

MUMMERS ON TRIAL

Mumming, Violence and the Law in Conception Bay and St. John's, Newfoundland, 1831-1863¹

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Abstract

This paper investigates the violence surrounding the custom of Christmas mumming as practised in the urban centres of Conception Bay on Newfoundland's northeast coast, and in the island's capital, St. John's, in the mid-19th Century. Until recently, few contemporary accounts have come to light between the first known description of mumming-related violence in this area in January 1831 and the alleged murder of Isaac Mercer by mummers in the town of Bay Roberts in December 1860. This paper argues that the proceedings of several criminal trials involving mummers recently uncovered at the Provincial Archives of Newfoundland and Labrador provide significant new evidence of a close relationship between mumming, violence and the law in Conception Bay and St. John's during this period. The paper also explores the insights that the trial proceedings offer into the practice of mumming itself, the backgrounds of participants and the motivations underlying the violent incidents. In light of this new evidence, I argue for the need to re-examine the links that have been posited between mumming-related violence and the wider social, ethnic, religious and political tensions that affected life in mid-19th Century urban Newfoundland.

Keywords

mumming, violence, Newfoundland, criminal trials

Introduction

In recent years, the custom of Christmas mumming has assumed a prominent position within Newfoundland's cultural iconography. Participants in this custom, as it takes place on the island today, conceal their identities by adopting various disguises and by modifying their speech, posture and behaviour; they then travel in groups from house to house within their communities, where they may entertain their hosts with music and dancing. The householders meanwhile attempt to guess the mummers' identities and afterwards provide them with food and drink. Renewed interest and participation in this custom in Newfoundland since the 1970s has been stimulated by influential academic studies – most notably Herbert Halpert and George Story's *Christmas Mumming in Newfoundland* (1969)² – as well as the activities of revival groups, artists, musicians and the media (Brookes, 1998, Pocius, 1988). Commodified representations of mummers and mumming are sold to tourists, expatriates and locals alike as part of a widespread marketing of tradition on the island (Smith, 2007). Despite the fact that mumming traditions of this type are found in a variety of forms in many cultures throughout the world,³ the custom has thus been appropriated as a symbol of the island's unique cultural identity (Pocius, 1988). However, in

common with many other folk revivals, the resurgence of Christmas mumming in Newfoundland is largely based on a selective and idealised conceptualisation of the custom. As part of this revival, one particular form of mumming - the informal house-visit described above - has come to represent the custom in Newfoundland as a whole, while other forms that were equally prominent in the island's cultural history have received comparatively little attention. Moreover, as Gerald Pocius points out, the revived version of mumming serves as a "nostalgic icon" that contains no hint of the negative elements of the custom as it existed in the island's past, most notably its associations with fear and violence (1988: 77).

This paper aims to contribute towards a fuller understanding of this darker aspect of the custom's past, by focusing on a form of mumming activity that was practised in the urban centres of Conception Bay on Newfoundland's northeast coast, and in the island's capital, St. John's, in the mid-19th Century. In particular, I present new evidence for the association of mumming with violence in these areas, in the form of the proceedings of a number of criminal trials involving mummers recently uncovered at the Provincial Archives of Newfoundland and Labrador (PANL). After offering a brief overview of the settlement and development of the island's urban centres, and the turbulent social and political situation that existed there in the mid-19th Century, I go on to explore the nature of the relationship between mumming, violence and the law in these areas during this period. I discuss what the newly-uncovered trial documents reveal about the form of mumming that took place there, its similarities and differences to the more widely-studied house-visiting tradition, and the facts underlying its associations with fear and violence. On the basis of this new evidence, I argue for the need to re-examine the relationships that several scholars have posited between the violence surrounding the custom and the wider social, ethnic, religious and political tensions that affected life in urban Newfoundland during this period (eg, Best, 2008; Brookes, 1988, 1993; Brown, 2005; Byrne, 1981; Halpert, 1969; Power, 2005; Sider, 1976; and Story, 1969b).

Urban Newfoundland in the mid-19th Century

The island of Newfoundland is located off the east coast of Canada at the mouth of the Gulf of St. Lawrence and covers a total land area of 111,390 square kilometres, making it Canada's fourth-largest island (see Figure 1). Part of Canada only since 1949,⁴ its long history of European settlement and development was fundamentally shaped by its unique geographical position at the easternmost edge of the North American continent. For almost three hundred years following its 'discovery' by John Cabot in 1497, Newfoundland's proximity to some of the world's richest cod fishing grounds made it the natural base for a lucrative transatlantic migratory fishery. Fishermen from Portugal, France, Spain and England travelled to the island each spring and, for the most part, returned home to Europe at the conclusion of the cod fishing season in the autumn. Britain dominated the fishery from the early 18th Century, when her sovereignty over the island was consolidated by the Treaty of Utrecht (1713). The British fishery in Newfoundland was controlled almost exclusively by a small number of merchants based in the southwest of England, with labour recruited both from this area and, increasingly, from southeast Ireland. During the 1700s, a gradual transition took place from a migratory to a resident fishery, operated by permanent settlers on the island itself. Nonetheless, Newfoundland's permanent population remained relatively small and unstable throughout most of the 18th Century, a situation which was due in part to the fact that the British administration encouraged settlement only as it was necessary for the prosecution of the fishery. The period from 1780-1830, however, saw the most dramatic wave of immigration to occur in the island's history. In the first three decades of the 19th



Figure 1 Newfoundland and Labrador (showing Conception Bay and St John's)
(David Mercer, Map Room, Queen Elizabeth II Library, Memorial University)

