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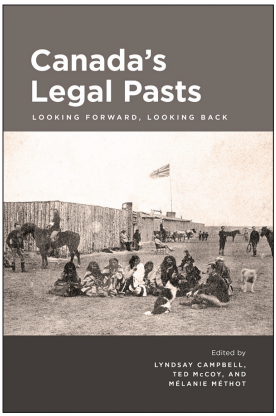

CANADA'S LEGAL PASTS: Looking Forward, Looking Back

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Getting Their Man: The NWMP as Accused in the Territorial Criminal Court in the Canadian North-West, 1876–1903

Shelley A.M. Gavigan[*]

Introduction: Low Law and the Meanings of Justice

Low law, found everywhere in the lives of poor and marginalized peoples, has long been relegated to muted insignificance by high law, the "most loudly articulated account of law."[1] High law and its high justice processes have long ruled—in the legal academy and in courthouse corridors, chambers and court rooms dusted by power, legal actors in judicial robes and barristers' gowns, and litigants with money and property at stake. One is hard pressed to find the faces or legal struggles of the poor in these places. Their sites of justice are invariably less august. Historians of low law courts and tribunals find justice that is unadorned, leaner, and usually meaner—more "No Frills" than "Whole Foods." In the current Canadian context, low justice can be found in small town curling rinks and Legion halls, in justice of the peace courts, and in windowless urban office buildings, where matters such as landlord and tenant and social assistance

issues are adjudicated, sometimes presided over by legally trained adjudicators—often not—sometimes with lawyers—often not.

High law's chains and claims have been rattled as Canadian legal historians have begun to turn their attention to forms of low law and sites of low justice.[2] However, myriad methodological challenges await the historian of low law and justice. The people of low law, especially children, women, Indigenous prisoners, and even magistrates, were not people of wealth and have not left many words, letters, diaries, or newspaper articles. There are few official reports of their "small" cases. The records and documents are often thin and incomplete, where they exist at all. Historians who comb official records and government reports—police, immigration, hospital, asylum, Indian department records, treaty annuity pay lists, penitentiary registers, and so on— are thrilled when they catch a glimpse of someone's name, distressed when another's name simply drops off a page. Researchers often turn to newspaper accounts of legal proceedings because the original records have been lost or culled.[3] But even here, one often does not find extensive reports. Working with and between gaps and silences, and statistics "incomplete and interpretive as they are,"[4] legal historians piece together what we can, looking wide to find traces, mindful that the stories we tell are not pieces of a jigsaw puzzle, but rather interpretations of partial fragments of lives engaged, and often irreparably harmed, by low law and justice.

While "every day criminal justice"[5] or law "for the lower orders"[6] is self-evidently not high law, is low law best known only by what it is most not? Does it simply underscore the essence of high law and justice, and illustrate the legal and social distance from the Supreme Court down to the justice of the peace court or welfare tribunal? Recent historical work on low law rejects fixed or static notions of the meaning and sites of low law. In her work on local governance in Upper Canada/Ontario, Mary Stokes has widened the analytical frame of high law and low law, away from an exclusive focus on the "judicial" and a "restrictive vision of binary hierarchy."[7] In his study of petty justice in nineteenth-century New Brunswick, Paul Craven also argues that one should not think of low law simply as law for the lower orders, but as "an administrative, legislative, regulatory and judicial whole."[8] For Craven, "high" and "low" law sites—where the power and privilege associated with state, class, and gender are either expressed

or experienced—are not silos as he demonstrates "considerable interplay" between them.[9] In his work on borderline crime, Bradley Miller similarly speaks of sites of "convergence" between high law and low law.[10] This advice to look at different contexts and to eschew bifurcation in favour of connections, convergence, and interplay is most assuredly sound.

In this chapter, I take up some of that advice. However, I am interested less in the lines or interplay between high and low justice, than in the lines and interplay between different forms of low law and justice, and in a different set of "lower order" accused persons. Through a study of a small set of nineteenth-century criminal cases from Western Canada involving members of the North-West Mounted Police (NWMP) accused of criminal and disciplinary offences, I study the relationship between two statutorily created and ostensibly legal regimes: criminal justice and police discipline.

To do this, I rely on two kinds of archival records housed in different archives. The first, and foremost, is comprised of two different sets of court records, housed at the Provincial Archives of Saskatchewan in Regina. These are court records pertaining to Hugh Richardson, who was appointed in 1876 as one of the first three stipendiary magistrates of the North-West Territories (NWT). Richardson, born in England but raised in what is now southern Ontario, was called to the Bar in Upper Canada in 1847 and practised law in Woodstock until his appointment as chief clerk of the Department of Justice. He received his commission as stipendiary magistrate for the NWT in 1876.[11] During his career, he also served in the militia, rising to the rank of lieutenant-colonel, a title by which he continued to be known in the NWT. Richardson and his family made their home in the territorial capital of Battleford from his arrival on 27 September 1877 until 1883 when the capital shifted to Regina. The three stipendiary magistrates served ex officio as members of the Council of the NWT. Richardson, who has been described as "the most influential member"[12] of the Council, played a leadership role in legislative drafting (territorial ordinances) and, later, as legal expert and advisor to the territorial government.[13]

During his time as stipendiary magistrate in the Saskatchewan District,[14] he frequently sat in Battleford (where court was held at the NWMP detachment), but he also travelled widely[15] to points as far west

as Edmonton (387 km) and Fort Saskatchewan (400 km), and to the east, at Prince Albert (211 km) and Fort Carlton (150 km). His court records show that he also travelled to the far south east of the NWT (now southern Manitoba) to hear cases in Fort Ellice (611 km) and Shoal Lake (647 km). Even before he relocated to Regina, he travelled to the southern part of the NWT to hold court in Qu'Appelle (454 km) in 1881 and 1882. He was one of the first five judges appointed to the Supreme Court of the North-West Territories when it was created in 1886[16] and when the office of stipendiary magistrate was eliminated.

Hugh Richardson's court records, from his two different judicial positions in the NWT from 1876 until his retirement in 1903, yield fifteen members of the NWMP in the court records: twelve criminal accused persons, one police discipline accused, and two civil defendants.[17] My primary focus in this chapter is on the criminal and police discipline cases.

The second type of archival material from which I draw includes NWMP records and reports: the *Annual Reports of the Commissioner of the North-West Mounted Police*,[18] and the NWMP Personnel – Personnel Records, 1873–1904 that form part of the collection of Library and Archives Canada.[19] Initially, I turned to these two sets of NWMP records to see if they contained any additional information on the NWMP accused men I had found in the Richardson court files. The NWMP personnel records provide a bit more information about the men themselves and (less frequently) some additional information about the criminal charges. They also introduced me to the NWMP recruitment and termination process and to "defaulters' sheets" on which a member's disciplinary record was maintained. The NWMP used the language of "crimes" and "convictions" to describe these disciplinary offences and dispositions, although none were recorded as such in the NWMP's annual reporting of criminal case returns.

I also turned to the NWMP annual reports to see if the division superintendents or the commissioner himself included any reference to the criminal cases I had found in the court records. In the annual reports, I found a handful of other cases (which I discuss in the chapter) that engaged the criminal and police disciplinary processes. In combination, these two sources yield a broader range of accused men, including those charged with "crimes" against police discipline as well as desertion. From

the annual reports, one finds that more constables and sub-constables were charged, punished, and imprisoned (sometimes for lengthier periods of time) for breaches of police discipline. As I will discuss below, five of the fourteen Mounted Police who appeared in Richardson's court as criminal accused (and whose NWMP personnel records have survived) had experienced police disciplinary processes and punishments for what the NWMP called disciplinary crimes.

In both legal contexts, the adjudicators before whom the accused police could find themselves were the most senior men in the NWMP, either their own superior officers (superintendents or inspectors) or the commissioner or assistant commissioner. These cases are interesting not least because the North-West Mounted Police force has long been synonymous with the face of law and justice in the early years of the NWT and regarded as essential to the colonial aspirations of the young Canadian state. Criminal prosecutions of members of the police and police discipline have not been at the forefront of legal historical research. And yet, they offer both an opportunity and a challenge to think through the lines, sites, and forms of law and justice, and the power relationship within and between "Mounted Police courts [and] the ordinary Courts of Law."[20] The questions they invite involve broad and narrow issues, including the meaning of legal and judicial process, and low law sites of justice and injustice. Did the police justices of the peace leave their "disciplinary" sensibilities at the door of the courtroom when they presided as justice of the peace in ordinary criminal matters? Was that even a reasonable prospect given that court sittings in the Territories were held in the police barracks? And yet, as I will demonstrate, the senior officers guarded the separate sphere of their disciplinary process; they could move back and forth with ease, but the quality of their internal justice was regarded as off limits.

Stokes's reminder of the analytical constraints imposed by "binary" categories is important here, because one might be too readily inclined to drop a heavy curtain between police disciplinary justice and (regular) criminal justice. But to do so would result in a study of only the "front of stage" parts of the unique and complex roles of the Mounted Police in the administration of justice in the NWT. The police disciplinary justice cases demonstrate instances of interrelationship and the importance of senior NWMP officers in both contexts. Tracking these cases allows one

to see how interconnected these presumptively separate systems were. I am interested in revisiting the lines that define military/police and civil justice and, aided by the insights of historians Jeffrey McNairn and Greg Marquis, in demonstrating that the lines between these two sites of low law's justice were often messy and "blurred."[21]

In the next two sections, I introduce the legal framework of both regimes, before turning to cases of members of the Mounted Police who were prosecuted in one or both legal contexts. Despite the formally discrete processes, senior NWMP brass were, to say the least, significant and powerful actors in both. As I will show, these cases reveal the fluidity of their roles and their often close relationships with the stipendiary magistrate. More than a few procedural lapses occurred, and cases slipped back and forth between police discipline and criminal justice, often highlighting the tensions between the disciplinary priorities of the NWMP and the procedural safeguards of the criminal law process.

The Legal Framework of Criminal Justice in the North-West Territories

The acquisition of the territory of the western plains in 1870 had been a priority for the young Canadian state, one that eclipsed any process or consultation with the Indigenous peoples who lived there. However, the matter of the establishment of the institutions for the administration of justice also was not an immediate priority. The "inadequate legal system," described by Peter Ward as a renovated "hand-me-down judicial system" from the Hudson's Bay Company, was one in which the Lieutenant-Governor of the NWT was empowered to appoint a recorder and justices of the peace.[22] Six justices were appointed. Neither a legislative framework nor new institutions for the administration of justice were created until 1873, when John A. Macdonald's government "hastily"[23] introduced a trio of federal statutes to provide for the creation of the Department of the Interior (whose minister was to have control and management of the affairs of the NWT and to act as Superintendent General of Indian Affairs), for the administration of justice and the creation of the NWMP, and for the application of Canadian criminal legislation to the Territories.[24]

The most important Act introduced the office of stipendiary magistrate as the senior judicial position in the NWT, and created the North-West Mounted Police,[25] originally a force of three hundred men whose ranks rose and ebbed over the next three decades at the will of their political masters.[26] Although the police force was established almost immediately, the stipendiary magistrates were not appointed until 1876, when James Farquharson Macleod, Matthew Ryan, and Hugh Richardson received their commissions.

By the NWMP Act, 1873, a stipendiary magistrate was to be appointed "by commission" by the Governor General, to receive a yearly salary of $3,000 (as well as actual travel expenses), to hold office within the NWT "during pleasure," with the ability to perform magisterial and judicial functions of a justice of the peace or two justices of the peace.[27] The stipendiary magistrate was given summary jurisdiction to "hear and determine . . . without the intervention of a jury," a wide range of offences, including larceny, assaults, sexual assaults on young girls, and obstruction and assault upon judicial and other officers in the execution of their duty, and to sentence convicted individuals to terms of imprisonment less than two years.[28]

The Manitoba Court of Queen's Bench was to play a role in respect of offences Parliament considered more serious: either a judge of that Court or two stipendiary magistrates sitting together were empowered to conduct trials without a jury for offences punishable by up to seven years imprisonment.[29] Only a Manitoba Queen's Bench judge had jurisdiction to try, before a jury, anyone charged with a capital offence.[30]

The North-West Territories Act, 1875[31] consolidated and amended the administrative institutions and legal framework of the Territories. The Lieutenant-Governor and Council were empowered to establish ordinances (local legislation for the Territories), which were to be laid before Parliament but no longer required its prior approval.[32]

The 1875 Act limited the summary jurisdiction of the NWT stipendiary magistrates through a cumbersome requirement that introduced a new supervisory role for the Manitoba Court of Queen's Bench: a judge of the Manitoba Court had jurisdiction to hear both criminal and civil claims, with a stipendiary magistrate sitting as an associate.[33] Given the expanse of the Territories and the difficult logistics of travel, this new requirement

was an onerous impediment to access to justice and one that was immediately subject to criticism. In 1877, this requirement was abandoned, and the NWT stipendiary magistrates again had summary jurisdiction to adjudicate in criminal matters and, now, in civil matters as well.[34]

Beyond the judicial office of the stipendiary magistrate, the administration of justice was placed in the hands of the police. The NWMP Act, 1873 reposed in the NWMP extensive responsibility in relation to all aspects of criminal justice in the Territories. In addition to duties relating to preventing crime, preserving the peace, enforcing the laws and ordinances of the NWT, and apprehending alleged criminal offenders, the NWMP were to attend upon the stipendiary magistrate and justices of the peace, to execute their warrants, to escort prisoners and lunatics to their respective places of the confinement, and to confine sentenced prisoners in their guardrooms.[35]

Significantly, senior NWMP officers also had juridical authority. The men who served as NWMP commissioners and officers had been military men, many of them born in England. They brought to the NWMP and to the administration of justice in the NWT their military training and experience. However, only three (James Farquharson Macleod, William M. Herchmer, and Quebec-born Sévère Gagnon) had legal training and were qualified as barristers.[36]

By statute in 1873 and 1874, the commissioner (then George Arthur French, in charge of the whole force) was made, ex officio, first a justice of the peace and then a stipendiary magistrate. The office of assistant commissioner was created in 1874, and he and the superintendents (who would be in charge of each of the force's geographically dispersed divisions, as they were established), and potentially other officers appointed by the commissioner, were also made justices of the peace (ex officio) by virtue of these statutes.[37] In 1879, the assistant commissioner also became ex officio a stipendiary magistrate.[38] As suggested above, in these early years, stipendiary magistrates and justices of the peace had jurisdiction to conduct trials for less serious criminal and regulatory (ordinance) offences and to conduct preliminary criminal processes (committal hearings) for more serious offences, which would be tried by a more senior judge or magistrate. For a brief period (1875–1877), serious criminal and all civil matters were required to be tried by a Manitoba Queen's Bench

judge, with a stipendiary magistrate sitting as an associate. But after 1877 and until 1886, when the judicial position of stipendiary magistrate was supplanted by the Supreme Court of the North-West Territories,[39] the stipendiary magistrates had jurisdiction to hear matters alone, or in serious or capital offence cases, with a justice of the peace as associate and a jury of six men.

