

aspects of tax, an area of fertile ground which will no doubt be of interest to both public law and tax practitioners.

The book concludes with an essay by Richard Lancaster SC and Stephen Free on the relevancy grounds in environmental and administrative law. Rather than setting out the fundamentals

of the law in relation to this topic, the authors comment upon particular issues and trends in an impressive array of recent decisions, in environmental law specifically, and administrative law more generally.

Barristers who practise in administrative law, or who have an interest in public

law more generally, will find this work an interesting and useful addition to their libraries.

**Reviewed by Victoria Brigden**

## Mutiny on the Bounty

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*Mutiny on the Bounty* is a compilation of works by William Bligh and others.

Captain Bligh and the flora-laden HMS *Bounty* were returning to England from Tahiti when, early on the morning of 29 April 1789, one of the officers, Master's Mate Fletcher Christian, mutinied with most of the crew members. The captain and 18 loyal members were set adrift in a longboat, with minimal food, clothing and essential supplies.

Loyalty counted for nothing. Christian had been a beneficiary of Bligh's assistance during his brief naval career. Three voyages with Bligh, the last at a time when any voyage, anywhere in peacetime, was a treasured jewel. As Bligh's star rose, so too did that of Christian. As second in command, Christian was extended officers' courtesies. The night before mutiny he had been invited to the captain's table. The invitation was declined. It was later evidenced that Christian had been drinking until midnight before the mutiny: grog for courage. As Bligh was manhandled over the side, Christian (talking of past benefits from his friend) exclaimed 'That – Captain Bligh – is the thing; I am in hell, I am in hell.' (Bligh's own memory). A Bligh loyalist witness, the ship's carpenter,

at court martial deposed that Christian said to Bligh: 'Hold your tongue and I'll not hurt you; ...I have been in hell for weeks past with you.'

It was reported that Bligh expected high standards of performance from his pupil (Christian), and humiliated Christian publicly in pursuit of same. One mutineer supported this by later, post court martial evidence. Another expressed to the contrary, also by post court evidence. Another (a Bligh loyalist) evidenced (post court martial) that Bligh did not ill-treat Christian. All officers were obliged to do their duty and Bligh had shown great professional care for Christian's development.

All that was behind Bligh and Christian from early 29 April 1789. With compass, quadrant and extraordinary seamanship and leadership, as well as the iron self and imposed discipline of the crew, the ejected *Bounty* crew landed in West Timor on 14 June 1789. One of his crew had been tragically killed by native attack on the first and only landfall in the Tahitian Islands after their ejection. The senior sailor had sacrificed himself to enable the others to escape an attack by hostile natives.

First landfall thereafter was Restoration Island (named by Bligh for their restoration, it being also the anniversary of restoration of Charles II) off the New Holland (Queensland) coast (29 May 1789). The days spent off and on the land of New Holland had been restorative. They had secured much needed fresh food and water. They showed a self protecting respect of the Aboriginal occupants, with Bligh ensuring that his party kept well distanced and alert.

After arrival in Dutch territory, the Dutch convened an enquiry into the loss of the *Bounty*. No Dutch vessels or citizens were involved, but, just as piracy was (and is) regarded as a scourge for all seafaring nations to address, so was mutiny. It was noted that four remaining on *Bounty* '... are deserving of mercy, being detained against their inclinations'. Such must have been based on the evidence of Bligh and his loyalists, and is a tribute to the integrity of the evidence. All four were acquitted at later court martial.

Unfortunately, two of Bligh's loyalists died of illness despite best Dutch efforts.

Captain Bligh landed back in England on 2 January 1790.

## The court martial

Of 25 mutineers, 10 were tried at court martial on 12 August 1792 before an admiral and 11 captains.

Bligh himself had sailed by July 1792, and was not present. His statement, dated 18 August 1789 and written while in Timor, comprised the charge. It was a clinical, succinct narrative, deviating to acknowledge the untimely death of the sailor in Tahiti, and concluding with thanks to Divine Providence. The captain's statement named only Christian as seizing him in his cabin (post court martial he did publicly name others). Thus it was the evidence of his loyalists that led to findings of guilt, or to acquittals. A transcript of evidence was made and included in this book.

The first witness was Bligh's second in command in the longboat. A clear account of his seizure and ejection into the longboat. Questioned by the court, he showed remarkable balance and fairness in his answers. If he did not know, he said so. It was very much in the common law way – including *res gestae* based hearsay, conversations in the presence or hearing of some of the accused, and opinion on what was meant by what was attested as having been said by the mutineers (including Christian), and by Bligh.

Then it was the turn of the prisoners to question the witness. No prisoner was represented by counsel. Some asked, others didn't. The evidence-in-chief and in response to questions from the court must have been intimidating in its matter of factness and apparent honesty. The full import of that momentous morning is laid bare.

Six others of the Bligh loyalists also gave evidence of that fateful morning. One, in response to a question of the court 'Who were...under arms?' gave 17

names, followed by 'were under arms at different times'. The court was thorough in questioning, and was seeking to sieve out the principals in the first and second degree, from the mere observers, or unwilling actors.

A midshipman, probably in his mid teens during the mutiny, deposed as to events. Asked by a prisoner 'Do you remember calling on me to assist to retake his Majesty's ship?'

Answer: I have a faint remembrance of a circumstance of that nature.'

Court: Relate it.

A. It is so faint I can hardly remember it.

Court: Relate it.

And again later in the hapless junior officer's best attempts, there was a series of questions about 'your opinion' on whether particular *Bounty* members were being detained against their will. He named two, who were later acquitted. The midshipman was later promoted to lieutenant and was aboard HMS *Pandora*.

