

Australia's First Criminal Prosecutions in 1629



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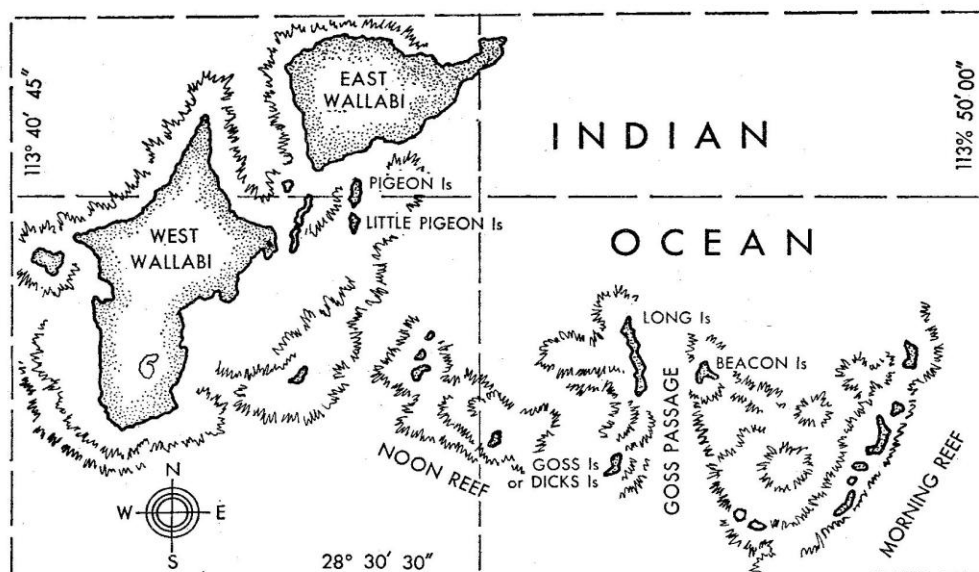
Rupert Gerritsen

Introduction

The first criminal proceedings in Australian history are usually identified as being the prosecution of Samuel Barsley, or Barsby, Thomas Hill and William Cole in the newly-established colony of New South Wales on 11 February 1788. Barsley was accused of abusing Benjamin Cook, Drum-Major in the marines, and striking John West, a drummer in the marines. It was alleged Hill had stolen bread valued at twopence, while Cole was charged with stealing two deal planks valued at ten pence. The men appeared before the Court of Criminal Judicature, the bench being made up of Judge-Advocate Collins and a number of naval and military officers - Captains Hunter, Meredith and Shea, and Lieutenants Ball, Bradley and Creswell.^{1,2} However, the first criminal prosecutions to take place on what is now Australian soil actually occurred in more dramatic circumstances in 1629. These proceedings were conducted in accordance with contemporary Dutch law and legal practices and incorporated a number of unusual features, such as the use of judicial torture. An outcome of these prosecutions was the first formal executions in Australian history. But a lesser sentence for two perpetrators, banishment, also had great significance in terms of the fundamentals of Australian history.

The Batavia Mutiny

At about 5 a.m. on 4 June 1629 the Dutch ship the *Batavia*, belonging to the Dutch East India Company (Vereenigde Oost-Indische Compagnie - VOC), on its way to Java with 316 people on board, struck Morning Reef in the Wallabi Group of the Abrolhos Islands, about sixty kilometres off the central west coast of Western Australia.



Map: Wallabi Group of Abrolhos Islands, Western Australia

At least 250 people survived the initial disaster, most finding their way by various means to the nearest island, Beacon Island.³ But they were still in great peril as they had almost no food or water. The most senior officer, Commandeur Francisco Pelsaert,⁴ immediately began to search for water on nearby islands in the ship's yawl, without success. He then decided to make for the mainland in the yawl, accompanied by fifty of the crew. On 9 June, as they approached the coast to land, they were struck by a severe winter storm, and were nearly swamped. They hovered off the coast for almost two days, battling to stay afloat in the stormy seas, before heading north in the hope of finding calmer conditions, but were unable to land for a further 550 kilometres. When they did, they found little water and so the decision was made to make for Java, over two thousand kilometres away, to get help. They reached the Sunda Strait on 7 July and were picked up by a passing ship, the *Sardam*. The alarm was raised in the Dutch port of Batavia (modern day Jakarta) and the *Sardam* was quickly readied to return, with Pelsaert in command, to effect a rescue. The *Sardam* departed on 15 July and by the last week in August had returned to the Abrolhos Islands but, because of inaccuracies in determining latitudes, they then spent the next three weeks trying to locate the wreck and those who had been left behind. Finally, on 17 September, they re-located the passengers and crew, only to be confronted by the horror of the infamous Batavia Mutiny. In their absence mutineers had callously murdered about 125 men, women and children, in many cases with horrific savagery and cruelty.⁵



Figure 1: Imagined Scene From Batavia Mutiny
(*Ongeluckige Voyagie*, 1647)

The Mutiny had been fomenting even before the *Batavia* was wrecked, the ringleaders being the Skipper Ariaen Jacobszoon and the Undermerchant Jeronimus Corneliszoon.⁶ It was Jacobszoon's negligence that had allowed the *Batavia* to be wrecked,⁷ but as he had accompanied Pelsaert in the yawl back to Java, Corneliszoon became the highest ranking official remaining at the wreck site. Corneliszoon in fact was one of the last to leave the wreck, after about ten days, drifting ashore on the bowsprit.⁸ Once ashore, Corneliszoon assumed command of an elected council of the survivors.⁹ But almost immediately he began to lay the groundwork for the Mutiny.

One of Corneliszoon's first actions, on 19 June, was to send a complement of unarmed soldiers and others who volunteered to accompany them, to West Wallabi Island, or the High Island as they called it, to search for water. He seems to have suspected some of the soldiers might oppose his plans, so he arranged for them to be left there in the expectation they would die of thirst.¹⁰ He then gathered around him his co-conspirators. By about 3 July they were secretly murdering people.¹¹ On 5 July Corneliszoon, on a pretext, dismissed the council and appointed his own, made up of his accomplices. Shortly after, on 9 July, the soldiers and others on the High Island lit fire beacons to signal that they had found water in a couple of natural wells.¹² They were puzzled by the fact no-one responded.¹³ The same day twelve people who had been sent to Traitors Island were massacred.¹⁴ On 14 July for the first time someone was murdered in broad daylight by the mutineers. The following day, eighteen of the people who had been sent to Long Island were massacred, but others managed to escape on a home-made raft and make their way to the High Island.¹⁵ Here they and other stragglers alerted the soldiers and their companions there as to what horrors were unfolding.

