Judging Empire: Masculinity and the Making of the British Imperial Army, 1754-1783

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Abstract
“Judging Empire” examines the culture of the British Army during its transformation from a national army to a primary agent of the expanding British Empire. Using letters, diaries, contemporary military manuals, and especially the army’s court-martial records, it focuses particularly on the masculine culture of the officer class. Due to their high social position and the lack of other authorities in the imperial areas where the army operated, members of this group held disproportionate power over both their military subordinates and the civilians with which the army interacted. Officers’ presentation of themselves emphasized traditional understandings of martial masculinity and class dynamics; their privileges as men were inseparable from their privileges as members of the upper class. Officers were determined to preserve these privileges as they came under threat from the development of increasingly technical forms of warfare, imperial administrators anxious to uphold centralized authority, enlisted soldiers demanding authority and autonomy based on their own claims to masculine privilege, and imperial civilian populations whose social hierarchies were often perceived to have a dangerous lack of resemblance to those of the army.

Officers developed a culture in which men’s fragile honor needed to be defended with deadly violence, and in which fighting wars and advancing the national interest were frequently perceived to be of lesser importance than deciding questions of personal honor and individual reputation. This culture, in turn, affected the army’s imperial role. Violent masculinity and honor culture negatively affected the army’s military capabilities, and army administrators and government officials attempted to control rogue officers through laws and regulations meant to curb their violent and dangerous behavior. Yet the vast distances of empire made such attempts at centralized control ineffective, and they found it necessary to cede to the officers themselves the task of regulating officers’ problematic behavior. So long as officers retained their power, imperial rule would be shaped by these men who insisted that violent domination was the necessary and essential foundation of their masculinity, military authority, status, and power.

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JUDGING EMPIRE: MASCULINITY AND THE MAKING OF THE BRITISH IMPERIAL ARMY, 1754-1783

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Introduction

Major General Lord Charles Hay was unhappy. He had arrived in Halifax in July 1757 to join the Earl of Loudoun, the British Army’s Commander-in-Chief in North America, who was to lead a summer attack on territory held by Britain’s ancient enemy, France. The skirmishes between British and French troops in the interior of North America in 1754 had escalated into a general European war, but North America remained an important theater of war for the British, who sought to neutralize the threat that the French colonial presence in Canada, the Great Lakes, and along the Mississippi River presented to their own colonies on the eastern coast of North America.

To that end, orders had crossed the Atlantic instructing Loudoun to attack either Quebec, at the heart of French Canada, or Louisbourg, the great Atlantic fortress that protected the approach to the St. Lawrence River. The choice of target was left to Loudoun to determine, as the weather and the need to coordinate with naval forces would have to be taken into consideration. Loudoun called a council of war to debate the question. Lord Charles Hay, a member of the council, found the meetings interminable. An attack on Quebec was soon dismissed as unfeasible, but the council spent several weeks debating whether or not it was too late in the year to mount an expedition to attack Louisbourg, calling on various people to testify to Louisbourg’s fortifications, winds, tides, weather, anchorages, and so on. Hay soon took to making impatient remarks that the army ought to sail to Louisbourg and begin fighting immediately—and not only in meetings of the council of war but also in public. Loudoun reported in his diary that another council member had “told us that
Ld Charles Hay this day at the Head of the Line declared that he could take Louisburg in ten dayes."¹

But Hay’s dissatisfaction was not confined to the delays of the council. Upon arriving in Halifax, Loudoun had started making arrangements to prepare his army for operations in North America, ordering the engineers to construct a sample fort, for the purpose of “instructing both Officers and Men in making Approaches towards a fortified Place,” so that the troops would be prepared to attack heavily fortified positions at Louisbourg.² Furthermore, he had ordered the soldiers to clear ground for a garden, “in order to Sow Turnips and other Greens for themselves,” this being “the only thing that either prevents, or recovers them out of, those inveterate Scurvies we are infested with in this Country, from the Salt Provisions.”³ Hay publicly denounced these activities as well. One officer reported that Hay had declared that the soldiers ought to be concerned with fighting, not with gardening and “building Sham Forts, and making approaches to them, when we should be employ’d in real Attacks.”⁴ Another officer claimed that Hay, having collected “a great Number of People of all Ranks about him,” had reflected on the soldiers’ exercises at the fake fort, saying that “it was a very fine Farce, that we were now carrying on, to cost Poor Old England three Millions of Money; but that, by God, it would cost us very little Blood this Campaign, which would cut a very pretty figure in History.”⁵

¹. Loudoun Diary, 27 July 1757, Huntington Library, Loudoun Notebooks, HM 1717 (v. 7).
². Relation of Major Francis Halkett, Halifax, 7 August 1757, Loudoun Papers, Huntington Library, LO 6175.
⁴. Relation of Captain Christopher French, Halifax, 8 August 1757, Loudoun Papers, Huntington Library, Box 129, LO 6175.
⁵. Declaration of Captain Robert Ross, Halifax, 8 August 1757, Loudoun Papers, Huntington Library, LO 4151.
Hay made a particular connection between the lack of bloodshed and the humiliation of the nation, saying “that the most agreeable Part of it wou’d be, that there wou’d be no Blood Split; that it would be a very pretty Amusement for the town of Halifax, but the People that wou’d be the most diverted, by God, wou’d be the French.” For Hay, the proper action of a soldier was to display bravery on the battlefield, not a concern for drills, logistics, and vegetable gardens. An army gained renown because it fought together and shed blood together, and Loudoun’s careful preparations appeared to Hay too timid and cautious, and unlikely to enhance the military reputation and national honor of the British.

Loudoun, alarmed by Hay’s public criticisms, ordered him under arrest, claiming that Hay had made remarks “tending to discredit me with the officers and soldiers, and to rais [sic] mutiny among the troops.” But Hay was a member of the aristocracy, held the exalted rank of major general, and had been appointed by the king himself. Loudoun had no authority to sanction him for his behavior. Ideally, then, Hay ought to have been sent back to London for the matter to be settled by men of higher rank—perhaps even by the indisputable authority of King George II. But Loudoun was assailed by scruples on this matter as well, writing an anguished letter to the Duke of Cumberland (the youngest son of the king and Loudoun’s patron) begging for instructions: Hay had been sent out to America by the king; was Loudoun overstepping if he sent him back on his own authority? And the exigencies of war interceded; before either man had received a reply from London, Hay was forced to travel with Loudoun’s army as it embarked for a sea voyage. It was a year before Hay finally returned to London, and his court-martial occurred only in 1760,

7. Loudoun Diary, 14 August 1757, Loudoun Notebooks, Huntington Library, HM 1717 (v. 7).
three years after the events in question occurred, and this only after numerous delays caused by the war (and many complaints from Loudoun that several key witnesses had died during the interval, significantly weakening his case). And even then the matter was not settled satisfactorily: Hay faced accusations that he had “publickly, in the hearing of Officers and Soldiers,” used “Language tending to bring into Contempt, the Conduct and Authority, of the Commanders” and exhibited behavior “tending to excite mutiny and sedition among the troops,” but due to Hay’s exalted social position the court-martial board chose to refer the matter directly to the king rather than coming to any verdict themselves. And before any judgment had been made by the king, Lord Charles Hay suddenly died.\(^9\)

This dispute between Loudoun and Hay speaks to the central themes of this dissertation: how ideas about masculinity shaped army culture and the nature of military authority, and how these ideas ultimately constrained the ways the army could use the law to operate in its new imperial role.

Their initial altercation reflected the complicated workings of masculinity and authority in an imperial army and was a symptom of a larger national concern: how to retain traditions of martial masculinity in a world where the practices of war were becoming increasingly technical. And as with every war that did not deliver crowd-pleasing British victories on a regular schedule, anxieties over martial masculinity soon bled into the public sphere; the civilian public faced recurring fears that the British troops had lost the manly vigor that would allow them to triumph in the art of war.\(^10\)

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Furthermore, the case reveals the close links between masculinity, military authority, and personal honor. By virtue of being Commander-in-Chief for North America, Loudoun could plausibly conflate the maintenance of his individual reputation with the national interest. Loudon perceived Hay’s remarks as a threat not only to his authority as a military commander, but also as a threat to his personal honor. “Reports injurious to me,” Loudoun wrote to officials at the War Office in 1759, were being “spread all over the Kingdom in relation to that Affair.” By this point, the dispute between the two men was well over a year in the past, Hay was back in Britain, and Loudoun had returned as well, having been relieved as Commander-in-Chief. But Loudoun persisted, claiming that until Hay was tried, his personal reputation was in tatters and that Hay’s court-martial must occur as soon as possible to clear his character. The interminable postponements of the trial date (because several of the key witnesses were still fighting the war in America) were, he insisted, “cruel and unjust” to him.11

The dispute also reveals the difficulty of maintaining authority far from the metropole. In North America, Loudoun was fighting an imperial war—and for an empire uncomfortable with the loss of centralized control that such a war required. Loudoun, as commander-in-chief, had already developed concerns about the difficulties he faced in carrying out (or justifying his departure from) orders that were often no longer relevant by the time they crossed the Atlantic and reached him. Hay’s remarks then highlighted the danger of challenging command in an imperial space—especially when the challenger was also of high rank. In his diary, Loudoun described a visit from one of Hay’s sympathizers, Mr. Saul, who had gone to see Hay about a week after he had been arrested, and reported that Hay “was now got cool

11. Loudoun to Viscount Barrington, 11 April 1759, Loudoun Papers, Huntington Library, LO 6175.
again” and "lived on Small Broth and Rice and Milk and drank no wine." According to Saul, Hay protested his arrested, now claiming that he did not do "any more than talkt up and around the Expedition." But Loudoun told Saul that "a man must be very unfitt for any command who would permitt any Man under him to Raise Mutinys and Desertions in the Army." Loudoun insisted that "the Command must rest where the King had put it till he was pleased to change it, and that attempts to do such things were very criminal in all Armys, but much more so at so great a distance from where the King could applie a proper remedy."12

Loudoun’s arrest of Hay and his demands for Hay’s court-martial were attempts to use the law both as a way of projecting centralized power into imperial space, and as a way to defend his individual honor. But the extensive delay—the three years between the incidents and the trial—demonstrates how difficult and impractical it was to attempt to control an imperial army’s exercise of military justice from the metropole. Justice from London—even justice three years delayed—was often a luxury reserved for military officers of the very highest ranks. The needs of war, combined with the vast distances of empire, meant that members of the military who lacked Hay’s lordly title and aristocratic connections were tried on location. However, this necessarily had the effect of removing these trials from central oversight.

The expansion of Britain’s colonial empire in the second half of the eighteenth century made officials ever more anxious to maintain centralized control, but also made this goal impossible; military autonomy flourished in imperial space. Thus, these years emerge as a time of transition for the British Army as an agent of empire. Earlier in the century, the army fought wars primarily on the European

12. Loudoun Diary, 14 August 1757, Loudoun Notebooks, Huntington Library, HM 1717 (v. 7).
continent, close to home. But in the period covered by this study, 1754-1783, Britain’s involvement in warfare became increasingly imperial, with substantial numbers of troops deployed throughout the Atlantic world, in garrisons located far afield in North America and the Caribbean.

These circumstances might have led to a fracturing of army culture, as each regiment adopted the norms of the local community in which it was stationed. However, what actually occurred was precisely the opposite. Regiments were regularly rotated between various stations abroad and at home according to a schedule, and individual officers were constantly exchanging between regiments, seeking opportunities for promotion to a higher rank, a posting closer to friends and family, or from a desire to gain martial glory in a regiment that was likely to see military action. Enlisted soldiers, too, frequently moved between regiments, though not in so voluntary a fashion as the officers: groups of soldiers were routinely “drafted” from a full-strength regiment to make up the numbers of one that had recently suffered losses. Thus, the regular rotation of regiments between postings abroad and at home, combined with the geographical movements of individual officers and soldiers, served to facilitate the development of the British Army as an Atlantic institution with a shared military culture despite the dispersion of its troops.13

The army’s propensity to be stationed far from other sources of authority, in distant and foreign lands, determined the degree to which military culture could be influenced by metropolitan authority. The commander of a regiment that was stationed far from London had far greater autonomy than one that was stationed within the British Isles. Operating in imperial space allowed the army to develop and

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champion its own norms away from civilian oversight, and also allowed it to enforce those norms through the use of military law. In Britain, the army (in theory, at least) was only permitted to try and punish soldiers who were accused of purely military crimes—mutiny, desertion, disobedience to superiors, and so on. A soldier who was accused of other crimes, such as theft, murder, rape, or robbery, was supposed to be turned over the the civil authorities to be tried by them. However, the Articles of War established that in areas where there were no civilian courts under British authority, the army was to use its own system of military courts.14

These military courts produced the records on which much of this study relies: the British Army’s court-martial proceedings—the official records of trials, which were sent to the Judge Advocate General in London and are now archived in the War Office.15 They had some resemblance to a civilian court, but the outcome was determined by the court-martial board, a group of thirteen officers selected from all the regiments present on the spot, who acted as both judge and jury. Officers were not expected to have any formal legal training, so the task of advising them on points of military law fell to the officer appointed as Deputy Judge Advocate, who was expected to organize and administer the trial. In addition to his advisory role to the court-martial board, he was also responsible for collecting and assembling witnesses, acting as the prosecutor, keeping the official record of the trial, and providing legal assistance to the defendant.

