

University of Windsor

## Scholarship at UWindsor

---

Major Papers

Theses, Dissertations, and Major Papers

---

June 2021

### Desertion and Discipline: How British Soldiers Influenced the Military Justice System during the Seven Years' War

Ronnie Haidar  
haidarb@uwindsor.ca

Follow this and additional works at: <https://scholar.uwindsor.ca/major-papers>



Part of the [Military History Commons](#)

---

#### Recommended Citation

Haidar, Ronnie, "Desertion and Discipline: How British Soldiers Influenced the Military Justice System during the Seven Years' War" (2021). *Major Papers*. 176.

<https://scholar.uwindsor.ca/major-papers/176>

This Major Research Paper is brought to you for free and open access by the Theses, Dissertations, and Major Papers at Scholarship at UWindsor. It has been accepted for inclusion in Major Papers by an authorized administrator of Scholarship at UWindsor. For more information, please contact [scholarship@uwindsor.ca](mailto:scholarship@uwindsor.ca).

Desertion and Discipline: How British Soldiers Influenced the Military Justice System  
during the Seven Years' War

By

**Ronnie Haidar**

A Major Research Paper  
Submitted to the Faculty of Graduate Studies  
through the Department of History  
in Partial Fulfillment of the Requirements for  
the Degree of Master of Arts  
at the University of Windsor

Windsor, Ontario, Canada

2021

© 2021 Ronnie Haidar

Desertion and Discipline: How British Soldiers Influenced the Military Justice System  
during the Seven Years' War

by

**Ronnie Haidar**

APPROVED BY:

---

R. Nelson  
Department of History

---

P. Way, Advisor  
Department of History

April 27, 2021

## DECLARATION OF ORIGINALITY

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices. Furthermore, to the extent that I have included copyrighted material that surpasses the bounds of fair dealing within the meaning of the Canada Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such material(s) in my thesis and have included copies of such copyright clearances to my appendix.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my thesis committee and the Graduate Studies office, and that this thesis has not been submitted for a higher degree to any other University or Institution.

## ABSTRACT

The academic examination of military justice is relatively new. Military history has focused on such topics as commanding officers, tactics, logistics, combat, and outcomes. However, exploring the theme of military discipline, by concentrating on relations between commissioned and enlisted ranks, engages the army as a social institution with its own internal power dynamic. Two historiographical interpretations on the subject have developed over the last few decades. One builds upon the orthodox view of discipline in the Early Modern Era as severe and punitive, portraying militaries as whipping men to war. Recently, revisionist historians have argued that over the 18<sup>th</sup>-century, military justice became more benign, in part as a result of the army taking greater care in its treatment of the men informed by Enlightenment thinking and partly forced by the actions of soldiers themselves, who by no means constituted unthinking cattle. This approach conceives discipline as negotiated by the two parties. The purpose of this paper is to demonstrate how the disciplinary relationship between the British military and its soldiery was based on conflict over the conditions of their service and resolution of that conflict by one form or another. The British soldiers consistently clashed with their superiors over their treatment and what they believed were their contractual rights. When the British leadership did not address their concerns, a considerable group of soldiers engaged in the extreme act of desertion, thus renouncing their commitment to the military and the Monarch. The British military leadership responded to this by continuing to exert their absolute control and dominance through the affliction of harsh punishment, and through the occasional display of mercy with reduced sentences and pardons, thus remaining steadfast on balancing the life and death of their men. During the Seven Years' War, military punishment was neither entirely brutal nor wholly merciful; instead, it balanced the two, which contributed to the complex relationship between British soldiers and their leadership.

## DEDICATION

To my beloved parents, Yehia and Nada, and my treasured siblings, Youssef, Nabeel, and Sarah, for their unwavering support and love during this time and during all times. Nothing I have ever achieved would have been possible without the assistance of my wonderful family.

## ACKNOWLEDGEMENTS

I would first like to thank my parents, Yehia and Nada, for their constant love and encouragement, not just now but for as long as I remember. I would also like to thank my siblings, Youssef, Nabeel and Sarah, for inspiring me to do the best I can as often as I can.

Next, I would like to thank my supervisor, Dr. Peter Way. There is no other professor that has pushed me as much he did, and for this, I am forever indebted to him. Thank you for your leadership and guidance during this process, and for always taking the time to assist me when I felt stuck or unsure on what next step to take. Finally, thank you for being patient with me during this experience. I am also thankful to my second reader, Dr. Robert Nelson. He was the first person that I ever spoke to about the possibility of pursuing a graduate degree in History. From our initial discussion, it was apparent how passionate and dedicated he was to the study of History, which motivated me to become the best historian that I could be. In addition, I would like to thank Dr. Guy Lazure, who personified the practice of an open-door policy. I am also grateful for his constant check-ins and the frequent motivational conversations.

Lastly, I would like to thank the rest of my family and friends, of whom there are too many to name. Thank you for believing in me and lending me the support that I needed to complete this work. I appreciate the genuine interest each of you had with my graduate experience.

## TABLE OF CONTENTS

DECLARATION OF ORIGINALITY .....	iii
ABSTRACT.....	iv
ACKNOWLEDGEMENTS .....	vi
CHAPTER 1 INTRODUCTION .....	1
CHAPTER 2 HISTORIOGRAPHY .....	5
CHAPTER 3 THE STATE AND THE LAW.....	17
CHAPTER 4 DESERTION AND THE ARMY.....	26
CHAPTER 5 DESERTION AND THE SOLDIER.....	39
CHAPTER 6 DESERTION AND MERCY .....	49
CHAPTER 7 CONCLUSION.....	57
BIBLIOGRAPHY.....	61
VITA AUCTORIS .....	64



## CHAPTER 1

### INTRODUCTION

“This day John Williams of Colonel Fitch’s Regiment in Captain Butler’s Company was brought to the place where he was to be shot to death and there were twenty-four men to shoot him and the picquets of the Provincial forces were brought up into front of Colonel’s Fitch’s regiment and our regiment drawn up on the left of them,” fellow Connecticut provincial soldier Robert Webster documented in his journal at Albany on June 16th, 1759. “The man was brought to the place where he was to suffer and made to kneel down and the platoon marched forth to shoot him but the General reprieved him. His crime was desertion”.<sup>1</sup> John Williams’ fate hints at the stressful nature of military service, where fear of battle vied with dread of discipline in the minds of warmakers. This account captures the delicate weighing of crime and punishment on the scales of military justice during the Seven Years’ War. The British Army exercised the power to give or take the lives of soldiers not only on the battlefield but also in the daily running of the camps. With this seeming omnipotence came the need to strike a balance between strictness and leniency. If commanding officers or courts martial imposed too brutal a disciplinary regime, they risked disaffection among the soldiery, corroding morale. This manifested in dissent, disobedience, and the subject of this major paper, rampant desertion that depleted British military might. Likewise, if discipline proved overly lenient, ignoring, or punishing transgressions too lightly, then soldiers would push the boundaries of acceptable conduct

---

<sup>1</sup> “The Diary of Robert Webster, April 5- November 23, 1759”, *The Bulletin of the Fort Ticonderoga Museum*. 9:5 (Summer 1954), 311.

and become unmanageable, which could also diminish the prospect of success in arms against France. A proper balance was crucial in ensuring enough willing and able soldiers remained to pursue the fight. Accordingly, the army orchestrated punishment as public theatre, an acting out of the power and pity of military justice, taking or giving life both to terrorize soldiers as a means of instilling obedience and eliciting their support by showing mercy. As he was led to the place of execution, John Williams confronted his platoon, when, at the last possible moment, a commander's pardon spared the horror of judicial murder.

British soldiers in North America often dwelled in awful living conditions while being subjected to harsh treatment at the hands of their officers. Like workers in the civil world, they either accommodated to the material reality or expressed dissatisfaction with their circumstances, with desertion a common form. Few soldier journal entries that survive reflect on the operation of military justice; typically, just the nature of the crime and punishment are noted. Modern historians fill the gap in sources by characterizing the disciplinary regime in one of two distinct ways. The first historiographical approach argues that military justice during the 18<sup>th</sup> century was overly brutal. Fear of punishment provided the main stimuli in motivating soldiers to follow orders to the degree of risking their lives in battle. The second approach revises this interpretation. The "negotiated authority" model maintains that commanding officers and soldiers determined the operation of military justice and discipline collaboratively. The army's treatment of soldiers could precipitate opposition ranging from insubordination through mutiny, necessitating discipline in one form or another. Good commanders recognized that constant punishment could damage

morale and took measures to moderate the full effect of discipline, ranging from awarding lighter sentences to pardoning those convicted of capital offenses.

The purpose of this paper is to demonstrate how the disciplinary relationship between the British military and its soldiery was based on conflict over the conditions of their service and resolution of that conflict by one form or another. The British soldiers consistently clashed with their superiors over their treatment and what they believed were their contractual rights. When the British leadership did not address their concerns, a considerable group of soldiers engaged in the extreme act of desertion, thus renouncing their commitment to the military and the Monarch. The British military leadership responded to this by continuing to exert their absolute control through the affliction of harsh punishment and through the occasional display of mercy by reducing sentences and issuing pardons. Military discipline during this time neither solely consisted of overt punishment nor was it entirely constructed consensually, but instead, involved a working balance of violence and mercy. The act of desertion will be examined for several important reasons. As one of the most common crimes committed by soldiers during the Seven Years' War, it represented the soldiers' frustration with aspects of military life. Because it happened so frequently, the British military leadership was forced not only to respond to this phenomenon but was forced also to tread carefully in its response. Desertion, alongside mutiny, was the most heinous military crime a soldier could commit. It had the potential of weakening the British military might by reducing its manpower, which, again, pressed the British military leadership to moderate its punishment on a regular basis.

First, it is essential to explore what other historians have said about British military justice and discipline during the Seven Years' War. From the historiographical

examination, this paper will explore the unique relationship the British state had with the Law, and then will review an assortment of primary evidence, including court martial records and soldier journal entries, to reflect on how the British military leadership and their soldiers perceived the themes of justice, discipline and desertion. From their conflicting perspectives, we can conclude that the relationship between officers and soldiers generated conflict that produced both compliance and disobedience on the latter's part, with desertion a common feature of military life. This observation is important as it positions soldiers as historical agents who influenced military might and the overall outcome of battle.

## CHAPTER 2

### HISTORIOGRAPHY

The modern historiography of British military justice during the eighteenth century begins in 1976 with Arthur N. Gilbert's article, "The regimental courts martial in the Eighteenth Century British Army".<sup>2</sup> Gilbert, a historian critical of military justice, begins his work by explaining the differences between general and regimental courts martial. General courts were reserved for major offences, such as murder, rape, robbery, and the military crimes of mutiny and desertion, whereas regimental courts adjudicated petty crimes. Gilbert argues that the regimental courts' jurisdiction was deliberately left undefined, thus allowing great injustice and harsh punishment to occur. Many commanding officers exploited this lack of clarity to maintain control of punishment in their regiment, intentionally charging soldiers with crimes under their judicial purview, instead of capital offences actually committed. Gilbert argues that regimental courts martial embodied injustice and cruelty. By painting a vivid picture of a judicial system so unjust, he explains why soldiers so often resisted military authority, most notably through the act of desertion. However, by portraying soldiers as mere objects of discipline, Gilbert does not adequately represent their perspective on their experience, which is necessary to a complete understanding of military discipline and punishment. He also exaggerates the brutality without considering how soldiers' actions tempered discipline.

---

<sup>2</sup> Arthur Gilbert, "The regimental courts martial in the Eighteenth Century", *Albion: A Quarterly Journal Concerned with British Studies* 8: 1 (1976), 50-66.

Sylvia R. Frey critiques this view of military discipline.<sup>3</sup> Her main argument is that military punishment became more humane over the course of the eighteenth century, because of “the interest of the Hanoverian kings in the most minute details of army life and to the spread of humanitarian ideas excited by the Enlightenment.” Using general court martial records, she describes an “increasing tendency to reward good behaviour rather than to punish bad conduct.” She first discusses the shifts that occurred in the court martial processes. From the reign of George I, court procedures were introduced that led to a greater limitation on the courts to inflict unjust and cruel punishments. Her core evidence lies in statistical analysis of the rates of various methods of punishment and the frequency of acquittal and pardoning during three different periods in the eighteenth century. Most importantly, she determines that capital punishment dropped from 31.68% between 1666-1718 to 22.01% between 1719-1753 but then rose to 23.07% between 1754-1782. She highlights the rise in acquittal rates, which climbed from 8.97% in the first period examined to 25.76% in the last. Frey concludes these statistics demonstrate that unfair judicial practices and cruel punishments declined during the eighteenth century. This development did not result in a complete transformation of the system, Frey confesses, as “the old uncompromising discipline was by no means extinct.” Still, she overstates the change truly achieved, as military justice remained brutal if not universally so.

In his 1985 article, “The Changing Face of British Military Justice, 1757-1783”,<sup>4</sup> Arthur N. Gilbert challenges Sylvia Frey’s position that British Army discipline softened

---

<sup>3</sup> Sylvia R. Frey, “Courts and Cats: British Military Justice In the Eighteenth Century”, *Military Affairs* 43:1 (1979), 5-11.

