Alien seamen in the British navy, British law, and the British state, *c.*1793 – *c*.1815

[[1]](#endnote-1)

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ABSTRACT. During the ‘long eighteenth century’, several thousands of sailors born outside British territories served in the Royal Navy. This phenomenon, and the peculiarities of their employment compared to that of British seamen, remain largely unstudied. This article aims to show that, as far as disabilities or privileges were concerned, official legislation only played a very small part in making alien seamen’s experiences in the navy distinct from those of their British colleagues. More broadly, this paper argues that, whilst transnationalism can be overemphasized, there are specific contexts and groups of people for which the power of the state falters when it comes to obstructing movement, and indeed it is forced, for its very survival, to act strategically *against* the barrier to circulation that frontiers normally constitute. In similar circumstances, the origins of the individuals concerned, intended as official labels that states normally use to classify them, control them, and claim or disclaim ownership over them, can become all but meaningless. Thus naval sailors, as useful state servants, can be an excellent case study to understand the category of legal 'foreignness' as it developed in modern nation-states, and the tensions inherent to it.

Aboard HMS *Nightingale*, in September 1811, Camillo Corri, according to the muster book a fourteen-year-old volunteer first class from ‘Edinbro’, succeeded in irritating his Scottish messmate Robert Ritchie.[[2]](#endnote-2) ‘He is a complete turncoat,’ Ritchie wrote in his journal only a day after meeting him: ‘– denies he was born in Scotland, which pleases the English, who seem grealty [*sic*] to despise the Scots: he also claims the honour of being born in Italy; But if I mistake not, he was born in Edin’.[[3]](#endnote-3) Ritchie was not mistaken: Camillo Corri was the son of a famous Italian musician, Natale Corri, settled in Edinburgh with his family since at least 1792.[[4]](#endnote-4) Whatever his assertions on the matter, then, he was legally a Scot and a Briton.

Self-presentation in varying contexts, recent scholarship has argued, should be distinguished from external identification imposed on the individual by others.[[5]](#endnote-5) This article will focus on this tension, and on the role that the specific label of ‘subjecthood’ or lack thereof might have played in Hanoverian naval seamen’s lives. These men, owing to their peculiar position, offer a privileged vantage point for reaching broader conclusions on the power of the state that labelled them.

Throughout the eighteenth century, and particularly during the 1793-1815 ‘French Wars’, the Royal Navy, pushed by manning necessities, recruited thousands of foreigners.[[6]](#endnote-6) Very little is known about them, often only the ‘place where born’, as recorded in Admiralty musters and pay-books.[[7]](#endnote-7) This leads to a paradox: the historian’s very identification of these men as a group, the ‘non-British’ seamen, tautologically rests precisely on one of the external labels – whether assigned to them by naval administration, or assigned to themselves using the language of naval administration – whose validity or relevance require testing. Were it not for haphazard scattered evidence men like Corri, British by birth, but in other respects ‘foreign’, would slip through the cracks. The concept of ‘foreignness’, indeed, is vague.

First, a person may be classed as ‘foreign’, indistinctly, for being legally foreign (‘alien’), but also socially foreign (‘migrant’), or culturally foreign (‘other’): these are obviously very different categories, and not always overlapping.[[8]](#endnote-8) Furthermore, while the temptation is simply assimilating the word ‘foreigner’ to ‘newcomer’,[[9]](#endnote-9) this can be in itself reductive: being a ‘stranger’ (‘*étranger*’), Simona Cerutti has shown, in the early-modern period did not necessarily signify coming from the outside, but it could be the result of religious or familial extraneity, or lack of stakes, property, investment or settlement in the local community – social and cultural factors often independent of one’s provenance.[[10]](#endnote-10) In theory, one crucial differentiation cuts across all other terminology: on the one hand, foreignness defined according to the categories of the law, and thus by the state, clearly documented and recorded by it; on the other, foreignness defined by any other criterion, social, economic or cultural, not officially codified by legislation. As will be seen, however, in the eighteenth century this dichotomy could be problematic.

This article will focus on the former definition, technically termed ‘alienhood’. If belonging to a community, in the early-modern period, chiefly meant being inserted in a local network, people moving outside their immediate ‘*groupe local d’interconnaissance*’ became unpredictable and uncontrollable, because they had no interests, property or family acting as warranty against their behaviour, and nothing to prevent their assuming a fake identity: this is where state labels chiefly came into play.[[11]](#endnote-11) These, however, remained an imperfect tool: how far were these labels, clearly assigned to individuals in administrative documents, actually influential in people’s lives? And how did they rank, in terms of importance, when compared to labels of ‘foreignness’ attributed more informally (and not always concomitantly), on a social and cultural basis? Similar questions lead into a broader historiographical debate, surrounding the power of modern states over individuals and groups, and, in the face of that, the validity of transnational historical approaches.

Some kinds of transnational history have been accused of presenting an optimistic, ‘romanticised’ ‘success story’ of the transcending of state borders in favour of unity, movement and exchange, which ignores the barriers and failures, and the constraints of violence and power.[[12]](#endnote-12) The state and its borders, functioning through ‘categorical’ and ‘absolute’ classifications, have a fixed physical and socio-political existence which can often be underestimated in studies of culture and transnational fluidity of movement.[[13]](#endnote-13) However, this article aims to show that, whilst transnationalism can be overemphasized, there are specific contexts and groups of people – eighteenth-century sailors being one – for which the power of the state falters when it comes to obstructing movement, and indeed it is forced, for its very survival, to act *against* the barrier to circulation that frontiers normally constitute. In similar circumstances, the origins of individuals concerned, intended as the labels by which states officially classify, control, and claim or disclaim ownership, can become all but meaningless. Thus naval sailors, as useful state servants, can be an excellent case study to understand the category of legal ‘foreignness’ as it developed in modern nation-states (as opposed to the more local early-modern ‘extraneity’), and the tensions inherent to it.

Isaac Land, criticising Marcus Rediker’s vision of eighteenth-century sailors as living rebelliously above and detached from official structures and ‘authority’, suggests that seamen, precisely owing to their mobility, tended to be most aware of the legal implications of states.[[14]](#endnote-14) Indeed, according to Nathan Perl-Rosenthal, sailors were the first group of individuals who came to be identified through ‘modern’ systems of citizenship papers, owing to the controversies surrounding their employment during the ‘Age of Revolutions’.[[15]](#endnote-15) The British state was especially effective in reclaiming jurisdiction over and ownership of its seafaring subjects, and sailors, in turn, had learnt to make active use and even contribute to the shape not only of customary law, but later also of state legislation, using it as a ‘weapon of choice’ to obtain redress.[[16]](#endnote-16) However, it will be argued, in comparison to other categories, non-British seamen in Britain had relatively little to gain or lose by national labels and constraints, particularly when under naval employment. This was not necessarily due to the rebellious proto-anarchic spirit advocated by Rediker, as much as to some leeway left by the states themselves as a compromise for the more general preservation of their power. A strategic adoption, remoulding, or evasion of legal labels was performed not only by the sailors,[[17]](#endnote-17) but by the British state itself, and in the case of the latter this shed light on a fundamental contradiction, nested at the very core of modern states’ existence: the supposedly fixed demarcations that define and justify their being may prove, if strictly observed, incompatible with their survival, leading them to rely instead on hybrid cultural and legal categories. Yet cultural labels are intrinsically pliable, whereas anything short of rigid observance of its boundaries arguably results in a state’s loss of legitimacy.

This article will consider the legal status of aliens in eighteenth-century Britain, and its specific implications for seamen, in both civil and criminal law, and most notably at the moment of transition from alienage to subjecthood through naturalization. Assessing the weight of such implications will allow to measure the importance of legal categories, in their everyday lives, as opposed to social, cultural or economic elements cutting across these. The analysis will cover, in turn, disabilities (incapacities established by law), privileges and advantages, and lastly the legal context of the naturalization of seamen.