14. An Act for Punishing Mutiny and Desertion (London, 1771), 205. A situation requiring the replacement of local civilian courts with military courts occurred in the colony of Massachusetts Bay after martial law was declared in 1775: not only military crimes, but also crimes in which civilians were both the accused and the victims, were now to be tried by court-martial, necessitating the expansion of the military court system to cope with the expanded case load (Stephen Payne Adye to Sir Charles Gould, 4 October 1775, Stephen Payne Adye Papers, American Philosophical Society).

15. The number of cases transmitted to London by regiments stationed abroad varied widely from year to year, increasing substantially in wartime. About 500 individual cases were examined for this study.
Although these court-martial proceedings have much value as a record of the formal, legal uses of power, the testimony within also contains even more valuable information on the informal and extralegal contests between military officers, enlisted soldiers, and civilians. In the courtroom, opponents described and disputed the various events that led up to the commission of the crime, and thus the proceedings often record in minute detail the social interactions between members of the army community, as well as the participants’ and witnesses’ interpretations of these interactions.

In this way, these sources offer far more information about the precise nature of interpersonal actions and the creation of social relationships of deference and power than other commonly-used sources. During this period, officers produced military manuals and treatises to instruct their fellow officers about their duties or to advocate for proposed reforms. While the prescriptive nature of these works provides intriguing insight on what the authors considered the greatest problems facing the army (for example, the numerous paeans to the virtue of obedience suggest that insubordination was a serious concern), they ultimately describe the army as it ought to be, rather than the army as it actually was. Officers also produced letters and diaries that reveal their personal feelings as victims or witnesses to interpersonal disputes, as well as providing information on disputes that never escalated to the point of a court-martial. These are often a helpful supplement to the court-martial records, but usually do not provide a similar level of detail.

However, these records also have some limitations. They were preserved because they dealt with accusations of very serious crimes; many more minor offenses were resolved on the spot and never recorded in written form. Heated exchanges

16. Ira B. Gruber, Books and the British Army in the Age of the American Revolution (Chapel Hill: University of North Carolina Press, 2014) describes the most common of these works, and which ones were most popular and circulated among army officers.
between witnesses sometimes resulted in language vulgar enough that the Deputy Judge Advocate refused to preserve it in an official record. And because the potential participants in a court-martial knew that the proceedings would become an official and fairly public record, officers who wanted to avoid the publicity and shame that followed a conviction often tried to resign quietly rather than be tried formally.

However, these records have the irreplaceable advantage of preserving a range of voices. Few people were absolutely excluded from the court, including marginalized people who normally would not be allowed to testify in colonial civilian courts because of their religion, ethnicity, or slave status. And because the court-martial was a forum for self-presentation—where witnesses did not naively testify to the unvarnished facts as they knew them without any idea of self-interest, but with specific goals (such as gaining conviction or acquittal, defending reputations, presenting themselves in a good light to the court-martial board or the audience)—these records also provide information about how these witnesses wished to be perceived, and what they valued. Thus, they illuminate the thoughts and principles of individuals connected with the army during a time of transition for the army itself.

European norms of warfare in this period were becoming increasingly technical, and armies themselves were becoming unified, national militaries controlled by the state rather than the semi-private forces that evolved from the mercenary bands of previous centuries. Yet although the British army by this period had largely shed the vestigial remains of Tudor proprietary soldiering and organized itself under more centralized royal control, its cultural ideals lagged behind, remnants of an earlier

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17. The court-martial records are also the most important source that preserve the voices of the majority of the army community; unlike officers, who produced numerous memoirs about their wartime experiences, first-person accounts of the Revolutionary War by enlisted soldiers were extremely rare. Most of them have been collected in Don Hagist’s *British Soldiers, American War: Voices of the American Revolution* (Yardley: Westholme, 2012).
Its officers were concerned with honor, individual reputation, and personal glory, and, in fact, the transition away from mercenary custom had rendered the position of army officer so unprofitable that officer ranks were dominated by the upper-class men with an amateur’s love of things military; few other men could easily afford the expenses of a military career. Thus, the British army was in the position of trying to fight increasingly technical wars with an increasingly unprofessional officer corps.

In the long view of British imperial warfare, the late eighteenth century was the last high tide of amateur soldiering. The key component of officers’ understanding of themselves was as gentlemen motivated by honor, eager to demonstrate individual courage and proper martial masculinity in public displays of battlefield bravery. However, they were uninterested in mastering the more technical elements of warfare, and far less concerned with the good of the nation than their government might have wished. For them, personal honor, the maintenance of their upper-class position and the privileges they accrued from it, and upholding their masculine reputation naturally trumped their desire to provide selfless service to their country—especially if such service would undermine their carefully-guarded class and gender privileges.

The examination of the effects of this culture of privilege have been neglected in most military histories of this period in favor of the traditional emphasis on tactics, strategy, and supply. In others, the social culture of the army has been explored in almost purely military terms, with little acknowledgment that the power that officers had over other officers, soldiers and civilians did not come solely from their military

18. For more on the transition to centralized, royal control of the army, see Alan J Guy, Oeconomy and Discipline: Officership and Administration in the British Army, 1714-63 (Manchester: Manchester University Press, 1985).
rank, but also from the positions they occupied in civilian social hierarchies as adult men and as upper-class gentlemen—and from the value that their society placed on these positions.\textsuperscript{20}

Officers’ understanding and presentation of themselves strongly emphasized the importance of manliness and masculinity. However, their conception of manhood was inseparable from class; their masculinity was defined not in opposition to women, but in opposition to men of other classes. Thus, it departs from the tendency of histories of gender to emphasize difference and to examine how masculinity was constructed in opposition to femininity, and how these constructions allowed men to dominate women.\textsuperscript{21} It was far more common for the army to use ideas about gender to sustain the power of men to dominate other men; enforcing the subordination of women was not a particularly important goal, and it was often more profitable for officers to consolidate their own power over enlisted men by allowing women to threaten the masculine power and authority of lower-class men.\textsuperscript{22}

\textsuperscript{20} As noted previously, Guy’s \textit{Oeconomy and Discipline} suggests that changes to the military culture and the composition of the officer class were due to the unintended consequences of attempts at economic reform, while J. A. Houlding’s \textit{Fit for Service: The Training of the British Army, 1715-1795} (Oxford: Oxford University Press, 1981) attributes the Army’s culture and methods of training to the nation’s need for the army to police and subdue its own population as well as to fight wars. Two doctoral dissertations, Glenn Steppler’s “The Common Soldier in the Age of George III” (Oxford, 1984) and Mark Odintz’s “The British Officer Corps, 1754-1783” (Michigan, 1988) examine the military cultures of enlisted soldiers and of officers more generally; the latter also reveals the tensions that the officers’ culture of personal honor created for commanders who desired a stricter observance of the military hierarchy. Andrew Jackson O’Shaughnessy’s \textit{The Men Who Lost America: British Leadership, the American Revolution, and the Fate of the Empire} (New Haven: Yale University Press, 2013) notes the importance of cultural experiences to military effectiveness, but, as the title suggests, confines his analysis to the men at the highest ranks of the military and government.

\textsuperscript{21} R.W. Connell’s \textit{Masculinities} (Berkeley: University of California Press, 2005) complicates this dynamic and promotes the idea of multiple masculinities, formed largely by the interaction of men with other men, but still sees the subordination of women as a fundamental goal of these masculinities.

\textsuperscript{22} Similar strategies have been studied by Ann Farnsworth-Alvear, “Women, Men(?) and a Strike in Colombian Mills,” which examines elite men’s defense of striking female workers in gendered terms as a strategy for upholding the existing hierarchy and neutralizing their potential political role as workers engaged in class politics; and Mrinalini Sinha, \textit{Colonial Masculinity: The ‘Manly Englishman’ and the ‘Effeminate Bengali’ in the Late Nineteenth Century} (Manchester: Manchester University Press, 1995), who notes that defending the “rights” of women (often construed solely as the protection of their chastity) was a way for men to contest or undermine the patriarchal power of other men.
Complications of the simple male/female gender dynamic, especially from the standpoint of colonial and imperial history, tend to be dominated by arguments for the crucial importance of race and ethnicity in creating social hierarchies. However, this customary focus on difference would obscure the internal dynamics of power within the army. The army itself operated with very different demographics from a civilian society, and consequently its hierarchy was one that could not establish its right to coercive power on a simple appeal to gender or racial privilege. Furthermore, favoring the study of interaction between imperial forces and colonial civilians over the internal structure of those imperial forces can result in a misleading understanding of the motivations and goals of these imperial actors. The most fundamental need of the army was to preserve order among its own members. Before the army could subdue colonial populations, it had to subdue dissenters within its own ranks. Its social structure was, first and foremost, designed to accomplish this goal, and the effects that its decisions might have on its imperial interactions were a decidedly secondary priority.

The juxtaposition of an army whose administration was centralized and state-based, but whose culture was steeped in more traditional ideals of martial masculinity, combined with an expanding empire that allowed army officers an unprecedented autonomy when they operated in imperial space, provides a unique opportunity to study the gender history of the early imperial British army, and sheds light on how gender and masculinity complicated the larger imperial project.

The first part of this work (chapters 1 through 5) examines the role of gender in the army, focusing on the subculture of the British Army as it sought to implement

23. Kathleen Brown, in Good Wives, Nasty Wenches, and Anxious Patriarchs (Chapel Hill: University of North Carolina Press, 1996), suggests that the emergence of the patriarchal social structure of colonial Virginia came from ideas of difference between sexes and races and the interconnected comparisons and differentiations between them, and subsequent studies have followed it in seeing race and gender as two of the most essential categories in constructing the lived experiences of empire.
the necessary structures for linear warfare within its ranks, and the consequences of that implementation—most notably, the creation of an officer culture in which gentlemen’s fragile honor needed to be defended with deadly violence, and in which fighting wars and advancing the national interest were frequently perceived to be of lesser importance than deciding questions of personal honor and individual reputation.

The first chapter, “Linear Warfare and the Politics of the Body,” examines the military tactics of the eighteenth century and military writers’ assessment of the social organization necessary for an army that wished to use those tactics effectively. In particular, one idea gained especial credence in Britain: that an army could not excel at the linear tactics necessary to fight successfully with muskets unless it adopted and vigorously enforced extreme differences between the perceived status and rights of officers and of enlisted soldiers.

Chapter 2, “Paternalism and Symbolic Patriarchy,” describes the ways that the British Army sought to implement these status differences by borrowing the frameworks of already-established class and gender hierarchies. Officers justified their control over enlisted soldiers by suggesting that the latter were akin to irresponsible children who needed to be subordinate to their paternalistic officers, thereby negating the privileges these enlisted soldiers would otherwise enjoy as adult men.

But once subordination had been linked so strongly with being childlike and unmasculine, military commanders then found it difficult to extract obedience from members of the officer class. This is the focus of the third chapter, “Above the Law,” as officers insisted that their high status and high position in the social hierarchy rendered them rightfully immune to the rules and regulations that restricted lower-class men.
Chapter 4, “The Cult of Courage,” tracks officers’ growing dissatisfaction with the army’s attempts at modernization. The fundamental tactics of linear warfare, which emphasized order, discipline, practice, precision, and training, did not suit aristocratic officers’ conceptions of proper military masculinity. Preferring dashing displays of battlefield courage to endless drills and maneuvers, they asserted that these new systems of military discipline were sapping the nation’s soldiers of the masculine vigor necessary to win wars.

Chapter 5, “No Retreat,” examines the growth of honor culture among army officers, along with the belief that a reputation for manhood and courage could only be established and upheld through the use of violence. Disagreements between officers frequently led to deadly quarrels and duels, because the masculine culture of the army allowed them no honorable way to retreat from conflict.

Part II (chapters 6-8) looks at how these workings of gender in the army, examined in Part I, affected the army’s imperial role. Violent masculinity and honor culture negatively affected the army’s military capabilities, and army administrators and government officials attempted to control rogue officers through laws and regulations meant to curb their violent and dangerous behavior. Yet the vast distances of the empire made such attempts at centralized control ineffective, and the army found it necessary to cede to the officers themselves the task of regulating officers’ problematic behavior.

This, too, created its own challenges; Chapter 6, “A Government of Men, not of Laws,” examines officers’ perception of military law—and, indeed, the very concept of the principle of impartial law—as a pernicious force that needed to be subverted in order to uphold officers’ personal honor.

Chapter 7, “The Supremacy of Honor,” reveals how honor culture posed many threats to military discipline and to the proper functioning of the army. Yet the
government capitulated to the demands of officers insistent on upholding their reputations as honorable gentlemen, thus conceding that officers’ personal honor must necessarily trump military and imperial interests.

The final chapter, “Imperial Protectors?” looks at officers’ actions in the American War of Independence. Their understandings of masculinity, status, and the law affected their interpretation of their imperial role and how they believed they should treat civilians. Certain civilians were believed to be deserving of protection as loyal imperial subjects; others they considered rebels against the class and gender hierarchies officers sought to uphold. Thus, the role of gender in the army had significant consequences for the operation of the army in its increasingly imperial role, as well as for the empire itself.
Chapter 1: Linear Warfare and the Politics of the Body

On December 10, 1777, Private John Rowland of the British Army’s 7th Regiment of Foot was sentenced to death. Unlike the other soldiers brought before the General Court Martial that convened in Philadelphia that month, Rowland had not plundered the houses of the inhabitants of that city, or robbed stores, or taken the British occupation of Philadelphia as an opportunity to desert to what the British authorities termed “the Rebel Army.” Rather, Rowland stood before the court “Accused by Lieut. Span of having Struck him, been insolent to him and disobeyed his Orders.”

