

A WARTIME ADVENTURE AND MARITIME LAW

George Howson

This paper records an interesting maritime event that occurred during the long war between the United Kingdom and France (and her allies) from 1793 to 1815. The information comes from a report in the *Lancaster Gazette* for 15 February 1806 (p3), which was, in turn culled from a contemporary report in the *Cumberland Pacquet* newspaper published in Whitehaven (11 February 1806, p3).

Throughout the long war British merchant shipping suffered severe losses at various times from the activities of French, Spanish and American privateering ships – Lancaster alone lost 47 vessels, although some were later re-taken (Howson 2008, 132–4). The Royal Navy of course, captured as much of the enemy's merchant shipping as possible, encouraged by the prize money payable for each enemy capture. They were assisted in this by many privateers. These were civilian ships issued with what were known as Letters of Marque, permitting them to seize enemy shipping, the cargoes of which could then be sold for the benefit of the captors. The institution of a compulsory convoy system limited the total British losses over the 22 war years to approximately 8,500 vessels, roughly 2 per cent yearly. Such was the enormous size of the merchant navy that this was regarded as bearable – in economic terms, at least.

Whitehaven was in a roughly similar trading category as Lancaster although its port facilities were much superior as it abutted directly onto the Irish Sea, unlike Lancaster which was partly dependent on the shifting channel of the River Lune. The former had a considerable trade firstly in importing tobacco and later in exporting locally mined coal.

Having set the scene, let the *Lancaster Gazette* take up the story.

15 February 1806

Saturday afternoon arrived at Whitehaven, the Spanish lugger *Barbarossa* (under the command of Mr Patterson) from San Andero, a Spanish port on the province of Biscay [modern-day Santander], which place she left about three o'clock in the morning of the preceding Sunday (the 2d inst.) but from whence she had been intended to sail (under the command of Capt. Pedro de Orovmandia) for La Vera Cruz, in the Gulph of Mexico, New Spain [modern-day Mexico].

Her destination was altered in the following manner: – Twenty-six English prisoners were confined in a castle near the place where the *Barbarossa* was fitting out – They formed the resolution of attempting to liberate themselves, and try to make their passage home in her – When the time arrived for carrying their project into execution, the majority of them shrunk from a design which was to be attended with so much danger – Eleven of them, however, persevered – four of these belonged to Whitehaven, viz. Mr. Patterson, who had been mate of the *Curwen*, Capt Shiphard of Workington, (captured some time ago) the carpenter of the same and two others.

Between two and three in the morning of the 2d inst they effected their escape out of prison, boarded the lugger – cut her out – passed two strong batteries (by one of which they were hailed) – and got out to sea. – The next day they had lost two of their masts in a heavy gale of wind but pursuing their course with great resolution,

and, certainly, with singular success they arrived safe at Whitehaven, as stated above.

Her cargo, so far as yet known, consists of – 1 large chest of silk stockings – 1 package of woollen clothes – 1 chest of stockings, assorted – 1 chest containing 10 reams of white paper – 3 bales, containing 20 half and 20 whole pieces of linen cloths – 140 large bales containing 1,400 reams of white paper – 90 chests of fine Spanish Steel, weight 180 quintals, equal to 18,000 Spanish pounds – 70 barrels of wine called Claret of Rioja – 40 barrels of dry almonds, weight 40 quintals, equal to 4,000 Spanish pounds – 1 bale of coarse unbleached linen cloth [...].

This cargo has cost in Spain, not less than 25,000l sterling, exclusive of the vessel, which, at a very moderate estimate, may be set down at 800l.

The *Barbarossa*, after delivering her cargo, (it appears) was to proceed to the West Indies (equipped with ten carriage guns and seventy men) to cruise against the English – She sails remarkably fast.

Alas for Acting Captain Patterson and his crew, the law intervened and the *Lancaster Gazette* for 17 May 1806 (p3) reported:

The *Barbarossa*, Spanish schooner, sailed from Whitehaven, as a cartel [a type of flag of truce], on Thursday se'nnight, for San Andero, in the Bay of Biscay; Government having restored the vessel and cargo to the owners in Spain. [A cartel ship was allowed to fly under a flag of truce through hostile waters.]

It would appear that the taking of the *Barbarossa* did not fall within privateering regulations or the powers conferred by possession of Letters of Marque, which of course in the circumstances they did not hold. The taking of the *Barbarossa* was therefore unlawful under maritime law. As a consequence, Acting Captain Patterson and his crew were deprived of what would have been to them a small fortune. They have our sympathy, although the British Government was acting perfectly correctly and with strict legality.

Reference

Howson G 2008 *The Making of Lancaster: People, Places and War, 1789–1815*. Lancaster: Palatine Books, Carnegie Publishing

Author profile

George Howson was born and brought up in Lancaster and educated at the Royal Grammar School. After National Service, he read law at Manchester University and qualified as a solicitor in 1959, returning to Lancaster in 1964. He was HM Coroner for North Lancashire between 1979 and his retirement in 2002. He was awarded a Diploma and MA in Local History by Lancaster University. His book, *The Making of Lancaster: People, Places and War, 1789–1815*, was published in 2008.