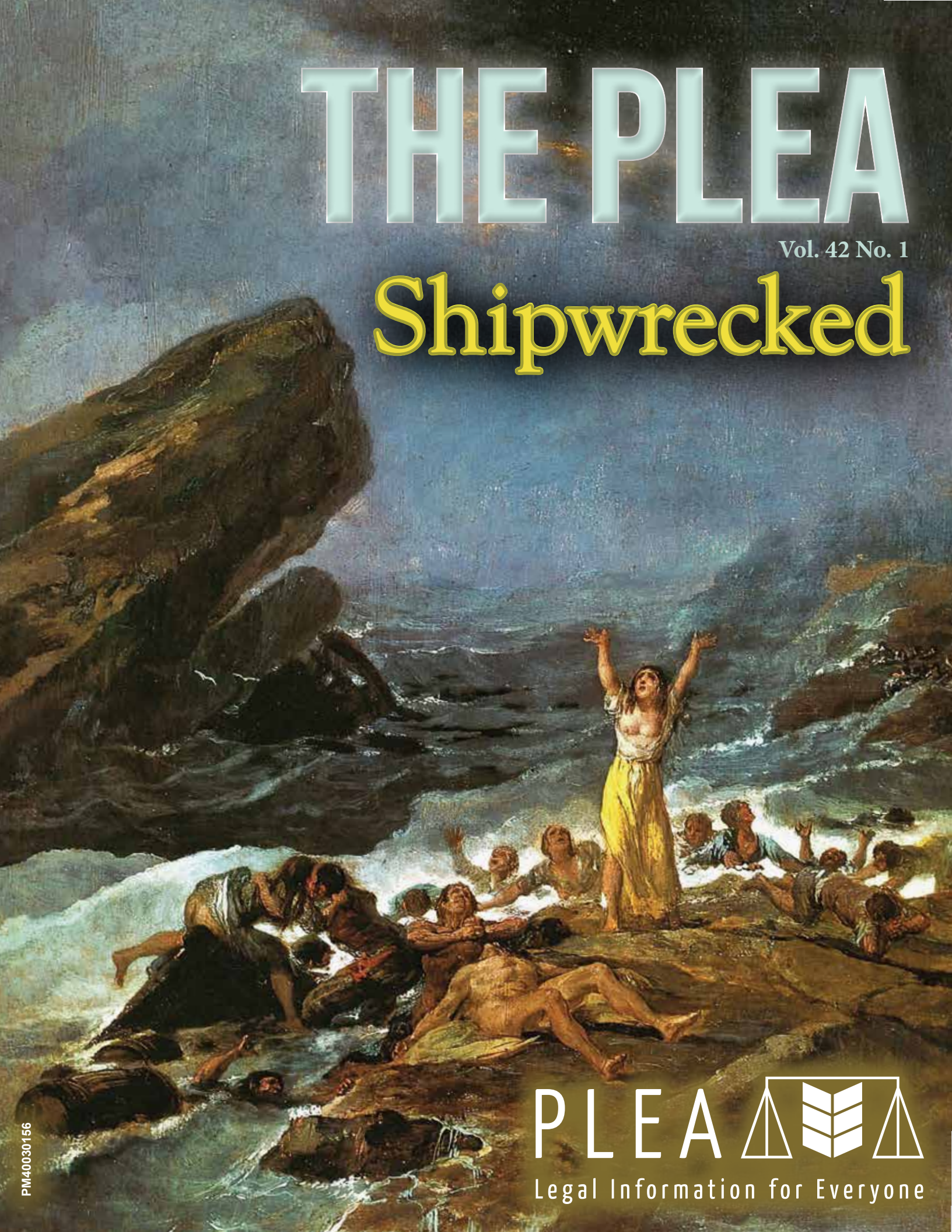


THE PLEA

Vol. 42 No. 1

Shipwrecked



PLEA 

Legal Information for Everyone

CONTENTS

3 Society & Survival

What happens when fate creates a new society?

