of Succession.[3] Reflecting his long involvement with the Board of Trade, Reeves explored, in 1814, the question whether Americans born before the War of Independence retained their English citizenship.[4] He used his knowledge of ancient languages to investigate religious questions and published in 1800 a *Collation of the Hebrew and Greek Texts of the Psalms* and later developed plans for the distribution of free Bibles to the poor.[5]

This sketch of Reeves's life suggests that he was a minor, if reasonably well-known, member of English officialdom, who could afford to indulge his antiquarian interest in the law. That characterization provides a narrow view of Reeves's life and accomplishments and fails to reveal the context of eighteenth-century Enlightenment historicism, natural law theory, and Whig social and political ideas reflected in his reports and recommendations concerning legal, judicial, and political reform in Newfoundland, his *History of the Government of the Island of Newfoundland*, and his widely read *History of the English Law*.[6] Rather than a minor office holder, Reeves should be viewed as a product of the eighteenth-century Enlightenment, with its powerful conjunction of natural law theory, Protestant theology, and Lockean empiricism, and more importantly, as an example of the intellectual tensions within Whig political ideology.

Reeves is best known in Canada for his *History of the Government of the Island of Newfoundland* (hereinafter cited as *History of Newfoundland*). In an article surveying the historiography of Newfoundland, Keith Matthews correctly suggested that Reeves's groundbreaking history largely defined both the subject matter and character of histories written prior to the 1970s and popular perceptions of the island's history. By the end of the nineteenth century, Reeves's version of Newfoundland's history, popularized in the writings of early nineteenth-century reformers like William Carson and Patrick Morris, had become, in Christopher English's words, "holy writ,"[7] exercising a profound influence over D. W. Prowse's influential *History of Newfoundland,* early twentieth-century academic historians such as

Agnes M. Field, A. H. McLintock, and R. G. Lounsbury, and even recent popular histories such as Frederick W. Rowe's *History of Newfoundland and Labrador*.[8] Matthews has described Reeves's work in disapproving tones as embodying "contemporary official attitudes." Among these attitudes were Reeves's belief that government was an indispensable element of civil society, that the administration of justice was the foundation of government, that at the heart of Newfoundland society lay a conflict between hostile social and economic interests, and that the colony's growth had been retarded by that conflict and the absence of effective local government. Matthews also distinguished Reeves's alternately authoritarian and protective attitudes toward the lower classes, his obvious antipathy toward the legal and political pretensions of the merchantocracy, and his tendency to analyse the island's condition from the perspective of the metropolis or, at least, from St. John's. Matthews properly identified Reeves's attitudes with the Whig political ideology that dominated English politics until the end of the eighteenth century and successfully demonstrated Reeves's lasting influence on Newfoundland historiography.[9] He did not, however, explore the intellectual, legal, and political foundations of Reeves's attitudes and the degree to which they coloured his view of Newfoundland and embroiled him in the fractious politics of the Georgian age.

When Reeves arrived in Newfoundland in September, 1791, he found the island's legal system in crisis. For nearly a century, Newfoundland had endured a justice system established by King William's Act of 1699 and subsequently modified by successive orders-in-council and local practice.[10] Embodying a long tradition in parliamentary statute making, the Act of 1699 had been designed to systematize and clarify the law as it applied to Newfoundland by codifying "the sporadic pronouncements of the Royal Prerogative" as applied by chartered companies and the fishing admirals over the preceding century. Largely concerned with protecting and regulating the fishery, it also created a new legal role for the state by allowing appeals from the summary justice of the fishing admirals to the officer commanding the naval squadron annually sent to patrol the island's coasts, required the transportation of felons accused of capital crimes to England for trial, and recognized the fact, if not the legality, of settlement. As Christopher English has shown, the provisions of King William's Act formed the foundation of Newfoundland's judicial system throughout the eighteenth century.[11]

Recent historians have suggested that the Act was a "disappointment and a missed opportunity" to historians of Reeves's "liberal" school. Enacting existing rules and regulations, it was retrospective rather than pro-active and supposedly did little to create a legal regime designed to encourage Newfoundland's development into a colony.[12] Reeves certainly asserted that the Act's regulatory and judicial provisions were often ignored by fishermen and settlers alike, and he and early nineteenth-century reformers such as Patrick Morris maintained that the fishing admirals on whom fell the responsibility of enforcing the statutory regulations did not greatly concern themselves with preserving the peace or ensuring that justice

was fairly administered.[13] Such criticisms did not make Reeves a liberal, whatever use of his ideas was subsequently made by nineteenth-century reformers and historians. Moreover, subsequent modifications after 1729 of the legal regime created by the Act suggest that the inadequacies of King William's Act for the task of governing even so small a population as Newfoundland's were recognized in the early eighteenth century. In 1729, Captain Henry Osborne was named governor and commander-in-chief of the colony and authorized by order-in-council to appoint magistrates empowered to hear noncapital criminal cases and civil cases unconnected with the fishery. Osborne divided the colony into six districts, appointed sixteen magistrates, and provided each one with an engraved edition of Shaw's *Practical Justice of the Peace* (London, 1728) and copies of the navigation and fisheries acts — these likely being the only law texts on the island.[14]

The judicial system created in 1729 grew during the decades between Osborne's and Reeves's tenures to meet the needs of an expanding resident fishery, a growing population, and the dictates of imperial policy. An order-in-council created a court of Vice-Admiralty in 1744 to try customs cases and court of oyer and terminer in 1750 to hold criminal trials. By the 1780s, however, the growth of the island's population, its participation in the Atlantic trade, and the development of a resident fishery and commercial community threatened to overwhelm Newfoundland's rickety judicial system.[15] During Governor Richard Edwards's second term of office (1779-1782), a merchant dissatisfied with the Newfoundland sessional court's judgement against his property brought an action of trespass against Edwards in the English courts holding the governor personally liable for the Newfoundland court's judgment. Fortunately for Edwards, the case was settled before it came to trial, but the incident made clear the unsteady statutory and jurisdictional ground upon which the island's courts stood. In 1782, Governor John Campbell (1782-1786) was advised by the Board of Trade not to sit in sessional court or else risk personal liability for his judgments.[16]