In the NWT, the matters over which a justice of the peace, sitting alone or with another justice of the peace, had jurisdiction to preside ranged widely. Their jurisdiction included such matters as enforcing minor criminal statutes and the penal clauses of territorial ordinances; adjudicating on a person's sanity; issuing orders of alcohol interdiction; conducting marriages; and ordering veterinarians to inspect animals for sickness.[40] Presiding over committal hearings, justices of the peace received depositions of witnesses when serious offences were alleged and also committed accused persons for trial before stipendiary magistrates. Justices of the peace conducted summary trials in less serious criminal matters, sentencing those they convicted. The NWMP annual criminal case returns appended to the commissioners' annual reports reveal that the police justices presided over most of the criminal cases that came before justices of the peace,[41] including trials of accused persons they themselves had apprehended.[42] Then, as now, "low law/low justice" judicial officers carried the heaviest load.

When the five-member Supreme Court of the NWT came into being in 1886, with full civil and criminal jurisdiction, three stipendiary magistrates (Macleod, Richardson, and Quebec-born lawyer and jurist Charles-Borromée Rouleau, who had been appointed in 1883) became judges of the new court. The two new judges were Edward L. Wetmore and Thomas H. McGuire. The judges held office "during good behavior," a more secure form of judicial tenure that replaced their earlier "at pleasure" appointments as stipendiary magistrates and increased the bench's independence.

When, with the creation of the NWT Supreme Court, the position of stipendiary magistrate ceased to exist,[43] the commissioner (Lawrence W. Herchmer) and the assistant commissioner (Lawrence's brother William) continued to sit as justices of the peace.[44] Because no grand jury sat in the NWT, preliminary hearings would continue to be conducted by justices of the peace.[45] The capacity of the commissioner, assistant commissioner,

and superintendents to continue to act as justices of the peace was formally clarified by statute in 1894.[46]

No image is more associated with Canadian law on the nineteenth-century plains than that of the NWMP. It would be an error in interpretation to suggest that the NWMP were anything less than the expression and embodiment of law and law enforcement in the NWT. However, they also represented a great deal more. They were representatives of the Queen and, as others have noted, the "eyes and ears of the government."[47] When no Indian Agent was appointed initially for the Treaty Seven region, it fell to the NWMP to attend to the First Nations in that territory.[48] They were responsible for delivering mail, patrolling the US/Canadian border, administering customs and quarantine, and providing supports and services to settlers and their communities. They kept an eye on European immigrant communities and a careful watch on the American Mormons thought to engage in polygamy. They policed the First Nations and provided relief to starving First Nations and Métis communities.[49] And so on. Whether one describes their role as "Agents of the National Policy,"[50] in which one can see the "first faint stirrings of the Canadian welfare state,"[51] and/or as an expression of colonial domination, and/or as the coercive and repressive arm of the young Canadian state, no historian of Western Canada denies their importance.[52]

THE NORTH WEST MOUNTED POLICE ACT: THE LEGAL REGULATION OF THE MEN OF THE NWMP

> The expressions made use of by [Acting Staff Constable] Marshall were to the effect that the prisoner in question [Henry Elliott] had been punished without any proof that he was guilty. He said it was an imitation of Capt. Frechette's mode of disposing of a case, "You are guilty! Prove yourself innocent."[53]

J.W. Little's statement above, in an 1878 case, recounts the assessment of the quality of police disciplinary justice by those on the receiving end. The roles of the NWMP in relation to the administration of justice and to

government policy, including policies in relation to Indigenous peoples, have been well documented.[54] Less has been written about the role of the police in policing themselves, whether through the "conduct and discipline" process or through criminal prosecution of "delinquent" members who had offended Canadian criminal law.[55]

As well as playing important roles in the legal processes brought by civilians, the commissioner (and after 1875, also the assistant commissioner, inspectors commanding NWMP posts, and stipendiary magistrates[56]) had legal authority to investigate, judge, and punish members of the force for disciplinary offences. Notably, NWMP superintendents of the various divisions initially did not have this jurisdiction, although they were justices of the peace.[57] Thus, as of 1875, the commissioner and assistant commissioner, as ex officio stipendiary magistrates, were two of five of the senior judicial officers in the Territories and thus had jurisdiction over a wide range of criminal and police disciplinary offences. This combination of judicial and disciplinary power in the hands of individual NWMP officers produced jurisdictional confusion and unusual legal peril for the men of the force, peril that did not end even as a more regularized court system developed, as the NWMP managed to keep the courts at arm's length.

The Richardson court records yield twelve cases that came before him during his tenure as magistrate and later judge in which NWMP men were criminally prosecuted. The NWMP personnel records of these men add further information about them and about the disciplinary and/or dismissal proceedings several of them experienced. Their cases highlight the prominent role of the NWMP brass in both criminal justice and police justice. A review of their criminal cases and NWMP records, together with the annual reports of the NWMP commanding offices, opens a window onto another dimension of both criminal law and of the force itself in the NWT. The criminal and disciplinary processes, considered in relation to each other, demonstrate a perhaps unanticipated vulnerability of the members of the junior ranks of the police force to charges and imprisonment for myriad disciplinary crimes for which, as I will demonstrate, they had no recourse to appeal outside the force.

The original Act of 1873 had been silent with respect to internal governance of the rigidly hierarchical NWMP.[58] In fact, sixteen more years would pass before a complete set of written "Rules and Regulations" for the

North-West Mounted Police would be approved by Parliament.[59] RCMP historians William Beahen and Stan Horrall suggest that the influence of the Royal Irish Constabulary can be seen in the disciplinary procedures, but there were no provisions for forms of military punishment, such as "imprisonment, solitary confinement, punishment drills, flogging, [or] ... execution in time of war."[60]

Disciplinary crimes, as they were called, ranged from disobedience, insubordination, and drunkenness to desertion. A log of crimes and punishments was recorded in the "defaulters' books" for each division and on "defaulters' sheets" kept in individual members' personnel records. At the end of either disciplinary or criminal proceedings, NWMP offenders could find themselves in front of a discharge board of officers, facing dismissal.

In 1874, the NWMP's governing legislation, which came to be known as the "Police Act," was amended.[61] The statute's exhaustive section 22 listed no fewer than fifty offences for which a member of the force could be found in breach of discipline. This section cast a wide net, itemizing the expected forms of breach (disobedience, absenting oneself from duty, intoxication "however slight," misappropriation of funds, making false statements or certificates, insubordination, and mutiny) together with less precisely expressed forms of breaches, such as disgraceful or scandalous conduct. The section also made it a disciplinary offence for a member to use any of the necessaries belonging to any comrade without his consent, to be seen in a public house when not there on duty, and to borrow money from another member of the force of inferior rank, among others. The list was extensive. The commissioner himself had the discretion to dismiss, suspend, demote, or fine a member who was found to have committed a breach of discipline.

In 1875, Parliament scaled back the range of disciplinary offences to twenty-two, which ranged from immoral behaviour and intoxication to corruption, disobedience and insubordination, illegal or concealed possession of intoxicating liquor, and evincing partisan political support.[62] Imprisonment was added as an available form of punishment. On a written charge being preferred against a member, the commissioner, assistant commissioner, inspector commanding a post, or stipendiary magistrate was to cause that member to be brought before him. He was "then and

there, *in a summary way*, to *investigate* the charge or charges, and *on oath if he thinks fit*, and if *proved to his satisfaction* . . . [to] *convict* the offender" (my emphasis); this was clearly an inquisitorial process, with a lower standard of proof. Upon conviction, the offending member was liable to a range of punishments, including a fine not exceeding one month's pay, imprisonment with hard labour, initially for a term not exceeding six months, or both a fine and imprisonment. The sentence imposed for a disciplinary "crime" was to be in addition to any punishment imposed for an offence under the law of the NWT. The consolidated "Police Act" of 1879 incorporated these changes.[63]

When the police legislation was revised in 1886, the disciplinary offences incorporated certain statutory changes made in 1882 and were enumerated as sub-sections (a) to (v) of section 18.[64] The 1882 changes increased the maximum sentence of imprisonment to twelve months (s. 18(2)). There were additional penalties for deserters (s. 24), and a dismissed or discharged member who neglected or refused to return his "clothing, arms, accoutrements and all property of the Crown in his possession" was also liable to be convicted of a summary conviction offence (s. 23). All sentences of imprisonment exceeding one month were to be reported to the commissioner, who could in his discretion reverse or mitigate the sentence. A sentence of imprisonment brought more than the pain of confinement: it packed a material punch as a member forfeited his pay during the period of imprisonment (s. 18(3)).

After 1886, under the leadership of a new commissioner, Lawrence W. Herchmer, the matter of conduct and discipline within the force took on great importance. Herchmer assumed command of a police force that had doubled its numbers in less than a year: by the end of 1885, the NWMP was comprised of 1,039 men, distributed across twelve divisions.[65] Prime Minister John A. Macdonald's appointment of Herchmer was controversial, as more than one senior NWMP officer in the force had thought he himself ought to have been elevated in place of Herchmer. The new commissioner had extensive history in the NWT but no history in the force. Herchmer became actively involved in discipline matters and developed a reputation as a "pitiless disciplinarian"; his approach to the scope of police discipline was broad and included using the disciplinary "code" to "punish men for actions that were really criminal in nature."[66]

Herchmer was aware of public concern and politicians' criticism of his expansive approach to the disciplinary process; he defended the importance of discipline over criminal justice:

> In the past men caught stealing, for example, have been charged with "disgraceful conduct" under the police regulations, which is what theft is considered to be. If we cannot continue to do this, it will be impossible to maintain discipline. In the civil courts they will be treated like civilians and punished like civilians with lenient sentences compared to those under the police regulation. What is more, there could be a delay of up to two months before their case would be heard. It is essential . . . that punishment is prompt if discipline is to succeed.[67]

In 1889, at Herchmer's instance, but largely penned by Superintendent R. Burton Deane,[68] an Order in Council established *Regulations and Orders for the Government and Guidance of the NWMP*.[69] Published in the form of a small handbook designed to fit in a uniform pocket, this was the force's first set of regulations, and every member was expected to know its provisions. Almost half of the regulations (twenty-one out of forty-three sections) were devoted to the description of the duties of each rank in the force (from commissioner down through twenty lower ranks to constable). These new Regulations bore an indelible stamp that marked an unflinching commitment to hierarchy, obedience, and discipline, and to the severe sanction of those in the lower ranks who challenged, disobeyed, or deserted. This won the NWMP no popularity contests within or without the ranks of the force, but once promulgated, the Regulations put all ranks on notice of their place in the hierarchy as well the consequences of their missteps.

The new Regulations reminded members of the force that the police were "a preventative as well as repressive force, and the prevention of crime [was] of even more importance than the punishment of criminals" (s. 1(2)). Every member was instructed "to receive the lawful commands of his superior officer with deference and respect" (s. 1(13)). Constables were directed that "obedience [was] the first quality required of them"—"the

essence of discipline and the channel of advancement" (s. 25(4)). Constables were "always to appear properly dressed" and "gambling of any kind" was strictly forbidden (ss. 25(2) and (3)). The defaulters' records contain several entries in which the crime of being improperly dressed comprised the disciplinary breach.

Section 30, one of the longer sections in the 1889 Regulations, was devoted to "Offences and Punishments." It incorporated s. 18 of the NWMP Act, 1886 (i.e., "Police Act"), and subsection 3 explained that the explicitly specified offences were intended to include unspecified "minor offences and irregularities."

The disposition for "all first offences not of an aggravated nature" was to be one of "mild reproof and admonition" (s. 30(6)). Punishment was not to be resorted to until the offence was repeated. While imprisonment was clearly available as a form of punishment, the Regulations explicitly directed "both fine and imprisonment" only for drunkenness on duty (s. 30(13)). However, by implication, imprisonment was available for all cases that called for "severe punishment." If punishment involved a term of imprisonment, the imprisoned police found themselves in the same guardroom as (regular) prisoners awaiting trial or serving sentences for criminal convictions.[70]

When imprisonment was considered too severe, "confinement to barracks" was authorized for a period not to exceed twenty-eight days; this punishment could be accompanied by a fine (s. 30(7)). When confined to barracks, a member was required to perform all his regular duties, and, at the discretion of the commanding officer, he could be required to perform "duties of fatigue" (s. 30(8))—unspecified, but likely meaning "hard labour."

Drunkenness was described as an "unusually reprehensible offence in members of the force, and as such [was to be] severely dealt with" (s. 30(11)). Subsections 30(12) – (16) were devoted to the matter of drunkenness and the process to be followed in dealing with an intoxicated member (including the provision of a twenty-four-hour "sobering up" period before the member was brought before the commanding officer). Presumably the force's severity about alcohol was particularly intense because the NWT were "dry"—it was illegal to manufacture, possess, or import intoxicating liquor without a permit issued by the Lieutenant-Governor.[71]

As noted above, a detailed record in each defaulters' book and individual defaulter's sheet was to be kept. A review of one defaulters' book from the Eastend post in "B" Division (1880–82) in the southern region of the NWT reveals that over the period, thirty-one of fifty-six men across the ranks (sergeant, corporal, and constable) were found to have committed different forms of disciplinary crimes, ranging from the most minor (e.g., grumbling against an order of the sergeant-major; in this case, the grumbling was the constable's only recorded infraction, for which he was admonished) to more serious charges (some of them arguably criminal), such as "striking and using obscene threatening language" and breach of trust ("having appropriated to his own use [a] parcel addressed toward police with clerk [*sic*] which he had in his possession as troop orderly," for which the Commissioner reduced this corporal's rank to constable).[72]

The disciplinary offences entered in this defaulters' book include forms of disobedience and insubordination (nine entries); dereliction of duty, including absence without permission (fifteen, including six separate entries for one individual constable, with escalating sanctions culminating in seven days' imprisonment at hard labour); drunkenness (five, including three for "drunk on duty"); making false statements and/or statements which were harmful to the reputation of an officer or the force (three); and offences that were akin to criminal offences (six). Forms of sanction ranged from admonishment and severe reprimands to fines combined with confinement to barracks, loss of pay, and imprisonment in the cells.

It is difficult to assess with confidence, without knowing more about the particulars of each individual and each offence, whether the punishments were applied even-handedly. It does appear that being drunk on duty was regarded as a serious disciplinary breach (two men were reduced in rank and a third was fined one month's pay and confined to camp for three months). However, a constable whose offence was "being asleep in post" was sentenced to seven days in the cells and the loss of one month's pay, whereas another who made "false statements to civilians tending to leave a bad impression as to the workings of the force" and also falsely stated that "he could get illicit liquor at any time and had it every day with the exception of the last week" was fined only $5 and confined to barracks for one month.

It appears to have been possible to avoid police discipline, judging from the fact that twenty-five members of the Eastend post had no entries in the defaulters' book from 1879–82; however, it also appears that many of the men found themselves disciplined and sanctioned for some manner of disciplinary breach. It also bears noting that despite the force's concern with intoxication, the instances of drunkenness recorded in this defaulters' book were rare and severely punished.

The NWMP was not modest in its claims or vision for complete control of their process for dealing with what were, after all, legislatively prescribed disciplinary offences. Though based on federally enacted legislation, the force's brass brooked no oversight or intervention of legal counsel or the civil courts. Once the legislation was enacted, the "rule of law" had no further place in police discipline, as clearly "rule" trumped "law."