6 Wrecks Around the World

We can draw countless lessons from the three million shipwrecks over history.

8 Dictatorship's Dead End

When the *Batavia* wrecked, one man emerged with all the power. He used it ruthlessly.

10 Agreeing on Rules

When the *Grafton* wrecked, five men of five nationalities found common ground.

12 Sources & Resources

Don't stop learning now!

How would you govern a society? Who would your leaders be? How would you choose them? What kinds of rules would you create? Would you be more concerned about providing freedom or creating order? What would you do about people who refused to follow the rules? How would you protect the most vulnerable?

Such questions strike at the core purposes of law. The answers we find will not always be “right” or “wrong.” But some answers will be better than others. Laws are rules of conduct for a society, and the best possible society will have the best possible laws.

To understand why some rules, laws, and systems of government can be better than others, this issue of *The PLEA* examines how shipwreck survivors set up their castaway societies. Often the castaways who survived were the ones who acted the most kindly, and created the best rules possible. Ideal for most any reader, *Shipwrecked* fulfills several Foundations of Law (FL1) Indicators in Saskatchewan's Law 30 curriculum.

Society & Survival

What happens when fate creates a new society?

We are all individuals. Yet, we are individuals as part of a larger society. A society consists of people who share traditions, institutions, and interests. These usually evolve organically over long periods of time. Occasionally, circumstances will force a quick creation of a society. For example, when there is a shipwreck, the castaways need to find ways to live together. So they will form a new, temporary society.

Some castaway societies have functioned quite well. Others have failed abysmally. Recent books such as Nicholas Christakis' *Blueprint* and Rutger Bregman's *Humankind* have shed some light on why. Obviously, access to food, water, and shelter helps. Less tangible reasons are equally important. How the castaways organise themselves, the tone set by their leaders, and their willingness to cooperate and care for one-another all play vital roles.

To begin understanding why some castaway societies succeed and others fail, let's journey into two shipwrecks with two very different outcomes. They can provide hints for how we approach ourselves today as individuals and as a society.

The Méduse

Viscount Hugues Duroy de Chaumareys was a sailor past his prime. But he was also a member of the French aristocracy. Such connections

were qualification enough to be made captain of the *Méduse*. On June 17th 1816, Chaumareys set sail to Africa, along with roughly 400 French officials and crew. They were to take control of Senegal from the British. Chaumareys turned over navigation to an equally unskilled seaman. The two ignored expert advice, took an unsafe route to save time, and on July 2nd ran the *Méduse* aground on a sandbank 50 kilometres from the shore of Mauritania.

At first, the plan was to ferry everyone to land in lifeboats. However, a harsh storm led to fears that the *Méduse* would break up before the rescue was complete. So they concocted a scheme to build a 140 square metre raft, fill it with passengers, and tow it to land with lifeboats. About 250 people, packing luxury goods, boarded lifeboats. Chaumareys was carried onto his lifeboat in an armchair. Meanwhile, close to 150 people were forced at gunpoint onto the rickety raft. 17 crew members stayed on the marooned ship.



Théodore Géricault's *The Raft of the Medusa* [Scène de Naufrage], 1818-1819. To create the painting, he interviewed survivors and built a model raft.†

The upper brass in the lifeboats soon decided that towing the raft was jeopardising their own chances of survival. They cut the raft loose, ignoring the passenger's desperate pleas. They safely rowed to shore, and carried on to Senegal over land.

The raft quickly devolved into chaos. People clamoured for safety in its centre, the weakest were thrown overboard to preserve rations, and when deep hunger set in so did cannibalism. After two chaotic weeks, another French ship following the proper route to Senegal discovered the raft adrift at sea. Only 15 men were left.

In Senegal, Chaumareys grew worried about valuables left behind at the wreck site. In August, he sent a salvage mission to the sandbar. When the salvagers arrived, to their shock they found the *Méduse* intact. Inside, three crew members were still alive.