That Rowland was sentenced to death for this becomes even more extraordinary considering how the charge came about. Rowland’s accuser, Lieutenant George Frederick Augustus Span of the 28th Regiment of Foot, testified that he had been in his quarters when his servant came in and informed him that three soldiers were tearing down a house that was Span’s property. Span claimed that when he went out and demanded that they leave, “they did not pay the least attention to him.”

While alcohol-fueled disrespect to officers and their property was nearly endemic in the eighteenth-century British army (“Was the Prisoner in Liquor at the time?” was a perennial question of the court), here this emphatically was not the case. In his testimony Span “beg’d [the Court] that they would take notice that the Prisoner was perfectly Sober,” and that Rowland’s behavior was not due to any drunken lack of

control over his actions but that his disobedience to Span’s wishes proceeded from a deliberate and obstinate denial of Span’s authority.

Span disputed their right to take the wood: “taking up a lath,” he reported, and striking the soldiers, he had driven off the two men. Rowland, however, proved more intractable. At Span’s demand that he “not touch a log of that wood,” Rowland replied “that he had as much right to it as [Lt. Span] had, and that he would take as much of it as he had torn down.” Span, still holding the lath, testified that he then told Rowland that “he had better go off & not attempt to touch the wood, or that he would strike him with the lath, incase [sic] he was in the least impertinent.”

But this threat failed to persuade Rowland of the dangers of impertinence. He advanced towards the lieutenant in what Span characterized as “a very daring insolent manner,” and “standing upon the wood swore, he would be damned, if he would leave it.” If Span dared to strike him, he declared, Rowland would strike him back. Span, soon convinced that “he had nothing left but to drive the Man off himself,” found a stick and told Rowland “that if he did not leave the Wood, he would lay that Stick about his shoulders, as long as it would last.” Rowland reiterated his assertion that if Span “offered to touch him,” he would be assaulted in return. Span hit him with the stick. Rowland proceeded to grab him by the hair, drag him to the ground, and strike him several times. According to Span’s testimony, the altercation continued in this pattern until Span found the stick unserviceable, and went away in search of more effective weapons. On the way, however, he encountered three officers of the 7th Regiment, Rowland’s own, who upon hearing his account confined Rowland and brought him before the court martial.

Rowland, called upon to defend himself from the charge, told a slightly different story. According to him, Lieutenant Span took the lath and “broke it over his head & then took up another and struck him again.” Rowland claimed that he responded not
with a “daring insolent manner,” but rather “beg’d [Span] repeatedly not to strike
him, but to confine him, if he was in fault.” But Span had “a great Stick, and struck
him very severely,” and Rowland feared that the assault “would have taken away his
Life.” Yet even then, Rowland claimed that “he still beg’d him not to strike him, and
lifted up his Arm, to save the blows from his head, which with that stick, he might
have been cloven in two, but Lt. Span continued to follow him.” Only then did
Rowland strike him back, with “three blows in his own defence.” Here Rowland laid
out the fundamental elements of his defense: that he responded to the lieutenant’s
assaults not with defiance but with submission, and that he only struck the officer
because he feared that Span’s beating would kill him.

Remarkable in this case is how much Lieutenant Span’s testimony concurs with
Rowland’s—not, perhaps, in the question of whether Rowland’s manner was
unacceptably insolent or properly deferential, but in whether or not Rowland had
cause to fear for his life. Span openly claimed before the court that he had had the
intention of killing Rowland, and that Rowland knew it: after “finding the Stick could
be of no Service,” Span testified, “he threw it at the Prisoner, and was going towards
his house, to get his bayonet or Sword, telling him that he certainly would put him to
death.” When Span encountered the officers from the 7th while going to his house,
upon being asked what was the matter, “he answered that he had been most
scandalously treated by a Soldier of the 7th Regiment & that he was going to get a
Sword or bayonet, or something to put him to Death with.” He was only dissuaded
from this murderous course by the other officers, who convinced him that he “would
get more satisfaction by bringing him to a Court Martial.”

And yet, the court martial board found Span’s assaults on Rowland and even his homicidal intentions to be excusable, even unremarkable, while Rowland’s far milder response, made under severe provocation and in self-defense, was deemed a crime punishable by death. Here, then, is an indication of the vast gulf between the status of officers and enlisted in men in military law.

The case of John Rowland reveals the extreme differences between the treatment of the bodies of officers and enlisted men, and helps us understand the role of class in determining which bodies were subject to violence and coercion. Furthermore, the case highlights the expectation of enlisted men’s obedience, even in the face of extreme and unjustified violence perpetrated by officers. These personal interactions between officers and the enlisted reflected contemporary military theories concerning the tactics of linear warfare. Far from being confined solely to the battlefield, the exigencies of linear warfare demanded the strict regulation of the bodies of enlisted men in everyday life. These class-based hierarchies, which demanded the absolute subordination of enlisted soldiers to their officers, were perceived to be the necessary foundations of every effective army in the age of linear warfare.

These status differences were reflected in the army’s rules about who could touch whom. By the standards of today, we make distinctions between a mere touch and other, more violent forms of assault. But in the culture of the late eighteenth century army, a “mere touch” was part of a continuum of assault on the integrity of the body, and military law made no distinction between an enlisted soldier tapping his commanding officer on the shoulder and the soldier punching him in the face; both were considered assault and a severe enough violation of the officer’s bodily integrity (and thereby his status as a gentleman) that the soldier could be tried and executed for either.
On the other hand, an officer could touch anyone but another officer with impunity. Officers could also authorize the use of touch by one enlisted soldier on another, in the case of flogging, generally carried out by the drummers, the most junior members of the army. This, then, was another assertion of their power over the bodies of their men: not only could officers exercise direct authority over their men by hitting them themselves, but they could also order others to do the work of assault for them. (Sergeants and other non-commissioned officers were immune to this level of physical punishment, but they were differentiated from officers in that this immunity was not inherent to them as people, only to their rank and office, which could be revoked at will by their officers. Officers’ concern for maintaining the military hierarchy made them careful to remove NCO status before ordering a sergeant or corporal to be flogged: in every case, the man was formally demoted from his rank and made a mere private again, and then flogged. 27)

Cases of enlisted men being charged with assaulting officers were not infrequent, but officers were charged with assaulting enlisted soldiers far more rarely, though it is apparent that such assaults, even severe ones, were a regular part of army life. Officers asserted their right to informally discipline the soldiers under their command through this "manual correction," and officers’ outrage when this treatment met with resistance indicates that these casual beatings were not exceptional occurrences—the exceptional occurrence was when the men they beat resisted.28 Yet officers were only prosecuted if an assault went so far as to cause death.29

27. See John Williamson, The Elements of Military Arrangement; Comprehending the Tactick, Exercise, Manoeuvres, and Discipline of the British Infantry (London: Printed for Thomas Egerton, 1782), 206-207: "Corporal punishment must not be inflicted on a non-commission officer; but when simple reduction may appear too light a penalty for any offence committed by a non-commission officer, he may be ordered in the sentence to be reduced to the ranks, and then to receive such corporal punishment as may be adjudged by the court."


29. See, for example, WO 71/80, pp. 336-350, in which Captain Richard Symes was tried for "Wounding a Marine, of which wound said Marine is Supposed to have died." Symes convinced the court that he
The army enforced these extreme differences in status and in the right to bodily integrity in order to create and sustain a social structure for effectively wielding violence with the military weapons of the eighteenth century. The problem that the British army faced, stripped to its barest foundations, was essentially this: to make it possible for one group of people (the officers) to completely subordinate another group of people (the enlisted), such that the latter will both kill and be killed on command—and only on command.

The tactics of every age of warfare are dependent on its weaponry. In European warfare in the late eighteenth century, the most common weapon was the musket—a firearm of limited range that had to be reloaded after each shot—and the tactic that maximized its effectiveness was the linear formation: the standard deployment of troops on the field was in a formation that might be over a mile long, but only two or three ranks deep. This formation was adopted because it allowed every soldier to fire at the enemy without obstruction.\textsuperscript{30} However, this lack of depth made the formation very vulnerable; any gap in the line might be exploited by enemy cavalry or infantry, who could then break through and attack the line from the rear. Thus, contemporary military treatises emphasized the danger that even a single disobedient soldier presented in battle if he panicked and left his place in the formation.\textsuperscript{31}

In order to present an unbroken front to the enemy as it approached, an army deployed in the line had to move very slowly across the terrain, pausing constantly wounded the marine while attempted to prevent them from breaking into a house, and since violence under those circumstances was justifiable, he was acquitted of the charge despite the court’s determination that the marine had died because of Symes’s actions.


\textsuperscript{31} Humphrey Bland, \textit{A Treatise of Military Discipline; In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service} (London, 1753), 134-135. Duffy, 215-216.
to re-form after navigating obstacles. Therefore it was usual for armies seeking to rapidly change position to march in columns, which was quicker but made the troops more vulnerable if they came under attack before they could move back into linear formation. However, an army that could perform this difficult maneuver well had an enormous tactical advantage, and the proficiency of the Prussian army in quickly redeploying from column to line was instrumental in gaining several victories for Frederick the Great.

The short effective range of muskets required an army to advance (extremely slowly, as defensive necessity meant that they had to remain in line so long as they were within sight of the enemy) close to the opposing side before they could hope to do any significant damage to enemy forces with their shots. The most devastating damage occurred when the troops fired from a distance of less than fifty yards. Furthermore, the time it took to reload the weapon, especially on the decidedly compromised setting of the battlefield, meant that the tactical advantage in a battle generally went to the army whose soldiers fired second. Unlike all subsequent rounds, the first bullet was loaded before the fighting began—in the best possible conditions—and commanders tried to preserve that first shot as long as possible, ideally using it for devastating close-range fire at an enemy who had fired first at too great a distance and was now facing them with unloaded weapons.

Thus, one of the fundamental concerns of military commanders was to restrain their soldiers from firing; the primary problem when commanding inexperienced

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32. Duffy, 201-203.
33. Duffy, 113.
34. Duffy, 208.
35. A Starkey, "War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781", War & Society 8, no. 1 (1990): 1-28. In his influential military treatise, Humphrey Bland claimed that it was “a received Maxim, that those who preserve their Fire the longest, will be sure to Conquer” (Bland, A Treatise of Military Discipline, 134).
36. Duffy, 211.
troops was preventing them from firing too early. Firing as soon as the enemy was seen was the natural instinct of the soldier, and one of the most essential parts of military training was to teach him not to fire his loaded musket in the face of an approaching enemy. As the influential military strategist and British general Humphrey Bland noted, an infantry battalion that had "that Perfection of Discipline, as to recover their Arms, after they are Presented, without Firing, in the Face of the Enemy," was invulnerable to the threat of a cavalry charge, but "if they throw away their Fire too soon," the enemy would "take Advantage of it, and be upon them in an Instant." And the results would be devastating: "if they can once penetrate but with one Squadron, it will throw a Battalion of six hundred Men into Confusion; after which, their Conquest will be easy."38

However, as Bland suggests, this restraint was the hallmark of a well-trained, highly-disciplined battalion. In normal practice, it was dangerously foolhardy to allow soldiers to move towards the enemy with their weapons leveled; the temptation to shoot too soon would become irresistible.39 Thus, the general practice was to command the soldiers to march with their muskets shouldered, under the threat of immediate death should they point their weapon at the enemy without instruction.40

Preventing men from firing was not the only part of linear warfare that went against human instinct; the entire process was thought to be utterly unnatural. The formation itself, the line, went against the natural human instinct to crowd together

38. Bland, A Treatise of Military Discipline, 94.
40. See, for example, James Wolfe, General Wolfe's Instructions to Young Officers (London: Printed for J. Millan, 1768), 48, for General Wolfe's order that "A soldier that takes his musket off his shoulder, and pretends to begin the battle without order, will be put to death that instant."
in the face of danger, and the tactical need to preserve the formation at all costs went against both the impulse to flee danger and the impulse to fight and engage the enemy.41

Officers’ role in battle, as they understood it, was to curb men’s natural instincts to seek safety. Only by “the force of discipline men are kept in order and obedience to command, in opposition to the strongest immediate impulse of their passions,” officers believed. Without it, “every man consults his own personal safety, at the instigation of the predominant passion, fear, or the desire of self-preservation.”42 Only the fear of certain death for disobedience could keep this in check: “Soldiers should be more afraid of their own officers than the enemy,” one military author advised. “If a man lies down, or offers to run away, you must without hesitation, put him to death.”43 Similarly, General Wolfe ordered that “A soldier that quits his rank, or offers to fly, is to be instantly put to death by the officer that commands that platoon...a soldier does not deserve to live who won’t fight for his king and country.”44

But officers intent on preserving the line had to contend not only with the threat of its disintegration as men seeking safety fled to the rear, but also with the equal danger presented by belligerent aggression. The soldiers had to be kept from firing and engaging the enemy too soon, and also had to be discouraged from pursuing a fleeing enemy. Once the opposing army’s line had been broken and the soldiers put to flight, “great Care must be taken by the Officers to prevent their Men from breaking after them; neither must they pursue them faster than the Line advances.” If, Bland continued, the “Battalion advances out of the Line, it may be attacked on

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44. Wolfe, Instructions to Young Officers, 48.
the Flanks by the Enemy’s Horse....if they should separate in pursuing those they beat, the Enemy may destroy them one after the other, with such an inconsiderable Number of Troops, that were they in a Body would fly at their Appearance.”45

Some explanation for the system of savage punishments for disobedience to officers is suggested by the behavior of the ideal infantry battalion: One that arranged itself in a neat and vulnerable line; that remained in that formation as it marched towards an enemy army that was shooting at them, without returning fire or having any soldier break away to flee in fear or eager to attack prematurely; a battalion that marched, orderly and inexorable, into close and deadly range of the enemy before firing only at the command of their officers—a battalion, in short, whose officers had successfully convinced its soldiers to line up neatly and wait to be shot by the enemy.