From time to time, the commissioner's annual report included recommendations for amendments to the "Police Act." In his 1885 report, Commissioner A.G. Irvine recommended that the Act be altered to provide explicitly that "an offender convicted under the penal clauses of the Police Act for an offence against police discipline shall not be subject to any writ of habeas corpus,[73] to ensure that no recourse to the civil courts to determine the validity of the internal process or the sentence imposed would be possible. Failing such a provision, Irvine insisted, "the interests of discipline will assuredly suffer."[74] He expanded upon his view of procedural safeguards and requisites—no lawyers, no courts:

> I have already had occasion to insist that a police prisoner has an appeal from a sentence *inflicted* by his commanding officer to myself, and through myself, if necessary, to the "Minister charged with the control and management of the Force," but that no other appeal is intended, or can be allowed. Further, that no legal counsel can be permitted in a question of police discipline.[75]

As noted above, this view was continued, and indeed reinforced, by Irvine's successor, Lawrence W. Herchmer, who maintained that the force's disciplinary jurisdiction had to encompass the right to deal with the criminal conduct of members through police discipline. For the NWMP brass, the

Act, its disciplinary offences, and its process for dealing with them were a comprehensive code, "based in law on amendments to the police act,"[76] but administered through the exclusive discretion of the senior officers. In 1886, however, in response to a sentence of twelve months at hard labour with "ball and chain" imposed on a deserter by Commissioner Herchmer (a form of punishment he favoured), Justice Edward Wetmore of the NWT Supreme Court observed that "there was no provision under the NWMP Act by which members could be sentenced to wear a ball and chain for infractions of the disciplinary code."[77] In other words, Herchmer had exceeded his jurisdiction in imposing a sentence that was not expressly authorized in the legislation.

Years later in his memoirs, Superintendent R. Burton Deane recalled a conversation with his friend, North-West Supreme Court Justice David Lynch Scott, about the discrete sphere of police "courts": "so long as I do not exceed my jurisdiction, you have no lawful right to interfere with me."[78] According to Deane, an initially incredulous Scott came to agree with him. Deane elaborated upon this issue in his 1899 annual report from the Macleod district:

> The Mounted Police Act having created a court and clothed it with authority, and having defined intoxication, however slight, and desertion or absence without leave, as two of the offences with which it has power to deal, it is not to be seriously contended that such a court exceeds its jurisdiction by proposing to deal with a deserter whenever he may chance to appear before it. . . .
>
> [T]he Northwest Mounted Police, if not a military body, are as nearly military as it is possible for an armed body of constabulary to be; that the statute by virtue of which they exist enjoins and provides for the maintenance of discipline, and that their regulations are essentially of a military character. *Their regulations* respecting the grant of an indulgence of a pass, and the form of pass itself, are adapted from those in vogue in the British Army, and *are purely matters affecting*

the interior economy and discipline of the persons who are servants of the state, under the Mounted Police statute.[79]

Here Deane was defending one of his own actions earlier in 1892, when he cancelled a short leave that he had granted to a constable with only seven days remaining in his term of service. Before the end of his leave, the constable began to celebrate prematurely by drinking and expressing his dissatisfaction with the force—within earshot of Deane. Rather than having him taken into custody and charged with the offence of intoxication, Deane simply cancelled the man's leave and ordered him back to duty. The constable, believing he had already been discharged from the force but, clearly fearing punishment if he was wrong, fled the post. He retained a lawyer in Calgary to challenge Deane's action, and his counsel persuaded Justice Charles-Borromée Rouleau "to stay the hand of the police permanently."[80]

Deane maintained that his decision to cancel the pass fell within his unfettered jurisdiction. The "formidable legal argument for overturning Rouleau's judgment" that was presented on appeal to the full Supreme Court of the NWT had been prepared by Deane himself.[81] In setting aside Justice Rouleau's writ of prohibition, the full Court did not go so far as to endorse Deane's expansive notion of his jurisdiction; the Court simply found that the constable was still engaged as a member of the force when the incident occurred and thus still subject to Deane's authority. According to Beahen and Horrall, "[t]he question . . . of whether the disciplinary system of the NWMP was subject to the authority of the civil courts still remained unanswered."[82] However, the constable's initial success in the civil(ian) court and the perceived threat it posed to the authority of the NWMP had been received "like a knife at the jugular of Force discipline."[83] William Beahen quotes Commissioner Herchmer: "If the judges are to interfere in police discipline it will be the end of it, as every man will get a lawyer."[84]

The multiple roles assigned to the commanding officer under the NWMP legislation for matters of alleged disciplinary breaches—to investigate, to adjudicate, and to impose punishment – assumed amplified importance. These men had sweeping adjudicative authority in two legal contexts: as justices of the peace, they presided in "civilian" criminal court;

as commanding officers, they had the authority, indeed the responsibility, to preside over disciplinary "crimes" (which could include forms of criminal offences recast as disciplinary breaches) without being burdened by the requisite of the evidence being taken under oath, unless they saw fit. They had the power to impose sentences of imprisonment in both contexts. They likely wore their uniforms in both forms of proceedings, which would have been held in the police barracks.

Because they were both NWMP officers and either stipendiary magistrates or justices of the peace, the NWMP officers could adjudicate in two legal contexts—criminal justice and police justice—but they clearly preferred the expedited process and unfettered control they exercised in the disciplinary context. Senior men like Irvine, Herchmer, and Deane operated with an expansive notion of their jurisdiction. Confident that the "higher law" of police discipline permitted a regime of arbitrary justice, they freely and liberally "inflicted" (Irvine's word[85]) severe punishments upon men of the lower ranks.

It is difficult to assess how scrupulous the men who were both NWMP officers and justices of the peace were about the differences between their two roles. In Constable Arthur Miles Parken's personnel record, for instance, it is not clear how Superintendent Howe thought he was presiding at the 23 January 1894 hearing of a "charge" (the language of police discipline) that Parken did "steal take from and appropriate to his own use" a sum of money ($25.00), the property of another constable. The form of this hearing was identical to an earlier hearing of a breach of discipline charge brought against Parken by Superintendent Moffatt for "being drunk at the barracks" in August 1893, and for which he was fined $10.00. The record of the January 1894 proceeding reads as if it also was a disciplinary hearing under the NWMP Act even though Howe signed off as "JP" (and not as Superintendent, his NWMP rank); however, the last page of the record makes clear that Howe was conducting a preliminary (or committal) hearing into the criminal charge of larceny, as Parken was "committed for trial at the next court of competent jurisdiction."[86] Justice McGuire of the NWT Supreme Court subsequently sentenced Parken to six months' imprisonment at hard labour.[87]

It would not have been lost on the men under their command, such as Parken, that their superior officers were also justices of the peace. Their

commanding officer was ex officio a justice of the peace for the NWT, but he was also, indeed first and foremost, their superior officer.

Another case from "C" division in Battleford offers yet another illustration: in addition to their dual judicial roles, commanding officers sometimes also acted as accusers or complainants in both discipline and criminal contexts. In late October 1894, Constable Frank Kiely was charged with three counts of theft of jewelry, a pocket book, and articles of clothing, involving three different informants (two of whom were members of the NWMP). Described by Superintendent Howe as his servant, Kiely was brought before Howe as a justice of the peace for committal on two of the criminal charges. Kiely also faced a third charge that alleged theft of Howe's pocket book from a locked drawer in his dressing room at his house. Another NWMP officer, Quebec-born and francophone Inspector Joseph Victor Bégin,[88] sitting as a justice of the peace, presided at the committal hearing on this charge. To all three criminal charges, Kiely indicated he wanted to plead guilty. When asked to elect whether to be tried summarily then and there by a (police) justice of the peace or to wait and be tried by a judge, Kiely appears not to have hesitated to elect to enter his plea on all three charges before a judge. On 15 June 1895 Kiely appeared before the NWT Supreme Court Justice Charles-Borromée Rouleau, who sentenced him to two months' imprisonment at hard labour.[89] Even though Kiely must have known that he would be held in custody in the NWMP guardhouse for several more months before being brought before a judge—in the end, he was held for almost seven months—he clearly did not want the police justices of the peace, including his commanding officer, determining his guilt and deciding his sentence.[90] The NWMP did not wait for the outcome in the criminal court to direct his dismissal from the force, which took effect on 1 December 1894.

The NWMP's legislation expressly contemplated that a member of the NWMP could be convicted and sentenced twice for the same misconduct.[91] This would prove to be Constable Robert Jones's unhappy experience in 1891.[92] Jones, a twenty-year-old recruit, was engaged as a constable on 28 February 1890 and posted to the division at Fort Macleod where he was put in charge of the saddle room; his duties included receiving the ration of oats and filling the horses' nose bags. On the morning of 5 February 1891, he was observed by the division's head teamster placing two bags of

oats in a wagon owned by Thomas Craig, a rancher and former NWMP member. Apparently Craig had permission to haul away manure from the post and came every morning to do so; Superintendent S.B. Steele noted in his letter to the commissioner that the excuse offered was that "the oats were the sweepings of the saddle room."[93] Charged with larceny as a public servant, Jones was committed for trial and, on 17 February 1891, he was convicted by (former NWMP commissioner) Justice James Farquharson Macleod.[94] Macleod sentenced Jones, along with Craig, to six months' imprisonment at hard labour in the guardroom at Fort Macleod.[95] Following his sentencing, Jones was charged under the NWMP Act with a breach of discipline; he was convicted on 23 February 1891 and sentenced to twelve months' imprisonment at hard labour to run concurrently with Macleod's sentence. Dismissal at the end of his sentence was recommended. Almost immediately Superintendent Steele recommended to the commissioner a partial remission of the twelve-month sentence to match the six months imposed by Macleod; Steele did not dispute the sentence, but remarked, "as he is young the severe lesson he has already received may have weight with him and as it expires in the summer it gives him more chance of getting immediate employment."[96] Several months later, after the co-accused already had been released, the commissioner appears to have relented on the matter of remission. He authorized the matter to go to a Board of Officers[97] who, prior to the expiration of Jones's full "disciplinary" sentence, directed his dismissal for "bad conduct."[98]

For their part, many constables and sub-constables experienced "unfulfilled expectations and disenchantment:"[99] "I thought it was a Civil Force to fill the duty of a policeman. I found it more like soldiering. I am not cut out to be a soldier."[100] Others expressed disgust at "the unjust and arbitrary system of discipline" and punishment "often meted out according to the whim or humour of those in authority."[101] Beahen and Horrall also cite the case of a constable charged with insubordination, having refused to obey a corporal's order to "get on with his work," for which he was sentenced to seven days' imprisonment by his commanding officer; the constable apparently lost his temper and said, "Send me for the rest of my life. I won't do another stroke of work." The superintendent did not have jurisdiction to impose a life sentence and simply sentenced him to the

longest sentence he could impose, a further twelve months, for mutinous language.[102]

Over the years, collective acts of protest and resistance known as "bucks" (as in "bucking the system") at the harsh conditions of life, work, and discipline in the Mounted Police force also occurred,[103] and many individual demonstrations of resistance, often "out of desperation,"[104] were expressed annually through desertion from the force.[105] Life and work under the conditions in the force, and the power that came with exclusive jurisdiction over police justice, were too much for many members who must have had a sense of injustice at police justice.

BLURRED LINES AND INTERSECTING FORMS: CRIMES AND CONDUCT, CRIMINAL AND DISCIPLINARY JUSTICE

One half of the NWMP men who appeared as accused persons in Hugh Richardson's court (including Richard C. Wyld, the sole disciplinary offender) had prior personal experience of a broader notion of "crimes" through disciplinary proceedings under the police legislation. They were liable to be charged, investigated, tried, and sanctioned within two legal regimes: one criminal, one disciplinary. From Richardson's court records over the entire period, an image emerges of a close, if occasionally contested, relationship between criminal offences and disciplinary offences as well as between the judiciary and the NWMP brass. The cases of NMWP accused men found in Richardson's records largely involved charges of theft, including theft of items of government property or belongings of other members of the NWMP (including a couple of commanding officers). Some prosecutions involved offences that were forms of breach of trust. In all but four cases, the accused police officers were convicted, either after a trial or by way of a guilty plea, and all the convicted men were sentenced to terms of imprisonment. While not all the personnel records for the NWMP that appeared before Richardson in the earlier period (1876–1885) are available, it appears that five of the seven men who were convicted and sentenced by Richardson in the NWT Supreme Court were dismissed from the force upon their conviction (or impending conviction). It is difficult to understand why the remaining two, George Robinson and

James Ford, whose cases I discuss below, were allowed to remain on the force, even for a brief period.

The cases found in Richardson's earlier magistrate's court records illustrate some of the intricacies, intimacies, and blurred lines between criminal and police justice. It must be acknowledged that in this first decade of the history of the NWT, including a newly created police force and administration of justice, the number of men responsible for law enforcement and the administration of justice was small. The relationship between Stipendiary Magistrate Richardson and the senior NWMP brass (especially in Battleford) appears to have been close. Settlements were far-flung, NWMP posts similarly few and far between. But, as far-flung as the posts and settlements were, the living conditions in the barracks (often little more than a couple of log cabins for quarters and a stable for horses and livestock) would have been stiflingly close. Battleford, where three of the four early cases below took place, had been chosen as the territorial capital in the fall of 1876. Even by territorial standards, Battleford was a new settlement. The year 1875 had "marked the beginning of a permanent settlement"; it was a "small settlement of construction workers, traders and Indians" then called Telegraph Flat.[106] Richardson and his family made their home in Battleford from his arrival on 27 September 1877, until 1883 when the territorial capital shifted to Regina.[107] The importance and standing of the Métis community in Battleford, when Richardson arrived in late September 1877, emerge early on in his court records; for instance, Métis men Peter Ballendine and Pierre Daigneault played prominent roles in the cases, including as litigants, witnesses, Cree interpreters, and jurors.

Regnier Brillon: Thief and Forgiving Friend

One of the earliest files in Richardson's stipendiary magistrate records involved the 1877 prosecution of Sub-Constable Regnier Brillon, stationed in Battleford, on three counts of theft of firearms from other members of the force.[108] Brillon's undoing was his effort to turn a profit by selling the guns to reasonably prominent members of the Battleford community, including James Mahoney, a local businessman, and Pierre Daignault, who would often serve as a Cree interpreter for the court.[109] The exact process followed in Brillon's case is not crystal clear. The preliminary hearing in Battleford, at which Superintendent James Walker, sitting as a justice of

the peace, committed Brillon to stand trial, took place on 27 January 1877, eight months before Richardson arrived in the settlement. On 5 April 1877, Walker forwarded all the evidence to David Laird, Lieutenant-Governor of the NWT, with the following covering letter:

> Sir,
>
> I have the honour by direction of Lieut-Col Macleod to enclose you [*sic*] the evidence taken against Regnier Brillon for Theft, whom I committed to stand trial at the first competent court held in this district. I also convicted him on the 27th day of January last for "Disobedience of Orders and Desertion" to six months imprisonment which he is undergoing.
>
> I also further convicted him for theft of public property to two months imprisonment or to pay the sum of One hundred and thirty dollars, value of the property stolen and costs. I do not know whether he intends to pay the money or undergo imprisonment. I will be greatly obliged if you would let me know about what date Brillon will be tried as the witnesses are under bond, to appear against him, and two of them want to go into Winnipeg on Business but are unable to do so not knowing when they will be required.

In the end, the witnesses were not required to testify. On 10 October 1877 (eight months after his committal for trial), Brillon entered guilty pleas to all three charges before the recently-arrived Richardson and was sentenced to two months' imprisonment at hard labour on each count, to be served in the guardroom of the police station at Battleford. Brillon would have been familiar with these cells, having served six months there already for disobedience and desertion, as Walker described, and two months for theft of public property. Disciplinary and criminal sentences were served in the intimate setting of the NWMP guardroom. One of the witnesses for the prosecution at Brillon's committal hearing was his colleague, Acting

Constable Norton H. Marshall. Brillon would only have been liberated from the NWMP cells for a couple of months when, in March 1878, he again found himself before Richardson. On this occasion, he was charged with a different criminal offence: of acting as an accessory to the theft of government property by NWMP constables Henry Elliott, Norton Marshall, and Patrick Balfe in the course of their desertion from the force.[110] On this occasion, Brillon walked away from court, as Richardson found there was not sufficient evidence to warrant committing Brillon and his co-accused for trial. This was perhaps a small measure of sweet revenge against the prosecutor, his former commanding officer, and quite possibly with no hard feelings toward Marshall, his former fellow constable who had testified against him in 1877.