The Julia Ann

Captain Benjamin F. Pond was no stranger to the sea. But he was no match for a faulty map. When he set the *Julia Ann* out from Australia en route to San Francisco on September 7th 1855, he had no idea that his map would lead to 56 passengers and crew stranded on the Scilly Islands, near Tahiti.

The *Julia Ann*'s passengers were mostly Mormons. Mormons knew Pond and his crew were kind, so this was the second time he was hired to transport them to America. From the moment on the night of October 4th when the ship sailed straight into a coral reef, Pond lived up to his reputation. He set a tone that would guide the castaways to survival and eventual rescue.

Rec'd 12/24/55
24/11/55

INWARD.

A LIST of the Crew and Passengers, arrived in the Ship *Julia Ann* — of San Francisco — B. F. Pond — Master
Burthen — 372 Tons, from the Port of San Francisco to Sydney, New South Wales, 24 July — 1855.

Person's Name	Rank	Age	Of what Nation	Name of Passenger	Description	Remarks
P. M. Coffin	Mate	30	American	A. Bonnet	Cabin	
H. Ores		25	"	C. Bonnet		
G. H. Clark	Cook	40	"	H. Bonnet		
H. Perkins		35	"	A. Bonnet		
J. Anderson	Carpenter	37	"	J. H. Long	Storage	
J. Elder	Seaman	40	"	H. H. Long		
G. H. Duncan	"	35	"	J. H. Long		
H. M. Ebert	"	28	"	J. H. Long		
J. Coons	"	30	"	J. H. Long		
H. Vets	"	26	"	J. H. Long		
H. M. Ebert	"	45	"	J. H. Long		
M. Gatten	"	32	"	J. H. Long		

48. F. Pond

The last incoming passenger and crew manifest of the *Julia Ann*, upon its arrival in Sydney on July 24th, 1855. ‡

As the boat sat capsized on the reef, Pond organised an evacuation to a nearby rocky island. Amidst the efforts, he spotted the second mate salvaging a bag of gold. He ordered the mate to abandon the gold and focus on getting children ashore. In a more questionable decision—albeit one that enforces the idea that the vulnerable should be prioritised—when the crew discovered that a passenger had abandoned his family on the boat, they threw him into the ocean. He managed to swim back, and was allowed to stay.

In total, five lives were lost. The survivors soon settled on a larger island, where Pond told them that “a common brotherhood should be maintained.”

To maintain a “common brotherhood,” the castaways shared worked in ways that best-fit each

individual's skill. They salvaged what they could from the wreck, found food and water, built shelters, established a lookout for passing boats, and even developed recipes to keep their diet interesting. Children

were given play time, and all provisions were shared equally. Meanwhile, they repaired and modified

the lifeboat so that some crew could journey to the nearest populated island, Bora Bora, 350 kilometres away.

On December 3rd, with the lifeboat fixed and the winds favourable, Pond and much of the crew set out to sea. Four days later, they were arranging a rescue mission on Bora Bora, and the survivors were soon picked up. Despite the wreck, the *Julia Ann* survivors remained forever grateful to Pond for his leadership and kindness.

