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Jeff A. Webb

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Palliser's Act and the Bermudian–Newfoundland Fishery of 1788

Jeff A. Webb

Throughout the eighteenth century the British-based Newfoundland fishery faced competition from Newfoundland residents, France, New Englanders, and, briefly, Bermudians. Parliament's efforts to bolster the migratory fishery took on a renewed urgency during the American Revolution when New England fishers were both competitors in the markets and lost to the Royal Navy as a source of seamen. Consequently, legislation prohibited New Englanders from supplying the Newfoundland fishery, and, in turn, Bermudians replaced New England-based shipowners in trade between Newfoundland and the West Indies. Arriving in St. John's in August 1788, Governor John Elliott learned that some Bermudian vessels had started fishing on the banks and drying salted cod on shores of the island of Newfoundland. He allowed them to continue for that season, but prohibited them from doing so in the future.¹ As the legal foundation for his decision, Elliott cited "An act for the encouragement of the Fisheries carried on, from Great Britain, Ireland, and the British Dominions in Europe, and for securing the return of the fishermen, sailors, and others employed in the said fisheries, to the ports thereof, at the end of the fishing season" (15 Geo. III, cap. 31, 1775). A few recent commentators have referenced Elliott's pronouncement as an example of local fishers excluding Black

men from the fishery.² This essay outlines the lobbying efforts by friends and foes of the Bermudian fishery to affirm or overturn Elliott's directive and refocuses our reading of the Act. It also suggests that it was British officials and British-based investors in the fishery who objected to this Bermudian fishery, and that it is anachronistic to think of "Newfoundland" fishers objecting to the participation of Black men.³

In his influential 1793 *History of the Government of the Island of Newfoundland*, Chief Justice John Reeves reported that 15 Geo. III, cap. 31 was "commonly called in the island Sir Hugh Palliser's Act; it being supposed to have originated from the advice and assistance, principally, of that gentleman."⁴ The former Newfoundland governor had endeavoured to support the migratory fishery, and Reeves's book established a long-lasting historiographic practice of viewing the Act in the context of the long-term tension between advocates of a British Isles-based migratory fishery and the Newfoundland resident fishery. Keith Matthews's critique of the historiography of Newfoundland undermined the conflict thesis that Reeves had founded, but the popular name "Palliser's Act" encouraged generations of historians to think of the Act as aimed at restricting the growth of the resident fishery.⁵ Following Matthews, subsequent historians such as Sean Cadigan and Jerry Bannister examined several other effects that Palliser's Act had on economic relations within the fishery and the administration of the law.⁶ I suggest that Palliser's Act should also be read alongside the other legislation that restrained Americans from trade with the empire, and, as Keith Mercer observed, for its sanction of impressment.⁷

The preamble of Palliser's Act set out that as the British-based fisheries were the best source of experienced seamen for the navy it was of greatest importance that fishers return to the British Isles at the end of each season.⁸ Put simply, inexperienced sailors (green men) sailed from the British Isles to Newfoundland and back each season, and spent the summer fishing on the banks, and through that experience become a valuable reserve workforce available to the navy. For the Admiralty and the Board of Trade, naval power was synonymous with

the national aspirations and their commercial interests; the value of the British migratory fishery lay in its provision of sailors. Those who objected to the Bermudian interlopers had distinguished naval careers, or lives in which they had been drawn into defending their businesses against either the French or the Americans, or both. The question of whether New Englanders, Bermudians, or Newfoundland residents would be available to be impressed had been contested. Seamen arriving in the ports of the British Isles were easily available to be pressed into the Royal Navy, while through much of the eighteenth century, British subjects working in the West Indies and the Americas had been exempted from impressment “along their coasts and seas” under “An act for the encouragement of the trade to America” (6 Ann, cap. 37, 1708). The navy behaved as if “the Sixth of Anne,” as it was popularly known, had been a wartime measure and expired in 1713, and the impressment of colonial mariners later in the century contributed to the tensions that resulted in the American Revolution. Clause 19 of Palliser’s Act formally repealed the Sixth of Anne and affirmed a legal basis for impressment.⁹ To ensure those engaged in the Newfoundland banks fishery returned to the British Isles, bounties were to be paid on fish taken by British-built vessels that were owned by residents of the British Isles and that cleared a British port. The crews of such vessels would be permitted to occupy space not then occupied by residents on the shores of the island of Newfoundland to dry their fish.

Since some servants residing in Newfoundland had found themselves indebted to their employers at the end of the season and unable to pay passage home, Palliser’s Act stipulated that part of their wages was to be held back and paid to a shipowner to return servants to Britain. The balance of the servant’s wages would be paid in money or bills of exchange in England, Ireland, the Channel Islands, or the Isle of Man. This ensured that at the end of their contracts, servants would not stay on the island. As the Newfoundland fishery might be a jumping-off point for fishers to immigrate to the continent of America, it was made illegal for vessel owners to transport passengers to New England. To avoid the possibility that bankrupt planters would leave servants on

the island without passage money, servants were given a lien on the fish and were to be paid before other creditors. Servants were further prohibited from hiring themselves to American-based vessels, lest they settle in New England.

