

The Improbable Pirate: All at Sea with *Captain Singleton*

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Abstract

In 1720 Daniel Defoe published a novel entitled The Life, Adventures and Pyracies of the Famous Captain Singleton. He had started it as he finished what would be his break-through novel, and perhaps his most renowned, The Life and Adventures of Robinson Crusoe. In many ways very similar, not least in their inspiration, for both were, in their different ways, pirate novels; a genre of writing which emerged, by no coincidence, as the 'golden age' of piracy was reaching its zenith. Ever acute to the commercial dynamics of his profession, Defoe knew that another novel about 'derring-do' on the high seas would do well. The eponymous Captain Bob Singleton is, though, a slightly odd pirate. At least when compared to many of those who would make starred appearances in the History of the Pyrates which appeared in 1726, and would do so much to shape how contemporary and later generations would read this 'golden age'. The extent to which Defoe may have played a part in writing this History remains a matter of fierce debate. As to what makes Bob an odd pirate, it is because he is, put simply, likeable. If anyone had happened to find themselves pressed into service on an early eighteenth-century pirate ship, they would have wanted it to be Bob's. This article is about the Bob that Defoe writes, and why he writes him.

In 1726 a book appeared entitled *A General History of the Pyrates*, apparently authored by a Captain Charles Johnson. Who almost certainly never existed.¹ No-one knows who really authored the *History*. Some suppose that it might have been a composite piece, others that it might have been written by Daniel Defoe.² The provenance matters less than the existence. For, regardless of who actually wrote up the *History*, it would become the principle source for a series of later pirate-histories, and pirate-novels, including Robert Louis Stevenson's *Treasure Island* and JM Barrie's *Peter Pan*. Both of which reinvested one particular and famous passage from the *History*:

The Beard was black, which he suffered to grow of an extravagant Length; as to Breadth, it came up this his Eyes; he was accustomed to twist it with Ribbons, in small Tails, after the Manner of our Ramilies Wiggs, and turn them about his Ears. In Time of Action, he wore a Sling over his Shoulders, with three Brace of Pistols, hanging in Holsters like Bandaliers; and stuck lighted Matches under his Hat, which appearing on each Side of his Face, his Eyes naturally looking fierce and wild, made him altogether such a Figure that Imagination cannot form an Idea of a Fury, from Hell, to look more frightful.³

Thus the reader is introduced to Edward Teach, the notorious Blackbeard. The *History* comprised a set of thirty short biographies, of which Teach was just one of the more thrilling.



Figure 1 *Death of Blackbeard. From The Pirates Own Book. Sanborn & Carter: Portland, 1837.*

Most were rather less so. Being a pirate, as we will discover, was in fact rather dull. As well as being very dangerous. Which brings us to the life, and more especially, the death of Jack Rackham, another star-turn in the *History*.⁴ ‘Calico’ Jack, as he was known, was hanged at Port Royal on 18th November 1720.⁵ He was just a month short of thirty-eight years old. In truth a far less exciting pirate than Teach, what really interested the author of the *History* was less his pirate activities than his sexual.⁶ Jack’s lover was far more interesting than Jack.⁷

What interests us about Jack though is something else. The fact that he was convicted of ‘piracy’, and hanged in 1720. The date is coincidental, in a sense. It is the same year in which Defoe published his pirate-novel *Captain Singleton*; at what was pretty much the high-point in the so-called ‘golden age’ of piracy. But it

is a related coincidence which intrigues us more. For the law treated Jack differently, and in a way which, as we will shortly see, evidently fascinated the author of the *History*. And which, moreover, resonates very sharply with the way in which we still treat some of our more terrifying criminals.

The purpose of this article is to revisit *Captain Singleton*, a relatively neglected novel in Defoe’s canon.⁸ First, to see what it might tell us about Defoe and what he thought of pirates. Second, to see what it might tell us about the legal, as well as the literary, inscription of piracy. To do the latter is to engage what is sometimes termed a ‘poetical strategy’; to use a literary text in order to provide a perspective on particular questions of law and social justice.⁹ The first part of the article will revisit the contemporary context, the ‘golden age’, its law and its literature. The second will focus rather more closely on the adventures of Defoe’s protagonist. Bob Singleton is a rather odd pirate, as we will discover. The third will investigate a modern parallel; to see what *Captain Singleton* might tell us, not just about how the law engages and excludes the piratical ‘other’ in 1720, but how it continues to do so today.

Making Criminals

Every society makes it criminals, and legal historians have long argued that the eighteenth-century was pivotal in making the English. For two particular reasons. The first was consciousness. No generation had ever been quite so fascinated by their criminals.¹⁰ The

second was a growing obsession with a particular species of crime, against property. We will briefly revisit this ‘history’, before taking a closer look at the peculiar crime of piracy.

Pirate Life

In 1751, Henry Fielding published an essay entitled *An Enquiry into the Causes of the Late Increase of Robbers*. Which concluded that theft had become a pervasive ‘evil’, suggestive of a ‘disease’ which went to the heart of the ‘body’ politic.¹¹ He was not alone in his perception. Lord Chancellor Hardwicke thought it symptomatic of a broader ‘degeneracy of human nature’.¹² And deserving, accordingly, of the most brutal punishment. The so-called ‘Bloody Code’ was written to this purpose; a series of statutes reinforcing the common law of theft. Amongst the most notorious of which was the so-called ‘Black’ Act of 1723. Which created around fifty new capital offences.¹³

And was thoroughly approved by Sir William Blackstone, in his revered *Commentaries*, published between 1765 and 1770. In which theft was given as a peculiarly egregious crime, because it was a ‘public wrong’ and an ‘offence’ against the state, as well as a private trespass. Especially so when committed in the ‘open’, larcenous and ‘compound’.¹⁴ Larceny was the theft of goods worth twelve pence or more, ‘compound’ if committed in the presence of ‘fear’. The ‘mere apprehension of danger’, sufficient to make a ‘man to part with his property without or against his consent’ is *prima facie* evidence of robbery.¹⁵

Crime might be determined in court, but it is not found there. As Edward Thompson famously argued in his study of the ‘Black’ Act.¹⁶ Crime is a social and economic construct, shaped by market forces. And a cultural construct, shaped by how writers write it. As the author of the *History and Remarkable Life of Jack Sheppard* appreciated. A ‘house-breaker’, famed for his ability to squeeze in and out of small holes, this Jack ended his days at Tyburn in 1724. The story goes that his *Remarkable Life* was already being hawked around the streets as he made his customary three-hour procession from Newgate to the ‘Tyburn Tree’. Eighteenth-century London was full of burglars, most of whom ended up like Jack. What made Jack different, aside from his dexterity and thinness, was that someone wrote up his life story. That someone being, very probably, Daniel Defoe.

The romance, then, depended on the writing.¹⁷ It could make a ‘knight of the road’ out of the inveterate rapist and horse-thief Dick Turpin.¹⁸ Just as it might transform a

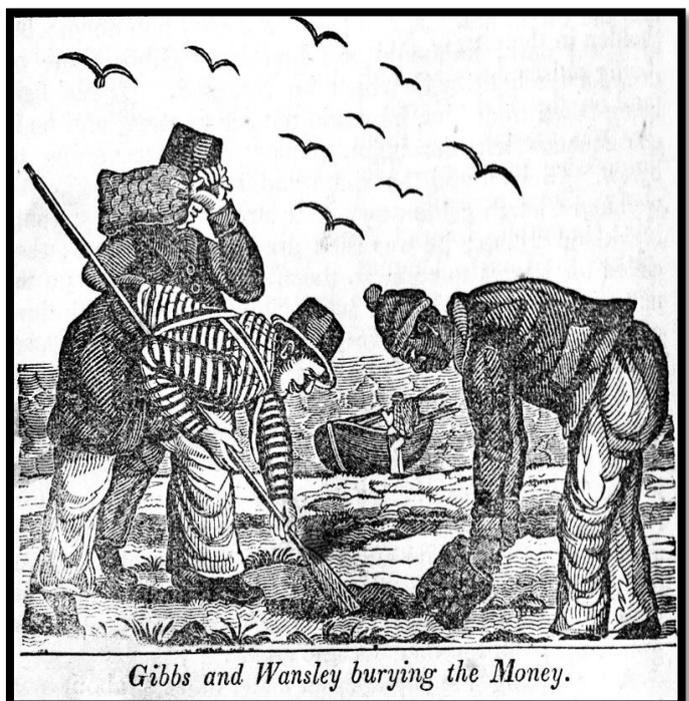


Figure 2 Burying Treasure. From *The Pirates Own Book*. Sanborn & Carter: Portland, 1837.

sociopathic thug like Edward Teach into a super-hero of later Victorian children's literature.¹⁹ An imaginary buttressed by all kinds of piratical activities, most of which were nonsense. Such as burying treasure. There is only one recorded instance of any pirate trying to bury treasure anywhere, and even that is dubious.²⁰ Talking parrots were few and far between too. And hardly anyone, quite possibly no-one, was ever invited to 'walk the plank'.