This was fundamentally a problem in regulating violence; the need of the army was to both restrain and compel violence, to train men to kill the enemy if and only if they were commanded to do so by their officers. Military manuals emphasized the need to keep discipline in the ranks at all costs, because undisciplined men who had not been trained in the precise tactics of linear warfare were an active danger in battle.46 Military author Stephen Payne Adye claimed that “discipline is more conducive to victory than numbers,” while an army that lacked it was “no better than so many contemptible heaps of rabble, which are more dangerous to the very state that maintains them, than even its declared enemies.”47

Officers’ duty, then, was preserving discipline at all costs, and against the opposition of every natural instinct of their men. Officers had to gain the obedience of their men by any means necessary, and any and all means were acceptable to enforce discipline, from brutal floggings to summary execution. Gentler means would not suffice; men (especially, officers thought, the uneducated, lower-class men who comprised the majority of enlisted soldiers) could not be persuaded by reason to act in so unnatural a fashion. “There is an absolute necessity of sometimes inflicting punishments for the good of society,” Adye wrote. “[I]t is essential in order to keep up good order, and military discipline in any army”

Extreme control over bodies was not only justified by tactics; it was also the method for achieving the requisite level of military discipline. Basic training in the British army consisted of continual repetition of the basics of musket-drill, which served to mold soldiers in the proper soldierly character—the purpose of training was to discipline soldiers so that their responses to commands in battle would be automatic and unquestioned; to create automatons rather than spirited, individualistic men. This was a deliberate decision to favor control rather than soldiers who could take advantage of fortuitous chance on the battlefield—to decouple violence from individual initiative, to remove all autonomy from the exercise of violence, to use soldiers as instruments of violence without allowing them any choices about when to exercise it.

Naturally, then, it was necessary to establish obedience as the first duty of the soldier. Military writer Thomas Simes wrote that the soldier was “to be sober and orderly in his behavior, respectful to his superiors, and obedient to all officers.” Simes emphasized that the soldier’s subordination was to be unquestioning (“He is

ever to be alert, and observe his orders; ask no reasons for them, or dare to think
them of little consequence"50) and was to persist even in the face of perceived
injustice: “If a private soldier should think himself aggrieved, or ill used, by any
Serjeant or Corporal, he must not only refrain from abusing him; but, on the
contrary, in the first place obey, and then lay his complaint before the Commander of
his company,” adding a warning that “the greatest care is to be taken for preventing
all frivolous and ill-grounded complaints; for misplaced indulgence will retort upon
himself.”51 Officers’ highest praise for soldiers was for their cheerful obedience to
orders.52

Rowland was not the only soldier to be brought before a court martial charged
with the capital crime of assaulting an officer. There were many other cases of
enlisted men who struck officers and a common thread through the majority of them
is the fact that they did so only after the officer had assaulted them. Corporal
William McSkimming was hit with a switch and punched in the head before he
resorted to knocking down the ensign who had treated him so.53 Private Jeremiah
Nicholas testified that he was in bed with his comrades when Captain James
Hamilton of the Coldstream Guards suddenly “burst into the Room, and immediately
Struck him (the Prisoner) as he was sitting up in Bed, with a large Cane,” and “might
have fractur’d his Skull.” Hamilton “then dragg’d him out of Bed, and said you

50. Thomas Simes, *The Military Instructor, for the Non-commissioned Officers and Private Men of the
Infantry Containing Every Thing Necessary to Be Understood by the Independent Companies of
Volunteers Now Raised, or Raising, in Great-Britain and Ireland: Such As the Manual Exercise, Use of
Arms, Manuvres, &c. &c.* (London; 1779), 32-33.


52. E.g., Wolfe: “the soldiers did behave themselves on that occasion with all the steadiness cheerfulness,
and obedience that may be expected from brave men and good subjects; not a man declined the
service, and all marched off with a resolution never to dishonor the corps they served in, and to do
their utmost for his Majesty’s service and the good of their country; such troops as these, men that
may be depended upon in all changes and circumstances, deserve to be considered as real soldiers,
and to be valued and esteemed accordingly.” Wolfe, *Instructions to Young Officers*, 38.

Rascal, I’ll hang you, and Struck him again Several times.” Other witnesses for the defendant claimed that upon discovering that the nighttime assailant was the possibly-intoxicated Captain Hamilton, a sergeant “came in and said, my dear Captain Hamilton, you had better go Home,” but that Hamilton “answer’d that he would not quit the Room till he sought that Villain’s Life,” and the blows with the cane continued.54

But similar to John Rowland’s case, the court did not accept these provocations as legitimate justifications for assaulting officers. Rowland “beg’d to show the Court the bruises he had received from Lt. Span, which were the Cause of his returning the blows,” and McSkimming told the court that the blow to the head that he had received from Ensign Bathe was so severe that he still felt its effects at his trial, but to no avail. Just as Rowland was sentenced to death, so too was McSkimming. Nicholas, too, was found guilty of assaulting Captain Hamilton and might have shared their fate, but had the fortune to have on his court martial board an officer who knew him and could attest to his good behavior, and was sentenced instead to a thousand lashes for his crime. These cases make the principle clear: an enlisted soldier who struck back at an officer, no matter how severe the provocation, was guilty; there was no possible circumstance that could excuse or justify such behavior. Consequently, most soldiers brought before a General Court Martial for striking an officer were convicted and punished harshly.55

It is also important to note that in none of these cases was there any dispute about the officer having struck them first. In the officers’ own testimony, they

54. WO 71/86, p. 239-250.
55. The one defense a soldier might make was that of mistaken identity—claiming that he was not the soldier who hit the officer; for example, WO 71/85, p. 34-40: Along with Samuel Webb, William Collins was brought before the court accused of striking their captain, but after doubts arose about whether Collins had actually taken part or had been mistaken for another man in the dark and crowded room, he was acquitted.
revealed to the court their commission of brutal assaults on enlisted men for relatively trivial matters without any fear of prosecution or even censure. Ensign John Bathe testified that he had given Corporal McSkimming “two or three strokes, with a small switch,” not because of anything McSkimming had said or did to him, but because he had, in response to the Ensign’s order to parade the men of his company, “put on an insolent gloomy look.” McSkimming was not the only soldier to feel the ensign’s wrath that day; the defendant and another soldier of his company testified that Bathe had “Struck two other Corporals, and almost every Man in the Company that he (the Prisoner) belonged to,” and when asked to give a reason, said it was “for not having their hair tied.”


57. WO 71/85, p. 34-40. See Richard Holmes, Redcoat: the British Soldier in the age of Horse and Musket (London: HarperCollins UK, 2011), p. 34, for officers reacting to perceived insolence or disrespect from
It was the clear expectation of the court that enlisted soldiers accept such assaults from officers without resistance. Corporal McSkimming told the court that he had only assaulted Ensign Bathe because the ensign had given him “a blow...which rendered him so insensible that he did not know what he did,” and “had he had his Senses,” the ensign “might have beat him till this time and he would not have returned it.” Another witness called by McSkimming testified that when the ensign had “said that he would knock him down, the Prisoner answered that he might do it at his pleasure.”\(^{58}\) Nicholas claimed that although he had first responded to Captain Hamilton’s beating by scuffling with him for control of the cane that the officer had used to strike him, this was only because he did not know that he was being beaten by an officer: “as soon as [the man] said that he was Captain Hamilton,” Nicholas testified, he “gave him his Cane again”—presumably so that Captain Hamilton, his identity as an officer and therefore a legitimate source of beatings now established, could resume his chastisement of Nicholas armed with the proper instrument for it and without any fear of further objections from him.\(^{59}\) When Sergeant George Smith was beaten by Captain Benjamin Charnock Payne, Smith testified that he reacted not with rage but with continued expressions of loyalty and acceptance, telling Payne “that if he beat and kicked him from one end of the Parade to the other, and reduced him to live on two pence a day, yet he should never oblige him to desert his Colours.”\(^{60}\)

These sharp differences in the official response to assaults on the bodies of officers compared to those of enlisted men reveal a larger military practice of

\(^{58}\) WO 71/84, p. 401-410.

\(^{59}\) WO 71/86, p. 239-250.

\(^{60}\) WO 71/81, p. 43.
complete control over the bodies of the enlisted; officers were not censured for
assaulting the men under their command because those men were not recognized to
have any particular rights over their own bodies. Once they joined the army, the
army controlled the food, location, dress, posture, grooming, and even the domestic
relations of enlisted men.61 A favored method of establishing discipline was by
asserting extreme control over every aspect of the soldier’s life. The regulation of
the body was a way of establishing control. Military manuals contained careful
instructions specifying exactly how soldiers were to salute,62 and orders detailing
how the men’s hair was to be cut, styled, and tied.63 Some of this regulation was
justified using claims of military necessity, such as instructions about sentries’
behavior. Ordering that they were not to “sing, smoke Tobacco, nor to suffer and
Noise to be made near them,” or “to sit down, lay their Arms out of their Hands, or
sleep; but to keep moving about their Posts if the Weather will allow of it” could
easily be linked to the clear military need for sentries to preserve the proper
vigilance.64

Claims of military need could also be understood in a more expansive sense: the
body of the soldier was not his own—it was essentially the property of his officers
and his regiment; he therefore had no right to unfit his body for service. In this way
officers argued that soldiers should be punished for contracting a venereal disease,
or for being drunk, or for failing to keep themselves healthy. General Burgoyne

61. Don N. Hagist, British Soldiers, American War: Voices of the American Revolution, pp. 282-287; also
1981.


63. Stephen Gilbert, "The Long and Short of It: Military Hairstyles During the American Revolution Part 1
presumes to cut off his Hair...shall be sent to the Black Hole for fourteen days" Thomas Simes, The
Military Medley Containing the Most Necessary Rules and Directions for Attaining a Competent
Knowledge of the Art: To Which Is Added An Explication of Military Terms, Alphabetically Digested
(Dublin: S. Powell, 1767), 17.

64. Bland, A Treatise of Military Discipline, 162.
suggested the prevailing view on the rights of the soldier to any personal autonomy when he declared that "The life of the Soldier is the property of the King."  

However, this understanding of the enlisted soldier as a being without rights conflicted with Britons’ ideas about national identity. In the British public imagination the soldier upon enlistment had deprived himself of the rights and the liberties that were the birthright of all Britons, but while most were content to look upon the redcoat with scorn for having relinquished his rights, others reacted with pity, and determination to ameliorate his wretched condition. Too many interfering civilians were willing to act as “the soldier’s friend” and interest themselves in his sufferings when the army was thought to have taken things too far.

By positing the obedience of the enlisted as an unnatural state that was nevertheless an absolute requirement on the battlefield, officers justified using savage punishments to enforce order, by suggesting that they necessarily underlay the structure of every victorious army. “[T]hose armies which have been subject to the severest discipline, have always performed the greatest things,” Simes claimed. Particularly singled out for both its savage disciplinary regime and for its numerous battlefield victories was the Prussian army. British admirers sought to follow


66. For example, civilian objections to a captain’s attempt to separate an enlisted husband from his ‘unsuitable’ wife, by claiming that the officer’s behavior was contrary to “the Natural Rights of Mankind,” and was giving the army “the Air and appearance of Abject Slavery”; PRO WO 1/987, pp. 645-647, Freeman to Secretary at War, 14 January 1764, cited in G A Steppler, “The common soldier in the reign of George III, 1760-1793” (Ph. D. dissertation, Oxford, 1984), 110. Also, civilian intervention in military punishment: Tatum, "Civilian Intervention and Military Justice in the Eighteenth-Century British Atlantic," 68; Ala Alryyes, "War at a Distance: Court-Martial Narratives in the Eighteenth Century", Eighteenth-Century Studies 41, no. 4 (2008): pp. 525-542.

67. Lee, Barbarians and Brothers, 180.

Frederick’s example, but there were limitations on the extent to which it could be implemented in the British Army and in the British empire.

The political realities of British society, whose long-standing distrust of standing armies meant that no plan for systematic conscription was tenable, required both officers and enlisted soldiers to be recruited as adults; therefore, the extreme subordination necessary for effective linear warfare had to be implemented within the constraints of the existing social structure, which provided further obstacles. The enduring strength of men’s claims to marital rights and privileges, and a conception of masculinity that linked courageous insolence with true British manhood (contrasted with the unmanly submission of foreigners) were all resilient cultural values that made difficulties for military authorities who tried to implement in the British army a method of social organization that would allow them to triumph in art of linear war.