<sup>4</sup> Arthur Gilbert, “The Changing Face of British Military Justice, 1757- 1783”, *Military Affairs* 49:2 (1985), 80-84.

in the 18<sup>th</sup> century, reinforcing the traditional historical argument that it remained cruel. Tabulating the lash averages and desertion statistics in the British Army and Navy during the Seven Years' War and the American Revolution, Gilbert demonstrates how the number of lash convictions remained constant, but over time, the number of lashes increased. From the lash average of 742 during the Seven Years' War, whipping jumped to 791 lashes during the American Revolution. Furthermore, the number of lashes of 1000 or more increased too, from 45.2% to 56.6%, during this time. Gilbert also argues that because soldiers came from society's bottom rungs, they were assumed to be criminal and disorderly, thus requiring harsher discipline. Gilbert focuses on desertion, a major crime, providing data that shows that about one-third of defendants were convicted, well above the general capital conviction rate. Courts acquitted only 9.8% of those charged with desertion during the Seven Years' War, considerably lower than the 19.2% of soldiers who were acquitted for other capital offences. The gap would narrow by the Revolution, and lashings became the preferred method of punishing deserters, evidence of some softening of military justice if one accepts that whipping is preferable to death. Gilbert maintains that the punishment inflicted upon soldiers remained severe, but his statistical information reveals the truth about the complexity of military discipline and sheds a light on the various roles each of the different actors had in its application and understanding. Officers implemented and maintained discipline, while soldiers either accepted this harsh treatment or resisted it through such extreme actions like desertion. Officer mindsets and leadership methods differed from one camp to another, as did soldier tolerance, which added to the complexity that was military justice and discipline.

The debate on military discipline acquired a cultural dimension with Fred Anderson's 1981 article, "Why Did Colonial New Englanders Make Bad Soldiers? Contractual Principles and Military Conduct during the Seven Year's War,"<sup>5</sup> which documents the opposed approaches to military justice adopted by the regular British Army and New England's provincial forces, a consequence of their different attitudes to military service. He uses the tense interactions between the British commander, John Campbell, 4<sup>th</sup> Earl of Loudoun (Lord Loudoun), and the provincial leader, Major General John Winslow, to illustrate how provincial soldiers regarded discipline in contractual terms, acting as if they "were in fact the equals of their leaders." Therefore, "any unilateral attempt to change the agreement simply nullified it and voided the soldier's contractual responsibilities." Consequently, "soldiers' rights and conditions of their enlistment had a real bearing on day-to-day operations." Provincials engaged in work stoppages, mutinies, and desertion when they felt that their rights were being infringed upon, which could force their superiors to some accommodation to entice them back to their duties. However, Anderson does not provide the whole story about these interactions; instead, he strategically presents examples supporting his position but not other instances when officers flexed their disciplinary muscles. Anderson also focuses on the early Seven Years' War, skewing the time frame to enhance his position. When provincial soldiers came under full British Army military justice in 1757, the flexibility of discipline he noted could occur only at the regimental level and not for capital offences. When brought before a general court martial staffed by a majority of regular officer judges, they suffered a fate similar to regular soldiers. He concludes that culture drives discipline rather than martial factors such as the need to have

---

<sup>5</sup> F.W. Anderson, "Why Did Colonial New Englanders Make Bad Soldiers? Contractual Principles and Military Conduct during the Seven Year's War", *The William and Mary Quarterly* 38: 3 (1981), 395-417.



obedient soldiers. Anderson's revisionist model portrays soldiers as playing a part in the negotiation of discipline but one lensed through American exceptionalism. While his observation that contractualism played an important role in military discipline is useful, his assumption of its purely American nature distorts the broad similarity of soldiers' disciplinary experience, whether provincial or regular.

In his 2001 article, "Rebellion of the Regulars: Working Soldiers and the Mutiny of 1763- 1764",<sup>6</sup> Peter Way dissects the mutinies that erupted in the army, from Newfoundland to Florida, after the Seven Years' War had ended. He strives to explain what these mutinies meant, both to the mutineers and commanding officers. To further this, Way introduces the concept of class to military history, posing military discipline as work discipline and characterizing mutinies as a form of class conflict. He concludes that soldiers mutinied in response to "the alterations to their wages and working conditions: in particular, the decision to 'stop' (withhold) 4d. of a private's daily earnings of 6d. to pay for provisions that had been freely supplied throughout the war." Way brings the usually overlooked common soldier to the forefront of the historiographical conversation and argues that the "rebellion" of these soldiers "echoed the plebeian crowd actions and early workplace disputes of the eighteenth-century Anglo-American world." Way makes two important contributions to the military justice narrative. First, he re-frames warfare in economic terms, as an imperialist endeavour by the Crown to amass territory and wealth. Second, Way recasts soldiers as workers in an unusual and most dangerous occupation subject to brutal work discipline. Way endorses the orthodox view of discipline in the Early

---

<sup>6</sup> Peter Way, "Rebellion of the Regulars: Working Soldiers and the Mutiny of 1763- 1764", *The William and Mary Quarterly* 57: 4 (2000), 761-792.

Modern Era as severe and punitive but alters the understanding of its motivation. It is not just purely martial in nature but ultimately intends to increase national wealth and that of the ruling class. Way's application of the concept of class re-fashions the officer-enlisted man relationship in productive terms, the former as masters and the latter as workers. A class conflict mode transforms the relationship into an experience where opposed interests, incipient tensions, and occasional outright conflict all occur, with the general mutiny being the most extreme manifestation. From this perspective, military justice and punishment serve as a mechanism of labour control for the Empire and its agents, which soldiers met with resistance.

Way picks this theme up again in his 2003 article, "Class and the Common Soldier in the Seven Years' War,"<sup>7</sup> in which he argues that "labour history needs to be militarized and the soldier re-drafted as a worker within the army." He maintains that the soldier, be it a regular British regular or a provincial, mirrors a civil labourer's position in that he was paid a wage and bound by a (military) labour contract. Way examines the work regime and argues military discipline also functioned as work discipline, writing, "as well as whipping men into good soldiers, discipline was meant beat the men to work." Military labour involved various tasks, which ranged from digging latrines to killing the enemy, all contributing to the goal of military victory. Although differing in its violent labour requirements, the army was nonetheless "directly productive of the capitalist order in its securing and policing of empire, and creation of the conditions that enabled production and commercial exchange". Any soldier who failed as "the instrument of this acquisitive

---

<sup>7</sup> Peter Way, "Class and the Common Soldier in the Seven Years' War", *Labour History* 44:4 (2003), 455-481.

imperial design” risked excessive punishment. But just as civilian workers, soldiers understood their customary rights in terms of payment, provisions, and work conditions. Any infringements on these expectations triggered reaction, like in a civil workplace, by slowing down the labour process, performing tasks poorly, withholding labour in strike-like mutinies, and, of particular interest to this paper, deserting the workplace. Soldiers were a means to an end for the state and commanding officers policed their conduct ensuring they acted in its interests, meeting work stoppages, mutiny, or desertion with swift punishment to restore order to the camps. The weakness in Way’s application of class to the military sphere is that he treats the unique phenomenon of warfare with a workplace-based historical model, a mismatch most notable when considering the degree of punishment available to officers. The tasks and expectations of officers and soldiers were much different from those of civil masters and labourers. Way does provide further motivation behind the punishment practices and also demonstrates how a labour interpretation sheds more light on soldier resistance to the disciplinary regime.

Ilya Berkovich takes a more micro-historical approach to the judicial treatment of Britain’s soldiers. His 2014 essay “Discipline and Control in Eighteenth Century Gibraltar,”<sup>8</sup> uses Gibraltar as a case study to “gauge the actual effectiveness of control mechanisms operating in the enclave by isolating two parameters: the fights against drunken soldiers and free-roaming dogs.” He concludes that the legal and disciplinary management was inconsistent and ineffective through his examination of the order books. The commanding officers did not consistently punish those soldiers who became

---

<sup>8</sup> Ilya Berkovich “Discipline and Control in Eighteenth Century Gibraltar”, in Kevin Linch and Matthew McCormack, eds., *Britain’s Soldiers: Rethinking War and Society, 1715- 1815* (Liverpool: Liverpool University Press, 2014), 114- 130.

intoxicated or continued to own a dog against orders. This lack of consistency gave soldiers the perception that they could influence the treatment they received from their superiors since their commanding officers were not absolutely married to any specific punishment. Soldiers gained a firm perception of the rights they considered due to them, provoking varied forms of resistance, including petitions, threats, and public displays of resentment. Berkovich includes desertion as a reaction taken by soldiers offended by their officers. Berkovich's findings support the argument that military justice sought to achieve its ends through negotiation and compromise rather than harsh legal proceedings. Berkovich demonstrates how soldiers became more hostile towards superiors who did not observe their rights or engaged in behaviour that exceeded their expected level of authority. More than just oppressed victims, soldiers could influence the operation of military justice. He concludes that the combination of judicial discretion and soldier agency made for an application of punishment well short of the letter of the law. Berkovich's argument supports the revisionist notion that soldier resistance helped shape discipline. However, because of the study's narrowness, the findings cannot be applied to all the different areas where British soldiers were stationed or to different periods of the eighteenth century. The minor offences he uses to support his argument are not persuasive, and even though he discusses desertion, he does so without exploring it in great depth. His argument would have greater substance if he investigated more soldier infractions over broader geographic scale.

William P. Tatum III's 2014 essay, "The Soldiers Murmured Much on Account of this Usage",<sup>9</sup> examines "the spectrum of tactics employed by soldiers to influence their officers in the execution of military justice", ranging from "outright protest to fulsome cooperation". The main conclusion is that various forms of negotiations accounted for most of the interactions between regimental leadership and soldiers. Tatum claims that most traditional historians ignored the middle ground of negotiation and thus missed the fact that soldiers could engage in an active role in their regiment, take control of their lives, and ultimately influence the operation of military justice. The Mutiny Act and Articles of War did not offer detailed guidelines on the judicial process, which meant that there existed a unique version of military justice based upon the discretion of commanding officers within each regiment. Where Gilbert believed this lack of clarity within the judicial legislation led to more cruel and violent punishments, Tatum views it positively, in that officers could choose to demonstrate leniency. Tatum also argues that soldiers' behaviour could influence military justice in terms of sentencing and punishment severity.

Stephen Conway's 2014 article "Moral Economy, Contract, and Negotiated Authority in American, British and German Militaries, ca. 1740- 1783",<sup>10</sup> explores three concepts previously applied to civil society: moral economy, contract, and negotiated authority. Moral economy in the military context poses that soldiers shared with their officers a tacit understanding of just relations; a contract that they understood the military relationship as an exchange of service for pay and related work benefits; and negotiated authority, as a

---

<sup>9</sup> William P. Tatum III, "The Soldiers Murmured Much on Account of this Usage: Military Justice and Negotiated Authority in the Eighteenth- Century British Army", in Linch and McCormack, eds., *Britain's Soldiers*, 95-113.

<sup>10</sup> Stephen Conway, "Moral Economy, Contract and Negotiated Authority in American, British and German Militaries, ca. 1740- 1783", *The Journal of Modern History* 88 (2016), 34- 59.

relationship between a nominal superior and an inferior that pivoted on the meeting point of disobedience and punishment. According to Conway, soldiers believed they had a contractual agreement stipulating the army provide proper equipment, adequate shelter, ample food and water, and humane treatment. When it did not, they would deliberately engage in disobedience and insubordination to demonstrate their dissatisfaction. He also challenges Anderson, arguing he exaggerated the differences between American and British soldiers. Servicemen in general “conceived of a customary framework of rights and obligations and their service in contractual terms, while their officers recognized their own power was far from absolute”. The punishment regime he sees as based primarily on the give and take between troops and their officers. Conway’s article sums up the current dominant historiographical position that military justice became more benign due to the actions of the soldiers themselves, a product of negotiation. Conway successfully demonstrates how soldiers believed that their enlistment afforded them certain rights and benefits that the military had to provide and how commanding officers did not hold absolute power over their soldiers. He first applies the concept of “negotiated authority” to the military, which incorrectly suggests that the soldiers were similar in status to officers and, therefore, could consistently manipulate the military justice system through their actions, just like their superiors.

The most recent contribution to the historiography of military discipline comes again from Peter Way. In a 2016 article<sup>11</sup>, Peter Way argues, first, that capitalism was the “driving force in the creation of the Atlantic world”, and second, that “warfare played a

---

<sup>11</sup> Peter Way, “Militarizing the Atlantic World: Army discipline, coerced labor and Britain’s commercial empire”, *Atlantic Studies* 13:3 (2016), 761- 792.

central role within the development of capitalism". National and commercial interests overlapped in Britain at that time, both profiting from imperial expansion. Acquiring as much land as possible to be transformed into colonies would produce wealth for the Empire and enhance its global power. Soldiers were but means to this end. Punishment sought to ensure that they served this goal. The military believed that violent punishment was necessary to drive the soldiers into battle because not many reasonable men would willingly go to their possible death. With officers drawn from the gentry and merchant classes that dominated Britain, and soldiers hailing from the labouring masses, the same model of dominance and dependence in civil society also obtained in the army with military discipline policing the class divide. Way makes two important deductions from his dissection of the Seven Years' War's military justice system. First, the often unpredictable and biased judicial process along with its disciplinary techniques intended to win the class struggle that existed in the camps. The second deduction, one that had not been even hinted at heretofore, is that the punishment perpetrated on soldiers was violent enough that it inspired terror in the men which could cause Post Traumatic Stress Disorder (PTSD). Way successfully introduces the concept of class to the sphere of military justice and discipline, and therefore, ascribes the brutality to upper class interests. Most soldiers endured the unjust sentences and the cruel punishments, while a considerable few protested such treatment through acts of insubordination and disobedience, such as mutiny and desertion. A weakness in Way's article and overall argument is that through his imposition of a labour model onto the sphere of military justice and discipline, he distorts a unique military environment. He attempts to define and explain distinctive military features by connecting them to civil themes.