**A COMMON
BROTHERHOOD SHOULD
BE MAINTAINED**

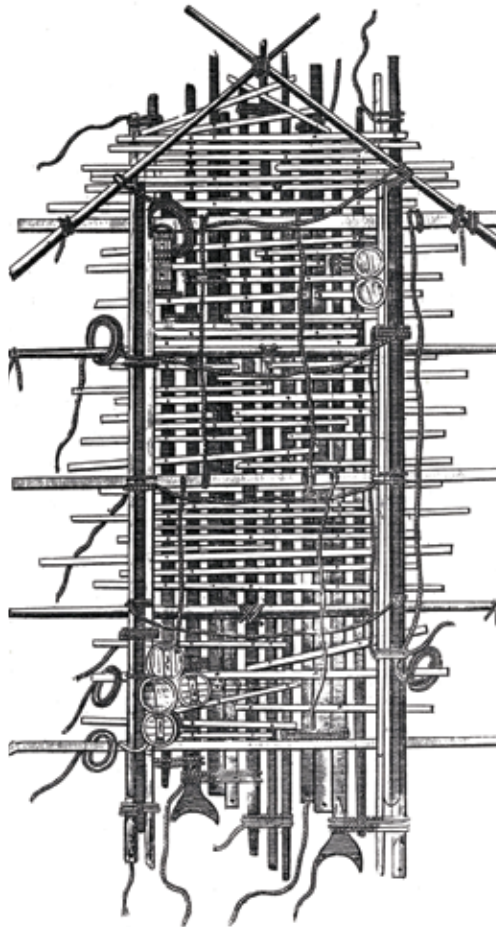
Tone and Leadership

Quite possibly, almost everyone could have survived the wrecks of the *Méduse* and the *Julia Ann*. Yet it was only the wreck of the *Julia Ann* that ended happily. Why is this?

One reason is that Captain Pond exhibited caring and cooperation, while Captain Chaumareys exhibited cruelty and selfishness. In fact, Pond became a legend in Mormon lore. Chaumareys ended up in jail.

This can help us understand why leadership and tone are important, to the outcomes of shipwrecks and to the outcomes of societies. The Captain Chaumareys approach—blind self-interest that leaves everyone fighting to survive—stands in sharp contrast to the Captain Pond approach—kindness and “brotherhood” that values people over money, and pays attention to the vulnerable.

Which kind of society would you rather be a part of?



Plan of the Raft of Medusa, created by survivor Alexandre Corréard †

WHY DO WE FORM SOCIETIES?

The fact that we live together appears to be an ingrained aspect of human nature. Everywhere people are found, we form into collective groups and create societies. This is true for the Inuit, the Māori, the Celts, and the Tjimba, along with everyone else.

There's no simple explanation for this. That understood, genetics—the building blocks of human heredity—can offer a hint.

Genetically, all humans are 99.9% the same. This is true regardless of our race, national or ethnic origin, colour, religion, sex, gender, sexual orientation, age, or mental or physical abilities.

Because we are all so similar, we share many traits. One shared trait across humanity is the tendency to group together and create societies.

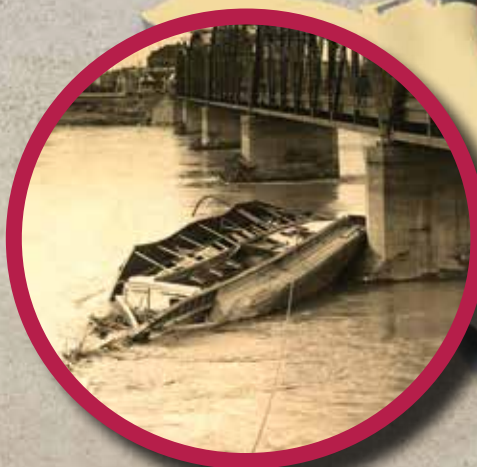
LET'S FLOAT IDEAS

1. *The Canadian Charter of Rights and Freedoms* declares that every individual is equal before and under the law. Why is the principle of equality vital for a free, fair, democratic society?
2. *Charter* equality rights allow for affirmative action programs. This helps level up individuals or groups who are disadvantaged or suffer from systemic discrimination. To think of it metaphorically, this helps prevent vulnerable people from drowning at sea. How do such programs help create a more equal society?
3. If you were creating a new society or just trying to improve the one we have, what lessons would you take from the wrecks of the *Julia Ann* and the *Méduse*?