Perhaps even more importantly, by the 1770s, harshness was going out of fashion (but certainly not out of practice) in the army, especially among the uppermost classes who filled the highest ranks of the officer corps.\(^{69}\) The rise of sensibility in the late eighteenth century emphasized the importance of feelings. One’s social status as a refined gentleman was asserted by displaying the ability to be emotionally hurt and wounded by insults, and refinement was also implied by the ability to recognize the sensitivity and emotions of others.\(^{70}\) Traces of the new emphasis on sensibility showed in the questioning of the traditional savage

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70. Sarah Knott on the shared transatlantic culture of sensibility among British and American officers, even when on opposite sides of a war, in *Sensibility and the American Revolution*, (UNC Press, 2008), pp. 157-160. However, Knott suggests a considerable divide between the enlisted soldiers and officers of the Continental Army, as officers aspired to the gentility and sensibility displayed by their British and French counterparts, while enlisted soldiers cared little for displaying refinement and concern for their enemies. Also, Nicole Eustace, *Passion is the Gale: Emotion, Power, and the Coming of the American Revolution* (Chapel Hill: UNC Press, 2011).
punishments inflicted by the army and an increased recognition of the humanity of the common soldier.⁷¹ The courts-martial assembled under General Gage might still have handed down sentences of hundred of lashes, but added the proviso that the flogging would be administered “at such a time and place that the Commander in Chief shall think proper,” and Gage frequently would not think of such a proper occasion and pardoned the offender instead. He was similarly unwilling to actually carry out the executions ordered by the court-martial board, often to the dismay of more junior officers.⁷² Lieutenant Colonel Bernard, who commanded the 23rd Regiment (Royal Welch Fusiliers), and Earl Percy, heir to the Dukedom of Northumberland and Colonel of the 5th Regiment, were known to disapprove of flogging. Percy even went so far as to completely disallow flogging as a punishment in his regiment, seeking instead “to win [the enlisted men] to their duty by generous treatment, and by his own excellent example.”⁷³

The majority of officers were not willing to go that far. Though many of them deplored the indiscriminate use of flogging as a punishment, conceding that many soldiers could be led without it, they continued to believe that flogging, though extremely distasteful to them personally, was absolutely necessary to preserve discipline.⁷⁴ Simes suggested that officers ought to "gain the love and affection of the soldiers" by seeing to their interests and treating them fairly, but also thought that some men could not be governed without the threat of the lash.⁷⁵

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⁷² Urban, 18; Urban also notes Gage’s judge advocate disapproved of frequent floggings and executions, preferring to reserve such punishments only for the most egregious offenses, and worried that “Too frequent a use of the gallows” would actually undermine order and discipline because it would “lead to officers conceal crimes in order to save both lives and regimental reputation.”
⁷³ Urban, 18, 72-73; also Holmes, 34, 53, on some officers’ belief that British men couldn’t “bear patiently corporal chastisement”.
However, officers’ concerns on this point suggest that this military system, which demanded extreme obedience and extracted it through brutal punishment, needed to be justified not only to the British public—which already had some unfavorable opinions on militarism as a threat to national liberty—but also to the officers themselves. They needed to understand their control over and coercive interference with enlisted lives not merely as the necessary but morally-repugnant domination of a less powerful group, but as just and proper actions. Therefore, they sought to make rhetorical links with already-existing systems of social control that justified one group’s subordination to another by entangling military, social, and gender hierarchies.

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Ruddiman, "A Record in the Hands of Thousands’: Power and Negotiation in the Orderly Books of the Continental Army”, *The William and Mary Quarterly* 67, no. 4 (2010): 747-774. Ruddiman also traces the use of sensibility in military orders in the Continental Army, noting the use of emotional language to persuade soldiers to reform their behavior: Washington portrayed himself as "Disappointed" and "much Affected" by the poor behavior of the troops under his command.
Chapter 2: Paternalism and Symbolic Patriarchy

The 18th Regiment of Foot had had an unhappy experience in North America. After its arrival in Philadelphia in 1767, parts of the regiment had been stationed at various western forts in the Illinois country, as well as the eastern cities of Boston and New York. It had endured Indian attacks in the west and increasing tensions with the colonists in the east, but most damaging of all were the various internal disputes of the 18th Regiment’s officers. By 1774, these disputes had devolved into a series of courts-martial as officers sought to have their personal enemies convicted of unbecoming behavior and dismissed from the army.76

The court-martial of Captain Benjamin Charnock Payne stemmed from his dispute with another officer of the 18th, Lieutenant Alexander Fowler. Fowler accused Payne of being unfit to hold an officer’s commission because he had been “Guilty of tyrannical, cruel, and oppressive treatment both of the Non-Commissioned Officers and private soldiers, in consequence of which conduct ... one or more of the former and several of the latter have been compelled to desert His Majesty’s Service.” In support of his charge, Fowler exhibited as witnesses several enlisted soldiers and officers in Payne’s company, who testified to Payne’s temper, his severe beatings of enlisted men, and the petty cruelties he had inflicted on the common soldiers of his company and their families, such as refusing to allow soldiers’ wives to see their husbands or to live with them, and throwing overboard the petticoats and other baggage of the women of the company.

Fowler’s accusations may have stemmed from a personal dislike of Payne rather than any idea of championing enlisted men’s rights, but the enlisted soldiers used Payne’s court-martial to air their own grievances and to protest their ill-treatment by appealing to two powerful and related cultural ideals: sensibility, and traditional understandings of the rights and privileges of adult men.

The ideals of sensibility gave enlisted soldiers a new—and safer—option for responding to the assaults from officers. Instead of reacting with retaliatory violence, they might react with tears. These men failed to accept the prevailing military view that they could be encouraged, taught, or corrected with physical chastisement, but instead suggested that they must be led with concern and kindness. The prosecution’s discussion of the cases of some soldiers, Sergeant Brogden, and Private Thomas Maddison, who had deserted the regiment while it was in New York, due to—according to Lieutenant Fowler—Captain Payne’s cruel treatment of them, explicitly expressed their plight in the language of emotion and sentiment: Lieutenant Triste claimed that Sergeant Brogden had “frequently come [to him] in tears.”

In fact, Triste claimed, Brogden and other non-commissioned officer, Sergeant Smith had both told him that “Capt. Payne treated them so cruelly that their lives were become a burthen to them; and that it was not possible that they could withstand such cruelty and oppression long, as their hearts were broke.” Smith himself testified that Brogden had told him “he had a heart like a Lyon to withstand Captain Payne’s bad treatment, that he had began the same usage with him some

77. Eustace’s Passion is the Gale especially focuses on the transition from sensibility as an emotion reserved for the upper classes to one claimed as a universal human attribute among American colonists, but a similar appropriation of the language of sentiment by British enlisted soldiers seems to have occurred during this period.

months before, but that it was not in his power to put up with it.”79  Brogden, lacking
Smith’s leonine resilience, had deserted the regiment, but remained in the city, and 
Triste recalled meeting him some time later “on a Common near New York.” There, 
Brogden, once again in tears, “began a long story relating how Capt. Payne had used 
him, and that he would never have deserted, had it not been for that usage.” The 
erstwhile sergeant claimed he was completely willing to rejoin the regiment if he 
would no longer be subject to Payne’s poor treatment, and looked forward to the 
arrival of the regiment’s commander, Lieutenant Colonel Wilkins. The moment that 
he heard that Wilkins was once again in command, Brogden asserted, “he would 
walk even bare foot to join the Regiment again.”

Triste heard similar sentiments from Thomas Maddison, a deserter from Payne’s 
company whom he had met in the streets of New York. Maddison, too, claimed to 
have “deserted from the Regiment owing to the ill usage received from Capt. Payne.” 
And Maddison characterized his willingness to return in similar melodramatic terms: 
should the possibility of pleading his case before Lieutenant Colonel Wilkins arise, 
“he would immediately [re-]join the Regiment, although obliged to creep on his 
hands and knees three or four hundred miles.” 80  But the other soldiers of the 
regiment believed that Maddison had deserted not because of Payne’s physical ill-
treatment of him, but because the captain would not allow his wife to live with him in 
the barracks. This, and Payne’s numerous other violations of traditional marital 
privilege by interfering in the relationships between enlisted men and their wives, 
were exhibited to the court by Payne’s enlisted accusers as an unjust lack of 
recognition for their position as adult men.

79. WO 71/81, p. 44.
Payne’s case suggests the ideological difficulties officers experienced. They sought an uneasy balance between theories of military government that emphasized the necessity of controlling soldiers at any cost (and the harsh treatment that such a theory implied), and the ascendant theory of sentiment, which insisted on recognizing the humanity of the enlisted soldiers and their capacity to be moved by feeling and emotion. And the enlisted men who denounced Payne not only made claims that they, too, were capable of refined feelings and sensibility, but also claims that they were being denied the rights traditionally bestowed on every adult male upon his marriage. To suggest that enlisted soldiers lacked the rights traditionally enjoyed by other men of their same age, class, and race was, in some sense, an attack on the more universal principle of masculine privilege.

But Payne’s (successful) defense of his behavior suggested a way of reconciling patriarchal ideals with the practice of denying enlisted soldiers male privileges. He put the enlisted soldiers under his command in the role of subordinate children—irrational, and unable to manage their own affairs—rather than acknowledging their status as adult men, with the right to autonomy over themselves and the control of their wives and other dependents. Concurrently, he presented himself to the court as a patriarchal figure, with the right to discipline childlike subordinates, but also as a kind paternal figure who provided his men with provisions and cared for them in illness.

By modeling his rights on the traditional rights of a father, Payne asserted that he had the legitimate authority to supervise various aspects of his subordinates’ lives. Just as a biological father had the right to control many aspects of their children’s lives, so Payne had the right to determine where the soldiers under his command lived, what work they were to do and when, what food and drink they were permitted to have, whether they were dressed correctly, with whom they were
permitted to associate and what houses they were allowed to visit, to make rules for their behavior and to determine whether those rules had been broken, and to discipline them for those infractions.

This symbolic patriarchy allowed pre-existing frameworks of power and authority to be applied to the military relationship. Ultimately, officers attempted to implement the principles of military discipline and subordination by grafting them on to existing social hierarchies and exercising control within the established framework of patriarchy. The gendered language of patriarchy and paternalism allowed military commanders to mobilize existing class and gender hierarchies in order to support the military hierarchy.

Paternalism was the most powerful rhetorical tool officers had for justifying their extreme authority over the enlisted. By characterizing the relationship between an officer and the enlisted men under his command as analogous to that of a father and his children, officers justified keeping enlisted soldiers in economic and social relationships of subordination by claiming that, like children, enlisted soldiers lacked the financial and moral competence to regulate their own lives. And by asserting control of enlisted men’s wives and marital relations, officers also denied enlisted soldiers’ the privileges they might otherwise enjoy as adult men and characterized them as children, rather than as husbands and fathers.

Payne’s ideas on his fatherly role and patriarchal privileges had a prestigious provenance. Military manuals of the eighteenth century often emphasized the desirability of maintaining a paternal control over one’s soldiers for a well-run battalion. Bennett Cuthbertson’s influential instructional treatise on the management of a regiment emphasized the need to supervise soldiers’ every move and attributed to them a childlike inability to operate without simple and constant instruction. Both Cuthbertson’s treatise and officers’ private writings frequently
characterized the lower ranks as "ignorant" and "clownish." But writers emphasized that officers’ relations with them should be characterized by paternalism rather than unmitigated contempt for their ignorance. If the enlisted ranks were simple and childlike, it was the officer’s duty to act as a father to them, to be an authority and to impose discipline, but also to care for them and see to their welfare.

