

'A Fine Passage': Insights into Early Australian Convict Transportation

Issue 10: Revisiting 'The Fatal Shore'
– Gary L. Sturgess

*Summary: Whatever its literary merits, *The Fatal Shore* is not to be regarded as serious history. Hughes made egregious errors, caused by a failure to take care with his research, lack of a deep understanding of historical context, a willingness to add colour for the sake of dramatic effect, and an attraction to exotic theories unsupported by the facts.*

The Fatal Shore

Robert Hughes' account of Australia's convict system, first published in New York and London in 1986, is our best-selling history book, translated into a several foreign languages, including Chinese. The great and the good gushed over it when it was first released: Gore Vidal and Susan Sontag on the cover of the American edition, Tom Keneally in a review for the *New York Times* ('a beautifully recounted story of the strange origins of the Australian soul'), Howard Jacobson in the *Literary Review*.

Academic reviews were mixed, and many reviewers hastened to dismiss their own criticisms as mere quibbles. Those who knew what they were talking about (historians who'd done a great deal of original research, such as John Hirst, Stephen Nicholas and Peter Shergold) were obviously irked – Hirst named the republication of his two studies of convict society, *Freedom on the Fatal Shore* – but even they felt the need to be polite. Some of the strongest criticism came from Marxist historians who took offence that someone with Hughes' social background would purport to write history from below.

He was an elusive target – as a number of reviewers pointed out, he claimed to have embraced the revisionists, who had exploded many of the old myths about the Australian convict system, whilst reviving and ruthlessly exploiting those same myths. Hughes accepted Lloyd Robson's research which had shown that the majority of convicts were not sent out for stealing the metaphorical loaf of bread, whilst also insisting that the ultimate aim of the transportation system was 'to uproot an enemy class from the British social fabric'.¹

He acknowledged that the convict system was not especially violent, whilst wallowing in accounts of brutal floggings. Stewart McIntyre thought that this showed Foucauldian insight – 'corporal and psychic terror was the sanction that maintained the system and cast its shadow over colonial life'. Jan Kociumbas, writing in *Labour History*, saw it differently: 'Violence sells'.²

In the beginning, many reviewers were dazzled by Hughes' research – 'well-researched' or 'extensively researched', 'an authoritative and engrossing record', 'an intimate sense of his subject'. Scholars who are familiar with the people and subjects covered by his book have argued for years that it is full of glaring errors, but no one has catalogued them.

This newsletter makes a start, briefly addressing a few of his more egregious mistakes within areas of this author's expertise – the practical operation of the 18th century criminal justice system; the legal, financial and organisational details of transportation itself, particularly in the first decade and a half; and life in First Fleet society.

Factual Mistakes

Some of Hughes' mistakes are so obvious that they could only have been made by someone who wasn't especially worried about being wrong. A few examples:

- The hulks contractor, Duncan Campbell, is confused with the First Fleet contractor, William Richards. Campbell had been dealt with in Wilfrid Oldham's 1933 dissertation on the transportation system; Richards was discussed by Charles Bateson in *The Convict Ships*, which Hughes had read.
- Frederick Meredith, the steward of a First Fleet merchantman, and a key figure in one of the earliest court cases, is described as 'the steward of a marine officer', a meaningless phrase since marine officers had no such servants, and this was not a mistake that could have been made by someone who had read the sources.
- James Bloodworth, a convict bricklayer (from a family of bricklayers), and the man famously responsible for designing many of the buildings in the early colony, is mistaken for the brickmaker, whose identity is unknown.
- The Tank Stream is said to have existed, and been known by that name, from May 1788 – the tanks in question were not dug until November 1791, and the name was not used at all until 1820 and not consistently until 1830.
- Garden Island (today the Sydney home of the Royal Australian Navy) is identified as the site of the garden used to grow vegetables for the settlement. In fact, it was the garden for the crew of the *Sirius*. The Governor's garden, used for growing fruit and vegetables when they first came ashore, was in the heart of the settlement, where Macquarie Place now stands. A quick scan of one of the early maps would have clarified this.
- Thomas Shapcote is described as 'the wretched contractor's agent' on the Second Fleet. The individual in question was John Shapcote, a naval

lieutenant who was government's agent, as Hughes would have quickly discovered if he had read his sources carefully.