Shipwrecked

1908: CITY OF MEDICINE HAT

Shipwrecks don't always happen at sea. The steamship *City of Medicine Hat* struck Saskatoon's Traffic Bridge when the river was high from spring runoff. Before the captain attempted to navigate under the bridge, all the passengers and valuables were unloaded. Speculation exists that because the steamer was a money-losing operation, he purposely sunk it. ♠



1755: DODDINGTON

The *Doddington*, carrying Clive of India's fortune, hit a reef in Algoa Bay, South Africa. Only 23 of the 270 on board made it to a small island. The castaways worked harmoniously to build a small boat, and shared everything that washed up on shore equally. However, disputes erupted over a treasure chest that washed ashore. Their handcrafted boat brought them to safety, but the fight over the treasure tore their solidarity apart. †

***At least three million ships have sunk over the course of history.
What lessons can the shipwrecks below offer us as a society?***

1965: THE “REAL LORD OF THE FLIES”

Six Tongan classmates grew tired of their boarding school so sailed off for an adventure at sea. A storm damaged their boat, leaving them adrift until they landed at 'Ata. The boys resurrected the island's long-abandoned settlement, and followed their traditional upbringing “to [respect] each other and try to be [loving] to each other no matter how hard the life is.” After 15 months, a fisherman spotted them and returned them to Tonga, where they had been written off as dead. qp



1797: SYDNEY COVE

When a storm lethally damaged the *Sydney Cove*, it was abandoned on Preservation Island. The castaways quickly assigned roles, built homes, and dug a well. 17 men then set out on a longboat for the Australian mainland. The longboat wrecked on Australia's southeast coast, leaving the men to walk 600 kilometres to Port Jackson. Indigenous people helped them to safety, offering food and rowing them across rivers. †

Dictatorship's Dead End

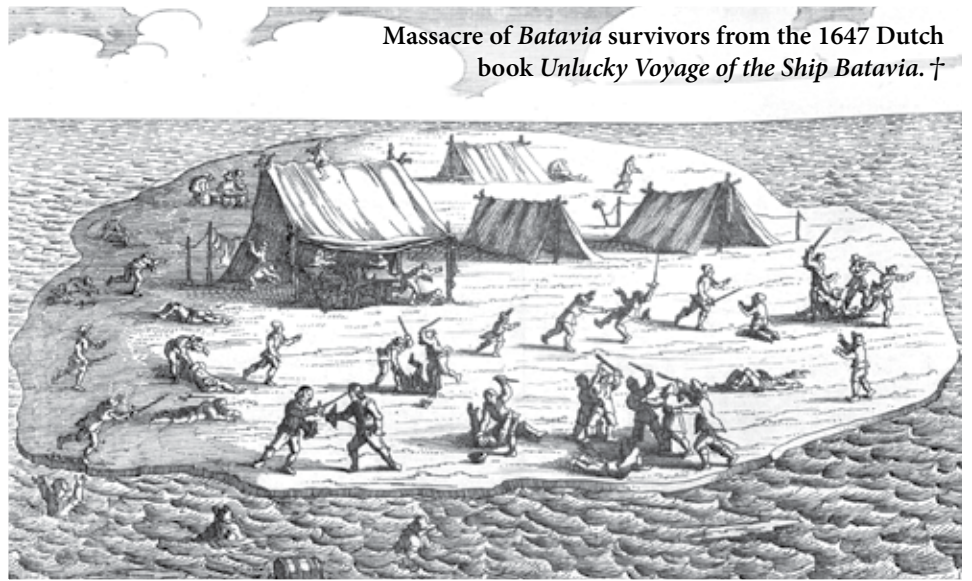
When the *Batavia* wrecked, one man emerged with all the power. He used it ruthlessly.

On the night of June 4th 1629, the *Batavia* was dangerously off-course. When the midnight watch spotted surf breaking in the distance, the skipper wrote it off as glimmering moonbeams. Neither man knew that the Dutch vessel, en route to Jakarta, was a mere 80 kilometres west of Australia. Minutes later, the *Batavia* smashed into a coral reef.

As the ship ground against the rocks and listed, the skipper desperately ferried people to a nearby island. Of the 340 passengers and crew, only 300 survived that chaotic night.

When day broke, the skipper realised he quite literally hit the Houtman Abrolhos. The small island chain could not support much life, so he packed over 40 senior crew members into a longboat to search Australia for water. When the search came up dry, they continued on to Jakarta to send a rescue ship.