Officers’ remarks about the paternalistic relationship between them and the men they commanded testify to the rhetorical power of paternalism as an ideal. In his

82. Brumwell, 70-71.
83. Officers asserted paternal claims of being patrons and protectors: Captain Fitzwilliam claimed that he looked upon himself "as a Father and protector of my Company" (WO 71/55, p. 322). Similarly, Captain Whitely “thought the Men of my Company under my especial care and protection, that it was my duty to represent their wants, and get them redressed,” (WO 71/58, p. 371) and Captain Gray of the Queen’s Royal Regiment remarked, "I have ever look’d upon it as the indispensable duty of a Captain or any other Officer having the care of a Company, to prevent as far as they are any Injustice or hardship being done to any of the Men who are their particular Charge" (WO 71/82, p. 270). However, historians have often uncritically accepted these statements as evidence for the actual nature of these relationships across class and rank. Their failure to note that claims of enlisted incompetence exist primarily in sources produced by or for the dominant class is particularly problematic. Steppler writes that “Regimental orders could read like so many injunctions against the behaviour of delinquent children....It was made clear that soldiers were always to be supervised, were never trusted to keep a clean shirt, do their duty, spend their money wisely, or even to look after their own health” and from this concludes that “The behaviour of the soldier could be simple and child-like in the extreme.” Similarly, Spring claims that “One factor that lends some weight to the idea that a paternalistic relationship existed between at least some officers and their men was that the proclivity of eighteenth-century common soldiers for amazingly irrational and irresponsible acts necessitated constant supervision.” But Steppler is basing his estimations of the common soldier’s childishness on the regimental orders of officers seeking to establish or justify their authority over enlisted men, and Spring’s quotations of many touching scenes of paternal affection and filial attachment between enlisted soldiers and their officers are selected exclusively from officers’ correspondence and other writings. Both have unquestioningly accepted officers’ self-interested claims of enlisted men’s financial, intellectual and moral incompetence. Steppler supplements his understanding of the enlisted with their own defense statements given during courts-martial (“Court-martial proceedings in particular reveal an often simple minded attitude, lacking in an appreciation of the seriousness of walking off guard duty, abandoning a sentry post, or disobeying any number of other regulations. 'I thought no harm’ was a frequent plea...there were others whose acts of petty crime, disobedience and misbehaviour were committed in so clumsy and stupid a fashion as to defy belief”) but fails to consider the venue in which these statements were produced; the fact that enlisted men defended themselves in military courts by presenting themselves as children who lacked understanding is evidence only that they believed such self-presentation might benefit them during the trial, not evidence of their actual character. Similarly, Spring’s sources are not evidence for enlisted and officers seeing themselves in a paternalistic relationship, but rather only evidence that some officers saw their relationship to their men in this way. Steppler, "The Common Soldier in the Reign of George III, 1760-1793," 123-124. Spring, *With Zeal and with Bayonets Only: The British Army on Campaign in North America, 1775-1783,*
defense, Payne indignantly refuted charges that he had treated the men of his company with “Tyranny and oppression,” claiming that “there was more indulgence and attention given by him to his Company than any of the other five Companies at New York enjoyed.” Payne himself attempted to portray himself as a humanitarian commander and a provider, frequently inquiring of the witnesses in his trial whether he had not provided the men of his company with fresh meat and grog.84 Furthermore, Payne claimed he was capable of providing individual attention to soldiers in need. When “Serjeant Smith was ill at Amboy,” Payne inquired, did he not “receive many favours from Capt. Payne; such as having a Physician sent to attend him, and being supplied with wine, spices” to hasten his recovery? Did he not provide all this care from his own purse?85

Payne also claimed to have shown “particular kindness” to the men of all the companies stationed with his own, and to have a special interest for their welfare when the vagaries of military life interfered with their ability to provide for their families. When the companies were ordered to embark a transport ship, Payne, concerned “that as the married men could not then work at their different trades, to help their families as they used to do, he supposed that many of them must want provisions,” and asked the regiment’s sergeant major “to enquire and let him (Capt. Payne) know if there were an in want, and he would give them some.” Payne elicited heartwarming tales of his spending almost six pounds to purchase beef and mutton for sick soldiers and their families, and more “to buy milk for the Children.”86

107-110.

84. WO 71/81, p. 52-53. Other British military officers also used their generous treatment of the enlisted soldiers under their command to support their reputations as men of sensibility. Mark Urban, Fusiliers, describes Earl Percy as an exemplar, who chartered a ship at his own expense to convey home to Britain the widows and children of the soldiers of his regiment who had died at Bunker Hill (p. 72).


86. WO 71/81, p. 149.
Thus, Payne portrayed himself in the role of fatherly provider: the men in his regiment were cared for when they were sick and were given extra food and other indulgences. And, Payne implied, enlisted men were not entirely capable of supporting their dependents; Payne was paying for the food their families needed.

But Payne and other officers did not justify their paternalism merely by portraying themselves as humanitarian-minded gentlemen who used their lofty social position to protect those less fortunate and more vulnerable. They also claimed that it was an absolutely necessary part of maintaining a well-run army, for the enlisted soldiers were like untutored children, who constantly sought pleasures that the wiser mind of the officer could clearly see would lead to no good end. Unless these disordered desires were regulated by an officer, they would ultimately harm both themselves and the army.

By asserting both the moral and economic incompetence of the enlisted, officers could claim it was militarily necessary to regulate otherwise unrelated aspects of enlisted lives, and thereby deny them the autonomy they would otherwise have had as adult men, consolidating their power over them in both the military and social realm.

This thinking was behind many of the regulations promoted by officers: enlisted men must be kept from ale houses and taverns because they would get drunk and behave disgracefully; they must be prevented from associating with prostitutes because they would become infected with venereal disease; they must not be simply given their pay when they were owed it, because they would spend it all on drink or lose it gambling and would not have enough money to feed themselves and to purchase clothing when they were in need of it.87

87. See Dana Rabin, "Drunkenness and Responsibility for Crime in the Eighteenth Century", *The Journal of British Studies* 44, no. 3 (2005): 457-477, on the eighteenth-century conception that “the poor had less of an ability to control the effects of alcohol on their emotions and their behavior,” as well as seeing
For these reasons, officers claimed, it was only the act of a prudent and humane officer to ban soldiers from entering certain houses where liquor was known to be sold, to violently turn out from the camp women suspected of being prostitutes, and to keep men’s pay for them and dispense it only when a soldier wanted to purchase an item that the officer thought necessary or beneficial. Cuthbertson claimed that it was necessary to have enlisted men’s clothing entirely under their officers’ control because of soldiers’ inability to choose clothing correctly: for instance, if an officer allowed his soldiers to choose their own shoes, “every Soldier will certainly indulge his own particular taste, in the fashion of shoes, without considering any other advantage,” and end up with shoes unsuitable for long marches and other military needs.88 Similarly, it was necessary to regulate soldiers’ absences from the regiment. With their captain’s permission, Cuthbertson explained, soldiers might occasionally be allowed a leave of absence, but never for more than three months; if they were gone for a longer time, he warned, “they might form connections very prejudicial to that sort of spirit, which should actuate the conduct of every good Soldier.”89

Any respite from the regime of control was dangerous, in Cuthbertson’s view—not only travel, but illness might challenge the army’s authority. Therefore, “Soldiers should never be sent to an Hospital for trifles, nor detained in it longer than is absolutely necessary for their cure, as they are too often apt to contract a habit of idleness, and a dislike for returning to their Duty,” and “every method must be used,

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89. Cuthbertson, 167-169.
to detect their pretending sickness, merely for the sake of avoiding Duty or exercise.\footnote{90}{Cuthbertson, 60-61.}

This insistence on control went to the point of insisting on their right to regulate soldiers’ bedtime: Cuthbertson recommended that the orderly Serjeant of each company be sent around “after Tattoo-beating” (the signal for the soldiers to retire to their quarters, and for “The Publick Houses...to shut their Doors, and sell no more Liquor that Night,”\footnote{91}{Bland, A Treatise of Military Discipline, 173.} generally 8 p.m. in the winter and 10 p.m. in the summer) to “insist on all fire and candle being extinguished,” because “late hours must be discouraged, else the morals of a Regiment will soon be destroyed.”\footnote{92}{Cuthbertson, 45.}

Soldiers’ supposed inability to manage their financial affairs also justified officers’ need to regulate enlisted travel. It was entirely for their own benefit, Cuthbertson claimed: “[F]rom an eagerness to see their friends,” soldiers might “inconsiderately request a leave of absence,” without taking into account “whether they are in circumstances, sufficient to maintain them, during their absence, without becoming a burthen” to their hosts. Therefore, to avoid the journey turning into “a distress to both parties,” officers ought to refuse soldiers permission to travel unless they were convinced that it was financially feasible. If the wise and kindly officer made sure to explain his reasoning, and did not do so “in a harsh or austere manner,” Cuthbertson assured the reader, the soldier would perceive “that his interest and advantage are the only causes of the denial,” and “instead of being discontented, he will be rather thankful to his Officer.”\footnote{93}{Cuthbertson, 168.}

In the case of their clothing, enlisted men were actually dependent on their officers. The government paid each regimental colonel a sum of money with which

\footnote{90}{Cuthbertson, 60-61.}
\footnote{91}{Bland, A Treatise of Military Discipline, 173.}
\footnote{92}{Cuthbertson, 45.}
\footnote{93}{Cuthbertson, 168.}
to clothe his regiment as he saw fit. While some colonels prided themselves on losing significant amounts of money on this transaction as they outfitted their troops with extravagant uniforms, others saw it as a handy source of profit and chose to clothe their troops as economically as possible, or, sometimes entirely neglected to provide them with any the clothing they were owed.94

This economic control could easily be connected with moral regulation. Captain Neil McLeane of the 84th was tried for neglecting his duty as an officer by failing to provide the soldiers in his company with “necessaries.” This term referred to the smaller items of clothing—shirts, shoes, stockings—that made up a soldier’s uniform, which were to be supplied as needed by the soldier’s company officer. (This was in contrast to “regimentals”—the red coat, breeches, and waistcoat, and hat, which were supplied by the colonel.) The regiment’s major reported that he had given orders that the 84th was to be properly provided with clothing, as it might be sent on march at short notice, but that he had seen several examples of soldiers in McLeane’s company who did not have the proper clothing. In particular, the major cited a soldier who “came to him to complain that he had no Shoes to March in, and that one of the Shoes he had was tied to his Foot by a bit of Packthread.” When the major ordered Captain McLeane to provide the man shoes, he had refused, telling him that “he was not oblig'd to furnish every Vagabond with Necessaries.”95

McLeane’s defense rested on his right to judge whether the clothing his men had was sufficient or not, and which of his men were deserving of being clothed by him. He claimed that the soldier’s shoes were sufficient for the march, as “the Roads were

94. Lord Percy and Lord Cornwallis were known for outfitting their regiments splendidly out of their own pockets, while other colonels fought with their successors over who had the right to profit from clothing the regiment. Soldiers were also often subject to pay deductions for ornamental clothing, or unique regimental accessories ordered by the colonel, but paid for from soldiers’ pay. Steppler, “The Common Soldier in the Reign of George III, 1760-1793,” 82-83, 50.

very good” and that he had “known Soldiers March further in worse Shoes than those he then wore.” McLeane dismissed his men’s claims against him by asserting that they owed him money. Roberts, the soldier who applied to him for shoes, “was nineteen Shillings in debt to him” and furthermore, McLeane “knew him generally to sufficiently stock’d with necessaries.” Taken together, these made a moral judgment: Roberts was constantly draining his purse with unnecessary demands for clothing and shoes. In the case of Private Higgins, who also applied to McLeane for necessaries, McLeane was even more explicit: Higgins was known to be “a bad Man in many respects particularly as a Thief.” Moreover, Higgins was “considerably in debt,” especially because McLeane had recently been forced to pay “Five and twenty or Thirty Shillings to an Inhabitant of the Parish of St. Genevieve for a Sheep and a number of Fowls that he had Stolen there.” Given this unpromising history, McLeane claimed, he “therefore was very unwilling to furnish him with any more necessaries than barely to keep him clean.”

These disputes about clothing, in which officers asserted their right to control the economic and material lives of the the soldiers under their command as part of their ‘natural’ moral authority over them, were part of a larger system for controlling behavior by using economic dependence to enforce deference and obedience to officers. A private’s pay, with which he was to buy his food and other equipment, and pay for his washing, was 8d. per day, but 6d. was the amount actually paid to soldiers. 2d. was withheld for “off-reckonings,” the primary financial perquisite of the regiment’s proprietary colonel; supposedly it was the money given by the soldier to his colonel in return for the colonel supplying him with clothing and weapons.

96. WO 71/56, p. 266.
And even the 6d. per day was paid at the discretion of his officers, and could be stopped to pay any debts he might have incurred to his officers, or simply if his officers thought he would not spend it wisely.

Officers stopped pay from their men in custom amounts, according to their opinion of the character of each soldier. This was supposed to be a class-based right: Cuthbertson warned officers that sergeants (who often had the actual charge of disbursing enlisted men’s pay, it being considered too tedious a task for the officers) were not to have any economic power in the regiment: “a Serjeant, who on any pretence, advances a farthing to a Soldier, without an order for it, should be reduced, as they are not to be the judges, when such a thing is proper.”

Thomas Thompson of the Royal Artillery was sentenced to 500 lashes for his “insolent behaviour” in asking for his own pay. Upon asking his commanding officer, Captain John Stewart, for the prize money due him for his role in capturing a frigate, Stewart noted that Thompson lacked the full complement of shirts and stockings, and told him that his money would instead be used to make up new clothing for him. Any leftover funds, he added, would be given “to his Pay Master Serjeant, to be laid out in Necessaries as he might want them.” And he made it clear that this was a particular judgment on Thompson: “foreseeing from the Prisoner’s Character and usual Conduct, he would very soon be in want of Necessaries, and he not fit to be trusted with buying them himself...he stopt what would have remained of the Prize Money.”

Claims that soldiers used any money they were given as an opportunity to get drunk provided many justifications for officers to prevent soldiers from having much

100. Cuthbertson, A System for the Compleat Interior Management and Oeconomy of a Battalion of Infantry, 27.
101. WO 71/88, p. 227
money and sabotaging any attempts to gain financial independence. Wolfe claimed that “The shameful drunkenness observed among the men, on pay-days in particular, is thought in a great measure to proceed from their not putting in a proportion of their pay regularly into their messes,” suggesting that not only did soldiers spend all their pay on liquor, but that they neglected to buy food for themselves in order to get drunk.\textsuperscript{102} Thus, officers claimed that it was necessary to insist that their pay was used for provisions.\textsuperscript{103}

“[E]very Pay-Day,” Bland advised, “each Man should be oblig’d to appropriate such a Part of his Pay to buy Provisions.” Were this not done, “the Soldiers will be apt to spend their Pay on Liquors, which will not only occasion their Neglect of Duty, but, in all Probability, the Loss of a great many Men by Sickness for Want of proper Victuals to support them.”\textsuperscript{104} Bland was suggesting that the enlisted men were not competent to feed themselves, and would fall sick and die from malnutrition without officers supervising them.