Commerce and defence were interacting elements of imperial policy. Several Acts of Parliament had prohibited the colonies that broke away during the American Revolution from trading with the empire. The revolutionary war revived the Crown's interest in the British-based fishery as a nursery of seamen and in tamping down smuggling. If American vessels provided provisions and supplies for the Newfoundland fishery, then British-based fishing vessels would have to come to the island in ballast and forgo the profit from supplying residents. American vessels might also entice English and Irish servants, especially those whose employers had been bankrupted, to defect to the Americas by hiring them as crew. When the Revolution led to Britain banning Americans from provisioning the Newfoundland fishery there were widespread food shortages and economic hardship on the island. The Royal Navy did not need to impress seamen in Newfoundland in part because famine encouraged so many on the island to volunteer. At the end of the American Revolutionary War, the Treaty of 1783 allowed the Americans their rights to waters adjacent to Newfoundland. As Matthews pointed out, British-based fishing shipowners held differing opinions regarding American supplies in the aftermath of the American Revolution. Some would have prohibited importing provisions from the newly independent United States, while others worried that the high cost of provisions would harm the trade. The Board of Trade compromised by allowing American provisions into Newfoundland if they were carried in British vessels, including those based in Bermuda, but the prohibition on the American use of the island remained. By 1788, the year of the Bermudian foray into the fishery, Matthews suggests that everyone recognized American provisions to be essential to the Newfoundland trade.¹⁰ Americans resumed their participation in the banks fishery, but restricting competition from the Americans in the fish markets remained a concern.¹¹

Bermudians had long specialized in shipbuilding and shipping, and when the American Revolution restricted their access to trade with the United States, Bermudian merchants and shipowners looked for opportunities elsewhere. Some turned their attention north. They largely replaced New England-based merchants in carrying fish to the West Indies and supplying Newfoundland with salt and other commodities, and several Bermudian merchants moved to Newfoundland to organize that trade. Both White Bermudians and Black enslaved Bermudians were therefore not strangers in Newfoundland. Further, Black mariners in the Americas were also impressed by the Royal Navy.¹² That fishing servant's wages were guaranteed in Newfoundland, and that there was no legislative basis for slavery, does not mean that slavery didn't exist in the Newfoundland fishery; many aspects of social relations in eighteenth-century Newfoundland had no statutory foundation. Indeed, some common local practices were explicitly contrary to British formal law. Further research is required before we can be more precise, but the presence of Black mariners and the enslaved in the North Atlantic would have been familiar to those involved in the Newfoundland trade long before 1788.

For the Bermudian merchants who carried Newfoundland fish to the West Indies, catching fish themselves was a next logical step. Doing so required that they have access to the coastline of the island of Newfoundland on which to dry the fish since the distance back to Bermuda was too great to keep the fish in salt before drying it. High prices for fish in the Mediterranean markets in 1787 encouraged many new entrants in the fish trade among investors in the British Isles, including a small number of vessels from Bermuda.¹³ In 1788 the desire to profit from the previous year's high prices led to the largest number of bankers that had ever been seen, and a larger number of Bermudians.¹⁴

Governor John Elliott (1732–1808) had a distinguished naval career, commanding vessels in both the Seven Years' War and the American Revolutionary War. During the latter, he commanded the Newfoundland convoy when it suppressed American privateers that had harassed the British fishery. He was a Member of Parliament in

1767–68, and during 1786–88 he was governor and commander of the convoy at Newfoundland.¹⁵ In short, as an experienced naval officer and former legislator, Elliott took seriously his duty to enforce British law. To take one example, when Nathan Tory, a fisher and trader who had operated for 24 years in Sops Arm, White Bay, was evicted from his plantation by the French navy because France had the right to dry fish in that area under the Treaty of Paris of 1763, Elliott upheld the French rights and told Tory to remove himself from the region. “It shall be my endeavor as it is my Duty to protect the Rights and Privileges of His Majesty’s Subjects who are engaged in the Fishery of this Island; — and it will give peculiar satisfaction to embrace every opportunity of promoting their interest,” Elliott wrote. “But the faithful observance of National Treaties, even in cases where it may be attended with inconveniency to Individuals, must be strictly enforced by me.”¹⁶

When Elliott arrived in St. John’s in 1788, he wrote to his counterpart in Bermuda that he was “surprised to find a number of vessels belonging to Bermudas engaged in the Fishery of this Island contrary to an Act of Parliament.”¹⁷ Sources vary in their account of the number of Bermudian vessels and crew. The governor’s Returns of the Fishery reported it as 19 vessels crewed by 159 men.¹⁸ West of England investor Jeremiah Coghlan reported 34 sloops manned by eight to 12 men each (so between 272 and 408 fishers). He reported that three-fourths of them were enslaved Bermudians, and the remaining fourth were “Old Country Men” (i.e., migratory fishers from the British Isles) who were hired to oversee the catching, splitting, and salting of the fish.¹⁹ The Bermudians William Hall Jr. and Seth Harvey claimed that they employed 200 men, a large portion of whom were inexperienced, “and but a few Blacks among them,” so Bermuda could serve as a nursery of seamen for the Royal Navy.²⁰