Century the population quadrupled – from around 19,000 in 1803 to around 75,000 in 1836 (Mannion, 1977: 6) – and the island finally received official British colonial status in 1825. The vast majority of the settlers were immigrants from the same small areas of southwest England and southeast Ireland from which the earlier, temporary migrants had come.⁵

Despite the expansion of the fishery to other areas of the island, permanent settlement largely followed the pattern set by the earlier migrations, with most of the immigrants settling on the east and northeast coasts, and especially in the capital, St. John's, and in nearby Conception Bay. The population of St. John's had doubled from just over 5,000 in 1805 to

around 10,000 by 1815, and by 1845 it stood at almost 21,000 (Baker, 1994: 29, 33). The population of Conception Bay similarly rose from around 18,000 in 1827 to over 33,000 thirty years later; its two principal towns, Harbour Grace and Carbonear, each had a population of around 3,000 by 1839 (Hodgson, 1981: 493; Story, 1969a: 25). As mercantile control of the fishery gradually shifted from England to Newfoundland itself, it became increasingly centralised in towns such as these, which quickly rose to prominence as commercial and administrative centres. Thus George Story writes of St. John's, for example, that it was "transformed from a fishing village into a town in little more than a generation. It was the administrative centre, the hub of a growing trade, and the financial pivot of the Island's fishery and export trade" (1969a: 24). As Wayne Stockwood observes, one result of such developments was a "rapidly increasing distinction between urban and rural environments", which fundamentally influenced life on the island during this period (1981: 432). While the more remote outport communities remained almost entirely dependent on the fishery, the island's growing urban centres enjoyed a greater degree of economic and occupational diversity; the emergence of a dominant middle-class elite in the towns also led to increasing social stratification there. In contrast, as John Mannion describes, the decline of mercantile activity in the outports meant that they became "socially more egalitarian and occupationally less specialized than in the previous century", with "labour and production... almost completely organized around the family household unit" (1977: 11). In addition, whereas the outports (and often entire stretches of coastline) were typically dominated by settlers originating from a single geographical source area, in the towns the two major ethnic and religious groups - the English Protestants and the Irish Catholics - lived and worked in close proximity.

The mid-19th Century is generally regarded as one of the most turbulent periods in Newfoundland's social and political history, and this found expression in the regular outbreaks of public protest and disorder that occurred in these burgeoning urban centres. During this period, the fishing population suffered widespread poverty in consequence of the low market prices for cod and poor catches that repeatedly plagued the fishery; the resultant unrest was channelled into what Phillip McCann describes as "something very like a class struggle" (1988: 89). Fishermen regularly looted stores in search of food and engaged in collective action against merchants demanding higher wages and protesting against the system of merchant credit or 'truck'; such protests not infrequently spilled over into rioting and violence (see Cadigan, 2009: 98-124). Moreover, since most of the merchants were English Protestants, the emergence of these class-based tensions can be seen as interlinked with the growth of sectarianism on the island, which, as Story writes, was rapidly becoming "the most serious political and social problem of the century" (1969a: 27). At the same time, poverty exacerbated interethnic and religious hostilities among the working-class settlers themselves; Story suggests that the "growing fear of the Irish among the Protestant population of Conception Bay", for example, was attributable "as much to... economic competition as to doctrinal differences" (1969a: 27).

Ethnicity and religion, as well as class, also exerted a powerful influence on Newfoundland politics during this period. The decades following the granting of representative government by the British in 1832 were marked by bitter clashes between the island's new elected assembly, which was controlled by largely Catholic Liberals, and the representatives of the Protestant Conservative establishment who sat on the appointed executive council (Cadigan, 2009: 98-124; Webb, 2001: online). Sean Cadigan describes how the Liberals were actively supported by the island's Catholic clergy, in an alliance that reinforced and manipulated the interconnections between ethnicity, religion, politics and class. The priests, led by Bishop Fleming in St. John's, "channelled the discontent of the poor away from the economic circumstances that produced their poverty and toward official Protestantism and British rule". In turn, "the dominance of Anglicans on the Executive Council... reinforced the

association of mercantile privileges with those of the established church” (Cadigan, 2009: 112). On the other hand, as Chris Brookes writes, pro-establishment newspapers such as the St. John’s *Public Ledger* similarly “tried to rally Protestant workers to the merchant side by turning class struggle into sectarian rivalry, conjuring up visions of ‘papist ascendancy’” (1988: 26). The result was an “almost continuous series of politico-religious clashes” that lasted throughout the mid-19th Century (Story, 1969a: 27), manifesting itself among the population of the island’s urban centres in the form of public protests and rioting, as well as intimidation of and violent reprisals against vocal opponents on each side. It is in the context of this turbulent social and political situation that documented accounts of the practice of Christmas mumming in Conception Bay and St. John’s begin to appear.⁶ It is not surprising, then, that scholars have drawn on this framework of interconnected class, ethnic, religious and political tensions in attempting to interpret one of the key features of these accounts: their association of the custom with disorder and violence on the part of the ‘lower orders’ of Newfoundland’s urban population.