However, a greater obstacle for a private seeking to keep himself adequately fed was the fact that his pay was not actually sufficient for the task.\textsuperscript{105} And officers were often not particularly concerned with providing adequate provisions when it would result in the soldier contracting debts that the officer would ultimately be liable for. When three soldiers were tried for stealing an ox and slaughtering it for food, they defended themselves by claiming that they did it because they had not been provided with enough food by their officer, Captain Charles McClean of the 43\textsuperscript{rd}

\textsuperscript{102}Wolfe, \textit{Instructions to Young Officers}, 20.

\textsuperscript{103}Food was supposed to be purchased for enlisted soldiers by sergeants or officers when they were on march, or billeted in a public house. Steppler, "The Common Soldier in the Reign of George III, 1760-1793," 62.

\textsuperscript{104}Bland, \textit{A Treatise of Military Discipline}, 189.

\textsuperscript{105}Steppler estimated that the average soldier needed 1s. 6d. more than his weekly pay in order to feed himself adequately. Steppler, "The Common Soldier in the Reign of George III, 1760-1793," 90.
Regiment of Foot. McClean responded that he had supplied the men with vegetables "till they became scarce and too Expensive for a Soldier, when this was the case I saw no use in giving Men, much in Debt more Money than was necessary to keep them Clean."  

The problem of soldiers’ inadequate pay could be mitigated to some extent by their ability to supplement their earnings with additional labor. Some were employed within the regiment as tailors, shoemakers, and officers' servants, while others took on outside employment as laborers when they were off duty. However, opportunities for additional labor were also ways for officers to assert economic control. Cuthbertson recommended that “When a Soldier is permitted to work, the whole of his pay should remain in his Captain's hands, to supply the extraordinary consumption of linen, etc. which his working must occasion.” He then tried to frame the confiscation of the entirety of a soldier’s wages as “a regulation, so advantageous for his own interest” and claimed that any soldier who refused to comply made it obvious that “drink alone, is the object, for which he labours, and therefore he should be struck off, from any further indulgence of that kind.” This blithe assumption that a soldier unwilling to surrender the whole of his pay to his supervisors must be using the money for drink, and thus rendered himself unworthy of being allowed to work, neatly provided officers a way to negate any financial advantage to be gained from independent work.

Paternalism served as a moral justification for the subordination of the enlisted, but also provided a justification for domination through physical violence and gave it an aura of righteousness. It was Captain Payne’s standard defense to the numerous

complaints of soldiers under his command, who complained that he had unjustly confined them, or had struck them or committed other physical assaults on them. Payne never denied that he had done so. However, he did not justify his behavior by appealing to military manuals and treatises that emphasized the necessity of this treatment due to the hardened and unrepentant nature of some enlisted soldiers. Instead, he claimed it as his paternal right. His defense rested on two points: first, that every man he punished had deserved it due to “Disobedience & Mis-conduct,” and—just as a father must chastise a misbehaving child—to strike them was not just his right but also his duty. Second, not only was he acting in the role of a paternal disciplinarian, he was also acting as a wise and humane patriarch, far-seeing enough to realized that if his charges were not punished for their crimes, it would merely lead them into worse behavior and more dangerous consequences: “The Truth is, any Strokes I may have given were intended more to frighten than to hurt, and have been the means of saving them from more severe and disgraceful Punishment,” Payne explained, claiming that his casual blows were done for the men’s own good, to prevent their unwise behavior from leading to a court-martial and flogging.109 The author of one satirical military manual advised colonels that “You are to consider yourself as the father of your corps, and must take care to exercise a paternal authority over it: as a good father does not spare the rod, so should not a commanding officer spare the cat-of-nine tails.”110

And not only did Payne defend his striking of the soldiers under his command by claiming it was fatherly chastisement done for the soldier’s own good, he also appealed to the soldiers themselves to uphold Payne’s judgment in choosing to strike

them. Payne called upon the enlisted men of his company (that is, those of them who had not yet deserted or already been called by the prosecution to tearfully testify to his cruelty) and demanded to know whether they had been struck by him and, if so, the circumstances under which it had occurred. Private John Lambton obligingly deposed that "Capt. Payne once struck him, but however he does not know but that he might deserve it as he might give him some provoking language." Corporal Graham, too, admitted he had been struck by Captain Payne, and, upon Lieutenant Fowler pointedly asking him if he "look[ed] upon that as good usage?" answered that "He could not look upon it as bad usage, as he told Capt. Payne a lie to his face, and when he argued with him that he was in the right, the Deponent persisted that he himself was in the right, although he know that he was wrong." Isaac Hotson, a private who also acted as Payne’s servant, was asked if Payne had not "often struck and cruelly beat him," but replied that he was "struck by Capt. Payne, when he deserved it." Thus, in contrast to officers, who were independent adult males who could never “deserve” to be struck, for whom every blow was an insult punishable by death, enlisted soldiers were given the status of children, who could legitimately be assaulted in retribution for their misdeeds.

One part of ensuring that enlisted men remained in the subordinate role of symbolic children was to negate the traditional cultural and social power that soldiers enjoyed because they were men. If soldiers were looking back to older models of masculinity, asserting male privilege over their wives and defending the rights associated with marriage against the interference of other men would be a key component in upholding their conception of masculinity.\(^{112}\) Attacking these

\(^{111}\) WO 71/81, pp. 79-80, 60.

\(^{112}\) Karen Harvey, "The History of Masculinity, Circa 1650–1800", Journal of British Studies 44, no. 2 (2005): 296-311, argues that men's concerns about retaining household power, so prevalent in the historiography of the seventeenth century, were not actually distinct to the period and remained powerful concerns for eighteenth century men as well. John Tosh, Manliness and Masculinities in
marriage-based rights, on the other hand, would help higher-status men (officers) assert their dominance.

Officers undermined the older code of patriarchy by discouraging marriage for enlisted soldiers, thus barring them from one of the traditional social markers of patriarchal status, but also by interfering with the marital relations of the soldiers who did manage to marry by controlling their wives’ labor, food, and ability to live with their spouses. Officers also made no effort to uphold the traditional marital privileges of enlisted men by recognizing their exclusive right to sexual access to their wives.

Simes’ *Military Guide* advised commanders to prevent “the inconveniencies and ill consequences produced” by soldiers’ marriages, “for their wives are in general so abandoned, as frequently to occasion quarrels, drunkenness, diseases, and desertions; they involve their husbands in debt; and too oft are the ruin and destruction of a soldier.”\(^{113}\) It was quite common for officers to forbid the men under their command from marrying, or introducing barriers to marriage, with the justification that enlisted men were not capable of judging the character of a potential wife properly. Wolfe insisted that enlisted men receive permission to marry from their officers so that "the Woman's Character may be enquired into" first. He claimed that "many women in the regiment are very inconvenient, especially as some of them are not so industrious, nor so useful to their husbands, as a soldier's wife ought to be."\(^{114}\) They wrapped their control of soldiers’ marriages in the

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\(^{114}\)Wolfe, *Instructions to Young Officers*, 30.
language of paternal concern. Officers were "incontestably" better judges of marriages than their men, Cuthbertson claimed, and they, "being a sort of Guardians to the Men in their respective Companies, should use every means, that prudence can suggest, to prevent the distress and ruin, which so often attends their contracting Marriages with women, in every respect unfit for them."\(^{115}\)

He added that soldiers who failed to heed the advice of their officers and were "imprudent enough to marry" unapproved women justly deserved to be punished for their "folly and disobedience."\(^{116}\) Wolfe promised that any soldier who presumed "to marry clandestinely," or neglected to "consult his officer before his marriage" would be "punished with rigour."\(^{117}\) Cuthbertson also advised that officers should attempt to break up unsuitable marriages, and suggested several methods that might serve:

he, who contrary to all advice and order, will engage in a dishonourable connection, exclusive of any punishment he may receive, for such contempt and insolence, should as much as possible be discouraged, by obliging him, not only to mess, but lie in the Quarters of the Company he belongs to, at the same time, that his wife is prevented, from partaking of any advantage either from his Pay or Quarters: this severity, of course, must soon expell her from the Regiment, and be the certain means, of making other Soldiers cautious, how they attempt such acts of disobedience.\(^{118}\)

Historians have primarily seen the discouragement of marriage by commanders as stemming from military needs. Although they recognized the need to allow wives to accompany the army to nurse and wash for the men, and to recruit married men and to keep them from deserting, officers were not enthusiastic about the presence of women and treated them, at best, with resignation, considering them a necessary


\(^{117}\)Wolfe, *Instructions to Young Officers*, 15.

evil. Officers didn't like women accompanying the army, claiming that they spread venereal disease, illicitly sold liquor to soldiers, and cost both the army and the individual soldier too much in rations for themselves and their children. Examining the treatment of soldiers’ wives through this purely military lens leads historians to question the inability of the British high command to value women for the labor they provided to the army as nurses and laundresses, and to be somewhat puzzled by commanders’ recurring characterizations of all women who accompanied the army as an undifferentiated mass of diseased prostitutes despite the historians’ conclusion that the majority of them were “respectable wives.”

But when one considers the historic role of marriage as a necessary marker for establishing a man’s status as a patriarch, the interest of officers wishing to undermine the male privileges of the soldiers under their command by denying enlisted men the ability to marry or by de-legitimizing enlisted men’s marital relationships becomes apparent. By classifying the soldier as a bachelor, his employers could justify lower pay (because he did not need to support a family) and increased control (because of the historic link between independent manhood and marriage/house-holding). Marriage often meant economic gain for the newlywed soldier if his wife had the means to earn an income from washing or nursing, or,


120. Sarah Fatherly, “Tending the Army: Women and the British General Hospital in North America, 1754-1763”, Early American Studies: An Interdisciplinary Journal 10, no. 3 (2012): 566-599; Kopperman, "The British High Command and Soldier’s Wives in America, 1755-1783,” 20, expresses confusion at British claims that women were liabilities, despite their ability to do useful work for the army. Kopperman, writing in 1982, seems to have been one of the first to conclude that the older assumptions that “soldier’s wife” was a mere euphemism was incorrect, and that most of the women described by that term actually were “legally married…or enjoyed fairly stable common-law relationships.”

121. Jennine Hurl-Eamon, Marriage and the British Army in the Long Eighteenth Century: ‘The Girl I Left Behind Me’ (Oxford University Press, 2014), 29. The author also examines the social advantages men gained from marriage, “one of the main indicators of maturity, dependability, and respectability” in the eighteenth century. Married soldiers often gained special privileges, such as separate apartments for themselves and their wives (pp. 115-116).
most lucrative of all, a suttling license permitting her to sell goods to the men of the regiment. More importantly, marriage gave men patriarchal authority in the form of dependents to rule, support, control, and protect. By denying soldiers this marker of adulthood and authority, officers prevented them from accessing the cultural and social power that would otherwise accrue to them as adult men.

Officers failed adequately distinguish between legitimately-married women and prostitutes, because this very ability to conflate these two groups gave officers considerable power. When Private Elijah Reeves protested his officers’ interference with his visits to his own wife’s house, Captain Mawby denied that Reeves was actually married to her, describing how Reeves had written improper pleas to be allowed to “go to his Wife (as he call’d her).” When Reeves produced a marriage certificate, he called into question its legitimacy. He also pointed out that Reeves never sought permission to marry his wife, and that an order was given “that women who were married to Soldiers of the Regiment without Leave, should not be regarded as wives but only as followers of the Regiment.”

By asserting the right to determine whether a woman was a wife or not contrary to the opinion of civil and religious authorities, officers gave themselves the option of


123.Way, "Venus and Mars: Women and the British-American Army in the Seven Years’ War," 47-48, notes that the army kept soldiers in “a status akin to children under the authority of their officers, which prevented the full assertion of manhood as husbands and fathers" by denying them the rights and responsibilities of married men: “the army usurped the role of paterfamilias by providing food and often shelter and by intervening in family and sexual life as a matter of discipline, even to the extreme of causing de facto divorces by ordering women from camps for infractions.” Douglas M Peers, “Privates Off Parade: Regimenting Sexuality in the Nineteenth-Century Indian Empire”, *The International History Review* 20, no. 4 (1998): pp. 823-854, writes similarly about the discouragement of marriage among common soldiers by the British army in 19th century India, because of their cost of transport and maintenance: “As the regiment provided the soldier with everything normally provided by marriage, a wife could provide nothing extra except heterosexual sex, which he could find elsewhere.”
denying the enlisted soldier the right to protect the woman to whom he was married, and to give her the status and protections afforded by marriage, thereby making women in relationships with soldiers common prostitutes and lewd women (subject to use and abuse by men generally) rather than respectable wives (only subject to their husbands).