The root of the problem lay in the wording of King William's Act. The Act clearly stated that criminal trials for felonies (capital crimes) committed in Newfoundland should be tried in the English county courts, jurisdiction over which was transferred to the Newfoundland court of oyer and terminer in 1750. The Newfoundland sessional courts' jurisdiction over civil trials was, however, less clearly established. The Act of 1699 gave to the fishing admirals, in addition to their seasonal jurisdiction over misdemeanours, police powers and jurisdiction over civil issues connected with the fishery and involving masters, boatkeepers, and inhabitants. There was, however, no provision in the Act for year-round sessional courts or mention of merchants, who, based almost exclusively in England, presumably remained free to take their cases to the English county courts.[17] Subsequent orders-in-council did not alter these provisions. Sessional courts after 1729 legally possessed only a seasonal jurisdiction and a questionable civil jurisdiction over the commercial activities of the West Country merchants. Thus, the orders-in-council

through which the Board of Trade effectively created Newfoundland's indigenous legal system during the eighteenth century were, as Christopher English has noted, "illegal to the extent that they were incompatible with *King William's Act* of 1699, reaffirmed in 1775 [15 Geo. III, c. 31 (1775)] and 1786 [26 Geo. III, c. 26]."[18] The inglorious end of sixty years of legal development in Newfoundland came in 1787, when Richard Hutchings challenged before the Devonshire Quarter Sessions a fine levied by the Newfoundland sessional court on his property. The Devonshire court not only overruled the Newfoundland court's decision but ruled as well that it possessed no civil jurisdiction beyond the limited seasonal powers granted by King William's Act. Despite the unsuccessful efforts of Governor Elliot to transfer civil cases to the court of Vice-Admiralty and of Governor Milbanke to create a court of Common Pleas possessing both criminal and civil jurisdiction, the Devonshire decision effectively left Newfoundland with no civil courts until the passage of the Judicature Act of 1791.[19]

Reeves was not long in reaching his own conclusions concerning the source of Newfoundland's difficulties and clearly stated his opinion on the first page of his *History of Newfoundland*. Parallelling the prevailing view of English constitutional history, in which court and country, tyranny and government according to law, were perennial protagonists, the island's history had, he observed, been comprised of "the struggles and vicissitudes of two contending interests" — the "*planters* and *inhabitants*" versus "the *adventurers* and *merchants*." Inhabitants of all classes possessed an interest in establishing and maintaining a government capable of providing the "protection of a government and police" and an impartial administration of justice.[20] The seasonal fishery and its agents possessed, in Reeves's view, no such interest and indeed appeared to benefit from the absence of local government authority and from their ability to run roughshod over the rights of their employees and the island's inhabitants. In the 1760s, William Blackstone, reflecting the view of eighteenth-century natural law theorists that government was an indispensable part of an orderly society, had written that "when society is once formed, government results of course, as necessary to preserve and to keep that society in order."[21] Like Blackstone, Reeves believed that a civilized and prosperous society was inconceivable without government and that the lack of government and the social conflict that its absence entailed retarded the colony's development. Thus, he wrote "the great and pressing evil at Newfoundland, has been, and still is, the want of a regular and firm Administration of Justice." In his view, strengthening the colonial government and the administration of justice would curb the wayward and antisocial behaviour of both the lower class and the merchants and their agents who dominated Newfoundland society, making possible the advancement of colonial society.[22]

Given his background in the legal profession, it is not surprising that Reeves viewed the solution to the island's problems as lying with the creation of a permanent court system staffed by "proper persons" possessing some acquaintance

with "*the Law, and usage* of the Place" and experience resolving "Controversies, in something like a judicial Form."[23] Reeves was, however, hardly alone among his contemporaries in his equation of good government with justice and the rule of law or in his belief that the courts represented "the strongest arm of the political system."[24]

Reeves's principal complaint with the admiral system, the *ad hoc* modifications of King William's Act during the course of the eighteenth century, the behaviour of the West Country merchants and their agents, and the disorderly conduct of the general populace was the collective failure to preserve the peace, to see that justice was impartially administered among all orders of society, and to maintain the social order upon which a virtuous and prosperous society depended.

Reeves's opposition to the West Country interests in Newfoundland was well-known. Less well known was his opinion of the lower classes. In both instances, Reeves's attitudes were products of his view of the natural order of English society and politics — a social and political order in which the wage-earning poor, small property owners, and members of the merchantocracy neither deserved nor possessed direct access to the political power concentrated in the hands of the landed gentry. In his manuscript copy of the *History of Newfoundland*, Reeves revealed the prejudices against the poor inherent in a highly stratified society like that of eighteenth-century England. Like most members of the propertied elite in a society lacking effective peacekeeping machinery, Reeves abhorred public disorder and any circumstance which might encourage a popular attack on wealth. Although studies on crime and the courts carried out by Christopher English suggest that Newfoundland society was peaceful in comparison to contemporary England, the poor were, in Reeves's view, always a potential threat to one another and to the propertied elite. He complained that 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." Wholly agreeing with eighteenth-century moral and legal theory viewing unemployment and criminal activity as the products of immorality, he was profoundly disquieted by the fact that "except at St. John's, they [the people] have not any where the necessary Offices of Religion administered to them." Reeves's suspicion of the lower class was strongly reinforced by his observation that "the greatest part of them are Roman Catholics." In eighteenth-century Whig thought, this bare statement carried all the weight of Protestant England's prejudice against Catholics in general and Irish Catholics in particular. Reeves's prejudices were undoubtedly reinforced by his knowledge that the Irish question and Catholic emancipation remained contentious and potentially explosive issues in English politics and might well have the same effect in Newfoundland. An ineffective judicial system and the absence of the Church of England as important props for the social and political *status quo* were two reasons, in his opinion, for Newfoundlanders living "in the most Savage State, abandoning themselves to every Species of Debauchery, & Extravagances," sub-

sisting "for the greatest part, by Robbery, Theft, and every Species of Violence, and Wickedness."[25]

Reeves asserted that the island's judicial system was fatally flawed and that its shortcomings contributed to the violence and wickedness that he claimed to see on every side. The fishing admirals were employed by the merchants, and placing the administration of justice in their hands had effectively left the island "to the mercy of the adventurers" and their agents. Justice, Reeves declared, was unlikely to be obtained in cases where the interests of the shipowners who employed the fishing admirals conflicted with those of a poor planter or inhabitant, and he observed that in practice the admirals frequently displayed "a partiality towards the description and class of persons with which they were connected."[26] Reeves levelled the same complaint against the resident magistrates, who, after 1729, dealt with "the greater proportion of the Business arising from Disputes between masters and servants about Wages, neglect of Duty, Salvage money and the like."[27] As Blackstone also asserted, judicial bias undermined the all-important perception that justice be seen to be done. Not only did such injustice abrogate every Englishman's right of access to the courts for the redress of wrongs, it weakened the social bonds upon which civil society depended.[28]

Reeves's belief that the law was best administered by gentlemen, rather than those employed in the "pursuit of gain," perfectly illustrated the gentrified ideals of Whig government in eighteenth-century England and its attachment to a highly stratified social structure in which land remained the best measure of wealth and social worth and "proper persons" were invariably members of the landed aristocracy. He observed:

> There has always been a Difficulty in this Island to find proper Persons to fill the Office of Magistrate. There are no *Residents*, but such as are in the Pursuit of Gain in some way or other. And it must be very difficult, for the best intentioned man, so circumstanced, not to feel sometimes a bias that would disqualify him for deciding between his neighbours. If you have no choice but of a *Merchant* or a *Boatkeeper* or a *Planter*, how are you to fix on a Person that will determine without a secret feeling, where the Dispute is between Master and Servant...?[29]

The proper staffing of the court system was, Reeves believed, as much a social and political issue as one of appointing qualified magistrates. In the *History of Newfoundland,* the primacy of landed wealth and the social and political ideals of the English gentry were implicitly assumed, while contemporaries such as William Blackstone and Edmund Burke explicitly stated the conviction that the aristocracy were the natural rulers of the state.