The two historiographical positions that align best with this paper's central argument are Gilbert and Conway's positions. Gilbert's position that military justice and discipline during the Seven Years' War was complex is correct but not complete, whereas Conway's historiographical contribution that soldiers negotiated their authority with their officers is exaggerated. The main argument of this paper agrees that the military justice and discipline during the Seven Years' War was complex and then continues to argue that it because the relationship between the British military leadership was based on conflict and struggle, and as different officers were leading different soldiers, there were unique versions of conflict and struggle that existed in each camp. This paper's central argument also humbles Conway's claim that soldiers negotiated their authority with their superiors by explaining that while soldiers did influence the military justice system and the battle itself, this was not always the case, nor was it a sure bet. Instead, some soldiers, who realized that they could not negotiate with their superiors as their status was much higher than theirs, participated in desertion, which was one resolution method out of many, to escape from their horrible military experience.

Next, it is vital to understand how the British military justice system operated as a legal system on paper and how things unwound on the ground during the Seven Years' War.



## CHAPTER 3

### THE STATE AND THE LAW

Armies embody a state's power to enforce its will, with military chain of command an expression of this power. The dangerous nature of warfare necessitates a disciplinary regime exceeding that of civil magistrates. For the eighteenth-century British Army, Parliament codified two official legal frameworks for the operation of military justice distinct from civil procedure: The Mutiny Act and the Articles of War. These regulations offered broad scope for officers to administer military justice and inflict punishment as desired but did not escape public criticism.

Adopted on the basis of immediate need at a time of crisis, the English Revolution, the Mutiny Act and the Articles of War provided the army with extraordinary powers to control the soldiery while Parliament retained civil oversight. As William Blackstone, chief legal theorist of the era, explained, "in order to keep this body of troops in order, an annual act of parliament likewise passes to punish mutiny and desertion".<sup>12</sup> During times of peace, a soldier mutinying or deserting would be tried and punished under martial not civil law, and therefore without the protections offered through civil law practices. This meant the state treated soldiers as non-citizens subject to summary trial and punishment.<sup>13</sup> This subversion of civil law alarmed jurists believing the use of courts martial during peace time inappropriate and unfair, as all citizens should be subject to the same rules of society. Blackstone stated, "military law, which is built upon no settled principles, but is entirely

---

<sup>12</sup> William Blackstone, *Commentaries on the Laws of England* (Oxford: Clarendon Press, 1765), 402.

<sup>13</sup> Peter Way, *Brewed in Blood: Military Justice and Hydra's Many Heads*, Unpublished Conference Paper, 2012, 4.

arbitrary in its decisions is...in truth and reality, no law, but something indulged rather than allowed".<sup>14</sup> Military law meant that, "the moment a gentleman enters the service, he waives the Rights and Privileges he might be entitled to as an English Man", a circumstance that outraged Blackstone. "How much therefore is it to be regretted that a set of men, whose bravery has so often preserved the liberties of their country, should be reduced to a state of servitude in the midst of a nation of freemen?" The military, on the other hand, viewed the legal practices of courts martial as superior to civilian procedures and the most suitable for its special needs.

The Mutiny Act, which went into effect on April 12, 1689, affirmed: "No man can be forejudged of life or limb, or subjected to any kind of punishment within this realm, by martial law, or in any other manner than the judgment of his peers, and according to the known and established laws of this realm". It laid out the right to a fair trial by peers in civil law but only to deny soldiers that right, "it being requisite for the reclaiming of all the before-mentioned forces in their duty, that an exact discipline be observed, and that soldiers who shall mutiny or stir up sedition, &c. &c. be brought up to a more exemplary and speedy punishment, than, the usual forms of the law will allow". The Act was created with the military leadership in mind, granting them legal grounds to inflict quicker and harsher than normal punishment on disobedient soldiers. The Act had three crucial components: a list of rules and regulations; appropriate sanctions and punishments; and a constant emphasis on the positive value that an English soldier had in society. For each offence identified, it assigned an appropriate sentence or punishment. For example, Article 1 of the Mutiny Act reads: "This declares all officers, non-commissioned officers, and soldiers, who shall be

---

<sup>14</sup> Blackstone, *Commentaries on the Laws of England*, 413.

convicted of desertion, liable to the pain of death; or such punishment as a general court shall adjudge”. It did not provide an exhaustive list of offences. In fact, aside from mutiny and desertion, most other possible offences fell under a general heading of “immortalities, misbehavior, or neglect of duty”,<sup>15</sup> with no further specification. The Mutiny Act also mandated the use of courts martial to ensure a fair trial process, providing officers with guidelines on how to deal with offending soldiers but also seeking to protect soldiers from the absolute tyranny of those officers by ensuring a defendant would receive a fair trial.

The first version of the Act listed only mutiny and desertion as punishable acts, creating courts martial to try these offences, leaving specification of other offences to the Monarch in the Articles of War. British military justice, like the civil branch, distinguished between capital and corporal punishment. As time passed and the Act was updated, the main form of discipline—capital punishment—remained intact, while there was a modest reduction to the severity of corporal punishment. Capital punishment was reserved for the most heinous offences, such as murder, rape, and robbery, in the military, also mutiny and desertion. Corporal punishment included any physical correction imposed on a convicted soldier. While intended to cause a great deal of bodily harm, it could not result in loss of limb or life. A broad array of offences merited punishment in this fashion.

The Mutiny Act, which required annual Parliamentary renewal, initially applied to British military personnel stationed in and around the United Kingdom but later was applied to the colonies by Parliamentary act. The Articles of War were specific to places

---

<sup>15</sup> Mutiny Act cited in E. Samuel, *An Historical Account of British Army and of Law Military as Declared by the Ancient and Modern Statutes, and Articles of War For its Government with a Free Commentary on the Mutiny Act and Rules and Articles of War* (London: William Clowes, 1816), 201, 229, 303.

and conflicts, governing British soldiers stationed in the colonies. The Articles of War identified “the secondary order of military crimes” not included in the Mutiny Act. According to E. Samuel, they intended to preserve the internal order and economy of the military.<sup>16</sup> While the Articles were more detailed than the Mutiny Act, a great deal of vagueness clouded the administration of military justice and discipline during the Seven Years’ War. The Mutiny Act and Articles of War left commanding officers to interpret best practices while leaving the soldier in the dark as to many potential offenses.

In the British military two courts were tasked with the administration of justice, general and regimental courts martial. Both these courts, in some respects, drew their inspiration from civil courts, but, as D. P. Connell explains, the British military justice system diverged from that administered in the civil courts. In eighteenth century English civil courts, the police, judge, jury, Crown’s attorney, and the defense legal counsel all represented different interests. The accused would be summoned to civilian court, where the Crown’s attorney, representing the State, presented the case against him or her, after which a single judge or twelve jurors would decide the case. The accused could represent himself in court, although this was not recommended as hiring legal counsel guaranteed a better navigation of the legal system. By comparison, in courts martial officer jurors handled all prosecutory functions, meaning a neglect “of certain of the elementary principals of the criminal law administered in civil courts” obtained.<sup>17</sup> Accused soldiers faced a court that was unified in opposition, denying them rights that civilians possessed.

---

<sup>16</sup> E. Samuel, *An Historical Account of British Army and of Law Military as Declared by the Ancient and Modern Statutes, and Articles of War For its Government with a Free Commentary on the Mutiny Act and Rules and Articles of War* (London: William Clowes, 1816), 195.

<sup>17</sup> D. P. O’Connell, “The Nature of British Military Law”, 19 (1963), 141, 149.

The biggest difference between the civil courts and the martial courts, as explained by Way, is the courts martial protected the interests of the defendant less than in the civil justice system.<sup>18</sup> To this point, O’Connell explains, “a civilian prosecution is taken by the police, who have a general interest in the maintenance of the social structure, military proceedings are initiated by those officers most directly concerned with the preservation of the military system”.<sup>19</sup> The combined functions of the general courts martial disadvantaged the accused because most of the power and influence was stored in officers who cared less about proper judicial practices than punishing delinquent soldiers. The absence of a jury also undermined soldiers’ rights since their fate did not rest in the judgement of twelve impartial jurors but instead at the discretion of officers, who could interpret offences, alter judicial practices, and impose punishment freely.

General courts adjudicated major offences deemed capital under eighteenth century civil law, but also specific military crimes such as mutiny and desertion. In the military, a court of enquiry composed solely of officers first convened to determine whether the alleged misconduct merited a legal proceeding. If so, the accused soldier would then be officially called to court, a board of thirteen military officers with no special legal training assuming the function of the judge and jury in civil courts. The accused soldier would have the crime that he was being accused of read to the board of officers. The onus was then on the accused soldier to prove that he was not guilty, and unlike in civil court, accused personnel did not have the option to appoint experienced legal counsel to argue their case. The accused would tell his/her version of events, offer extenuating circumstances such as

---

<sup>18</sup> Way, *Brewed in Blood: Military Justice and Hydra’s Many Heads*, 5.

<sup>19</sup> O’Connell, “The Nature of British Military Law”, 155.

being drunk at the time, and/or produce character witnesses. Upon hearing all the different testimonies, the board of officers would then retreat to discuss the verdict and what punishment, if any, was appropriate for this offence. All general court proceedings had to be written down and forwarded to the Judge Advocate General and the Monarch for formal review.<sup>20</sup> The Judge Advocate General was neither a judge nor an advocate.<sup>21</sup> According to the 18<sup>th</sup> century Articles of War, his job was to “inform and prosecute”. He would inform the court by explaining the law to the presiding officers and provide supplemental commentary on the rulings found in the Mutiny Act and the Articles of War. He also had the duty to ensure that the accused soldier was treated fairly throughout the court proceedings and the courts followed due process. The Judge Advocate General also acted as clerk or register for the court, in that he was responsible for keeping a record of the all the decisions of the general courts martial.<sup>22</sup> He would review the recommendation of punishment and relay his decision to the general court martial. As one would expect, punishments determined by general courts tended to be more severe than civil courts or regimental courts martial, and therefore, required the Monarch, or Judge Advocate General as his delegate, to authorize a capital sentence.

Less serious infractions fell under the purview of regimental courts martial. Most soldiers’ experience with the administration of justice occurred before these courts martial, yet less is known about them as few official records survive. The Mutiny Act deliberately left their jurisdiction undefined, which Arthur Gilbert argues allowed for great injustice

---

<sup>20</sup> G.A. Stepler “British Military Law, Discipline and the Conduct of Regimental Courts Martial in the Later Eighteenth Century”, *The English Historical Review* 102: 405 (1987), 861.

<sup>21</sup> O’Connell, “The Nature of British Military Law”, 153.

<sup>22</sup> Stephen Payne Adye, *A Treatise on Courts Martial* (New York: H. Gaines, 1769), 101.

and harsh punishment to occur.<sup>23</sup> Regimental courts martial were convened on the authority of the commanding officer of the regiment and had to include five commissioned officers, although three would suffice. As John Williamson writes, “the proceedings of a regimental trial must in every respect conform to the rules laid down for those of a General Court Martial”.<sup>24</sup> But practices varied from one regiment to another, as each commanding officer had his own interpretation of how justice should work. This inconsistency contributed to the accused soldier’s inability to adequately prepare and confidently navigate the regimental courts martial process. After hearing evidence, the board of officers rendered a verdict by a “majority of voices”, which the commanding officer would review as a substitute for the Monarch or the Judge Advocate General. A soldier convicted by a regimental court could appeal the verdict to a general court martial, but Gilbert argues the appeal process was purposely made mysterious and success difficult to achieve.<sup>25</sup> An appeal denied could mean additional punishment.

Many commanders exploited this lack of clarity to control punishment in their regiments, leading to harsher sentences than expected for minor offences. Capital offences that general courts should have adjudicated were charged as corporal offences so as to maintain the regiment’s control of punishment. For instance, soldiers caught deserting might have their charge altered to neglect of duty. Such practice took the death penalty off the table but did not usually lead to light punishment, rendered as whippings with the only

---

<sup>23</sup> Gilbert, “Regimental Courts Martial”, 51-52.

<sup>24</sup> John Williamson, *The Elements of Military Arrangement; Comprehending the Tactick, Exercise, Manoeuvres, and Discipline of the British Infantry, with an Appendix, Containing the Substance of the Principal Standing Orders and Regulations for the Army* ([London]: Eighteenth Century Collections Online, 1781), 205.

<sup>25</sup> Gilbert, “Regimental Courts Martial”, 58.

restriction being not to harm the life or limb of the guilty party. For example, on Saturday, August 26, 1758, a regimental court martial at Fort Edward found William Canoddy and William Clemanon, both members of Captain Mather's company, guilty of desertion and awarded each 1000 lashes. Each received 250 before the rest was forgiven.<sup>26</sup> Likewise, on July 19<sup>th</sup>, 1759, at Lake George, Lamuel Wood wrote, "a Cort marshell set this day for the Trial of 2 men Late of Forbes Rigmt one tryd for Dershen was found guilty and Sentenced to receive 1000 Larshes".<sup>27</sup> Imposing harsher punishment than ordinarily allowed the commanding officer to display his control and dominance over the men, as did inflicting unusual punishment such as riding a wooden horse or being tied neck to heels.