**I**

In most European countries, throughout the eighteenth century, a legal divide separated ‘natural born subjects’ and ‘aliens’. In Britain, the rights of a native could derive equally from being born within British territory (*jus soli*) or of a British father or paternal grandfather (*jus sanguinis*).[[18]](#endnote-18) It has been argued that ‘institutional limitations on migration were particularly strong in England’, certainly by comparison with Dutch legislation.[[19]](#endnote-19) However, even avoiding a whiggish perspective, this assessment does not seem entirely fair: by the standards of most contemporary countries, the degree of freedom granted to aliens in Britain was considerable, and this was especially true of sailors choosing naval employment.

Eighteenth-century mercantilist theories stressed the importance of population size for the prosperity of a country, and for this reason, at different times, several European states actively encouraged immigration: examples include the United Provinces, Prussia, and Russia.[[20]](#endnote-20) Other ancien regime powers, however, strongly resisted foreigners’ settlement, or imposed taxes and restrictions like the French *droit d’aubaine*, according to which, if aliens died without heirs who were natural-born French subjects, all their property would be confiscated by the crown.[[21]](#endnote-21) In 1790s France, wartime measures escalated into persecution.[[22]](#endnote-22)

Admittedly, the system allowed exceptions to discrimination. These, whether dictated by reciprocity agreements with other states, or by local policies, ultimately always depended on convenience: the crucial distinction was between *useful* and *useless* aliens, and the law bent to encourage the former.[[23]](#endnote-23) Seamen, of course, were a particularly useful type of immigrant, especially in wartime. In Britain, however, the backdrop of an already very lax system deprived any special encouragement of most of its meaning.

 Whilst perhaps not a match for the extraordinary liberality of the Dutch Republic, the British state’s legal discrimination towards aliens was minimal, even beyond considerations of utility.[[24]](#endnote-24) The *droit d’aubaine* was extraneous to British tradition, and it has been argued that the Crown never had the prerogative to expel aliens, or bar them from entry: this could be done only through special legislation.[[25]](#endnote-25) In peacetime at least, foreigners were free to come and go, trade (though with higher duty rates), marry, own movable property, and leave it to their heirs.[[26]](#endnote-26) During wartime more stringent controls were instituted, most notably in the Alien Acts of 1793, 1798, and 1803.[[27]](#endnote-27) Yet these were in many respects only increases in passport and border policing, quite mild if compared to continental practice; they did deprive foreigners of the right of *habeas corpus*, but this simply paralleled the general repressive twist of the Pitt administration, much condemned by contemporaries, rather than being the result of special discriminatory targeting.[[28]](#endnote-28) Indeed, in the Alien Acts, foreign mariners in employment were exempted from the requirements of registration upon arrival in a British port, and passports to sail away.[[29]](#endnote-29) Partial exception were, of course, *enemy* aliens, the fear of whom was the original cause of the 1798 bill.[[30]](#endnote-30) The Admiralty regularly forbade sailors from enemy nations, and Frenchmen in particular, to serve under British colours.[[31]](#endnote-31) In practice, however, this attitude was often contradictory, as several Frenchmen were instead allowed to enter the navy.[[32]](#endnote-32) Moreover, with or without official authorization, many of them were still found on naval muster books, and so were Dutchmen, Danes, Spaniards, Americans, and Swedes during periods when their respective countries were at war with Britain.[[33]](#endnote-33) No specific legislation was enacted to prevent this, presumably because they remained precious workforce, and individual loyalty was best gauged case-by-case, on the ground.

Beyond emergency wartime measures, only three types of disabilities affected aliens in Britain: first, they could not fill ‘positions of trust under the crown’.[[34]](#endnote-34) This prohibition was indifferent to lower-deck seamen, who did not normally aspire to commissions. Second, they could not possess land:[[35]](#endnote-35) this, too, was an incapacity very unlikely to affect a navy seaman, given his economic, professional and cultural distance from the world of landed property. Finally, the seventeenth-century Navigation Laws established that aliens could not own or be masters of English or Irish (and later Scottish) ships, trade with British colonies, or constitute more than a quarter of the crew of any English or Irish merchantman.[[36]](#endnote-36) The former two rules were again mostly irrelevant to the ordinary sailor, for obvious socioeconomic reasons; the crew regulations, instead, had more concrete repercussions. Instituted in 1660, they aimed to prevent customs abuses by foreign ships making English vessels readily identifiable, and provide English sailors with more secure employment, turning the merchant service into a ‘nursery of seamen’ for the navy.[[37]](#endnote-37) This legislation subsisted until 1853, and from 1794 crews in the coasting trades had to be entirely British.[[38]](#endnote-38)

Yet the one-quarter limitation was normally lifted in wartime, when the demand of the navy absorbed much of British maritime manpower.[[39]](#endnote-39) A statute of 1776, renewed annually during the American War, temporarily allowed three-quarter-foreign crews, and the concession was repeated in 1793 and 1803.[[40]](#endnote-40) Such statutes were, in fact, redundant: an act of 1740 had already made provision for this to be authorised, via a simple royal proclamation, in any ‘Future War’.[[41]](#endnote-41) Other exceptions were also granted: on American and West Indian routes and east of the Cape of Good Hope, respectively, British-owned black slaves and Lascar sailors counted as British, even if born outside British territories.[[42]](#endnote-42)

 Most importantly, crew limitations imposed by the Navigation Laws did not affect foreigners’ employment opportunities in the navy. The 1660 act concerned not shipping as such, but ‘Goods or Commodities’ ‘Imported into or Exported out of’ the king’s dominions, so it ignored naval vessels.[[43]](#endnote-43) Indeed, crew capping in merchantmen might have, if anything, pushed alien mariners towards the navy, when they found themselves stranded in Britain.

 If general alien legislation only seemed to create marginal disadvantages for the non-native sailor, there were some exceptions in laws targeting certain groups. Black men, for example, whilst automatically free from slavery from the time of their entry into the armed forces,[[44]](#endnote-44) still suffered from unequal treatment enshrined in statute. As remarked in a clause of the Act for the Abolition of Slavery of March 1807,

none of the Provisions of any Act as to enlisting for any limited Period of Service, or as to any Rules or Regulations for the granting any Pensions or Allowances to any Soldiers discharged after certain Periods of Service, shall extend, or be deemed or construed in any Manner to extend, to any Negroes so enlisting and serving in any of His Majesty’s Forces.[[45]](#endnote-45)

In these cases, however, it could be argued that legal status as ‘aliens’ in the modern-state sense still was not an important factor, per se, in determining these men’s situation. The discriminatory legislation was itself the product of other circumstances, social, cultural, and racial. It was not their hailing from abroad that defined these men’s lives, but rather their race and/or slavery past. Many of them, indeed, were not even strictly speaking aliens, having been born within British territory. The question of subjecthood in the empire was highly contested throughout the eighteenth century, but by the time of the French Wars it was generally accepted that being born on British colonial soil, and being free, were sufficient for a black to be deemed a subject.[[46]](#endnote-46) This, however, did not, as seen here, remove other disabilities, which not only put him on the same footing as non-British blacks, but in fact ranked him behind non-British whites. Similar discriminatory practices could be seen, in commercial shipping, in the case of Lascar sailors from territories controlled by the East India Company.[[47]](#endnote-47) Throughout the empire, and well into the twentieth century, legal British subjecthood often did not result in equal status for indigenous populations, in the face of ulterior racist legislation and practices.[[48]](#endnote-48) We see here a clear example of Cerutti’s category of ‘*étranger*’, which does not necessarily overlap with that of ‘those born outside’ the country, but is instead a much more complex notion, representing a marginality that can easily ‘criss-cross’ birth-focused legislation.[[49]](#endnote-49) This was particularly true in eighteenth-century Europe, where ‘belonging’ to national communities was still heavily defined in terms of personal or group privileges.[[50]](#endnote-50)

 The legal concept and status of ‘alien’, then, arguably had a negligible impact on the lives of seamen in the British service, at least as far as disabilities were concerned. A partially different case can be made regarding advantages. However, these, too, will need to be qualified: most of all, it will be important to bear in mind the gap between theory and practice.