Mumming, Violence and the Law

Much attention has been devoted by scholars of mumming traditions to the way in which the custom helps to “reaffirm communal ties”, promoting “social cohesion and a sense of what Victor Turner calls ‘*communitas*’” (Buckley et al, 2007: xv; Gunnell, 2007: 34). At the same time, scholars have also recognised the custom’s destabilising and disruptive potential, noting the way in which it “transforms the nature and rules of the day-to-day environment” and “is often characterized by behaviour which is inverse to social norms”, involving the transgression of accepted boundaries (Buckley et al, 2007: xiii; Gunnell, 2007: 30). Accounts of mumming traditions in diverse cultures illustrate the potential of such transgressive behaviour to develop into physical aggression and violence. To take just one example, in his survey of historical and contemporary mumming traditions, Herbert Halpert describes participants’ behaviour variously as “uninhibited”, “frightening”, “violent”, “rough”, “boisterous”, “turbulent”, “aggressive”, “rowdy” and “dangerous” (Halpert, 1969). Unsurprisingly, its associations with fear and violence have meant that mumming has frequently fallen foul of the law. Halpert here describes a pattern that began in the Middle Ages and continued into the 19th Century:

In the long history of mumming in Great Britain and America, and probably elsewhere, a common pattern is evident: the rowdiness and dangerous (sometimes criminal) behaviour of the disguised mummers have been met by repeated civic bans on the practice. These bans have a curious habit of repeating themselves in time, suggesting the deep-seated nature of the custom of mumming, which has been suppressed only to rise again in the old or a new form. (1969: 51)

The relationship between mumming, violence and the law in mid-19th Century Newfoundland can best be understood in the context of the increasing distinction between urban and rural environments discussed above, a situation which has been used to account for the emergence of two distinct urban and rural forms of mumming on the island during this period. These divergent forms roughly correspond to the two grouped pairs that Halpert identifies in his typology of mumming traditions (1969: 35-36). The first of these pairs comprises what we might refer to as visiting traditions, in which the majority of the activity takes place indoors. These include informal house-visits, such as those that have now become symbolic of the Newfoundland mumming tradition as a whole, as well as visits incorporating formal performances such as a dance or folk play. Halpert’s second pair encompasses mumming traditions that take place primarily outdoors, including informal

behaviour or “undirected wandering”, on the one hand, and more formal movements involving dramatic performances, dance processions or parades, on the other. According to Gerald Sider, the egalitarian social conditions of the Newfoundland outports during the mid-19th Century and beyond fostered the informal house-visiting tradition of mumming that took root in these rural communities. In contrast, the form of mumming that developed in the larger towns was primarily of the outdoor type, corresponding to the second of Halpert’s two pairs (see Sider, 1976; Sider, 1986, chapter 6). In St. John’s, this took the form of an organised parade, although there has hitherto been little contemporary evidence indicating the precise form of the outdoor mumming that developed in Conception Bay.

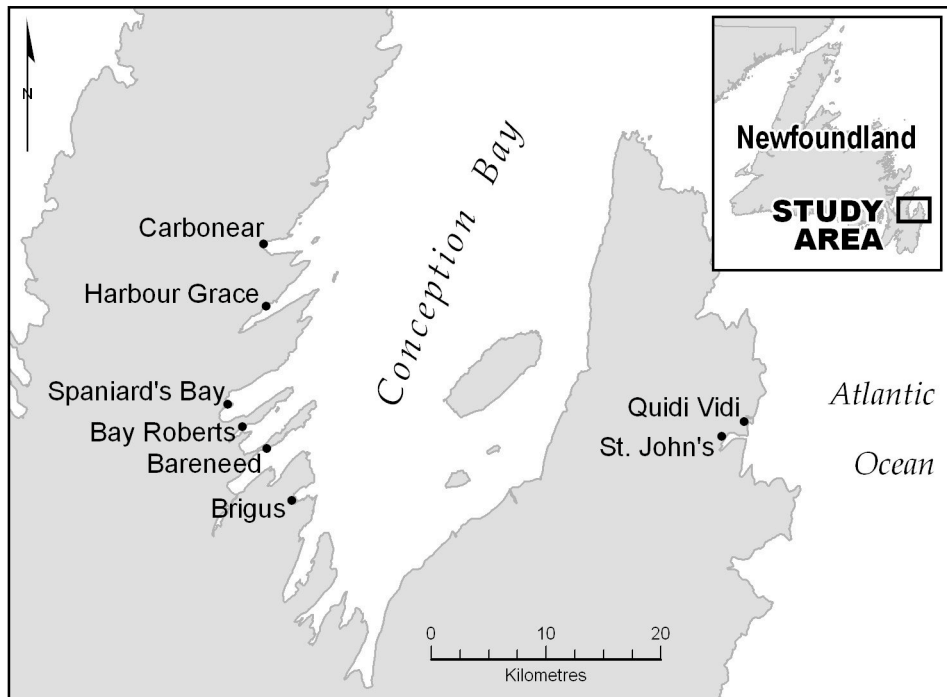


Figure 2. Conception Bay and St John’s (David Mercer, Map Room, Queen Elizabeth II Library, Memorial University of Newfoundland)

Although mummers engaging in outport house-visiting traditions were often regarded as ‘frightening figures’, it was the urban form of mumming that accrued particular associations with physical violence, and thus began to attract the attention of the authorities. Several scholars have remarked on what Story calls “a tradition of fear and violence” (1969b: 182) in connection with mumming as practised in Conception Bay and St. John’s during the period under discussion. Specifically, Cyril Byrne notes a significant shift in the perceptions of and attitudes towards the custom expressed in contemporary accounts beginning in the early 1830s. He observes that “those comments about [mumming] both from Conception Bay and St. John’s which date from approximately 1830 onwards are all characterized by both violence and a distinct association with... ‘the lower orders’” (1981: 4). These associations were eventually to lead to the statutory licensing and subsequent banning of the custom by the Newfoundland legislature in 1861-62. On June 25th 1861, an act was passed which dictated that “any Person who shall be found... without a written Licence from a Magistrate, dressed as a Mummer, masked, or otherwise disguised, shall be deemed guilty of a Public

Nuisance”. Offenders were to pay “a Fine not exceeding Twenty Shillings”, or to serve a maximum of seven days’ imprisonment (Consolidated Acts of Newfoundland, 1861: 10). An article in the St. John’s *Public Ledger* in January 1862 suggested that 150 licences had been issued during the preceding Christmas season, but that many more participants in the custom had failed to comply with the new legislation Unattributed, 1862: 2; cf. Byrne 1981: 5). The Christmas season 1861-62 also saw two high-profile disturbances involving mummers in Conception Bay, in the towns of Harbour Grace and Carbonear. Subsequently, on March 27th 1862, the legislature passed an amendment to the original act, this time imposing an outright ban on mumming that was to remain in force for over a hundred years (Consolidated Acts of Newfoundland, 1862: 30).