Capital punishment usually took two forms, execution by firing squad or hanging, performed in front of the entire regiment to deter other soldiers from committing similar crimes. Whipping constituted the most common form of corporal punishment; others include running the gauntlet, riding a wooden horse for long periods of time, being tied to a piquet and lashed by guards, and being tied from one's neck to knees. At first glance, corporal punishments seem less punitive than capital, however, as Judge Advocate General Edward Hughes affirmed in a letter to the Secretary of War, corporal punishments ordered by regimental courts "often inflicted such unmerciful corporal punishments which have made even Death more desirable".<sup>28</sup> Harsh punishments would also be performed in front of the entire regiment to humiliate the convicted soldier and also demonstrate what fate awaited other soldiers who offended.

---

<sup>26</sup> Abraham Tomlinson, *The Military Journals of Two Private Soldiers, 1758- 1778* (Poughkeepsie: Abraham Tomlinson, 1885), 32.

<sup>27</sup> "Diaries Kept by Lemuel Wood", *Essex Institute Historical Collections*, 19 (Jan.-March 1882), 153.

<sup>28</sup> Gilbert, "The Regimental Courts Martial in the Eighteenth Century", 51.



Courts martial, when circumstances might warrant mercy, could recommend pardons or more lenient sentences, which the Monarch or his delegate in capital cases or the commanding officer in regimental cases would review and render a final decision. Pardoning guidelines did not exist, however, certain factors could be taken in consideration. First and foremost, the perceived character of the convicted soldier played an important part, such as whether he had a pattern of insubordinate behaviour. Courts would permit character witnesses, an officer, non-commissioned officer, or even a common soldier, to speak about the defendant's character.<sup>29</sup> Good character coupled with a lack of prior offences could influence the court to recommend a pardon or award a reduced sentence. Another factor was the effect the court believed that it could have on the soldiery as a whole. Many officers believed fear and terror were the most effective means to control soldiers, but they also saw the value to morale of exercising mercy and compassion. Ultimately, military justice balanced the ability to inflict harsh punishment with a capacity to demonstrate mercy. Those historians who argue that the system, in practice, functioned consensually between officers and enlisted men, would add that soldiers at times forced the courts to demonstrate mercy by the sum of their resistive actions, desertions in particular, a view this paper next explores.

---

<sup>29</sup> Stepler, "*British Military Law, Discipline and the Conduct of Regimental Courts Martial in the Later Eighteenth Century*", 870-71.

## CHAPTER 4

### DESERTION AND THE ARMY

“*Desertion and drunkenness, are the diseases of this Country,*” Commander-in-Chief John Campbell, the 4<sup>th</sup> Earl of Loudoun, wrote, “I will stop at nothing to cure them both, if I should Stave every drop of Liquor in it: I have lost above thirty of the *Americans* since they came here.”<sup>30</sup> Desertion, the willful abandonment by a soldier or officer from his unit, without leave or the intention of returning, was a big problem for the British military during the Seven Years’ War in the American colonies. However, the phenomenon was not specific to the British military or the Seven Years’ War. Desertion affected all militaries.<sup>31</sup> The biggest concern that the British military had about desertion was the loss of manpower as the army’s size directly reflected its might, more soldiers meaning more fire power. Desertion sapped the army and endangered the state’s military standing, thus was considered such a heinous act deserving capital punishment. The army also invested a lot of time and money in recruiting, equipping, and training soldiers, all wasted if they deserted. Desertion also impacted morale and unit cohesion. For these reasons, the British military took preventative, punitive, and remedial steps to stifle the problem.

The British Army took proactive measures to prevent desertion because they believed it much easier to dissuade soldiers from deserting than to retrieve those who had already

---

<sup>30</sup> Lord Loudoun, *Military Affairs in North America, 1748-1765*, ed. Stanley Pargellis (New York- London: The American Historical Association, 1936), 241.

<sup>31</sup> Thomas Agostini discusses how desertion was a long-standing problem in Europe, reaching ten percent annually even in the Prussian Army of Fredrick the Great, famed for being highly disciplined. Stephen Conway claims that North America’s desertion rates were not that different from the desertion rates elsewhere. Peter Way argues that desertion was the most common crime committed by soldiers during the Seven Years’ War. Thomas Agostini, “Deserted His Majesty’s Service: Military Runaways, the British American Press, and the Problem of Desertion during the Seven Year’s War”, *Journal of Social History* 40:4 (2007), 960; Conway, “Moral Economy, Contract and Negotiated Authority”, 37; Way, “Militarizing the Atlantic World”, 350.

fled. These preventative measures aimed to discourage desertion by sending a clear message that it would not be tolerated. The Mutiny Act and the Articles of War comprised the two main legal frameworks governing military justice administration. A vagueness in the Articles of War provided the commanding officers with the freedom to interpret best practices and ultimately deal with desertion in their own way. Soldiers had the Articles of War read to them at recruitment and regularly thereafter, so that they could not claim ignorance of the law when committing an infraction. They would have well known the potentially mortal consequences of desertion if caught. Before Braddock's Expedition left Alexandria, Virginia, for example, the General ordered that "the Articles of War be immediatly read, & that every Body may be informd that all Neglects or disobedience of them or of Any Orders will not be for given". He followed that with a particular warning, in the form of a standing order. "Any soldier who shall Desert tho he Return Again shall be Hanged without Mercy".<sup>32</sup> Standing orders were at the discretion of a commanding officer, usually invoked when a specific problem had to be addressed in camp. At Lake George in October 1758, for example, General Geoffrey Amherst reinforced the Articles of War with a standing order that, "for the future any Soldier who shall desert his Regiment, & enlist in any other Regt., regular or provincial, shall be seized by the Regiment he properly belongs to, & try'd for Desertion".<sup>33</sup>

Recent recruits were more likely to desert than soldiers who had been with the military for a long time because they were not accustomed to military life. The

---

<sup>32</sup> "Halkett's Orderly Book", *Braddock's Defeat*, ed. Charles Hamilton (Norman, OK: University of Oklahoma Press, 1959), 64.

<sup>33</sup> "The Moneypenny Orderly Book", *The Bulletin of the Fort Ticonderoga Museum*, 13:1 (December 1970), 27.

recruitment process often presented potential recruits with a romanticized view of soldiering. As Historian Stephen Brumwell, describes, “recruiting parties typically consisted of a subaltern accompanied by a trusty and convivial sergeant, a musician to drum up the crowd, and several other smartly equipped veterans”.<sup>34</sup> These recruiting parties, which provided “ample inspiration for playwrights, cartoonists and balladeers”, contrasted “the extravagant promises of fabulous wealth and martial glory that emanated from the recruiting officer with the harsh realities of gruelling service, meagre pay and crippling wounds”.<sup>35</sup> That enlistment officers used alcohol to stupefy youths into enlisting also contributed to desertion. Once sober and finally aware of his fate, some took the first opportunity to take flight. Take for example the cases of Edward Armstrong and James McDougall, privates in a New York regiment accused of deserting. Under trial at Fort Edward in July 1757, McDougall explained that “while drinking with a friend, he fell in with a recruiting party, and as he was told the next Morning, being that Night so Drunk that he doth not remember seeing a Red Coat in the house, and was greatly surprised in the Morning when the corporal told him he was enlisted”. McDougall, a recent widower with a child that was five years’ old and another just days old, was found guilty and sentenced to receive two hundred lashes. Armstrong, also found guilty, was sentenced to five hundred lashes.<sup>36</sup> A new soldier, seeing the horrible conditions they were forced to suffer, could soon become depressed and regret their decision. In a letter, dated October 3, 1756, Lord Loudoun explains to the Duke of Cumberland that the 35<sup>th</sup> Regiment was made up of,

---

<sup>34</sup> Stephen Brumwell, *Redcoats: The British Soldier and War in the Americas, 1755- 1763* (Cambridge: Cambridge University Press, 2002), 58.

<sup>35</sup> Brumwell, *Redcoats*, 58.

<sup>36</sup> Judge Advocate General’s Office, Court Martial Proceedings, Part 65, pp. 359-66, Series 71, War Office Papers, British National Archives, Kew, London [hereafter in form WO71/65/359-66]. All references from these records derive from notes provided by Dr. Peter Way.

“entirely Raw Officers and Soldiers, and everything new to them: the prest Men, I dare not yet trust so near the Enemy”. Soon after, six soldiers from the 35<sup>th</sup> Regiment deserted. None were successful in their escape. Two of the deserters surrendered after losing their way in the wilderness; the other four were found wandering by Captain Robert Rogers and his rangers. All six were sentenced to death.<sup>37</sup> To prevent the loss of manpower and need to punish offenders, commanding officers monitored new recruits more closely.

As Arthur Gilbert notes, without modern means of identifying soldiers, controlling their movements was difficult. In the American colonies, especially, deserters could easily blend in with the predominately English-speaking colonists. North America also had a larger geographic area and a lesser population density than the British Isles. Up until the 1790s, when England invested in the construction of permanent barracks, soldiers were housed in local inns, mingled with citizens freely and could travel the countryside with ease. To combat these conditions conducive to desertion, the Army “pushed for installations from which it was difficult to escape”.<sup>38</sup> Regional camps were made on “islands or peninsulas, when possible, to cut off escape routes”.<sup>39</sup> For example, the Isle of Wight became an “army base and recruiting depot because deserters returning to the mainland might be caught in transit”.<sup>40</sup> Additional guards were also placed in and around various camps to catch deserters. Thomas Agostini cites in his work, “Nathaniel Sawtell ordered that since ‘Some of the (Massachusetts)

---

<sup>37</sup> Brumwell, *Redcoats*, 65.

<sup>38</sup> Gilbert, “Why Men Deserted from the Eighteenth-Century British Army”, 555-56.

<sup>39</sup> Agostini, “Deserted His Majesty’s Service”, 965.

<sup>40</sup> Gilbert, “Why Men Deserted from the Eighteenth-Century British Army”, 556.

provincials have Deserted Lately...partys Are posted so as there is great Reason beleave they will be taken up”.<sup>41</sup> It was also an established practice to consider any soldier caught over a mile from his camp as a deserter, regardless of his reason for travel.<sup>42</sup>

The army also sent search parties after soldiers who had recently deserted. At Albany on July 8, 1755, an officer noted, “we had several desertions while we lay here from the Battalion, and on Wednesday, at night, Christopher Martin and Robert Stuart of the Grenadiers went off, and 4 men were sent the next morning, ye 10th, in pursuit of 'em”.<sup>43</sup> Sometimes, a list of deserters would be circulated between camps so that commanding officers would be on the lookout. In June 1760 at Albany, Commander-in-Chief Jeffery Amherst received a list of eighteen deserters on the Mohawk River.<sup>44</sup>

Commanding officers also tried to deter desertion by bettering conditions in camp, such as provide petty luxuries like extra rum rations or more free time for the men. General Jeffery Amherst outlined the different amounts and forms of compensation to be awarded for the various jobs that soldiers performed. On July 31<sup>st</sup>, 1759, in Albany, he writes, “When any of the troops, either regulars or provincials, are employed as artificers, or labourers, on any works during the campaign, they shall be paid for the same at the following rates:-- all artificers per day one shilling and three- pence, New York currency; to Mortar-makers, and other labouring works of that kind, one shilling; other labouring works in building storehouses, hospitals, or barracks, ninepence; for all other works or retrenchments &c. which are the duty of the soldier, and never paid, they shall have a jill

---

<sup>41</sup> Agostini, “Deserted His Majesty’s Service”, 966.

<sup>42</sup> Gilbert, “Why Men Deserted from the Eighteenth-Century British Army”, 556.

<sup>43</sup> William Hervey, *The Journals of Hon. William Hervey: In North America and Europe, from 1755 to 1814; with order books at Montreal, 1760-1763* (Bury St. Edmund’s: Paul and Matthew, 1906), 89.

<sup>44</sup> Jeffery Amherst, *The Journal of Jeffery Amherst* (Toronto: The Ryerson Press, 1931), 280.

of rum per man”.<sup>45</sup> Conway argues that commanding officers knew that they had to win their soldiers over and that their obedience could not be taken for granted. He writes that to encourage the troops, officers ordered rewards to be given to the common soldiers at particular moments. As Brumwell explains, tasks considered as “soldiers’ work & never paid” earned each soldier involved a prized gill of rum.<sup>46</sup> Through such actions, commanders could reinforce their power and confirm their commitment towards the men. Amherst commented on one particular positive activity organized by the military to build morale and maintain good spirits. In his journal entry, dated November 10<sup>th</sup>, 1759 in New York, he describes a “Feu de Joye”, an event arranged to celebrate the encouraging news that Amherst received from Major Rogers about a successful raid that was carried against the enemy in the Village of St. Francis.<sup>47</sup> “The Troops worked till three O’clock, excepting the Grenadiers, who were under Arms at one O’clock, and fired Volleys, at Gun Firing, the Army was under Arms & fired a Feu de Joye, the three Forts firing 21 Cannon, and the Battalions volleys. The Fortress 21 Cannon, the Army a running fire. the Park of Artillery 21 Cannon, the Army a general Volley, ending with three Huzzas & rum and Spruce beer given to every man in the Army”.<sup>48</sup>

The British Army, most fundamentally, believed that violence and fear could be used as deterrents to desertion. Strict punishment served two purposes: as legal retribution on the offender; and as a terrible warning to others not to commit the same offence.