Blackstone declared in the opening pages of his *Commentaries* that a competent knowledge of law was "the proper accomplishment of every gentleman and scholar; an highly useful, I had almost said essential, part of liberal and polite education." He described this class of men as "our gentlemen of independent estates

and fortune, the most useful as well as considerable body of men in the nation."[30] These independent men were the social order upon which the political and judicial establishments depended. When Reeves condemned the "pursuit of gain" as a quality unworthy of those involved in government and the administration of the law, he echoed Burke's belief that those in authority "should be respectably composed, in point of condition in life or permanent property, of education, and of such habits as enlarge and liberalize the understanding." These were the qualities which Reeves found lacking among the merchants and planters who exercised authority in Newfoundland. Such men, men "snatched," as Burke phrased it, "from the humblest rank of subordination," were "too much confined to professional and faculty habits" to possess the liberal understanding and experience of mixed affairs necessary to govern effectively. Traders, Burke affirmed, could not be expected to know "anything beyond their counting houses" nor to rise above the state in which God, nature, education, and the habits of their lives had placed them. "It was," he felt, "inevitable; it was necessary; it was in the nature of things," that they should pursue their private advantage over the interests of the commonwealth.[31] Positions such as that of magistrate ought to be reserved for gentlemen, giving them "a very ample field" in which "to exert his talents, by maintaining good order in his neighbourhood; by punishing the dissolute and idle; by protecting the peaceable and industrious; and, above all, by healing petty differences and preventing vexatious prosecutions."[32] This was the natural order of society. In contrast, when power was placed in the hands of men of humble occupations and limited views, "men not taught habitually to respect themselves" and "who had no previous fortune in character at stake," they "could not be expected to bear with moderation, or to conduct with discretion" the power they were allowed to wield.[33]

In this context, Reeves viewed as suspect the motives of even the professional middle class whenever the financial and political independence of its members was limited by circumstances. Thus, he saw little benefit in appointing surgeons to act as magistrates in Newfoundland, for they generally owed their employment to the West Country merchants or their local agents.[34] He felt that the same was true of the handful of Anglican clergymen sent out to Newfoundland by the Society for the Propagation of the Gospel. The prohibition barring clerics from agriculture and the pursuit of trade would normally have made them suitable candidates for appointment as magistrates. The small salary paid by the SPG and the absence in Newfoundland of established parishes and the livings attached to them meant, however, that the clergy were frequently dependent on the merchants for at least a portion of their income. In order to correct this situation, Reeves recommended that the government pay each member of the Anglican clergy a supplementary salary of £100 *per annum* so as to make them both financially independent and an object of respect in the community.[35]

A self-interested pursuit of gain that precluded the development of a liberal understanding and a sense of public virtue was Reeves's principal complaint against

the merchantocracy — a complaint echoed in Adam Smith's *Wealth of Nations*. There, Smith cautioned against creating laws or regulations based upon recommendations drawn "from a class of men whose interest is never exactly the same with that of the public, who have generally an interest to deceive and oppress the public, and who accordingly have, upon many occasions, both deceived and oppressed it."[36] In this vein, Reeves asserted in 1793 before a parliamentary committee that there was "a set of Men who have invariably set themselves against every Attempt to introduce Order and Justice into that Island." These men, he observed, "looked upon Newfoundland as their own Property, to be enjoyed exclusively of all the Rest of his Majesty's Subjects," and they endeavoured at every opportunity to secure their private interests at the expense of the prerogative of the Crown and of the public.[37] Reeves believed that the abuses of the merchants and their agents and the apparent inability or unwillingness of the magistrates to correct them encouraged civil disorder and actively worked to retard the island's development into a full-fledged colonial society. In this connection, he observed that "articles of importation" including staple foods were "engrossed by a few opulent Merchants, Storekeepers, and considerable Boat keepers, who retail them to the rest of the Inhabitants ... at exorbitant prices." As a result, all profit from the fishery tended to accrue to the merchants, while the majority of inhabitants remained desperately poor and at the mercy of the merchants to whom they were indebted.[38] Reeves's own experience in the courts showed that actions of debt against poor inhabitants formed a large proportion of the lawsuits occupying the attention of the courts. Another fruitful source of vexatious lawsuits was the efforts of the merchants and their agents to avoid paying their own obligations in a timely fashion.[39] For example, Palliser's Act, in an effort to reduce the number of men remaining in Newfoundland at season's end and to insure that all profit from the voyage was not engrossed by the merchants, gave employees a wage lien against the profits of the season, placed a limit on the amount of money, liquor, or goods which employers could advance to employees during the course of the season, with remaining wages to be paid in money or bills of exchange drawn in England, and ordered employers to make wage contracts with their employees requiring the deduction of forty shillings to serve as return passage money.[40] These provisions were, as Reeves observed, frequently circumvented. Employers often misappropriated passage money. They were even known to collect passage money from permanent inhabitants employed in their service.[41] Although Reeves may have overstated the extent to which merchants were successful in evading payment of their debts, Sean Cadigan's recent studies have shown that their efforts certainly provided a steady flow of business for the sessional courts.[42] The number of unemployed and unattached young men in Newfoundland was not significantly reduced, and these men, lacking both employment and property, remained an imposition on the colony's primitive charitable institutions and a fertile source of criminal activity.[43]

Recent analyses of Newfoundland's development during the second half of the eighteenth century have downplayed Reeves's argument that the island's retarded development was due largely to the self-interested obstructionism of the West Country merchants. Instead, some economic historians have examined the impact of the island's economic dependence on a single staple product and the inability of the cod fishery to support sustained, diversified economic development.[44] Others have explored the emergence of the truck system, arguing that it was created and dominated by the merchantocracy,[45] while others have concentrated on the economic forces that encouraged the creation of a labour system dependent on family-based production.[46] Reeves may or may not have accepted the details of these sophisticated models; however, he would surely have taken issue with the modern view that his essentially moral analysis "of honest fishermen suffering in virtual serfdom under despotic merchants" was uncritical and simplistic.[47]

Agreeing with the eighteenth-century view of political economy as an offshoot of moral philosophy, Reeves believed that economics were not divorced from morals and that Newfoundland's situation must be studied in moral terms. Thus, he recognized that the sharp trading practices of the merchants had undesirable consequences but reached fundamentally different conclusions about their morally damaging nature. 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. This undermined the moral condition of a large segment of the community and promoted an indifferent prosecution of the fishery and declining productivity.[48] In this way, the economic and political dominance of the merchants and their unwillingness to submit themselves to proper authority actively undermined the prosperity which ought to derive from the island's rich fishery. This was, however, as much a moral as an economic problem. 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.