Having disposed of most of the unwanted crew and passengers through massacres and capricious murders, the mutineers now numbered around forty five individuals, made up of some VOC officials, ten soldiers, six cadets, two gunners, various crew members and a number of hostages, such as the Predikant (minister) Gijsbert Bastiaenszoon, his sole surviving daughter, and a few women kept as concubines.¹⁶ The people on the High Island, West Wallabi Island, who became known as the "Defenders", numbered forty seven, about half of whom were soldiers and cadets.¹⁷ The mutineers' plan now was to seize any rescue vessel and become pirates. However, they were concerned that the people on the High Island would warn any would-be rescuers, and so decided that they too had to be exterminated.¹⁸ Consequently the mutineers launched a campaign to eliminate them, in effect the first military conflict on Australian soil.¹⁹

On the surface the odds appeared to be in favour of the mutineers. The Defenders were unarmed, having been relieved of "all weapons" before being sent to the High Island.²⁰ For their part, the mutineers had swords, muskets and pikes.²¹ But the Defenders had three things in their favour - plenty of water, a reliable food supply in the form of birds, eggs, fish and the tammar wallabies found on West Wallabi Island,²² and an able leader in soldier Wiebbe Hayes. To defend themselves they made their own weapons, pikes fabricated from wreckage that had washed ashore. They also created a small defensive structure, known as "The Fort", still extant,²³ at Slaughter Point, overlooking the reefs the mutineers had to cross to reach them.

The mutineers tried various stratagems including bribery, ambush and direct assault, in their endeavours to eliminate the Defenders. Initially Corneliszoon, who came to style himself as “Captain General”,²⁴ tried to drive a wedge between the six French soldiers who were part of the Defenders complement, and the other Defenders.²⁵ On 23 July he sent Cadet Daniel Cornelissen to the High Island with a letter written in French for them, but the Defenders were alert to Corneliszoon’s treachery and simply took the cadet prisoner and seized the letter.²⁶ Having failed to overcome the Defenders through this subterfuge, four days later Corneliszoon ordered an attack.

Little is known of this encounter, other than the mutineers sent twenty two combatants to attack the Defenders but were repulsed.²⁷ The mutineers attacked again on 5 August with 37 men in three yawls, and again were repulsed. The Defenders, as Corneliszoon later recounted, “guarded the beach and stood up to their knees in water.”²⁸ It seems that in confronting their attackers by standing in the shallows the Defenders had a sure footing, whereas the mutineers were unsteady in their yawls. Next the mutineers tried to ambush the Defenders. On 1 September, on a pretext of negotiating with them, the mutineers drew some of the Defenders out into the open. Two of the mutineers in a yawl nearby then tried to shoot them with their muskets, but the muskets misfired.²⁹

The following day the mutineers changed tactics, attempting to resort to bribery. Corneliszoon arrived on West Wallabi with five of his most trusted henchmen, while a number of the other mutineers waited on a nearby islet, Tattler Island. As they pretended to negotiate they surreptitiously offered wine, fine woollen cloth, jewels and six thousand guilders each to some of the soldiers.³⁰ But the Defenders were not deceived, and sprang their own trap. They seized all six mutineers and began to tie them up. But soldier Wouter Loos managed to break free and make his escape while the rest of the mutineers prepared to attack. The Defenders, to “avoid being hampered by the prisoners,”³¹ killed all the remaining prisoners, except Corneliszoon, on the spot. With their leader Corneliszoon captured and four of their number killed, the mutineers then retired in confusion.

The mutineers now regrouped and elected the twenty four-year-old Wouter Loos as their “Captain”.³² Being a soldier, Loos was far more adept in his tactics. On the morning of 17 September the mutineers attacked again, this time using their muskets to telling effect and four Defenders were wounded, one fatally. But as the two hour battle reached its climax, the *Sardam* miraculously appeared.³³ Wiebbe Hayes immediately launched a small boat they had captured from the mutineers and raced to inform Pelsaert of the terrible events that had unfolded in his absence.³⁴ These “scoundrels” had murdered about 125 people.³⁵ Pelsaert’s first order was for Wiebbe Hayes to “go back again in the little yawl and bring Jeronimus Corneliszoon, bound, to the ship.”³⁶ But before he could do so another yawl carrying eleven armed mutineers approached the *Sardam*. Forewarned, Pelsaert “mustered his People, the guns being loaded with Musket balls,”³⁷ and demanded, “Wherefore you come aboard armed?”³⁸ He then “ordered them to throw their guns in the sea before they came over which at last they did.”³⁹ They were then taken prisoner and Pelsaert “forthwith began to examine them, especially a certain Jan Hendricxssoon from Bremen, soldier, who

immediately confessed that he had murdered and helped to murder seventeen to twenty people, under the order of Jeronimus.”⁴⁰ The following day the remainder of the mutineers on Beacon Island were rounded up and their hostages released, and the Mutiny was over.⁴¹

The Judicial Context

From the moment Wiebbe Hayes informed him of what had transpired in his absence Pelsaert was faced with the problem of what to do with the mutineers. Crimes of such monstrous proportions had to be dealt with. But how should he proceed? What authority and powers did he have? What laws were applicable? What procedures should he follow? To properly understand Pelsaert’s actions and the resultant outcomes, an understanding of the contemporary Dutch judicial system is necessary. In this case it was a legal system based on traditions quite different from the English one of the same period, and obviously the modern Australian legal system. It was also still evolving from its roots and the powerful influences that transformed European law in the medieval, Renaissance and early modern eras.

Prior to the twelfth century customary and feudal law had applied in the area we now know as the Netherlands. Then, beginning in about 1100, Roman law was revived and began to exert a growing influence in jurisprudence and legal administration throughout Europe. This was partly the result of the rediscovery of Roman texts and codes, and partly an attempt to overcome the “hopeless confusion”⁴² in laws and legal procedures that existed at that time. But it was also partly a manifestation of a concomitant trend toward centralisation of sovereign authority, in which those authorities were endeavouring to assert their primacy and establish a more rational administration of the law.⁴³ Reflecting this trend was the increasing usage of *ex officio* prosecutions which, for serious crimes at least, were in the ascendancy by the fifteenth century and completely dominant by the seventeenth century.⁴⁴

Allied to the “infiltration”⁴⁵ of Roman law was the widespread adoption of canon law and the inquisitorial procedure that entailed, most infamously employed by the Spanish Inquisition. In 1215 the Fourth Lateran Council abolished ordeals as a test of evidence in determining the guilt or innocence of an accused.⁴⁶ But this created a problem, how could the accused person’s culpability be otherwise determined. Part of the solution adopted in Continental Europe was embodied in a decretal issued by Pope Innocent IV in 1252 which confirmed the use of torture in canon procedure as a means of obtaining confessions, thought to be the most specific proof of guilt. The use of judicial torture was further entrenched by Pope Alexander IV’s decretal of 1256 (*Ut negotium*), which allowed clerics to torture suspects in ecclesiastical proceedings.⁴⁷ Thus Roman-canon law, as an overlay on customary and feudal law, became, over time, part of the dominant legal paradigm in Continental Europe, the *ius commune*.⁴⁸

In the Netherlands two legal codes had considerable influence in the adoption of canon law procedures and a direct bearing on the trials on the Abrolhos Islands in 1629. The first of these was the German *Constitutio Criminalis Carolina* (Keyser Karls der fünfften und der heyligen Römischen Reichs peinlich Gerichtsordnung)

passed in its final form by the German Diets of Augsburg and Regensburg in 1532 and 1534. Because the Netherlands at the time was nominally part of the Holy Roman Empire it was treated as authoritative legislation, though never formally adopted.⁴⁹ The other code was the *De Criminele Ordonnantien van 1570* (The Criminal Ordinances of 1570), proclaimed by Phillip II of Spain as Lord of the Netherlands, the Netherlands then being under Spanish control.⁵⁰ Although formally adopted in the provinces of Gelderland and Holland, the wider, effective, adoption of the Criminal Ordinances was confounded by entrenched adherence to old privileges and customs, resistance to Spanish rule, and by political developments which ultimately led to the establishment of the Dutch Republic.⁵¹