**II**

The main legal advantage that alien sailors enjoyed over most British colleagues was formal exemption from being impressed into the Royal Navy. This form of recruitment, bitterly opposed by many contemporaries, was systematically used throughout the century, although historians disagree on its scale and impact.[[51]](#endnote-51) A 1740 act listed as protected, next to men over fifty or under eighteen, or who had ‘used the sea’ for less than a set amount of time, ‘every Foreigner, being a Mariner, Seaman or Landman’, employed in British merchantmen or privateers.[[52]](#endnote-52) When in September 1800 the French Consulate decreed that ‘all foreign seafaring men resident in the territory of the Republic, who have married French women, and sailed on board merchant vessels, are liable to serve in the vessels belonging to the State’, some British papers reacted with indignation. ‘This measure is the greatest outrage upon the general liberty of man, that ever took place’, *The* *London Packet* railed, ‘a measure which tramples upon Justice, Patriotism, and Nature’.[[53]](#endnote-53) This became, then, another opportunity to cast British liberties and rights against the shadow of the French tyrannical system: rhetorical attacks founded on ‘humanitarian patriotism’ were a strategy which both countries reciprocally pursued in those decades, particularly with reference to the treatment of prisoners of war.[[54]](#endnote-54) In practice, however, British behaviour was far from irreproachable.

First, in Britain marriage or settlement in the country were also seemingly sufficient for being liable to impressment. In the correspondence relative to impressed foreigners, the recurrent formula to justify discharge requests was that a man ‘never was either married or settled in England’: having a British wife was enough to make an application fail.[[55]](#endnote-55) This was a clear survival of older, pre-statal definitions of belonging, understood as having ‘stakes’ in a local community.[[56]](#endnote-56) The state’s convenient adoption of these definitions when they suited its interest, despite the existence, by then, of parallel, formally codified legislation on alienhood and protections of aliens, shows the weakness of such codified legislation. Importantly, as will be seen below, a British wife or residence were not enough for a man to be considered a naturalized subject.

Second, the rules were occasionally relaxed. An act of 1798, for instance, suspended for five months all exemptions from impressment.[[57]](#endnote-57) Moreover, laws were not always followed in practice, as shown by the 1812 American War, which had impressment as a precipitating factor.[[58]](#endnote-58) The position of impressed Americans, admittedly, compared to that of subjects of other nations, was very ambiguous. To begin with, Britain refused to recognize as American citizens Britons who had been granted naturalization by the United States: the two countries thus disagreed on the very definition of ‘who was an American’.[[59]](#endnote-59) Besides, American seamen, because of their language fluency and cultural similarity, could struggle to prove that they were not British, which afforded widespread malpractices.[[60]](#endnote-60) In this context, even official identification papers could count for little.[[61]](#endnote-61) One illustrative case is that of young Henry Geddes, ‘a native of Charlestown S. Carolina’, as recorded in 1805 by Thomas Simpson, surgeon of HMS *Arethusa*:

he was impressed from an american [*sic*] ship in the Thames, under circumstances that do no honour to the persons employed in that department as he has the most undeniable testimonials of his being an American. …I apprehend from his simplicity that he will not get away from want of a knowledge of the proper steps to be taken for this purpose.[[62]](#endnote-62)

Beyond the American question, however, the frequent violations of statute are proven by abundant circumstantial evidence, including hundreds of letters written by foreign consuls (not only American, but also Swedish, Danish, Prussian, Spanish, Genoese, and others) to the British Admiralty, requesting the release of their countries’ subjects, unlawfully impressed.[[63]](#endnote-63) Many more cases of abuse may have never come to official attention: casual remarks in logs and journals show that the impressment of known foreigners, including some who could in no way be mistaken for British, was accepted as a common occurrence among navy personnel. In November 1805 Thomas Simpson treated for scurvy William Rogers and William Noel, ‘both… foreigners the first a Portuguese and the latter an American’: ‘they were both impressed from the homeward bound West India fleet’, he notices, in a matter-of-fact fashion.[[64]](#endnote-64) In the musters of ships, non-British sailors are often openly listed with their birthplaces, and as pressed.[[65]](#endnote-65) Not even the fiction of legality was maintained: the meticulous bureaucracy of the Admiralty meticulously, and indifferently, documented flagrant violations of the law.

The press gangs ashore, presumably, would have also been aware of the foreignness of some of their victims. In a case tried at the Old Bailey in 1793, after a Swedish sailor had been murdered by a press gang, it emerged that this had raided a tavern where Swedish sailors habitually sojourned (the owner was a Swede), and tried to drag them away, being well aware of their origin (the cry ‘Swanskey, come out’ was reported by some witnesses).[[66]](#endnote-66)

If neither legal status nor actual appearance as strangers were sufficient protection, however, it was often the latter, rather than the former, which simplified these men’s release, as the consuls seem to have known well. It is very interesting, indeed, that the somewhat cautious formula almost invariably used by the American envoys in their requests for release was ‘Seamen representing themselves to be’, ‘represented to be’, or ‘said to be’ ‘Citizens of the United States of America’.[[67]](#endnote-67) Consuls of other countries, instead, confidently stated the fact of their alienage: ‘x *are* subjects of y’ [my emphasis], ‘x being a subject of y’, ‘x, a native of y’.[[68]](#endnote-68) In 1796, the Danish consul requested the discharge of Christian Nielsen Ohl, an impressed Dane: Ohl was ’examined… in the Danish Language’, after which a consul’s employee swore that his being a Danish subject was ‘ascertained beyond all doubt’. The Board of Admiralty seemed to accept this rather weak form of ‘cultural’ evidence, as they ordered the man’s discharge, ‘if he should bona fide appear to be a Danish subject’.[[69]](#endnote-69)

In short, unlike Americans, for whom subjecthood or lack thereof was highly disputed, and only demonstrable through official papers, aliens coming from another country often would have been immediately recognisable as such. Besides the question of disputed subjecthood, indeed, it does not seem casual that the state which suffered the most from British illegal recruitment was precisely the United States: in an era of still dubious personal papers, legal subjecthood or citizenship mattered much less than ethnic or ‘cultural’ outlook, in identifying a man.[[70]](#endnote-70)

As has been seen, then, the greatest legal privilege enjoyed by alien seamen in Britain, exemption from impressment, was often thwarted by practice, and potentially meaningless if not backed by other forms of evidence, such as diplomatic support and foreign appearance. A second area where we can look for special treatment of aliens is criminal legislation and practice, in both civilian and naval courts.

**III**

In 1795 the Italian sailor Lewis Bonnevento (also spelt Francis Lewigo Benwento or Beneventa) faced trial in the Old Bailey for stabbing a fellow seaman in a London lodging house: an interpreter was present, and ‘half of the Jury were foreigners, because the prisoner was one’.[[71]](#endnote-71) The privilege of a half-foreign jury, then routinely granted, derived from ancient customary practices, connected to a ‘personal’ rather than ‘territorial’ understanding of the law: jurors drawn from a certain local, religious, ethnic or even institutional community (for instance Jews and universities) were deemed to have special competence in trying fellow members, their presence also ensuring ‘fair dealing’.[[72]](#endnote-72) This arrangement is an example of the group ‘privileges’ and ‘legal pluralism’ that globally preceded the rise of the modern centralised and uniform nation-states.[[73]](#endnote-73)

A half-jury, it has been shown, may have allowed foreigners higher rates of acquittals or lesser charges, into the eighteenth century.[[74]](#endnote-74) However, whilst alien mixed juries were called ‘*de medietate linguae*’, by then considerations of language and cultural competence were secondary: the ‘alien half’ was not even required to be from the same country as the defendant, doubtlessly reducing its usefulness.[[75]](#endnote-75) This was precisely because, with the emergence of the levelling ‘territorial’ state, in the eyes of British law the artificial category of alien began to be assigned more importance than cultural elements of foreignness, which were more immediately relevant to people’s personal lives.[[76]](#endnote-76) The situation was even less favourable when sailors embarked with the Royal Navy, where a jury *de medietate linguae* was intrinsically impossible: courts martial had to be composed of five to thirteen senior officers, and normally none of these could be foreigners.[[77]](#endnote-77) The only exception that could be found relates to the very special case of four Dutch ships commissioned into the navy in 1800: Dutch seamen in these were entitled to three Dutch officers in the jury.[[78]](#endnote-78)

 Positivist legal historiography tends to disregard as non-legal anything not codified in writing, yet this is reductive.[[79]](#endnote-79) Any significant example of alien sailors’ differential legal treatment, indeed, derived not from state legislation, but from less formal practices – diplomatic negotiations and judicial mercy.