Back on the islands, there was only one senior official left: Under Merchant Jeronimus Cornelisz. Cornelisz ruled as head of a council, and preached a bizarre libertine



Massacre of *Batavia* survivors from the 1647 Dutch book *Unlucky Voyage of the Ship Batavia*. †

doctrine that claimed people should not worry about doing evil.

Cornelisz was certain that a rescue ship would come. Having little conscience, he hatched a plan to take it over, load it with the *Batavia*'s salvaged wealth, and go pirating across the seas. For his plan to work, he needed to cull the castaways down to about 45 loyalists.

When two men were caught stealing wine, Cornelisz seized the moment to start the cull. He sentenced them to death. When the councillors pushed back, he dismissed them all and formed a new council of loyal

mutineers. The mutineers signed an oath of loyalty and carried out the death sentences. Cornelisz then began looking for ways to kill more castaways.

Soon, murder became a rite of passage to prove loyalty to Cornelisz. Often the choice was kill or be killed. However, the process was slow, so Cornelisz shipped small groups of castaways to nearby islands. He promised to send supplies but never did, believing they would starve.

When the exiles found enough food and water to live, Cornelisz sent teams to kill them. Eventually, 50

survivors made their way to a larger island on makeshift rafts or by swimming.

These rivals did not know Cornelisz' motivation, but they knew he wanted them dead. They armed themselves with sticks, stones, and items washed up from the *Batavia*, which allowed them to rebuff two invasions by Cornelisz' men. In fact, they managed to kidnap Cornelisz on his third mission to the island.

Determined to rescue their leader and finish off their rivals, Cornelisz

loyalists launched a fourth offensive on September 17th. The battle was abruptly interrupted by a sight on the horizon. The rescue ship had arrived. Both sides raced to reach it: the mutineers hoped to overthrow the ship, the rivals hoped to warn the rescuers of danger. The rivals got there first.

Trials were immediately held. With plenty of witnesses and a signed mutiny agreement, it was not hard to ascertain guilt. Cornelisz and several mutineers were executed on the

island. Others were taken to Jakarta for the governor to decide their fates. And two men were abandoned on Australia, becoming its first permanent Europeans settlers.

In the end, the mutineers killed an estimated 120 people. This is to say nothing of deaths from accidents and illness, and the death sentences handed out in the trials. With only about 120 survivors, the *Batavia* is known today as history's bloodiest mutiny.

CHECKS ON POWER

It is dangerous to put too much power in too few hands. This is what happened with the *Batavia* wreck. When the skipper and senior crew left, Cornelisz was free to take absolute control. Nobody else had the power to put him in check, and the castaways as a whole could not vote him out of power. Cornelisz ruled through violence and intimidation, and only violence and intimidation could stop him.

Cornelisz, in other words, was a dictator.

Canada has found ways to help avoid such a fate. The ability to create laws is spread across federal, provincial, local, and First Nation governments. Institutions like courts and the central bank are designed to be free from political interference. And above all, the *Charter of Rights and Freedoms* guarantees the democratic rights of every citizen. In Canada, no single person can hold unrestrained power.

LET'S FLOAT IDEAS

1. Mutineers signed an "Oath of Trust," pledging absolute loyalty to Cornelisz. This created an in-group of people with power. Can a society succeed if people with power are only loyal to themselves? What happens if we ignore the well-being of society as a whole?
2. What does Cornelisz' rule tell us about the dangers of giving absolute power to one person?
3. What does Cornelisz' libertine doctrine tell us about the importance of having decent people in leadership roles?

