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‘A Fine Passage’: Insights into Early Australian Convict Transportation

Issue 23: Australia’s Death Fleet – New Sources

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Summary

The ‘Neptune’ – which embarked 421 men and 78 women convicts and sailed for Botany Bay in January 1790 as part of Australia’s Second Fleet – had a mortality rate among the men of around 50 percent, the worst outcome in the history of Australian transportation.

Historians have expressed strong views about what happened on the Second Fleet, based on a limited number of sources. In seeking to understand the causes of this catastrophe, this newsletter draws on new sources which have come to light in recent years – the depositions of 31 crew members, taken on their return to London.

The Death Fleet

Australia's Second Fleet – the *Neptune*, the *Scarborough* and the *Surprize* – was a 'coffin fleet', with an average convict mortality in excess of 40 percent (including deaths prior to sailing and in the four months after landing). For the *Neptune*, the de facto 'commodore' of the fleet, it was around 50 percent, the worst in the 80-year history of transportation to Australia. (On the makeup of the Second Fleet, see Catspaw **Two Ships Too Many** on BotanyBaymen.com)

The term 'coffin ship' has been used in reference to Irish emigration to North America during the Potato Famine, but it is not quite the right term for the Second Fleet, since at Portsmouth and Sydney, the bodies were buried in rugs, and at sea they were said to have been unceremoniously thrown overboard without any covering.

Apart from the First Fleet, no voyage has attracted so much attention from historians: Wilfred Oldham, Charles Bateson and Robert Hughes, and several PhDs. Michael Flynn, the pre-eminent Second Fleet historian referred to the Second Fleet as 'Britain's grim convict armada' and Donald Trail, master of the *Neptune*, 'one of the arch-villains of Australian history'.

This newsletter explores a number of depositions made by crew members of the *Neptune* which have come to light since Flynn published his book in 1993, examining what they tell us about convict transportation in general and the voyage of the *Neptune* in particular.

Arrival

The state of the convicts who arrived on these ships in late June 1790 was profoundly shocking to the residents of the small penal colony which had been established only two and a half years before. Shortly after the *Surprize* came to anchor in the cove, the chaplain, Richard Johnson, visited the ship and went down into the prison:

> I beheld a sight truly shocking to the feelings of humanity, a great number of them laying, some half and others nearly quite naked, without either bed or bedding, unable to turn or help themselves. Spoke to them as I passed along, but the smell was so offensive I could scarcely bear it.

The master of the *Scarborough* persuaded him not to venture into the convict quarters, but when it came to the *Neptune*, largest of the three transports, he dared not even go on board.[1]

As they were sent ashore over the next few days, David Collins, the Governor's official secretary, wrote that 'both the living and the dead [exhibited] more horrid spectacles than had ever been witnessed in this country'.[2] A female convict from the *Lady Juliana*, which had arrived three weeks earlier, compared them to the women on her ship:

> Oh! If you had seen the shocking sight of the poor creatures that came out in the three ships, it would make your heart bleed; they were almost dead; very few could stand, and they were obliged to sling them as you would goods, and hoist them out of the ship they were so feeble; and they died ten or twelve a day when they first landed. . .[3]

To Daniel Southwell, a midshipman from *HMS Sirius*, they were simply 'the miserables', a term that would not be popularised by Victor Hugo for another three-quarters of a century.[4] But it was Reverend Johnson who left the most harrowing account:

> The landing of these people was truly affecting and shocking, great numbers were not able to walk, nor to move hand or foot. Such were slung over the ship's side in the same manner as they would sling a cask, a box, or anything of that nature. Upon their being brought up to the open air, some fainted, some died upon deck, and others in the boat before reaching the shore.
>
> When come on shore, many were not able to walk, to stand, or to stir themselves in the least, hence some were led by others. Some crept upon their hands and knees, and some were carried on the back of others.[5]

Eleven had died before the fleet left Portsmouth, 69 in passing through the Atlantic, 198 in crossing the Great Southern Ocean, and another 130 or so in the four months after arrival – a total of more than 400 souls.

Causes

As with so many convict voyages, there have been few sources describing their experience once the ships were at sea: the ships' logs have not survived, there is only one known personal journal and a handful of letters, none of them written by a convict.[6]

In the immediate aftermath of the disaster (and again in recent decades), a great deal was made of the fact that the contractors were involved in the slave trade. The charge is true, but it is not enough. Camden, Calvert & King were one of London's largest shipping firms, involved in a wide range of markets. It is much more relevant that the managing partner, Anthony Calvert, was tight-fisted and well-connected, and that government officials were reluctant to challenge him.

Some historians have leant heavily on a letter written by William Hill, a proud and disaffected military officer on the *Surprize*, who claimed that the convicts on that ship were kept in bar-irons, of a kind used in the slave trade. This was almost certainly not true: not even slave traders routinely used bar-irons – which joined the shackles by a solid iron bar rather than chains – since they incapacitated the prisoners and made it virtually impossible for them to exercise, collect their meals or use the tubs which functioned as the privy. Bar irons had been used on the First Fleet, but they were restricted to unruly convicts and almost certainly, that is how they were used on the Second Fleet.

Criticism has also focused on the 'avaricious and unscrupulous' Donald Trail, attributing the suffering and death on his ship to starvation, neglect and 'savage brutality'. On their return to London, Trail and his chief mate, William Elrington[7], were charged over the death of one of the convicts, but the case never went to trial, among other reasons because none of the former crew members who claimed to have been eyewitnesses could remember his name. Trail and Elrington were tried in the High Court of Admiralty for killing the ship's cook, but the jury acquitted them without even waiting to hear their defence.

These cases had been launched as a private prosecution by a crusading lawyer named Thomas Evans, who specialised in seamen's cases and dubbed himself 'Attorney for the Tars of Old England'. One of the reasons the prosecution failed was that Evans was also representing some of the crew in a civil action over unpaid wages, but also because, in an attempt to get the government involved,

he had deliberately spread stories about the alleged abuse and neglect of the crew and convicts.