The reality of pirate-life was much duller. Weeks spent scrubbing decks, and mending sails, plotting sneaky raids on coastal settlements. Most pirates preferred to nick stuff on the sly, including their food. A hog, a chicken, anything to add a little variety to an otherwise predictable diet of stewed fish and broiled turtle.²¹ All rather banal. It might be wondered what made piracy such an attractive career-opportunity. To which the answer is 'rational choice' and desperation. Piracy being, for many, the most viable of a very limited array of options.²²

Which brings us to the question of moment. The so-called 'golden age' which is commonly dated from the last quarter of the seventeenth-century though to the end of the 1720s. Pivotal here was the signing of the Treaty of Utrecht in 1713, in the aftermath of which the Royal Navy shed around three-quarters of its personal. Fifty-thousand bored sailors with few transferable skills, and not a lot of money. Along with hundreds of privateers, now without letters of marque.²³ We will take a look at privateering shortly; another uncertain career-option. There is, though, a collateral context which we need to consider; something which made piracy truly terrifying.

Noted by the Governor of Boston in a despatch in 1717. Unless 'sufficient force' was 'sent to drive off' the pirates presently roving up and down the Atlantic seaboard, 'our trade must stop'.²⁴ Noted by the author of the *History* too. Whilst highwaymen made trips over the local heath a bit chancy, pirates threatened the 'Navigation of the trading World'. So 'formidable and numerous' were the pirates of the 'age' that 'the Trade of Europe' was in peril', and that of 'our English Merchants' especially. The 'Depredations' greater indeed than that suffered during the late wars'.²⁵ Amongst the more constructive solutions was the idea of creating a vast state-subsidised trawler-fleet. After all, the 'Sovereignty of the British Seas' was indisputable, and the supply of fish 'infinite'.²⁶

Amongst the less was tracking down as many pirates as possible, and stringing them up. The preferred strategy, as it turned out. A version of what, in modern parlance, might be termed 'shock and awe'. Pouring resources into the Caribbean, reinforcing coastal defences, seizing pirate 'ports', setting up merchant-escorts, commissioning 'pirate-hunters'.²⁷ Which seemed to work.²⁸ By 1726, the number of pirates active in the Caribbean could be counted in hundreds rather than thousands, the number of reported incidents down to half a dozen. It was not just a matter of despatching more frigates, though, and building more redoubts. There was something else, which was just as important. Some new law.

Pirate Law

English piracy law dated back to the later middle ages. A statute in the reign of Edward III had made piracy a felony; equivalent to robbery on land. A 1536 *Offences at Sea Act* had

made a significant juridical adjustment, transferring jurisdiction for piracy cases from the civil courts to the High Court of Admiralty, sitting in London.²⁹ Significant and, in part at least, mistaken, as the 1698 *Act for the more effectual suppression of Piracy* confirmed.³⁰ It having ‘been found by experience’ that Admiralty courts incurred ‘great trouble and charges by sending them to England’. Evidentiary problems too, in regard to proving their ‘piracies and robberies’. Much better *in situ*, where a mass execution of pirates might actually serve as a deterrent; rather than Wapping or Rotherhithe, where it was just an excuse for a day out.

As a consequence, jurisdiction was returned to Vice-Admiralty courts, so that cases could be ‘examined, inquired of, tried, heard and determined, and adjudged in any place at sea, or upon land, in any of his Majesty’s islands, plantations, colonies, dominions, forts, or factories’. Cases to be heard by selected ‘commissions’ populated by ‘known merchants, factors, or planters, or such as are captains, lieutenants or warrant officers’ who are ‘fitting’. The commissions would have ‘full power and authority’ to issue warrants, and take any further ‘necessary’ measures to investigate alleged instances of piracy. In effect, not just courts, but commissions of inquiry.

The 1698 Act also further broadened the offence in a couple of ways; both of which spoke to closer concerns about England’s market-position. The first encompassed any who commit an act ‘under colour of any commission from any foreign prince or state’. The second extended the offence to include any who ‘combine or confederate’ with other pirates, or who might be deemed to be accessories, those who ‘knowingly or willingly... aid and assist, or maintain, procure, command, counsel or advise’. The more particular concern, in the moment, was Spain; which, many suspected, was re-employing a number of formerly English privateers.

Privateers operated under ‘letters of marque’, issued by the Admiralty authorizing the seizure of enemy merchant ships, which would then be taken to the nearest Admiralty Court for ‘condemnation’ and sale. ‘Set a thief to catch a thief’, as the *History* put it.³¹ Letters of marque would come and go, because enemies did. The adage that one man’s terrorist is another man’s freedom fighter is familiar enough. So it might be said of pirates; one day a damnable rogue, the next a ‘national hero’.³² No need for much by way of re-skilling, plenty of those whose lives were recounted in the *History* moved back and forth across the watery margin. As, it seems, did opinion at the Admiralty. For just four years after the 1698 Act, it decided to embark on a recruitment drive, designed to tempt back their prodigal privateers.

A Royal Proclamation in 1702 confirmed that privateers operating under letters of marque would henceforth retain their ‘prizes’ in full, aside from Customs House duties and a tenth share made to the Crown. Six years later, Parliament would pass an Act further designed to encourage privateering, tacit admission that the Royal Navy alone was unable to significantly disrupt Spanish trade-routes across the Atlantic and around the Caribbean. It removed the tenth-part levy. The famed pirate-hunter, Woodes Rogers, would later suppose that the Act was intended to ‘restore to privateering all the old spirit of adventure which permeated our sea story in the reign of Elizabeth’.³³ And the enduring spirit of stealing stuff and getting rich. The author of the *History* was hardly convinced of the strategy, supposing that ‘Privateers in Time of War are a Nursery for Pyrates against a Peace’.³⁴

Further statutory responses took the form of the 1717 *Transportation Act*, which prevented alleged pirates from pleading benefit of clergy, and the 1721 *Act for the more effectual suppressing of Piracy*, which ratcheted the accessory provisions.³⁵ The Preamble to the latter confirming that the ‘number of persons committing piracies, felonies, and robberies upon the seas’ had ‘of late very much increased, and notwithstanding the laws already made and now in being, many idle and profligate persons have turned pirates, and betaken themselves to that wicked course of life’. A moral tone again. But incidental to the deeper concern, the threat to ‘trade and navigation into remote parts’ which ‘will greatly suffer unless some further provision be speedily made’ for ‘bringing such persons’ to ‘condign punishment’. In practical terms, the offence was extended to include any who ‘traded’ with pirates. It also provided a six-month prison term for any who were found guilty of not making sufficient an effort to defend themselves against pirate attacks.

The law was clearly material in the mind of the author of the *History of the Pyrates*. In which the statutory regime was discussed repeatedly and in depth, along with various supplementary Proclamations issued by local governors. An interlude at the end of the first volume discusses the ‘Civil Law and Statute now in Force, in relation to Piracy’, describing the domestic regime, whilst also emphasising the international dimension. The familiar term from Roman jurisprudence; a ‘pyrate is *Hostis humanis generis*, a common Enemy’. The same phrase was picked up by Blackstone in his ‘commentary’. An offence ‘against the universal law of society’. Typically, Blackstone adds a further layer of moral disdain. Pirates having returned to a ‘savage state of nature, by declaring war against all mankind’ and, importantly, their ‘property’.³⁶ Not just cast out of England, but outside of humanity. Still, though, in prosaic terms, a matter for English courts, wherever they might be established.