Section 4 of Palliser’s Act established that “the privilege or right of drying fish on the shores of Newfoundland” was restricted to “his Majesty’s subjects of Great Britain, and the other British dominions in Europe” and “that the said right and privilege shall not be held and enjoyed by any of this Majesty’s subjects arriving at Newfoundland

from any other country.”²¹ Despite the illegality of the Bermudians’ actions, Elliott allowed them to proceed for that season since they had invested money and effort in the fishery. He warned the Bermudian governor, however, that he would not admit the Bermudians the next year.²² Elliott commented to the customs officers that had he known of the Bermudians he would have prevented them from using the island of Newfoundland, and instructed the customs officers to take steps to prevent the ships from repeating their offence. That he intended the return of fishers to Britain is indicated by his further instruction, to Captain Gower of HMS *Salisbury*, to prevent the Bermudians from taking any seamen or fishers off the island.²³

The Bermudians protested Elliott’s orders. Then in St. John’s, the Bermudians William Hall Jr. and Seth Harvey asked John Brickwood, the public agent for Bermuda in London, to intervene with the Board of Trade on their behalf. Hall and Harvey’s argument was that by virtue of King William’s Act (“An Act to Encourage the Trade to Newfoundland,” 10 and 11 William III, cap. 25, 1699), “all his Majesties Subjects residing with the Realm of England, or the Dominions thereunto belonging, trading, or that shall trade to Newfoundland, have equal right to the making and husbanding &c of fish on the shores.”²⁴ They argued that Elliott’s reading of Palliser’s Act as prohibiting them from fishing was incorrect since King William’s Act had not been repealed, and they had the right to do so under the earlier legislation. Hall and Harvey wanted Brickwood to communicate several arguments. Bermudians had nothing to export, they said, so they depended on shipping. English manufacturers provided all the supplies for the construction and operation of the ships in Bermuda, and the Bermudian carrying trade prepared experienced seamen. In a likely reference to some Bermudians smuggling, illegally trading with Britain’s rivals, harvesting turtles, or logging in areas to which they lacked the right, Hall and Harvey argued that if Bermudian vessels were allowed to participate in the Newfoundland banks fishery it would “be the means in a short time, of turning the minds of several hundreds of our countrymen now employed in the idle habit of wandering among

the Caicos and Bahama keys to a more manly exercise of their abilities and in the end become useful to the Members of the State.”²⁵ They told Brickwood that the merchants from the West of England were working to restrict the Bermudians, and asked him to try to clear legal obstacles.²⁶ King William’s Act had cited the economic benefits to the kingdom of the Newfoundland fishery, and set out the rights to Newfoundland of those living in “this realm of England and, or the Dominions thereunto belonging” and had not restricted it to subjects of the British Isles. Second, the Bermudians argued that a Bermuda-based banks fishery was as effective a nursery of seamen for the Royal Navy as a British-isles based fishery.

Brickwood consulted with the Inner Temple barristers Anthony Stokes and Henry Erskine on the question of what law applied, and then forwarded their legal opinions to Lord Hawkesbury, president of the Committee of the Privy Council for trade and plantations.²⁷ They made several points. Palliser’s Act, which Elliott had relied upon, had expired on 1 January 1787, although similar provisions were enacted in the Newfoundland Fisheries Act (28 Geo. III, cap. 35, 1788), which remained in force. Article 3 of the Treaty of Paris, which had established peace between Britain and the United States of America, recognized that Americans had the right to take fish on the banks and on the coast of Newfoundland but not to dry or cure fish on the island. The barristers suggested that Governor Elliott had confused his Majesty’s subjects in Bermuda with the citizens of the United States. A large portion of the people on the Bermudian islands, Stokes and Erskine commented, had earned a living by building and operating vessels, and were they “circumscribed in carrying on that species of Commerce, which has hitherto been deemed lawful they must either emigrate from their native country or starve.”²⁸

The independence of the 13 revolted Colonies in North America having deprived the Bermudians of a great part of their carrying trade, it became necessary for them to strike out new channels of commerce, and accordingly in

the summer of 1786 they sent three vessels to fish on the Banks of Newfoundland. Their first efforts being attended with success, 20 vessels were sent to fish on the Banks the present season, and it was expected that at least 50 Bermudian vessels would have gone to fish on the Banks in the course of next year had no difficulty been raised against their landing and curing their fish on shore.²⁹