Historians have had access to a handful of the crew statements, in notices published in the press by Evans, in letters to the editors of London newspapers, and in published transcripts of the evidence given at the committal hearings, but until the discovery of the original depositions, it has not been possible to closely examine these accusations.

Several writers, including Robert Hughes in *The Fatal Shore*, relied on a letter from Thomas Milburn, one of the convicts on the *Neptune*, later published as a broadsheet in London, which described the horrific conditions throughout the voyage. The problem is that there was no convict of that name on the *Neptune*: the 'letter' is a fake, concocted by Thomas Evans to drum up support for his campaign. (See Catspaw, **(Not) a Letter from the 'Neptune'** on BotanyBaymen.com)

New Sources

Over the past decade or more, the author has discovered detailed depositions taken from 31 members of the crew and several other witnesses – in the Treasury Solicitor's files at the UK National Archives, and in a pamphlet distributed by Thomas Evans, a copy of which is located in the Bentham collection at University College London.[8]

I have drawn upon these depositions in the past but only recently transcribed them in full and subjected them to textual analysis. They add a great deal to our understanding of what happened on the *Neptune*, but they need to be read carefully – they were provided by men who were trying to recover money from Trail and wanted him punished for the deaths of their shipmates, and they were coordinated (and, as it turns out, substantially written or rewritten) by Thomas Evans.

The prosecution ultimately failed because Evans had conducted a public campaign of vilification against Trail and Elrington ahead of the trial, because it emerged in the course of the hearing that he had financially supported many of the witnesses (so they could remain in town to give evidence), and because it was discovered that he had confected evidence (such as the letter written by

the fictitious Thomas Milburn). As a direct consequence of the trial, he was struck off the rolls and fled to Ostend to avoid criminal prosecution.

Textual Criticism

On a superficial reading of the depositions, responsibility for the horrific death toll on the *Neptune* lay entirely with the owners and officers of the ship. On a close reading, the situation is more complex.

Comparing the structure and language of the various statements, it is evident that Evans sometimes attributed identical passages of text (some of them a page or more in length) to different witnesses, and that these men were prepared to swear an oath attesting to the words as their own. In the case of the Milburn letter, textual criticism reveals that he took blocks of text from one of the crew depositions and attributed them to a convict who did not exist.

In other cases, depositions by different seamen dealing with the same subject have the same structure and virtually the same words. No less than seventeen of the deponents referred to the sea provisions in the same formulaic way: 'so Short an Allowance of bad provisions' (twice), 'a Small and Scanty allowance of bad provisions', 'short & bad allowance of the provisions', 'short & scanty allowance of Provisions', 'short & scanty an allowance of bad Provisions', and so on. This does not happen by accident, and there can be no doubt that Evans wrote or rewrote large sections of these statements.[9]

Nine of the sailors declared that their provisions were so scant that they 'could eat the allowance for 24 Hours at one Meal' (three deponents), 'frequently ate their allowance for 24 hours at one Meal', 'many times ate the Allow^{ce} of Provisions allotted for him for 24 Hours in one Meal', and so on. It is impossible to place any reliance on these passages.

Some of the seamen were apparently repeating a story that had spread around the ship. By way of example, one of the crew claimed that he had seen a convict named James Tucker eat an oatmeal poultice taken off the leg of a dead man, illustrating just how starved the prisoners were. But another said that it was a chew of tobacco that Tucker took out of the dead man's mouth, and in a third version, it was pudding. This anecdote might well have had a foundation in truth, but it had been altered and embellished in the retelling.

Other stories, however, are unique and contain details which suggest that they are legitimate (from the deponent's perspective at least), and it is from these passages that we can learn a great deal about the voyage of the *Neptune*.

A Leaky Vessel

The seamen are most vivid, and most reliable, when they describe the decrepit state of the ship and what this meant for them. The *Neptune* was only ten years old, but she had had four voyages to India and China, and in accordance with East India Company policy, she had been retired as no longer fit for the service. As more East India ships were copper-sheathed, their lifespans were increasing, but the *Neptune* wasn't one of these.

In his opus magnum, *Trade in the Eastern Seas*, C. Northcote Parkinson wrote that in 1804, an 800-ton East Indiaman cost £36,530 to build – the *Neptune* was around 800 tons, but she was launched in 1780 and might have been somewhat less expensive. These ships would be refitted at the end of each voyage, at a cost of £12,000 to £18,000, and if retained in the East India service, the cost of the overhaul at the end of the 4th voyage would have been around £11,000.[10]

The *Neptune*'s carpenter, Edward Hoare, was told that the ship had been bought, with rigging and stores, for £1,600. One of the quartermasters (who joined at Deptford, soon after the ship was taken into service by the Navy Board) said that the original carpenter told him that she'd only been in dock for a tide or two. The masts had not been taken out and inspected (as they would have been with a major refit) and Hoare said that the foremast between the decks and the keelson was very bad (meaning the wood was rotten).

The rigging was in poor condition, and the swifters, backstays, and springstays, which supported the masts, were said to be wanting. The boatswain thought it was unsafe to proceed in her and said that if the ship had been taken aback, there was a real risk that the masts would have been carried away. This brought an increased risk for seamen up in the rigging, and a great deal of additional effort in heaving heavily spliced ropes and repeatedly repairing them.

According to the sailmaker, many of the sails were bad and some of them rotten: 'he hath been frequently sent up to mend the topgallant Sails with hands to assist him at all hours of the night & day'. The decks and sides had not been recaulked, an expensive task since it was labour intensive, and the ports were

leaky. Lloyds rated her as a second-class ship, not fit for a dry cargo. This mattered to the convicts, because it meant that they were often wet as a result.[11]

Sailing Direct

The owners' sailing instructions assumed that Trail would attempt to sail direct to New South Wales, without touching at any of the Atlantic ports. The First Fleet and the *Lady Juliana* (1789) had stopped three times on their outward passage, ensuring that the ships had adequate water, and enabling the crew and passengers to be supplied with fresh meat and vegetables so they could recover from scurvy.