Court proceedings are also discussed at some length in the *History*. Not all pirates were captured, of course. But a number were, like ‘Calico’ Jack. There are two more substantial accounts. The first describes the trials held at the Vice-Admiralty court at Cape Coast Castle in 1722, for around a hundred and fifty survivors of Captain Robert’s pirate-fleet.³⁷ Cape Coast Castle was the headquarters of the Royal Africa Company, which effectively ran the court. Providing a registrar to serve as clerk, and helping to populate the bench of the Admiralty Commission too. Something of which the author of the *History* entirely approves, being men just as capable in representing the law, and distinguishing ‘Right from Wrong’.³⁸

The second account is ‘The Tryal of the Pyrates at Providence’, held in late 1718.³⁹ A testament to the ‘Honour and Justice’ of Captain Rogers, who presided over the ‘especial Admiralty Sessions’, held ‘according to the Intent and Meaning’ of the 1698 Act. Ten pirates charged with ‘Mutiny, Felony, and Piracy’, their crimes aggravated by the fact that they had broken parole, having previously accepted a Royal Pardon. Not much in terms of points of law, just lots of evidence of pirating. Not much in terms of defence either, most claiming duress, or a similarly ‘faint Excuse’. All sentenced to the inevitable end; to ‘be hanged by the Neck till you are dead, dead, dead’.⁴⁰ The account closes at the scene of execution, with a series of brief biographies of the fated pirates and the sage observation ‘that there were but few... amongst the Spectators, who had not deserved the same Fate, but pardon’d by his Majesty’s Act of Grace’.

Thus Providence and the Admiralty combine to secure Britain and its fledgling empire. The law earths the *History* just as it provides that necessary assurance. Of course, as we noted earlier, we do not know for sure how much of the *History*, if any indeed, was written by Defoe. Possibly, probably. We do know that the subject fascinated him, the alignment of piracy, commerce and the law. And we also know that he wrote a novel about it, entitled *The Voyages, Travels and Surprising Adventures of Captain Robert Singleton*.

Saving Captain Bob

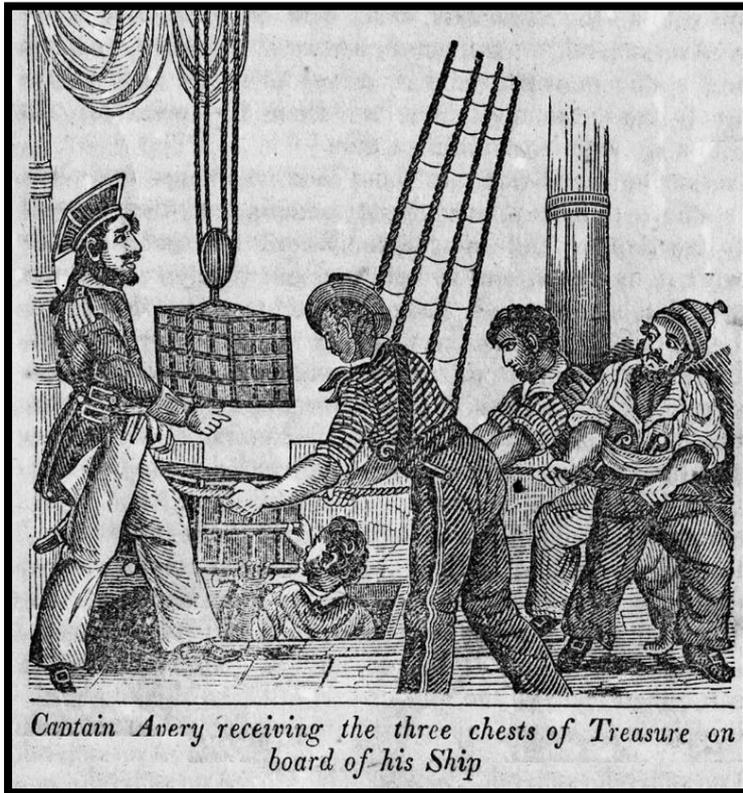


Figure 3 *Captain Avery...from The Pirates Own Book. Sanborn & Carter: Portland, 1837.*

Defoe had, again, written about pirates before.⁴¹ An early piece on Henry Avery, published in the review in 1707, to be followed by a longer version a decade later, the *King of Pirates*. Another in 1711 on piracy and African trade, a shorter book on Sir Walter Raleigh. The market in piracy stories was strong, which necessarily furnished Defoe with plenty of source-material. Dampier's *New Voyage Around the World*, Alexandre Exquemelin's *History of the Buccaneers of America*, published in English in 1684, much of which was about the famed Henry Morgan.⁴² Plenty of breathless newspaper accounts too.

To which can be added two more particular sources, both derived from personal acquaintance. The first is Captain Rogers's testament, entitled *A Cruising Voyage Around the World*. No-one could speak with greater authority on the subject of pirate-trials than Rogers; though how much might be believed is a different matter. The second is Thomas Bowery, a merchant-acquaintance who had spent nearly two decades trading in the South Indian seas. Defoe read Bowery's 'Proposal' for establishing a colony in Chile, and recommended it to Harley. It is not too much of a stretch to imagine fireside evenings spent with each, tales of derring-do washed down with tot or three of brandy.

Imagining Bob

And there is plenty of derring-do in *Captain Singleton*. Placing it very obviously in the emergent genre of adventure novels. Giving it a picaresque tone too.⁴³ Another of Defoe's

‘gentleman bandits’, operating along the thinning margin which distinguishes his enterprise from that of the respectable ‘merchant adventurer’.⁴⁴ Whilst also gesturing to an aligned genre familiar to any devotee of the early-eighteenth-century criminal ‘biography’, the redemption-novel.⁴⁵ The pilgrim-adventurer embarking on a voyage of discovery, not just to find himself, but also new lands, and new markets.⁴⁶ Doing His work, the ‘divinity’ of trade, as Defoe termed it, the destiny of the ‘chosen’ people.⁴⁷ We will see just how successfully Bob fares in these ventures shortly.

Whether Defoe had any particular pirate in mind when he fashioned Bob remains a matter of conjecture. Some have supposed Avery, who makes a fleeting appearance in the novel.⁴⁸ They certainly have their ‘incredible’ wealth in common, and luck. A second possibility is Dampier. Very much the merchant-adventurer, or so readers of his *New Voyage* were led to believe, rather than the blood-thirsty pirate. A third, more speculative, possibility is Olivier Misson. If Defoe wrote the *History*, it would suggest that he was impressed by Misson.



Figure 4 Bartholomew Roberts. From *The Pirates' Who's Who*. Charles E Lauriat Co.: Boston, 1924.

Another young man led astray by misfortune, who spends much of his time contemplating the deeper meaning of life; along with a companion, an Italian deist named Caraccioli. And the rest establishing a free-colony in Madagascar, founded on principles of ‘justice and humanity’, and populated by pirates and former slaves. It was called Libertalia; if, that is, it ever existed.⁴⁹ There is much in Misson’s career, as we shortly see, which resonates with the pirate-life of Bob Singleton.

Another possibility, for a rather different reason, is Bartholomew Roberts; the pirate whose fleet was destroyed off Cape Coast Castle in 1722. Defoe almost certainly wrote the *Four Year Voyage of Captain Roberts*, which also appeared in 1726. What seems to have fascinated Defoe most

about Roberts is less the size of his ‘squadron’, than its governance. By means, in effect, of a written constitution, a series of ‘Articles’ to which all crew-members swore a binding ‘oath’. A first article enshrining a principle of universal suffrage; a second and ninth ensuring fair distribution of prizes.⁵⁰ Various proscribed activities too, alleged infringements of which would lead to a formal trial by ‘jury’, conducted under the ‘charge’ of the quarter-master.⁵¹ An approving account can be found in the *History*. Justice in its purest form, absent the

‘bribing of Witnesses’ and the ‘packing of juries’, and the various other practices that commonly corrupt ‘more lawful Commissions’.⁵²

Much the same can be said of the account of Roberts’s ‘election’ to the ‘lordship’ of his ‘Commonwealth’. With the rider that ‘it was not of any great Signification who was digify’d with the Title; for really and in Truth, all good Governments had (like theirs) the supream Power lodged with the Community, who might doubtless depute and revoke as suited Interest or Humour’. Get too ‘sawcy’ Robert is advised, and he will be removed.⁵³ Not exactly what John Locke had in mind, when he templated the ‘Glorious’ Revolution in his *Treatise on Government*.⁵⁴ But the resonances are clear enough. William of Orange took the English throne on much the same terms.

There was nothing new about the idea of a pirate ‘commonwealth’ of course. Exquemelin describes a few in his *History*.⁵⁵ What matters for us, is that Defoe chooses to depict Bob’s sovereignty in these terms, ruling his ship pretty much as Roberts ruled his, and William ruled England. By means of a governing ‘Council’, assuming customary judicial powers, and ensuring the fair distribution of rations and booty. The ‘strict Regard to principles of distributive Justice’, just as much part of pirate-lore.⁵⁶ An entrepreneur too, in the same Lockean tradition. A blacker market, perhaps, but still a market. Into which Bob Singleton happily immerses himself. Good at making money as well as stealing it, Bob would have made a fortune in the City, as a stockbroker, or one of their lawyers.