First, alien seamen facing courts martial could have an advantage through direct intervention of their country’s diplomatic representatives. This was not always successful, however, because the boundaries between states’ jurisdictions were contested and open to manipulation. The Dane Lorenz Hansen, in May 1798, trying to obtain the release of a ‘Danish mariner’ accused of taking part in an ‘affray’, personally vouched for him with the Admiralty (‘I know this Man to be of a good decent family in Norway’); the imperial consul, a few months later, requested the release of an Austrian soldier who, employed in a British ship, had got ‘toxicated’ while on leave, and was now in prison.[[80]](#endnote-80) Unfortunately, the outcome of these pleas is often unknown. When this has survived, however, it shows that consular interference was not always effective, particularly if it could not be proven that the men had been forcibly impressed. In 1801, John Williams, an American sailor, was tried for mutiny; the American envoy attempted to obtain his discharge, arguing that Williams was an American subject, and that he had not entered the Royal Navy voluntarily.[[81]](#endnote-81) While the former claim was accepted, the latter was proven highly dubious in the face of the evidence. According to Admiralty lawyers, this prevented an acquittal,

because, it is perfectly clear that, whenever the Subject of one Prince or State enters voluntarily into the Service of another, and contracts certain positive Obligations in Consequence of the New Relation he has adopted, he is equally amenable to the Laws which relate to his Condition with the natural born Subjects of such Prince or State, and equally liable to punishment for the breach of them.[[82]](#endnote-82)

The overall principle seems clear: once a man *voluntarily* put himself under the naval regulations of the British Crown, no power in the world could save him from being treated, in front of British martial law, exactly like his fellow British shipmates. When convenient, the British state would readily ignore legal distinctions between aliens and subjects, or – as will be seen in the following section – maintain a fluid interpretation of them, to its advantage.

Legal practice could result in a second, informal type of leniency towards foreigners. At Bonnevento’s trial, one of the foreign jury members arrived late, and then attempted to find a substitute: though this would have normally resulted in a ‘heavy penalty’, the judge told him that ‘as he was a foreigner, and perhaps not well acquainted with the rules of our Courts of Justice, the Court would, on this occasion, overlook what had happened’.[[83]](#endnote-83) Similar examples of tolerance are found in naval courts martial, as well.

In November 1806, at Barbados, three seamen faced judgement for their involvement with the mutineers who had taken HMS *Dominica* to an enemy port.[[84]](#endnote-84) One of them, called Naiad Suare, was the ship’s cook, a black runaway slave ‘native of Martinique’.[[85]](#endnote-85) As he declared in his defence, he had acquiesced to cooperate only when threatened with a cutlass: he strongly opposed navigating the *Dominica* into Martinique, ‘for if my master was to catch me in a French port, he would hang me’.[[86]](#endnote-86) Even though his sentences in the recorded minutes appear perfectly correct, one of the witnesses related that on the day of the mutiny he had heard him ‘speaking in broken English’: this statement was not questioned by the court, which suggests that either an unrecorded interpreter was present, or, as usual, trial minutes are heavily shaped by the transcriber.[[87]](#endnote-87) Either way, it seems clear that Suare was immediately distinguishable as a foreigner. He was convicted and sentenced to death, but the court martial immediately wrote to Admiral Cochrane, commander-in-chief of the station, begging ‘to recommend him for mercy’, as he ‘appears ignorant of the magnitude of the crime and to have acted under the influence of fear from the threats made him’.[[88]](#endnote-88) On 17 December, Suare was accordingly pardoned.

Leniency based on specific circumstances of the accused, for example age, is frequently found in eighteenth-century naval courts martial, and even Britons could be shown mercy because they had been ‘seduced’ by someone else to commit a crime.[[89]](#endnote-89) In most cases, however, the first half of the court’s plea for Suare would have appeared nonsensical: ignorance of the Articles of War (publicly displayed and regularly read to the crews, in theory at least),[[90]](#endnote-90) and especially of the gravity of that most heinous of crimes, mutiny, would not have been deemed a valid excuse. Thus only one other type of attenuating circumstance offers a parallel.

Courts martial tended to show tolerance even towards the worst crimes, if committed in a state of ‘insanity’. In 1812 landsman William Kinder, who had – for the third time in four years – repeatedly struck a lieutenant with his fist, was acquitted, mainly after all witnesses unanimously confirmed that he frequently showed signs of ‘madness’. [[91]](#endnote-91) Likewise, in 1808, Marine Alexander Vannetta (or Vannett), presumably a foreigner himself, since during the trial the questions posed included ‘what Countryman’ he was and whether he understood English, went on a sudden rampage, stabbing fourteen shipmates. He was sentenced to death, but the court recommended a ‘commutation of punishment’, on the grounds of his ‘derangement’.[[92]](#endnote-92) In general, whenever a case warranted suspicion, courts martial tended to investigate carefully the possibility of defendants’ insanity, repeatedly inquiring on the matter with all witnesses.[[93]](#endnote-93) One cannot but be struck by the parallel between this and the procedure followed in the court martial of the Maltese seaman Francisco Falso, tried for sodomy in 1798: ‘Do you know whether Francisco Falso has always understood the Orders, that have been given him?’, ‘Did you ever hear the Articles of War read on board?’, ‘Does Francisco Falso speak or understand English?’, ‘Did you ever hear the Maltese speak English?’, the witnesses were asked.[[94]](#endnote-94) We do not know whether this aspect would have carried enough weight to affect the sentence, or subsequent recommendations for mercy, since both Falso and his lover were acquitted for lack of proof, but the repeated questions signify that in the court’s eyes it could have. In a way, then, it appears that cultural and linguistic extraneousness could be considered a form of disability analogous to insanity, seemingly warranting an extraordinary level of leniency. The crucial difference was, of course, that whilst leniency towards ‘lunatics’ was explicitly prescribed by statute, that towards foreigners was seemingly not.[[95]](#endnote-95)

The foreigner would benefit from this discretionary interpretation of written law, and arguably the British state benefited, too. Douglas Hay’s view of pardons purely as deliberate instruments of power has been convincingly questioned,[[96]](#endnote-96) but it is true that, whether saved by humanity or by economical calculations, an able-bodied alien, unlike an insane man, had some value for the navy. His legal condition as alien, on paper, did not entitle him to any significant favouritisms. Cultural ‘otherness’, however, potentially perceived as a structural deficiency not unlike mental confusion, prompted a merciful treatment. It was not documentary, legal difference, but – if anything – the wholly social and cultural *perception* of difference which ultimately mattered in influencing a guilty foreigner’s fate.

One last reason why the legal category of ‘alien’ is unhelpful, when trying to capture the essence of these men’s lives, is that the very boundaries between aliens and subjects could be rather blurred, particularly in the case of sailors. It is precisely here that the minor weight of official labels is thrown into relief most clearly.