---

<sup>45</sup> Knox, *The Journal of Captain John Knox*, 462.

<sup>46</sup> Brumwell, *Redcoats*, 128.

<sup>47</sup> Knox, *The Journal of Captain John Knox*, 71-72.

<sup>48</sup> Knox, *The Journal of Captain John Knox*, 72.

Commanding officers knew that inattention to duty or insubordination could be contagious, evolving into something more serious such as desertion, so it was in the military's best interest to curb such behaviour with immediate exemplary punishment. Take Charles Maclean of the 28<sup>th</sup> Regiment for example. In November 1759 at Quebec, Maclean was charged with being absent from duty, talking of desertion, and speaking disrespectfully of the Governor. Responding to the great number of desertions lately, he said, "if they were not used better, more would Desert" and "if the Governor had not pay, he would desire none, but if he had, he would insist upon his, that he would starve for no King, rather that, He would Blow out the Gentlemans Brains in the Town and that it would be a pretty thing if there was a Note about that left under the Governor's Door some night or other". Maclean was found guilty and sentenced to receive 1000 lashes.<sup>49</sup>

The British military also placed newspaper advertisements about deserters to encourage citizens to report any information that they had by offering a reward. Ads were also necessary because deserters could travel quite far from their original military quarters, making it difficult for commanding officers to rationalize sending a military search party after them. The *Pennsylvania Gazette* alone published ads for 510 deserters.<sup>50</sup> Most newspaper advertisements were similar in their makeup, including such information as the deserter's name, nativity, occupation, and any specific distinguishing traits. For advertisements about American deserters, more details were provided about the deserter's birth city. Mention could be made of their primary language or general speaking traits. In the *Virginia Gazette*, for example, advertisements described deserters as being "slow of

---

<sup>49</sup> WO71/46/2-3.

<sup>50</sup> Agostini, "Deserted His Majesty's Service", 960.



Speech” or possessing “a remarkable hoarse Voice”.<sup>51</sup> Another described “provincial John Brown as having ‘a very stupid appearance’ and being ‘much addicted to liquor’”.<sup>52</sup> In *Weyman’s New York Gazette*, a deserter named John Campbell was described as a “grand villain”.<sup>53</sup> Any deserter recovered by any of these means knew what awaited him.

The harsh punishment inflicted on soldiers who even considered deserting was designed to inspire terror not only in those who committed the crime but the rest of the soldiery, who were ordered to witness it being carried out on their comrade. The punishments themselves were designed to cause great bodily harm to the convicted soldier and left numerous scars and bruises to act as reminders of what would happen if he decided to run again. The tremendous pain that a convicted soldier was forced to endure was also meant to burn a vivid image in the rest of the soldiers' minds if they ever thought about committing a similar act. As Way argues, “physical punishment always served as the ultimate weapon of motivation and discipline, the threat of its deployment as much as the actual use having the desired effect on the soldiery”.<sup>54</sup>

Desertion was deemed a capital offence, although often, it would merit only whipping. Although not as dramatic as the noose or firing squad, the lash still instilled a great deal of fear and therefore, was often performed in front of the entire camp. Some soldiers could not face the rest of the punishment once given a taste of the whip. For example, at Louisburg in 1760, a soldier involved in the theft of £160 from a lieutenant of the 45<sup>th</sup>

---

<sup>51</sup> *Virginia Gazette*, December 12, 1755, cited in Agostini, “Deserted His Majesty’s Service”, 965.

<sup>52</sup> *Virginia Gazette*, October 3, 1755, cited in Agostini, “Deserted His Majesty’s Service”, 965.

<sup>53</sup> *Weyman’s New York Gazette*, May 24, 1762, cited in Agostini, “Deserted His Majesty’s Service”, 965.

<sup>54</sup> Way, “Militarizing the Atlantic World”, 347.

Regiment, was sentenced to 1000 lashes. After suffering upward of 300 strokes one day, he hanged himself in the guardhouse before having to face the remainder.<sup>55</sup> Witnessing a comrade being whipped to near death was meant to prevent the soldiery from engaging in any misconduct. David Perry's narration of a group of soldiers being whipped illustrates how severe corporal punishment could be.

Three men, for some trifling offense which I do not recollect, were tied up to be whipped. One of them was to receive eight hundred lashes, the other five hundred apiece. By the time they had received three hundred lashes, the flesh appeared to be entirely whipped from their shoulders, and they hung as mute and motionless as if they had long since been deprived of life. However, this was not enough. The doctor stood by with a vial of sharp stuff, which he would ever and anon apply to their noses, and finding, by the pain it gave them, that some signs of life remained, he would tell them "d-mn you, you can bear it yet" – and then the whipping would commence again. It was the most cruel punishment I ever saw inflicted, or had ever conceived of before, – by far worse than death.<sup>56</sup>

General courts martial regularly sentenced deserters to death to inspire fear in soldiers. Arthur Gilbert examined over one thousand court martial records for the Seven Years' War and concluded that 24.3% of these cases resulted in capital sentencings.<sup>57</sup> As Way notes, about Gilbert's findings, "courts capitally convicted and sentenced to death approximately

---

<sup>55</sup> *Diary Kept at Louisburg, 1759-1760, by Jonathan Proctor of Danvers from the Original in the Possession of the Peabody Museum, Salem* (Salem, MA: Essex Institute, 1934), 10.

<sup>56</sup> David Perry, "Recollections of an Old Soldier: The Life of Captain David Perry, A Soldier of the French and Revolutionary Wars", *Magazine of History*, 35:1 (1928), 31- 32.

<sup>57</sup> Gilbert, "The Changing Face of British Military Justice," 81-82.

one-third of men tried for desertion compared to 24.3% for all crimes as whole”.<sup>58</sup> Like with whippings, capital sentences were usually carried out in front of the entire camp to instill terror and send a message that the military leadership had the power over life and death. Also, soldiers often were made to carry out the sentence on their friends. Such a horrific experience can be understood through an account provided by Lemuel Wood regarding Richard Studs, of the 27<sup>th</sup> regiment, found guilty of desertion from Lake George in July 1759 and sentenced to death. Wood writes,

“the Provost guard brought forth ye Prisoner and marched him Round before all ye Reglars Rigmt from thence to ye Place of Execution there was Drawn out of ye Regmt to which ye Prisenor Belonged 100 Plattons of 6 men Each ye Prisenor was brought and set befoer one of the Platones and kneeled Down upon his knees he Clinched his hand the Platton of 6 men Each of them fired him through ye Body ye other Platoon then Came up instantly and fird him through ye head and Blowed his head all to Peaces they then Dug a grave by his Sid and tumbled him in and Covrd [sic] him up”.

A couple of days later, Wood narrates the fatal outcome of Thomas Dayley of the 17<sup>th</sup> regiment, who was found guilty of robbery, and as a “netoreous offender”, was sentenced to death. Dayley was brought to the same spot where Studs was killed. As Wood writes, “he was very Lorth to Die they could not Perswad him to kneel down to be Shot they then

---

<sup>58</sup> Way, “Militarizing the Atlantic World”, 350.

tied him hand and foot but Could not make him Stand still they then took and tied [him] to an old Log and he hung Down under Sid ye Log they then fird and killed him”.<sup>59</sup>

Reverend Thomas Barton, an Anglican Minister with the British army, narrated in his journal the experience of ministering to a condemned prisoner in September 1758 at the Rays Town camp in Pennsylvania.

John Doyle, a Soldier in Captain Patterson’s Company in the Pennsylvania Regt, is to be shot to Death for Desertion. I walk'd with him to the Place of Execution, surrounded by a strong Guard. He behav'd with uncommon Resolution; exhorted his Brother-Soldiers to take Example by his Misfortunes; To live sober Lives; to beware of bad Company; to shun pretended Friends, & loose wicked Companions, ‘who, says, he, will treat you with Civility & great Kindness over a Bottle; but will deceive & ruin you behind your Backs,’ But above all he charg'd them never to desert. When he saw the Six Men that were to shoot him, he enquir'd if they were good Marks-Men; and immediately strip'd off his Coat, open'd his Breast, kneel'd down, & said ‘Come Fellow-Soldiers, advance near me, do your Office well, point at my Heart, for God’s Sake do not miss me, & take Care not to disfigure me.’ He would suffer no Handkerchief to be ty'd over his Face, but look'd at his Executioners to the last, who advanc'd so near him that the Muzzles of their Guns were within a Foot of his Body. Upon a Signal from the Serjeant Major they fir'd, but shot so low that his Bowels

---

<sup>59</sup> “Diaries Kept by Lemuel Wood”, 73-74, 144.

fell out, his Shirt & Breeches were all on Fire, & he tumbled upon his Side; rais'd one Arm 2 or 3 Times, & soon expir'd. A shocking Spectacle to all around him; & a striking Example to his Fellow Soldiers.<sup>60</sup>

This account reflects the gruesome and horrific experience shared by the convicted soldier and the surrounding audience. As Brumwell explains, executions were carefully stage-managed to maximize the impact of the occasion. These public punishments “intended to impress spectators with a suitable sense of the law’s awful majesty”.<sup>61</sup> The British military leadership also staged these public punishments so that those sentenced to death might offer advice to the rest of their friends and fellow soldiers about what conduct not to engage in. Hearing the regretful language from a fellow soldier could more effectively convince a soldier not to break the rules than the barked commands of officers.

Accounts written by religious figures always mentioned whether a convicted soldier was feeling remorseful and had made his peace with God, but it was not just about religion and contrition, as this served the military’s interests, aligning their mission with God’s, as the journal of Reverend John Ogilvie illustrates. “This Day was executed for Desertion & Theft One Perry of Sr. Peter Halket’s Regiment: He behaved with Signs of true Contrition. Mr. Hughs Chaplain of that Regiment attended to the Place of Execution”, he wrote at Albany on November 1, 1755.<sup>62</sup> Another instance occurred on Monday, May 24, 1756. “This morning seven Deserters were led out to Execution, they appeared to be deeply penitent & behaved with great Signs of Devotion. One of them was pardoned his Name

---

<sup>60</sup> William A. Hunter, “Thomas Barton and the Forbes Expedition”, *Pennsylvania Magazine of History and Biography*, 95 (Oct. 1971), 482.

<sup>61</sup> Brumwell, *Redcoats*, 108.

<sup>62</sup> “The Diary of Reverend John Ogilvie 1750-1759”, ed. Milton W. Hamilton, *Bulletin of the Fort Ticonderoga Museum*, 10: 5 (Feb. 1961), 364.

was Herbert”.<sup>63</sup> Then on June 13, 1757, he noted, “This morning Mathuys Wassanaar of the third Battalion was hanged for Desertion: He appeared very penitent & died with a full Dependence upon the Favour of God thro’ Jest-Xt”. Again, on June 20, “This evening two Men of the third Battalion were shot to Death for Desertion, They were penitent, & behaved with great Resolution”.<sup>64</sup>

The next section of this paper will explore the various reasons why soldiers deserted during the Seven Years’ War and how they did so, while documenting the explanations they presented to the courts when apprehended. Thereafter, the paper will examine how the British military leadership deployed mercy to maintain their control over soldiers.

---

<sup>63</sup> “The Diary of Reverend John Ogilvie”, 374.

<sup>64</sup> “The Diary of Reverend John Ogilvie”, 378.

## CHAPTER 5

### DESERTION AND THE SOLDIER

British soldiers deserted during the Seven Years' War for various reasons. Traditionally, historians have argued that fear of combat or alienation from the British war effort prompted desertion. Recent studies, however, have shown that personal reasons related to their individual experiences in the military played a big role. "In the British Army the pay was very low and the common soldier regularly lived on the border of starvation. He was under the command of aristocratic officers whose origins and education created an enormous barrier to communication and understanding of the problems of the common soldier. Discipline was harsh and recourse from a bullying officer was virtually nil", historian Arthur Gilbert reasoned.<sup>65</sup> He also shined a light on a recruitment process that resulted in soldiers being "pressed into service or tricked into enlisting by wily recruitment officers who had become very adept at slipping an unsuspecting farm hand the King's shilling while he was drunk".<sup>66</sup> Gilbert also thinks enlistment terms contributed to the negative experience of soldiers. "In wartime, soldiers were recruited for fixed terms or the duration of the conflict, but lost documents, faulty record keeping, and the ignorance and inexperience of soldiers, meant that officers could keep men in their units for longer than the prescribed period".<sup>67</sup> Some soldiers deserted on purpose, while others alleged that their abandonment was unintentional. Those fed up with their treatment could conclude their best chance to live a better life was to flee the military.

---

<sup>65</sup> Gilbert, "Why Men Deserted from the Eighteenth-Century British Army", 554.

<sup>66</sup> Gilbert, "Why Men Deserted from the Eighteenth-Century British Army", 554.

<sup>67</sup> Gilbert, "Why Men Deserted from the Eighteenth-Century British Army", 554-555.