What Bob is not, importantly, is a sociopathic pirate. Like the notoriously sadistic Edward Low, a ‘Terror’ to all who knew him.⁵⁷ Or the infamous Teach, the absolute ‘Pitch of Wickedness’.⁵⁸ Defoe could have written Bob to this pitch. It might have been easier. But it would also have been less interesting, in the longer run. And gone entirely against what Defoe knew, and felt. That it was ‘hard Fate’, rather than intrinsic evil, which made a pirate.⁵⁹ It certainly made Bob. Sold to a gypsy aged two, and then onto a ship’s master. A pirate by accident, like most, rather than intent or temperament. Like Misson again, evincing a ‘sincere Concern’ and ‘paternal Affection’ for his crew.⁶⁰ Most of the pirates who pop up in the *History* have rather more Edward Teach in them. But not all. Take John Halsey; ‘brave in his Person, courteous to all his Prisoners’, who ‘lived beloved and died regretted by his own People’.⁶¹ A lovable pirate, invested with an innate sense of fairness and justice. If any reader found themselves on a pirate ship, they would want it to be one of Halsey’s, or Misson’s. Or one of Bob’s.

Bob’s Progress

Captain Singleton divides neatly into two parts. The first establishes that Bob is saveable. The second saves him. A long novel, probably too long, there is a temptation to scamper through to this second part; the redemption story.⁶² But pilgrimages are supposed to arduous, for sinners and readers alike. Defoe needs us to follow Bob from the start. Taken to sea as a youngster, passed from one master to another, another of Defoe’s wanderers.⁶³ Bob is quickly hardened; ‘ripe for any villainy’ (63). Within a handful of pages, he is contemplating murdering his master. A ‘Hellish Resolution’ which he only barely resists (61). After which

he finds himself put ashore, along with some fellow-mutineers. A ‘good Troop’ which instantly assumes the shape of a little commonwealth, establishing a deliberative ‘Assembly’ and ‘Council’. His authority confirmed following a successful engagement with some ‘Negroes’, Bob is made ‘Captain’ (70-2, 86). And off they go. A motley band, comprising a convenient number of skilled carpenters, surgeons, gunners and a ‘Cutler whom I call the Artist’ (107). Robin Hood could hardly have chosen better.

First on a voyage to Africa. And then on a trek through it. Inspired, quite possibly, by an account drawn from the journal of a Captain Bevis and embellished by the ‘original Manuscript of a Mulatto’, of a traipse around the interior of ‘Magadoxa’.⁶⁴ Full of exotic ‘Creatures’, and barely less exotic ‘Natives’.⁶⁵ Whether it might be categorized as a Hobbesian venture into, and then out of, a ‘state of nature’ is a matter of critical conjecture.⁶⁶ Bob’s opinion of Africa is hardly constant. At one moment, ‘the most desolate, desert, and inhospitable Country in the world’, at the next little short of Edenic, wondering at the ‘abundance of pleasures’ (98, 137, 153, 161).⁶⁷

A prospective fall of course, the discovery that there might be gold. Bob fears how it will impact on their ‘good Harmony and Friendship’. Thankfully it turns out to be just ‘dust’; a ‘happy kind of Disappointment’ (143-5). What he does discover is a ‘white man’ living with a tribe of ‘Negroes’. Almost Adam. More obviously still, perhaps, Crusoe, having ‘long since despaired of being ever delivered from the Misery he was in’ (172-3). A former ‘Factor’, it turns out, for the ‘English Guiney Company’ (170). Bob allows him to join their gang. As they continue to make their way across the continent, until they arrive at Cape Coast Castle, the slave-port where many of Roberts’s crew met their end. The crew disperses, happily enough on this occasion, having discovered more gold-dust along the way. Bob buys a ‘Passage to England’, and thus ends part one (182).

He might have invested his ‘Harvest’, but needless to say Bob gets the wanderlust again. And so embarks on his ‘further’ set of adventures.⁶⁸ Which quickly assume a familiar form. A ship to ‘Groyne’, where he ‘fell into Company with some Masters of Mischief’, another mutiny, and off to the Caribbean with Captain Wilmot.⁶⁹ At this point, embracing his fortune. A ‘Pyrate even by Inclination before’, now in his ‘Element, and never undertook any Thing in my Life with more particular Satisfaction’.⁷⁰ Still, though, more the likeable rogue than the pathological sadist. Unlike Wilmot, whose ‘cruelty’ is best left in ‘Silence’ (187). A familiar feint. Bob’s story invariably skips through the nasty aspects of pirate life. He will sail with Wilmot for two years, capturing various ‘prizes’ along the way.

One of which proves to be his saviour. A Quaker surgeon, and ‘very merry fellow’, named William Walters. Surgeons, like carpenters, always being ‘Persons who were of particular Use’, William is persuaded to join the crew once he has been issued with a ‘Certificate’ of seizure, in case of his being subsequently captured and charged with piracy (188-90). William’s character, and purpose, has long fascinated critics. Companion, confessor, entrepreneur.⁷¹ Comparisons with Friday again, importing various connotations, not least the homo-erotic.⁷² Comparison with Misson’s deist chum too, another spiritual mentor despatched by Providence to save a lost soul.

Redemption, though, takes a while; hundreds of pages in fact. And so, in the meantime, William will lend an earthier ‘sagacity’ to the practicalities of running a pirate ship. For, having split from Wilmot, Bob finds himself elected sovereign of another floating commonwealth. Rather more impressive this time, comprising a handsome Spanish frigate of forty guns, along with a smaller supply-sloop. William to serve as personal ‘Confessor’ and *de facto* quarter-master. And to furnish a guiding philosophy too, of efficiency, of making ‘Money without Fighting’, as opposed to ‘Fighting without Money’ (200, 304).⁷³ More humane, and infinitely more sensible. Pirates who fight less live longer. They also make more money.

And money matters.⁷⁴ The ‘divinity’ which saves lost souls, like Bob. William, a good ‘mimic’, as well as being very ‘lucky’, quickly assumes the role of chief negotiator, excelling in fencing their variously stolen goods, spices in the main, to various Dutch and native buyers. Part of a broader strategy whereby they can ‘leave off being Pyrates, and turn Merchants’ (244, 291). A blurry margin at the best of times. Made blurrier still by the inherent complexities of merchant-crusading. Countering the terror of *jihad*, clearing the imperial seaways, ripping off foreign potentates; all part of his His Work.⁷⁵ The ‘Opportunity Providence may put into our Hands’ (267).

Other moral complexities might cause the modern reader to pause. It is one thing to con local traders, another to rape their daughters. Embarrassment makes for euphemisms. The rape of native girls becomes a temptation to be a ‘little too familiar with the Homely Ladies’ (261). Bob is disapproving, but not so much that he feels able to intervene. Similarly disconcerting is his attitude towards ‘Negroes’. William too, fiercely arguing against their torture and murder, the ‘highest injustice’ and contrary to the ‘Law of Nature’ (204-5, 211, 262). But not it seems their enslavement.⁷⁶ In reality, the relationship between pirates and slaves in the early eighteenth-century was predictably inconsistent. Some may well have been liberated, as appears to have been the case in Misson’s colony, useful recruits. Others were simply treated as chattels. Avery kept a veritable ‘Seraglio’ of female ‘Negroes’ at his Madagascan plantation, their male counterparts kept busy ‘in planting Rice, in Fishing, Hunting etc’.⁷⁷

Or traded on. Which is precisely what Bob and William do, when they alight on a ship load of mutinous slaves. Discomforting for us, perhaps. But hardly likely to have troubled Defoe, for reasons we have already conjured. A ‘simple Lockean justice’, it has been supposed.⁷⁸ That same ‘divinity’, in making money, brooks a certain moral latitude.⁷⁹ And certainly no hindrance to Bob’s redemption. On the contrary, a useful windfall which can facilitate his prospective career-change. Having ‘gotten enough’ money that he can now contemplate ‘leaving off this Trade’ (293). And begin a new life.

The possibility of which dominates the closing pages of the novel. Long conversations with his ‘Confessor’ on what it might entail. That God has ‘taken’ Bob ‘into his immediate Disposing’, and that there is ‘something to be thought of beyond this way of living’ (240, 295). But also, on Bob’s part at least, an abiding fear that he is, in fact, beyond redemption, that nothing can forestall ‘Vengeance from Heaven’ (303). It is William who purges the despair. No one is beyond saving. And when Bob comes to appreciate this, he is saved.