**IV**

A state’s right of protection over foreign seamen serving under its flag has sometimes been recognised in international law, despite its being contrary to all other established norms.[[97]](#endnote-97) It was firmly defended by Americans, for example, on the eve of the War of 1812.[[98]](#endnote-98) In early nineteenth-century Britain, this resulted in the rather ambiguous concept of the ‘character of a British Mariner’, which, according to Sir William Scott, judge of the high court of Admiralty, was invested on any foreign sailor domiciled in the country: this is the case seen above of seamen ‘married or settled’ in Britain.[[99]](#endnote-99) Domicile (as opposed to mere residence), with its power to ‘impress’ ‘national character’, was, in fact, as vaguely-defined a category then as it is today.[[100]](#endnote-100) In equally vague terms, nineteenth-century international jurists also mentioned the idea that in wartime seamen, specifically, were ‘to be characterized by the country in whose service they are employed’.[[101]](#endnote-101) These general, rather nebulous principles found some measure of formal expression in the legislation that, throughout the eighteenth century, offered British naturalization to alien seafarers. The chaotic nature of this legislation is, arguably, the focal point where some crucial internal contradictions of the modern state became most clearly exposed.

Naturalization was, in early-modern Britain, a long and costly process, usually only pursued by wealthy merchants.[[102]](#endnote-102) Some of these wealthy merchants, however, while embroiled in bureaucratic procedures, may have wished that they were seamen: a statute of the sixth of Anne (1707), tending to promote trade, established that,

for the better encouraging of foreign Mariners and Seamen to come and serve on board Ships belonging to the Kingdom of *Great Britain*… every such foreign Mariner or Seaman who shall… have faithfully served on board any of Her Majesty’s Ships of War, or any Privateer or Merchant or trading Ship or Ships, Vessel or Vessels, which at the Time of such Service shall belong to any of Her Majesty’s Subjects of *Great Britain*, for the Space of two Years, shall, to all Intents and Purposes, be deemed and taken to be a natural-born Subject of Her Majesty’s Kingdom of *Great Britain*.[[103]](#endnote-103)

The provision was repeated in an act of 1740, this time with the additional specification ‘during the time of War’.[[104]](#endnote-104) Nothing in this second act seems to indicate that the previous statute was still deemed in force: even if the wording is almost the same, Anne’s act is never cited in the text. The validity of the 1740 act itself, then, after the end of the War of Jenkins’s Ear, is also uncertain, and it obviously comes to hinge on the interpretation to be given to the phrase ‘during the time of War’: while the last section of the act refers to future wars, it does so explicitly only as far as the suspension of the Navigation Laws is concerned.[[105]](#endnote-105) In fact, an act of 1780 reconfirmed this statute’s rulings on naturalization, noting that ‘Doubts have arisen’ on their ‘true Intent and Meaning’; yet, once again, the text spoke of ‘the last War’ and ‘the present Hostilities’, leaving its applicability to subsequent conflicts open to interpretation.[[106]](#endnote-106) Of course, a statute not formally repealed retains its legal value. Indeed, we know that this was the case throughout the period of the French Wars, because a parliamentary bill of 1818, proposing temporary limitations to naturalizations, explicitly excepted, among others, those that previous acts ‘made for encouraging Seamen to enter into His Majesty’s service’.[[107]](#endnote-107) Most modern historians report the two-year rule as valid into the nineteenth century, and so did the jurist Joseph Chitty in his 1820 treatise.[[108]](#endnote-108) The legal reality, however, was more complex.

Puzzlingly, indeed, in 1794 another act allowed foreigners to be masters of British ships (an 1802 statute extended this to Ireland), and deemed British mariners for the purposes of the Navigation Laws, if they had *three* years of wartime naval service, a certificate of good behaviour, and proof of having taken the Oath of Allegiance.[[109]](#endnote-109) Why was this provision necessary, if after two years they were considered naturalized subjects anyway? Naturalization did not allow access to civil or military offices under the Crown,[[110]](#endnote-110) but commanding merchantmen – or working in them – clearly did not fall under either category. Even more curiously, the text of the act listed the ways in which a man might be qualified a ‘British’ master or seaman as ‘by Birth, Naturalization, Denization, Conquest or Service’, thus effectively differentiating naturalization from rights acquired by service.[[111]](#endnote-111) Whilst this bill underwent several amendments in both Houses before being passed, unfortunately no details of the debates survive.[[112]](#endnote-112)

 Overall, it appears that the legislation on this matter was layered, in frequent need of re-establishment, and occasionally contradictory, leading to suspect that the rule was not always known, or followed. In 1808 Lars Jansby, a Swede who had served for ‘about 9 years’ ‘in the Merchant and Transport Service’ (thus being, in theory, naturalized), after surviving a dramatic shipwreck had immediately, upon stepping on English soil, gone to the Commercial and Naval Register and Insurance Office, to request a protection from impressment: as he swore in his affidavit, he ‘had not done any Act to become a Subject of his Britannic Majesty’, meaning presumably the oath-taking process.[[113]](#endnote-113) The protection was denied to him: two days later a press gang caught him and, despite his protests, imprisoned him in poor conditions for several days, alleging irregularities in his papers.[[114]](#endnote-114) This might simply be another example of impress service prevarication, since according to Jansby the regulating officer had no difficulties in accepting that he was a Swedish subject.[[115]](#endnote-115) However, more was probably at stake. Jansby was, by his own declaration, culturally well assimilated: he had chosen to leave American shipping ‘preferring the British Service not only from Treatment whilst on Board but the Manners & Constitution of the Country’; he had ‘made himself acquainted with the Language Customs’ and ‘acted and performed the duty of Second Mate and Boatswain of several Ships of large dimensions’.[[116]](#endnote-116) Very similar is the case of Wilhelm/William Schroeder, Prussian sailor who for thirteen years had ‘constantly’ served in ‘British Merchant Ships’, but ‘never committed any Act to become a Subject of his Britanic [*sic*] Majesty’.[[117]](#endnote-117) He was nevertheless impressed, in 1809, and in justifying this action the lieutenant and surgeon subsequently observed that he ‘did not answer the description in his protection’, resided in London, and ‘spoke good English’.[[118]](#endnote-118) The law regulating who was a subject, who was not, and who became one was weak and open to interpretation and abuse: in this context, a man who shed most of his appearance of foreignness possibly lost his most valuable bargaining card.

 If men like Jansby and Schroeder were legally alien but culturally mostly British, the opposite case was of course also possible: seamen who were legally naturalized, but still culturally ‘foreign’. This theme emerges most forcefully, as is often the case, in xenophobic discourse. Already in 1693, during a heated parliamentary debate on the naturalization of foreign protestants, the MP and Mayor of Bristol Sir John Knight had expressed the core of the question: ‘foreign Merchants will naturalize foreign Seamen; and when the Press-Masters find them, they will *Dutchen spraken, ya min Heer*, and avoid the Service; but at the Custom-House, Exchange, and in all Corporations, they will be found as good Englishmen as any of this House’.[[119]](#endnote-119) It is probably true that seamen would have attempted, to some extent, to play the system to their advantage: a similar gap between legal and cultural identification can make one of the two irrelevant, at any given time, or create tension and displacement, but it can also offer considerable leeway to human agency.[[120]](#endnote-120) Lars Jansby, indicting the press gang officers in King’s Bench, was living proof of this. The problem with arguments like Knight’s, however, was that the actual advantage which could be drawn from claiming legally British status was rather meagre.

Admittedly, seamen thus naturalized no longer counted as foreigners for the Navigation Laws, so they would have more easily found peacetime employment in Britain.[[121]](#endnote-121) This, however, was the only tangible benefit, and it did not immediately affect a man already engaged in the naval service, until at least the end of the conflict. A sailor aboard one of His Majesty’s ships would suddenly, on the 730th (or 1095th) day of his service, wake up a subject (with the remaining formality of an oath). Now he would be allowed to possess his own plot of British land, buy an English ship, and save on customs duties. This set of highly hypothetical powers – if he was even aware of them – would scarcely make any difference to his daily life. As argued by Cerutti, social integration is a process in which institutional recognition, per se, only plays a minor and indirect part, and over which the early-modern state never exerted ‘monopoly’ of control.[[122]](#endnote-122) This, it can be argued, remained the case for the modern state. Aside from few dubious economic advantages, naturalization was at best rather meaningless, and often even problematic, as for Jansby and Schroeder.