Trail acknowledged that he had only supplied the convicts with three pints of drinking water per day (exclusive of cooking and washing) – on the First Fleet, it was usually two quarts, but three pints, briefly, while they were becalmed around the Equator, and when they were set back shortly after sailing from the Cape. Several of the crew claimed that the *Neptune*'s convicts were only issued with two and a half pints a day for the whole voyage. If Trail was intending to touch at the Cape, it would have been unnecessary to economise on the water rations in this way.

It is not difficult to understand why the owners would have wanted Trail to sail direct: under the contract drafted and signed by the Navy Board, Camden, Calvert & King were being paid a flat rate per head for the entire voyage. The sooner the fleet arrived, the greater the profit.

In the result, Lieutenant John Shapcote, the naval agent sent on board the *Neptune* to ensure that the convicts were not mistreated, directed Trail to stop at the Cape because of scurvy, and the water puncheons were refilled while they were there. But Trail's sense of urgency meant that they only remained in False Bay for a little over two weeks, not long enough for the convicts to fully recover.

The Provisions

It is difficult now to know just how bad the provisions were, but Charles King, the captain's cook, said that he was:

> . . .well acquainted with the nature of old repacked Beef as well from its appearance before it is boiled as afterwards & that such Beef when Boiled loses the little substance left & considerably shrinks & lessens in quantity. . . the Convicts provisions were frequently only parboiled to prevent the same boiling & washing away. . .[12]

Unlike the boilerplate accusations of 'bad provisions', this is a visual description by someone who was in a position to know. It is likely to be correct.

On the other hand, the pease and burgoo (cooked oatmeal) were not so bad, since when the quality of the fresh beef served at the Cape proved to be poor, the convicts asked to be given these meat-free alternatives. The story about James Tucker taking a piece of pudding from the mouth of a dead man, even if apocryphal, means that the convicts were sometimes given pudding.

At this time, the government did not provide the ingredients for a sweet pudding – suet, raisins and plums. These items would routinely be supplied for the convicts several years later. But the ship was carrying comfort foods supplied by government as 'medical necessaries', including oatmeal, sugar and spices, and given the sickness on board, Shapcote had probably authorised their use.

We must also be cautious about formulaic claims that the convicts were routinely starved, not least because many of the deponents insisted that this began while the *Neptune* was still anchored in Stokes Bay (in the Solent near Portsmouth). As Trail pointed out in the statement he wrote for the Navy Board, it would have been risky for him to do this, given that the convicts' families and friends were visiting the ships and would have reported any such abuse to the authorities. Shortly before the fleet sailed from Stokes Bay, someone did complain about the cruelty of the irons being used, resulting in an inquiry being ordered by Evan Nepean, the permanent secretary of the Home Office. (Shapcote investigated and cleared the ships' officers of wrongdoing.)

On the other hand, there was credible first-hand evidence from several of the deponents indicating that the lead weights used to measure out the rations were light (resulting in the convicts being deprived of some of their provisions). While Samuel Gates, the steward, was firm in his denial, Trail was careful to say that he knew nothing about such matters, having left it to Gates and Shapcote.

The owners' instructions made it clear that when it came to the provisions, Trail was to strictly comply with the terms of the contract:

> The convicts and troops must be victualled and supplied conformable to contract (copy of which in your possession) but you must be very careful, and see the expenditure does not exceed it, as under the construction of wastage we may be made considerable sufferers if it is not particularly attended to, and at all events there must not be a greater consumption than we have agreed for, including any allowance whatever.[13]

However, one of the quartermasters swore that Gates told him that 'Calvert had agreed to reward him if he was careful of the provisions and served it out to advantage so as to make the most of it'.[14] This is credible: we know that Calvert was penny-pinching, that he personally recruited some of the petty officers for his ships, and would visit them at six o'clock on the morning they sailed, to ensure all was in order.[15]

The Prison

The crew depositions also provide us with a detailed description of the prison, rare in contemporary sources relating to convict transportation:

> . . . the Male Convicts on Board the said Ship being about 412 in number were all confined from the fore part of the Mainmast to the Head on the Orlop Deck being the third Deck of the said Ship in four Rows of Cabins being within the Space of 75 feet or thereabouts in Length and 35 feet or thereabouts in breadth and 6 feet and 6 Inches or thereabouts in heighth [sic] under the Beams – Viz^{t}. One Row on each side of the s^{d} [said] Ship from the Mainmast forward and two Rows in the Middle or Midships from the s^{d} Mainmast forward which s^{d} Rows of Cabins were built with one Story above another which held some 5 some 6 Persons in the Cabin below and 5 or 6 Persons in the Cabin over the same each Cabin being about 6 feet or thereabouts in length fore and aft and 5^{Ft} 6 Inches or thereabouts in breadth the bottom Boards of the lower Cabin being 4 Inches above the Deck.[16]

On three-decked ships, it was usual for the male convicts to be carried on the lowest level, known as the orlop deck. This was also done on troopships, even those carrying men out to India, but of course, unlike the convicts, the soldiers

could make their way to the upper deck whenever they pleased (and the weather allowed).

The prison was ventilated by two hatchways, floorboards taken up on the gun deck immediately above to create a scuttle, and ports cut into the sides of the orlop deck. Windsails were fitted soon after the fleet sailed from Portsmouth, large canvas funnels which channelled air down through the hatchways. And the government supplied an Osbridge's Machine, by which air could be physically pumped into the prison when the ship was becalmed. The sailmaker mentions fitting the windsails, but the depositions are silent on the use of the Osbridge's Machine (which doesn't mean that one wasn't used).