Henry R. Elliott et al.: "Disgraceful Conduct"

On 2 March 1878, Stipendiary Magistrate Richardson himself preferred charges under the NWMP Amendment Act, 1875 against four members of the NWMP. On that date, he wrote to their commanding officer, Inspector James Walker of the Battleford Division, alleging that these four had committed certain offences and requesting that Walker have them brought before him "with the least possible delay."[111] The original complaint documents do not form part of the "Elliott" file in the Richardson court records, but three draft complaint documents convey that Richardson alleged that on 24 and 25 February 1878, all four members had been guilty of forms of "disgraceful conduct" within the meaning of the "Police Act."

The facts giving rise to the Richardson charges of disciplinary breaches derived from the romantic relationship between Henry R. Elliott, a sub-constable of the NWMP stationed at Battleford, and Richardson's daughter, Luders. Richardson forbade the relationship and forbade Elliott coming to their home (which he had occasion to do when he delivered the mail).[112] On 25 February 1878, Elliott went to the Richardson home, with three other constables, and "in spite of parental objection took the daughter away."[113] The result was an "elopement" wedding officiated by a local Presbyterian minister. Somehow, Luders' parents got her back to their home, which led to anguished correspondence from the groom, declaring he and their daughter loved each other and that they were now married. Richardson would have none of it.

He appears to have contemplated a criminal charge against Elliott and Acting Staff Constable Norton Marshall. The court file contains a draft, unsigned "Information and Complaint of Hugh Richardson," in Richardson's handwriting, in which he alleged that Elliott and Marshall,

> . . . feloniously and fraudulently allured one Luders Richardson out the possession and against the will of this informant, her father, she the said Luders Richardson being under the age of twenty-one years and having a certain contingent interest in the real and personal estate of the informant, with intent [. . .] the said Luders Richardson to cause to be married to the said Elliott contrary to the statute in such case made and provided.[114]

This extravagant charge of "abduction of an heiress" seems not to have resulted in any criminal process and appears to have gone no further than Richardson's vexed and intemperate draft.[115] He turned to the police disciplinary process—perhaps because it was procedurally more expeditious.

Elliott's three colleagues (Marshall, Patrick J. Balfe, and "Davis"[116]) found themselves accused of scandalous conduct for assisting or supporting Elliott in the elopement and marriage and (with respect to Balfe and Davis) for neglect of their duty in failing to arrest Elliott and Marshall when, as Richardson alleged, they had unlawfully and forcibly entered the Richardson home. It is clear from the court file that Superintendent James Walker responded almost immediately to Richardson, expressing his "fullest sympathy in this unfortunate affair," and assuring Richardson that he would do what he could "to keep Elliott employed for a few days so that he may not give you any trouble."[117]

When he forwarded his disciplinary charges to the inspector, Richardson requested that Walker fix a time—"with the least possible delay"—and notify a list of men named by Richardson to attend to give evidence. The list included the minister who had performed the wedding, the legality of which Richardson impugned (he alleged that Elliott had misrepresented that Luders was of age and that the consent of her parents could not be obtained).[118] Again, Walker responded immediately, expressed his regret at Elliott's behaviour, assured Richardson that he

had had Elliott and his friends confined to barracks as soon as they had returned home, and advised that he would "go into this case on Monday" and keep Richardson informed.

It appears that Richardson's complaints did not proceed. Together with a prisoner named Ducharme, who was serving a six-month sentence in the guardroom,[119] the four young constables fled the NWMP post on the night of 4 March 1878, taking with them horses, revolvers, saddles, and blankets.

Becoming "deserters," the four appear to have quickly made plans and arranged for provisions. Judging from the fact that two other men, David Hall and Regnier Brillon, were later charged with being accessories in the escape (for leaving word that they were heading out on a different trail, that is, acting as decoys), it seems that Elliott enjoyed the support of colleagues and friends.

Elliott and his colleagues had been caught in the crosshairs of a police disciplinary process in which they had little confidence. Richardson, the aggrieved father and stipendiary magistrate, clearly had the ear and the support of their commanding officer. Richardson, and not Superintendent Walker, appeared to be directing the disciplinary process. And so, with their previously unblemished records[120] about to be tarnished and an uncertain future with the force, the young men fled before the disciplinary process could continue, and thus became deserters and accused thieves. They headed south across the plain, reportedly in the direction of the Cypress Hills, possibly en route to the United States. Elliott's comrades, Marshall and Balfe, may have made their way across the US border; I have found no evidence that they ever appeared in criminal court facing criminal charges or in "police court" on the disciplinary breaches alleged by Richardson. Balfe's service record contains a cryptic note that he deserted on 5 March 1878.

Elliott apparently turned himself in at Fort Walsh some time in the summer of 1878. The court file contains a document that is identified as a "copy" of a "Warrant of Commitment" dated 26 August 1878 and signed by James F. Macleod in his capacity as stipendiary magistrate. The warrant stipulated that Elliott was charged with theft of "three horses and four saddles the property of the Government of Canada," and directed the police to convey him to Battleford and "safely to keep him until he shall

be thence delivered by due course of law."[121] Elliott remained in custody in the guardroom at Battleford for three months, awaiting his trial. It is not clear whether the NWMP ever acted on Richardson's disciplinary charges, although this formed part of the theory of Elliott's defence in criminal court. Elliott was charged with "larceny of two horses, nine blankets, four saddles, three revolvers, one carbine, two halters and nine blankets, the property of Her Majesty, the prisoner at the time being a member of the Mounted Police." These charges arose from the night of the escape from the barracks. Elliott was tried before a jury of six men (including at least one Métis juror) at the police barracks in Battleford on 23 December 1878. His defence counsel was NWT lawyer Hayter Reed,[122] who later would be appointed Indian Agent at Battleford and rapidly rise through the Indian Department.[123] Superintendent Walker acted as prosecutor and served as the first witness for the prosecution. Hugh Richardson himself, together with a justice of the peace, W.J. Scott, presided at the trial of his forsaken son-in-law, whose alleged criminal actions flowed almost directly from Richardson's invocation of the NWMP disciplinary process.

The theory of the defence directly engaged the role played (or alleged to have been played) by the NWMP disciplinary process, implying that it had been improperly undertaken. The details of the trial come from an account in a local newspaper, the *Saskatchewan Herald*.[124] Through Reed's cross-examination of Walker, it appears that the defence strategy was organized along three lines: 1) that doubts could be raised about just what articles actually went missing from the NWMP barracks and stable, whose they were, and when they went missing; 2) that Elliott had been wrongfully imprisoned in March 1878 (on Richardson's complaints under the NWMP Act, 1875 and therefore "was justified in using any means to effect his escape"); and, (3) that while in custody, Elliott "had been undergoing punishment for the very offence for which he [was] now being tried, by direction of the officer commanding the station as being a justice of the peace."

Richardson ruled that the issue of wrongful imprisonment was irrelevant and overruled the question; Reed asked that his objection to this ruling be noted. However, to the question as to whether Elliott had been punished already for the same offence, Superintendent Walker is reported to have answered, "He has not, I am personally positive. . . . " However,

here again, the press reported that "the Court overruled this because it would be an admission of the prisoner's guilt; secondly, he could not undergo punishment before conviction." It is difficult to gauge with confidence from the press report just what Richardson's ruling here meant. One might reasonably infer that Richardson was determined to stymie the defence.

Other members of the Battleford division testified, some agreeing with the defence counsel that Elliott's character was "always considered good." Reed is credited with making a strong address to the jury, and the newspaper, as Bowker also notes, reported that Richardson's charge to the jury was "strongly against the Prisoner."[125] The jury was not persuaded and quite possibly not impressed. After five minutes of deliberation, the jury returned with a verdict of not guilty. It was a clear rebuke to Richardson.

The *Saskatchewan Herald* closed its coverage of Elliott's trial with a brief reference to other charges he faced after this acquittal:

> On Thursday morning Elliott was brought up before the Stipendiary Magistrate on the remaining charges, namely stealing Major Walker's horse and aiding Descamps [*sic*] to escape.
>
> Major Walker asked for an enlargement, as he had discovered some further evidence too recently to be available for the last trial, but which could easily be obtained. As the roads were so bad he could not fix a definite time when he would be ready, and the magistrate released the prisoner on his own recognizances in [*sic*] $400 to appear when and where required on notice.[126]

There are no court documents relating to these two charges in Elliott's archived court file. Were they a last-ditch effort by Walker to find a way to convict Elliott of at least some offence? If so, even Richardson was not prepared to order that Elliott be held in custody for an indefinite time while the police organized the next round of charges.

However, Richardson was sufficiently distressed by the jury's verdict that he immediately wrote to the Deputy Minister of Justice with two

questions arising out of Elliott's case. Richardson's letter to the Deputy Minister is not found in the court file, but the Deputy's response of 1 February 1879 references the magistrate's concerns. Richardson appears to have had second thoughts about his authority to release a prisoner on his own recognizance, as he had just done. Deputy Minister Zebulon A. Lash replied that while he had been unable to look into it, he "imagine[d], however, that you have power to do it." The second question is revealed in the Deputy Minister's reply: "I feel pretty sure . . . that you have no right to request a jury in a criminal case to answer certain fixed questions. They have a right to say guilty or not guilty without giving their reasons."[127] Despite this unhappy correspondence, the verdict stood.

The case had clearly excited local interest, not least because of Richardson's prominence in the NWT, the importance of the NWMP in Battleford, and possibly because of the thwarted young lovers. Luders was by this point likely long gone from the NWT, "safely" back with relatives in Ontario. It seems that in 1885, she married another man in New York City.[128]

Despite Elliott's legal victory and vindication by the Battleford jury, and the jury's clear rebuke of Richardson, it is unlikely that he felt he had cause to celebrate, perhaps only a sense of relief. His marriage thwarted and his career as a Mountie over, Henry R. Elliott's tumultuous relationship with different forms of justice appears to have ended here. I doubt that he would derive any comfort from the knowledge that his experience vividly supports the argument of this chapter: for Elliott, the relationship and lines between police discipline and criminal justice were messy and blurred. And unfair and personal.

Richard Wyld: "Mutinous Insubordination"

It is not clear how old Richard Wyld was when he signed on with the NWMP in 1877; his date of birth is listed as "unknown" in his personnel record.[129] He may have been twenty-two years of age, but some recruits were as young as eighteen.[130] Some parents— and the occasional magistrate—"saw service in the NWMP as a means for reforming the wayward habits of young men."[131] The recruits, who engaged for a term of three or five years, were almost invariably from central Canada, far from home and anything that resembled it. There were few comforts, little glamour, and

limited outlets for a happy life for these young men, for whom even the consumption of alcohol was both a disciplinary and a territorial offence. Indeed, NWMP Superintendent Sam Steele acknowledged these difficult conditions in his assessment of the discipline and conduct of his men in his 1889 Report from Fort Macleod:

> I have much pleasure in reporting that the general conduct of the non-commissioned officersand [*sic*] constables is good.
>
> I am surprised that there is not more serious crime among the men, considering the temptations with which they are surrounded. There is hardly a respectable place of resort, such as they would be likely to visit, and none for amusement in the town. Another drawback is the fact that no recreation room worthy of the name is at this post. I ampleased [*sic*] to say that one is now in the course of construction. . . .
>
> The majority of men who get into trouble are new recruits who have little experience in the country.[132]

In 1877, Constable Richard Charles Wyld was one such recruit. On 5 June 1877, at Toronto, Wyld was engaged for a three-year term as a sub-constable of the NWMP and stationed at Battleford.[133] When Wyld applied to the force, the letters of reference sent to Minister of Justice Edward Blake were rather vague in respect of Wyld's own merits, but rather referenced his father and older brother (twenty-four-year-old Robert, a member of the NWMP since 1874, with an unblemished record[134]). Britton Bath Osler, a rising star in the Ontario legal profession (who would later be asked by the Dominion Government to assist in the prosecution of Louis Riel for treason), offered a one-sentence reference in which he pithily conveyed only that Richard Wyld was the son of a friend and expressed the belief that he was "a very fit and proper person for the position asked."[135]

Thus, supported by tepid letters that said little directly about him and nothing at all about his character, Richard Wyld was engaged by the NWMP and followed his older brother, Robert, into the force. They were

both stationed at Battleford. One wonders whether Richard Wyld realized when he arrived in the NWT that he would never return to his old life in his hometown of Dundas, Ontario.

His brother Robert served two terms with the NWMP and was promoted twice over the course of his engagement, rising to the rank of corporal. At the end of his time in the NWMP, his character and conduct during his service was described as very good. Richard's experience, however, suggests a less perfect fit. During his three years on the force, he was charged with thirteen disciplinary offences by eight different superior officers (and in one occasion by Stipendiary Magistrate Richardson).

On 17 September 1877, three months after his engagement and shortly after his arrival in the Territories, the first entry on the defaulter's sheet in his personnel file was recorded. He was found to have been "absent from Roll Call" and "inattentive at drill"; for these first two offences, his character was listed as "good," and for punishment he was "admonished."[136] Two days later, he was brought up again on a charge, this time that he had engaged in "improper conduct while at drill." On this occasion, his character was described as "indifferent" and he was punished with two days confined to barracks and admonished. By the end of September 1877, he was serving seven days in the cells for inattention at drill, and on October 18, he was fined $5.00 (the equivalent of a week's pay) for insubordinate conduct towards a non-commissioned officer.

In March and May 1878, Wyld was sentenced twice by Assistant Commissioner Irvine to imprisonment of thirty days (on each occasion) in the cells at hard labour. On the first occasion he was accused of stealing cocoa milk out of the hospital; the second charge of breach of discipline was for drunkenness at Fort Walsh on 23 May 1878.

On 2 September 1878, Wyld was admonished by Sub-Inspector John French, interim commanding officer of "C" Division in Battleford, for another disciplinary breach "causing annoyance to Lt-Col Richardson"; once again the entry characterizing his character simply indicated "bad." Later that month, on September 25, Wyld found himself facing another disciplinary matter arising from his refusal to dig potatoes when ordered to do so.[137] One can perhaps imagine his surprise when he found himself in front of Richardson on the resulting charge of "mutinous insubordination" preferred against him by Sub-Inspector John French, and which French asked

Richardson to investigate. Wyld had had considerable experience with the disciplinary process and apparently regarded it as internal police business. He might well have wondered if Richardson would give him a fair hearing.

On a chilly September morning, French had ordered all available men at the post to go to the field and collect potatoes that were at risk of freezing. Some went, some seemed to take their time, while others, such as the cook, continued with their other work. French said that he found Wyld in the barracks "dressing his hair" and gave him five minutes to be out at the field. Some time later, Wyld was still at the barracks and, when pressed by French, apparently admitted that he had disobeyed French's order. He was placed under arrest and brought before Richardson on the disciplinary charge of mutinous insubordination. Given French's direct involvement and the likelihood that he would want to give evidence in the matter, he may have thought it best to have Richardson conduct the investigation. As well, French, as a sub-inspector, may not have been considered authorized to conduct this investigation, but that had not inhibited him from admonishing Wyld earlier in the month.