More broadly, the main problem was that, as a poorly-thought-through political measure in conditions of national necessity, seamen’s naturalization was not only indifferent in practice to the lives of individuals, but also theoretically in contradiction with some of the pillars of the state’s self-definition. Thus once again practice proved very different from the letter of the statutes, especially when the complexities of international law came into play.

The relative levity with which the naturalization of seamen was regarded is well enshrined in a speech the tory George Canning gave in the House of Commons, in 1813. Rejecting the assertions of the whig MP Samuel Whitbread, who equated British practice to that of Americans, he specified that the 1707 act, while allowing foreigners to ‘participate in all the blessings of the British constitution’, as ‘a testimony of national gratitude to brave men of whatever country who may lend their aid in fighting the battles of Great Britain’, still left ‘untouched and unimpaired their native allegiance’. The provision was not intended, he clarified amidst the ‘hear, hear!’s of the House, as ‘an encouragement to them to deny or to undervalue the sacred and indestructible duty which they owe to their own sovereign, and to their native soil’.[[123]](#endnote-123) This, of course, must be placed in the rhetorical – and rather hypocritical – context of the War of 1812, and particularly within the debate on ‘indelible’ or ‘indefeasible allegiance’, which saw Britain and the United States accusing each other of stealing national seamen.[[124]](#endnote-124) Nevertheless, a public stance of this kind still left the naturalized foreigner (American or otherwise), and most harshly the one who had fought for Britain against his old country, with little more than a worthless honorary title in his hands. The Napoleonic Code, for example, decreed the confiscation of property and expulsion from French territory of Frenchmen naturalized abroad without authorization; if they fought against France, as was obviously the case with Royal Navy sailors, the penalty was death.[[125]](#endnote-125) What use could then be the formal naturalization granted by a government which afterwards refused to afford protection?[[126]](#endnote-126)

In short, the naturalization of a navy seaman was, for him, a legally confused process, socially and culturally insignificant, economically only marginally advantageous, and even, partly because of its legal flimsiness, potentially dangerous. The state itself that, pressed by need, offered naturalization to attract seamen was intrinsically unable to guarantee the consistency and permanency of this measure, which contradicted its own essence. The final result was that official legal status came to matter little to either of the two parties involved, and a weak understanding of it proved convenient to both.

**V**

In eighteenth-century Britain, both the political will for, and economic benefit of, excluding aliens were relatively weak.[[127]](#endnote-127) This holds particularly true for seafaring men, a crucially useful group for a state that drew its wealth and power almost entirely from the sea. Hence in times of need even the residual barriers that interest ordinarily imposed on foreigners were specially lifted for seamen. Incapacity to hold office or own land or ships was socially and economically irrelevant to them, and the Royal Navy was always an available option, regardless of the Navigation Laws – which were anyway relaxed during wartime. At the same time, foreign-born mariners enjoyed no preferential treatment over British seamen. The few legal provisions that would have acted in this sense were either, like exemption from impressment, regularly transgressed in practice, being contrary to the very principle of interest that motivates alien legislation, or ultimately almost meaningless, as in the case of the half jury. Whenever benefits were to be derived, these stemmed not from the letter of the law, but from the discretion of individual enforcers, moved not by a man’s position as a non-subject, but by his situation as a cultural outsider, coupled with practical considerations. Both safety or release from impressment and post-verdict leniency were often granted on the basis of an appearance of foreignness, rather than pieces of paper, in the same way as the only severe disability, relating to pensions and discharges, targeted the racially and socially ‘other’ blacks, regardless of their birthplace.

The ultimate near-insignificance of legal status to a seaman’s life can be seen, finally, in the chaotic, contradictory, and uncertain shape of the legislation that sanctioned his transition from alien to subject: this legal transition was very often out of phase with his cultural and social transition,[[128]](#endnote-128) and in practice it was frequently the latter which had the most immediate effect on his identification in the eyes of others. Because his status as an alien had so little impact on his service in the British navy, moreover, there was not much that the superficial gift of naturalization could do for him, in material terms at least – and indeed it could prove damaging.

Camillo Corri, a Scot in British law, grew up in an Italian household, surrounded by the artistic traditions of his parents’ native land, and in these he found the source of his deepest personal pride. Lars Jansby, instead, moved by admiration and convenience, found in Britain his perfect new motherland, yet he remained legally a Swede. It is important not to reduce the role of legal categories to nothing: for Corri, British subjecthood meant that one day, perhaps, he could have aspired to a commission as lieutenant;[[129]](#endnote-129) for Jansby, the lack of British subjecthood meant that he could eventually escape the press gang. At the same time, however, at any given moment, legal categories only accounted for a relatively minimal part of these men’s life, and of the daily obstacles, privileges and meaning with which it was invested – by them and by others. These categories and labels, much like patriotic claims,[[130]](#endnote-130) were deployed when strategically useful, but then immediately shelved again. This, most importantly, was not only done by the individuals themselves, but also by the very states that set the labels. Whilst by definition reliant on rigid categorizations, structures, and procedures, which it invented, the power of the modern state was also, for its survival, forced to ignore and undermine these same categorizations, structures, and procedures, caught in an existential blackmail which ultimately revealed its contradictions and conceptual weaknesses.