Three half barrels down one end of the prison functioned as privies, and as the crew pointed out, these spilled over in rough weather, and the stench drifted up to the gun deck. But given that the male convicts were not allowed to wander on deck whenever they liked, this was unavoidable. 'Night chairs' were not installed on convict ships until 1797 and water closets (which emptied through a hole in the side of the ship) from around 1801. (See the Catspaw, **Privies on Convict Ships** on BotanyBaymen.com)

On a close reading of the crew statements, it is clear that few of them ever went down into the men's prison, and then only briefly, to fit the windsails or search for knives. Many of them repeat what others have told them. They refer to the sounds and smells coming up to the gun deck (where the crew slept). Several describe what little they could see of the prison from the hatchway above. And they record sights witnessed and conversations held while the prisoners were on the upper deck – sick convicts brought up at night while the ship was near the Equator, corpses carried up in the morning to be thrown overboard, snippets of conversations had with the washermen. They had no real idea how the prison was managed, or what life was really like down on the orlop deck.

By contrast, the women's quarters were located in half of the great cabin at the rear of the gun deck, with privies in the quarter gallery which wrapped around the stern of the ship.

Confinement

Until part way across the Southern Ocean, most of the men were kept in shackles (or handcuffs if their ankles were badly chafed). The unruly would be

chained to another convict. (None of the depositions mentions the use of bar irons on the *Neptune*.) Unless they misbehaved, the women and boys were not ironed, since they were not a security risk.

The First Fleet convicts had been freed a week after the ships sailed from Portsmouth, which is why Governor Phillip later concluded that the Second Fleet convicts had been kept in irons too long. But the First Fleet was exceptional, and this kind of liberty was possible because of the marines carried on board the transports, and the presence in the convoy of two naval vessels. Very few of the later convict ships followed this precedent: it would become conventional in later years to remove their irons case by case as the men proved that they were trustworthy, and in greater numbers once they had passed Rio de Janeiro or the Cape (since thereafter, would-be mutineers had nowhere to take the ship).

Trail and Shapcote were evidently concerned about an uprising. They took away all of the convicts' knives when they first came on board, and metal objects such as tin cups and the hinges of chests, which could be converted into knives or saws for cutting through their shackles. According to one of the deponents, Trail was still having the prison searched for knives after they had entered the Southern Ocean.

They had reason to be concerned. There had been a mutiny on a vessel bringing convicts down from Scotland in June 1789, and there were newspaper reports of a conspiracy on the *Scarborough* or *Surprize* while they were anchored at Stokes Bay in mid-December. A planned insurrection was discovered on the *Scarborough* a month after sailing: according to a memoir written many years later by John Marshall, the master of that ship, the plan was to seize control of the quarter deck while some of the men were on the upper deck for exercise, which helps to explain why Trail was reluctant to allow the men out of the prison in large numbers.[17]

In his defence, Trail insisted that the sick were always released from their irons, and this was certainly the practice on later convict ships. The crew disagreed, claiming that some of the dead were brought on deck in the mornings still in their chains. There is no question that the majority of the male convicts were kept ironed longer than necessary, and it is possible that Trail was influenced by the three slaving voyages he had undertaken earlier in his career.

The amount of time the male convicts spent on the upper deck is an indicator of how well they were managed throughout the voyage, not only for the fresh air and exercise, but because it enabled the prison to be thoroughly scrubbed, dried and fumigated while the convicts were away. Trail argued he could not have allowed all of the men on deck at the same time, because of their numbers and the potential for an uprising.

On well-maintained ships, the convicts would also bring up their bedding to be aired – important when body lice were an issue (as they were on the *Neptune*). But this was also a time when the men could wash and be shaved, and once a week, change into their second set of clothes.

Trail said that (weather permitting) the male convicts were on deck, in groups of 50 to 60, for two hours at a time, usually twice a day, although in the Southern Ocean when it was cold (and many were sick), it had been necessary to coax them out of the prison.

One of the crew claimed that it was around 45 men, once a day for an hour, although because of their irons and the narrowness of the hatchways, it was, in effect, only half an hour. Once again, the story is complicated.

We know from the depositions that the convicts' clothes were washed and changed, although we don't know how often this happened. There is also indirect evidence that the convicts sometimes took their bedding on deck with them. One of the deponents said that some had thrown their bedclothes overboard while the ship was in the Tropics: it would have been difficult for the convicts to have done this from the orlop deck, which suggests that the bedding was sometimes taken up to be aired.

The deponents never acknowledge this outright – but the female convicts had the freedom of the quarter deck and the poop deck throughout the voyage, and on some parts of the voyage, they were free to wander across to the galley and make a pot of tea. The convict 'boys' were also unshackled and tasked with supporting the seamen's messes and other light duties. (The crew used them to smuggle treats and messages to the women.)

Trusted male convicts were also liberated so they could assist in working the ship and managing the other prisoners. The depositions say that these included the cooks, the washermen, two surgeon's assistants, the men who emptied the

toilet tubs several times a day, and a 'boatswain of the convicts' who supervised them. Based on what we know from later ships, it would also have included men who assisted in issuing the provisions, cleaning and fumigating the prison, and shaving the other convicts.

One of the seamen said that as they left the Cape, Trail freed 14 of the convicts who were 'used to the sea', so they could work alongside the crew, although most of them proved too weak to do so. But given the large number of convicts who worked with the seamen on the First Fleet, and the scale of crew desertion on the *Neptune*, it seems likely that this also happened on the Second Fleet as it made its way down through the Atlantic.

Sexual Relations with the Women

Until around 1820, it was conventional for the officers and crew to form sexual relationships with the female convicts shortly after sailing. The steward of the *Lady Juliana*, which carried out female convicts between the First and Second Fleets, later recalled: 'When we were fairly out to sea, every man on board took a wife from among the convicts, they nothing loath'.[18] This was public knowledge at the time, and given the openness of 18th century prisons, no one was particularly concerned. (See Catspaw, **The Floating Brothel**, on BotanyBaymen.com)

A number of the crew claimed that when he was signing them up, Trail promised that they would have access to the female convicts, 'hats and feathers flying', but once they got to sea, they were forbidden even to speak to them. Three of them testified that a seaman named John Scott was beaten, kicked and/or flogged (their accounts differ) for talking to some of the women when they came onto the poop deck to collect their washing.