These are not matters of scholarly interpretation. They are the sloppy mistakes of an undergraduate who has not bothered too much with the research.

Lack of Context

Hughes was an art critic not an historian, so it is unsurprising that some of his mistakes arise from a failure to appreciate context. While he might have gone yachting from time to time, he had no idea about the workings of an 18th century sailing ship. The *Alexander*, a three-masted, 450-ton ship used to transport 195 male convicts in 1787, is referred to as a boat.

The First Fleet was discussed at length: among other things he explores the background of some of the convicts to illustrate how the criminal justice system of the time worked. Women as old as 82 and boys as young as nine were included in this list, evidence of the heartlessness of British judges in the late 18th century.

Young and old offenders enjoyed a number of advantages in the criminal justice system, so they had good reason to lie about their age. There are examples where prisoners 70 years of age or more were recommended for a free pardon simply on account of their age, and young offenders were treated more leniently in the hope that they would avoid a 'gaol education'. Hughes is seemingly unaware of this.

The great 18th century legal scholar, Sir William Blackstone, held that children were not punishable for crimes until they were 10 years of age, and their status from 10 to 14 years of age was ambiguous:

During the other half stage of childhood, approaching puberty, from ten and an half to fourteen, they were indeed punishable, if found to be *doli capaces*, or capable of mischief; but with many mitigations, and not with utmost rigor of the law.³

Thus, in *R v Tirey* (1787), an Old Bailey case involving three brothers aged 14, 12 and 9, the judge instructed the jury:

. . . after the age of discretion, which is fourteen, the law presumes capacity to make them accountable, but not before that age. . . unless it appears that the party charged with the crime, from their actions. . . had that degree of understanding and discretion sufficient to make them accountable. . .⁴

The jury retired for 20 minutes and found all three not guilty, at which the court broke into spontaneous applause. When two of the Tirey brothers were brought before the Old Bailey again in 1789 (for separate offences), they both claimed to be only 10 years old: we know from baptismal records that they were 16 and 13. They were both found guilty and shipped to New South Wales on the Third Fleet.

Dorothy Handland (or 'Mother Grey' as she was also known) is described by Hughes as the oldest female convict sent on the First Fleet, transported for perjury. (The illustration in the heading of this newsletter is a sketch of Mother Grey by one of the surgeons.)

According to Hughes, she was 82 years of age and hanged herself in 1789, 'in a fit of befuddled despair'. It is likely that Dorothy Handland was only 63 years of age when she was sent to New South Wales, and she did not commit suicide in the colony. She returned to England in 1792, her fare paid by government. The Governor had accepted the claim about her age, although his official secretary noted that she was in good health and 'had not a doubt of weathering Cape Horn'.⁵ The fact that her return voyage was paid for by government somewhat undermines Hughes' claim that 'the intellectual patrons of Australia, in its first colonial years, were Hobbes and Sade'.⁶

John Hudson was a nine-year old chimney sweep who had stolen clothes and a pistol from a house. The only source for his age was the boy himself, and it seems likely that the judge did not believe him. His parents were said to have died some years before, and he was living on the streets. This wasn't a first offence: the Bow Street Runners had picked him up three times over the previous 10 days alone.

While satisfied that the boy's confession could be admitted as evidence, the judge suggested to the jury that he might be acquitted of the breaking and entering charge. They took the hint and found him guilty of the lesser offence of stealing. The boy was being exploited by professional criminals – it was not

unusual for chimney sweeps to be used to break into houses – and not every Oliver Twist had a Mr Brownlow to save him from Fagin’s clutches. In the absence of a social welfare system, the judge felt that transportation offered a way out:

. . . one would wish to snatch such a boy, if one possibly could, from destruction, for he will only return to the same kind of life which he has led before, and will be an instrument in the hands of very bad people, who make use of boys of that sort to rob houses.⁷

John Hudson was at least 13 years of age by the time he finally sailed with the First Fleet, and probably several years older.