Reeves's determination to strengthen local government, to impose order on the lower classes, and to eliminate the pretensions of the merchant class was not solely the product of his Newfoundland experience. His experience there and his subsequent recommendations to the Home Secretary and to the House of Commons must be understood in the larger context of his scholarly interests, natural law theory, the Whig ideology permeating English political life, and his involvement in the political controversies of the 1790s.

Reeves was best known among his contemporaries for his legal histories and political pamphlets, and his most important literary work was certainly his *History of the English Law*, publication of which began in 1783.[49] Reeves's purpose in writing this five-volume work was to provide law students and practitioners with a detailed introduction to the history and development of the law and its literature. English and American legal scholars and writers such as Henry Hallam and James

Kent praised the author for producing the first general history of English jurisprudence,[50] and legal educators such as Thomas Jefferson and David Hoffman thought Reeves's *History of the English Law* worth including on the reading lists of American law students during the first quarter of the nineteenth century.[51]

Long before the outbreak of the French Revolution and the domestic disorders in England which accompanied the war with France, Reeves demonstrated in the *History* that his adherence to Whig political principles when considering the fundamental and indispensable role of government in a stable and prosperous society, the social and economic condition of Newfoundland in the 1790s, and the correct places of the merchant and lower classes in political affairs reflected his unique view of English constitutional history. Mirroring the constitutional controversies of the seventeenth century and anticipating the revisionist character of Frederick William Maitland's legal and constitutional histories in the early twentieth century, Reeves's fundamentally historical view of the common law and constitution placed him at odds with both conventional Whig political theory and with popular calls for political reform from figures such as Richard Price. All but the most intractable monarchists had long accepted the results and the legitimacy of the Glorious Revolution of 1688, the Act of Succession of 1700, and, increasingly in the second half of the eighteenth century, the idea of parliamentary supremacy in constitutional practice. It was no accident, however, that Reeves dedicated the first volume of his *History* to Lord Chancellor Thurlow, who was forced to resign from Pitt's cabinet in 1792, because he opposed Pitt's efforts to strengthen the administrative role of the ministry and the position of prime minister within the Cabinet at the expense of the Crown and the tradition of departmental government.[52]

Like other contemporary legal theorists, Reeves considered English common law and the constitution as the products of deterministic and historical forces. Reeves asserted that in the first stages of civil society laws were few and ineffectively enforced. In the absence of legislation and the effective administration of justice, the prerogative power of the state naturally fell to the sovereign. This certainly agreed with his interpretation of Newfoundland's history, his belief that the island would remain a primitive and disorderly place until the establishment of effective local government, and his continued support for the use of the royal prerogative in governing the island. As historical experience produced legislation suited to the needs of society and as the courts developed "particular remedies" in individual cases, the sovereign's power shrank in scope and the exercise of state power was gradually subjected to the rule of law — a process Reeves believed was illustrated by the common law judgements of the courts and the historical development of the constitution.[53]

The limitations placed upon the royal prerogative by the rule of law did not mean that the crown was therefore powerless or that all sovereign power had been aggrandized by the legislature. Nor was Reeves ready to accept the argument,

originating in the late fourteenth century and later perfected by Sir Edward Coke in the early 1600s, that parliament dated from time immemorial, was, in fact, coeval with the kingdom, and therefore formed part of the ancient constitution which predated the Norman Conquest and which was the birthright of every Englishman.[54] Such a view was, he insisted, contrary to English history. He observed that since the time of the Norman conquest "an extensive prerogative continued in the Crown," which, though it "rendered the condition of the subject extremely precarious and miserable," was only partly mitigated by the charters signed in the reigns down to the *Magna Charta* in the time of John. History showed, Reeves asserted, that the king was not required to obtain the assent of the barons in ordaining laws. Long after the signing of the *Magna Charta*, "the king took upon himself to do many legislative acts, which, when conformable with the established order of things, were readily acquiesced in, and became the law of the land." Thus, Reeves observed that early constitutional practice suggested merely the expediency of seeking the assistance and support of the king's great subjects whenever he contemplated a change to the law which affected their persons or property. Reeves emphasized that "one way or other, the king is mentioned in all laws as the creative power which gives life and effect to the whole."[55]

Reeves argued that the summoning of the House of Commons to parliament during the reign of Edward I so they might assent to the levying of money for the crown did not change the fundamental relation between the crown and the legislature.[56] The calling of the Commons to parliament "gave them certainly no greater place there than the lords had before" and "could not impart to them a greater right to concur in legislative acts." The Commons simply represented a new and inferior branch of the legislature which, like the Lords, might petition the king to act. Reeves observed that, as late as the reign of Henry IV, the commons were hardly "looked upon as a necessary part of the *legislature,*" although he admitted that long usage gradually settled on the commons the power to assent to money bills and to general laws, a right recognized during the reign of Henry IV, and that its influence continued to increase thereafter.[57] Reeves argued, however, that this did not place in the commons the power to initiate legislation. In every case and in all statutes, the power to initiate legislation and the final enacting authority lay with the king. The king was the active constitutional power; "who *grants, directs, ordains, provides*, sometimes by his council; sometimes by the assent of the archbishops, bishops, priors, earls, and barons; sometimes the assent of the community." In many cases, Reeves observed, "there is no mention of the concurrence of any part of the legislature."[58]