The officers and gentlemen were permitted to take 'sea wives' from amongst the women for the duration of the voyage: not Trail since his de facto wife accompanied him, but the 1st and 2nd mates; the surgeon, William Gray; the naval agent, John Shapcote; the officer commanding the guard, Nicholas Nepean; and a gentleman passenger named D'Arcy Wentworth, who was taking himself into exile to avoid criminal prosecution. There is nothing to suggest that these relationships were non-consensual – Nepean and Wentworth remained with their partners in the colony.

Given the promises he had made and the grief it would cause him, it's unlikely that Trail voluntarily decided to keep the sailors away from the women. The Navy Board had directed Lieutenant Shapcote to ensure that the female convicts were kept separate from the men, and that they were not abused or ill-treated, 'but the contrary as far as in your power'. It seems likely that he issued Trail with an instruction to that effect.

Several of the depositions quietly acknowledge that there was some level of social interaction, with the sailors using the convict boys to smuggle food and messages to the women, and the women mending articles of clothing for the crew. However, evidence also emerged in Trail's defence and at the trial, that shortly after sailing, the crew sent him a letter demanding that that they be given access to the women, which he interpreted as a threat, and that on several occasions, the crew broke through the partition separating them from the women's quarters.

John Scott left the ship once they arrived in Sydney Cove, allegedly because of the abuse he had received, but he immediately set up house with one of the women from the *Neptune*, suggesting that he had formed some kind of relationship with her in the course of the voyage.

Physical Brutality

Many of the allegations about Trail and Elrington's brutality also use stock phrases, making them unreliable: the convicts were treated 'in a Cruel and inhuman manner', 'in a very cruel manner', 'in a barbarous and cruel manner', and so on. But there are also detailed accounts of specific beatings and floggings which support these claims.

On a close reading of the available evidence, it would appear that floggings were rare and, consistent with maritime law, had to be authorised by Trail himself. Several of the deponents said that the cat of nine tails was cruel, of a kind not generally used in the Royal Navy. But the highest number of strokes mentioned for a convict flogging was 36, with 30 for another, and 18 for one of the crew. By the standards of the day, these were not severe punishments, not compared (say) to the *Britannia (1796)*, where several of the supposed mutineers were given 300 a day, two days in a row.

On the other hand, Trail and Elrington often resorted to casual violence, and the evidence of beatings and kickings, from a wide range of different sources, is compelling. It was conventional in the late 18th century for husbands to beat their wives, parents their children, masters their apprentices, teachers their pupils, and captains their crews. And while the law required summary discipline of this kind to be proportionate, prosecutions were not often brought, and they did not often succeed.

It was usual for masters and mates to carry a small stick to 'start' men who they thought were not working hard enough, but Elrington was said to have used thick ropes, lumps of wood and a brass speaking trumpet. He and Trail were both accused of having deliberately kicked crew members and convicts in their private parts, in one case, a female convict. To a modern reader, this kind of violence is incomprehensible, but there are a number of examples of this on ships from around this period. (See Catspaw, **Kicking Men in the Groin** on BotanyBaymen.com)

The *Neptune* was an unhappy ship before she weighed anchor and the resentment built over time. The crew were unhappy at having been denied access to the women. They grumbled about how hard they had to work in order to navigate a badly maintained ship. And they became increasingly angry at the perceived unfairness of the discipline and the violence with which it was administered.

Disease

For all the talk of suffering and death, none of the depositions mentions the disease that had been brought on board from the Plymouth hulk and was already killing convicts before the fleet left the Solent. This is most likely because the deponents saw little of the convicts and understood nothing about the disease which afflicted them, but it also didn't suit Evans' narrative that the vast majority of the sickness and death was caused by government's failure to screen the prisoners prior to boarding.

It is likely that most of them were already suffering from a deficiency in Vitamin C when sent on board, which made it inevitable that scurvy would emerge around the time they crossed the Equator. But on many of the ships in these early years, the convicts were also carrying typhus, and probably other communicable diseases spread by body lice.

The authorities were on notice: there had been a recent outbreak of gaol fever (typhus) on the *Dunkirk*, the Plymouth hulk from which the *Neptune*'s male convicts were drawn, with mortality rates trebling from around March 1789. Eleven convicts died while the fleet was at Portsmouth, and several of the deponents said that they saw corpses float by which they knew had come from their ship because of the rugs in which they were wrapped.

Some depositions mention the lice (which had also been brought on board from the *Dunkirk*), powerful evidence of the scale of the outbreak with which Trail and his surgeon, William Gray, were grappling. Charles King testified that he had:

> . . . frequently seen the Corpses of the Convicts brought upon Deck in Irons & whilst they have been lying to have their Irons knocked off & to be thrown overboard their faces from the Lice which crawled upon them appeared as if Sand had been strued over them - & the s^{d} Convicts both living & dead were in general so lousy & nasty that there was no coming near them without being Swarmed with Lice & altho' this Examin^{t} put on a clean frock every other day he could not keep himself free from these Vermin.[19]

Clothes and bedclothes were a haven for lice, and King wrote that while they were in the Tropics, many of the male convicts stripped off and lay naked on the boards without bed or covering in an attempt to reduce their numbers.

While medical science did not yet understand what caused gaol fever or how it was spread, ships' surgeons knew that that it could be communicated through clothing and bedding, and these articles were often thrown overboard when a passenger or crew member died of a 'putrid fever' at sea.

When Shapcote first came on board the *Neptune* in December 1789, he discovered that the male convicts were still wearing their own clothing, and he instructed Trail to have all of them brought on deck along with their chests and boxes. Their old clothing was thrown overboard, and the men were issued with government-issued 'slops' instead. Unsurprisingly, the men were devastated and begged Trail not to deprive them of these valued possessions. A number of the crew were on guard when this was done, and in the depositions, they portray it as an act of bastardry on Trail's part. Not one of them acknowledges that it was a necessary (if brutal) attempt to prevent the spread of gaol fever.