Richardson heard two witnesses in support of the charge and one witness for the defence. On the evidence, he convicted Wyld. However, he noted Wyld's objection to the process. Clearly, Wyld had enough prior experience with the NWMP discipline to know that the commanding officer ordinarily investigated the charge. Thus, at the close of the evidence, when Richardson asked Wyld if he had anything to say, Wyld "objected that [Richardson] had no legal right to interfere in police matters. After conviction, [he] stated he would appeal to the Commissioner." Richardson added:

> On both occasions I read the law to him. He professing ignorance at which I felt surprised and to his exception which while regretting I had to try the case could not stay sentence but must leave him to adopt his own course.[138]

Although French was not the investigator or adjudicator at this hearing, he was not shy about seeking to speak to the matter of sentence. He proposed to read out "Wyld's former character on the force," but here again Wyld objected. Acknowledging his past offences, Wyld argued that the

commissioner "had forgiven him and had promised the record of [his past offences] should be erased." His record, of course, was not erased. However, Richardson noted that he disposed of the case without looking at or considering the record. He sentenced Wyld to one month of imprisonment at hard labour.

Leaving aside the negligible evidence of mutiny, Richardson's expression of regret at having to try the case is at best disappointing. The offence in section 22 of the NWMP Act 1873 was one of "mutinous *or* insubordinate conduct," not "mutinous insubordinate conduct." Wyld appears not to have raised an objection to the extravagant conflation in the charge against him. The evidentiary support for anything remotely resembling "mutinous" conduct was surely wanting, while a finding of "disobeying an order" and thus arguably for "insubordinate conduct" was possibly warranted on the facts. Perhaps the one-month sentence imposed by Richardson reflected a form of mitigation of penalty for the inflated charge that implied "mutiny" when resistance, and even flouting an order, might have been at play. Wyld, the "Fletcher Christian" of the Battleford post, had been slow to rescue potatoes from the frost. When, at the expiration of his term, Commissioner James Farquharson Macleod was required to indicate the quality of Wyld's conduct during his service, Macleod used an adjective frequently found in Wyld's service record: "bad"[139] and declined to find him entitled to a free land scrip. His NWMP service record notes that he died in 1906 in Wetaskiwin, Alberta.

Given the obvious lack of fit between Richard Wyld and the NWMP, one might surmise that the prospect of further disgracing his (successful) NWMP brother and the certainty of harsh punishment for desertion were all that kept him in the force until the end of his term. Richard Wyld was likely the last NWMP member, if not the only one, to have had a stipendiary magistrate who was not also an officer of the NWMP investigating and convicting him for a disciplinary breach. The niceties of legal analysis had no place in the disciplinary process, even when a legally trained jurist was given the reins for the process. The context itself was fertile ground, not for process, but for hard smacks. It was a process in which, as Acting Staff Constable Marshall had observed in 1878, the governing principle was, "You are guilty. Prove yourself innocent."

Walter Parkins's Intimidation

The rather opaque facts that gave rise, in 1885, to the invocation of the criminal process against Constable Walter Douglas Parkins are matched by the rather opaque nature of the legal process in the case. They do offer, nonetheless, another illustration of the porous line between "police justice" and "criminal justice," not least because of the position of the NWMP officer as justice of the peace.

On 16 May 1885, Robert McManus, a hotelkeeper at Troy,[140] apparently complained to a local justice of the peace that he had been threatened and intimidated by Parkins and another man. No formal criminal information was issued to initiate the proceedings—a critical misstep—but the file does contain a warrant issued by a lay justice of the peace, John W. Powers, commanding "all or any of the constables or peace officers in the District of Assiniboia . . . to apprehend" Parkins and the other man, and bring them before him to answer the charge and "to be dealt with according to law." On the basis of this warrant, Parkins was arrested. The court file contains correspondence indicating that McManus had accused Parkins of "assault, housebreaking, threatening language, etc."[141]

It appears that a local lawyer was consulted on the legality of the warrant for arrest, no information having been sworn before Powers. In a letter found in the court file, W.C. Hamilton, who often acted as crown prosecutor in the area, wrote to Superintendent Deane in reference to McManus's allegation, advising that he "had concluded on consultation with W Gordon a local JP to refer the matter to [Deane] as *a magistrate and commanding officer of the force* for investigation" (my emphasis).

On 20 May 1885, Deane wrote to Stipendiary Magistrate Hugh Richardson regarding an allegation of criminal intimidation against Constable Parkins that had been laid before a civilian justice of the peace. Deane's letter offers an exquisite synopsis of the complicated positions, dubious facts, and processes he was attempting to navigate:

> Sir,
>
> I have the honour to inform you that in pursuance of an information supposed to be laid by Mr. Robt McManus of

> Troy, Constable Parkins, N.W.M. Police, was on the 16th inst arrested by Sergt Jones, 91st Batt. Militia, under the enclosed warrant issued and directed to him for execution by Mr. John W. Powers, JP at Troy.
>
> After arrest the prisoner was handed over to Constable Farrell, NWM Police, and by him brought to the Police Headquarters. Notwithstanding the illegality of the warrant, I directed the prisoner to be re-escorted to Troy on Sunday night for trial before Mr. Power as a matter of police discipline; the following morning the prisoner was brought back to headquarters with a letter from Mr. Power, of which the enclosed is a copy. Constables Farrell and Pickering reported that no investigation had been held and that an order for the prisoner's discharge had not been made out.
>
> Constable Parkins feels aggrieved that the criminal law should have been set in motion, and that he should not have been given the opportunity of answering the charge in question, and I therefore beg to request that you will be pleased to entrust me as to the proper course to be pursued, and I would submit for your consideration that the interests of the public, no less than the disciplinary interests of the Police force, would be best served if you consent to hear the case at Regina.
>
> I have not thought it proper to institute an inquiry under the Police Act until the present charges shall have been conclusively disposed of.

Richardson's endorsement on the back of the warrant indicates how he disposed of the matter: "Trial for 26 May 85. Deft discharged Prosecutor not appearing."[142] The court file also contains a flurry of correspondence following the discharge. The hotelkeeper, McManus, complained bitterly

that he had been unable to come to court due to a bad case of gout, and that he had sent word of this, together with a medical certificate, through another man who was to give the message to the police. By this point, Parkins had been released from custody, and the court file ends here.

Parkins's personnel record reveals a bit more of his story. He served almost eight years over two terms of engagement with the NWMP. His service record, while not unblemished, includes only four entries in the defaulter's sheet. The last entry in his personnel record indicates that he deserted from the Division at Maple Creek on 22 April 1888, prior to papers being drawn that would direct his transfer to "H" Division in Fort Saskatchewan. No mention of the saga of the McManus complaint in 1885 appears in his service record.[143]

The cases of Wyld, Elliott, and Parkins, in particular, demonstrate the significance and ramifications of police disciplinary processes for the young constables. Wyld was disciplined repeatedly but was never charged criminally, even though he was punished for "stealing" cocoa from the NWMP hospital; nevertheless, there can be no doubt about the misery he experienced. As for Elliott, there was a direct line—arguably a causal one—between Richardson's invocation of the disciplinary offence of "scandalous conduct" and Elliott's commanding officer's response to the escape and alleged thefts from the NWMP stable. For his part, Parkins found support from his commanding officer against the flawed invocation of the criminal law against him.

These three cases also demonstrate that far from being discrete forms of law—civil and military—the criminal and NWMP disciplinary processes were closely connected. The senior officers, and clearly even Richardson himself, moved easily between them. Not every irate father in the NWT could so easily command the ear of—and the process engaged by—a NWMP superintendent. When given the option, Frank Kiely did not hesitate to choose to enter his guilty plea in front of a (civilian) judge, rather than his commanding officer sitting as a justice of the peace. Henry Elliott did not have that choice in his criminal case: Superintendent Walker alleged that his own horse had disappeared as well on the night that Elliott and his colleagues took flight from the Battleford barracks; and, undoubtedly, Elliott preferred to be tried by anyone other than Walker or Richardson. Fortunately for Elliott, a jury of six sensible men in

Battleford acquitted him of larceny, a verdict that neither Richardson nor Walker would have preferred.

On Duty: Criminal Prosecutions for Theft, Fraud and Forgery ... on Duty

As we turn to the later period of Richardson's tenure on the territorial bench, it is important to note, yet again, the small number of cases in his court: nine criminal prosecutions of NWMP men between 1888–1901, yielding seven convictions.[144] It is also important to be attentive to the legal context of this set of records. On the NWT Supreme Court, Richardson was one of five judges on the bench. This raises methodological challenges, not least because it is distinctly possible that court records from the other judicial districts, if extant, may contain more cases involving NWMP accused. The legal process was also more formal in the Supreme Court and lawyers served as prosecutors (unlike the NWMP commanding officers in the earlier period).

The seven men whose cases I discuss in this section were charged criminally for misconduct either in the course of their duties or for conduct that brought discredit to the police force, including desertion. All the cases are forms of property offences, and theft figures prominently, but in half of these cases, the victims were the police themselves. Five men were charged with forms of theft, either of Her Majesty's property that they took with them upon discharge or desertion[145] or, often, from fellow members of the force.[146] Two men were charged with forgery or fraud perpetrated on members of the public.[147] The most egregious accusation of theft (really extortion) was against James Ford who abused his position as a member of the police to demand money from a Cree woman.[148]

Constable George Thomas Robinson's experience in 1888–89 demonstrates the dim view the NWMP took of police who used the privilege of their office to engage in criminal activity for personal gain. Robinson, an eighteen-year-old Torontonian, signed up on 27 June 1887 for a five-year term. One of his character references, written on letterhead of *The Globe – Toronto*, was signed by John Cameron who said he knew Robinson and believed him "to be a young man of steady habits, good character and one who knows to do what is right."[149]

In early September 1888, now stationed at Regina, Constable Robinson received a letter from his father, informing him that he had fallen ill and was an invalid. Apparently desperate to get back to Toronto, Robinson forged a telegram and a pass to return to Toronto, both bearing the name of Inspector John Cotton. Apparently, he obtained a lower fare because it appeared that he was travelling with the permission of the Inspector. Using the pass, Robinson then wrote to the Controller of the NWMP requesting a requisition to cover his fare to Toronto, which he asked to be deducted in installments from his pay. Once back in Toronto, he wrote again to the Controller asking for the same arrangement for his return travel at the end of October, after his furlough. However, Robinson appears to have secured other work in the East and did not return to Regina. A warrant for his arrest, dated 29 November 1888, was received in Toronto. After many procedural hurdles and possible misinformation as to his whereabouts, which made it difficult to effect service of the warrant for his arrest, he was finally located and the warrant was executed.

Robinson was returned to Regina in custody on 29 December 1888. An Officer's Board Hearing had been held in Robinson's absence earlier in December 1888; it had recommended that he be struck from the force for having "deserted on a pass in Eastern Canada." The Commissioner accepted this recommendation on 15 January 1889. The NWMP records indicate that Robinson was sentenced to twelve months' hard labour for desertion.

The NWMP records show that the forgery charge was dismissed for want of evidence. However, according to Richardson's records, on 6 February 1889 Robinson was committed for trial by Superintendent Sévère Gagnon JP, on an information sworn by Inspecting Superintendent John Cotton that asserted that Robinson had forged a telegram in Cotton's name and uttered the telegram with intent to defraud. On 4 March 1889, he entered a guilty plea before Richardson and was sentenced to fourteen days and time already served.

Then someone outside of the force, possibly John Cameron from *The Globe*, intervened on Robinson's behalf: a memorandum in his service file indicates that, at the request of the Governor General, the unexpired portion of Robinson's sentence for desertion was remitted to 31 October 1889. It appears that he was allowed to remain in the force. Upon his release,

Robinson was transferred to Maple Creek, where he said he tried to make a go of it. To no avail. Aggrieved at his treatment at the hands of the senior men of the force, the young man with friends in Toronto, and possibly other high places, is reported to have "re-deserted" on 17 March 1890.

Three cases from Regina demonstrate how the lower ranks in the NWMP also took care of their own interests. In 1894, two constables were charged with stealing from fellow members of the force. Constable John Martin was charged with stealing $1.00 from a pair of breeches in the barracks room at "Depot Division" in Regina, where all new NWMP recruits were sent to receive their training and where troublesome men from other districts were sent. Martin, thirty-six years of age, was a relatively recent but older recruit to the NWMP; he had served as a soldier for seven years before his engagement on 20 October 1893 with the police.[150] His career with the NWMP would be shorter: on two different occasions, 9 January 1894 and 13 July 1894, he was brought up before Superintendent Gagnon on two separate alcohol-related discipline offences.

Over Martin's time at Depot Division, others in the barracks had concluded that he was the stealthy thief who was lifting money from their clothes and boxes when no one was watching. They set up a sting operation: after they left a marked dollar bill in a pocket, Martin was caught trying to use it to buy a beer at the canteen. At the committal hearing on 17 August 1894 before Superintendent Gagnon in his capacity as justice of the peace, Martin said that he had found the dollar on a table in the room. Four days later, he entered a guilty plea before Justice Hugh Richardson who sentenced him to four months' imprisonment at hard labour. The day before Martin's appearance in criminal court, the NWMP dismissed him from the force. Once again, both processes worked together.

Constable Henry George Fisher, by contrast, was just twenty-one years of age when he signed on with the NWMP, but he too had a similarly short career in the force, scarcely long enough to find his way into the disciplinary process (although John Martin and Richard Wyld had managed this in short order). Perhaps it was the nature of his illicit activity that impelled him to keep a low profile, as he pilfered his way through the belongings of his fellow members over several months in 1894.[151] Although one of his character references in support of his application in April 1894 described him as a "steady reliable lad," his career was over by December

of the same year, punctuated by a sentence of four months' imprisonment at hard labour for several counts of theft to which he pleaded guilty. The informal exhibit list of stolen property assembled by Sergeant Major Lewis Hooper contained thirteen items identified by a number of Fisher's colleagues: a fork, a cake of soap, a screwdriver, four pipes, several pieces of cutlery, a pair of drawers, and so on. As with Constable Martin, Constable Fisher was out of the force before he appeared in court: he was dismissed on 17 December 1894, in time to commence the sentence imposed by Richardson on 18 December.

One might have anticipated that the explicit breach of trust in the conduct of Constable Colin Lorne Campbell,[152] resulting in his 1899 conviction for theft, might have been reflected in a longer sentence than that imposed upon the pilferers, Martin and Fisher. Campbell worked in the canteen at the Regina barracks. The canteen was managed by a committee composed of members of the force. Campbell's regimental pay formed the largest part of his monthly income ($15.00), but he also received $10.00 per month as canteen pay. Since his duties included serving customers, he handled cash. During the month of April 1899, the corporal in charge of the canteen, to whom Campbell reported, was hospitalized. When Campbell was given responsibility for running the canteen, Staff Sergeant Reginald Spencer Knight noticed that something was amiss: the accounts were not in order. After an investigation, Constable Campbell was charged with theft of funds ($8.00). Unlike the other accused Mounties at the barracks, Campbell appeared before a Regina justice of the peace, William Trant, not one of the NWMP justices. Trant committed him for trial on the theft charge and, when he appeared before Richardson in the NWT Supreme Court on 5 May 1899, Campbell entered a guilty plea. Richardson sentenced him to two months' imprisonment at hard labour. On 5 June 1899, with an otherwise spotless discipline record in the force, Campbell was dismissed.