We can leave Bob, in the comforting assurance that he has done well, materially and spiritually. Redeemed on terms, his; when he has made enough money to retire.⁸⁰ The successful ‘merchant gentleman’ writ large.⁸¹ Safely back in England, and happily married too, to William’s sister. And turn our attention to some of those who might, with not much of a stretch of the imagination, be termed chips off the old block.

Tools of Tyranny

There are plenty of pirates today. But they do not impinge so much, along our coastlines, or on our imaginations. Sailing around the Arabian and Malay seas ‘largely unnoticed’.⁸² And there is pirate law, occupying a similarly shady place in the recesses of modern international jurisprudence.⁸³ Articles 100-107 and 110 of the 1982 UN Convention on the Law of Sea specifically address piracy, confirming it to be a ‘crime’ of ‘universal jurisdiction’, subject to customary international law. Which means that the pragmatics of prosecution will fall to an interested ‘flag state’, or to any state within whose waters the incident has occurred.⁸⁴ As was the case three hundred years ago. UN Resolution 1816 creates a special regime in Somali territorial waters, designated as international for the purposes of the Convention.⁸⁵ A nod to the peculiar situation of a ‘failed state’, in which legal process is barely functional.⁸⁶

A nod to some familiar enforcement strategies too, and some familiar problems. Turning pirate-hunters, offering pardons, deploying frigates to chase down suspicious looking fishing-boats, scattered land-based operations to serve as a collateral deterrent. Effective international responses are difficult, though, the political terrain awkward, and spotting the right fishing boats can be tricky.⁸⁷ And the right pirates. It would be easier if they looked bit more like Edward Teach, or even ‘Calico’ Jack. But they just look like Somali fishermen; because that is what most of them are. The ‘war on piracy’ has not gotten any easier.

Much like the war against another kind of criminal, who has assumed a similar place in our cultural consciousness. And whose crimes are so egregious that they likewise warrant a special legal, or extra-legal, regime. It is no coincidence that Somali piracy is commonly presented as a species of terrorism. There are prosaic reasons, the documented association between piracy and certain terrorist ‘organisations’ in and around the Horn of Africa rather obviously. Operational alignments too. But the affinities are strongest in our minds. Where Defoe waged his war on pirates, and we our ‘war on terror’.

There were no terrorists in 1720, of course, or at least none that were designated as such, either by themselves or anyone else. Historians generally locate the first references to political terror in the later part of the eighteenth-century, most commonly in the context of the French revolution. Edmund Burke advanced the idea in his *Reflections* on the same revolution, albeit locating the ‘Great Terror’ within government, rather than outside. Terrorism, in its earliest formulations, is something that governments did. It was only as the nineteenth-century unfolded that the designation shifted; so that terrorism was something done by individuals against the state.⁸⁸

We might note an incidental piece of legal history. *Hampden’s Case*, familiar to us as a critical moment in the lead up to the English Civil War.⁸⁹ A case about the reach of executive

power. And pirates. The ordinance which exacted the ‘ship money’ levy was premised on a present threat of piracy. Which according to Hampden’s lawyers was rubbish. No one contested the idea that the royal prerogative vested exceptional powers in the Crown, for use in exceptional moments. But this was not such a moment. There were always pirates about. If there was a threat to the ‘liberties’ of Englishmen and women in 1637, it was found, not in pirates, but in the King. We will catch a resonance very shortly.

Terrorism is always a matter of resonance. And perception.⁹⁰ Russian anarchists in the later nineteenth-century, pioneers of ‘propaganda by deed’. Joseph Conrad wrote the first modern spy-thriller in their honour, *The Secret Agent*. The IRA, the ANC, Afghan *mujahedeen*, the Kurdish PKK. Except, of course, that with one sweep of a legislator’s pen, or a novelist’s, all the terrorists are magically transformed into freedom-fighters.⁹¹ The seeming is everything. Which brings us to the ‘new terrorism’, as it is sometimes called, and the new terrorist.⁹²

And the terrible events of 11th September 2001. Three thousand lives lost when two hijacked planes were flown into the Twin Towers in New York, another crashing into the Pentagon, and another into a field in Pennsylvania.⁹³ The organisation which claimed responsibility, al-Qaeda, was little known. Just another of the myriad Islamic ‘fundamentalist’ groups operating with more or less impunity around the Middle East. If the attack had taken place there, it would have had a very different consequence. As the terrorists knew. The decision to mount such a spectacular attack on a select set of buildings in the US being a consummate example of ‘propaganda by deed’ terrorism.

For a moment it appeared to fulfil the worst nightmares envisaged in Samuel Huntington’s arrestingly entitled *Clash of Civilizations*.⁹⁴ In the immediate wake of ‘9/11’, the US President, George Bush, was tempted to use the rhetoric of ‘crusade’.⁹⁵ Which was, of course, precisely what his enemies hoped; the necessary counter-point to *jihad*. Wiser counsels prevailed, eventually, but there was no holding back on the idea that the ‘west’ was now engaged in a ‘war on terror’.⁹⁶ A war which would be engaged along the customary fronts; military, cultural and legal. Helicopter gunships despatched over the Afghan hills, the beard of Osama bin-Laden serving much the same purpose as the beard of Edward Teach. As for the law, there as ever to lend a passing legitimacy. And premised, of course, on the same perceived exigencies as those discovered at Cape Coast Castle. Law in the ‘moment of exception’, as the German jurist Carl Schmitt famously termed it, stretched to purpose.⁹⁷

Counter-terrorist law comes in two forms, international and domestic. The former is designed to enhance the sense of collective enterprise, rather than get anything done. Thus a General Convention on Terrorism, proscribing various enumerated kinds of ‘criminal and unjustifiable’ action. Otherwise, though, international law struggles to impose itself; with terrorism as with piracy. Not least because the determination of terrorist groups as ‘irregular’ serves to exclude them from the laws of ‘international armed conflict’ comprehended within the Geneva Conventions. Crimes against humanity possibly; but no-one is entirely sure, and the International Criminal Court has studiously distanced itself. But perhaps most importantly, because it is treated with such evident contempt. ‘I don’t care what the international lawyers say, we are going to kick some ass’, President Bush announced to the

world, in the weeks after '9/11'.⁹⁸ The 'rules of the game are changing', the British Prime Minister, Tony Blair, agreed.⁹⁹ The return to the 'state of nature', a despairing former White House counsel observed.¹⁰⁰

Perhaps the most startling example is the practice of detaining alleged terrorists without trial. As outlaws, quite literally. *Homo Sacer*, as the Roman jurists conceived it; the 'enemies of mankind', proscribed by Blackstone in his 'commentary' on pirates.¹⁰¹ Indefinite detention authorised under Section 412 of the USA Patriot Act, finding notorious expression in the military detention camp at Guantanamo Bay. Designed, as Lord Steyn put it, to be a juridical 'black hole', a place beyond the reach of the law.¹⁰² The British equivalent was Belmarsh prison in north London, where various alleged terrorists were despatched under Section 21.2 of Part 4 of the 2001 *Anti-Terrorism, Crime and Security Act*. So long as they posed a 'risk to national security'.