Following a period of upheaval in the Spanish Netherlands,⁵² the *Criminele Ordonnantien* were suspended under the provisions (Article Five) of the Pacification of Ghent in 1576.⁵³ Then in 1579 seven Dutch provinces, the United Provinces,⁵⁴ broke away from Spanish rule and formed the Union of Utrecht with Prince Willem I (Willem the Silent) as *stadtholder* (Head of State). The States-General of these provinces then passed the *Plakkaat van Verlatinghe* (Act of Abjuration) in June 1581, declaring complete independence from Spain, and ushering in the period of the Dutch Republic (1581-1795). The Netherlands subsequently achieved *de facto* independence as a result of the Treaty of Antwerp in 1609, and *de jure* independence through the Treaty of Munster in 1648, part of the Peace of Westphalia.⁵⁵

When the Dutch Republic, effectively a federation, was formed, the powers of the central *Staten Generaal* (States-General) were primarily limited to territorial defence, general import and export duties, and issuance of charters for trading companies. Legislative powers regarding serious criminal matters were vested in the *Gewestelijke Staten* (provincial States).⁵⁶ But the legislation enacted by these bodies was largely incidental and usually only treated as advisory by judges.⁵⁷ Moreover, no formal legislation was passed in the seventeenth and eighteenth centuries outlawing murder, homicide or rape,⁵⁸ and so criminal proceedings were largely based on customary common law.⁵⁹ Accordingly, the *Constitutio Criminalis Carolina* and *De Criminele Ordonnantien van 1570*, while not necessarily having legal force, were nevertheless part of this legacy and often treated as authoritative in such matters.⁶⁰ However, because of the disjuncture with Spanish rule, and the continuance of customary law, considerable uncertainty reigned in the application of the criminal law. Thus, in the age of Grotius, there was an “ever-increasing arbitrariness in the criminal law,” often resulting in “striking inequalities” in its application.⁶¹ As a consequence, even in the late 1700s in one murder case it was “officially mooted” whether justice should be administered in accordance with Roman law, Mosaic law, the *Constitutio Criminalis Carolina*, or an old charter from 1342.⁶² This uncertainty was not completely overcome until Dutch law was fully codified in 1838.

A further layer of complexity in regard to the trials on the Abrolhos Islands arose because of their extra-territorial nature and the fact that they were conducted by officers of the VOC. The VOC, one of the earliest joint-stock companies and the world’s first multinational company, was formed in 1602 following the granting of a charter (*Octrooi*) by the States-General on 20 March that year. The charter granted a trading monopoly to the VOC east of the Cape of Good Hope and areas reachable

through the Straits of Magellan,⁶³ although the VOC's main area of actual operations only encompassed the Indian Ocean, the East Indies and the western Pacific, later extending into East Asia. The company was, in many ways, a state within a state, having its own military forces, the right to make war and peace, and to negotiate treaties for example. Under its charter it was empowered to appoint public prosecutors in the name of the States-General for the conduct of judicial business beyond the Cape of Good Hope.⁶⁴ A further ordinance, issued on 22 August 1617, included provisions (Clauses Seven and Eight) that gave the Governor-General of the Indies authority to not only carry out all civil and criminal sentences, but also to delegate these functions to subordinate councils and officers where necessary.⁶⁵ But there was an issue regarding exactly what laws and procedures were to be followed. This was clarified to some extent in 1621 when the VOC directors (*Heeren XVII*) instructed their establishments in the East Indies to apply the law of the province of Holland, as enacted in a series of ordinances, declarations and laws (*placaaten*), beginning with the *Politieke Ordonnantie* (Political Ordinance) of 1 April 1580.⁶⁶ So it is likely, although Pelsaert never explicitly acknowledged this, that the laws and procedures of the province of Holland, in the context of Dutch Roman canon law, were being applied in the course of the trials following the Mutiny.

Judicial Proceedings Following the Mutiny

Upon his departure from Batavia in the *Sardam*, Pelsaert was issued with detailed instructions by the Governor General and Council of the Indies. A critical paragraph in those instructions gave Pelsaert authority to keep "good order and peace" during the voyage, requiring others to "obey him, in such manner as if all were responsible to ourselves".⁶⁷ This may have been the basis upon which he proceeded as the responsibility for trying VOC employees in the Indies who were accused of serious crimes usually lay with the *Raad van Justitie* (Council of Justice) in Batavia.⁶⁸

Having been informed by Wiebbe Hayes upon his arrival of what had transpired in his absence, Pelsaert and the ship's council used their authority and immediately resolved that Corneliszoon be brought to the ship to "examine the gruesome deeds which [he] had done, and still had in mind to do, and if necessary to put to torture."⁶⁹ This was not accomplished until late in the afternoon. Pelsaert then "examined him in the presence of the council, and asked him why he allowed the devil to lead him so far astray from all human feelings."⁷⁰ At this point Pelsaert was already embarking upon an *ex officio* prosecution, with the ship's council, made up of senior officers, forming the court. Usually, in the initial stage of such an investigation, known as the *inquisito generalis*, the intent was to establish that there was *prima facie* evidence that an offence, or offences, had been committed, and that there was a prospect of finding someone guilty of an offence.

In his initial interrogation, Corneliszoon tried to shift the blame for what had transpired on to some of his accomplices, Davidt van Sevanck, Coenraat van Huyssen and Gysbert van Welderen, claiming he had just been their pawn. But all these men were dead, having been among those killed by the Defenders when they sprung their trap on 2 September. At this point Pelsaert proposed "to bring to torture the above mentioned Jeronimus to learn from him the straight truth."⁷¹ After being tortured "a

little,” Corneliszoon requested a “postponement”, indicating his willingness to tell “what he knew.”⁷² This was granted, but with further dissembling by Corneliszoon the proceedings were then temporarily suspended.