Reeves's view of the "ancient constitution" varied markedly from that of William Blackstone and Edmund Burke, his better-known contemporaries. The antiquarian Reeves considered Blackstone's *Commentaries* as "deficient in Constitutional Information" and felt it regrettable that "a work so popular, so generally read, and of such real merit, should be blemished with false notions, on points of

great moment."[59] In his *History of the English Law*, Reeves referred to Blackstone's account of the ancient constitution and the charters upon which it was purportedly based as "a very curious history of these valuable remains of antiquity."[60] Blackstone believed that the various charters beginning with Magna Charta and ending with the Declaration of Right established "all the singular rights and liberties asserted and claimed" therein as "the true, antient, and indubitable rights" of the English people as defined "according to the antient doctrine of the common law."[61] Blackstone admitted that "the original or first institution of parliaments is one of those matters that lie so far hidden in the dark ages of antiquity, that the tracing of it is a thing equally difficult and uncertain." He asserted, nevertheless, that "parliaments, or general councils, are coeval with the kingdom," that the constitution of parliament as it existed in the 1760s had been mapped out during the reign of King John in the thirteenth century, and that "the limitation of the regal authority was a first and essential principle in all the Gothic systems of government...."[62] In Blackstone's view, the ancient constitution established a mixed government composed of monarchy, aristocracy, and democracy working through King, Lords, and Commons and to which "each is so necessary, that the consent of all three is required to make any new law that shall bind the subject."[63]

In the 1790s, English parliamentary reformers such as Major Cartwright and Charles James Fox promoted reform societies such as the Society for Constitutional Information and the Society of the Friends of the People in the early 1790s. Other reformers such as Richard Price argued that the people were the true source of sovereign power; they had the right to choose their governors, to remove them for misconduct, and to frame a new style of government. At the popular level, corresponding societies such as Thomas Hardy's London Corresponding Society sprang up in cities across England. These signs of popular unrest alarmed the authorities and prompted a conservative response. Edmund Burke's *Reflections on the Revolution in France*, perhaps the most famous statement of conservative political principles ever written, was published in November, 1790, in response to Price's *Discourse on the Love of Our Country*, a sermon delivered to the London Revolution Society in 1789.

Directing his broadside against French Jacobinism and English radicalism, Burke agreed with Blackstone that king, lords, and commons were each necessary to the legislative power—a constitutional arrangement which he argued had been explicitly stated in the Declaration of Right and reaffirmed in the Act of Succession. Burke argued that in 1688 no suggestion was made of a general right of Englishmen to choose their king, to remove him at will for misconduct, or to abrogate the monarchical form of government upon which the constitution was founded.[64] Burke claimed that the Revolution of 1688, which both he and Blackstone carefully qualified as something less than a true revolution,[65] was "made to preserve our *ancient*, indisputable laws and liberties and that *ancient* constitution of government which is our only security for law and liberty." Citing Sir Edward Coke and

Blackstone, Burke claimed that the ancient constitution predated even *Magna Carta* and merely reaffirmed "the still more ancient law of the kingdom." The Declaration of Right which expressed its principles was "the cornerstone of our constitution as reinforced, explained, improved, and in its fundamental principles forever settled."[66]

Reeves agreed that the Revolution of 1688 had not, as Burke termed it, dissolved the nation's whole fabric; however, Reeves's antiquarian devotion to an accurate historical understanding of the law prompted him to reject the orthodox constitutional theory, which maintained that parliament had existed in its current form since time immemorial, that the legislative power had for all that time been lodged in king, lords, and commons together, and that the legislative power of the crown in a balanced constitution such as England's consisted solely of the ability to reject rather than to resolve legislation. Instead, Reeves embarked on a conservative defence of the constitution which, reflecting his antiquarian interests, placed a much greater emphasis on the royal prerogative in English constitutional affairs.

Immediately upon his return from Newfoundland, Reeves joined in the conservative response to the reform impulse. He was one of the principal members and the first chairman of the Association for the Preservation of Liberty and Property against Republicans and Levellers established at the Crown and Anchor Tavern, London, in November, 1792. Reeves oversaw the formation of branch associations around the country and the publication of dozens of pamphlets defending the constitution and vilifying opponents of the war with France.[67] For his efforts, and doubtless in recognition of his exertions in Newfoundland, contemporaries observed that "Mr. Reeves was considered by Mr. Pitt (who entertained a high opinion of Mr. Reeves's merits) and his brother ministers to have deserved well of his country, and his services on this occasion were afterwards liberally rewarded."[68]

Reeves's close association with Pitt's ministry and his energetic activities on behalf of the Association for the Preservation of Liberty and Property inevitably earned him the lasting enmity of reformers in and out of the House of Commons. In 1795, Reeves published the first of a series of four letters entitled *Thoughts on the English Government* which drew heavily upon his historical vision of the common law and constitution.[69] Reeves's public statement of his unorthodox constitutional theories gave his political enemies a perfect opportunity to harass him.

Reeves restated his argument in the *History of the English Law* that the King was "the *supreme power* from which the whole of our constitution is derived, by which it is governed, and round which as a centre it moves, and performs all its operations."[70] This assertion was hardly unorthodox and was in line with Whig political theory. By itself, it might have been allowed to pass; however, Reeves was not content to allow the matter to rest there. He continued:

> He is the *caput, principium et finis*. That *with* him, we possess everything, not only what is immediately part of himself [the executive power]; but also, that which is not in every sense so, namely the *commons* and *juries;* for those are not brought into action but by his writ, and at his call. That *without* the King we cannot have *them*, or any thing whatsoever civil or military.[71]

Reeves's devotion to historical truth therefore led him to describe "those two adjuncts of *Parliament* and *Juries*" as "subsidiary and occasional." In this passage, Reeves rejected with one stroke the main thrust of English political ideology and constitutional development since the seventeenth century. He repudiated the theories of such well-known English constitutionalists as Sir John Davies, Sir Edward Coke, John Locke, and, building upon and systematizing those earlier writers, Blackstone, and described their theories as "an unknown region, that has never been visited but by dreamers, and men who see visions."[72] While it may have been true, as Burke observed, that the constitution was an "entailed inheritance" toward which Englishmen should direct a proper reverence for antiquity and upon which they should take care "not to inculcate any cyon[73] alien to the nature of the original plant," Reeves clearly disagreed with Burke and Blackstone over the nature of the constitutional blossom.[74]

The core of the disagreement lay in Reeves's familiarity with and understanding of the sources of English constitutional law. Coke, Blackstone, Burke, and Reeves agreed that the common law was the fundamental source of English municipal law. The common law, what Blackstone referred to as the *leges non scriptae* contained in reports and treatises, was the repository of "tradition, use, and experience," from which it was the duty of the king's justices, as the "living oracles" of the law, to extract true principles of justice.[75] The second source of law was statutory enactment. These were the *leges scriptae*, the "statutes, acts, or edicts, made by the king's majesty by and with the advice and consent of the lords... and commons in parliament assembled." Blackstone saw the purpose of statutes as declaring the state of the law, where the meaning of the common law had been obscured by the passage of time, or to remedy defects in the law caused by changing circumstances. Statute, Blackstone observed, invariably overrode common law. Further, a statute enacted by parliament "cannot be altered, amended, dispensed with, suspended, or repealed, but in the same forms and by the same authority of parliament."[76]