Finally, in the last case in this series, a NWMP member who had taken advantage of the trust and good will of a man who did business with the police similarly found himself convicted and imprisoned. In 1901, after a trial in the NWT Supreme Court, Constable James Cumines was criminally convicted by Richardson for obtaining money by false pretences. Cumines was sentenced on 19 April 1901 to three months at hard

labour in the police guardroom.[153] Cumines had persuaded a Moose Jaw businessman, who knew and trusted Cumines, to endorse a cheque in his favour, on Cumines's assurance that he would be sending the endorsed cheque directly to Ottawa. It is not clear from the court file just why the Moose Jaw man did this. In any event, Cumines cashed the cheque himself. Cumines apparently had hoped against hope that his own paycheque would arrive in a timely way and he would be able to reimburse the man who had trusted him, before anyone else learned of it. With, again, an otherwise spotless discipline record, he was dismissed from the force in May before the completion of his sentence.[154]

Conclusion: O-cha-nah-kis and the Bad Cop, Redux

I conclude with a case that directly engages themes of colonialism and criminal justice, as well as the relationship between forms of low law and low justice. I have written elsewhere about this case as an instance illustrative of the relationship between Indigenous people and criminal law,[155] but it bears revisiting in the context of the relationship between the criminal and disciplinary processes involving police officers.

In early September 1889 a Cree woman named O-cha-nah-kis laid an information in Regina, charging NWMP Constable James Ford with stealing $12.00 from her.[156] Ford, a twenty-six-year-old Irish immigrant, had a well-documented record for intoxication and violence, having twice been imprisoned for both disciplinary and criminal alcohol-related offences.[157] James Ford had signed on with the NWMP in May 1885. In his application he indicated that he was twenty-two, single, in good health, and that his religious faith was Roman Catholic; a reference letter from a man who said he had employed Ford for the previous two years described him as a "sober, industrious and hard-working young man."[158] However, his NWMP service record tells a different story, even including correspondence from a woman claiming to be his wife. According to an early report, on Christmas Eve 1885, Ford was drunk at the NWMP barracks, discharged his rifle, and resisted the efforts of other policemen to subdue him. As a result, he was criminally convicted on 20 January 1885 by

Stipendiary Magistrate James Macleod and sentenced to three months' hard labour in Regina for "shooting at peace officers in the execution of their duty."[159] Other disciplinary infractions netted him, at different times, loss of pay as well as fourteen days in the guardroom. The defaulter's sheet in his personnel record indicates that in October 1886 he was again disciplined by his commanding office at Maple Creek for being drunk and causing a disturbance and, on this occasion, he was fined one month's wages and sentenced to six months' imprisonment at hard labour.

After completing his sentence the following spring, Ford was transferred to Depot Division in Regina with, as the commanding officer Superintendent Sévère Gagnon put it, "awkward men and bad characters" from other districts.[160] One can only infer that James Ford was one of the "bad characters" Gagnon had in mind.

It was here some months later that Ford accosted O-cha-nah-kis and her family. Ford had come to a Cree camp near Regina, kicking at tents and calling for a woman. He paid O-cha-nah-kis $1.00 for sexual connection. She said that he came back to her tent later that evening with two other police officers, demanding that she return money to him that he said he had lost in her blanket and intimidating her and her husband with a show of handcuffs. Frightened, she asked her husband to give over all their money, which he did.

This striking case is largely the story of O-cha-nah-kis's response to Ford's mistreatment. She complained to the NWMP that the policeman had extorted $12.00 from her and her family. He was charged with theft on an Information laid by Inspecting Superintendent John Cotton (only the commissioner and assistant commissioner were higher in rank to him). Although her identification of him at trial was a bit shaky, Ford was convicted by Justice Richardson for the theft of the $12.00 and sentenced to one hour in gaol.

Unlike Constables Jones, Constable Kiely, and other convicted police thieves, Ford was not dismissed for bad conduct. It will be recalled that in 1891 Constable Jones was sentenced to six months for larceny and, for his disciplinary offence, a concurrent twelve months, of which almost half was remitted. For lesser forms of bad conduct, other men had been sentenced to long terms of imprisonment in addition to disciplinary sentences. Despite Commissioner Herchmer's well-earned reputation and

commitment to harsh treatment of "hard cases and repeat offenders," Ford's criminal conviction for theft from the Cree woman, together with his record of violence and misconduct in the force, appears to have triggered no further discipline charges. He was not dismissed from the force. Rather, and remarkably, he was allowed to buy his way out of the force. His application to be discharged, the second one he made in as many years, was granted in early November 1889; he was permitted to purchase his release for $50.00.[161] His NWMP service record is silent with respect to the conviction for theft of O-cha-nah-kis's money.

Ford's abuse of, and theft from, the Cree woman, including the extortion and threats that accompanied it, appear not to have weighed as grievously as Constable Kiely's thefts of Her Majesty's pistols or Superintendent Howe's pocket book. There is precious little to celebrate about the facts or even the outcome of Ford's case from Regina, offering as it does a graphic illustration of sexual exploitation of a First Nations woman, and cloaked as it is under the conviction for theft. But it also tells something of her and her response to it. O-cha-nah-kis complained to the police and to the Court. She stood up to the cop and, supported by one of the most senior officers in the force, she had him charged with stealing from her. Not a small thing. While the one hour in jail James Ford received as a sentence was insignificant, it may have been one hour longer than he ever thought he would spend there because of his behaviour towards O-cha-nah-kis. It was also the shortest sentence of imprisonment he received during the four years he served in the NWMP.

I have argued in this chapter that police discipline and criminal justice were not separate and discrete spheres; so much of the administration of justice in the Territories and the entirety of the administration of police justice was vested in the North-West Mounted Police. The multiple roles, including juridical and adjudicative, performed by senior police officers, most of whom had no legal training, shaped and informed the form and content of justice in the NWT. Far from being isolated silos, the cases of Mounted Police members accused on criminal and discipline charges shed light on how intimately interconnected these legal sites and institutional processes were. Clearly, the accused police constables had more to fear and worse to experience as they were marched along the blurred lines

from the criminal court to police "court," where low justice could just as easily mean no justice at the hands of men who had boots in both places.

NOTES

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1 Douglas Hay, "Time, Inequality and Law's Violence," in *Law's Violence*, ed. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1993), 167.

2 Donald Fyson, *Magistrates, Police and People: Everyday Criminal Justice in Quebec and Lower Canada, 1764–1837* (Toronto: University of Toronto Press and the Osgoode Society for Canadian Legal History, 2006); Amanda Glasbeek, *Feminized Justice: The Toronto Women's Court, 1913–34* (Vancouver: UBC Press, 2009); Shelley A.M. Gavigan, *Hunger, Horses and Government Men: Criminal Law on the Aboriginal Plains, 1870–1905* (Vancouver: UBC Press for the Osgoode Society, 2012); Paul Craven, *Petty Justice: Low Law and the Sessions System in Charlotte County, New Brunswick, 1785–1867* (Toronto: University of Toronto Press for the Osgoode Society, 2014); Mary Stokes, "Grand Juries and 'Proper Authorities': Low Law, Soft Law, and Local Governance in Canada/West/Ontario, 1850–1880," in *Essays in the History of Canadian Law*, vol. 11, *Quebec and the Canadas*, ed. G. Blaine Baker and Donald Fyson (Toronto: University of Toronto Press for the Osgoode Society, 2013); Bradley Miller, *Borderline Crime: Fugitive Criminals and the Challenge of the Border, 1819–1914* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2016).

3 Craven, "Law and Ideology: The Toronto Police Court, 1850–80," in *Essays in the History of Canadian Law*, vol. 2, ed. David H. Flaherty (Toronto: University of Toronto Press for the Osgoode Society, 1982); Glasbeek, *Feminized Justice*.

4 Jeffrey L. McNairn, "'A Just and Obvious Distinction': The Meaning of Imprisonment for Debt and the Criminal Law in Upper Canada's Age of Reform," in Baker and Fyson, *Essays in the History of Canadian Law*, 204.

5 Fyson, *Magistrates, Police and People*.

6 Craven, "Law and Ideology"; Craven, *Petty Justice*, 7.

7 Stokes, "Grand Juries and 'Proper Authorities'," 538.

8 Craven, *Petty Justice*, 8.

9 Craven, *Petty Justice*, 10.

10 Miller, *Borderline Crime*, 53.

11 Thomas Flanagan, "Richardson, Hugh," in *Dictionary of Canadian Biography*, vol. 14, University of Toronto/Université Laval, 2003-, http://www.biographi.ca/en/bio/richardson_hugh_1826_1913_14E.html; Gavigan, *Hunger Horses and Government Men*, 42–44.

12 Lewis H. Thomas, *The Struggle for Responsible Government in the North-West Territories 1870–97*, 2nd ed. (Toronto: University of Toronto Press, 1978), 112.

13 For a fuller discussion of Richardson's role in Territorial governance and as a member of the judiciary of the NWT, see W.F. Bowker, "Stipendiary Magistrates and Supreme Court of the North-West Territories, 1876–1907," *Alberta Law Review* 26, no. 2 (1988): 245–86. See also Gavigan, *Hunger, Horses and Government Men*, 40.

14 Section 1(1) of *An Ordinance Respecting the Administration of Civil Justice*, no. 4 of 1878 stipulated the boundary of the Saskatchewan District:

> The "Saskatchewan District" shall comprise all of the Territories bounded on the west, south and west by Alaska and British Columbia; and on the south-west south and south east by the Red Deer River, the south branch of the River Saskatchewan and the River Saskatchewan from the junction of the two branches thereof, until the said river strikes the District of Keewatin; and on the east by Keewatin, and on the north by the northern boundary of the Territories.

This ordinance is printed in *Copies of Ordinances Passed by the Lieutenant-Governor and Council of the North-West Territories, on the 2nd August, 1878, and Laid before the Honorable the Senate and the House of Commons, in pursuance of the 3rd sub-section of the 7th Section of 40 Victoria, Chap. 7*, 3–20 (*CSP* 1879, vol. 9, no. 86), 3.

15 Bowker, "Stipendiary Magistrates," 267–68.

16 See Bowker, "Stipendiary Magistrates," 274; Gavigan, *Hunger, Horses and Government Men*, 40–41.

17 Six of these cases are found in the 282 files that make up "the first series" (1876–86) from the period when Richardson sat as a stipendiary magistrate: Provincial Archives of Saskatchewan (PAS), Department of the Attorney-General, Regina Judicial Centre, Court Records, 1st series 1878–86, files 1-282 [PAS, A-G (GR11-1) CR Regina, 1st series, 1876–1886]. Three files involve criminal charges, one involves NWMP discipline, and two involve NWMP men being sued civilly (with no disposition). I do not discuss the civil files here. In the later period (1887–1903), Richardson's records from the

Supreme Court of the NWT contain a further nine criminal prosecutions involving serving members of the North-West Mounted Police: PAS, CR-Regina, Coll. R1286. The numbers are modest and are surely imprecise; I am confident that further archival research into other court and NWMP records will yield even more cases.

18 These *Annual Reports* are found in the *Sessional Papers of the Dominion of Canada* (Ottawa: Hunter, Rose, 1868–1925) ["*CSP*"]. The reports from 1882–85 and 1886–87 have also been separately published in facsimile editions as The Commissioners of the Royal North-West Mounted Police, *Settlers and Rebels: Being the Official Reports to Parliament of the Activities of the Royal North-West Mounted Police Force from 1882–1885* (Toronto: Coles Publishing, 1973) and The Commissioners of the Royal North-West Mounted Police, *Law and Order: Being the Official Reports to Parliament of the Activities of the Royal North-West Mounted Police Force from 1886–1887* (Toronto: Coles Publishing, 1973).

19 Library and Archives Canada (LAC), Ottawa, R196–161–9-E (formerly RG 18-G), North West Mounted Police (NWMP) – Personnel Records, 1873–1904.

20 R. Burton Deane, *Mounted Police Life in Canada: A Record of Thirty-One Years' Service* (Toronto: Coles Publishing, 1975; first published 1916 by Cassell & Company), 132.

21 In his work on imprisonment for debt in Upper Canada, McNairn refers to what he characterizes as the "artificial cordoning off criminal from civil" and the "blurred lines" between them in practice and in cultural understandings of the two "sites": "'Just and Obvious Distinction,'" 198–99. Greg Marquis makes a similar point in "'A Machine of Oppression Under the Guise of Law': The Saint John Police Establishment, 1860-1880," *Acadiensis* 16 (1986): 59.

22 W. Peter Ward, "The Administration of Justice in the North-West Territories, 1870–1887," Master's thesis, University of Alberta, 1966, 14, 19.

23 Ward, "Administration of Justice," 20.

24 *An Act to Provide for the Establishment of "The Department of the Interior,"* SC 1873, c 4; *An Act Respecting the Administration of Justice, and for the Establishment of a Police Force in the North West Territories*, SC 1873, c 35 [hereinafter NWMP Act, 1873]; *An Act Further to Amend the "Act to Make Further Provision for the Government of the North West Territories,"* SC 1873, c 34. See Gavigan, *Hunger, Horses and Government Men*, 33–35. As to the third statute, the amended Act, SC 1871, c 16, simply provided for the appointment of a lieutenant-governor of the NWT, who could establish institutions of governance. As well as specifically extending criminal legislation to the NWT, the 1873 Act broadly empowered the Lieutenant-Governor and council "to make laws for the peace, order and good government of the North West Territories" (s 2) and to modify the law as necessary, subject to certain limitations.

25 NWMP Act, 1873. Section 13 of the Act specified that "persons" appointed to the Force were to be able to read and write either English or French, and be "of a sound constitution, able to ride, active and able-bodied, of good character, and between the ages of eighteen and forty years."

26 *An Act to Authorize the Augmentation of the North-West Mounted Police*, SC 1885, c 53. The force's numbers grew to one thousand in 1885, but by 1899 had dropped back to

just over five hundred members, reflecting the changed fortunes of the force under the Liberal government led by Prime Minister Wilfrid Laurier and Clifford Sifton, Minister of the Interior: William Beahen and Stan Horrall, *Red Coats on the Prairies: The North-West Mounted Police, 1886–1900* (Regina: Centax Books/PrintWest Publishing Services, 1998), 141–50.

27 NWMP Act, 1873, ss 1 and 2.

28 NWMP Act, 1873, s 3.

29 NWMP Act, 1873, s 4.

30 NWMP Act, 1873, s 5.

31 *An Act to Amend and Consolidate the Laws Respecting the North-West Territories*, SC 1875, c 49 [NWT Act, 1875].

32 NWT Act, 1875, s 7(8); however, an ordinance could be disallowed by the Governor General within two years of its passing.

33 NWT Act, 1875, s 64. See Gavigan, *Hunger, Horses and Government Men*, 39–40. The Act was declared in force on 7 October 1876, but immediately became the subject of criticism by outgoing Lieutenant-Governor Alexander Morris for its requirement that stipendiary magistrates sit with judges of the Manitoba Court of Queen's Bench: Ward, *Administration of Justice*, 47.

34 *An Act to Amend the "North-West Territories Act, 1875,"* SC 1877, c 7, s 7 (which repealed ss 62–64 of the 1875 Act and substituted the revised sections) and s 8 (which introduced a new s 71 by which the Stipendiary Magistrates received "jurisdiction, power and authority to hear and determine" in civil claims and disputes).