Notably, however, arguments concerning the association of mumming and violence in Newfoundland’s urban centres during the mid-19th Century have hitherto been based on an extremely limited body of evidence. Until recently, few contemporary accounts have come to light between the first known description of mumming-related violence in Conception Bay in January 1831, and the alleged murder of a fisherman named Isaac Mercer by mummers in the town of Bay Roberts in December 1860. The Mercer case has been discussed extensively by scholars and others, again based on remarkably scant documentary evidence and a largely unquestioned ‘folk history’.⁸ The passage of the licensing act and subsequent banning of the custom so soon after Mercer’s murder, as well as the apparent scarcity of other legal cases involving mummers between 1831 and 1860, has led many commentators to assume that the Mercer case was more or less the sole cause of the ban. Even Byrne, whose work represents the fullest discussion of 19th Century urban mumming in Newfoundland published to date, mentions just two additional documented cases of violence involving mummers during the entire period in question (1981: 4-5): a riot in St. John’s in December 1833, in which the involvement of mummers is, in fact, debatable; and a case of assault and battery committed by a mummer in St. John’s in January 1842. There is no doubt that Mercer’s murder sparked widespread outrage and catapulted mumming to the top of the legal agenda in Newfoundland. However, the evidence presented in the remainder of this paper suggests that the Mercer case can more accurately be interpreted as the culmination of a well-established relationship between mumming, violence and the law in Conception Bay and St. John’s that began at least thirty years earlier.

New Evidence from Criminal Trial Proceedings

My own interest in this topic began in Spring 2007, when I was employed as a research assistant to Dr. Paul Smith in the Folklore Department at Memorial University of Newfoundland in St. John’s, on a project investigating the events surrounding the 1862 ban on mumming. Dr. Smith sent me to search the court records collection at the Provincial Archives of Newfoundland and Labrador (PANL) for documents relating to the Isaac Mercer murder case. In the process, I made a series of unexpected discoveries, stumbling across the proceedings of several other criminal trials involving mummers in Conception Bay and St. John’s, dating from the 1830s to the early 1860s. These documents provide significant new evidence of a close relationship between mumming, violence and the law in these areas during the three decades leading up to Mercer’s murder and in the years immediately following it. They also contain a wealth of information about the practice of mumming in the area during this period, and offer insights into the wider attitudes and tensions encoded in the violence surrounding the custom, and in the responses of the authorities. The documents are important not only because they provide a much larger corpus of data for analysis than has hitherto been available, but also because of the perspective that they offer on the tradition. Whereas most interpretations of nineteenth-century urban mumming in

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Newfoundland have relied heavily on third-person accounts by travellers and other outsiders, and on memoirs written years after the experiences they depict, the trial documents record the perspectives of the victims, perpetrators and witnesses of the violent incidents themselves, in most cases just days after the events actually occurred.

In total, twenty criminal cases involving mummers in Conception Bay and St. John's have been located to date, the majority discovered among PANL's court records collection, with some additional cases located in newspapers and other contemporary accounts, including the small number discussed in the published research and those already in Dr. Smith's files. A summary of these cases, with sources, is given in Table 1.⁹ This total includes nine from Harbour Grace and three each from Carbonear and St. John's: the three largest communities in Newfoundland during the period concerned. In addition, single cases have been located from the communities of Spaniard's Bay, Bay Roberts, Bareneed and Brigus in Conception Bay, and Quidi Vidi near St. John's (see Figure 2). Of this total of twenty cases, sixteen are so far known to have been brought to trial, of which nine involved charges of assault and battery, and one – the Isaac Mercer case – a charge of murder.¹⁰ A further six cases, which came to court after the statutory licensing of mumming in June 1861, involved charges of mumming without licence, and thus did not necessarily pertain to violent acts. In one of these cases, however, the complainant describes being "struck... on the side of the head with a stick" by the accused (case N), while, in another, the defendant was convicted on an additional charge of causing a public nuisance (K), suggesting that some level of disruptive, if not violent, behaviour was involved. Of the cases known to have been brought to trial, twelve resulted in convictions; two in acquittals (C, I); and one was settled between the parties (B). In the remaining case, the result of the trial is unknown (T). The punishments for those found guilty of assault and battery ranged from payment of the complainant's doctor's fees plus sixteen shillings costs (M), to a fine of £2 and ten shillings plus costs or one month's imprisonment (D). For those convicted of mumming without licence, the fines ranged from fifteen shillings or five days' imprisonment (N) to twenty shillings or seven days' imprisonment (P, R, S), with the latter being the punishment dictated by the licensing act (see Consolidated Acts of Newfoundland, 1861: 10).