When the remainder of the mutineers on Beacon Island were rounded up the next day, several incriminating documents were found in their tents. The first was an oath of common allegiance, a pact, dated 12 July 1629, and signed by all the mutineers.⁷³ The next was another oath, dated 16 July, again signed by all the mutineers, mentioning the women who were to be spared and assigned to specific individuals, or kept for “common service”, in accordance with “the given laws” [i.e. as agreed between the mutineers].⁷⁴ Finally, another oath, dated 20 August, was found in which the mutineers swore allegiance to Corneliszoon as their “Captain General”.⁷⁵ With these documents, the Hendricxszoon confession and the accounts of the Defenders, as well as the letter attempting to bribe the French soldiers, kept by the Defenders,⁷⁶ it would seem that there was no question that many serious offences had been committed by numerous individuals. This would appear to have been Pelsaert’s conclusion too, as late on the following day (18 September) he ordered that “the principal scoundrels and other accomplices” be taken to Long Island, “whence one could get them at an appropriate time if one wanted to examine them.”⁷⁷ Having already resorted to torture with Corneliszoon it is clear that Pelsaert and the ship’s council were now moving to the next stage in the *inquisitionprozess*, the *inquisito specialis*, the investigation of the crimes.⁷⁸

In the inquisitional processes characteristic of Dutch Roman-canon law in the seventeenth century, charges were not specified as they are in an adversarial system.⁷⁹ Instead, a form of judicial inquiry took place to determine what crimes may have been committed and who the perpetrators were. Considering the totality of the events that took place during the Mutiny, a range of potential offences could have been subject to investigation, including premeditated murder, conspiracy to murder, sexual assault, grievous bodily harm, deprivation of liberty, conspiracy to commit piracy, treason, adultery, heresy, theft and unlawful possession of property. However, to determine that an offence or offences had been committed, and by whom, Roman canon law required compliance with specific forms of statutory proof. The testimony of two eyewitnesses to the gravamen of the crime was one of accepted the forms of proof. If, however, there were no eyewitnesses then the accused could be convicted on the basis of their own voluntary confession.⁸⁰ But if there were neither eyewitnesses nor a confession, following the doctrine that as “the truth could not be illuminated by all other proofs”,⁸¹ the accused could then, with probable cause, be subject to torture to obtain their confession. That cause was the high likelihood that they were guilty of the suspected crime and that a capital offence or offences were involved.⁸² Circumstantial evidence in criminal cases, *indicia*, no matter how strong, was not seen as sufficient to secure a conviction, being viewed as a “half proof” at best.⁸³ In theory the intent of the torture was not just to gain an admission of guilt but to reveal the suspect’s complicity through their disclosure of details of the crime, details that “no innocent person can know.”⁸⁴

Where judicial torture was employed, the usual convention, as laid down in the *Constitutio Criminalis Carolina* and the Criminal Ordinances of 1570, required the

accused to voluntarily and publicly confirm their confession within a specified time period for it to be valid. The exact timeframe for this varied however, depending on which authority was given precedence. It could be within “twenty or twenty-four hours,” or “a day and a night after.”⁸⁵ If the accused recanted at that stage the forced confession was taken as simply adding to the *indicia*, and they were tortured again until they finally “voluntarily” confessed in public.⁸⁶ The dangers in this are self-evident,⁸⁷ but there was, nevertheless, scope for perpetrators to also manipulate the situation, as will become apparent.

The Trials

The main phase of the investigations and trials of the principal suspects involved in the Mutiny commenced on 19 September and continued until 28 September, in tandem with efforts to recover as much as possible of the cargo, valuables and anything salvageable from the *Batavia*.⁸⁸ These proceedings were carried out on Beacon Island where a small cell was constructed to hold the accused.



Figure 2: Remains of Prison Cell on Beacon Island

The remains of this cell can still be found there, effectively Australia’s oldest prison. Corneliszoon, as the apparent instigator and first leader of the Mutiny, and most senior officer involved, was the first to be examined, a continuation of his initial examination. At this point Pelsaert and the ship’s council were faced with the problem of witnesses. Just about all eyewitnesses to specific events were either deceased or, being perpetrators, tainted. The requirement of two eyewitnesses was, therefore,

almost impossible to fulfil. Unless perpetrators came forward with a voluntary confession, an unlikely prospect, then torture was the only option. And so, Corneliszoon was made ready for torture,⁸⁹ but before it had even commenced he demurred, agreeing to “say truthfully what he knew.”⁹⁰ When questioned about the conspiracy to seize the *Batavia* after leaving the Cape of Good Hope he denied any knowledge of it. The torture was then resumed, and again he almost immediately agreed to “say all that he knows.”⁹¹ This time he admitted knowledge of the conspiracy but denied any involvement, putting the blame on individuals who were deceased or who had gone to Batavia with Pelsaert in June. Not satisfied, Pelsaert then ordered the resumption of the torture. However, Corneliszoon now “desired to hear some of his accusers, which has been granted him.”⁹²

Corneliszoon’s request to hear his accusers appears to have been a customary practice, not universally applied, and allowed at the discretion of the inquisitor.⁹³ In this case Hendricxssoon was brought forward and he freely admitted that he had heard about the conspiracy and named several of those involved, including one of the mutineers, Allert Janszoon. Janszoon was immediately called, and upon denying any knowledge of it, apart from some details Corneliszoon had allegedly revealed during the Mutiny, was put to torture. Initially he claimed he knew nothing but then capitulated, “he prays to be let free, as he will speak the truth.”⁹⁴ Janszoon then indicated, with more torture, that the Skipper Jacobszoon was the instigator and that Corneliszoon had tried to recruit him. Then the direct interrogation of Corneliszoon resumed, with the same pattern of response, he tried to minimise his culpability and shift blame to others. Now the examination turned to events during the Mutiny. Upon being asked why the Upperbarber [surgeon] had been killed, Corneliszoon replied “that he was in the way of Sevanck, and secondly, that he would not dance exactly to their pipes.”⁹⁵

Proceedings were suspended at that point, and Corneliszoon’s examination did not resume until 22 September. At that examination, without being tortured, he was more forthcoming, admitting that he had been involved in the original conspiracy to pirate the *Batavia*. He also admitted to other acts, such as ordering the deaths of Nicolas Winckelhaack, Paulus Barentszoon, Bessel Janszoon and Claas Harmanszoon when they sought refuge in his tent, and having taken Andries de Vries “to all the sick huts and ordered him to cut all their throats, which he did, eleven people all together.”⁹⁶ In the days following, Corneliszoon’s examination alternated with the examinations of other mutineers, often in each other’s presence, confirming acts and deeds that each had done. Finally, on 28 September this phase of the trials was completed. But then Corneliszoon tried to recant once more, claiming all the others were lying, and saying that “all he has confessed he has confessed because he has been threatened with torture.”⁹⁷ Upon being threatened with torture yet again, Corneliszoon asked “for a delay, in order that he may be brought to Batavia in order to speak again to his wife, and he well knows that all he has done is evil enough, and he desires no grace.”⁹⁸

Pelsaert and the council now formalised proceedings by a resolution in which they “declare upon our Manly Truth in place of the duly attested Oath” that “Jeronimus has confessed, mostly free and unbound, without torture.” They then asked Corneliszoon “if this was not indeed the truth: confesses at last, (Yea).” It would appear Pelsaert

and the council were not empowered to administer oaths, and so added that they were willing “to attest this at all times before all high and subaltern judges of the Hon. Lord Gov. Gen. Jan Pietersen Coen, and if requested there, to testify and confirm on Oath.”⁹⁹

A summary of each offenders “Criminal Offences” (*delicten*) was then prepared. Again, as seems to have been the usual form for such convictions in Holland, specific crimes were not recorded, it was simply a “statement that the acts were wicked, horrible and pernicious and in any case not tolerated.”¹⁰⁰ For example, “Item, on 4 July he and the council decided to kill Egbert Roeloffssoon and Warner Dircxsoon, carpenters, under the pretence that they intended to get away with the little yawl”, and, “Item, that the party of cabin Boys, Men and Women, about 45 in number who had been put on Seals Island – Jeronimus, with his council, has decided should be killed, and they were slain on 15 July.”¹⁰¹ This summary went for many pages, listing victims, circumstances and much detail, even including conversations that had allegedly taken place. Lastly, it was noted, that “although he is a married Man, he has nevertheless taken Lucretia Janssen [*sic* – Janssoon] into his tent and has kept her for 2 months against her will as his concubine.”¹⁰²