35 NWMP Act, 1873, s 19.

36 Beahen and Horrall, *Red Coats on the Prairies*, 156. William M. Herchmer, assistant commissioner (1886–1892) was also the brother of Lawrence W. Herchmer who was appointed commissioner in 1886. Unlike Lawrence, who had no previous experience in the NWMP, William had been an NWMP Superintendent since 1876. Despite the appearance of nepotism in his elevation to assistant commissioner, William Herchmer was said to be a popular figure in the NWMP and held the position until his death in 1892: R. C. Macleod, "HERCHMER, WILLIAM MACAULEY," in *Dictionary of Canadian Biography*, vol. 12, University of Toronto/Université Laval, 2003, accessed September 25, 2018, http://www.biographi.ca/ en/ bio/ herchmer_william_ macauley_12E.html.

37 NWMP Act, 1873, ss 10 and 15; *An Act to Amend "An Act Respecting the Administration of Justice and for the Establishment of a Police Force in the North-West Territories,"* SC 1874, c 22, s 1 [NWMP Amendment Act, 1874].

38 *An Act to Amend and Consolidate as Amended the Several Enactments Respecting the North-West Mounted Police Force*, SC 1879, c 36, s 8 [NWMP Amendment Act, 1879]. See also R.C. Macleod and Heather Rollason, "'Restrain the Lawless Savages': Native Defendants in the Criminal Courts of the North-West Territories, 1878–1885," *Journal of Historical Sociology* 10, no. 2 (1997): 159.

39 *An Act Further to Amend the Law Respecting the North-West Territories*, SC 1886, c 25 [NWT Amendment Act, 1886].

40 For a review of the jurisdiction of NWT justices of the peace, see Thomas Reynolds, "Justices of the Peace in the NWT," Master's thesis, University of Regina, 1978, 10–22.

41 Reynolds, "Justices of the Peace in the NWT," 113–15; Macleod and Rollason, "Restrain the Lawless."

42 R.C. Macleod, *The North-West Mounted Police and Law Enforcement, 1873–1905* (Toronto: University of Toronto Press, 1976), 35.

43 NWT Amendment Act, 1886, ss 30–32. See also Thomas, *Struggle for Responsible Government*, 111.

44 While not the most active NWMP justice of the peace, Commissioner L.W. Herchmer, on 22 June 1889—as the NWMP criminal case returns indicate—along with Inspecting Superintendent Cotton, tried and convicted a man named Leach in Regina for vagrancy and imposed a fine of $2 with costs. The criminal returns from the Calgary district for 1889 contain three entries for (Assistant Commissioner) "W.M. Herchmer J.P." In a case on August 22, he tried two Cree men, Crow Collar and The Man That Moves for vagrancy; he dismissed the charges with a caution. See "Return of Criminal and Other Cases Tried in the North-West Territories, from 1st December, 1888, to 30th November, 1889," Appendix CC to "Annual Report of Commissioner L.W. Herchmer, North-West Mounted Police, 1889," in *Report of the Commissioner of the North-West Mounted Police Force 1889*, 163–88 (*CSP* 1890, vol. 10, no. 13), 166, 182.

45 NWT Amendment Act, 1886, ss 9, 28, 30–33, which came into force 18 February 1887; Bowker, "Stipendiary Magistrates," 269, 274–75, 277.

46 *The Mounted Police Act*, 1894, SC 1894, c 27, s 9 (also cited as the *Royal Northwest Mounted Police Act*, RSC 1906, c 91, s 12) [NWMP Act, 1894]. These judicial roles continued after the provinces of Saskatchewan and Alberta were created in 1905. Rather than diminish over time, these judicial roles of the RNWMP were extended in 1919 to provinces in the rest of Canada: *An Act to Amend the Royal Northwest Mounted Police Act*, SC 1919, c 69, s 7.

47 Beahen and Horrall, *Red Coats on the Prairies*, 23. See also Amanda Nettelbeck et al., *Fragile Settlements: Aboriginal Peoples, Law, and Resistance in South-West Australia and Prairie Canada* (Vancouver: UBC Press, 2016), 55.

48 Anthony Jacobus Looy, *The Indian Agent and His Role in the Administration of the North-West Superintendency*, 1876–1893," PhD diss., Queen's University (Kingston), 1977, 57. After the signing of Treaty Six at Fort Carlton in 1876, NWMP Superintendent James Walker wrote, "For three years I was Acting Indian Agent for about one-third of the Indian population of the Territories. . . . In addition to my police duties, I was appointed 'Acting Indian Agent of Treaty Six'": James Walker, "My Life in the North-West Mounted Police," *Alberta Historical Review* 8 (1960): 10.

49 Beahen and Horrall, *Red Coats on the Prairies*, 14–22.

50 Macleod, *North-West Mounted Police*; R.C. Macleod, "Canadianizing the West: The North-West Mounted Police as Agents of the National Policy," in *Essays on Western*

History: In Honour of Lewis Gwynne Thomas, ed. Lewis H. Thomas (Edmonton: University of Alberta Press, 1976).

51 Carl Betke, "Pioneers and Police on the Canadian Prairies, 1885–1914," 32, quoted in Beahen and Horrall, *Red Coats on the Prairies*, 14.

52 Gavigan, *Hunger, Horses and Government Men*, 34–38; Nettelbeck et al., *Fragile Settlements*, 55–57.

53 J.W. Little, Written account of conversation between himself and "Marshall" [likely Acting Staff Constable Norton H. Marshall], 3 March 1878, likely referenced by defence counsel, Hayter Reed, in the trial of Henry R. Elliott (1878), file 26, AG CR-Regina, 1st series, 1876–86, PAS.

54 See e.g., Gavigan, *Hunger, Horses and Government Men*; Nettelbeck et al., *Fragile Settlements*, 53–59; Macleod, *North-West Mounted Police*; Macleod, "Canadianizing the West"; Walter Hildebrandt, *Views From Fort Battleford: Constructed Visions of an Anglo-Canadian West* (Regina: Canadian Plains Research Centre, 1994); John N. Jennings, "North-West Mounted Police and Indian Policy after the 1885 Rebellion," in *1885 and After: Native Society in Transition*, ed. F. Laurie Barron and James B. Waldron (Regina: Canadian Plains Research Center, 1986); William M. Baker, ed., *Mounted Police and Prairie Society, 1873-1919* (Regina: Canadian Plains Research Centre, 1998); Sarah Carter, *Aboriginal People and the Colonizers of Western Canada* (Toronto: University of Toronto Press, 1999); Beahen and Horrall, *Red Coats on the Prairies*.

55 For notable contributions, see Beahen and Horrall, *Red Coats on the Prairies*, 243–60; William Beahen, "For the Sake of Discipline: The Strange Case of Cst Basil Nettleship – Deserter," *RCMP Quarterly* 49, no. 3 (1984): 41–45; Anna Maria Mavromichalis, "Tar and Feathers: The Mounted Police and Frontier Justice," in Baker, *The Mounted Police and Prairie Society*.

56 *An Act further to Amend "An Act Respecting the Administration of Justice, and for the Establishment of a Police Force in the North-West Territories,"* SC 1875, c 50, s 1 [NWMP Amendment Act, 1875] (repealing and replacing s 22).

57 When the NWMP Act was revised in 1879, the NWMP brass maintained their jurisdiction as stipendiary magistrates and justices of the peace and could therefore exercise jurisdiction over civilians, but the list of officials who could address NWMP disciplinary offences was changed: non-NWMP stipendiary magistrates like Richardson lost this jurisdiction in favour of the "Superintendent commanding any Post, or such other Commissioned officer as is thereunto empowered by the Commissioner": NWMP Amendment Act, 1879, ss 8, 14.

58 The force, led by a commissioner and assistant commissioner, was organized by geographical divisions. In 1878, the force was distributed throughout the territories in divisions: "A" Fort Saskatchewan, "B" Fort Walsh, "C" Fort Macleod, "D" Shoal Lake & Prince Albert, and "E" Calgary & Battleford. By 1889 eleven divisions were distributed throughout the NWT (Divisions "A" to "K", with the twelfth, Headquarters/Depot Division, in Regina). Each division had a superintendent (the commanding officer), an inspector, and assorted less senior "non-commissioned" officers (e.g., staff sergeants and sergeants), as well as the lower ranks: corporals, constables, and sub-constables.

Given the vast territory for which a division was responsible, many divisions also had regional sub-posts in different locations.

59 Beahen and Horrall, *Red Coats on the Prairies*, 248.

60 Beahen and Horrall, *Red Coats on the Prairies*, 245.

61 NWMP Amendment Act, 1874.

62 NWMP Amendment Act, 1875, s 1, amending s 22. Beahen and Horrall, *Red Coats on the Prairies*, 245, note that the list of offences was "almost word for word from the 'Rules and Regulations' of the Royal Irish Constabulary."

63 NWMP Amendment Act, 1879.

64 *An Act Respecting the North-West Mounted Police Force*, RSC 1886, c 45, s 18 [NWMP Act, 1886], incorporating the provisions of *An Act to Amend 'An Act to Amend and Consolidate as Amended the Several Enactments Respecting the North-West Mounted Police Force*, SC 1882, c 29:

> Every member of the force, other than a commissioned officer, who is convicted of any of the following offences,
>
> (a) Disobeying the lawful command of or striking his superior;
>
> (b) Oppressive or tyrannical conduct towards his inferior;
>
> (c) Intoxication, however slight;
>
> (d) Having intoxicating liquor illegally in his possession, or concealed;
>
> (e) Directly or indirectly receiving any gratuity without the commissioner's sanction, or any bribe;
>
> (f) Wearing any party emblem;
>
> (g) Otherwise manifesting political partisanship;
>
> (h) Overholding any complaint;
>
> (i) Mutinous or insubordinate conduct;
>
> (j) Unduly overholding any allowance or any other public money intrusted [*sic*] to him;
>
> (k) Misapplying any money or goods levied under any warrant or taken from any prisoner;
>
> (l) Divulging any matter or thing which it is his duty to keep secret;
>
> (m) Making any anonymous complaint to the Government or the commissioner;
>
> (n) Communicating, without the commissioner's authority, either directly or indirectly, to the public press, any matter or thing touching the force;
>
> (o) Wilfully, or through negligence or connivance, allowing any prisoner to escape;
>
> (p) Using any cruel, harsh or unnecessary violence towards any prisoner or other person;
>
> (q) Leaving any post on which he has been placed as sentry or on other duty;
>
> (r) Deserting or absenting himself from his duties or quarters without leave;
>
> (s) Scandalous or infamous behavior;
>
> (t) Disgraceful, profane or grossly immoral conduct;

(u) Violating any standing order, rule or regulation, or any order, rule or regulation hereafter made; or –

(v) Any disorder or neglect to the prejudice of morality or discipline, although not specified in this Act or in any rule or regulation,

Shall be held to have committed a breach of discipline.

65 Beahen and Horrall, *Red Coats on the Prairies*, 11–12.

66 Beahen and Horrall, *Red Coats on the Prairies*, 249.

67 Beahen and Horrall, *Red Coats on the Prairies*, 249–50, quote a memorandum, dated 10 September 1887, from Commissioner Herchmer to NWMP Comptroller and Deputy Minister Frederick White.

68 Beahen and Horrall, *Red Coats on the Prairies*, 10.

69 Ottawa: Queen's Printer, 1889, Coll # NF/428 and 4085, RCMP Historical Collections Unit, Regina. These Regulations were the first adopted for the force: Beahen and Horrall, *Red Coats on the Prairies*, 248. I am grateful to Jodi-Ann Eskritt, Curator of the RCMP Historical Collections Unit, for her assistance in accessing this document and others from the Collection.

70 Beahen and Horrall, *Red Coats on the Prairies*, 256.

71 See *An Act to make further provision as to Duties of Customs in Manitoba and the North West Territories*, SC 1873, c 39, s 2 (pertaining to "[s]pirits or strong waters, or spirituous liquors of any kind") and *An Act to amend* "An Act to make further provision as to Duties of Customs in Manitoba and the North West Territories," *and further to restrain the importation or manufacture of Intoxicating Liquors into or in the North West Territories*, SC 1874, c 7, s 2 (extending the prohibition to include "wines, and fermented and compounded liquors and intoxicating drink of every kind"). These provisions were incorporated into the *North-West Territories Act, 1875*, SC 1875, c 49, s 74. See Gavigan, *Hunger, Horses and Government Men*, 131–32.

72 Defaulters Book, Coll #1943.10.1, RCMP Historical Collections Unit, Regina.

73 A writ of habeas corpus, obtained through a court application, required that a prisoner be brought before the court to determine the validity of his or her detention. For a discussion of the history of the writ in Canada, see Robert J. Sharpe, "Habeas Corpus in Canada," *Dalhousie Law Journal* 2, no. 2 (1975): 241–67.

74 A.G. Irvine, *Report of the Commissioner of the North-West Mounted Police Force 1885*, reproduced in *Settlers and Rebels: Being the Official Reports to Parliament of the Activities of the Royal North-West Mounted Police Force from 1882–1885* (Toronto: Coles Publishing, 1973, facsimile edition), 16.

75 Irvine, *Report of the Commissioner*, 16, emphasis added.

76 Beahen, "For the Sake of Discipline," 41.

77 Beahen and Horrall, *Red Coats on the Prairies*, 237. This came too late for another dissident NWMP member. Beahen and Horrall describe Commissioner Herchmer's "merciless treatment" of Constable John Henry Beggs through his escalating punishments imposed upon Beggs, as one of the leaders of the 1886 Edmonton

"buck": initially a bread and water diet for four days, leg irons for fourteen days, and two months wearing a ball and chain. Before the end of the two months, Herchmer sentenced Beggs to a further two months wearing a ball and chain; later he received two more months in leg irons, and still later two more months at hard labour. By the time of his release, he had served sixteen months in jail (*Red Coats on the Prairies*, 252–53).

78 Deane, *Mounted Police Life in Canada*, 135.

79 R. Burton Deane, "Annual Report of Superintendent R. B. Deane, Commanding Macleod District," Appendix B to "Annual Report of Commissioner L. W. Herchmer: North-West Mounted Police, 1899," in *Report of the North-West Mounted Police 1899*, 15–26 (*CSP* 1900, vol. 12, no. 15), 22, emphasis added. See also, Deane, *Mounted Police Life in Canada*, 137.

80 Beahen, "For the Sake of Discipline," 42.

81 Beahen and Horrall, *Red Coats on the Prairies*, 258; Deane, *Mounted Police Life in Canada*, 139; Beahen, "For the Sake of Discipline," 45.

82 Beahen and Horrall, *Red Coats on the Prairies*, 259.

83 Beahen, "For the Sake of Discipline," 45.

84 Beahen, "For the Sake of Discipline," 42–43.

85 Irvine, *Report of the Commissioner*, 16.

86 Arthur Miles Parken, Regimental Number 2863, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 50582, vol. 10044, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=50582&). See also his commanding officer's report concerning "Parker's criminal prosecution": Joseph Howe, "Annual Report of Superintendent Joseph Howe, Commanding "C" Division, 1894," Appendix G to "Annual Report of Commissioner L. W. Herchmer: North-West Mounted Police, 1894," in *Report of the Commissioner of the North-West Mounted Police Force 1894*, 119–31 (*CSP* 1895, vol. 9, no. 15), 119.