In time, both the US Supreme Court and the British House of Lords would assert their respective jurisdictions. In *Rumsfeld v Padilla*, Justice Stevens would counsel against wielding the 'tools of tyranny even to resist an assault by the forces of tyranny'.¹⁰³ Whilst various members of the Appellate Committee of the House of Lords would deploy similar rhetoric in the so-called *Belmarsh Detainees Case*.¹⁰⁴ Lady Hale dismissing 'unwarranted declarations of emergency' as 'the familiar tool of tyranny'.¹⁰⁵ Lord Hoffman supposing that it was not terrorism, but the imposition of extra-legal responses which represented 'the real threat to the life of the nation, in a sense of a people living in accordance with its traditional laws and political values'.¹⁰⁶

We can only surmise how Hale or Hoffman might have decided *Hampden's Case*, or what they would have thought of the Admiralty courts set up at Port Royal and Cape Coast Castle. But the parallel is close enough to venture a guess. And we might surmise the same of Daniel Defoe. There is not much about the 'war on terror' that would have surprised him. Certainly not its lexicon. The rhetoric of 'dangerous killers, schooled in the methods of murder' presently 'spreading throughout the world like ticking time bombs'.¹⁰⁷ The darker prognostications of philosophers such as Jean Baudrillard. The 'whole play of history and power is disrupted by this event', 9/11 having reawakened the 'terrorist imagination that dwells in all of us'.¹⁰⁸ John Gray, likewise, predicted a coming age of 'Hobbesian anarchy'.¹⁰⁹ A moment of 'de-Enlightenment' perhaps.¹¹⁰ Time has lent some perspective. But it has not reduced JG Ballard's perception, of terrorists as 'apostles' of a 'new kind of alienation'; representative of a culture which is more intent than ever in deterring us from comprehending 'others'.¹¹¹ An insight appreciated by Albert Camus a century earlier. We end up living in a state of permanent 'terror' only when 'dialogue is no longer possible'.¹¹²

It is here that a 'poethical' engagement appeals; the use of literary texts to nurture closer ethical reflection. To reinvest, as Martha Nussbaum puts it, 'inclusion, sympathy and voice', to think of others in different 'shoes'.¹¹³ By Judith Butler too. An ethics that does 'justice to passion and grief and rage, all of which tear us from ourselves, bind us to others, transport us, undo us, implicate us in lives that are not our own'.¹¹⁴ Here again we can only speculate how Defoe might have written up a 'History of the Terrorists', or indeed a terrorist novel. But we

might suppose that it would have been in this register. For this is how he wrote his novel about Bob Singleton, the improbable pirate.

A product of the ‘hard fate’ which shaped ‘Calico’ Jack, Captain Bob and the rest. The ‘bad lives’, which Ted Honiderich suggests, underwrites any terrorist history.¹¹⁵ An argument Nussbaum has taken further still, musing on the relation of literature and terror. By awakening ‘a larger sense of the humanity of suffering’, of ‘the real losses and needs of others’, the experience of tragedy can reinvest our ‘human literacy’.¹¹⁶ Ariel Dorfman calls it the ‘dreadful hope’, and locates it in our appreciation that terrorism is indeed an ordinary crime committed, and experienced, by ordinary people.¹¹⁷ That terrorists, like pirates, are infinitely human. That they might be violent and terrifying, whilst also being redeemable and redeemed. That for every Edward Teach, there is a Bob Singleton. It does not solely depend on how we write them, of course, or how we read them. But mainly it does.

END NOTES

¹ At least not as a pirate. Though, rather confusingly, there was a minor dramatist of that name, who produced a play entitled *The Successful Pirate*, in 1713. There is no evidence that he had anything to do with the writing of the *History*.

² The most recent edition, edited by Manuel Schonhorn, is attributed to Defoe. Who, in a ‘Postscript’ to D. Defoe, *A General History of the Pyrates*, (Dover, 1999), provides a judicious assessment of the various questions which move around the possible authorship and provenance of the text, at 710-12. Concluding, perhaps reasonably, that Defoe is no more or less credible than any other authorial candidate. Manushag Powell takes the same position in her ‘Introduction’ to *Captain Singleton*, (Broadview, 2019), at 18. A more sceptical view is to be found in P. Furbank and W. Owens, *A Political Biography of Daniel Defoe*, (Routledge, 2006), and then again in P. Furbank, ‘On the Attribution of Novels to Daniel Defoe’, *89 Philological Quarterly* 2020, 243-53. The idea that it was Defoe who wrote the *History* was first vouched by John Robert Moore in his *Defoe in the Pillory*, published in 1939. Aside from noting Defoe’s broader interest in the subject, Moore conjectured a relationship with John Applebee, editor of *Applebee’s Journal* and a renowned contemporary publisher of criminal ‘biographies’. For a more recent commentary on this possibility, see H. Gladfelder, *Criminality and Narrative in Eighteenth-Century England: Beyond the Law*, (Johns Hopkins UP, 2010), 95-101. The idea that Defoe might have preferred a pseudonym is hardly suspicious. He was habitually evasive. See here, H. Brown, ‘The Displaced Self in the Novels of Daniel Defoe’, *38 ELH* 1971, 562-90.

³ Defoe, *History*, 84-5. The ‘Ramillies Wig’ was a plaited wig with a large bow of black ribbons on top, and a smaller bow at the tip. It was named after the battle of Ramillies in 1706, and considered fashionable by many army officers. For a commentary on the enduring influence of this description of ‘Blackbeard’, see D. Cordingly, *Under the Black Flag: The Romance and the Reality of Life Among the Pirates*, (Random House, 2006), 13.

⁴ Jack’s story is told in the *History* at 149-52.

⁵ The nickname derived from Jack’s liking for wearing waistcoats and breeches made out of calico.

⁶ Like many pirate ‘captains’, Jack had risen through the ranks, becoming quarter-master to Captain Charles Vane, before usurping him. A couple of years bobbing around the Windward ‘passage’ in the Caribbean, harassing traders and satisfying his ‘depraved temper’ before running of luck and getting himself captured. Rounded up, along with various other pirate-captains, by the famed Captain Woodes Rogers; of whom more shortly. As regards anything else that might have distinguished Jack, it is thought that he was the first to fly the ‘Jolly Roger’, in its more familiar form at least, as a skull and crossbones. The etymology is thought to come from *jollie rouge*; French pirates apparently preferring a bit of colour in their flags. There seems to have been myriad variants on the theme.

⁷ Anne Bonny, one of a very select number of known female pirates. Another is Mary Read. Both of whose stories are told at length in the *History*. Anne hailed from a prosperous Irish family, but fell in love with

a 'young fellow, who belong'd to the Sea and was not worth a groat', and ran off with him. Mary did similarly, in so far as she ran off, to Flanders, where she managed to enlist, and then marry a fellow trooper; something which, unsurprisingly perhaps, caused a 'great noise' in the regiment. Eventually Anne and Mary ended up as lovers, and together in Jack's crew, where Anne became pregnant with his child. Not that they appear to have been especially fond of one another. When Jack was eventually captured, Anne was said to have remarked that if he 'had fought like a man' he need not have been 'hanged like a dog'. Indolence appears to have been a defining trait in Jack's character, along with cowardice. The pregnancy was useful though. Both Anne and Mary were able to claim their 'bellies' and thus avoid the noose. Mary died in prison, of fever. Anne disappears from history. In sum, a 'story' so 'full of surprising Turns and Adventures', so much like a 'Novel or Romance', that the author of the *History* feels obliged to revisit it in a dedicated 'Appendix' to the second volume, at 620-7. Having already treated it extensively at 153-65.

⁸ A novel of seemingly 'smaller coherences', according T.Blackburn, 'The Coherence of Defoe's *Captain Singleton*', 41 *Huntington Library Quarterly* 1978, at 119. See also I.Newman, 'Property, History and Identity in Defoe's *Captain Singleton*', 51 *Studies in English Literature* 2011, 567, reaching the same conclusion, 'frequently ignored'.

⁹ For an original statements, see R.Weisberg, *Poethics and Other Strategies of Law and Literature*, (Columbia UP, 1992), for a more recent, I.Ward, 'Law, Literature and History', *Law and Literature* 2021, online at <http://doi.org/10.1080/1535685X.2021.1872953>

¹⁰ See Gladfelder, *Criminality*, 71-91, discussing the flourishing industry in 'criminal biographies'.

¹¹ H.Fielding, *The Journal of a Voyage to Lisbon*, (Penguin, 1996), xii.

¹² D.Hay 'Property, Authority and the Common Law', in D.Hay et al. (eds) *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*, (Verso, 2011), 20

¹³ To include being found in 'disguise' in a royal park or forest. The Act was passed in particular response to a wave of violent thefts of deer and game around Waltham forest. In the end thirty-nine poachers would be prosecuted under the terms of the Act. Each being either hanged or transported, or dying in prison in the meantime.

¹⁴ W.Blackstone, *Commentaries on the Laws of England*, (Oxford UP, 2016), 4.161.

¹⁵ Blackstone, *Commentaries*, 4.160-1.

¹⁶ E.Thompson, *Whigs and Hunters*, (Penguin, 1990).