With the others who were tried a similar pattern emerges. Most, but not all, initially denied involvement, before being tortured and confessing. The itemised offences effectively ranged from “plundering” by breaking open chests when the *Batavia* was wrecked, to conspiracy to commit piracy, murder, rape, deprivation of liberty and adultery. Pelsaert’s outrage is obvious, frequently the summaries of their crimes included comments that men had behaved “worse than an evil tiger,”¹⁰³ and that “even under the Moors or Turks, such unheard of abominable misdeeds would not have happened.”¹⁰⁴ As a result of the examinations and council’s decisions, sentences were passed on eight men. Another nine men were imprisoned for trial when they returned to Batavia, while a further six were deemed to be culpable but were not detained. Of those sentenced at this time, all were to be “punished on the Gallows with the Cord till death shall follow”,¹⁰⁵ with confiscation of all possessions, money and wages. In Corneliszoon’s case, before being hanged, they would “firstly cut off both his hands”.¹⁰⁶ Jan Hendricxsoon, Lenart van Os, Mattys Beijr [Beer] and Allert Janssen [Janssoon] were to be similarly punished, but only their right hand was to be removed.¹⁰⁷ Such mutilations derived from medieval legal traditions and commonly accompanied capital offences across Europe, with the particular mutilation to be inflicted sometimes specified in detail in codes such as the *Carolina* or in statutes. At other times it was simply at the discretion of the judge.¹⁰⁸

The Executions

With the trials seemingly over, those sentenced were due to be executed on 1 October. The decision to carry out the executions on the Abrolhos Islands was driven by security concerns. As Pelsaert recorded in his journal:

I have called together the council, and after ripe deliberations have put to them the question whether those against whom innocent blood is calling for revenge, should be taken to Batavia before Hon. Lord Gov. Gen., or whether

*they should be punished here with death as an Example to others, in order to prevent all disasters that might arise on the ship through suchlike Men as Jeronimus and his Accomplices.*¹⁰⁹

Pelsaert voiced these concerns about the safety of taking the mutineers back to Batavia a number of times, understandably so, as the mutineers outnumbered the crew of the *Sardam*. The council concurred with Pelsaert and the executions were set to proceed.

With only a few days between his sentence and execution Corneliszoon tried to play for time, requesting “8 or 14 days” to show repentance, and the flying into a rage when that was denied.¹¹⁰ On the eve of his execution he then claimed that “God will perform unto me this night a miracle.”¹¹¹ During the night he tried unsuccessfully to commit suicide. When the day came the weather was too stormy to allow the prisoners and others to be taken to the place of execution, Long Island. However, the weather improved the following day, 2 October, and the executions proceeded. The other condemned men “begged that Jeronimus should be hanged first, so that their eyes could see that the seducer of men died,”¹¹² and then some of the “evil-doers shouted revenge at Jeronimus, and Jeronimus shouted at them.”¹¹³ Then the executions, once the hand removal had been carried out,¹¹⁴ commenced. Corneliszoon “died stubborn,” claiming he could only get justice “before God’s Judgment Seat.”¹¹⁵ Two of the condemned men, Mattys Beer and Andries Jonas, confessed to further murders on the gallows. When it came the turn of eighteen-year-old cabin servant Jan Pelgrom de Bye, he “could not compose himself to die; weeping and wailing and begging for grace ...”¹¹⁶ Consequently, Pelsaert and the council decided “on account of his Youth” to “put him on an island or the continent, according to the occasion.”¹¹⁷ Such commutations for young people were not uncommon.¹¹⁸ And so this phase of the proceedings came to an end.



Figure 3: The Mutineers Being Hanged
(*Ongeluckige Voyagie*, 1649)

Other Legal Proceedings and Issues - Their Outcomes and Implications

Although in theory the mutineers could have appealed against their convictions and sentences, to the Council of Justice in Batavia,¹¹⁹ their prompt execution removed that possibility. Had they been able to appeal they may well have had grounds for establishing that their convictions were unsafe. If it were in modern times they would have probably been granted a retrial. The reason for this was the role of Salomon Deschamps in the proceedings. Deschamps, who had been the Senior Assistant on the *Batavia*, appears to have been a member of the ship's council that tried the mutineers. As the second highest ranking official he may well have had the role of clerk of the court (*Greffier*). Whatever the case he, along with the all other council members present, signed the summary of evidence, effectively the conviction, for each of the mutineers interrogated. On one occasion he was also included as a signatory to the sentences of several of the mutineers.¹²⁰ But he was also a mutineer! Not only had he been a signatory to the oaths of 12 and 16 July, it was alleged that on 20 July one of the mutineers:

*took a Young Sucking child from the lap of the foresaid mother Mayken Cardoes, who was in the same tent, and said to him, 'Deschamps, there is a Half dead child. You are not a fighting man, here is a little noose, go over there and fix it so that we here on the Island do not hear so much wailing.' Then he, Deschamps, without protest, has taken the child outside the tent and strangled it,*¹²¹

For his part in the Mutiny, Deschamps, who had voluntarily confessed, was initially sentenced to "be keel-hauled 3 times and after that be flogged with 100 strokes before the Mast."¹²² Remarkably, Deschamps, in his capacity as one of the ship's councillors, actually signed his own conviction and sentence. This sentence was carried out on 13 November,¹²³ just before the *Sardam* departed, but that was not the end of the matter.

As mentioned previously, a number of the mutineers with lesser roles had been identified, some being detained while others were allowed to freely move about. Of these, some were sentenced and punished before departure, such as Deschamps, while the rest had their cases held over until they returned to Batavia. On the voyage back, the ones not already tried and sentenced pleaded with Pelsaert to have their cases dealt with, which Pelsaert and the ship's council agreed to do.¹²⁴ The supplicants had good reason to appeal for summary judgment because back in Batavia Governor General Coen had a fearsome reputation. On one occasion he had had his twelve-year-old ward, the daughter of General Specx, publically whipped for a sexual dalliance with a sixteen-year-old boy.¹²⁵ Consequently another nine soldiers, sailors and officers were tried, sentenced and punished aboard the *Sardam*, with Deschamps still on the council sitting in judgment. Most were sentenced to be dropped from the yardarm, keelhauled and flogged. This attempt to ameliorate their punishment was to no avail however. Even though Coen had died in the interim, all the evidence and documentation was passed over to the Council of Justice in Batavia and many were re-sentenced and punished a second time. Some, like Deschamps, were hanged, others "broken from under upwards" on the wheel [i.e. while still alive], as was the case with Jacob Cousijns.¹²⁶

Another unusual aspect to the trials relates to property offences. In the confusion that followed the wrecking of the *Batavia*, order broke down, sailors got drunk, abused and threatened officers, and “broke open and plundered all the chests.”¹²⁷ Mention is also made of a medallion which had belonged to Pelsaert, which had been looted from his cabin and later sold for one hundred guilders.¹²⁸ Once the Mutiny had been put down Pelsaert expressed his indignation that company goods had been “very shamefully misused,”¹²⁹ particular the fine red woollen cloth (*laken*) intended for sale in India. Yet there is no reference whatsoever in the subsequent proceedings to a casket of jewels and the “Great Cameo of Gaspar Boudaen”, which the mutineers had seized but which were ultimately recovered.¹³⁰ This may seem surprising, given the jewels were valued at fifty eight thousand guilders,¹³¹ about two and a half million dollars in modern terms. And the Great Cameo was almost priceless. It depicted a family in a chariot along with mythical figures and had been a gift to the Emperor Constantine in 315 AD, to mark the tenth anniversary of his coronation.¹³² The explanation probably lies, however, in the ownership of the goods.