Agreeing on Rules

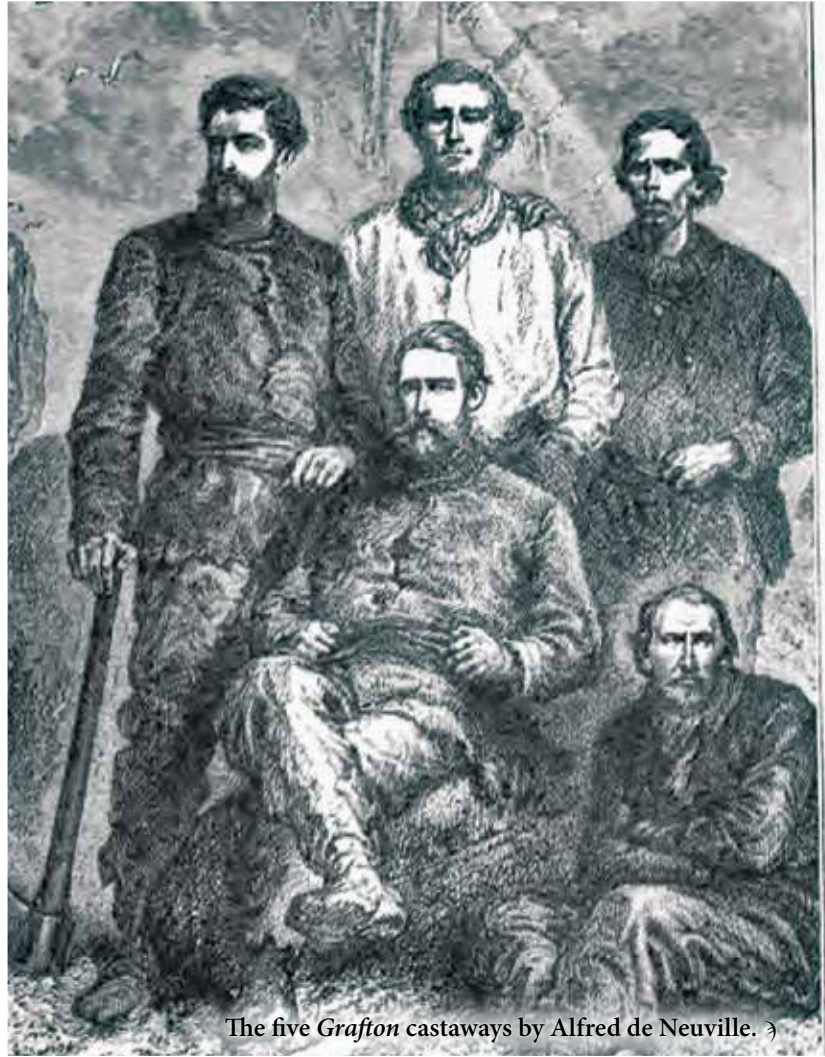
When the *Grafton* wrecked, five men of five nationalities found common ground.

On New Year's Day, 1864, five men huddled inside the *Grafton*. The American captain, French first mate, English and Norwegian crew members, and Portuguese cook were enduring their second day of a fierce storm. When the anchor ripped loose, the *Grafton* lurched into the rocky shore of Auckland Island, an abandoned outpost 450 kilometres south of New Zealand.

The ship was damaged beyond repair but did not break up. The castaways had guns, tools, sailcloth, a longboat, and two months of food. The island had fresh water, and birds, seals, and roots to eat. They had the necessities for survival: the rest would depend upon their behaviour.

The men quickly set about assigning duties and building a cabin. They shared food equally, cared for one-another when illness struck, found increasingly innovative ways to stretch their limited resources, and even set up a night school to teach one-another languages. But as weeks turned to months, a chilling reality set in: a rescue ship was not coming.

The men knew that to survive, they must find a way to preserve their unity. As the first mate wrote, "we had no strength except in union, that discord and division must be our ruin. Yet man is so feeble that



The five *Grafton* castaways by Alfred de Neuville. 3

reason, and self-respect, and even the considerations of self-interest, do not always suffice to keep him in the path of duty." He concluded that "an external regimen is necessary, a strict and formal discipline, to protect him against his own weakness."

Put differently, the men realised that absolute freedom is not possible. Rules are needed because even tightly-bonded people will

sometimes make mistakes or act poorly. Hence, they created "an external regimen" to constrain absolute freedom: they wrote their own constitution.