Brickwood wanted a speedy answer from the Board of Trade as to whether Admiral Elliott's view that Palliser's Act, as renewed by the Newfoundland Fisheries Act, had repealed King William's Act and thus prohibited the Bermudians from using the coast. If King William's Act, which had not prohibited vessels from other colonies from using the island, remained in effect, then the owners of the one Bermudian vessel that was about to set to sail for Newfoundland needed to know soon. Stokes and Erskine opined that although the bounties for British-based bankers were not extended to Bermudian-based vessels, anyone who read Palliser's Act would conclude that it had not been Parliament's intention to take away the rights of the remaining loyal colonies in the Americas to land fish on Newfoundland. The Restraining Acts had attempted to exclude from trade with the empire the 13 colonies that had rebelled, and Palliser's Act could be counted as one of those Acts. Those Acts had been repealed after the Treaty of Paris, which meant that King William's Act of 1699 had been revived. This reading of the law would allow the Bermudians to make use of the island of Newfoundland on the same basis as British-based vessels.³⁰

At least one person in the Newfoundland trade, Jeremiah Coghlan, registered his strenuous objection to the Bermudian fishing in a letter to Palliser, then governor of Greenwich Hospital but still a man with some political influence. Coghlan's career is a reminder that people cannot always be categorized as migratory or resident fishers or as merchants; they sometimes straddled roles. Likely a native of Bristol, he had captained trading vessels out of that port, during which he became acquainted with the Newfoundland fishery. Coghlan turned

to “my very respected good friend Sir Hugh Palliser,” who he knew to have been energetic in promoting a British-based migratory fishery on the coast of Labrador. With Palliser’s sanction Coughlan had established a partnership with George Cartwright, Francis Lucas, and Thomas Perkins of Bristol to manage a plantation in Labrador.³¹ After a raid by an American privateer on that plantation and the dissolution of his partnership with Cartwright and Lucas, Coughlan turned to the northern coast of the island, where, as historian Allan Dwyer put it, he became “the first English merchant to base himself in Notre Dame Bay.”³² He became a prominent man in Fogo, but usually returned to Bristol each fall. At the high point of his business, he had eight to 10 ships plying the trade between Newfoundland and England. While he had emerged as a prominent participant in the fishery, he also supplied residents and had a role in the civil and military administration of the island.³³ John Byron, Palliser’s successor as Newfoundland governor, appointed Coughlan as the naval officer for Fogo in 1769, a position to which he was reappointed in 1775, after which he fortified Fogo Harbour and raised volunteers to defend against an American privateer. In 1776 the governor of Newfoundland, John Montagu, assigned Coughlan, who owned the Bristol-based privateer the *Resolution*, the role of collecting customs duties.

Coughlan had been the first of 41 signatories to a 1779 petition by merchants and traders protesting against Palliser’s Act, arguing that it harmed rather than supported the migratory fishery. First, the petitioners pointed out, should a proprietor of a fishing room or habitation die and their heirs be unable to hold it after the expiration of the season, the Act precluded them from improving and carrying on the fishery in that harbour. Without ensuring property that could be inherited, the British-based fishery, which had been intended as a nursery for seamen, would decay. Further, Coughlan and the others complained that having to hold back half of servants’ wages until they left Newfoundland was a hardship as employers frequently had to advance the bulk of fishermen’s wages in money and clothing during the season. They hoped Parliament would “discover that it is highly necessary for

the encouragement of those of his Majesty's subjects who risque [*sic*] their fortunes in so hazardous an undertaking as the fishery to be secured in the right of their possessions and improvements and by an amendment of said act."³⁴ After the Revolutionary War his fortunes declined, however, forcing him into bankruptcy in 1782, but he remained involved in the fish trade. His financial interests, and perhaps some resentment of the Americans as a result of his losses during the war, may have solidified his suspicion, if not hostility, to the American trading and fishing vessels that resumed the Newfoundland trade once peace was re-established.

After learning of Bermudians landing fish on the island, Coghlan again warned that Palliser's Act raised labour costs for investors, such as himself, in the British-based migratory fishery. Since the Act secured the wages of servants, he pointed out, it put English shipowners at a disadvantage if Bermudians who used enslaved labour were able to dry fish on the island of Newfoundland. While Hall and Harvey had argued that Bermuda's fishery would train potential sailors for the Royal Navy and downplayed the number of enslaved mariners among them. Coghlan reported that it initially appeared that "as natives of a more southern climate that they could not endure the fatigues which good fishermen must be reconciled to."³⁵ But, he reported, they soon proved themselves as able as any men new to the fishery. It rarely took them more than eight days to return from the banks to shore fully loaded with fish, proving that they were remarkably fast sailors in light wind conditions. "Those blacks showing an Example of attention for the good of their masters interest worthy the notice of our People, rowed their sloops from 2 1/2 to 3 miles an hour and in or out a narrow Harbour," he related.³⁶ He had heard from the masters of bankers "that the Black Men on board of them became as expert in catching of fish as the old Country Men are, and also as eager and attentive to catch such as any of ours who are paid at the rate of £4 10 for a thousand fish for catching."³⁷ In addition to employing experienced fishers to instruct the Bermudians at sea, Coghlan claimed the Bermudian shipowners paid masters of fishing rooms on the island to cure their fish. Others,

he wrote, occupied vacant fishing ship's rooms, as they would have done if they had originated in the British Isles, and they hired experienced masters to oversee the curing of the fish. He worried that in the event of a bad fishery, the Bermudians would smuggle goods and would have an advantage over the British since enslaved crewmen had "no claim on the owners for wages."³⁸ That would give the rivals to the British-based fishery an advantage the British migratory fishery would decline if the Board of Trade were to not take action against the Bermudians.