Desertion, whatever the motivation, comprised political agency on behalf of soldiers because it represented a rejection of the state and its armed wing (although typically not consciously so). The act comprised an ultimate high risk-high reward gamble. A deserter, if caught, would often suffer harsh punishment or execution. Soldiering during the Seven Years' War was a job, arguably the most dangerous. As with any form of employment, martial workers expected the promised compensation along with the essential resources to complete the labour. They viewed their relationship with the army in contractual terms with each party having obligations to the other. Commanding officers had to provide sufficient clothing, food, and the wage promised to them at recruitment. Failing to do so, in the eyes of soldiers, violated the contract, leading some to take the extreme measure of desertion.

Numerous examples are found in the records that demonstrate how soldiers deserted when not provided what the military had promised. For example, on September 4<sup>th</sup>, 1755, soldiers Jacob Treach, George Snyder, Henry Funnel, Michael Merchant, all from the 50<sup>th</sup> Regiment, were tried for deserting. During their trial, Treach claimed that he had been enlisted four months and never received more than \$5.36 when another soldier in only half the time received \$9. He was also promised 1 lb. of bread, a half pint of rum and 1 lb. of beef daily. Snyder said he was promised 6d. a day paid weekly, which he never received. Merchant was promised 2 lbs. of bread, 1 lb. of meat, a half pint of rum, 6d. sterling per day, which he also never received. Merchant confessed that “not being able to live upon the Allowance he received, he thought to better himself by going home to Pennsylvania”.<sup>68</sup> Each soldier was found guilty and sentenced to receive one thousand lashes. Similarly,

---

<sup>68</sup> WO71/42/230-33.



Conrad Saloff, also deserted from from the 50<sup>th</sup> Regiment at Oswego. During his trial by the same court, he claimed to have never received the allowance promised, also alleging that he was bare of shoes despite requesting some. He was sentenced to one thousand strokes.<sup>69</sup>

Courts martial proceedings make it apparent that the army's failure to provide basic amenities like food, clothing, and money motivated some to desert. Not only were soldiers forced to put their lives on the line during battle, but often had to endure harsh living conditions. Soldiers John Pitzall and Henry Rapp, from the 50<sup>th</sup> Regiment, deserted from their camp in Oswego on August 26<sup>th</sup>, 1755 and were captured four days later. During their trial, on September 5<sup>th</sup>, 1755, Pitzall claimed that he never received his food allowance before he left, having "but 3 biscuits for two days, that he had no Shoes, & no Money; having received but one Dollar since he left Schenectady".<sup>70</sup> Found guilty, each received one thousand lashes. Other times, soldiers were provided resources but not the quality expected. For example, John Baptist Freyder of the 44<sup>th</sup> Regiment, deserted from Schenectady on March 27<sup>th</sup>, 1756. He claimed that when he enlisted in December, he had been "promis'd to be Cloath'd from head to foot", but was only given "an old Coat and no Waistcoat nor Breeches nor Blankett to cover him". He also was owed ten days pay.<sup>71</sup> Freyder was found guilty and sentenced to death. Not being provided with the necessary resources or equipment deterred soldiers from their duty and also made them more susceptible to illness or infection. James Bailey from the 51<sup>st</sup> regiment was tried on January 21<sup>st</sup>, 1757 for deserting twice. He claimed he was pardoned for the first desertion, but

---

<sup>69</sup> WO71/42/233.

<sup>70</sup> WO71/42/236-38.

<sup>71</sup> WO71/43/139-40.

subsequently had his watchcoat stolen and “& having no Cloathing he could not endure the Cold,” so he fled again to enlist with the New Jersey regiment.<sup>72</sup> The court found Bailey guilty and awarded a death sentence. This example demonstrates that it did not necessarily mean that when soldiers deserted, they intended to leave the military altogether. Rather, some deserted their unit to enlist with another where they might be treated better.

British soldiers also deserted from their military units because of the treatment that they received. For example, Peter Cloyne from the 51<sup>st</sup> regiment, tried for desertion on January 21<sup>st</sup>, 1757 in Philadelphia, claimed that during a hot march, he went to get a drink and an officer “beat him several times on the head, with a Gun, so that the Blood run down in Several places.” He deserted the very next day.<sup>73</sup> Cloyne was found guilty and was sentenced to receive three hundred lashes but Lord Loudoun eventually pardoned him. Thomas Johnston, from the 45<sup>th</sup> Regiment, testified on July 16<sup>th</sup>, 1757, in Halifax, that he deserted because he was given a stroke by Lieutenant Campbell for not working.<sup>74</sup> Johnston was found guilty and sentenced to death. Sometimes, the anticipation of ill-treatment in the camps was enough for soldiers to desert. James Leasy of the 44<sup>th</sup> Regiment, who enlisted on November 15<sup>th</sup>, 1755, fell sick and was put in a New York hospital. He was released and deserted at Albany. His defence was that he was frightened by men who told him “how ill he would be used” once he joined the regiment.<sup>75</sup> Found guilty, Leasy was sentenced to receive one thousand lashes. Luke Fitzgerald deserted from the 48<sup>th</sup> regiment at Albany on September 20<sup>th</sup>, 1756. He pled guilty but testified that he was always

---

<sup>72</sup> WO71/44/233-34.

<sup>73</sup> WO71/44/237-38.

<sup>74</sup> WO71/65/17-18.

<sup>75</sup> WO71/43/155-56.

looked upon as “a very awkward dirty fellow”, and claimed he deserted due to the “ill usage he met with the Regt. for not being able to learn his Exercise”.<sup>76</sup> Fitzgerald was sentenced to receive eight hundred lashes. Some soldiers believed that harsh treatment from officers voided the labour contract just like not being provided food, clothing, or compensation did.

Desertion affected the different soldier groups that fought in the Seven Years’ War. It is important to discuss here the similarities and differences between the desertion of the regular British soldiers and the provincial soldiers. It should first be mentioned that in the eyes of British commanders, provincial troops were considered to be the worst soldiers. As historian Fred Anderson explains, the British leadership viewed them “overpaid and underdisciplined” and believed them to be “faint-hearted rabble incapable of enduring even the mildest privations” who were “officered by men unwilling to exercise authority for fear of losing favor with the mob”.<sup>77</sup> This fact is supported by entries of the regular officers in their personal journals. For example, Major- General Jeffery Amherst wrote in his journal, dated May 27<sup>th</sup>, 1759, at Albany, “the Provincial Troops arrive daily but desert most shamefully”.<sup>78</sup> Amherst also denigrated colonial troops on November 11<sup>th</sup>, 1759 at Lake Champlain. “The Provincials have got home in their heads & will now do very little good. I hear they are deserting from every Post where I have been obliged to leave some & several ran away who had a good deal of money due to them”.<sup>79</sup>

---

<sup>76</sup> WO71/44/140-41.

<sup>77</sup> Anderson, “Why did Colonial New Englanders Make Bad Soldiers?”, 395.

<sup>78</sup> Knox, *The Journal of Captain John Knox*, 46.

<sup>79</sup> Jeffery Amherst, *The Journal of Jeffery Amherst* (Toronto: The Ryerson Press, 1931), 256.

Anderson sought to explain the motive behind provincial desertion. When the military was not successful in distributing the promised provisions to their soldiers, the troops registered their discontent by engaging in mutinous actions or participating in mass desertions because, in their perspective, the military not providing them provisions was similar to an employer not living up to its end of the bargain. Anderson further breaks down the motives behind provincial soldier desertions in three distinct categories. The first involved soldiers who had not been provided their promised food or accommodations; the second and most common witnessed soldiers who were forced to serve longer than agreed upon fleeing; and lastly, were those who deserted because the army did not provide additional compensation for the extra work they performed. In every case, Anderson argues, “the grievance was essentially a matter of contract, and each collective action bespoke the soldiers’ concern for their compensation”.<sup>80</sup> This finding seems to support the attitude of British officers towards provincial soldiers, that unlike regular troops, they were in this war solely for monetary gain. However, upon closer inspection, it is clear that their motives for deserting were similar. Both regulars and provincials deserted when they believed that the military leadership had not provided what it owed them.

Sometimes soldiers deserted by themselves, and other times in groups, indicating that the grievance transcended the individual. For example, on September 1<sup>st</sup>, 1755, “thirty to fifty men attempted to desert from the Massachusetts provincial camp at Lake George because they were denied their overdue rum issue. They marched four or five miles from the camp with clubbed muskets before being overtaken and returned”. Group or mass desertion was a bigger problem among provincial troops than regular soldiers more inured

---

<sup>80</sup> Anderson, “Why did Colonial New Englanders Make Bad Soldiers?”, 404-05.

to harsh discipline and living conditions. Group or mass desertion was also a popular reaction for soldiers forced to serve in the military longer than their enlistment term. For example, on November 1<sup>st</sup>, 1759, “a group of Massachusetts provincials, perhaps an entire regiment deserted the command of Colonel Abijah Willard at Fort Ticonderoga when their enlistment term expired”. What is unique about such mass desertions is that a group did so with more confidence and conviction than when a lone soldier deserted. Anderson stated that “several diarists note that the participants in mass desertions marched off with clubbed arms: they carried the muskets over their shoulders, grasping the weapons at the muzzles, not by the buttstocks—a posture that, in contemporary drilling conventions, signalled the completion of duty”. Furthermore, “the fact that the men marched off carrying arms that were for the most part crown property indicated an additional measure of defiance, a signal that the rebels intended to appropriate their own compensation”.<sup>81</sup>

A deserter at trial typically disclosed a motive behind his departure, perhaps in hope that his honesty would result in a lighter sentence, or he could provide a false motive, again in hopes of securing some leniency. It is through these court confessions that we can attempt to differentiate desertions that were pre-meditated and desertions that occurred out of impulse. Soldiers did not allow unfamiliar terrain to deter them from desertion and would often take with them the resources needed to ensure that their desertion would be successful. This was also an indication that there was some calculation in their decision to desert. Knox recounted, on July 12<sup>th</sup>, 1759, how a soldier from the 15<sup>th</sup> Regiment and light infantry company deserted from Camp Montmorency at Quebec in a canoe.<sup>82</sup>

---

<sup>81</sup> Anderson, “Why did Colonial New Englanders Make Bad Soldiers?”, 410, 416-17.

<sup>82</sup> Knox, *The Journal of Captain John Knox*, 415.

Some desertions occurred out of impulse and likely did take not much planning or preparation. For example, Private James Connolly from the 17<sup>th</sup> Regiment, tried for desertion on May 25<sup>th</sup>, 1759, claimed he "received a hurt in his Testicles" at Elizabeth Town, which kept him behind his regiment, but tried to catch up". As the court did not believe Connolly's account, he was found guilty and sentenced to receive one thousand lashes.<sup>83</sup> Soldiers often claimed that they had become lost and unable to return. Private Richard Stubs, from Lake Blakney's Regiment, claimed during his trial on July 13<sup>th</sup>, 1759, at the Lake George camp, that an Indian scared him while he was on the cattle ground, he ran into the woods and got lost. Stubs was found guilty and shot to death.<sup>84</sup> Another indication that the desertion occurred out of impulse was the involvement of alcohol. During his trial, on June 11<sup>th</sup>, 1759, Private Andrew Yeats from the Jersey Blues Regiment defended his actions by confessing that he was drunk.<sup>85</sup> Similarly, Private John Kane deserted from Fort Edward on June 20<sup>th</sup>, 1759. He was confined for being drunk and deserted when he was released the next morning. He attested, "that when he Drinks any Spiritous Liquors, they throw him into fitts, which distract him and deprive him of sense".<sup>86</sup> Edward Mitchell (17<sup>th</sup> Regiment) deserted in April 1761 but pleaded not guilty during his trial on July 7<sup>th</sup> in Albany. He alleged that his crime was "intirely owing to drunkenness, which so affects a Wound, he formerly received in his head, that he is incapable of knowing what he does".<sup>87</sup> Highlanders Corporal James Hardy and Neill Nicholson deserted on October 29<sup>th</sup>, 1760, while on guard at the Quebec Gate. Both claimed that a woman got

---

<sup>83</sup> WO71/67/139-41.

<sup>84</sup> WO71/67/192-4.

<sup>85</sup> WO71/67/153-5.

<sup>86</sup> WO71/67/163-4.

<sup>87</sup> WO71/68/240-1.

them drunk and persuaded them to ferry her across the river, where they found themselves sober the morning after. They tried to make it to Albany and further claimed that they signaled the first boat they saw. Both Hardy and Nicholson were found guilty, sentenced to death but later pardoned by General Thomas Gage.<sup>88</sup> Also citing female influence behind his desertion was William MacIntosh of the 50<sup>th</sup> Regiment. During the trial on December 13<sup>th</sup>, 1756, in New York, he claimed he was “deluded by a Woman to desert”. He deserted again while leading a recruiting sergeant to a tavern where he said he knew two men who would enlist. He disappeared when the sergeant went looking for these potential recruits.<sup>89</sup>

When soldiers deserted, it did not necessarily mean that they left the military life altogether. Some attempted to enlist with another regiment or unit in hopes of receiving proper compensation or treatment. Private James Dunwood from the 44<sup>th</sup> Regiment, tried at Albany in May 1759, for deserting the previous May, was caught when he tried to enlist with the provincials. Dunwood was found guilty and sentenced to death.<sup>90</sup> James Hamilton joined the 35<sup>th</sup> Regiment in April 1757 and deserted that September. During the trial in October 1760 at Quebec, it was discovered that he had been tried and acquitted in Albany, before deserting to join the Rangers. He was found guilty and sentenced to death but reprieved until His Majesty’s pleasure was known.<sup>91</sup> Connecticut provincial John Williams enlisted under the name John Pivey in April of 1759. During the trial on June 15<sup>th</sup>, 1760, he explained that he was compensated only three pounds and deserted three days afterward,

---

<sup>88</sup> WO71/46/147-151.