Case	Date of incident	Complainant(s)	Defendant(s)	Community	Charge	Verdict	Source(s)
A	7 Jan 1831	Mansel Alcock et al	(Unnamed mummers)	Harbour Grace	N/A	N/A	PANL GN 2/2 1831 (1) Vol. 7 PANL GN 2/1/A Vol. 38 Public Ledger (St. John's) 11, 25 January 1831
B	7 Jan 1835	Richard Hickey et al	Michael Tobin et al	Harbour Grace	Assault and battery	Settled between the parties	PANL GN 5/3/B/19 Box 22, File 6
C	26 Dec 1838	Edward Spencer	Thomas Murphy	Carbonear	Assault and battery	Acquitted	PANL GN 5/3/B/19 Box 49, File 13
D	1 Jan 1842	Pascoe Carter	James Walsh	St. John's	Assault and battery	Guilty (sentence later remitted)	PANL GN 2/1/A Vol. 44 PANL GN 2/2 Box 26
E	(Dec?) 1850	(?)	(Unnamed mummer)	(St. John's?)	Assault and battery	Guilty	Murphy, 1906: 9

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F	6 Jan 1860	John Charles Snelgrove	Henry Critch	Harbour Grace	Assault and battery	Guilty	PANL GN 5/3/B/19 Box 24, File 1
G	26 Dec 1860	Daniel Brennan	Joseph Bray Charles Davis	Harbour Grace	Assault and battery	Guilty (Bray); acquitted (Davis)	PANL GN 5/3/B/19 Box 24, File 3 PANL GN 5/3/B/19 Box 24, File 22
H	27 Dec 1860	Thomas Higgins	Richard Sheppard	Spaniard's Bay	Assault and battery	Guilty	PANL GN 5/3/B/19 Box 24, File 3 PANL GN 5/3/B/19 Box 24, File 22
I	28 Dec 1860	Isaac Mercer	John Dawson et al	Bay Roberts	Murder	(Acquitted?)	Numerous court records and contemporary newspaper reports
J	(2 Jan?) 1861	(Fury?)	(Unnamed mummer)	Brigus	N/A	N/A	Unattributed, 1883 Telegraph (St. John's) 9 January 1861
K	(25?) Dec 1861	(?)	Patrick Kenealy	(St. John's?)	Mumming w/out licence; causing a public nuisance	Guilty	Public Ledger 3, 10 January 1862
L	26 Dec 1861	(?)	(Unnamed mummers)	Quidi Vidi	Assault and battery	Guilty	Public Ledger 27, 31 December 1861
M	31 Dec 1861	George Ford	Michael Neal	Harbour Grace	Assault and battery	(Guilty?)	PANL GN 5/3/B/19 Box 6, File 2
N	31 Dec 1861	William Nicholas	James Rocket	Harbour Grace	Mumming w/out licence	Guilty	PANL GN 5/3/B/19 Box 6, File 2
O	(Dec?) 1861	(?)	(Unnamed mummers)	Harbour Grace	N/A	N/A	Public Ledger 3 January 1862
P	6 Jan 1862	William Meagher	Thomas Dooley	Carbonear	Mumming w/out licence	Guilty	PANL GN 5/4/B/1 Box 184, 1860-1862
Q	(Jan?) 1862	(?)	(Unnamed mummers)	Carbonear	N/A	N/A	Numerous contemporary newspaper reports
R	26 Dec 1862	James Nicholas	Stephen Andrews Joseph Pynn Michael Rogers	Harbour Grace	Mumming w/out licence	Guilty	PANL GN 5/3/B/19 Box 13, File 3
S	30 Dec 1862	Patrick Donnelly	Thomas Morrissey	Harbour Grace	Mumming w/out licence	Guilty	PANL GN 5/3/B/19 Box 13, File 3
T	2 Jan 1863	Samuel Curlew	Richard Henebery et al	Bareneed	Mumming w/out licence	(Not known)	PANL GN 5/3/B/19 Box 6, File 1

Table 1: Criminal cases involving mummers in Conception Bay and St. John's, 1831-1863

Some comments should be made here regarding the temporal distribution of the cases located to date. The majority (75%) took place in the period between January 1860 and

January 1863, which appears to suggest that mumming-related violence may have reached a peak during these few years. However, to a large extent this pattern of temporal distribution is attributable to the fact that the original purpose of the research was to locate documents pertaining to the Mercer murder case. Accordingly, only a small section of the court records collection at PANL has been searched to date, consisting of the records for the years 1860-62, plus any files marked 'Miscellaneous' or 'Various dates'. Although the number of cases from the decades preceding the Mercer case remains relatively small (three cases have been found to date from the 1830s, and one each from the 1840s and 1850s), it is likely that they represent only a small proportion of the total number of cases involving mummers brought to court during these decades. The likelihood that more cases remain to be found from this earlier period is supported by a comment made by two of the Magistrates at Harbour Grace in a letter to the Colonial Secretary's office concerning an attack by mummers on a property in that town in January 1831 (case A). They write that "since the Commencement of Christmas *many complaints* have been made of Assaults and Batteries" involving mummers in Harbour Grace, Carbonear and other parts of Conception Bay, and conclude by stating that "we most humbly conceive that it would be much for the benefit of the public peace of Conception Bay, that the Custom of mumming and persons going abroad disguised should not in future be allowed to pass unpunished" (Danson and Buckingham, 1831, emphasis added). Similar indications that encounters between mummers and the law were not infrequent during this period can be found in contemporary newspaper reports (eg, 'A Lover of Peace', 1833; [Winton], 1833; [Winton], 1835; Unattributed, 1837).