Coghlan appealed to Palliser's earlier experience countering the threat the New England fishery posed for the British fishery, writing that the admiral was better able to understand the danger than were Lord Hawkesbury's "friends" (perhaps a reference to his political allies or to the Board of Trade). He claimed that the Bermudian fishery comprised of "mock mudians," i.e., fake Bermudians, was really a way of New Englanders getting around the stipulations of British law to the detriment of British fishers. He further implied that since some of the crewmen were enslaved Bermudians and many of them were American Black men, such seamen would be unavailable for the Royal Navy in time of war. Lastly, he thought the Bermuda fishery would result in fish caught by American vessels being passed off in the markets as British fish. He warned that American fish would be reshipped under the British flag on board Bermuda-based vessels, and sold in the Mediterranean markets under British passes. In this way, the Americans would save the insurance costs that would be required if they undertook the risk of the voyage to the Mediterranean themselves. While Hall and Harvey maintained that Bermuda imported supplies from Britain, Coghlan suggested that the Bermudian vessels would be outfitted with American cordage, canvas, etc., not British-made goods. These vessels, he warned, would also smuggle American provisions into Newfoundland under cover of fishing. Bread and flour could be purchased at 8/6 cwt in Maryland, he argued, compared to 13/6 in England or 11/6 in Quebec. Furthermore, Coghlan claimed the chief agent of the Bermuda fishery, Harvey, was an American:

But to return to our Rival Codfishers, the Chief Agent who came with them from Bermudas who's name is Harvey is a Shrude American he openly declares there will be 100 Sail of Bermudian Sloops fishing on the grand Bank the next Season and he is now going to London having all the Bluster of the American party to support him in case of need to make good their Establishments at this Island. The other Agents are rank Americans: also, Nathl Phillips of St. John's who discovered himself so implacable a stickler for the Bostonians during our late troubles with them, is the person who undertakes to defray all matters and costs these mock Bermudians are subject to.³⁹

Coghlan, claiming to speak for a “very respectable Body of English fishers,” asked Palliser to argue the case against the Bermudian fishery to Hawkesbury, and flattered him that the former governor would once more stand for “the protection of those acquisitions you with so much attention and pains added to the naval defence of Great Britain.”⁴⁰

Elliott told Lord Sydney, then home secretary in the administration of William Pitt the Younger, that he thought the Bermudians “had been misled” in thinking that they had the right to land fish on Newfoundland. If Sydney thought the Bermudians’ reading of the law was reasonable, however, then Elliott asked whether the Bermudian legislature should prevent their shipowners from undermining the British-based fishery’s role as a nursery for seamen. “I am of the opinion that if the Inhabitants of Bermudas were to be allowed to participate in it upon any terms whatsoever, those of Nova Scotia and all other [of] His Majesty’s Colonies abroad would naturally expect the same indulgence and in that case I leave it to your Lordship to judge whether the Number of Negros and Americans that must unavoidably through those channels be employed in it would not in a very short time occasion a decrease of Green Men from Great Britain and Ireland.”⁴¹

As the fishing season of 1789 was about to get underway, Sydney approved Elliott’s prohibition of Bermudians landing fish on

Newfoundland, and confirmed that the governor's reading of the legislation was correct.⁴² Parliament passed the Whale Fisheries Act (29 Geo. III, cap. 53, 1789), clearly stating that "Whereas, as well by immemorial usage as by provisions of former laws, the right and privilege of drying fish on the island of Newfoundland do not belong to any of his Majesty's subjects arriving there, except from Great Britain, or one of his Majesty's dominions in Europe . . . That no fish, taken or caught by any of his Majesty's subjects, or other persons, arriving at Newfoundland of its dependencies, or on the banks of the said island, except from Great Britain, or one of the British dominions in Europe, shall be landed or dried on the said island of Newfoundland."⁴³

It seems that Bermudian-based vessels did not repeat their efforts in the Newfoundland fishery. They were not only a casualty of Palliser's Act and subsequent legislation, but likely also of the over-expansion of the fishery. The large number of vessels in 1788 resulted in the landing of 950,000 quintals of fish compared to between 500,000 and 600,000 in average years. Historical geographer C. Grant Head pointed out that demand for Newfoundland fish was relatively inelastic, leading to vessels returning with unsold fish and less money having been made than during a typical season.⁴⁴ Matthews further suggested that, when markets were glutted in 1789, new entrants in the fishery were more likely to be bankrupted by their mistiming than were experienced shipowners.⁴⁵ The Bermudian shipowners may have lost money; not only would they have faced the same market conditions as others, and not have benefited from the bounties provided by Palliser's Act, but they also would not have profited from carrying passengers as did the British-based fishers.⁴⁶ The Bermuda legislature even considered offering bounties of its own to encourage its fishery.⁴⁷ If the Bermudians had sold provisions to resident fishers, as Coghlan had warned they would, that might have been a source of profit that compensated for their inability to carry passengers. The Bermudian harvest of salt in the Turks Islands also provided them with a supply of a product for their own fishery and one that could be sold in Newfoundland.