Hughes tried to compensate for his lack of familiarity with primary sources by relying on secondary ones. In his descriptions of the outward voyage, he drew (heavily and uncritically) on *The Convict Ships*.⁸ Among other things, this meant that he adopted Bateson’s claim that the First Fleet was managed entirely by government, with the contractor functioning only as a shipbroker. From the Second Fleet onwards, Hughes insisted, ‘every convict transport that sailed from England or Ireland. . . was fitted and victualled by private contract’.⁹

They were both wrong. The First Fleet *was* commissioned through a convict contractor, the only difference being that the commodore of the fleet and Governor-elect, Captain Arthur Phillip, maintained close oversight. William Richards *was* responsible for finding and fitting the ships, and for providing the victuals throughout the voyage, as Hughes claimed, but the ships’ captains (and not the surgeons or marine officers) were also responsible for managing the convicts throughout the voyage, operating under instructions provided by Richards.¹⁰

Hughes also followed Bateson in claiming that mortality rates did not fall until the end of the Napoleonic Wars, when naval surgeons could be spared to serve as ‘surgeon superintendents’ on board these ships. Mortality rates did fall at the end of the war, but they fell much more in 1802, following the introduction of reforms to the contract system initiated by an Irish surgeon, Sir Jeremiah Fitzpatrick.¹¹ The definitive text on Fitzpatrick, written by an Australian historian, had been published when Hughes was researching his book.¹²

Surgeon superintendents had also been used prior to the outbreak of war in 1793, and to underline his point about their contribution to convict wellbeing, Hughes compared six voyages between 1792 and 1794, five of which did have surgeon superintendents (and an average mortality rate of one in 155), with the next six voyages, between 1795 and 1798, four of which did not (and had a death rate of one in 19). The surgeon superintendents *did* make a difference, but Hughes' comparison is dishonest. He failed to mention that half of the ships in the first group were primarily storeships, with very small numbers of convicts and a high proportion of women (17 women on one ship, and 30 women and two men on another), so there were no problems with crowding or security.

Fewer than 40 percent of the convicts in the 1792-94 group were Irish, none of them political prisoners; two-thirds of those in the 1795-98 group were, the majority of them rebels accustomed to the use of violence. Hughes did not acknowledge this. Nor did he mention the fear which the ships' officers had of these men, or the violence which some of these so-called 'Defenders' had visited upon their victims, women and children included. This helps to explain why Irish convicts were so heavily ironed in the period after 1795. In the years between 1787 and 1800, three quarters of the Botany Bay ships carrying Irishmen suffered a mutiny or a provable conspiracy, compared with only 10 percent of those which transported Englishmen.

It is possible that Hughes was unaware of this context, but that is no excuse. In putting himself forth as a serious historian, he had an obligation to know.

Adding Colour

As the First Fleet entered the tropics, Hughes tells us, 'waves of vermin crept out of each vessel's woodwork, up from the bilges – rats, bedbugs, lice, cockroaches, fleas'. They fought back as best they could with 'frequent explosions of gunpowder, lighting fires between decks, and a liberal use of that admirable antiseptic, oil of tar'.¹³

All sailing ships had a problem with rats, but on the First Fleet, it does not appear to have been particularly serious: one source mentions one cask of oatmeal having been eaten through. The *Friendship* had an outbreak of bedbugs, but there is no mention, anywhere, of cockroaches, lice or fleas. And the passage about the use of gunpowder and tar refers to the measures taken

by the ships' officers every couple of days throughout the voyage to prevent an outbreak of gaol fever (typhus): it had nothing to do with rats or bedbugs.