Reeves acknowledged common and statute law but argued that the original source of English law still operated in the eighteenth century — namely, law enacted by prerogative writ. Blackstone had conceded that, while the balance of the constitution demanded that "the executive power should be a branch, though not the whole, of the legislature," the crown retained the discretionary power to issue proclamations which defined the manner, time, and circumstances in which laws were administered. Such proclamations, or orders-in-council, were legally

binding, but Blackstone added the proviso that they were so "where they do not either contradict the old laws, or tend to establish new ones; but only enforce the execution of such laws as are already in being, in such manner as the king shall judge necessary."[77] Blackstone left unsaid what Reeves argued should be explicitly acknowledged. In the eighteenth century, statutes comprised only a small portion of English law, the bulk of which continued to be defined in the common law courts. This left a large field in which prerogative writ could operate without interference from parliament and gave to the crown tremendous discretion in how the common and statute law were administered.

Reeves noted in his *History of Newfoundland* that one of the chief complaints levelled by the West Country merchants against the juridical innovations carried out through orders-in-council during the eighteenth century was that changes such as Henry Osborne's appointment of magistrates derived their authority from prerogative writ rather than from acts of parliament. Reeves observed, "How futile soever this reason may be, it had its effects in staggering many, and contributing to bring the office, and persons holding it, into great question, if not contempt."[78] This has been an enduring theme in Newfoundland histories. Frederick W. Rowe, for example, declared that Newfoundland's entire legal structure was illegal in 1729. "The 1699 Act, the only legislation relating to Newfoundland until Palliser's Act in 1775, defined the authority of the commodores and the fishing admirals. Any modifications of those authorities could be done only by amending the legislation. The legislation could only be amended or repealed in Parliament."[79] Reeves argued that history showed this reasoning to be groundless, for statute was not the only legitimate source of law. The original method of legislating was by prerogative writ, the ultimate authority for legislation still remained in the royal prerogative, and it was perfectly possible, if hardly desirable, for the royal government to continue in existence without lords or commons. As the work of Frederick William Maitland has shown, Reeves's argument was historically sound, and indeed, the case of Campbell v. Hall ruled only a year before the passage of Palliser's Act that prerogative writ possessed equal weight and permanence as statute law.[80] Statutes such as King William's Act and Palliser's Act were, in practice, the exceptions rather than the rule, as Newfoundland's eighteenth-century experience demonstrated. The absence of statutory enactments did not, however, imply the absence of lawmaking and regulation; the silence of the legislature demonstrated the wide discretionary power still inherent in the crown. Indeed, Palliser's Act explicitly referred to the jurisdiction of the Newfoundland sessional court created by order-in-council to deal with criminal cases and civil matters involving the fishery.[81]

While summarizing Reeves's remarks in the letter before the House of Commons, Richard Sheridan observed that the author believed that Nonconformists such as Richard Price and Whig reformers such as Major Cartwright were little better than revolutionaries committed to overthrowing the true constitution. Sheridan went on to note that Reeves dismissed the Glorious Revolution as a "fraud and

a farce" invented by "the pamphlets of the time" by which nothing was changed but that the people got by it a Protestant king.[82] Reeves asserted:

> In fine the Government of England is a *Monarchy;* the Monarchy is the ancient stock from which have sprung those goodly branches of the Legislature, the Lords and Commons, that at the same time give ornament to the Tree, and afford shelter to those who seek protection under it. But these are still only branches, and derive their origin and their nutriment from their common parent; they may be lopped off, and the Tree is a Tree still; shorn, indeed, of its honors, but not like them, cast into the fire. The Kingly Government may go on, in all its functions, without Lords or Commons.[83]

This was too much for the opponents of Pitt's ministry, who viewed Reeves as little more than "a ministerial hireling."[84] In November, 1795, Charles Sturt introduced in the House of Commons a petition from the London Corresponding Society against the treason and sedition bills then before the House. In urging the House to act on the petition, Sturt observed of the publications against which the bills were directed that "things at least as exceptionable had appeared from the partisans of the ministry" and read several passages from Reeves's letter.[85] Sturt urged the attorney general to prosecute Reeves for seditious libel. In spite of the efforts of Pitt and William Windham, the Secretary of War, to minimize the importance of Reeves's tract, which Pitt described as "a subject of inferior moment," and their reminders to the House of Reeves's labours in Newfoundland, the ministry's opponents insisted that the piece was "a most dangerous libel."[86] Richard Sheridan summed up the Whig position by condemning the pamphlet as "a malicious, scandalous, and seditious libel," designed to alienate the affections of loyal subjects "from our present happy form of government, as established in King, Lords, and Commons, and to subvert the true principles of our free constitution."[87] According to Sheridan, Reeves had fallen afoul of both the ministry's proclamation of 1792 forbidding seditious publications and the provisions of the Treason Act of 1795 protecting the House of Commons from criticism out-of-doors.[88]

Although Pitt and John Scott (later Lord Eldon), the attorney general, doubted that criminal intent could be proved or a conviction obtained, a motion to take action against Reeves was passed. A committee of the House was formed to verify that Reeves was the author of the offending piece and confirmed that fact in December, 1795. The attorney general was ordered to proceed against him,[89] and the trial took place in May, 1796, at Guildhall before Lord Kenyon and a special jury. The attorney general stated the prosecution's case but left it to the jury to decide "whether the expressions alluded to were merely unadvised [*sic*] and erroneous, or whether, as charged, libellous and tending to vilify the constitution." Reeves's attorney admitted the fact of publication but pointed out "the known character of Mr. Reeves, and his enthusiastic admiration of the British constitution." The jury decided that the pamphlet "[was] a very improper publication; but being of opinion that his motives were not such as laid in the information, they found him *Not*

Guilty."[90] Reeves was free to go after paying all the costs of the trial — his punishment for offending political opinion, history to the contrary notwithstanding.

The life of John Reeves suggests that Newfoundland's first chief judge was a complex man intimately involved in many of the most important legal and political questions of the Georgian age. Reeves was at various times in his life a scholar, a lawyer, a historian, a placeman during Pitt's ministry, a judge, and a political commentator. His views concerning the history of Newfoundland, the state of the colony in the 1790s, and the character of its people must be viewed within the context of his historical vision of the common law and constitution, belief in eighteenth-century natural and moral law theory, ideological loyalty to the gentrified political ideals of Georgian England, and involvement in the political turmoil arising from the French Revolution and the conservative opposition to the stirring of reform sentiment in England. Each of these factors coloured Reeves's understanding of Newfoundland's situation at the end of the eighteenth century and profoundly influenced both the subject matter and character of subsequent histories of the province.