Several conclusions can be drawn from the fleeting Bermudian–Newfoundland fishery. Palliser's Act, the Newfoundland Fisheries Act, and the Whale Fisheries Act all attempted to bring renewed life to the British-based migratory fishery in the context of the American Revolution and the re-entry of Americans in the fishery after 1783. Parliament had tried to ensure a market for British supplies to the fishery and a supply of experienced seamen for the Royal Navy. They did so through bounties, guaranteeing fishing servant wages so that they could return to England and Ireland, and a prohibition upon passengers being carried to the 13 colonies. As Newfoundland historians have emphasized Palliser's Act as an anti-resident measure and its consequential role in social relations, they did not draw attention to the prohibition of vessels from other colonies using the shores of the island. Nor did historians examine the way that the wage guarantee made British-based vessel owners resent the unfair competition when Bermudians entered the fishery with their enslaved crewmen. Both the Bermudians and fishers based in the British Isles argued that their fishery would support English trade and the training of men for the Royal Navy. While Hall and Harvey stressed that the Bermudian fishery would be supplied from Britain, Coghlan warned that New Englanders would ultimately benefit if Bermudians were allowed to use the shores of Newfoundland and thus be able to smuggle in American provisions under cover of drying fish. Coghlan, an investor who straddled the resident and the migratory fishery, and Governor Elliott both drew attention to the Bermudian vessel owners employing Black and enslaved mariners when they cited Palliser's Act. Coghlan further claimed that the Bermudian shipowners were a front for New England fishers, and that the Bermudians would market American-caught fish under a British flag. In their appeal to the Board of Trade, the Bermudians argued that King William's Act remained in force and downplayed the fact that some of the crewmen were enslaved. The Bermudian fishery was short-lived, but it prompted Parliament to clarify its intent to exclude other colonies in the Whale Fisheries Act. For historians, the lesson of the Bermudian fishery is that rather than

seeing Palliser's Act as a reactionary anti-resident policy or an anti-Black measure, it should be considered in the context of impressment and the American Revolution.

Notes

- 1 I am grateful to Neil Kennedy, who guided my understanding of the Bermudian history and the history of enslaved mariners. I also benefited from the insights of the anonymous peer reviewers. Errors are, of course, mine.
Historians' attention to this episode can be traced to the account by the Newfoundland historian D.W. Prowse. Although he had noted that Palliser's Act prohibited other colonies from the Newfoundland fishery, recent historians have generally paid less attention to its effects upon the would-be independent United States or loyal colonies such as Nova Scotia or Bermuda. In his *A History of Newfoundland*, Prowse presented the arrival of fishing vessels from Bermuda, this "sudden irruption into our island," as a curiosity. D.W. Prowse, *A History of Newfoundland: From the English, Colonial and Foreign Records* (London and New York: Macmillan, 1895), 345–48. See also A.H. McLintock, *The Establishment of Constitutional Government in Newfoundland, 1783–1832* (New York: Longmans, Green, 1941), 38–41.
- 2 For recent examples: "Newfoundland was complicit in the exploitation of people of colour when it banned Bermuda fishermen from the Grand Banks fishery in the late eighteenth century — the enslaved people having allegedly become just as adept at fishing as Newfoundlanders (Prowse, *History*, 345 ff.) — while securing the economic privilege to sell that fish to the West Indies in exchange for rum." David Mitterauer, "Enough of that Dance-Hall Razzmatazz': The Cultural Impact of Music in Kevin Major's *Lead Me Home* and the Role of the Musician as Racial Ambiguity," *Newfoundland and Labrador Studies* 34, no. 2 (2019): 221. See also: "Fishing boats, especially from Bermuda, brought black men, as labourers and slaves, to assist in their cod fishing, to the great frustration of local fishermen." Colleen Quigley and Melissa Templeton, "Performing Blackface on the Newfoundland Stage: The Rossleys, Transnational Connections, and