The jewels and the Great Cameo were in fact privately owned. Indeed, the Great Cameo may have actually been the property of the famous painter Rubens, with Gaspar Boudaen simply his agent.¹³³ Both the jewels and the Great Cameo had been entrusted to Pelsaert, intended for sale to the Mogul Emperor of India, Jahangir Khan.¹³⁴ Such private trade was normally strictly forbidden, it contravened the VOC Charter. But on this occasion special permission had been granted by the Heeren XVII, a strategic decision, based on Pelsaert’s recommendation, to foster relations with the Mogul Empire and potentially open up new markets.¹³⁵ Pelsaert never provided any indication why the unlawful possession of these specific items was not subject to investigation. Perhaps they were covered by the generic crime of “plundering”, or that Pelsaert was embarrassed because he had lost possession of such valuable items entrusted to his care. More likely it was because of their anomalous legal status, they were not the property of the VOC.

Finally, we come back to the case of the second leader of the mutineers, Wouter Loos. Given his role in the Mutiny one would expect he would have been considered to be highly culpable. His examination took place on 24 September, and he initially denied all wrong-doing apart from taking a kettle of seal’s meat. However, because he was suspected of involvement in a particularly notorious incident, the murder one night of almost all the Predikant’s family, he was quickly brought to torture. Still he denied involvement, but nevertheless confessed to two murders, “when Hans Radder and Jacop Groenwald, trumpeter, were to be drowned, he had helped to tie their hands and feet.”¹³⁶ Loos also admitted to having slept several times with two of the women, but when questioned whether he had slept with Lucretia Janszoon he vehemently denied doing so, “Says, that he will die the death if he has touched her dishonourably or has seduced her.”¹³⁷

Loos’ reaction to the accusation is an interesting one. One can only speculate why he responded in that way. He may have been aware of her attractiveness and feared what retribution may have resulted had he admitted to despoiling her. Or he could have been aware that the status of the woman who had been sexually assaulted had a major

bearing on the severity of the sentence. There is some suggestion that rape was not taken very seriously at this time unless the victim was an “honourable” woman (*fatsoenlijke*).¹³⁸ Whatever the case, Loos interrogation ceased at that point, no summary of crimes was listed and no sentence passed. He was simply held prisoner and so avoided the fate of those executed on 2 October.

However, on 27 October Loos’ fortunes took a new turn. Pelsaert recorded a further examination of Loos, noting that it “has come to our ears through Judith,¹³⁹ daughter of the Predikant, that Wouter Loos has said or boasted before this that he has killed with an adze Bastiaan Gysbertsen, assistant, her eldest brother (when her mother, sisters and brothers had been murdered).”¹⁴⁰ This referred to the incident on 21 July when the Predikant Bastiaenzoon and Judith had been invited to dine with Corneliszoon While so doing, the rest of the family was slaughtered in their tent.¹⁴¹ Once more Loos was tortured, and now confessed that “he has beaten the eldest son underfoot with an adze, until he was dead.” He also admitted to having beaten Mayken Cardoes’ head in as she struggled with Andries Jonas, who was trying to cut her throat.¹⁴²

Loos was duly found to have committed a variety of “Criminal Offences of very evil consequences which are worthy of many deaths.”¹⁴³ However, at this point the ship’s council made a remarkable decision. Instead of sentencing Loos to death, they decided that “he shall be put here on the main Southland as a death-deserving delinquent, together with Jan Pelgrom de Bye van Bemel.”¹⁴⁴ Consequently, in the early afternoon of 16 November, before the *Sardam* headed north back to Batavia, Wouter Loos and Jan Pelgrom de Bye were abandoned on the Western Australian coast, probably at the mouth of Hutt River, about 450 kilometres north of where Perth now stands.¹⁴⁵



They were provided with a boat, food, toys and trinkets to trade, and a set of instructions.¹⁴⁶ Thus they became the first Europeans to take up residence in Australia, and their instructions directed them to “make themselves known to the folk of this land.”¹⁴⁷ Given Loos had escaped death in the ambush of 2 September, had avoided being hanged on 2 October, and would certainly have been executed had he returned to Batavia, there is a certain irony in a key phrase in the instructions, “Man’s luck is found in strange places.”¹⁴⁸ Indeed it is.¹⁴⁹