At the other end of the timescale, meanwhile, it is interesting to note that three of the cases in which individuals were prosecuted for mumming without licence took place *after* the passage of the ban on mumming in March 1862, by which time the system of licensing had been discontinued and the custom had been made illegal under any circumstances. The discovery of these trials indicates that, contrary to the assumption made by some commentators, the banning of the custom did not signal the immediate end of urban mumming in Newfoundland. Further investigation of the court records for subsequent years will help to reveal the extent to which the practice persisted despite the threat of prosecution, and to which magistrates continued to prosecute mummers under the licensing act despite the imposition of the outright ban.

Having established a significantly firmer basis of evidence in support of a close relationship between mumming, violence and the law in mid-19th Century Conception Bay and St. John's, I turn now to a consideration of what the trial documents reveal about the practice of mumming itself in these areas during this period. Analysis of witness statements and other documents indicates a number of parallels with later accounts collected by scholars investigating informal house-visiting traditions in rural Newfoundland. Most notably, witnesses' descriptions of the costumes worn by the mummers reveal marked similarities with those worn by participants in the house-visiting traditions (see Widdowson and Halpert, 1969; Robertson, 1982, 1984). Several witnesses simply state that the accused were "dressed up as mummers or Christmas fools" (C), "disguised... in the dress of a 'mummer'" (D) or "going about as a Mummer in the usual manner" (F), indicating that the practice of mumming was sufficiently common that no further explanation was deemed necessary. Where more detailed descriptions of the mummers' dress are given, the offenders are usually described as wearing some kind of mask (D, H, T) or other facial disguise, such as "veils over their faces" (R) or "on their Hats" (G), while others are described as having "their faces blacked or covered" (A). In case M, a witness states that the defendant was "covered with a sheet so that I could see neither his dress nor his face". In some instances, the mummers' unusual hats are also mentioned, including the southwester and the "Jim Crow hat" worn by the accused in case G. Descriptions of the mummers' clothing, meanwhile,

accord with the theme of symbolic reversal that has been discussed extensively with regard to the house-visiting tradition. Thus witnesses in some of the cases note that the mummers were wearing their underwear over their outer clothing: “the man... had a check shirt outside his clothes” (M), for example, or “[they] had their Shirts out over the Trousers” (G). Cross-dressing also appears to have been common practice, with two of the accused in case R being described as appearing “in female dress as mummers usually disguise themselves”.¹¹

However, the trial documents also reveal some significant contrasts between the practice of urban mumming in 19th Century Conception Bay and St. John’s and the more widely-studied rural house-visiting tradition. Firstly, it is notable that only two of the incidents described in the twenty cases collected so far took place indoors (A, B). The remaining incidents are all described as having taken place either simply “on the street” (D, M, T) or in more specific outdoor locations: “on the road leading to Mr Pikes” (C), for example, “near Mr Greens premises” (P), or on “the main Street at Caplin Cove Harbor Grace” (F). Moreover, in the two cases in which the incidents did take place indoors, the defendants were accused of forcibly entering the complainants’ property, in direct contrast to the practice adopted by participants in the house-visiting tradition, where the mummers typically knocked at the hosts’ door and requested permission to enter.¹² It is also noteworthy that those directly involved in the violent incidents described in the cases collected so far were exclusively male, and no female mummers are referred to in any of the trial documents.¹³ This suggests a further point of contrast with the house-visiting tradition, which usually involved both male and female participants. Unfortunately, in very few of the cases are we given any indication of the ages of the participants. In one case, the defendant is described as “a young lad” (D), and in another, his age is given as 20 (K), which accords with the opinion advanced by some commentators that urban mumming, unlike rural house-visiting, was primarily engaged in by boys and young men. We do know, however, that three of those accused of Isaac Mercer’s murder were considerably older – 28, 32 and 37 – suggesting that there was a fairly wide age range among those participating in the custom in these communities.

While the trial documents suggest both similarities and contrasts with the house-visiting tradition, the records for those cases which took place in Conception Bay (representing 80% of the total number of cases discovered to date) also indicate some significant contrasts with the more formal outdoor mummers’ parade which is known to have taken place in St. John’s. No formal procession or performance of any kind is mentioned in the witness statements for any of the Conception Bay cases; where the nature of their movements is mentioned, the mummers are described as simply “going about” or as being. Finally, turning to witnesses’ descriptions of the objects or props carried by the mummers, it becomes readily apparent that the potential for violence, at least, was an integral part of the custom of mumming as it was practised in Conception Bay and St. John’s during this period. The mummers are almost always described as carrying some combination of hatchets, sticks, ropes and whips, all of which clearly have the capacity to serve as aggressive weapons. In case A, the assailants were armed with “bludgeons & swabs dipped in Blubber” which they rubbed into their victims’ faces and clothing, as well as swords and “loaded guns”. In case F, meanwhile, the complainant describes how he was beaten several times with a carpet broom, so severely that the defendant “broke his broom stick on my body from the force of the blows he gave me”. Another complainant received “a violent blow on the back of the head” with “a blown bladder” (D), an item which seems to have been frequently carried by mummers in both St. John’s and Conception Bay, apparently being filled with pebbles (Jukes, 1842: 221; Prowse, 1895: 402).¹⁴ In case M, meanwhile, the weapon of choice was a hobby horse, which, again, is frequently mentioned in descriptions of outdoor mumming activity in the communities under discussion (see Figure 3). The complainant in this case describes how “I heard some person running and turned round I

was struck on the head with something like a horses head and knocked down I rose on my knees to get hold of the man who struck me and he kicked me on the breast". A witness for the prosecution later confirms that, "I saw Defendant dressed like a hobby horse on Tuesday night and spoke to him. I opened his disguise and... saw his face and swear the defendant is the person. There was no other hobby horse on the street that night".