- Early Twentieth Century Theatre in St John's," *Theatre Research in Canada* 41, no. 1 (2020): 66.
- 3 Recruitment for the resident Newfoundland fishery was integrated with that of the British-based migratory fishery. English-based vessels hired servants in the port towns of the West of England or the south of Ireland as they took on provisions; the supply of labour in the resident fishery was an aspect of the migratory fishery. It was unlikely a slave trading vessel would sail from Africa to attempt to sell enslaved people in Newfoundland when the demand for labour was greater in southern colonies, but Pope suggested that "visiting slavers occasionally sold men in seventeenth-century Newfoundland, but slave ownership was not common." Peter Pope, *Fish into Wine: The Newfoundland Plantation in the Seventeenth Century* (Chapel Hill: University of North Carolina Press, 2004), 212. Some enslaved people worked in the Newfoundland fishery, and they had mostly been brought to Newfoundland from other colonies in the Americas. Harvey Amani Whitfield described what are now the Maritime provinces and New England as a "connected and integrated borderland," and that the movement of enslaved and free Black people accompanied the movement of goods and people. Harvey Amani Whitfield, *Biographical Dictionary of Enslaved Black People in the Maritimes* (Toronto: University of Toronto Press, 2022), xxx. Newfoundland was part of that.
 - 4 John Reeves, *History of the Government of the Island of Newfoundland* (London: Sewell, Debrett and Downes, 1793), 135–36. William Augustus Miles, *Remarks on an Act of Parliament, passed in the 15th year of His Majesty's Reign on the credit of Vice Admiral Sir Hugh Palliser's information . . .* (London: H Payne, 1779). William H Whiteley, "Palliser, Sir Hugh," *Dictionary of Canadian Biography*, vol. 4, University of Toronto/Université Laval, 2003. http://www.biographi.ca/en/bio/palliser_hugh_4E.html. Accessed 5 Apr. 2023.
 - 5 Keith Matthews, "Historical Fence Building: A Critique of the Historiography of Newfoundland," *Newfoundland Studies* 17, no. 2 (2001): 143–65.
 - 6 Sean T. Cadigan, *Hope and Deception in Conception Bay: Merchant–Settler Relations in Newfoundland, 1785–1855* (Toronto: University of Toronto Press, 1995), 30–31, 83–96. Jerry Bannister, *The Rule of the*

- Admirals: Law, Custom, and Naval Government in Newfoundland, 1699–1832* (Toronto: University of Toronto Press, 2003), passim. See also Jerry Bannister, “Law and Labor in Eighteenth Century Newfoundland,” in Douglas Hay and Paul Craven, *Masters, Servants, and Magistrates in Britain and the Empire, 1562–1955* (Chapel Hill: University of North Carolina Press, 2004), 153–74.
- 7 Keith Mercer, “The Murder of Lieutenant Lawry: A Case Study of British Naval Impressment in Newfoundland, 1794,” *Newfoundland Studies* 21, no. 2 (Autumn 2006): 262. See also Keith Mercer, “North Atlantic Press Gangs: Impressment and Naval–Civilian Relations in Nova Scotia and Newfoundland, 1749–1815,” PhD diss., Dalhousie University, 2008, 214.
- 8 The Act may be read at: https://www.heritage.nf.ca/lawfoundation/articles/doc4_1775palliser.html.
- 9 Palliser’s Act, Clause 19.
- 10 Keith Matthews, “A History of the West of England–Newfoundland Fishery,” PhD diss., Oxford University, 1968, 504, 509–13.
- 11 W.L. Morton, “A Note on Palliser’s Act,” *Canadian Historical Review* 34, no.1 (Mar. 1953): 33–38. Rainer Baehre, “Newfoundland’s West Coast and the Gulf of St Lawrence Fishery, ca. 1755–83: A Case Study of War, Fish, and Empire,” in Claire Elizabeth Campbell, George Edward MacDonald, and Brian J. Payne, eds., *The Greater Gulf: Essays on the Environmental History of the Gulf of St Lawrence* (Montreal and Kingston: McGill–Queen’s University Press, 2019), 91–96.
- 12 By the nineteenth century the proportion of Black sailors in American-based shipping had declined from what it had been a century earlier, and they were more likely to be assigned to be cooks than able seamen than had been the case in the late eighteenth century. W. Jeffrey Bolster, “‘To Feel like a Man’: Black Seamen in the Northern States, 1800–1860,” *Journal of American History* 76, no. 4 (Mar. 1990): 1173–99. See also W. Jeffrey Bolster, *Black Jacks: African American Seamen in the Age of Sail* (Cambridge, MA: Harvard University Press, 1997), 30.
- 13 William Knox, who had had been an architect of the mercantilist British policy towards the Americas that had precipitated the American Revolution, a former owner of enslaved people in Georgia, and an