<sup>89</sup> WO71/44/123-24.

<sup>90</sup> WO71/67/116-8.

<sup>91</sup> WO/71/68/11-12, 22.

only to reenlist on April 9<sup>th</sup>, 1759, at Wyndham, Connecticut, where he received seven pounds.<sup>92</sup>

Soldiers rarely provided their opinion on the severe punishment enforced upon them. Rather than note it in their diaries and journals, they decided to show their discontent through their actions. A soldier showed staunch opposition by deserting, which also could reflect the fear soldiers felt when exposed to brutal punishment. As social historian Peter Way notes, soldiers resisted “class discipline in many ways, from calculated ineptitude through insubordination and desertion to mutiny”. However, when soldier resistance did occur, the military cranked up the intensity of their legal power, which often was successful in curbing resistance, while other times it resulted in more soldiers engaging in disobedience. Way also uses soldiers’ excessive use of alcohol and desertion as evidence of how soldiers responded to violent discipline. He writes, “excessive alcohol use could function as a means of numbing their emotions and desertion could serve as an avoidance tactic of dealing with military justice”. Thus, it is clear that soldiers engaged in actions that reflected their feelings, be it through minor measures of insubordination or much more drastic methods such as desertion. It was not easy being a soldier during the Seven Years’ War, as the condition that most soldiers found themselves in, with “insufficient food, clothing, shelter, and often pay”<sup>93</sup>, coupled with brutal discipline and punishment, was bound to spark resistance, especially since, in the eyes of most of these British soldiers, their condition could only be enhanced, as their experience could not get any worse, that is unless they were extended the branch of mercy, as explored in the next section.

---

<sup>92</sup> WO71/67/153-5.

<sup>93</sup> Way, “Militarizing the Atlantic World”, 347, 358.



## CHAPTER 6

### DESERTION AND MERCY

William Davis of the 58<sup>th</sup> Regiment and Daniel Coleman of the 43<sup>rd</sup> Regiment were convicted of stealing bread from the King's Stores while on sentry duty and were sentenced to death. General James Murray ordered the two "shall cast Lots and do reprove him whose fortune Shall Favour". Eleven was the lucky number which was rolled by Coleman and resulted in him being pardoned by the Governor, whereas David was not so lucky and was instantly executed.<sup>94</sup> Again on March 23<sup>rd</sup>, 1761 at Quebec, deserters, Patrick McGuire and James Savage of the Royal Americans both received a death sentence but were instructed to cast lots. McGuire won the competition and was pardoned.<sup>95</sup> A couple months later, on July 27<sup>th</sup>, 1761, also in Quebec, McGuire was convicted of theft and deserting from his confinement. This time his luck ran out and he suffered death.<sup>96</sup>

Although capital punishment effectively punished a convicted soldier and sowed terror among the rest, the army could not afford to execute every deserter because this would reduce the number of men who could fight and also undermine morale. Therefore, the British Army had to explore alternate sentencing options, from reduced punishments to remission of sentences, to full pardons. As preventative and punitive measures failed in combating soldier desertion, the British Army turned to a remedial approach that sought to assure soldier loyalty by the exercise of mercy. It adopted such measures as trying deserters before regimental courts martial on lesser charges; general courts martial awarding

---

<sup>94</sup> WO71/46/13.

<sup>95</sup> WO71/68/8-9.

<sup>96</sup> WO71/70/272-4.

corporal rather capital punishment, issuing sentences less severe than expected, or recommending mercy; and the commander-in-chief remitting sentences or issuing pardons to individuals or as general amnesties to deserters. Some of these remedial approaches were calculated and implemented with a particular purpose to send a clear message to the soldiery, while other demonstrations of mercy were completely random, which contributed to absolute control the leadership had over their soldiers.

The most successful commanding officers effectively found the balance between being firm and being lenient. Even though possessing full authority over their regiment, their jobs became much easier when the soldiers believed them fair. Sometimes a soldier caught deserting would be summoned before a regimental court martial and would be tried under a lesser charge, thus guaranteeing a punishment less severe than capital. This provided more control to the commanding officer, as he no longer had to refer a desertion case to the general courts, instead retaining full authority to review this case and impose the penalty he thought was appropriate. He would charge a deserter with a less serious offence like neglect of duty or being absent from quarters, or try soldiers as deserters before the regimental court, even though it had no right to do so. On April 16<sup>th</sup>, 1761, Sergeant William Brittin was sentenced to five hundred lashes by a regimental court martial for “being absent from quarters, selling his arms, and embezzling the pay of his men”.<sup>97</sup> As Gilbert explains, “unlike the General Courts Martial, which restricted its punishments, by and large, to the death and the lash, the Regimental Court Martial offered a much more varied list of possible sentences”.<sup>98</sup> The lashes that the General Courts Martial awarded

---

<sup>97</sup> Gilbert, “The regimental courts martial in the Eighteenth Century”, 54.

<sup>98</sup> Gilbert, “The regimental courts martial in the Eighteenth Century”, 54.

were, on average, higher than the amount authorized by the Regimental Court Martial. Sentences of 1000-1500 lashes were not uncommon in General Court Martial verdicts<sup>99</sup>, whereas the “lash average” in Regimental Court Martials was “238 lashes per man”<sup>100</sup>.

General courts often exercised mercy by awarding corporal punishment instead of capital. They would sometimes accept the recommendation of the prisoner’s commanding officer to exercise mercy. A case occurred on May 26<sup>th</sup>, 1755, in Fort Cumberland, when Samuel Draumer of the 44<sup>th</sup> Regiment and George Darty of Captain’s Demere’s Independent Company were tried for desertion and sentenced to two hundred lashes each.<sup>101</sup>

The army would also exercise mercy through the remission of sentences. A commanding officer might reduce a deserter’s sentence based on his youth, the case for Timothy Fisher, a member of Rogers’ Rangers who had his sentence reduced from 1000 to 500 lashes because he was only sixteen years old.<sup>102</sup> Sometimes a commanding officer did not provide a rationale for his remission of a sentence. Robert Webster wrote in his journal on September 15, 1759, at Crown Point, that a Ranger was whipped five hundred lashes for deserting. “He was supposed to have had one thousand but the General forgave five hundred”.<sup>103</sup> No clear pattern is associated with sentence remission, rather being down to the proclivity of a particular commanding officer and his assessment of what the situation

---

<sup>99</sup> Gilbert, “The regimental courts martial in the Eighteenth Century”, 54.

<sup>100</sup> Gilbert, “The regimental courts martial in the Eighteenth Century”, 61.

<sup>101</sup> Edward Braddock, *Major General Edward Braddock’s Orderly Books, From February 26 to June 17, 1755* (Cumberland, MD: Will H. Lowdermilk, 1878), 44.

<sup>102</sup> WO71/67/260-63.

<sup>103</sup> “Diary of Robert Webster”, 12.

required. Lighter sentencing offered an effective means to demonstrate that military justice could be both merciful and all-powerful.

The ultimate hope for a soldier caught deserting was being pardoned. Pardons were granted by commanding officers in regimental court decisions and by the Monarch or his appointed commander-in-chief in general court decisions. Like the remission of sentences, when courts martial recommended a pardon, it was to demonstrate to the rest of the soldiery that the courts had the capacity for mercy, as well as keeping a soldier alive and capable of fighting. For example, in July 1760 at Fort Ontario, a court in the case of Samuel Davis,

“taken from the 2d New York Regiment, and accused of desertion from his Majesty 1st or Royal Regiment, is sentenced to receive one thousand lashes, but recommends him to mercy. The General therefore pardons him, and he is now to join the 2d N.Y. Regiment he is enlisted with to serve the campaign. He is then to join the Royal, where he is then to serve, or if he is entitled to his discharge, he will have it”.<sup>104</sup>

Pardoning demonstrated the true power that the British military had over its soldiers, but its success lay in knowing when to use this power and when not to. Too much pardoning could lead to more deserters expecting forgiveness, whereas never pardoning a soldier could lead to the perception that the British military leadership was merciless. More often than not, the convicted soldier had no idea, nor was he provided any indication that he would be pardoned except until mere minutes before he was about to be killed, thus

---

<sup>104</sup> *William Hervey*, 88.

contributing to a great deal of anxiety and fear that a convicted soldier must have felt. Take the case recorded by Robert Webster in his diary on Saturday, June 16, 1759.

“This day John Williams of Colonel Fitch’s Regiment in Captain Butler’s Company was brought to the place where he was to be shot to death and there were twenty-four men to shoot him and the picquets of the Provincial forces were brought up into front of Colonel’s Fitch’s regiment and our regiment drawn up on the left of them. The man was brought to the place where he was to suffer and made to kneel down and the platoon marched forth to shoot him but the General reprieved him. His crime was desertion”.<sup>105</sup>

The military leadership also used newspaper advertisements to announce a general amnesty to all deserters who would return to their unit. For example, in January of 1759, a notice appeared in several newspapers, which stated that General Amherst was “pleased to pardon Any soldiers who have deserted...[and] shall voluntarily join his Colors”.<sup>106</sup> This offered an opportunity for deserters who were tired of being fugitives to return to their camps without being punished. It also replenished the number of soldiers that the British military could deploy on the battlefield, thus increasing its overall might.

Commanders also used the tactic of pairing executions with pardons to demonstrate both the power to take and to preserve life. On September 3, 1755, at the Falls of Oswego, “all the troops were ordered under arms and drawn up behind the Fort, and 5 deserters who were sentenced to die by a General Court Martial were brought out to receive their

---

<sup>105</sup> “Diary of Robert Webster”, 3.

<sup>106</sup> Agostini, “Deserted His Majesty’s Service”, 967.

punishment; but the Generall was pleased to reprieve three on the spot just before they were going to kneel down, and the others were executed before the whole army”.<sup>107</sup> Another instance of balanced justice occurred in May 1759 at Quebec, as Captain John Knox recounted.

“A corporal and a private man (whose names are mentioned in the orders) both of the Rhode island regiment, condemned by sentence of a General Court-martial for desertion, the General was pleased to pardon the former; the other was executed: the Royal Highlanders, Massachusets, New Jerseys, Connecticut, and Rhode island troops, all under the command of Brigadier Gage, were ordered to attend the execution”.<sup>108</sup>

This randomness of military justice meant commanding officers held the fate of common soldiers in their hands.

Pardoning also intended to set an example to other soldiers. On May 29, 1759, for example, in Albany, General Amherst recounts how he pardoned a deserter, “in hopes that one example maybe sufficient”<sup>109</sup>. In another example, William Hervey writes on July 26, 1760 at Fort Ontario,

“The General, in hopes that the execution of James Jennings of Col. Fitch’s regiment will be a sufficient example and warning to the following prisoners, who were under sentence of death, never to desert again, as likewise to put a stop to any more desertions in the army, is pleased to

---

<sup>107</sup> *William Hervey*, 100.

<sup>108</sup> Knox, *The Journal of Captain John Knox*, 532.

<sup>109</sup> Knox, *The Journal of Captain John Knox*, 26.

pardon John Jones, Isaac Mason, John Peters, William Lee, Joseph Sharp, John Cooper, Amos Munro, Jonathan Colburn, Jacob Delzer, Charles Rickie”.<sup>110</sup>

These two particular pardoning accounts reflect how the army often paired pardons and executions together to use the execution as the stick to the carrot of pardons, demonstrating to the soldiery how the leadership was capable of all things—including taking life and giving it.

Other times, pardons would be issued to encourage deserters to return to their camps. For example, in the journal of Colonel John Winslow, dated October 9, 1755, at Fort Edward, he discussed a conversation with Father Landre, where Father Landre proposes that he “accomode Matters for the return of the yongn men Deserted, in which Winslow replies, I would Give under my hand that they Should not be Punished upon their return. Father Landre replies, they might be Induced to Come in”.<sup>111</sup> Another example of a deserter being pardoned because he willingly returned to his camp can be found in Captain John Knox’s journal entry, dated September 22, 1757, in Fort Edward. “Two men of the 28th regiment deserted this morning, and. took their course towards Baye Verde, where meeting with some of the enemy (savages as we are informed) one of them made his escape, and returned to the fort; in consideration whereof, and his good character, he was pardoned”.<sup>112</sup>

---

<sup>110</sup> *William Hervey*, 178.

<sup>111</sup> Colonel John Winslow, *Report and Collections of the Nova Scotia Historical Society, For the Year 1878*, 1:1 (Halifax: Morning Herald Office, 1879), 472.

<sup>112</sup> Knox, *The Journal of Captain John Knox*, 115.