Figure 3: John W. Hayward's 'Christmas in the olden days' (1913) depicts mummers in St. John's armed with whips and 'blown bladders' and another dressed as a hobby horse. (Provincial Archives of Newfoundland and Labrador, MG 334-37, Box 2, File 5)

As the above discussion illustrates, the trial documents contribute towards a much fuller understanding of the predominantly outdoor mumming activity which took place in the urban centres of Conception Bay and St. John's in the mid-19th Century. In the remainder of this paper, I speculate briefly on what the evidence of the trial proceedings has to tell us about the wider context of the custom of mumming during this period. Several scholars have discussed the socioeconomic, ethnic, religious and political factors underlying the association of mumming with violence in nineteenth-century Conception Bay and St. John's (eg, Byrne, 1981; Sider, 1976, 1986; Story, 1969b). Gerald Sider, for example, contrasts what he refers to as "the egalitarian form of mumming that developed in village outposts" to that practised in "the more prosperous, socially stratified towns", arguing that the latter form

was “permeated by the symbols and reality of social class” and “the lines of social tension” (1976: 115). Sider describes 19th Century mumming in St. John’s as “a display of ritualized disorder that hovered on the edge of melee and violence between... workers and upper class” (1976: 116-17). Similarly, Byrne argues that from the 1830s onwards, “the custom was becoming the preserve of ‘the lower orders’... and was [being] used by them... as an attack on the wealthier and more privileged part of society” (1981: 4), while Chris Brookes suggests that mumming “represented a traditional vehicle for solidifying class consciousness” (1988: 28). Scholars have also linked mumming-related violence to the sectarian and political tensions that were prominent in urban Newfoundland during the period. Sider, for example, argues that mumming in St. John’s encoded conflicts not only between the working class and the elite, but also between Catholic and Protestant (1986: 139), while Byrne links the mumming-related violence to the politico-religious conflicts of the time. Observing that throughout the mid-19th Century Newfoundland society was becoming increasingly “divided along... political/religious lines”, he contends that violent incidents involving mummers were “all related to... the uneven distribution of... political power” and “had a dimension of political statement and protest about [them]” (1981: 4, 6).¹⁵ Similarly, Kelly Best argues that, “it is necessary to frame nineteenth-century accounts of [mumming] as a form of public protest/dispute rather than simply a celebration of the season” (2008: 216).

Based on an examination of the trial proceedings, it seems reasonable to state that all of these factors were almost certainly influential in shaping the tradition of fear and violence surrounding the practice of urban mumming in Newfoundland during this period. However, the evidence of the trial documents also suggests the need for caution in making sweeping generalisations such as that *all* violent incidents involving mummers can be read as class or political protests, or as ethnic or sectarian conflicts. Taking class as an example, information about the occupational backgrounds of both complainants and defendants included in the records of most of the trials indicates that an element of class conflict may have been present in some of the cases, but that this was certainly not so in every instance. Where the occupation of the defendants is stated, all except three – a labourer, a journeyman cooper and a blacksmith – are described as fishermen. Several of the complainants do appear to have been of higher social standing than their assailants; for example, there were two planters,¹⁶ two master coopers, a seaman, a clergyman and several police officers. A further six cases, however, involved assaults committed by fishermen against fishermen, suggesting that class tensions were not an issue in these instances. Moreover, closer examination of some of the other cases suggests that even where a class distinction was present between complainant and defendant, this was not necessarily the aggravating factor in the incident. Information concerning ethnic origin and religious affiliation, meanwhile, is sadly lacking from the trial documents. We do know from parish records that Isaac Mercer was Protestant, and the assumption is frequently made that his assailants were Catholic, but this has never been verified. The complainant in the case from Quidi Vidi was a Protestant clergyman, but again, the religious affiliation of his assailants is not known. Further research in the parish records and other sources may eventually lead to the identification of the ethnic origins and religious affiliations of some of those involved in the various incidents. Until then, however, it seems unwise to make assumptions about the possible ethnic and religious tensions underlying the mumming-related violence.

In formulating theoretical interpretations of mumming and violence in urban Newfoundland during this period, it is also clear that researchers must be careful to avoid projecting the perceptions of and attitudes towards the custom expressed by a variety of contemporary observers onto the participants in the tradition themselves. For example, Byrne writes that the editors of some contemporary local newspapers (most notably Henry Winton of the St. John’s *Public Ledger*) “saw the behaviour of the mummers as controlled by political agents

and their acts of violence as clearly political acts” (1981: 5), a perception that strongly influences the accounts of mumming-related incidents published in these newspapers. Similarly, as Halpert states, “the violence and disrespect for authority” associated with mumming during this period obviously “disturbed the dominant, well-to-do middle class” (1969: 55), whose accounts of the custom tend to reflect this fear of working-class revolt. Conspicuously absent from the trial documents, however, are descriptions of individuals being attacked, or claiming to have been attacked, because they were wealthy, Protestant, or English, or because of their political affiliations. Indeed, those involved in the incidents are far more likely to mention the influence of alcohol, to protest that the attacks took place “only in fun” (case F), or to cite interpersonal tensions or grudges, than to offer any suggestion of a socioeconomic, ethnic, sectarian or political motivation. I do not mean to suggest by this that such factors played no part in any of the incidents, nor indeed that the trial documents provide a more objective or unmediated insight into the incidents and the motivations underlying them than do any of the other contemporary accounts of the custom. I do, however, wish to highlight the important distinction between the versions of events presented during the trials and those disseminated by a variety of observers whose interpretations of the mumming-related violence can be seen to reflect their own political agendas or their attitudes towards the ‘lower orders’.