It was too little too late. The only way to have checked the epidemic would have been to throw away all of their clothes and bedclothes, disinfect and whitewash all of the bunks, and wash and shave all of the prisoners, an impossible exercise at a time when the fleet was preparing to sail. This is what had been done with the First Fleet transport, the *Alexander*, when it was discovered that she was afflicted with disease prior to sailing. For whatever reason, possibly because of cost of demurrage in the contract they had signed with Camden, Calvert & King, the Navy Board did not adopt this same precautionary approach with the *Neptune*.

It is telling that when *HMS Gorgon* – a naval vessel which was preparing to sail for New South Wales (NSW) with troops at around the same time as the Second Fleet – experienced an outbreak of typhus, the government reacted very differently. Her departure was delayed, two of the leading naval surgeons were brought in to consult, the infected soldiers were removed to a nearby hulk, their beds and personal belongings were destroyed, a hundredweight of sulphur was shipped on board for fumigation, old women were employed as nurses, and wine and other medical necessaries were made available for those who had fallen sick.

In March 1790, two months after the Second Fleet sailed, Thomas Trotter, a highly regarded naval surgeon who had been charged with tending the *Gorgon*'s sick, issued this warning:

> The situation of a fresh levied body of men, exposed to the jail fever under the circumstances of a long ocean voyage, a crowded ship and the little advantages which any assistance can there afford, require that the necessary precautions ought to be adopted before the ship leaves the harbour.[20]

The Navy Board did not adopt this approach with the Second Fleet, and once the fleet had sailed, nothing could be done to assist those who were already infected. Given the state of medical science at the time, all that the surgeon could have done was to let the disease run its course and alleviate the suffering.

Medical Care

The *Neptune* carried a qualified surgeon named William Gray, a hulk of a man with a gruff manner who dressed practically in canvas jacket and trousers and not as the crew expected a gentleman would do. He had previously been on the *Surprize* with Trail and accompanied him when he shifted across to the *Neptune* at Stokes Bay.

The crew didn't know what to make of him, and while they accused him of neglect, their stories are consistent with a medical practitioner who was struggling to cope with a ship full of men and women dying of typhus and dysentery and whose medicine chest was exhausted.

We know from the depositions that a sick bay was established near the fore hatchway, where there was air and light, but while they were in the Tropics, Gray also used the poop deck to quarantine some of the worst affected. Two of the convicts were assigned as his assistants, and while they had no medical training, the *Neptune* was carrying two other surgeons – John Harris, the NSW Corps' surgeon, and D'Arcy Wentworth, who was also qualified. It is difficult to imagine that these men did nothing to assist in treating the sick and dying, and yet the crew depositions say nothing about them.

One of the quartermasters claimed that Gray carried a cutlass when he went down into the prison and would beat the men if they did not get out of his way as he passed along the aisles. He was said to carry a leather strap when he visited the women, 'and beat and kick them as he liked'.

Perhaps, but if we read the statements carefully, we also find a surgeon who was attending to the sick and trying to prevent the spread of disease. It is likely that he advised Trail to take away the convicts' clothing when they were first brought on board the *Surprize*. It was surely at his request that, against Trail's instincts, 40 or 50 of the men were permitted to sleep on upper deck each night while they were close to the Equator, to escape the stifling conditions down in the prison. Along with the other ship's surgeons, he wrote to Lieutenant Shapcote, insisting that the ships must put into the Cape for fresh provisions to address the outbreak of scurvy. And when the medicine chest was empty, he supplied oatmeal poultices and vinegar mouthwash, and no doubt other such remedies.

The Southern Ocean

The greatest number of deaths occurred in crossing the Southern Ocean: the men died at three times the rate they had in their passage down through the Atlantic, the women at ten times that rate. In large part, this was because the typhus had spread and the Vitamin C deficiency was getting worse, but with so many of the prisoners incapable of getting out of their bunks, it is likely that the systems for distributing the food and cleaning the prison broke down, so that dysentery was now added to their afflictions.

The great rolling waves and cross seas were hard on ships crossing the Southern Ocean and the men who navigated them, and with vast quantities of water washing over the *Neptune*, the passengers were often wet. Some of the convicts were bitterly cold, having thrown away their bedclothes and sold their second set of slops to crew members while they were in the Tropics.

One of the crew claimed that their passage across the Southern Ocean was only sometimes turbulent, but others spoke of heavy weather. Elizabeth Macarthur, a lieutenant's wife on the *Scarborough*, wrote that this leg of the voyage could be 'truly called a tempestuous one'.[21]

The consequence, as Captain Hill wrote, was that the convicts on the between deck of the *Surprize* were sometimes well above their waists in freezing water. The *Neptune* was worse: the convicts on that ship were down on the orlop deck, she had a number of leaks that were impossible to repair, and the scuppers of the prison were blocked by filth, so the water did not readily drain away.

Some of the crew blamed Trail for failing to order tarpaulins to be pulled over the hatchways quickly enough, but we know from later convict ships that the masters struggled to find the balance – health problems could also arise if the convicts were locked down for long periods in the stifling atmosphere of a closed prison.

The 'Wilful Murder'

Three of the seamen described the awful scenes as they unloaded the sick and the dying in Sydney Cove. Once again, the hand of Thomas Evans is evident in the repeated use of stock phrases, but their accounts are consistent with Reverend Johnson's description:

> . . . the first 60 who were hoisted into the Boat were in a shocking Condition none of them being able to stand and this Exam^{t} [examinant] remembers that two of them died in the Slings. . . the s^{d} Convicts were so lousy & he got so many lice upon his Jacket in doing the above Duty that he was obliged to throw his Jacket overboard & change the rest of his Cloaths & put them in Water.[22]

One of the quartermasters recalled the Governor standing by with the principal surgeon, John White, watching the convicts being landed, and claimed to have heard him say that the sailors must be a set of rascals to allow the women to come ashore in that condition. Several deponents reported him saying that the *Neptune* should be renamed the *Wilful Murder*.