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Notes

- ¹ Collins, *Account of the English Colony in New South Wales*, 9; Library Committee of the Parliament of Australia, *The Beginnings of Government in Australia*, 11-12; Victor Windeyer, "A birthright and inheritance", 655.
 - ² Contra Hinchy, *The Australian Legal System: History, Institutions and Methods*, 45, and the case presented in this paper, it could be argued that the *yanarumi* [*tendi*] 'courts' of the Narrinyeri of South Australia were actually the earliest formal courts in Australia. See Berndt, Berndt and Stanton, *A World That Was: The Yarlaldi*, 53-77.
 - ³ Henderson, *Unfinished Voyages*, 20-22.
 - ⁴ The rank of Commandeur, or 'Fleet President', applied because Pelsaert at the commencement of the voyage was in command of a fleet of three ships (which had become separated). Skipper Ariaen Jacobszoon was technically in command of the *Batavia*.
 - ⁵ There are numerous accounts of the Batavia Mutiny. See for example Drake-Brockman, *Voyage to Disaster*, Dash, *Batavia's Graveyard* and FitzSimons, *Batavia*.
 - ⁶ Pelsaert, "The Journals of Francisco Pelsaert: Examination of Jeronimus Cornelisz.", 162-64, 170; Idem, "Journals: Summary of Crimes - Jeronimus Cornelisz.", 172; Idem, "Journals: Examination of Jan Hendricxs.", 181-182; Idem, "Journals: Declaration in Short", 248-51.
The Undermerchant was in charge of cargo and trade. Corneliszoon was also the apothecary on board. His name appears in Pelsaert's "Journals" as "Cornelisz.", with variations, as an abbreviation of the patronymic, but his full name is given throughout here as "Corneliszoon". Other abbreviated patronymics are treated similarly.
 - ⁷ Pelsaert, "Journals", 123; van Diemen to Pieter de Carpentier, 30 November – 10 December 1629, 43.
 - ⁸ Pelsaert, "Journals: Examination of Jeronimus Cornelisz., 17 Sept. 1629", 158.
 - ⁹ Pelsaert, "Journals: Declaration in Short", 251.
 - ¹⁰ Ibid.; Anon. a, "Letter written at sea ... 11th Decemb. 1629", 8-9; Anonymous b, "Second Letter", 10.
 - ¹¹ Pelsaert, "Journals: Summary of Crimes - Jeronimus Cornelisz.", 173; Idem, "Journals: Declaration in Short", 251-52.
 - ¹² These were made up of slabs of limestone and are still in place on West Wallabi Is.
 - ¹³ Pelsaert, "Journals: Declaration in Short", 252.
 - ¹⁴ Pelsaert, "Journals: Summary of Crimes - Jeronimus Cornelisz.", 173.
 - ¹⁵ Ibid.; Pelsaert, "Journals: Declaration in Short", 252; Anon. a, "Letter", 8-9; Bastiaenszoon., "Letter", 265.
 - ¹⁶ Pelsaert, "Journals: Examination of Jeronimus Cornelisz.", 164-65; Idem, "Journals: Copy of Oath, 16 July", 147-48, 165; Idem, "Journals: Copy of Oath, 20 August", 148, 166-67.
 - ¹⁷ Ibid., "Journals: Resolution of the Ship's Council [*Sardam*], 28 September 1629", 152.
 - ¹⁸ Ibid., "Journals", 143-44.
 - ¹⁹ See Gerritsen, "The *Batavia* Mutiny: Australia's first military conflict in 1629."
 - ²⁰ Ibid., "Journals: Declaration in Short", 252.
 - ²¹ Anon. a, "Letter", 9.
 - ²² Ibid.; Bastiaenszoon, "Letter", 267.
 - ²³ This structure is the oldest European-built structure in Australia. See Bevacqua, *Archaeological Survey of Sites Relating to the Batavia Shipwreck*, 9-13.
 - ²⁴ Pelsaert, "Journals: Examination of Jeronimus Cornelisz.", 166.
 - ²⁵ There was also an English soldier, John Pinten, in the complement aboard the *Batavia*, but he became ill, and like many of the sick had his throat cut by the mutineers.
 - ²⁶ Pelsaert, "Journals: Letter to French soldiers from Jeronimus Cornelisz., 23 July 1629", 148-49; Idem, "Summary of Evidence and Sentence of Daniel Cornelissen", 240.
 - ²⁷ Ibid., "Examination of Jeronimus Cornelisz.", 159-60.
 - ²⁸ Ibid., 159.
 - ²⁹ Ibid., "Journals", 142; Idem, "Examination of Jeronimus Cornelisz.", 160; Bastiaenszoon., "Letter", 266.
 - ³⁰ Pelsaert, "Journals", 142; Idem "Examination of Jeronimus Cornelisz.", 253; Bastiaenszoon, "Letter", 267.
- Six thousand guilders was equivalent to 50 years pay for an ordinary soldier at that time.

31 Pelsaert, "Examination of Jeronimus Cornelisz.", 253.
 32 Ibid., "Journals: Examination of Wouter Loos, 24 September 1629", 224.
 33 Ibid., 227; "Examination of Jeronimus Cornelisz.", 253.
 34 Ibid., "Journals", 142.
 35 Ibid.
 36 Ibid., 142-43.
 37 Anon. a, "Letter", 9.
 38 Pelsaert, "Journals", 143.
 39 Ibid.
 40 Ibid.
 41 Ibid., 144-45.
 42 Wessels, *History of the Roman-Dutch Law*, 125.
 43 Ibid., 123-129; von Bar, *A History of Continental Criminal Law*, 302-305; Kunst, "Legal
 history", 8-9; Spierenburg, *The Spectacle of Suffering, Executions and the Evolution of*
Repression, 3-9; Chorus and Coppens, "History", 7-8. Spierenburg, *A History of Murder*, 52-
 61; Wladimiroff, "Criminal justice in The Hague", 66-67.
 44 Wessels, *History of the Roman-Dutch Law*, 373-74; Spierenburg, *The Spectacle of Suffering*,
 8-9; Spierenburg, *A History of Murder*, 57-61.
 45 Wessels, *Roman-Dutch Law*, 127.
 46 This marked an important point of departure from English law, where ordeals also fell out of
 favour. In England juries were used to determine the innocence or guilt of suspects rather than
 the formulaic tests of evidence employed in canon law.
 47 Langbein, *Torture and the Law of Proof*, 7; Peters, *Torture*, 65.
 48 Spierenburg, *Spectacle of Suffering*, 2-3,8; Peters, *Torture*, 47-73; Chorus and Coppens,
 "History", 7.
 49 Wessels, *Roman-Dutch Law*, 372-73; von Bar, *History of Continental Criminal Law*, 304-305;
 Langbein, *Torture and the Law of Proof*, 5.
 50 van de Vrugt, *De Criminele Ordonnantien van 1570*.
 51 von Bar, *History of Continental Criminal Law*, 305; Chorus and Coppens, "History", 7;
 Wladimiroff, "Criminal justice in The Hague", 67.
 52 The Spanish Netherlands at that time covered most of modern Netherlands, Belgium and a
 part of northern France.
 53 von Bar, *History of Continental Criminal Law*, 305; Kossman and Mellink, *Texts Concerning*
the Revolt of the Netherlands, 128.
 54 The provinces of Holland, Zeeland, Utrecht, Gelderland, Overijssel, Friesland and Groningen,
 forming the core of the modern Netherlands.
 55 Wilson, *The Dutch Republic and the Civilisation of the Seventeenth Century*, 7; Kunst, "Legal
 history", 5-6.
 56 Kunst, "Legal history", 6; Spierenburg, *Spectacle of Suffering*, 210.
 57 Spierenburg, *Spectacle of Suffering*, 210.
 58 Ibid., 116; van der Heijden, "Women as victims of sexual and domestic violence in
 seventeenth-century Holland", 624.
 59 Wladimiroff, "Criminal justice in The Hague", 67.
 60 Wessels, *Roman-Dutch Law*, 373; von Bar, *Continental Criminal Law*, 305.
 61 von Bar, *Continental Criminal Law*, 308.
 62 Ibid., 306.
 63 Reynders and Gerritsen, *A Translation of the Charter of the Vereenigde Oost-Indische*
Compagnie, 2.
 64 Ibid., 5.
 65 Hunter, *A History of British India*, 417.
 66 NA. "Plakkaart van 16 Juni 1625; Gall, "'European' widows in the Dutch East Indies", 104-
 105; Ward, *Networks of Empire*, 69-70.
 67 Coen, "181 – Ordre: For the Commandeur Francisco Pelsaert", 258.
 68 Ward, *Networks of Empire*, 69-70.
 69 Pelsaert, "Journals: Examination of Jeronimus Cornelisz.", 17 Sept. 1629", 158.
 70 Ibid., "Journals", 144.