Conclusion

The recently-uncovered criminal trial proceedings discussed in this paper provide significant new evidence of the relationship between mumming, violence and the law in Newfoundland’s urban centres during the mid-19th Century. They represent an invaluable resource for the investigation of the form of outdoor mumming that was practised in these areas during this period, enabling us to trace its similarities and differences to the more widely-studied house-visiting tradition that prevailed in the island’s rural outports, and, in the case of Conception Bay, to the more formal mummers’ parade that took place in St. John’s. Moreover, the data they contain about the participants involved in the violent incidents, and about their underlying motivations, cast new light on the connections that several scholars have drawn between mumming-related violence and the wider socioeconomic, ethnic, sectarian and political antagonisms that divided urban society in Newfoundland during this period. We have seen that the mid-19th Century was one of the most turbulent phases in the island’s history, in which deep-seated tensions frequently found expression in the form of violent public protests and rioting. Culture does not exist in a vacuum, and any attempt to interpret the phenomenon of mumming-related violence in urban Newfoundland during this period must take into account its possible connections to this wider social and political context. Based on the evidence presented in this article, however, it is clear that these connections are considerably more complex than scholars have hitherto assumed, and that existing theoretical interpretations only tell part of the story. Ongoing analysis of the growing body of contemporary source material promises further to enhance our understanding of the messy realities of this complex cultural phenomenon.

Endnotes

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² For other studies of Newfoundland mumming not discussed elsewhere in this paper, see, for example, Firestone (1978); Palmer (1992, 2005); and Robertson (1982, 1984).

³ For recent surveys of mumming traditions in insular and other cultures, see Buckley et al (2007); Gunnell (2007). For influential case studies of mumming in particular areas, see Glassie (1983) (Ireland) and Bregenhøj (1974) (Denmark).

⁴ Together with Labrador, the mainland territory under its jurisdiction, Newfoundland forms Canada's newest province (the province's official name was changed from Newfoundland to Newfoundland and Labrador in 2001). Prior to confederation, the island was a British colony, and then briefly a self-governing Dominion.

⁵ Helpful overviews of the history of European settlement in Newfoundland are given in Mannion (1977) and in the various plates dealing with Newfoundland in volumes 1 and 2 of the *Historical Atlas of Canada* (Harris, 1987; Gentilcore and Macklem, 1993). Other useful starting-points for the exploration of the island's history in general include the Newfoundland and Labrador Heritage Web Site Project (various dates: online) and Olaf Janzen's *Reader's Guide to the History of Newfoundland and Labrador to 1869* (2009: online).

⁶ For the earliest documented accounts of the practice of mumming in Newfoundland, see Unattributed (1812); Anspach (1819: 477).

⁷ Halpert draws particular parallels between the ban on mumming in Newfoundland and those in Trinidad (the Carnival Parade), Philadelphia (the Mummers' Parade) and New Orleans (the Mardi Gras Parade), stating that, "in all three areas, the boisterous behaviour of mummers... originally led, as in Newfoundland, to the banning of all mumming" (1969: 53). For a discussion of mumming in nineteenth-century Philadelphia, see Davis (1982) and for a comparable case from Lerwick, Shetland, see Brown (1998).

⁸ Dr. Paul Smith first suggested the use of this term in this context.

⁹ In the discussion that follows, the letters cited in brackets refer to those used to identify the cases in Table 1.

¹⁰ The remaining four cases located to date pertain to alleged assaults and breaches of the peace involving mummers which may or may not have been brought to trial (A, J, O, Q); it is hoped that further research will reveal what happened in these instances.

¹¹ A further parallel with the house-visiting tradition is that almost all of the incidents are described as having taken place in the evening or at night; in those cases where times are specified, they range from 4pm to 1am. Thus, while Byrne suggests that mummers in early-19th Century Conception Bay were also active during the daytime (1981: 3; see Tocque, 1897), violent incidents – at least those of a sufficiently serious nature to have attracted the attention of the authorities – seem to have occurred almost exclusively after dark.

¹² Melvin Firestone points out that "in knocking [mummers engaging in house-visiting]... set themselves apart from their normal roles as community members who would normally

enter freely and without formality... Their knocking is a ritual by which they announce their strangeness" (1969: 70).

¹³ The closest a woman comes to involvement in any of the incidents is in case F. The mother of the victim in this case states that she "heard a noise outside the house" and, on going outside to investigate, saw her son "lying on the ground and the Defendant beating him with a stick", whereupon she chased the defendant away.

¹⁴ Jukes (1842: 221) describes mummers in St. John's as being "armed with a bladder full of pebbles tied to a kind of whip", while Prowse (1895: 402), referring to the period around 1814, states that "the 'swabs' were made of a bladder, covered with canvas or a switch, made sometimes of a cow's tail fastened to a stick". Similarly, Bonnycastle (1842: 140) writes that "the fools or clowns are furnished with thongs and bladders, with which they belabour the exterior mob".

¹⁵ Both Byrne and Story also note that Irish settlers often brought with them to Newfoundland "the local feuds and rivalries of their native towns and districts", suggesting that these feuds may have found expression in the violence surrounding the custom of mumming (Story, 1969b: 177). This argument contradicts the theory that the violence was related to sectarian tensions, since virtually all the Irish settlers were Catholic. Similarly, Brookes argues that mumming "represented a nonsectarian combination of the working class" (1988: 26).

¹⁶ In 19th Century Newfoundland, the term 'planter' usually referred to someone who owned a fishing vessel. According to the *Encyclopedia of Newfoundland and Labrador*, "throughout the 1800s planters comprised a more or less distinct social class... between the often wealthy English merchants and ordinary fishermen" (Bates, 1993: 332).

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