Notes

[1]D. W. Prowse, "Review of John Reeves's *History of the Government of Newfoundland* (London, 1793)," *Newfoundland Quarterly* 5 (1906), 9 and *Canadian Dictionary of Biography*, 1987 ed., s.v. "Reeves, John," by Peter Neary.

[2]John Reeves, *Chart of Penal Laws, Exhibiting by Lines and Colours an Historical View of Crimes and Punishments* (London, 1779).

[3]Reeves, *Legal Considerations on the Regency Government, as far as regards Ireland* (London, 1789) and *Considerations on the Coronation Oath: To Maintain the Protestant Reformed Religion, and the Settlement of the Church of England, as Prescribed by Stat. 1 W. and M. c. 6 and Stat. 5 Ann. c. 8* (London: J. Wright, 1801).

[4]Reeves, *Two Tracts Shewing that Americans Born before Independence Are by the Laws of England not Aliens* (1814, 1815).

[5]Reeves, *A Proposal for a Bible Society for Distributing Bibles on a New Plan* (1805).

[6]John Reeves, "Report of John Reeves, Esq., respecting Newfoundland. Submitted to Mr. Secretary Henry Dundas" (1792). Centre for Newfoundland Studies, Queen Elizabeth II Library, Memorial University of Newfoundland (hereafter cited as CNS, QEII, MUN), St. John's (photocopy of manuscript); Reeves, *Mr. Reeves's Evidence before a Committee of the House of Commons on the Trade of Newfoundland* (London: J. Sewell *et al*, 1793), CNS, QEII, MUN, St. John's (microfilm reel 398); Reeves, *History of the Government of the Island of Newfoundland, with an Appendix containing the Acts of Parliament made respecting the Trade and Fishery* (London: J. Sewell *et al.*, 1793; reprint, New York: Johnson Reprint Corp., 1967); Reeves, *History of the English Law from the Time of the Saxons...*, 2nd ed., 4 vols. (Dublin: Luke White, 1787; reprint, South Hackensack, NJ: Rothman Reprints, Inc., 1969).

[7]Christopher English, "The Development of the Newfoundland Legal System to 1815." *Acadiensis* 20 (1990): 92.

[8]See D. W. Prowse, *History of Newfoundland from the English, Colonial, and Foreign Office Records* (1845); Agnes M. Field, "The Development of Government in Newfoundland, 1638-1713" (MA thesis, University of London, 1924); A. H. McLintock, *The Establishment of Constitutional Government in Newfoundland: A Study in Retarded Colonization* (London, 1941); R. G. Lounsbury, *The British Fisheries in Newfoundland, 1634-1763* (London, 1934); and Frederick W. Rowe, *A History of Newfoundland and Labrador* (Toronto: McGraw-Hill Ryerson, 1980).

[9]Keith Matthews, "Historical Fence Building: A Critique of the Historiography of Newfoundland," *Newfoundland Quarterly* 74 (1978), 22.

[10]"An Act to Encourage the Trade to Newfoundland," 10 & 11 Will. III, c. 25 (1698).

[11]English, "Development of the Newfoundland Legal System," 99, 100.

[12]English,"Development of the Newfoundland Legal System," 99.

[13]"Observations of Mr. George Larkin" (St. John's, 1701) quoted in Reeves, *History of Newfoundland,* 36-37, 40. See also Jerry Bannister, "A Species of Vassalage: The Issue of Class in the Writing of Newfoundland History," *Acadiensis* 24 (1994): 135.

[14]Reeves, *History of Newfoundland,* 73.

[15]Reeves, *History of Newfoundland,* 145. See also English, "Development of the Newfoundland Legal System," 110.

[16]Reeves, *History of Newfoundland,* 159.

[17]Christopher English, "Newfoundland's Early Laws and Legal Institutions: From Fishing Admirals to the Supreme Court of Judicature in 1791-92," *Manitoba Law Journal* 23 (1996): 60. See also Reeves, *History of Newfoundland,* Appendix, xi-xii.

[18]English, "Newfoundland's Early Laws," 62-3.

[19]Christopher English and Christopher Curran, *Silk Robes and Sou'westers, The Supreme Court, 1791-1991: A Cautious Beginning: The Court of Civil Jurisdiction, 1791: A Commemorative Essay* (St. John's: Jesperson Press, 1991), 13.

[20]Reeves, *History of Newfoundland,* 1.

[21]William Blackstone, *Commentaries on the Laws of England,* 4 vols. (Chicago: University of Chicago Press, 1979), 1: 48.

[22]Reeves, *Report of John Reeves, Esq.,* 2.

[23]Reeves, *Report of John Reeves, Esq.,* 8.

[24]John Brewer and John Styles, "Introduction," in *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries,* ed. Brewer and Styles (New Brunswick, NJ: Rutgers University Press, 1980).

[25]John Reeves, *History of the Government and Constitution of Newfoundland. To which are added Five Representations made by the Board of Trade on the Fishery and Trade of Newfoundland,* 2 vols. (n. d.), CNS, QEII, MUN (photocopy of ms.), Second Report, ff. 133-4.

[26]Reeves, *History of Newfoundland,* 149.

[27]Reeves, *Report of John Reeves, Esq.,* 12.

[28]Blackstone's *Commentaries,* 1: 137.

[29]Reeves, *Report of John Reeves, Esq.,* 12-13.

[30]Blackstone's *Commentaries,* 1: 6, 7.

[31]Edmund Burke, *Reflections on the Revolution in France: And on the Proceedings in Certain Societies in London Relative to that Event,* ed. Conor Cruise O'Brien (1790; Markham, ON: Penguin Books, 1978), 36-9 *passim.*

[32]Blackstone's *Commentaries,* 1: 8.

[33]Burke's *Reflections,* 37.

[34]See "Excerpt from *'The Journal of James Yonge,'*" ed. F. N. L. Poynter (London: Longmans, 1963, 53-60; reprint, in *By Great Waters: A Newfoundland and Labrador Anthology,* ed. Peter Neary and Patrick O'Flaherty (Toronto: University of Toronto Press, 1974), 29.

[35]Reeves, *Report of John Reeves, Esq.*, 13, 20-2 *passim.*

[36]Adam Smith, *Wealth of Nations,* ed. E. R. A. Seligman, 2 vols. (London: J. M. Dent & Sons, 1933), 1: 232.

[37]Reeves, *Evidence,* 18-19.

[38]Reeves, *Government and Constitution of Newfoundland,* ms. copy, Second Report.