It is not unusual for Hughes to add colour in this way. When two ships suddenly appeared at the mouth of Botany Bay on the 24th of January 1788, as the fleet was preparing to sail for Port Jackson, Hughes says that the British feared that they were Dutch men-of-war, sent to attack them. It is true that Phillip and his officers were astonished by the sudden appearance of these vessels: they had just arrived themselves at the far end of the earth following an eight-month voyage. But Phillip immediately recognised that it would be the French scientific expedition under the command of La Perouse.

As Hughes tells the story, La Perouse was just as startled to see the English ships. This is simply not true: the French explorer had been instructed to sail to the east coast of New Holland for the explicit purpose of visiting the penal colony, and we know from his correspondence that he expected to find the settlement already well established.

Elegant Theories

While he accepted Robson's finding that it 'was likely that 72 percent of these convicts had formerly been in trouble', Hughes still argued that they were victims of a ruling class which had no compassion for people they regarded as the 'undeserving poor'. As one of his critics noted, Hughes was in thrall to socialist historians such as E.P. Thompson and Eric Hobsbawn, ignoring scholars 'who would have forced Hughes to tear up many purple passages and misleading generalisations'.¹⁴

At the end of his dissertation on this so-called 'criminal class', Hughes gave just one example – a petition written by the wife of a convict sent out on the Second Fleet for stealing silver plate from a former employer, to enable them to recover from a period of sickness and unemployment. Here was the voice of the undeserving poor, he thought, confirming the truth of E.P. Thompson's aphorism that the worst offence against property was to have none. On closer analysis, the convict in question, Isaac Nelson, was not such a great example.

Isaac Nelson

Nelson was a clerk, and a highly literate one, using sophisticated arguments in his begging letters, making very few punctuation or spelling mistakes (common at the time, even among educated men and women), and signing his name with a flourish. When he committed his crime, he was working for Matthew Boulton, the most successful industrialist in Britain (a rather important detail which Hughes overlooked), having been personally hired by him. He was earning 10/6 a week, or £27 a year, certainly enough to live on, although he and his wife Sarah were at the time, living in different cities.

For around 12 months, throughout the winter of 1788-89, Sarah had been ill and Isaac had been unemployed. For reasons that we do not know, they were unable to call upon their families for support, and it seems likely that they were forced into debt. Prior to that time, Isaac had provided 'a comfortable subsistence'.

In early 1789, Isaac wrote to Boulton, for whom he had previously worked, asking for his old job back. Boulton agreed to re-employ him at his Soho factory, advancing the money to cover the coach fare from London to Birmingham, as well as his living expenses. Within weeks of his arrival, Isaac began stealing silver- and gilt-plated articles from Boulton, and sending them off to Sarah in London, to be sold or pawned.

Hughes described Isaac's crime as stealing 'a quantity of plated goods'. It was a substantial quantity: over a period of several weeks, Isaac stole articles to the value of £30 or more. Sarah was complicit in these crimes, something that Hughes was unaware of – she could well have been put before the courts for the receipt of stolen goods. And contrary to what Hughes claimed, Isaac was stealing from his current employer, an offence which the courts took very seriously since it involved a breach of trust.

Some of the stolen goods were found stuffed up a chimney at his workplace, and damning correspondence between the couple was discovered. Nelson confessed and was convicted at Stafford Assizes in August 1789. He was initially sentenced to death, but the following month, with Boulton's support, the sentence was commuted to seven years transportation.

Hughes based his morality tale on a petition written by Sarah to the Home Secretary, probably in early 1790, asking that her husband be given a free pardon or allowed to serve out his sentence in England, or that she might be allowed to accompany him to New South Wales. Hughes concluded:

The 'Infinite Mercy and Goodness' of George III did not extend so far and Isaac Nelson sailed for Australia on the terrible Second Fleet. Such lives confirm the truth of E.P. Thompson's bitter remark. . .

Nelson did not sail with the Second Fleet: he was shipped out on the *Albemarle*, one of the Third Fleet, and Sarah sailed on the *Mary Ann*, a ship reserved for women. This was at a time when convict wives were rarely allowed to accompany their husbands, and it was organised through the personal intervention of the Home Secretary. Given the seriousness of the crime, a pardon was out of the question, but contrary to what Hughes imagined, Sarah's third request was granted. Her provisions throughout the voyage would have been supplied by government.