Pardoning guidelines did not exist and the reasoning behind leniency were infrequently given. A journal entry, dated Wednesday, May 14, 1755, at Fort Cumberland, states,

“The General Court Martial is dissolved. Luke Woodward soldier in the 48<sup>th</sup> Regiment, commanded by Col Dunbar, having been tried for Desertion by a General Court Martial where of Majr Wm Sparke was president, is by sentence of that Genl Court Martial adjudged to suffer death. His Excellency, Genl Braddock has approved of the sentence, but has been pleased to pardon him”.<sup>113</sup>

Another example of this can be found in a journal entry of Captain John Knox, dated June 16, 1759, in Quebec, where he writes, “A soldier of Fitch’s provincials was to have suffered death to-day, for desertion, pursuant to the sentence of a general court- martial, but the Commander in Chief was graciously pleased to pardon him”.<sup>114</sup> These orders were to propagandize a positive image of the leadership to soldiers in an attempt to make the soldiers believe that military leadership was committed to their soldiers’ well-being. Again, it is all about balance. The military leadership would be successful only if it straddled the line between either being too strict or too lenient.

When granting a pardon, the army considered recommendations for mercy from general or regimental courts, which would exert great influence and the convicted soldier’s perceived character, which also could play an important part. Courts permitted character witnesses, usually an officer or non-commissioned officer, to speak about the defendant. Good character coupled with a lack of prior offences could influence the court to impose a

---

<sup>113</sup> Braddock, *Major General Edward Braddock’s Orderly Books*, 38.

<sup>114</sup> Knox, *The Journal of Captain John Knox*, 470.



lighter sentence, recommend a pardon, or reduce a sentence. A general court martial sitting at Quebec on October 26<sup>th</sup>, 1760, heard evidence that Thomas Leonard and William McArran of the 47<sup>th</sup> Regiment had deserted upon their regiment's arrival in Boston following the siege of Louisbourg, and sentenced both men to flogging. However, Leonard and McArran were pardoned after it was heard that they had helped defend the transport ship that was taking them to New York when it was attacked by a French privateer.<sup>115</sup> Sometimes it was the good reputation that a soldier had with his fellow comrades that influenced the courts to offer a lighter sentence or provide a pardon. This was the case for Samuel Norbury of the 40<sup>th</sup> regiment, tried and found guilty of desertion in 1761. Along with three other men convicted of the same offence, Norbury was ordered to prepare for death. A general order issued three days later announced that Norbury had been reprieved owing to the intervention of his fellow soldiers. “He receives his pardon on account of his former good behaviour as a Soldier, set forth in a Petition from the Grenadiers of three Regiments & on their promises, that he will hereafter approve himself deserving of this Mercy”, General Amherst explained.<sup>116</sup>

The court also considered the effect any show of mercy could have on the soldiery. Many officers believed terror the most effective means to control troops, but they also saw the value to morale of exercising mercy and compassion. Pardons were also usually announced and delivered in the presence of the entire camp. This would amplify its impact and ensure that all the soldiers knew their leader was a powerful and merciful commanding officer. Brumwell argues, “commanders, particularly those troubled by continuing

---

<sup>115</sup> Brumwell, *Redcoats*, 110.

<sup>116</sup> Amherst cited in Brumwell, *Redcoats*, 111.

manpower problems, sometimes considered a well-timed display of mercy to be more beneficial than an execution”.<sup>117</sup> For example, on November 10<sup>th</sup>, 1757 in Albany, Loudoun, pardoned Robert Ploughman of the 46<sup>th</sup> Regiment and John Henly of the 55<sup>th</sup> Regiment—both capitally convicted for desertion— “in hopes that Lenity will have a better effect upon the Troops than the severity of Punishment”.<sup>118</sup> This balance was key because it ensured that the soldiers did not take advantage of the army’s possible mercifulness and ensured that terror could still be used as an effective means to control their soldiers.

Soldiers’ rampant disobedience and frequent desertion forced the military’s hand to spare the rod and engage in this form of accommodation. The soldiers’ ability to manipulate the military justice system was not always guaranteed; instead, it was just one possible outcome in the arsenal of responses that the military deployed to curb insubordination and to maintain their military might, which lends support to the argument of this paper.

---

<sup>117</sup> Brumwell, *Redcoats*, 108.

<sup>118</sup> Brumwell, *Redcoats*, 108.

## CHAPTER 7

### CONCLUSION

A closer examination of the disciplinary relationship between British soldiers and their superiors reveals that these two parties frequently clashed with one another, resulting in a military justice system seemingly in perpetual motion with the lives of soldiers at stake. Their conflicted relationship also led to a range of resolutions, including the British leadership inflicting harsher punishments on their soldiers and the troops engaging in mutinous and deserting behaviour. These observations highlight the fact that the British military justice system during the Seven Years' War was neither entirely brutal nor truly negotiated, as suggested in the historiography. Instead the justice system and its effects were fought over and often ended in a draw. As this paper maps out, the harsh justice and brutal punishment applied by the British military leadership and accepted by most soldiers illustrate the violent aspect to the relationship. In contrast, the mercy that officers sometimes offered to soldiers reveals a more benign face to the military. For most British soldiers, when their leadership did not fulfill the rights outlined to them at the time of enlistment, there was not much for them to do except accept such treatment and continue with their duties. However, a considerable minority believed that such a failure could not be tolerated and their best option was to desert an atrocious military life to begin a new one. In the eyes of these British soldiers, their desertion was justified because, if the military leadership was not holding up their end of the contract, then there was no reason for them to honour their commitment to the Crown. The British military leadership responded to these desertions by maintaining their course of absolute dominance through brute force and harsh punishment, while also occasionally demonstrating acts of mercy

through the remission of sentences or complete pardons. By analyzing personal soldier diaries and court martial records, it becomes clear that it was through this balance of cruelty and mercy, that the British military leadership sought to control their men. Officers believed discipline integral to maintaining military power, thus increasing the army's chances of becoming victorious in the Seven Years' War. It came at the cost of many lashings and executions of those paid to defend the realm.

## BIBLIOGRAPHY

### Primary Sources

War Office Papers. *Judge Advocate General's Office: Courts Martial Proceedings and Board of General Officers' Minutes: Series 71: Vols. 40-49, 65-68, 70-72*. Public Records Office: London, U.K. From notes provided by Dr. Peter Way.

### Published Primary Sources

Ayde, Payne Stephen. *A Treatise on Courts Martial*. New York: H. Gaine, 1769.

Amherst, Jeffery, "*The Journal of Jeffery Amherst*, Toronto: The Ryerson Press, 1931.

Blackstone, William. *Commentaries on the Laws of England, Volume One*." Oxford: Clarendon Press, 1765.

*Braddock's Defeat: The Journal of Captain Robert Cholmley's Batman, the Journal of a British Officer, Halkett's Orderly Book*. Ed. Charles Hamilton. Norman, USA: University of Oklahoma Press, 1959.

Braddock, Edward, *Major General Edward Braddock's Orderly Books, From February 26 to June 17, 1755*. Cumberland, MD: Will H. Lowdermilk, 1878.

*Diary Kept at Louisburg, 1759-1760, by Jonathan Proctor of Danvers from the Original in the Possession of the Peabody Museum, Salem*. Salem, MA: Essex Institute, 1934.

Diaries Kept by Lemuel Wood, *Essex Institute Historical Collections*. Volume 19. Jan.-March 1882.

*General Orders of 1757 issued by the Earl of Loudoun and Phineas Lyman in the Campaign against the French*. Ed. Worthington C. Ford. New York: Gilliss Press, 1899.

Hervey, William. *The Journals of Hon. William Hervey: In North America and Europe, from 1755 to 1814; with order books at Montreal, 1760-1763*. Bury St. Edmund's: Paul and Matthew, 1906.

Hunter, William. "*Thomas Barton and the Forbes Expedition*." *Pennsylvania Magazine of History and Biography*, 95, Oct. 1971

"Journal of John Witherspoon." *Report and Collections of the Nova Scotia Historical Society, For the Year 1878*, 1:1. Halifax: Morning Herald Office, 1879. 31-62.

"Journal of General Rufus Putnam Kept in Northern New York during Four Campaigns of the Old French and Indian War 1757- 1760." *Joel Munsell's Sons* (1886), 11-109.

Knox, John, *The Journal of Captain John Knox*. Ed. Arthur G. Doughty. Toronto: The Champlain Society, 1914.

*Military Affairs in North America, 1748-1765*, Ed. Stanley Pargellis. New York-London: The American Historical Association, 1936.

*Orderly Book and Journal of Major John Hawks on the Ticonderoga-Crown Point Campaign, Under General Jeffrey Amherst, 1759-1760*. Ed. Hugh Hastings. New York: H.K Brewer & Co., 1901.

“Recollections of an Old Soldier: The Life of Captain David Perry, A Soldier of the French and Revolutionary Wars.” *Magazine of History*, 35:1, 1928.

Samuel, E. *An Historical Account of British Army and of Law Military as Declared by the Ancient and Modern Statutes, and Articles of War For its Government with a Free Commentary on the Mutiny Act and Rules and Articles of War*. London: William Clowes, 1816.

“The Diary of Reverend John Ogilvie 1750-1759.” Ed. Milton W. Hamilton, *Bulletin of the Fort Ticonderoga Museum*. 10: 5 (Feb. 1961), 331- 381.

“The Diary of Robert Webster, April 5- November 23, 1759.” *Bulletin of the Fort Ticonderoga Museum*. 9: 5 (Summer 1954), 306-43.

“The Moneypenny Orderly Book.” *Bulletin of the Fort Ticonderoga Museum*. 13:1 (December 1970), 89-116.

*The Orderly Books of Colonel Henry Bouquet Expedition Against Ohio Indians, 1764, Part 2*. Ed. Edward G. Williams. Pittsburgh: Mayer Press, 1960.

Tomlinson, Abraham. *The Military Journals of Two Private Soldiers, 1758- 1775*. Poughkeepsie: Abraham Tomlinson, 1885.

Williamson, John. *The Elements of Military Arrangement; Comprehending the Tactick, Exercise, Manoeuvres, and Discipline of the British Infantry, with an Appendix, Containing the Substance of the Principal Standing Orders and Regulations for the Army*. London: Eighteenth Century Collections Online, 1781.

## **Secondary Sources**

Agostini, Thomas, “Deserted His Majesty’s Service: Military Runaways, the British American Press, and the Problem of Desertion during the Seven Year’s War”. *Journal of Social History*. Volume? (2007), 957- 985.

Anderson, F.W. “Why Did Colonial New Englanders Make Bad Soldiers? Contractual Principles and Military Conduct during the Seven Year’s War.” *William and Mary Quarterly*. 38: 3 (1981), 395- 417.

Berkovich, Ilya, “Discipline and Control in Eighteenth-Century Gibraltar.” *Britain’s Soldiers: Rethinking War and Society, 1715- 1815*. Publishing Info needed. 114-130.

Brumwell, Stephen. *Redcoats: The British Soldier and War in the Americas, 1755 – 1763*. Cambridge: Cambridge University Press, 2002.

Burroughs, Peter, “Tackling Army Desertion in British North America”. *Canadian Historical Review*. 61:1 (March 1980). 28-68.

Conway, Stephen. “Moral Economy, Contract and Negotiated Authority in American, British and German Militaries, ca. 1740- 1783.” *Journal of Modern History* 88 (2016), 34-59.

Frey, Sylvia R. “Courts and Cats: British Military Justice in the Eighteenth Century.” *Military Affairs* 43:1 (1979), 5-11.

Gilbert, Arthur N. “The Changing Face of British Military Justice, 1757- 1783.” *Military Affairs*. 49:2 (1985). 80-84.

Gilbert, Arthur N. “Why Men Deserted from the Eighteenth-Century British Army”. *Armed Forces and Society*. 6 (1980). 553- 567.

Gilbert, Arthur N. “The regimental courts martial in the Eighteenth Century”. *Albion: A Quarterly Journal Concerned with British Studies* 8: 1 (1976). 50-66.

Linch, Kevin. “Desertion from the British Army during the Napoleonic Wars,” *Journal of Social History*. 49:4 (2016), 808- 828.

O’Connell, D.P. “The Nature of British Military Law,” *Military Law Review*, 19 (1963), 141-155.

Steppler, G.A. “British Military Law, Discipline and the Conduct of Regimental Courts Martial in the Later Eighteenth Century.” *English Historical Review*. 102: 405 (1987), 859-886.

Tatum III, William P. “The Soldiers Murmured Much on Account of this Usage: Military Justice and Negotiated Authority in the Eighteenth-Century British Army”. *Britain’s Soldiers: Rethinking War and Society, 1715- 1815*. Publishing Info needed. 95- 113.

Way, Peter. *Brewed in Blood: Military Justice and Hydra’s Many Heads*. Unpublished conference paper, 2012. 1-24.

Way, Peter. “Militarizing the Atlantic World: Army discipline, coerced labor and Britain’s commercial empire”. *Atlantic Studies* 13:3 (2016), 345-369.

Way, Peter. “Class and the Common Soldier in the Seven Years’ War”. *Labour History*. 44: 4 (2003). 455-481.

Way, Peter. “Rebellion of the Regulars: Working Soldiers and the Mutiny of 1763- 1764”. *William and Mary Quarterly*. 57: 4 (2000), 761-792.

## VITA AUCTORIS

NAME: Ronnie Haidar

PLACE OF BIRTH: Windsor, ON

YEAR OF BIRTH: 1990

EDUCATION: Massey High School, Windsor, ON, 2008

University of Windsor, B.A., Windsor, ON,  
2013

University of Windsor, M.A., Windsor, ON,  
2021