[39]Reeves, *Evidence,* 2-3.

[40]Palliser's Act, 15 Geo. III, c. 31, §§ 13, 14.

[41]Reeves, *History of Newfoundland,* 137-8.

[42]Sean T. Cadigan, "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 (1991): 22.

[43]English and Curran, *Silk Robes and Sou'westers,* 17.

[44]Harold A. Innis, *The Cod Fisheries* (Toronto, 1940) and C. Grant Head, *Eighteenth Century Newfoundland: A Geographer's Perspective* (Toronto, 1976).

[45]Gerald M. Sider, *Culture and Class in Anthropology and History: A Newfoundland Illustration* (Cambridge, 1986).

[46]Sean Cadigan, "The Staple Model Reconsidered: The Case of Agricultural Policy in Northeast Newfoundland, 1785-1855," *Acadiensis* 21 (1992): 48-71.

[47]Bannister, "A Species of Vassalage," 135.

[48]Reeves, *Government and Constitution of Newfoundland,* ms. copy, Second Report.

[49]John Reeves, *History of the English Law from the Time of the Saxons...,* 2d ed., 4 vols. (Dublin: Luke White, 1787; reprint, South Hackensack, NJ: Rothman Reprints, Inc., 1969).

[50]Henry Hallam, *Constitutional History of England,* 7th ed.(1854) and James Kent, *Commentaries on the Laws of the United States,* 8th ed.(1854) quoted in Samuel Austin Allibone, *A Critical Dictionary of English Literature and British and American Authors, Living and Deceased, From the Earliest Accounts to the Latter Half of the Nineteenth Century, etc.,* 3 vols. (Philadelphia: J. B. Lippincott & Co., 1872: reprint, Detroit: Gale Research, 1965), s. v., "Reeves, John."

[51]Letter of Thomas Jefferson to Dabney Terrell, 26 Feb. 1821, quoted in Charles Warren, *A History of the American Bar* (Boston, 1911; reprint, Buffalo: William S. Hein & Co., 1980); Letter of Thomas Jefferson to John Minor, 20 Aug. 1814, quoted in Morris L Cohen, "Thomas Jefferson Recommends a Course of Law Study," *University of Pennsylvania Law Review* 119 (1971): 823; and David Hoffman, *A Course of Legal Study Addressed to Students and the Profession Generally,* 2d ed., 2 vols., (Baltimore: Joseph Neal, 1836; reprint, New York: Arno Press, 1972), 1: 162.

[52]Edward Thurlow (1731-1806), created 1st Baron Thurlow, 1778. See Anon., "John Reeves, Esq., M. A., F. R. S. & S. A.," *Gentlemen's Magazine and Historical Chronical,* new ser., 99 (1829), 468.

[53]Reeves, *History of the English Law,* 1: 203-4.

[54]See J. G. A. Pocock, *The Ancient Constitution and the Feudal Law: A Study of English Historical Thought in the Seventeenth Century: A Reissue with a Retrospective* (Cambridge: Cambridge University Press, 1987) for the development of English constitutional thought during this period.

[55]Reeves, *History of the English Law,* 1: 204, 215-17 *passim.*

[56]*Conformationes Chartarum,* 25 Edw. I.

[57]Reeves, *History of the English Law,* 3: 143-4, 226.

[58]Reeves, *History of the English Law,* 3: 354-5.

[59]S. R., "Thoughts on the English Government &c. and Wooddeson's Vindication," *The (London) Monthly Review,* ser. 2, 32 (1800), 88.

[60]Reeves, *History of the English Law,* 1: 214-15.

[61]Blackstone's *Commentaries,* 1: 124.

[62]Blackstone's *Commentaries,* 1: 143, 145, 231.

[63]S. R., "Thoughts," 83. See Blackstone's *Commentaries,* 1: 155, 156.

[64]Burke's *Reflections,* 15.

[65]Burke's *Reflections,* 15-19 *passim* and Blackstone's *Commentaries,* 1: 157.

[66]Burke's *Reflections,* 18-19 *passim,* 27, 28, 15.

[67]See, for example, Reeves, *The Male-Contents: A Letter to Francis Plowden, Esq.* (London, 1794) and *The Grounds of Aldermen Wilkes and Boydell's Profound Petition for Peace, Examined and Refuted* (London, 1795).

[68]Anon., "John Reeves," *Gentlemen's Magazine,* 469.

[69]Reeves, *Thoughts on the English Government. Addressed to the Quiet Good Sense of the People of England. In a Series of Letters. Letter I* (n. p.: Owen, 1795).

[70]Reeves quoted in S. R., "Thoughts," 83.

[71]Reeves quoted in S. R., "Thoughts," 83-4.

[72]Anon., "Thoughts on the English Government. Addressed to the Quiet Good Sense of the People of England. In a Series of Letters. Letter I"
(1795) in *The Monthly Review,* ser. 2, 17 (1795), 443-4, 445.

[73]*cyon*: variation of scion, shoot of a plant, especially one for grafting or planting. *Concise Oxford Dictionary,* s. v., "scion".

[74]Burke's *Reflections,* 28.

[75]Blackstone's *Commentaries,* 1: 17, 63, 69.

[76]Blackstone's *Commentaries,* 1: 85, 86, 89, 178.

[77]Blackstone's *Commentaries,* 1: 149, 261.

[78]Reeves, *History of Newfoundland,* 98.

[79]Rowe, *History of Newfoundland and Labrador,* 209.

[80]9 ER 848 (1774) cited in English and Curran, *Silk Robes and Sou'westers,* 11.

[81]Palliser's Act, §§ 17-18 quoted in Reeves, *History of Newfoundland,* xxxv. See also the similar wording in 26 Geo. III, c. 26 .

[82]Richard Sheridan, Speech to the House of Commons, 26 November 1795, *Hansard Parliamentary Debates,* Commons, 1st ser., 32 (27 May 1795 - 2 Mar. 1797): 628-9, 629-30.

[83]"Thoughts," *The Monthly Magazine,* 444.

[84]Charles James Fox, 23 November 1795, in *Hansard,* Commons, 32: 611.

[85]Charles Sturt, Speech before the House of Commons, 23 November 1795, *Hansard,* Commons, 32: 608-10 *passim.*

[86]*Hansard,* Commons, 32: 610, 613, 616.

[87]Sheridan, *Hansard,* Commons, 32: 633.

[88]Treason Act, 36 Geo. III, c. 7 (1795) and Seditious Meetings Act, 36 Geo. III, c. 8 (1795).

[89]"John Reeves," *Gentlemen's Magazine,* 469-70.

[90]"John Reeves," *Gentlemen's Magazine,* 469-70.