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42. 34 Geo. III c. 68 § viii. [↑](#endnote-ref-42)
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44. 47 Geo. III sess. 1 c. 32 § cii. [↑](#endnote-ref-44)
45. 47 Geo. III sess. 1 c. 36 § xvii. See also 47 Geo. III sess. 1 c. 32 § ciii. [↑](#endnote-ref-45)
46. Brooke N. Newman, ‘Contesting “black” liberty and subjecthood in the anglophone Caribbean, 1730s-1780s’, *Slavery & Abolition*,32 (2011), pp. 169-83; Morieux, ‘Des règles’, p. 144; Christopher L. Brown, ‘From slaves to subjects: envisioning an empire without slavery, 1772-1834’, in Philip D. Morgan and Sean Hawkins (eds.), *Black experience and the empire* (Oxford, 2006), pp. 111-40, at pp. 117-20, 133-6; Muller, ‘Bonds of belonging’, pp. 32-51; Eliga H. Gould, ‘Zones of law, zones of violence: the legal geography of the British Atlantic, circa 1772’, *The William and Mary Quarterly*,60 (2003), pp. 471-510, at p. 505. On different imperial contexts see: Sudipta Sen, ‘Imperial subjects on trial: on the legal identity of Britons in late eighteenth-century India’, *Journal of British Studies*, 45 (2006), pp. 532-55. [↑](#endnote-ref-46)
47. Marika Sherwood, ‘Race, nationality and employment among Lascar seamen, 1660 to 1945’, *Journal of Ethnic and Migration Studies*, 17 (1991), pp. 229-44. [↑](#endnote-ref-47)
48. John Chesterman, ‘Natural-born subjects? Race and British subjecthood in Australia’, *Australian Journal of Politics and History*, 51 (2005), pp. 30-9, at pp. 32-5, 38-9; Lauren Benton, *Law and colonial cultures: legal regimes in world history, 1400-1900* (Cambridge, 2002), pp. 167-209. [↑](#endnote-ref-48)
49. Cerutti, *Étrangers*. See also: Morieux, ‘Des règles’, pp. 129, 138, 141. [↑](#endnote-ref-49)
50. See the question of blacks and subjecthood in ancien regime France, and the position of Jews: Rapport, *Nationality and citizenship*, pp. 18-20; Marzagalli, ‘Négoce’, pp. 48-9. [↑](#endnote-ref-50)
51. Nicholas Rogers, *The press gang: naval impressment and its opponents in Georgian Britain* (London and New York, 2007); J. Ross Dancy, *The myth of the press gang: volunteers, impressment and the naval manpower problem in the late eighteenth century* (Woodbridge, 2015); N. A. M. Rodger, *The wooden world: an anatomy of the Georgian Navy*, 2nd edn (London, 1988), pp. 164-82. [↑](#endnote-ref-51)
52. 13 Geo. II c. 17. Apprentices, seamen in the coal trade, and some fishermen were also exempt: 13 Geo. II c. 28 § v; 2 Geo. III c. 15 § xxii-xxiv; 11 Geo. III c. 38 § xix; 48 Geo. III c. 110 § xxvii; 50 Geo. III c. 108; 51 Geo. III c. 34 § vi. [↑](#endnote-ref-52)
53. *London Packet, or New Lloyd's Evening Post*, 8-10 Sep. 1800. [↑](#endnote-ref-53)
54. Renaud Morieux, ‘Patriotisme humanitaire et prisonniers de guerre en France et en Grande-Bretagne pendant la Révolution française et l’Empire’, in Laurent Bourquin et al. (eds.), *La politique par les armes. Conflits internationaux et politisation, XVe–XIXe siècles*(Rennes, 2014), pp. 301-16. The parallel was also in contemporaries’ minds: that week the *Sun* complained that, ‘upon the same principle with which the French Government mean to compel all Foreign Seamen resident in the Republic to enter into their Navy, they may oblige all the Foreign Military whom they take prisoners, to enter into the French Army’: *Sun*, 11 Sep. 1800. [↑](#endnote-ref-54)
55. There are hundreds of examples. See e.g.: Navy Office to Evan Nepean, 10 Sep. 1801, Greenwich, National Maritime Museum, Board of Admiralty, In-Letters, ADM/B/202; M. De Courcy to Admiral Milbanke, 26 Feb. 1802, TNA, Commanders-in-Chief Portsmouth, ADM 1/1052, n. 204; William Bradley to Admiral Milibanke, 9 Mar. 1802, n. 236; B. S. Rowley to Evan Nepean, 23 Aug. 1803, TNA, Commanders-in-Chief Nore, ADM 1/736, n. 266. [↑](#endnote-ref-55)
56. Noiriel, *État*, pp. 313-14. [↑](#endnote-ref-56)
57. 38 Geo. III c. 46. [↑](#endnote-ref-57)
58. Joshua Wolf, ‘“To be enslaved or thus deprived”: British impressment, American discontent, and the making of the *Chesapeake*-*Leopard* affair, 1803-1807’, *War & Society*, 29 (2010), pp. 1-19; Paul A. Gilje, ‘“Free trade and sailors’ rights”: the rhetoric of the War of 1812’, *Journal of the Early Republic*, 30 (2010), pp. 1-23, at pp. 9-17. [↑](#endnote-ref-58)
59. James Fulton Zimmerman, *Impressment of American seamen* (New York, 1925), pp. 21-6; Cockburn, *Nationality*, pp. 70-8; Perl-Rosenthal, *Citizen sailors*, pp. 140-53, 183, 186-7. [↑](#endnote-ref-59)
60. Zimmerman, *Impressment*, pp. 18, 25, though see 86; Perl-Rosenthal, *Citizen sailors*, pp. 10-11, 48, 82-3, 129-39; Cockburn, *Nationality*, pp. 71-2. See also: David Lenox to Evan Nepean, 4 Oct. 1797, TNA, Letters from Foreign Consuls, 1796-8, ADM 1/3850. [↑](#endnote-ref-60)
61. Zimmerman, *Impressment*, pp. 28-9, 36, 41-2; Perl-Rosenthal, *Citizen sailors*, pp. 140-53. [↑](#endnote-ref-61)
62. Thomas Simpson, Journal of HMS *Arethusa*, 14 May 1805 – 14 Jun. 1806, TNA, ADM 101/86/1, fo. 13. [↑](#endnote-ref-62)
63. Letters from Foreign Consuls, 1793-1820, TNA, ADM 1/3849 to ADM 1/3858. [↑](#endnote-ref-63)
64. TNA, ADM 101/86/1, fo. 14. [↑](#endnote-ref-64)
65. See e.g.: Muster Book of HMS *Arethusa*, 1 Nov. – 31 Dec. 1805, TNA, ADM 37/280, fos. 3, 12, 13, 15. The examples are countless. See also: Kevin McCranie, ‘The recruitment of seamen for the British navy, 1793-1815: “Why don’t you raise more men?”’, in Donald Stoker, Frederick C. Schneid and Harold D. Blanton (eds.), *Conscription in the Napoleonic era: a revolution in military affairs?* (London and New York, 2009),pp. 84-101, at p. 95. [↑](#endnote-ref-65)
66. Tim Hitchcock et al., *The Old Bailey Proceedings Online, 1674-1913*, version 7.0, <[www.oldbaileyonline.org](http://www.oldbaileyonline.org)>, (*OBP*), October 1793, trial of Richard Tuart (t17931030-66). [↑](#endnote-ref-66)
67. See e.g. TNA, ADM 1/3850, containing 19 examples between July 1797 and November 1798. There are occasional exceptions to this formula, especially when the papers were unmistakable: David Lenox to Evan Nepean, 5 Feb. 1798; Joshua Johnson to Evan Nepean, 11 Feb. 1796; David Lenox to Evan Nepan, 14 May 1798. [↑](#endnote-ref-67)
68. TNA, ADM 1/3850 contains 27 examples (Jun. 1796 – Nov. 1798). [↑](#endnote-ref-68)
69. George Wolff to Evan Nepean, 2 May 1796, TNA, ADM 1/3850. [↑](#endnote-ref-69)
70. Perl-Rosenthal, *Citizen sailors*, pp. 27-44; Noiriel, *État*, pp. 317-29, 339-40. [↑](#endnote-ref-70)
71. *OBP*, Apr. 1795, Lewis Bonnevento (t17950416-42); *Courier and Evening Gazette*, 18 Apr. 1795; *The Register of the Times – Volume 4* (London, 1795), p. 352. [↑](#endnote-ref-71)
72. Marianne Constable, *The law of the other: the mixed jury and changing conceptions of citizenship, law, and knowledge* (Chicago and London, 1994), pp. 1-2, 96-111; James C. Oldham, ‘The origins of the special jury’, *The University of Chicago Law Review*,50 (1983), pp. 137-221, at pp. 164-71; Matthew Lockwood, ‘“Love ye therefore the strangers”: immigration and the criminal law in early modern England’, *Continuity and Change*,29 (2014), pp. 349-71. [↑](#endnote-ref-72)