71 Ibid., "Examination of Jeronimus Cornelisz., 17 Sept. 1629", 160.
72 Ibid.
73 Ibid., "Oath, 12 July 1629", 147.
74 Ibid., "Oath, 16 July 1629", 147-48, 165-66.
75 Ibid., "Oath, 16 July 1629", 148, 166-67.
76 Ibid., 148-49.
77 Ibid., "Journals", 146.
78 Weisser, *Crime and Punishment in Early Modern Europe*, 98; Langbein, *Torture and the Law of Proof*, 13-15.
79 Spierenburg, *Spectacle of Suffering*, 115.
80 Langbein, *Torture and the Law of Proof*, 4.
81 Peters, *Torture*, 57.
82 Langbein, *Torture and the Law of Proof*, 13.
83 Ibid., 4-5.
84 Ibid., 5 [*Carolina* Article 54].
85 Damhouder quoted in Ibid., 15. The *Criminele Ordonnantien* required that it should be done within twenty-four hours.
86 Ibid., 16; Peters, *Torture*, 57. Such was specified in Article 57 of the *Carolina* for example.
87 One of the more scandalous contemporary examples of the abuse of this process arose in the 'Amboina Massacre' of 1623. The Dutch, in what was probably a pretext to eliminate English competition in the East Indies, charged ten English traders and nine of their Japanese mercenaries (*ronin*) on the island of Amboyna with treason. They were tortured, admitted their guilt and most were executed. See Hunter, *A History of British India*, 390-426.
88 As a result of research by Henrietta Drake-Brockman, Max and Graeme Cramer discovered wreck of the *Batavia* on 4 June 1963. Part of the hull, cannons, and other artefacts, as well as the skeleton of one of the mutineers' victims, now resides in the Western Australian Shipwrecks Gallery in Fremantle and the Geraldton Museum.
89 It would appear water torture was used, a simple and effective method not requiring any special implements. See Pelsaert, "Journals: Examination of Jeronimus Cornelisz., 19 Sept. 1629", 162-63.
90 Ibid., 161.
91 Ibid., 162.
92 Ibid.
93 von Bar, *Continental Criminal Law*, 117; Peters, *Torture*, 57.
94 Pelsaert, "Examination of Jeronimus Cornelisz., 19 Sept. 1629", in 163.
95 Ibid., 165.
96 Ibid., "Examination of Jeronimus Cornelisz., 2 Sept. 1629", 167.
97 Ibid., "Journals", 170.
98 Ibid.
99 Ibid., "Resolution of the Ship's Council, 28 September 1629", 171-72.
100 Spierenburg, *Spectacle of Suffering*, 115.
101 Pelsaert, "Summary of Crimes of Jeronimus Cornelisz., 28 September 1629", 172.
102 Ibid., 176. The 'fair' Lucretia Janszoon van der Mijlen, on her way to join her husband, a VOC officer, was a central figure in the Mutiny. As a provocation she had been assaulted and sexually molested by the conspirators onboard the *Batavia* shortly after it left the Cape. During the Mutiny she was forced to become Corneliszoon's, then Wouter Loos', concubine.
103 Pelsaert, "Journal: Summary of Crimes of Allert Janssen [*sic*], 28 September 1629", 197-98.
104 Ibid., "Summary of Crimes of Jeronimus Cornelisz., 28 September 1629", 176.
105 Ibid., "Sentence of Jeronimus Cornelisz., 28 September 1629", 154.
106 Ibid.
107 Ibid., "Journals: Sentences of Jan Hendricxsz., Lenart van Os, Mattys Beijr, Allert Janssen, 28 September 1629", 154-55. Judging from contemporary illustrations, a large chisel and a mallet was applied to the wrist.
108 von Bar, *Continental Criminal Law*, 309; Langbein, *Torture and the Law of Proof*, 27-28.
109 Pelsaert, "Journals", 151.

110 Ibid., 212.
 111 Ibid.
 112 Ibid., 213.
 113 Ibid.
 114 “Bastiaenszoon, “Letter”, 268.
 115 Pelsaert, “Journals”, 213.
 116 Ibid.
 117 Ibid.
 118 Spierenburg, *Spectacle of Suffering*, 119.
 119 Ward, *Networks of Empire*, 69.
 120 Pelsaert, “Journals: Resolution of the Ship’s Council, 13 November 1629”, 221-23.
 121 Pelsaert, “Journals: Summary of Crimes and Sentence of Salomon Deschamps, Rogier
 122 Decker, Abraham Gerritsz., Lucas Gellisz., Claas Harmansz., 13 November 1629”, 231-34.
 123 Ibid., 231. “Before the Mast” meant it was to take place in public.
 124 Ibid., “Journals”, 221.
 125 Ibid., 239.
 126 Drake-Brockman, *Voyage to Disaster*, 45. The boy was summarily executed.
 127 NA, “Resolution of the Governor General in Council, 28 January 1630”, 270-71.
 128 Pelsaert, “Journals: Examination of Mattijs Beer, 23 Sept. 1629”, 189.
 129 Ibid.
 130 Ibid., “Journals”, 146. The mutineers had the cloth richly embroidered, which they then wore.
 131 Ibid., 145.
 132 “Governor General Specx to Heeren XVII, 1630”, quoted in Drake-Brockman, *Voyage to
 133 Disaster*, 57.
 134 Drake-Brockman, *Voyage to Disaster*, 86, opp. 158. The Cameo is now housed in the Money
 135 Museum in Utrecht in the Netherlands.
 136 Ibid., 88.
 137 Ibid., pp. 57, 84-89. As it turned out Jahangir died before the items reached India, and his
 138 successor, Shah Jahan (builder of the Taj Mahal), was not interested in such baubles.
 139 Ibid., 56-58, 84-88.
 140 Pelsaert, “Examination of Wouter Loos, 24 Sept. 1629”, 225.
 141 Ibid.
 142 Spierenburg, *Spectacle of Suffering*, 118; Heijden, “Women as victims of sexual and domestic
 143 violence in seventeenth-century Holland”, 624.
 144 Curiously, no woman was called to give evidence in any of the examinations as their evidence
 145 would only have been viewed as circumstantial, and so only potential perpetrators were
 146 examined.
 147 Pelsaert, “Journals: Examination of Wouter Loos, 27 October 1629”, 225.
 148 Bastiaenszoon, “Letter”, 265.
 149 Pelsaert, “Examination of Wouter Loos, 27 October 1629”, 226.
 Pelsaert, “Journals: Summary of Crimes of Wouter Loos, 13 November 1629”, 228.
 Pelsaert “Journals: Sentence of Wouter Loos, 13 November 1629”, 229.
 Gerritsen, “The debate over where Australia’s first European residents were marooned in 1629
 – Part 1”; Idem, “The debate over where Australia’s first European residents were marooned
 in 1629 – Part 2”.
 Pelsaert, “Journals: Instructions for Wouter Loos, and Jan Pelgrom de By van Bemel”, 229-
 30; Idem, “Journals”, 237.
 Ibid., “Instructions”, 230. Their fate and what impacts they had on the Nhanda and Amangu
 people of the region is still a matter of great historical interest. See for example Gerritsen, *And
 Their Ghosts May Be Heard*, 64-69, 82-133, 205-228; Idem, *Nhanda Villages of the Victoria
 District, Western Australia*; Idem, “Historical problems and methodological issues regarding
 Nhanda, an Aboriginal language of Western Australia”; Idem, *Australia and the Origins of
 Agriculture*, 29-38, 77-78.
 Pelsaert, “Instructions”, 230.
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