- official who claimed to have had a role in drafting Palliser's Act, also first invested in the banks fishery that year. See Jeff A. Webb, "William Knox and the 18th-Century Fishery," *Acadiensis* 44, no. 1 (Spring 2015): 112–22.
- 14 C. Grant Head, *Eighteenth Century Newfoundland: A Geographer's Perspective* (Toronto: McClelland and Stewart, 1976), 203.
 - 15 He was the fourth son of Sir Gilbert Elliott, second baronet and lord chief justice of Scotland. J.K. Laughton, revised by A.W.H. Pearsall, "John Elliott," *Oxford Dictionary of National Biography*, <https://doi-org.qe2a-proxy.mun.ca/10.1093/refodnb/8667>. Accessed 14 Oct. 2020.
 - 16 CO 194, Vol. 36, 131–32, John Elliott to Nathan Tory, 10 Aug. 1786.
 - 17 CO 194, Vol. 21, 143–44, John Elliott to Governor of Bermuda, 20 Aug. 1788.
 - 18 CO 194, Vol. 21, 145–47v, "A comparative summary of the British fishery in NF for the years 1786, 1787, and 1788."
 - 19 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788, "Bermudian men established Cod Fishery at Newfoundland."
 - 20 CO 194, Vol. 21, 133–34, William Hall Jr. and Seth Harvey to John Brickwood, 11 Aug. 1788.
 - 21 Palliser's Act, Section 4, https://www.heritage.nf.ca/lawfoundation/articles/doc4_1775palliser.html.
 - 22 O 194, Vol. 21, 143–44, John Elliott to Governor of Bermuda, 20 Aug. 1788.
 - 23 Elliott to Respective officers of the Customs, 12 Aug. 1788, Colonial Letterbooks, GN 2/1/A [Microfilm Box No, 4], Vol. 11 (1785–89), 331–33.
 - 24 CO 194, Vol. 21, 133–34, William Hall Jr. and Seth Harvey to John Brickwood, 11 Aug. 1788. This was not an accurate quotation of King William's Act.
 - 25 CO 194, Vol. 21, 133–34, William Hall Jr. and Seth Harvey to John Brickwood, 11 Aug. 1788. See Neil Kennedy, "Impermanence and Empire: Salt Raking in the Turks and Caicos Islands," in Peter E. Pope and Shannon Lewis-Simpson, *Exploring Atlantic Transitions* (Woodbridge: Society of Post-Medieval Archaeology, 2013), 80–90.
 - 26 CO 194, Vol. 21, 133–34, William Hall Jr. and Seth Harvey to John Brickwood, 11 Aug. 1788.

- 27 CO 194, Vol. 21, 131, John Brickwood to Lord Hawkesbury, 25 Sept. 1788. Stokes had been attorney general of Georgia, and an enslaver, before returning to Great Britain at the end of the Revolution.
- 28 CO 194, Vol. 21, 135–37, Anthony Stokes, 18 Sept. 1788, “Case for the opinions of Mr. Erskine and Mr. Stokes.”
- 29 CO 194, Vol. 21, 135–37, Anthony Stokes, 18 Sept. 1788.
- 30 CO 194, Vol. 21, 135–37, Anthony Stokes, 18 Sept. 1788.
- 31 GN 2/1/A, Vol. 7, letters, 52–58, 30 Aug. 1777, Jeremiah Coghlan to John Montagu. William H. Whiteley, “Coghlan, Jeremiah,” in *Dictionary of Canadian Biography*, vol. 4, University of Toronto/ Université Laval, 2003–, http://www.biographi.ca/en/bio/coghlan_jeremiah_4E.html. Accessed 15 Oct. 2020.
- 32 Allan Dwyer, “Atlantic Borderland: Natives, Fishers, Planters and Merchants in Notre Dame Bay, 1713–1802,” PhD diss., Memorial University, 2012, 140–41.
- 33 Whiteley, “Coghlan, Jeremiah.”
- 34 CO 194, Vol. 34, 66, Petition signed Jeremiah Coghlan (first signature) and many other merchants and principal inhabitants, “To the Right Honorable Lord George Germain Secretary of State for the Southern Department and First Lord of Trade for His Majesty’s Plantations in America.” Apr. 1779.
- 35 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788, “Bermudian men established Cod Fishery at Newfoundland.”
- 36 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788.
- 37 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788.
- 38 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788.
- 39 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788.
- 40 CO 194, Vol. 21, 145–47v, Jer. Coghlan, 25 Oct. 1788.
- 41 CO 194, Vol. 21, 140–41v, John Elliott (St. John’s) to Lord Sydney, 25 Oct. 1788.
- 42 CO 194, Vol. 38, 71–72v, Lord Sydney to Governor Elliott, 9 Apr. 1789.
- 43 “An act for further encouraging and regulating the Newfoundland, Greenland, and southern whale fisheries,” (29 Geo. III, cap. 53). Reeves, *History*, 144.
- 44 Grant Head, *Eighteenth Century Newfoundland*, 204.
- 45 Matthews, “A History,” 522–25, 534–36.

- 46 English bankers were “dependent upon the bye boat keepers since a large part of [their] income was derived from transporting passengers between England and Newfoundland and back at the end of the fishing season.” Keith Matthews, “A ‘who was who’ of families engaged in the fishery and settlement of Newfoundland, 1660–1840,” unpublished manuscript, Memorial University, 1971, p. 12.
- 47 Michael Jarvis, *In the Eye of All Trade: Bermuda, Bermudians, and the Maritime Atlantic World, 1680–1783* (Chapel Hill: Omohundro Institute and University of North Carolina Press, 2010), 452.