According to Hughes, all of Nelson's former employers had signed Sarah's petition as character witnesses: that their pleas were ignored was further evidence of the heartlessness of the British justice system. In fact, none of them did: they each signed a statement confirming the basic facts, in so far as they related to them, but they offered no testimonials on his behalf. One wonders why not one of his former employers could find something positive to say about him.

Isaac struggled in their first few months in the colony: he had brought no references with him and, on to his own admission, he was 'diffident' when it came to approaching potential employers – educated men such as Nelson were in high demand in the colony. Sarah, on the other hand, was remarkable, immediately finding work with free people in the settlement, and winning their respect because of her fortitude and character.

It seems likely that Isaac was subsequently employed as a government clerk, and in 1794, Sarah was given a grant of land in her own right, a highly unusual practice at the time. Matthew Boulton later lobbied the British government, successfully, for the Nelsons to be given a much larger grant.

After completing his sentence in 1796, Isaac served for 13 years as one of the colony's earliest schoolmasters. He was referred to by the honorific, 'Mister', an indicator of respectability, and in January 1808, he was one of the leading emancipists called on by the Rum Corps to sign the petition demanding the removal of Governor William Bligh. One of his daughters married a surgeon, another a missionary.

Even if we confine ourselves to the information available to Hughes in 1986, his narrative misrepresents Isaac and Sarah Nelson's situation: they could not serve as an illustration of the point he was trying to make.

The more important lesson is that we must not assume that we understand why a particular convict was sent to Australia based only on a reading of court transcripts, newspaper reports and shipping indents. And if we are to tell stories, as we should, about the first offenders who were sent out, we must also talk about the professional criminals who managed to avoid transportation, in some cases for decades, in other cases forever, and the repeat offenders, whose seemingly minor crime was, when we look closer, a much more serious affair, or the final straw in a pattern of criminality that had continued for years.

Pitiful Necessity

Hughes had no interest in such characters. By the time he had read Robson, he had already done a great deal of work on the First Fleet and arrived at the conclusion that many of the convicts had been sent out for trivial offences: the First Fleet, he announced, was a 'Noah's Ark of small-time criminality'. They were transported for crimes against property, 'some forced by a pitiful necessity'. He resolved the conflict by declaring that there was a difference between the earlier and later periods, with a break point at the end of the Napoleonic Wars.

There is no evidence to support any of this. The authorities tried to avoid hanging or transporting small-time offenders: out of one hundred prosecutions for property offences in the City of London throughout the 1780s and 1790s, around half of offenders could expect to be acquitted or no-billed and another 35 dealt with summarily, resulting in only minor punishments. This left seven to be transported, three to be imprisoned and one or two to be executed.¹⁵

It follows that few of those sent to New South Wales in these early years were wide-eyed innocents. There are numerous individuals for whom we lack any background information, particularly in country areas, but if we look at Hughes' First Fleet examples, we see the weakness of his hypothesis.

His first, *Elizabeth Beckford*, was (allegedly) the second oldest woman on the First Fleet: she was given a seven-year sentence for stealing 12 pounds of cheese. This was not a case of pitiful necessity: Beckford had a long criminal record, stretching back more than a decade, and there was evidence that she was also involved in fencing stolen goods. On one occasion, the authorities had found a great deal of melted pewter on the premises where she lived, almost certainly for use in manufacturing counterfeit coins.

As Hughes tells it, *Elizabeth Powley (Pulley)* was 22 years of age and unemployed when she broke into a kitchen in Norfolk and stole 12 pence worth of butter, for which she was originally sentenced to hang. In fact, she had a criminal history going back at least to 1779, when she was 16 years of age. By 1783, she had been held in the Norfolk Castle four times, had not long been released from the House of Correction, and was described as 'an old offender'. And rather than just stealing a shilling's worth of butter from a house, Pulley had taken two cheeses, four pieces of bacon, several half pints of butter, a quarter of a stone of raisins, half a stone of flour, and two rolls of worsted from a shop.