73. Benton, *Law*; Rapport, *Nationality and citizenship*, pp. 20-9. [↑](#endnote-ref-73)
74. Lockwood, ‘Immigration’, pp. 362-5. [↑](#endnote-ref-74)
75. Constable, *Law of the other*, pp. 112-27; Oldham, ‘Origins of the special jury’, pp. 169-71; Fahrmeir, *Citizens and aliens*, pp. 180-1. [↑](#endnote-ref-75)
76. Constable, *Law of the other*, pp. 137-48. [↑](#endnote-ref-76)
77. 22 Geo. II c. 33 § xii, xiv. [↑](#endnote-ref-77)
78. 39 & 40 Geo. III c. 100 § v. [↑](#endnote-ref-78)
79. Constable, *Law of the other*, pp. 4-5, 26-7, 67-95, 149-52. [↑](#endnote-ref-79)
80. Lorenz Hansen to the Lords Commissioners of the Admiralty, 17 May 1798, TNA, ADM 1/3850; Christopher Henry Martens to Evan Nepean, 13 Nov. 1798. [↑](#endnote-ref-80)
81. John Williams, TNA, Law Officers’ Opinions, 1800-1802, ADM 7/305/28-29. [↑](#endnote-ref-81)
82. Ibid. [↑](#endnote-ref-82)
83. *Courier and Evening Gazette*, 18 Apr. 1795. [↑](#endnote-ref-83)
84. John D. Byrn (ed.), *Naval courts martial, 1793-1815* (Farnham and Burlington, VT, 2009), pp. 427-36. [↑](#endnote-ref-84)
85. Ibid., p. 435. [↑](#endnote-ref-85)
86. Ibid., pp. 431-2, 435. [↑](#endnote-ref-86)
87. Ibid., p. 432. [↑](#endnote-ref-87)
88. Ibid., p. 435. [↑](#endnote-ref-88)
89. Markus Eder, *Crime and punishment in the Royal Navy of the Seven Years’ War, 1755-1763* (Aldershot and Burlington, VT, 2004), pp. 10, 81-5, 145-6. [↑](#endnote-ref-89)
90. *Regulations and instructions relating to His Majesty’s service at sea*, 13th edn (London, 1790), p. 47. [↑](#endnote-ref-90)
91. Byrn, *Naval courts martial*, pp. 125-30. [↑](#endnote-ref-91)
92. Court Martial of Alexander Vannetta, 31 Dec. 1808, TNA, Law Officers’ Opinions, 1805-1808, ADM 7/307/68. [↑](#endnote-ref-92)
93. See e.g. the cases of John Wheeler (1811), John Mose (1806) and James Seymonds alias Simmons (1808): Byrn, *Naval courts martial*, pp. 288-93, 438, 450-1. [↑](#endnote-ref-93)
94. Francisco Falso and John Lambert, 18 Sep. 1798, TNA, Courts Martial Papers, Aug.-Sep. 1798, ADM 1/5364. I found this case thanks to a mention in Roy Adkins and Lesley Adkins, *Jack Tar: the extraordinary lives of ordinary seamen in Nelson’s navy*, 2nd edn (London, 2009), p. 12. The juridical parallel between cultural extraneousness and ‘madness’ was also drawn in 1820s Australia: Benton, *Law*, p. 189. [↑](#endnote-ref-94)
95. For some of the relevant legislation see: 39 & 40 Geo. III c. 94; 48 Geo. III c. 96 § xxvii. These include specifications for the custody of ‘insane Persons charged with Murder’, ‘High Treason’ or ‘Felony’ – ordinarily all capital crimes. [↑](#endnote-ref-95)
96. Douglas Hay, ‘Property, authority and the criminal law’, in Douglas Hay et al., A*lbion’s fatal tree: crime and society in eighteenth-century England* (London and New York, 1975), pp. 17-63, at pp. 22-6, 40-63; Peter King, ‘Decision-makers and decision-making in the English criminal law, 1750-1800’, *The Historical Journal*, 27 (1984), pp. 25-58; John H. Langbein, ‘Albion’s fatal flaws’, *Past & Present*, 98 (1983), pp. 96-120; Eder, *Crime and punishment*, pp. 5-6, 133-4. [↑](#endnote-ref-96)
97. A. D. Watts, ‘The protection of alien seamen’, *The International and Comparative Law Quarterly*,7 (1958), pp. 691-711. [↑](#endnote-ref-97)
98. Zimmerman, *Impressment*, pp. 17, 19-21, 25, 49-51. [↑](#endnote-ref-98)
99. Watts, ‘Protection’, p. 697; Perl-Rosenthal, *Citizen sailors*, pp. 121-2. [↑](#endnote-ref-99)
100. Richard Wildman, *Institutes of international law – volume two: international rights in time of war* (London, 1850), pp. 36-45. [↑](#endnote-ref-100)
101. Ibid., pp. 97-8; Perl-Rosenthal, *Citizen sailors*, pp. 121-2. [↑](#endnote-ref-101)
102. Fahrmeir, *Citizens and aliens*, pp. 71, 84-6, 92; Statt, *Foreigners and Englishmen*, pp. 34-7. For some figures see: Beerbühl, ‘British nationality policy’, pp. 58-66. [↑](#endnote-ref-102)
103. 6 Ann. c. 37 § xx. [↑](#endnote-ref-103)
104. 13 Geo. II c. 3 § ii. [↑](#endnote-ref-104)
105. See footnote 40. [↑](#endnote-ref-105)
106. 20 Geo. III c. 20 § iii; Parry, *British nationality law*, pp. 90-1. [↑](#endnote-ref-106)
107. ‘A proposed bill to prevent aliens, for a limited time, from becoming naturalized, or being made or becoming denizens; except in certain cases’ (Jun. 1818), *19th Century House of Commons Sessional Papers*, I, p. 579, House of Commons Parliamentary Papers Online <<http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&res_dat=xri:hcpp&rft_dat=xri:hcpp:rec:1818-005403>>. [↑](#endnote-ref-107)
108. Fahrmeir, *Citizens and aliens*, p. 70; Zimmerman, *Impressment*, pp. 82-3; Joseph Chitty, *A treatise on the law of the prerogatives of the Crown* (London and Dublin, 1820), p. 14. [↑](#endnote-ref-108)
109. 34 Geo. III c. 68 § vii; 42 Geo. III c. 61 § viii. [↑](#endnote-ref-109)
110. Cockburn, *Nationality*, pp. 29-34. [↑](#endnote-ref-110)
111. 34 Geo. III c. 68 § viii. [↑](#endnote-ref-111)
112. *Journals of the House of Lords, beginning anno tricesimo quarto Georgii Tertii, 1794*, XL, 94a, 112b, 115b, 118b, 120a, 216a, 219a, 244a.For drafts of amendments, concerning however other portions of the bill, see: British Mariners Bill – Amendments and Clauses, 3 Apr. 1794, London, Parliamentary Archives, Records of the House of Lords: Main Papers, HL/PO/JO/10/7/965. [↑](#endnote-ref-112)
113. Lars Jansby, 8 Mar. 1808, TNA, Law Officers’ Opinions, 1805-1808, ADM 7/307/61, fo. 2. [↑](#endnote-ref-113)
114. Ibid., fos. 2-4. [↑](#endnote-ref-114)
115. Ibid., fo. 3. [↑](#endnote-ref-115)
116. Ibid., fo. 1. [↑](#endnote-ref-116)
117. Wm. Schroeder, 6 Feb. 1810, TNA, Law Officers’ Opinions, 1809-1810, ADM 7/308/27. [↑](#endnote-ref-117)
118. Ibid., fos. 2, 5. [↑](#endnote-ref-118)
119. Debate on Naturalising Foreign Protestants, 7 Nov. 1693, in *The history and proceedings of the House of Commons: volume 2, 1680-1695* (London, 1742), pp. 415-445. [↑](#endnote-ref-119)
120. On seafarers’ strategic self-fashioning see: Land, *War*, pp. 27-8; Morieux, ‘Diplomacy’. For other examples of strategic use of, alternatively, belonging and extraneousness, see: Cerutti, *Étrangers*, pp. 167, 214-17; Benton, *Law*, pp. 85, 99-100, 165-6. [↑](#endnote-ref-120)
121. Harper, *English Navigation Laws*, p. 389. [↑](#endnote-ref-121)
122. Cerutti, *Étrangers*, pp. 17-20, 63-9, 292-9. [↑](#endnote-ref-122)
123. *House of Commons*,18 Feb. 1813, Hansard, 1st series, 24, cols. 630-2, 634-7. [↑](#endnote-ref-123)
124. Zimmerman, *Impressment*, pp. 21-9, 81-4; Cockburn, *Nationality*, pp. 70-8. [↑](#endnote-ref-124)
125. Cockburn, *Nationality*, p. 54. [↑](#endnote-ref-125)
126. For the subsequent history of contradictions inherent to naturalization and indelible allegiance, see: Fahrmeir, *Citizens and aliens*, pp. 46-51, 63-4, 86, 91-3. [↑](#endnote-ref-126)
127. Ibid., p. 238. [↑](#endnote-ref-127)
128. Ibid., p. 93; Statt, *Foreigners and Englishmen*, pp. 186-92. [↑](#endnote-ref-128)
129. No officer named Camillo Corri ever passed the examination for lieutenant. See: Bruno Pappalardo, *Royal Navy lieutenants’ passing certificates (1691-1902)*, 2 vols (Kew, 2001). [↑](#endnote-ref-129)
130. On these see: Morieux, ‘Fishermen’. [↑](#endnote-ref-130)