87 Parken (misspelled as "AM Parker") was sentenced to six months at hard labour for larceny by Judge Thomas H. McGuire on 16 March 1894. See the report of his conviction in "Return of Criminal and Other Cases tried in the North-West Territories, from 1st December 1893, to 30th November 1894," Appendix FF to "Annual Report of Commissioner L. W. Herchmer North-West Mounted Police, 1894," in *Report of the Commissioner of the North-West Mounted Police Force 1894*, 194–247 (*CSP* 1895, vol. 9, no. 15), 243.

88 Joseph Victor Bégin, Regimental Number O.68, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 6765, vol. 10037, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=6765&). Bégin's application and early correspondence to the NWMP were in French.

89 "Return of Criminal and Other Cases tried in the North-West Territories, from 1st December 1894 to 1st December 1895," Appendix FF to "Annual Report of Commissioner L. W. Herchmer," in *Report of the Commissioner of the NWMP 1895*, 194–246 (*CSP* 1896, vol. 11, no. 15), 223.

90 Frank Kiely, Regimental Number 2879, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 39144, vol. 10044, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=39144&). See also his commanding officer's report concerning Kiely's criminal prosecution: Howe, "Annual Report of Superintendent Joseph Howe, Commanding "C" Division, 1894," 119.

91 The Act provided that disciplinary punishment was to be "in addition to any punishment to which the offender is liable, in respect of such offence, under any law in force in the North-West Territories, or in any Province in which the offence is committed": NWMP Act, 1886, s 18(2).

92 Robert William Victor Jones, Regimental No. 2420, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 38307, vol. 10043, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=38307&). Superintendent. S.B. Steele, Commanding Officer, Division "B," reported on this case in his annual report of 30 November 1891: "Annual Report of Superintendent S. B. Steele, Commanding Macleod District, 1891." Appendix D to "Annual Report of Commissioner L. W. Herchmer North-West Mounted Police, 1891," in *Report of the Commissioner of the North-West Mounted Police Force*, 30–42 (*CSP* 1892, vol. 10, no. 15), 34.

93 Steele to Herchmer, 8 February 1891, in Robert William Victor Jones, personnel record.

94 For a study of Macleod's police and judicial career, see Roderick G. Martin, "Macleod at Law: A Judicial Biography of James Macleod, 1874–94," in *People and Place: Historical Influences on Legal Culture*, ed. Jonathan Swainger and Constance Backhouse (Vancouver: UBC Press, 2003), 37.

95 Warrant of conviction, in Robert William Victor Jones, personnel record.

96 Steele to Herchmer, 26 February 1891, in Jones, personnel record.

97 At the end of every member's term of engagement, a Board of Officers was convened to confirm the dates of his service, to determine any pay owing, and to record the quality of his conduct during his service (e.g., "good" or "bad").

98 Jones, personnel record.

99 Beahen and Horrall, *Red Coats on the Prairies*, 234.

100 Beahen and Horrall, *Red Coats on the Prairies*.

101 Constable Charles Dwight quoted by Beahen and Horrall, *Red Coats on the Prairies*, 248.

102 Constable Pat Power's case is described by Beahen and Horrall, *Red Coats on the Prairies*, 254.

103 Beahen and Horrall mention bucks by the sub-constables at Fort Macleod in 1874 and in Edmonton and Fort Saskatchewan in 1886 (*Red Coats on the Prairies*, 246, 251).

104 Beahen and Horrall, *Red Coats on the Prairies*, 234.

105 Penalties for desertion increased over the years. Beahen and Horrall estimate that between 1881 and 1885, five percent of the total force deserted annually (*Red Coats on the Prairies,* 233).

106 Arlean McPherson, *The Battlefords: A History* (Saskatoon: Modern Press, 1967), 36.

107 Flanagan, "Richardson, Hugh."

108 Regnier Brillon (1877), file 4, AG CR-Regina, 1st series, 1876–86, PAS. As with other NWMP members from the early days of the force, such as Henry R. Elliott, I have not been able to locate a digitized record of his personnel file at LAC.

109 Pierre Daignault also served on the six-man jury, in Battleford in December 1878, that acquitted Henry R. Elliott of the various larceny charges laid against him by Superintendent Walker arising out the escape from the NWMP barracks on 5 March 1878.

110 David B. Hall and Regnier Brillon (1878), file 49, AG CR-Regina, 1st series, 1876–86, PAS.

111 Richardson to Walker, 2 March 1878, in Henry R. Elliott case file, PAS. For a discussion of the "Richardson/Elliott affair," see also Bowker, "Stipendiary Magistrates," 262–64. I refer in passing to the case in Gavigan, *Hunger, Horses and Government Men*, 48–49.

112 Bowker, "Stipendiary Magistrates," 263.

113 Bowker, "Stipendiary Magistrates," 263.

114 Draft Information and Complaint of Hugh Richardson, unsigned and undated, in Henry R. Elliott case file, PAS.

115 I take a different view of this than does Bowker, who writes that Richardson forwarded "criminal charges" to Walker, making "three formal complaints" against the four men: "Stipendiary Magistrates," 264. The court file contains only a draft criminal information, not taken or issued by a justice of the peace.

116 This is the only reference to "Davis" in the Elliott court record; he was not named as one of the deserters who fled on March 4. In his draft complaint, Richardson did not include a first name for Davis or Balfe (but Balfe, on 3 March 1878, corresponded with Richardson, requesting a private meeting to settle the matter of defamation of his character); it is possible, but by no means certain, that he was Joseph Osborne Davis who had been stationed at Battleford between 1874–80. See Joseph Osborne Davis, Regimental Number 267, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 26722, vol. 10038, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=26722&).

117 Walker to Richardson, 25 February 1878, in Henry R. Elliott case file, PAS.

118 The validity of Richardson's view and the legal history of capacity and consent to marry at common law, and the regulation of the solemnization of marriage under the then *British North America Act*, are beyond the scope of this chapter. Later, on 2 August 1878, the North West Territorial Council passed *An Ordinance Respecting Marriage*, No. 9 of 1878, which, by s 8 gave the father of a person under the age of twenty-one the authority to consent to the marriage. See *Copies of Ordinances Passed by the Lieutenant-Governor and Council of the North-West Territories, on the 2nd August, 1878, and Laid*

before the Honorable the Senate and the House of Commons, in pursuance of the 3rd sub-section of the 7th Section of 40 Victoria, Chap. 7 (*CSP* 1879, vol. 9, no. 86, 22–25), 23. Given his legislative drafting experience, Richardson, an ex officio member of the Council, likely held the pen for this ordinance.

119 Deposition of Walker, at the hearing into the "accessory after the fact," charges against David Hall and Regnier Brillon later in March 1878: Hall and Brillon case file, PAS.

120 The brief personnel record of Patrick Balfe (one of Elliott's three comrades in the affair) simply records that he engaged with the NWMP in 1876 at the age of twenty-two, and he is listed as having deserted on 5 March 1878. The file does not contain a defaulter's sheet. Patrick J. Balfe, Regimental Number OS–507, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 64834, vol. 10037, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=64834&).

121 Henry R. Elliott case file, PAS.

122 Known principally for his career as a government bureaucrat, Reed was a lawyer and appeared as defence counsel before Richardson on at least one other criminal case before he became an Indian Agent: see Gavigan, *Hunger, Horses and Government Men*, 102–3, 231 notes 39 and 40.

123 Reed would go on to become Indian Commissioner and ultimately Deputy Superintendent of Indian Affairs. See Brian Titley, "Reed, Hayter," in *Dictionary of Canadian Biography*, vol. 16, University of Toronto/Université Laval, 2003-. http://www.biographi.ca/en/bio/reed_hayter_16E.html. See also Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal and Kingston: McGill-Queen's University Press), 1990; Walter Hildebrandt, *Views from Fort Battleford: Constructed Visions of an Anglo-Canadian West* (Regina: Canadian Plains Research Centre, 1994).

124 "Henry R Elliott. Tried and Acquitted. A Full Report of the Case," *Saskatchewan Herald*, 30 December 1878, in Henry R. Elliot case file, PAS. In his evidence against Brillon and Hall at their trial on related charges earlier in the year, Walker gave the prisoner's name as Ducharme.

125 Bowker, "Stipendiary Magistrates," 265.

126 "Henry R Elliott. Tried and Acquitted. A Full Report of the Case," *Saskatchewan Herald*, 30 December 1878, in Henry R. Elliot case file, PAS.

127 Lash to Richardson, 1 February 1879, in Henry R. Elliott case file, PAS.

128 "New York, New York City Marriage Records, 1829–1940" in *FamilySearch* database (https://familysearch.org/ark:/61903/1:1:24SN-4TT : 10 February 2018), David Roger and L...Ders Richardson, 18 July 1885, citing Marriage, Manhattan, New York, New York, United States, New York City Municipal Archives, New York; FHL microfilm 1,570,465. Thanks are due to Lyndsay Campbell and to Theresa Ray, York University MA student for this bit of fact checking.

129 Richard Charles Wyld, Regimental Number 281, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 64376, vol. 10038, RG18, LAC

(http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=64376&).

130 Beahen and Horrall, *Red Coats on the Prairies*, 171, 248.

131 Beahen and Horrall, *Red Coats on the Prairies*, 172.

132 S.B. Steele, "Annual Report of Superintendent Steele, Commanding Macleod District," Appendix F to "Annual Report of Commissioner L. W. Herchmer, North-West Mounted Police, 1889," in *Report of the Commissioner of the North-West Mounted Police Force 1889*, 54–75 (*CSP* 1890, vol. 10, no. 13), 55–56.

133 Richard Charles Wyld, personnel record.

134 Robert Wyld, Regimental Number 282, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 64377, vol. 10038, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=64377&).

135 Osler to Blake, 19 April 1877, in Richard Charles Wyld, personnel record.

136 Defaulter's sheet, in Richard Charles Wyld, personnel record.

137 Richard C. Wyld (1878), file 60, AG CR-Regina, 1st series, 1876–86, PAS.

138 Richard C. Wyld case file, PAS.

139 Certificate of Discharge, 2 September 1878. In Richard C. Wyld, personnel record.

140 Troy is now known as the town of Qu'Appelle (as distinct from Fort Qu'Appelle) in Saskatchewan, fifty kilometres east of Regina. In the spring of 1885, shortly before this alleged incident, Troy had been a temporary base for Major-General Frederick Middleton and his militia, before they headed north along the Carlton Trail to Batoche. See Macleod, *North-West-Mounted Police*, 103–4.

141 Walter Douglas Parkins (1885), file 276, AG CR-Regina, 1st series, 1876–86, PAS.

142 Walter Douglas Parkins case file, PAS.

143 Walter Douglas Parkins, Regimental Number 741, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 50647, vol. 10039, RG18, LAC (https://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=50647&).

144 The two acquittals derived from prosecutions in Regina in 1893 and 1896. Clement E. Hamilton was charged with the theft of items that went missing when he left the NMWP at the end of his term of service. Some of the items belonged to the superior officer for whom he had acted as a servant. Evidence was led that he had not done all his own packing and only discovered the items after a period of time, by which point everything was in quarantine due to diphtheria, and he was unable to retrieve them in a timely way: Clement E. Hamilton (1893), file 55, SCNWT (Criminal), Coll R1286, IR 19, PAS. See also his NWMP Personnel Record: Clement Edward Hamilton, Regimental Number 2521, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 34252, vol. 10043, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber= 34252&). The other acquittal was that of Constable Stanley Hildyard on a charge of theft of a saddle and robes, following a fire at a stable and livery in Regina. According to the Regina *Leader*, at trial two other

men were convicted. The newspaper reported that Hildyard, represented by Regina lawyer Norman MacKenzie, gave an exculpatory explanatory statement that the trial judge accepted. The paper also noted that members of the community had expressed a sense of injustice at Hildyard's being charged in the first place: "Thieves Sentenced: Manseau and Henderson Go To Jail – The Policeman Very Properly Goes Free," *Leader* (Regina), 5 March 1896. Hildyard's defaulter's sheet has no entry for the criminal charge, but his record contains a letter from Superintendent A. B. Perry informing the commissioner of the charge, trial, and acquittal. Perry's letter suggests that in his view Hildyard was not entirely "free from blame" as he knew the property in question had been recovered from the fire. Stanley Hildyard (1896), file 119, SCNWT (Criminal), Coll R1286, IR 19, PAS; Stanley Hildyard, Regimental Number 2842, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 35794, vol. 10044, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=35794&).

145 See Sperry Bridon Storms (1894), file 43, SCNWT (Criminal), Coll R1286, IR 19, PAS. His NWMP personnel record is Sperry Storms, Regimental Number 2806, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 58923, vol. 10044, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=58923&. On 5 August 1892, Storms was sentenced by Superintendent Sévère Gagnon to six months at hard labour for desertion and, on 9 September 1892, by Judge Richardson to two months at hard labour for the theft of a pistol that he took with him when he deserted. He was discharged in April 1893, at the expiration of his sentence.

146 John Martin (1894), file 81, SCNWT (Criminal), R1286, PAS; Henry George Fisher (1894), file 92, SCNWT (Criminal), R1286, PAS; Colin Lorne Campbell (1899), file 200, SCNWT (Criminal), R1286, PAS.

147 George Thomas Robinson (1888–89), file 2, SCNWT (Criminal), R1286, PAS; James M. Cumines [or Cummines] (1900–1), file 242, SCNWT (Criminal), R1286, PAS.

148 James Ford (1889), file 11, SCNWT (Criminal), R1286, PAS.

149 George Thomas Robinson, Regimental Number 2174, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 54238, vol. 10041, RG18, LAC (https://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=54238&).

150 John Martin, Regimental Number 2952, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 44446, vol. 10044, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=44446&).

151 Harry George Fisher case file, PAS.

152 Colin Lorne Campbell case file, PAS.

153 James M. Cumines case file, PAS.

154 James MacGlashen Cumines, Regimental Number 3658, North West Mounted Police (NWMP) – Personnel Records, 1873–1904, item no. 26036, vol. 10046, RG18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=26036&).

155 Gavigan, *Hunger, Horses and Government Men*, 105–6.

156 James Ford (1889), file 11, SCNWT (Criminal), R1286, IR 19, PAS.

157 James Ford, Regimental Number 1348. North West Mounted Police (NWMP) – Personnel Records, 1873 – 1904, item no. 30646, vol. 10041, RG 18, LAC (http://www.bac-lac.gc.ca/eng/discover/nwmp-personnel-records/Pages/item.aspx?IdNumber=30646&).

158 James Conrick to unnamed addressee, 4 May 1885. In James Ford, personnel record, Conrick identified himself as the proprietor of the Dufferin Stables in Montreal.

159 See "Return of Criminal and Other Cases Tried in the North-West Territories, from 1st December, 1885, to 30th November, 1886," Appendix AA to "Annual Report of Commissioner L. W. Herchmer, North-West Mounted Police, 1886," in *Report of the Commissioner of the North-West Mounted Police Force 1886*, reproduced in *Law and Order: Being the Official Reports to Parliament of the Activities of the Royal North-West Mounted Police Force from 1886–1887* (Toronto: Coles Publishing, 1973), 115.

160 S. Gagnon, "Annual Report of Superintendent Gagnon, Commanding Depot Division, 1889," Appendix D to "Annual Report of Commissioner L. W. Herchmer, North-West Mounted Police, 1889," in *Report of the Commissioner of the North-West Mounted Police Force 1889*, 35–36 (*CSP* 1890, vol. 10, no. 13), 36; John Martin case file, PAS.

161 James Ford, personnel record.