These are powerful anecdotes that will no doubt catch the attention of historians looking for colour. The problem is that when Phillip later read these accounts in the British newspapers, he wrote:

> . . . the first knowledge I had of some circumstances, which from the affidavits that have appeared in the public papers, it is said I censured, was from the papers themselves.[23]

The Captain's Shop

On their arrival in NSW, it was usual for the captains to open a shop on shore, selling foodstuffs and household articles to the residents. Several of the depositions report that Trail did likewise, managed by the ship's steward, Samuel Gates, selling butter, cheese and sugar, soap and candles, rum and tobacco, trousers, jackets and stockings, hats, caps and other wearing apparel, shoes and buckles, knives, needles and a variety of hardware items including rope. According to one of the crew, Trail made a profit of around £600, a substantial sum at the time.

But the depositions also provide us with the first evidence of consumer protection in the fledgling colony. Gates was using the lead weights from the ship, and when some of the soldiers and convicts suspected that they had been short-changed, they took their butter, cheese and tea to Sidaway's bakery, where it was confirmed that they had indeed been cheated. They complained to the provost marshal, Henry Brewer who, in addition to his other duties, was

responsible for the regulation of markets. Brewer marched across to the shop and ordered that Gates compensate his customers and start using honest weights, to which he duly complied.

No other sources from the early years of the colony describe a captain's shop in such detail, and it is not until 1792 that we get further evidence of the colonial government involving itself in consumer protection in this way, when Brewer intervened in the *Atlantic*'s shop following her return from Bengal.

Civil Actions

The depositions also reveal that the colonial authorities followed the precedent established in *Cable v Sinclair*, the 1788 case where the NSW Court of Civil Jurisdiction awarded damages to two of the convicts over the theft of some of their property on the outward voyage. (See Catspaw, **Cable v Sinclair – The Aftermath** on BotanyBaymen.com)

It was conventional on convict transports for the prisoners to hand their money and other valuables to the ships' officers for safekeeping throughout the voyage; indeed, masters and mates often insisted on it to prevent thieving and fighting. We know this happened on both the *Surprize* and the *Neptune*, with the surgeon, William Gray, being charged with keeping these articles safe throughout the voyage.

On their arrival in NSW, a number of the convicts complained that Gray would not return their property. A middle-class convict named John Metcalf went to the Judge Advocate, David Collins, and reported that Gray refused to hand back a box of articles which his mother had brought on board at Stokes Bay, which had included a pair of brass shoe buckles. We learn from one of the depositions that Gray appeared in court wearing these same buckles and walked out without them.

One of the seamen said that the Governor sent the provost marshal on board to demand restitution of the convicts' belongings. He had personally seen Brewer leave the ship with a small bag of dollars, which he understood had been given to him by Donald Trail. A list of the convicts on the *Surprize* who handed their money to Trail survives in the State Archives of NSW: the only reason why such a list would have been in the hands of the colonial authorities was that it had been the subject of a formal complaint.[24]

Conclusions

On a careful reading of the depositions, it is reasonable to conclude that the *Neptune* was in need of a major refit, and that her masts, sails and rigging were wanting. She had not been recaulked since her last voyage, with the result that the convicts were often wet, particularly as they crossed the Southern Ocean. On the available evidence, floggings were not particularly frequent or severe, but Trail and Elrington violently beat and kicked some of the convicts and crew members, in some cases, resulting in long-term injuries. It is not possible to establish whether this physical brutality resulted in any deaths, but the most likely explanation for the high mortality among the male convicts was typhus brought on board from the Plymouth hulk, and dysentery exacerbated by a breakdown in the regime for managing the prison.

Given the scale of the lice infestation, there can be no doubt that the epidemic was serious, and once typhus had been loaded on board, there was little that Trail could have done to prevent its spread, and nothing that the surgeon could do to reduce the death rate.

The salted beef was seemingly of poor quality, but some of the other provisions, such as the pease, were not so bad. And while the steward used light weights to cheat the convicts (and the crew) of their entitlements, it is unlikely that this caused the deaths of so many men and women.

While the convicts' suffering was exacerbated by leaky seams and blocked scuppers, the passage across the Southern Ocean was tempestuous, and it was unavoidable that icy water would wash down into the orlop deck from time to time.

Donald Trail *was* a vicious bastard, but there are several problems with using this as an explanation for the high mortality. The first is that when the First Fleet arrived in NSW, no one complained to the Governor about how the convicts had been treated – not the convicts themselves nor the crew, not Nicholas Nepean, John Harris, or D'Arcy Wentworth, any of whom could have given compelling testimony about the starvation and physical abuse if it was as bad as the crew members maintained.

It is not as if the convicts were averse to making complaints: some of them protested that their valuables had not been returned by the ships' officers,

resulting in the Governor's intervention. And when the convicts on the *Queen*, a Third Fleet ship, protested that they had not been given their full rations, Phillip established a formal inquiry to gather evidence that could be used against the contractors in London.

The other problem with the 'vicious bastard' explanation is that the *Scarborough* had a mortality rate almost as high as the *Neptune*, and her captain was widely regarded as a decent man. John Marshall had carried convicts to NSW in the same ship as part of the First Fleet, with a mortality of less than one percent. Phillip and his officers knew Marshall well and they liked him, which might explain why the Governor was reluctant to embrace this convenient explanation.

It is likely that Anthony Calvert and Donald Trail were responsible for some of the deaths on the *Neptune*, but given that typhus had been loaded on board, the mortality rate was always going to be high.

Postscript: Violence on Long Voyages

Richard Henry Dana, a Harvard law student who spent two years before the mast in the 1830s and went home to practice maritime law, wrote that he had no illusions about equality on board a ship. He had never met a seaman who objected to orders, and if he was to spend the rest of his life before the mast, he would not wish to have the power of the captain diminished: 'There are emergencies which require the instant exercise of extreme power'.