It was hunger, Hughes claimed, which drove *Thomas Chaddick (or Chadwick)*, a West Indian of African descent, to steal 12 cucumber plants from a kitchen garden, for which he was sentenced to seven years transportation. Once again, he understated the seriousness of the crime. While Chadwick was charged with having a dozen cucumbers in his possession, he and a co-offender had filled a bag with them and destroyed a large number of vines in doing so, with a total value of around £15. It was not uncommon for the victim to prosecute an offender for only a small part of the stolen produce, to avoid the possibility of a death sentence. Chadwick was a mariner who had only recently arrived in the country. He told the court that he had been born in the West Indies, but there is no evidence that he was of African descent, yet another example of colour being added for dramatic effect.

Conclusion

There are differences of opinion about whether *Fatal Shore* is a literary gem. What is beyond dispute is that as an historical account of the Australian convict system, it is utterly unreliable, and if that is so, then we might ask what it tells us about the soul of European Australia.

¹ Robert Hughes, *The Fatal Shore*, London: Collins Harvill, 1987, p. 168.

² Stewart McIntyre, Book Review, *Thesis Eleven*, (1987) Vol. 18-19, Issue 1, pp.205-6, at p. 206; Jan Kociumbas, Book Review, *Labour History*, (1987), No. 53, pp. 135-7 at p. 137.

³ William Blackstone, *Commentaries on the Laws of England*, Oxford, 1765-1769, Vol. IV, p. 22.

⁴ *R v John, William and James Tirey*, Old Bailey Trials, 23 May 1787.

⁵ David Collins, *An Account of the English Colony in New South Wales*, (1798), Sydney: A.H. & A.W. Reed, 1975, Vol. 1, p. 244, footnote.

⁶ Hughes, op. cit., p. 1.

⁷ *R v John Hudson*, Old Bailey Trials, 10 December 1783.

⁸ Charles Bateson, *The Convict Ships, 1787-1868*, Glasgow: Brown, Son & Ferguson, Ltd., 1959.

⁹ Hughes, op. cit., p.144.

¹⁰ Gary L. Sturgess, 'A Government Affair? Reassessing the Contractual Arrangements for Australia's First Fleet', Part 1, *The Great Circle*, (2016) Vol. 38, No. 2, pp. 1-25; Gary L. Sturgess, 'A Government Affair? Reassessing the Management of Australia's First Fleet', Part 2, *The Great Circle*, (2017) Vol. 39, No. 1, pp. 29-54.

¹¹ Gary L. Sturgess, Sara Rahman and George Argyrous, 'Convict Transportation to New South Wales, 1787-1849: Mortality Rates Reconsidered', *Australian Economic History Review*, (2018) Vol. 58, No. 1, pp. 62-86.

¹² Oliver MacDonagh, *The Inspector General: Sir Jeremiah Fitzpatrick and Social Reform 1783-1802*, London: Croom Helm, 1981.

¹³ Hughes, op. cit., p. 79.

¹⁴ L.L. Robson, *The Convict Settlers of Australia*, Melbourne University Press, 1965, pp. 36 & 37; Geoffrey Partington, 'The Rocky Horror Shore' *Quadrant*, April 1988, pp. 35-7 at p. 35.

¹⁵ Drew D. Gray, *Crime, Prosecution and Social Relations: The Summary Courts of the City of London in the Late Eighteenth Century*, Palgrave Macmillan, Basingstoke, 2009, p. 83; Leon Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, Volume 1, London: Stevens & Sons Limited, 1948, p.92; statistical analysis of not guilty findings at the Old Bailey based on the Proceedings of the Old Bailey, 1781 to 1795; author's analysis of the outcome of all capital convictions at the Old Bailey, 1785 to 1794. Sundry other punishments, such as whipping, fines, service in the military and discharge on a good behaviour bond made up the remainder.