¹⁷ Interestingly Jack was captured by Jonathan Wild, the famed 'thief-taker', himself a former burglar. Fielding wrote up his story, *The Life of Jonathan Wild the Great*. Decidedly revisionist in tone. A 'horrid' man who lives a 'degenerate' life. Fielding recounts that Wild was so drunk and drugged that he could barely be roused on his journey to Tyburn, or indeed stand up, when he arrived. See H.Fielding, *Jonathan Wild*, (Penguin, 1986), 256-7

¹⁸ The romantic Turpin was largely the invention of the nineteenth-century novelist William Harrison Ainsworth, author of *Rookwood: a Romance*, published in 1834. Within which could be found the story of Dick's thrilling ride north to York on his horse Black Bess. Which could never have happened. By interesting coincidence, Ainsworth got the idea for the ride to York from Defoe's story of the legendary 'Swift Nicks' which he recounted his *Tour Around the Whole Island of Great Britain*. Perhaps the most romantic of all the reinvested highway-men was Claude Duvall, whose story was recounted by Lord Macaulay, in his *History of England*. More particularly the account of his stopping a 'lady's coach, in which there was a booty of four hundred pounds; how he took only one hundred, and suffered the fair owner to ransom the rest by dancing a coranto with him on the heath'. See J.Sharpe, *Dick Turpin: The Myth of the English Highwayman*, (Profile, 2005), 38.

¹⁹ It has been supposed that the really romantic pirate was born in Byron's *Corsair*, published in 1814. See Cordingly *Flag*, xx-xxi.

²⁰ William Kidd, who may have tried to bury some along the eastern seaboard of the United States. Though probably not.

²¹ Good at least for 'purging' the bowels. See Cordingly, *Flag*, 95.

²² For piracy as an exercise in 'rational choice', see P.Lehr, *Pirates: A New History, from Vikings to Somali Raiders*, (Yale UP, 2019), 61, 148.

²³ It has been estimated that there were around 2000 to 2500 active in the Caribbean at any one time in the first quarter of the eighteenth-century.

²⁴ In Cordingly, *Flag*, 202.

²⁵ Defoe, *History*, 26.

²⁶ The rhetoric of Brexit, in case anyone doubts that history tends to repeat. See Defoe, *History*, 3-4, 35.

²⁷ Most commonly former pirates; poachers turned game-keepers. Their commissions coming alongside royal pardons for former transgressions.

²⁸ Or at least led to further career mutations; smuggling, wrecking. See here C. Winslow, 'Sussex Smugglers', and J. Rule, 'Wrecking the Coastal Plunder', both in Hay, *Albion's Fatal Tree*, at 119-166 and 167-88 respectively.

²⁹ 28 Hen 8 c 15. Admiralty Courts would usually comprise an Admiral plus three or four senior judges, appointed by the Lord Chancellor.

³⁰ 11 Will 3 c 7.

³¹ Borrowing from *Proverbs*. See Defoe, *History*, 63.

³² Lehr, *Pirates*, 128.

³³ Quoted in Defoe, *History*, xxi.

³⁴ See Defoe, *History*, 4, and 63-4. Worked for Rogers, though, who famously returned to Bristol in 1711, his ship laden with £6000 worth of booty, and the person of Alexander Selkirk. The sum is roughly equivalent to £850,000 today. Selkirk, of course, was the inspiration for Robinson Crusoe. After a legal squabble involving the East India Company, Rogers eventually received £1600 of the 'Prize'. Which he promptly lost. Fortunately, well-connected, having married the daughter of Rear-Admiral Sir William Whetstone, he was duly appointed Governor of the Bahamas in 1718 with the express responsibility of leading the 'war' on piracy, in which capacity he captured Jack Rackham amongst others. A better pirate-hunter than businessman, on returning to England again in 1721, he was declared bankrupt.

³⁵ 8 Geo 1 c 24.

³⁶ Blackstone, *Commentaries*, 4.47.

³⁷ Following a famous two-day battle conducted in a violent storm off the coast of West Africa, during which Roberts died. At its height, Roberts commanded a 'squadron' of four vessels, the flagship being a captured forty-two-gun French man-o-war, the *Royal Fortune*. Two further thirty-gun brigantines, and a sloop which was used as a store-ship. Employing around five hundred men. Most other pirate-captains, as we have already noted, were of the one, or at most two, sloop variety. In piracy as so much else in life, size matters. Roberts was also one of the most successful pirates, reputedly capturing four hundred ships during his three-year reign of terror.

³⁸ Indeed, the court is expeditious precisely because it is unhindered by 'Lawyers and Law-Books'. See Defoe, *History*, 248. Cape Coast Castle is located in modern-day Ghana.

³⁹ Defoe, *History*, 642-60.

⁴⁰ With one exception, a boatswain named Hipps, whose case is remitted for further consideration. Another, named Rounsivil, is brought 'off the Stage' moments before execution, by order of the Governor. Earlier in proceedings, it was noted that he had 'shew'd some Token of Sorrow'. Presumably similar was true of Hipps, who may also have turned evidence.

⁴¹ And would do so again, maybe. Aside from the still-contested *History of Pyrates*, there would be *An Account of the Conduct and Proceedings of the Late John Gow*, published in 1725, and *The Four Year Voyage of Captain Roberts*, the year after. The authorship of both is similarly contestable; though less urgently controverted.

⁴² Exquemelin had sailed with Morgan, serving as a barber-surgeon. Though hailing originally from France, he later settled in Amsterdam. Morgan, who operated along the ever-hazy margins of privateer and pirate, would be appointed acting Lieutenant-General of Jamaica in 1674. Having attained a measure of respectability, Morgan took considerable umbrage at Exquemelin's description of him in his *History*, as a paranoid thug who got lucky. Ending up suing him for libel, and winning.

⁴³ For a commentary on the picaresque, and its reliance on more exciting 'criminal biographies', encompassing brigands, highwaymen, house-breakers and the like, as well as pirates, see Gladfelder, *Criminality*, 33-8.

⁴⁴ See here Lee, 'Gentility', 299-300, 316.

⁴⁵ See Gladfelder, *Criminality*, 79-85, and Lee, 'Gentility', 303-5.

⁴⁶ For a commentary on Defoe's writing within the broader tradition of the redemption-novel, see T. Paulin, *Crusoe's Secret: The Aesthetics of Dissent*, (Faber and Faber, 2005), 80-104.

⁴⁷ In an essay published in the *Review* in February 1713. In Grasso, 'Pirates', 23-.4.

⁴⁸ Powell, 'Introduction', 19, and also J. Grasso, 'The Providence of Pirates: Defoe and the "True-Bred Merchant"', 2 *Digital Defoe: Studies in Defoe and his Contemporaries* 2010, 25-6.

⁴⁹ The life of Captain Misson is continued in the life Captain Tew, which follows on. Tew joined Misson and Caraccioli in their enterprise. The closer account of 'Libertalia', much of which is focused on its developing market, is found here. Defoe, *History*, 403-4, 427-35.

⁵⁰ Various others of a more whimsical nature, including ‘candles to be put out at eight a-clock’ and a day-off for the musicians, on the Sabbath.

⁵¹ The quarter-master commonly served as a kind of civil magistrate on board ship; thus distancing the captain from day-to-day disciplinary matters. Many captains progressed from being quarter-masters, usually by leading mutinies. Rackham removed his predecessor, Captain Vane, in this manner.

⁵² Defoe, *History*, 210-13, 221-5. This set of Articles has, unsurprisingly, assumed a considerable place in pirate ‘history’. Largely as a consequence of their appearance in the *History*. Other ‘histories’, such as those of Captains Lowther and Phillips, include similar accounts of pirate ‘Articles’. But the discussion of Roberts’s ‘commonwealth’ is much the most extensive.

⁵³ Defoe, *History*, 194-5. Not that he is, and there are plenty of instances in the ensuing account of Roberts’s verging on the ‘sawcy’.

⁵⁴ The extent of Locke’s influence on *Captain Singleton* remains a matter of critical debate. See Newman, ‘Property’, 571-3, and also Blackburn, ‘Coherence’, 120-1, and 135, going so far as to suggest that it renders the novel a ‘work of political philosophy’, albeit in artistic form.

⁵⁵ Including a renowned commentary on how ships would set up what amounted to early-day medical insurance, requiring pirates to pay into a pot which could be used to help treated injured colleagues.

⁵⁶ As Defoe notes on various occasions in the *History*. See, for example, its adherence amongst Captain North’s crew, at 526.

⁵⁷ Defoe, *History*, 329.

⁵⁸ Defoe, *History*, 85.

⁵⁹ Defoe, *History*, 4.

⁶⁰ Defoe, *History*, 405.

⁶¹ Who duly buried him in a ‘Garden of Water Melons’ at his Madagascan plantation, ‘fenced in with Pallisades to prevent his being rooted up by wild Hogs, of which there are Plenty in those Parts’. Defoe, *History*, 470-1.