Masters were legally entitled to inflict moderate correction upon a seaman for sufficient cause, but it had to be proportionate to the offence. If they exceeded the bounds of moderation or if they punished to gratify personal feelings, they were liable for damages. The problem was that the courts struggled to make allowance 'for false swearing and exaggeration by seamen, and for combinations among them against their officers'. Except when passengers were on board, there was no one who could testify on their behalf.

> It is on long and distant voyages, where there is no restraint upon the captain, and none but the crew to testify against him, that sailors need most the protection of the law. On such voyages as these, there are many cases of outrageous cruelty on record, enough to make one heart-sick, and almost disgusted with the sight of man.[25]

There is no known painting of the *Neptune*. The image on the front page is a detail from a 1779 painting of the *Lord North*, a retired East Indiaman which was originally offered by Camden, Calvert & King for the Second Fleet, and replaced by the *Neptune* when rejected. The painting is in a private collection.

For reasons of space, this newsletter does not include all of the new insights that can be gleaned from the depositions. As usual with these newsletters, it is not fully referenced – to do so would substantially increase the length of the endnotes. Readers are welcome to contact the author.

[1] Johnson to Thornton, July 1790, in George Mackaness (ed.), 'Some Letters of Rev. Richard Johnson', *Australian Historical Monographs*, Sydney, 1954, Volume XX (New Series), No. 9.
[2] David Collins, *An Account of the English Colony in New South Wales* [1798], Sydney: A.H. & A.W. Reed, 1975, Vol. 1, p. 99.
[3] Extract of a Letter from One of the Women Convicts', 24 July 1790, *Diary or Woodfall's Register*, 3 August 1791.
[4] Southwell to unknown, 27 July 1790, and Southwell to an unknown female, July 1790, in 'Letters from D. Southwell Concerning New South Wales, 1783-1793', British Library (hereafter BL), Add Mss 16381, pp. 62, 63a-64.
[5] Johnson to Thornton, July 1790, in George Mackaness (ed.), 'Some Letters of Rev. Richard Johnson', *Australian Historical Monographs*, Sydney, 1954, Volume XX (New Series), No. 9.
[6] There are two qualified exceptions. There was a fake letter by a convict named Milburn, published as a broadsheet in London in 1791 – this is discussed below. And there is a memoir written by John Marshall, the master of the *Scarborough*, which deals with the Second Fleet in part. It is still held by the family, although parts of it have been released in different forms.
[7] There were various spellings of his name – Ellington, Ellerington and Elrington. This is the spelling used in the depositions.
[8] 'Examinations and Depositions of the Several Sailors brought forwards by Mr Evans reporting the Conduct of the Contractors Master & Mate of the Ship Neptune' (hereafter 'Examinations and Depositions'), UK National Archives (hereafter TNA) TS 11/381; 'Botany Bay: To the Public', 29 December 1791, Bentham Papers, University College London, Box 119, pp. 294-301.
[9] Given that many of these depositions were supposedly prepared by the Treasury Solicitor, William Chamberlayne, it is difficult to avoid the conclusion that he either relied very heavily on the statements which Evans had already written or collaborated with him in writing them up in this form.
[10] C. Northcote Parkinson, *Trade in the Eastern Seas, 1793-1813* [1937], London: Frank Cass & Co., Ltd, 1966, p. 146.
[11] I am indebted to the maritime historian, Stephen Davies, for his interpretation of these accounts.
[12] The Information of Charles King, in 'Examinations and Depositions', p. 46.
[13] 'Copy of Instructions given by Messes Camden, Calvert and King, to Mr Donald Trail, Master of the Neptune, and their Agreement with him', 19 December 1789, 'Accounts and Papers Relating to Convicts on Board the Hulks, and Those Transported to New South Wales', *House of Commons Sessional Papers of the Eighteenth Century*, (83) 1791-92, 26 March 1792, pp. 71-73 at p. 72.
[14] The Information of George Churchill, in 'Examinations and Depositions', p. 18.
[15] Gary L. Sturgess and Ken Cozens, 'Managing a Global Enterprise in the 18th Century: Anthony Calvert of The Crescent, London, 1777-1808', *The Mariner's Mirror*, (2013) 99:2, pp. 171-195.
[16] The Examination of Edward Hoare, in 'Examinations and Depositions', p. 23.
[17] Amy Walton, *Susan* [1888], London: Blackie & Son Limited, n,d, but c.1929, Chapter 7. Walton was a descendant of Captain John Marshall and had access to the memoir. She fictionalised his account of the Second Fleet in this book, but it is possible to establish those parts that must have been taken from the memoir.
[18] John Howell (ed.,), *The Life and Adventures of John Nicol*, Edinburgh: William Blackwood, 1822, pp. 119.
[19] The Information of Charles King, in 'Examinations and Depositions', p. 47.
[20] Report of Thomas Trotter, 9 March 1790, attached to Roddam to Stephens, 9 March 1790, TNA HO28/7/75.
[21] Elizabeth Macarthur, 'Journal and Correspondence of Mrs John Macarthur', 1789-1840, Macarthur Papers, SLNSW ML A2906, p. 16.
[22] The Information of Richard Tonkin, in 'Examinations and Depositions', p. 56.
[23] Phillip to King, 4 October 1792, *Historical Records of New South Wales*, 1:2, p. 650.
[24] 'An Exact Account of the Convicts Money Deposited in the Hands of Captain Trail, formerly of the Surprize', Colonial Secretary's Papers, 1788-1825, NRS7, Main Series of Letters Received, NSW State Archives 4/1719.

[25] Richard Henry Dana, Jr., *Two Years Before the Mast* [1840], in Richard Henry Dana, Jr., *Two Years Before the Mast and Other Voyages*, New York: The Library of America, 2005, pp. 348-351; Richard Henry Dana, *The Seamen's Friend*, Boston: Thomas Groom and Company, 1845, pp. 192-195.