The constitution was built around democratic principles. It prescribed an elected leader with specific responsibilities. It gave the castaways rights and responsibilities. And it spelled out consequences

for wrongdoing, with banishment being the most severe.

Once they agreed upon the final draft of the constitution, they voted the captain as leader. He had no right to keep this position. The constitution granted the men the freedom to vote in a new leader. This helped keep the men free from tyranny.

Because the men acted with compassion and solidarity, they never exercised such rights as replacing the leader. Of course, there was some conflict. For example, card games sparked heated arguments. To keep the men free from conflict, the first mate destroyed the cards.

Their castaway society was helped along by the captain's judicious use of authority. For example, seals were not to be harassed. This could scare off a food supply: restricting the men's freedom to harass seals gave them more freedom from starvation. Nonetheless, one day the captain saw the men teasing a

seal. He let it pass because their playing was providing so much joy.

With no rescue ship coming, no ships passing the island, and the seal population dwindling, the risk of starvation grew. The men turned their attention to modifying their lifeboat so they could sail to New Zealand. After all, a society cannot live on caring and solidarity alone.

The three most-experienced seamen set sail on July 19th, 1865. Five days later they arrived in New Zealand, where they organised a rescue mission to pluck the last two castaways off the island.

There are many reasons why the *Grafton* wreck ended happily. The ship overturned but did not sink. Auckland Island was home to natural resources. And the castaways had a sense of camaraderie. Just as importantly, the men understood that their freedom could not be absolute.

To survive on Auckland Island, they needed mutually-agreed-upon rules.

WHAT IS FREEDOM?

The idea of freedom seems simple. To be free is to be able to do what you want. However, we cannot be completely free to do whatever we want. That would make life messy, dangerous, and not very free at all.

To understand why there cannot be unlimited freedom, consider this extreme example. If every person was free to kill others as they pleased, nobody would be free. Your freedom to live could be taken away at any moment, because somebody else is free to kill you.

Freedom in practice is a complicated mix of “freedom to” and “freedom from.” While we all should have the freedom to do what we want, we should also have freedom from particular harms. Thus, societies have agreed to create rules and laws that shape our freedom.

LET'S FLOAT IDEAS

1. Each *Grafton* castaway came from a unique culture and background. Yet, they bound themselves together under a constitution. It was something of a “civil religion”: a set of values they respected. Once a week they would pledge allegiance to their constitution as an act of solidarity.
 - a) Can a diverse society succeed if its members do not share some basic beliefs?
 - b) Do we share a “civil religion” as Canadians? If so, what is it?
2. Consider how destroying the cards limited the men's “freedom to.” What kinds of limits on our “freedom to” do we create as a society today? What “freedoms from” do these restrictions create?
3. Who had ultimate power on the island? The elected leader or the castaways as a whole?

Sources & Resources

THESE ARE JUST A FEW RESOURCES THAT HELPED INFORM THIS ISSUE OF *THE PLEA*.
FIND THEM AT YOUR LOCAL LIBRARY.

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NEW FROM PLEA

SHIPWRECKED The Learning Resource

This full-length resource examines the shipwrecks in this issue of *The PLEA* in greater detail, including lesson plans and student handouts. Ideal for Law 30.

ORDER YOUR COPY AT [TEACHERS.PLEA.ORG](https://teachers.plea.org)

"I am convinced that we will never build a democratic state based on the rule of law if we do not at the same time build a state that is—regardless of how unscientific this may sound to the ears of a political scientist—humane, moral, intellectual and spiritual, and cultural. The best laws and best-conceived democratic mechanisms will not in themselves guarantee legality or freedom or human rights—anything, in short, for which they were intended—if they are not underpinned by certain human and social values.... The dormant goodwill in people needs to be stirred. People need to hear that it makes sense to behave decently or to help others, to place common interests above their own, to respect the elementary rules of human co-existence."

- Václav Havel, former President of the Czech Republic

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