⁶² On accusations of ‘shoddy craftsmanship’, a consequence of Defoe writing in too much of a rush, see Grasso, ‘Pirates’, 22.

⁶³ See here Newman, ‘Property’, 578.

⁶⁴ Later described at length in the *History*.

⁶⁵ Defoe, *History*, 540, 559-62. Selective, though, in *Captain Singleton* certainly. Strangely absent of monkeys, birds and flora. A necessary consequence of the sources upon which Defoe drew for his depiction of Africa. See G.Scrimgeour, ‘The Problem of Realism in *Captain Singleton*’, 27 *Huntington Library Quarterly* 1963, 21-5.

⁶⁶ See Powell, ‘Introduction’, 33, and Blackburn, ‘Coherence’, 120.

⁶⁷ For a comment on the inconsistencies, see Lee, ‘Gentility’, 306.

⁶⁸ A tendency in Defoe protagonists. Robinson Crusoe, rather obviously. And the anonymous Cavalier in the *Memoirs of a Cavalier* who returns to England after fighting in the Thirty Years War, only to take up another commission to fight for King Charles in the English civil war.

⁶⁹ ‘Groyn’ is Corunna. The ship is supposed to be bound for Cadiz, but encounters a storm and diverts.

⁷⁰ Here again a striking resonance with Defoe’s Cavalier, who expresses pretty much the same reflective sentiment, later wondering why he kept going to war.

⁷¹ Of the ‘mock-Quaker’ variety, according to Lee, ‘Gentility’, 310.

⁷² See Powell, ‘Introduction’, 34, and also J.Greene, ‘*Captain Singleton*: an Epic of *Mitsein*?’ 52 *Eighteenth Century* 2011, 413-15, noting, reasonably enough, that the novel ends in a distinctly heterosexual key.

⁷³ Newman, ‘Property’, 575.

⁷⁴ For a commentary on the place of money and commerce as a defining theme, not just in *Captain Singleton*, but across the Defoe canon, see Srimgeour, ‘Realism’, 32-7, and also Lee, ‘Gentility’, 299-301 and 310-16.

⁷⁵ For the crusading inference, see Lehr, *Pirates*, 76-8, emphasising the affinity with the cause of imperial expansion.

⁷⁶ In rather ‘flagrant disregard’ of more familiar Quaker attitudes towards slavery. See Lee, ‘Gentility’, 316.

⁷⁷ Defoe, *History*, 59.

⁷⁸ Blackburn, ‘Coherence’, 130.

⁷⁹ See here H.Anderson, ‘The Paradox of Trade and Morality in Defoe’, 39 *Modern Philology* 1941, 41, and also Lee, ‘Gentility’, 301-3, referring to the ambivalences of ‘moral imperialism’.

- 80 Making, some have supposed, for a 'troubling repentance'. See Newman, 'Property', 579
- 81 Lee, 'Gentility', 299.
- 82 Lehr, *Pirates*, 2-3.
- 83 For an interesting commentary on the international law of piracy today, see Y.Dutton, 'Pirates and Impunity: Is the Threat of Asylum Claims a Reason to Allow Pirates to Escape Justice?' 34 *Fordham International Law Journal* 2011, 236-95. Introducing a further dimension which militates against the role of law in prosecuting pirates; the risk that those prosecuted, Somali particularly, might end up applying for political asylum.
- 84 Being the state under which the flag of an affected ship, or indeed a pirate ship, might be registered.
- 85 Most of the higher-profile incidents in recent years have been attributed to Somali 'pirates', including the notorious *Maersk Alabama* hijack in 2009. To date ten nation-states have prosecuted, and convicted, pirates under the terms of the Resolution.
- 86 Re-establishing the rule of law in a 'failed state', such as Somali, is the necessary 'first step' to winning the 'war on piracy', according to Peter Lehr. See his *Pirates*, 213.
- 87 Examples of international exercises include NATO's Operation Ocean Shield, and the EU's Operation Atlanta. See Lehr, *Pirates*, 200-1.
- 88 See here T.Eagleton, *Holy Terror*, (Oxford UP, 2005), 1, J.Gray, *Black Mass: Apocalyptic Religion and the Death of Utopia*, (Penguin, 2008), 27, 36, and M.Burleigh, *Blood and Rage: A Cultural History of Terrorism*, (HarperCollins, 2008), 71, each charting the 'modern' history of terrorism as a reversion of the Jacobin 'terror'.
- 89 *R v Hampden* (1637) 3 State Tr 826.
- 90 L.Stampnitzky, *Disciplining Terror: How Experts Invented 'Terrorism'*, (Cambridge UP, 2013), 3-5.
- 91 And 'end up', as Hugh Gaitskell famously put it, taking 'tea at the Dorchester'. In I.Ward, *Law, Text, Terror*, (Cambridge UP, 2009), 190.
- 92 See Burleigh, *Blood*, 479-80, and also Stampnitzky, *Terror*, 140, 159, starting its particular history in the later 1990s.
- 93 The intended target of the latter plane was the Capital Building in Washington DC. The hijackers were thwarted by the passengers.
- 94 S.Huntingdon, *The Clash of Civilizations and the Remaking of World Order*, (Simon and Schuster, 1997).
- 95 See R.Blackburn, 'The Imperial Presidency, the War on Terrorism, and the Revolutions of Modernity', 9 *Constellations* 2002, 7.
- 96 A perception enhanced by a series of subsequent attacks in Europe; Madrid in 2004, London in 2005, Paris in 2015, Manchester in 2017.
- 97 C.Schmitt, *Political Theology*, (MIT Press, 1985). For a modern re-statement, see G.Agamben, *State of Exception*, (Chicago UP, 2005).
- 98 P.Sands, *Lawless World*, (Penguin, 2016), 174. A view reinforced in still earthier tones by US Under-Secretary of State Frith. No more 'siding with the arseholes'. In P.Sands, *Torture Team: Deception, Cruelty and the Compromise of Law*, (Penguin, 2008), 126.
- 99 C.Walker, 'The Treatment of Foreign Terror Suspects', 70 *Modern Law Review* 2007, 427.
- 100 H.Koh, 'The Spirit of the Laws', 43 *Harvard International Law Journal* 2002, 23.
- 101 For a provocative recent take on the proscription, see G.Agamben, *Homo Sacer: Sovereign Power and Bare Life*, (Stanford UP, 1998).
- 102 J.Steyn, 'Guantanamo Bay: The Legal Black Hole', 53 *International and Comparative Law Quarterly* 2004, 1-15. The metaphor is revisited in D.Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency*, (Cambridge UP, 2006), 1-3, 202-10. In due course the Supreme Court would assert some jurisdictional authority.
- 103 124 S.Ct.2711 (2004), at 2735.
- 104 *A and others v Secretary of State for the Home Department* [2004] UKHL 56. The narrower legal point moved around Article 14 of the European Convention and the differing treatment of UK and non-UK nationals.
- 105 Para. 226.
- 106 Para. 97.
- 107 According to President George Bush in the days following 9/11. In R.Jackson, *Writing the War on Terrorism: Language, Politics and Counter-Terrorism*, (Manchester UP, 2005), 110.
- 108 J.Baudrillard, *The Spirit of Terrorism*, (Verso, 2003), 4-5, 73-4.
- 109 J.Gray, *Al-Qaeda and What it Means to be Modern*, (Faber and Faber, 2003), 1-2, 73-5, 84.
- 110 M.Amis, *The Second Plane*, (Vintage, 2009), 13.
- 111 J.Ballard, *Millennium People*, (HarperCollins, 2004), 136.

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- ¹¹² A.Camus, *Between Hell and Reason*, (Wesleyan UP, 1991), 117-18.
- ¹¹³ M.Nussbaum, *Poetic Justice: The Literary Imagination and Public Life*, (Beacon Press, 1995), 73-8, 90-1, 115-20.
- ¹¹⁴ J.Butler, *Prekarious Life*, 25.
- ¹¹⁵ T.Honderich, *Terrorism for Humanity: Inquiries in Political Philosophy*, (Pluto, 2003), 109-11, 147, and *After the Terror*, (Edinburgh UP, 2002), 72-3, 125, 136-7.
- ¹¹⁶ M.Nussbaum, 'Compassion and Terror', in J.Sterba (ed) *Terrorism and International Justice*, (Oxford UP, 2003), 249-51.
- ¹¹⁷ A.Dorfman, *Other Septembers, Many Americas: Selected Provocations 1980-2004*, (Pluto, 2004), 8.