The incisiveness of the court calls to mind fictional court martial scenes. From the Hornblower series. From *The Caine Mutiny*. Contra, the laziness of the court as depicted in *Breaker Morant*.

Another young midshipman was convicted on the evidence of his being obviously closely associated with Christian on the mutiny morning; and enjoying a joke with Christian. This was in the face of his own statement in evidence – impliedly, that he was detained by the mutineers. He was condemned to hang but granted mercy and pardoned in November 1792. Perhaps the evidence that he had refused to drink (with fellow mutineers) the rum ration ordered by Christian saved him. The same prisoner had taken the extraordinary (if not brazen and astonishing) step of writing to Bligh's

wife whilst awaiting court martial, hoping for 'an equitable tribunal to plead' his innocence. He had apparently known her before sailing on the *Bounty*. He had left her with power of attorney over his possessions. Following his pardon he wrote to the press alluding to the abuse by Bligh of Christian, and as to Christian's 'most worthy character'.

One prisoner was found to have no case to answer. He was not under arms and not assisting the mutineers. He assisted those ejected by putting equipment (incl a tool box) into the longboat. He wept when the longboat pulled away and asked that it be remembered he had no part in the mutiny.

One of those convicted and condemned to hang asked that the former (upon his acquittal) be allowed to give evidence for the latter. Denied. Judges reconsidered after the latter found guilty and condemned to death. The court concluded that it should have allowed the former to give evidence for the latter. Acquitted the latter. The latter was extraordinarily fortunate, because evidence was given by one witness of his being armed; two others did not attest that he was armed. Enough for a retrospective reasonable doubt. The versatility of the court's process is noteworthy, revisiting a ruling on procedure.

The fourth acquitted was not under arms and was observed to have assisted with readying the long boat.

The three convicted, condemned (no mercy commended), and hanged, were all evidenced to be under arms. It was attested that one of the three had jeered at the longboat crew, taunting them to live on meager daily rations. Another of the three was observed to have accompanied (whilst armed) Christian down below en route to seizing Bligh. The third was

observed at the helm of *Bounty* after Bligh was seized, to arm himself upon seeing Bligh under arrest, and to be standing close guard over Bligh.

The final three witnesses were Captain Edwards (of HMS *Pandora*) and two of his lieutenants, deposing to the arrests of the mutineers. The first to surrender did so before *Pandora* anchored in Tahitian waters. He was one of the acquitted.

Climbing on board a moving vessel is cooperative, and it was deposed that he was ready to give the arresting party 'any information'. Even in those days, an early confession helped.

Post court martial, Edward Christian (brother of Fletcher Christian) consulted a senior barrister. He then conducted his own enquiry as to his infamous brother's conduct, and mounted a determined public relations campaign to restore Fletcher's name. He published his enquiry and Captain Bligh published a reply. Much of the post court martial evidence referred to above emerged during this enquiry and post enquiry period.

What of those who were not tried? In 1810 an American vessel arrived at Pitcairn Island. They found the sole surviving member of the *Bounty* mutineers (of the party which stayed on the *Bounty* after it left Tahiti for Pitcairn). The American captain, and a later visiting Royal Navy captain, and others, reported differently. What the accounts have in common is that Christian and eight fellow mutineers had left Tahiti with native wives, and native men. On arriving at Pitcairn Island, HMS *Bounty*

was broken up in 1790. Settlement was established and cultivation pursued. A killing spree by native men left four mutineers only alive. One later suicided under the effects of newly distilled liquor. One was executed by his fellow mutineers for behaviour (interfering with a native woman contrary to her native husband's preference) that threatened the harmony necessary for survival of the settlement.

One of the two Pitcairn survivors died of natural causes, leaving one survivor as patriarch of several women and children. Population circa 35 in 1810. The community was supported by its own agriculture.

He was alive in 1814 when a British warship visited. He divulged his identity as a *Bounty* mutineer, but gave a false name (Adams). He was not arrested. The captain described him as an elderly man (in fact he was in his late 40s), of exemplary conduct in leading the island community, which spoke English and practised the Christian faith. He was extraordinarily fortunate that the British captain was most impressed by the community and its governance. A fine example of a public officer with the power of arrest exercising his discretion and leaving the suspect a free man. Nor did the captain proceed by way of summons. Moreover, the community was supplied with some comforts from the Royal Navy vessel prior to its departure. Adams's gravestone marks his death on Pitcairn Island.

Had he been arrested and court martialled he may well have been hanged. He

admitted in his journal to standing guard over Captain Bligh, despite his initial rejection of the mutiny. He was the only mutineer to die of natural causes, happy in the South Pacific.

Telling, and ironic, words were recorded by an anonymous writer in this book. 'O happy people...in your sequestered state...May...no hoary proficient in swinish sensuality rob you of that innocence and simplicity which it is peculiarly your present lot to enjoy!' We now know that Pitcairn males degenerated into sexual predators.

Fourteen of the *Bounty* crew were located in Tahiti and removed by HMS *Pandora* in 1791. Four were drowned when *Pandora* sunk off the Queensland coast on 29 August 1791. There was no requirement to take prisoners to the nearest police station. They were on board during a three month search for *Bounty* prior to the ill-fated return voyage. Thirty-one of *Pandora's* crew also drowned. It was the 10 alleged mutineer survivors who eventually faced court martial.

Of the remaining two *Bounty* crew, one was killed in Tahiti by a fellow mutineer (who had been made a chief) who was then himself killed by natives.

Was Bligh excessively strict? Recent literature suggests that Captain Cook was stricter. Interestingly, Bligh had served under Cook. The key, on balance, is the lack of character of Fletcher Christian.

**Reviewed by Christopher Ryan**