Payne’s treatment of Corporal Greer’s wife suggested this tactic: He ordered her, as well as some other soldiers’ wives, to leave the barracks, ordering the drummers and Sergeant Smith, to lead her out of the barracks. Smith started to escort Mrs. Greer away accompanied by the drummers, but “Capt. Payne came running up to him,” and demanded that he “take hold of that woman and lead her before the drums.” Because he “never heard any body speak ill of her,” Smith did not “rightly understand” Payne’s intention at first: he had merely walked with Mrs. Greer beside the drums. But Payne actually wanted her to be forced to march before the beating drums, making use of the traditional disgraceful method used to announce the forcible ejection of a woman from a military encampment because she was prostitute.\textsuperscript{124} Payne’s other threats of legal action to soldiers’ wives similarly denied their status as wives and respectable women. Mrs. McLaughlin related that he has threatened to “put her in Bridewell,” a reference to the London prison which specialized in confining and reforming common prostitutes and other “disorderly women.”\textsuperscript{125}

So long as an enlisted man was under an officer’s command, his wife was subject his officer’s approval. Officers could determine whether he was permitted to live with her, whether she was to be allowed in the barracks, and even whether he was allowed to visit her. Commanders’ power to eject women from the military

\textsuperscript{124}WO 71/81, p. 42, 50.
\textsuperscript{125}WO 71/81, p. 9.
camp made it important for women to keep on good terms; a vindictive officer could destroy family ties and leave women destitute.126

Officers paraded the power that they had to damage enlisted men's marital relationships: Major Samuel Montgomery of the 12th reminded Corporal Jamieson of the many favors he had done for him and his wife before telling him that his current "Conduct was such, as to forfeit all further claim to his protection, either on his own account or that of his Wife; and that if his behaviour in future was not better, the Major would prevent his Wife, or his Family" from living with him in the future. 127 When Jamieson was later tried for attempting to murder the Major, he claimed that the Major's treatment of his family had driven him mad.128

Commanders asserted their power to dissolve the bonds of marriage in practice if not in law: Lt. Col. William Eyre, commanding the 44th Foot at Fort Niagara, had engaged the wife of Serjeant Cameron to do his washing. However, having found her skills as a laundress unsatisfactory, he ordered that she should be turned out of the garrison. When Cameron protested this treatment of his wife, Eyre responded that although he "was no Bishop or Pope, therefore could not take upon him to divorce the wife from the Husband, but he swore she never should come where he had anything of a command."129 The commander of Fort Stanwix, trying to suppress sales of rum, issued an order warning the "Married Women" at the fort that if they were caught, he would "turn them out of their Hutts...Cut them of the King's Provision & chase them Shamefully away.” He made an acknowledgment of their

127. WO 71/64, p. 19.
128. WO 71/64, p. 38.
marriage, immediately followed by a threat that emphasized officers' ability to negate the protections traditionally conferred by that status.130

Officers’ power also demonstrated the inability of soldiers to protect their wives from physical violence. Women serving as nurses or in other regimental jobs mandated by the army during wartime were vulnerable not only to disease, but also faced the threat of being captured or killed.131 Furthermore, they were subject to the same harsh military discipline as their husbands. Soldiers’ wives were flogged or whipped for disobeying orders, either from the summary judgment of the provost martial or from after being convicted at a court-martial. Being punished in the same manner as men both denied them the protections of feminine status and dishonored their husbands, because these punishments exposed their bodies to public view.132

Officers could interfere even more directly with marital relationships by making sexual advances toward soldiers’ wives. Daniel Morison, a surgeon’s mate of the 60th Regiment stationed at Michilimackinac from 1769 to 1772, kept a diary that consisted primarily of a litany of complaints about the behavior of another officer there, Ensign Johnstone: he “Vaunted he had Carnal dealings with Mrs. Oldham”; another wife claimed that “he used uncommon libertys with her Character”; and he “attempted a rape on a girl betwixt nine & ten Years of age,” the daughter of a soldier and his wife who lived in the barracks. The child was spared only because “Her shrieking out Violently alarmed her step-father, Arthur Ross, & others in the

130. Orderly Book, Fort Stanwix, 11 November 1758-30 January 1759, in GD 125/34/7, fol. 4., cited in Brumwell, 125-126. See also Way, “Venus and Mars: Women and the British-American Army in the Seven Years' War,” 47-48, who claims that “Camp women were shorn of the full economic and legal protection (however unequal) offered their sex by the married state and thus were doubly subjugated--to the male partners and to male officers.”


barracks.”133 Private Reeves claimed that “Capt. Chapman sent to his Wife...to come to his Quarters & when she came there, he Locked the Doors and wanted to lay with her,” but was prevented when her shouts caught the attention of the landlord. Ever since that incident, Reeves claimed, Chapman and the other officers of the 18th had held “a spite against the woman.”134 Ensign Johnstone, too, used his rank to make life difficult for those who resisted his advances; Morison recorded the plight of “John Savage, Taylor & Soldier in the general's Company,” who “had the Door of his house forced open [and was] committed to the guard-house for not suffering his wife to comply with obscene propositions made to her.”135

Interference with soldiers’ wives and their marriages was a way of denying men’s patriarchal authority and establishing hierarchies of dominance because officers were interfering in an institution with so much cultural power. Raping a soldier’s wife or child blatantly proclaimed his inability to act effectively as a protector and thereby deeply undermined his male identity.136

Because officers’ interference in enlisted marriages so often took the form of denying wives rations, expelling them from military camps, accusing them of being prostitutes, and sexual and other violence towards them, historians have commonly

134.WO 71/79, p. 165. Also, LO 2826, for a petition by an enlisted soldier to the Duke of Marlborough, claiming that he had been demoted because his wife had refused to sleep with his Captain (cited in Kopperman, *The British High Command and Soldier’s Wives in America, 1755-1783,* 18).
136.Sharon Block, “Rape Without Women: Print Culture and the Politicization of Rape, 1765-1815”, *The Journal of American History* 89, no. 3 (2002): pp. 849-868, notes the common perception that the victim of a rape was not so much the violated woman, but her male protector, who was dishonored by her rape. See also: Robin Griller and Jessica Warner, "'My Pappa Is Out, and My Mamma Is Asleep,' Minors, Their Routine Activities and Interpersonal Violence in An Early Modern Town, 1653-1781," *Journal of Social History* 36, no. 3 (2003): 561-584, in which the father of a twelve year old who had been sexually assault suggested that “what was really at issue was not so much his daughter's safety as his own honor.” And WO 71/79, pp. 7-8, 13: After Ensign McDermott was accused of raping the young daughter of another officer, the other officers of his regiment asked him how he could treat a “Brother Officer” in such a cruel manner, and fretted about how to keep him from encountering the victim's father, “whom he was suspected to have injured in so particular a manner” and “in so tender a point.”
interpreted it as an expression of misogyny and part of a larger patriarchal project in the army to subordinate or exclude women.\textsuperscript{137} I argue that in the eighteenth-century British army, when officers broke up marriages, separated wives from husbands, and inflicted economic, social, and sexual violence upon army women, their goal was not, in fact, to subjugate women. Rather, this misogyny was a byproduct of men’s attempts to oppress other men.

Officers were not concerned with the enforcement of an ideology that demanded the fundamental subordination of women to men, but instead sought the subordination of lower-status men to high-status men. Lower-class women could be privileged over lower-class men when officers wanted to subordinate the latter, and in fact this was a common tactic they used. Officers could and did undermine soldiers’ authority over their wives without inflicting any overt violence upon the women themselves; they could publicize soldiers’ lack of masculinity by interfering in their marriages not only through the acts of expelling soldiers’ wives from the camp or raping them, but also by protecting them. Quite often, this took the form of interfering in soldiers’ marital violence.\textsuperscript{138} Because of the link between violence and masculinity, violence against a wife or other dependents was a way of establishing a man’s dominance, and publicly preventing a man from beating his wife undermined his claim to exercise authority over his own wife and household.\textsuperscript{139} By using the rhetoric of humanity and tenderness for the gentler sex to justify lessening lower-

\textsuperscript{137}Way, "Venus and Mars: Women and the British-American Army in the Seven Years’ War," 43-44, argues that the army put soldiers in the role of “dependent children,” and that “the patriarchal army validated its unique claim on men by conceptually divorcing them from women. Conceiving of the feminine as corrupting of discipline and parasitical of resources, the army sought to eliminate women from its masculine world. Militaristic misogyny was a necessary complement to martial endeavor.”

\textsuperscript{138}Way, "Venus and Mars: Women and the British-American Army in the Seven Years’ War," 58-60, describes a commander’s order that an enlisted man move out of the rooms for married soldiers and into the barracks, while his wife was allowed to remain, citing his abusive behavior towards his wife as justification.

status men's authority over their dependents, officers could also raise their own status and reputation by this portrayal of themselves as men of sensibility and compassion, and better judges than the domineering husband of what sort of treatment the wronged wife deserved.140

The inability to protect one's dependent women from rape was a marker of a shameful lack of masculine agency. However, the defining factor in what made a wife or child’s rape shameful was not that another man had sex with a woman under his protection without her consent, but that another man had sex with the woman without his consent. No violence needed to be offered to the woman. Indeed, a lack of violent coercion might even serve the purpose more effectively, as a man whose wife had been seduced rather than raped was far more limited in his options for both violent retaliation and legal redress. In addition to his attempts to rape the women of the garrison at Michilimackinac, Ensign Johnstone also made sexual advances towards soldiers’ wives without using overt violence. Morison reported that he had "Attempted to sow Discord betwixt George McBeath and his wife to whom he offered one hundred pounds &c provideing she would take up with him & quit her husband."141 Mrs. McBeath refused his offer, but Johnstone found soon found a more willing participant:

Ens. Johnstone decoyed away Sergt. Carlile's wife, which he has been contriveing to accomplish many months before this finishing stroake, & tho' her husband was like to break his Heart, and crying out his Eyes on the occasion. Yet no Remonstrances would be payed the least attention to.... [He] sleeped with her that night in

140.Jennine Hurl-Eamon, ""I Will Forgive You If the World Will": Wife-Murder and Limits on Patriarchal Violence in London, 1690-1750," in Violence, Politics and Gender in Early Modern England, ed. Joseph Patrick Ward (New York: Palgrave Macmillan, 2008), in concluding that there were real limits on early modern patriarchs' ability to inflict violence on their wives, seems to ignore the class dimension. Her examples of men's intervention into other men's marital violence does not acknowledge the implications of the fact that many of the men who intervened were of higher social status—justices of the peace, or men who employed the battered wives as servants.

his new room where he lives with her still, without dread or shame, while the poor Husband is left in such a disconsolate situation that is not easy to describe.\textsuperscript{142}

And officers refused to censure any of their own for violating traditional conceptions of a man’s marital rights when the violated man was an enlisted soldier. Lieutenant George Quin was accused of improper behavior after his commander received a letter from a captain in another regiment concerned about rumors that Mrs. Davis, the wife of one of his regiment’s sergeants, “eloped from her husband this day, & has robbed him of Fifty Guineas & most of his Cloathes,” and had been seen “this Morning in Mr. Quin’s Room.” But the officer’s primary concern was that the stolen property be tracked down, so “that the poor Man who is an Invalid may recover his Money.” Quin admitted that the woman had told him “that if he would Support her, she would come & live with him, for she did not chuse to stay any longer with her Husband,” and that he had agreed to support her, but that he had warned her not “to bring any Money or Wearing Apparel” with her when she left her husband. Once Quin had satisfied his brother officers that he had no intention of defrauding the husband by claiming any of the Davis property, any further complaint that he had acted improperly was dismissed as “frivolous.” Quin was apparently still openly living with the woman when he was tried and acquitted.\textsuperscript{143}

Whereas men had generally been acknowledged to have certain rights and privileges over the women to whom they were married, to take charge of their financial affairs and determine where they would live, to regulate their sexual conduct and to correct their behavior, officers refused to respect or even acknowledge this authority when it came to the relationships between enlisted soldiers under his command and their wives. They asserted power over soldiers’

\textsuperscript{142}Morison, \textit{The Doctor’s Secret Journal}, 57.
\textsuperscript{143}WO 71/96, pp. 158-224.
wives, women who would otherwise be under the jurisdiction of their husbands, and increased their own authority by denying enlisted men’s right to control their wives’ bodies and their marital rights. They did not do so without significant opposition. Enlisted men vigorously resisted what they saw as the infringement of their fundamental rights as men and as husbands, and sought to retain as much male privilege as possible.144

Certain social relations of asymmetrical power already had an established history in eighteenth century Britain—that the wealthy rightfully had the authority to direct the actions of the poor, that fathers rightfully exercised authority over their children, that those of superior morals had the right to superintend those whose weaker natures inclined them to criminality. Borrowing from more traditional systems for organizing power and using these accepted relations of inequality to frame and justify the principles of military subordination allowed the military hierarchy to operate within wider, mutually reinforcing systems of power.

Closely linking patriarchal authority, wealth, class, military authority, privilege, and moral authority allowed the army to uphold the economic and social dependence of enlisted men and their deference to officers. The army’s hierarchy denied the ability of enlisted men to regulate their own lives and put them in the subordinate role of the perpetual child rather than allowing them to exercise the privileges of independent manhood that might otherwise accrue to them as adult men.

But even as civilian social hierarchies were used to support military hierarchies, claims of military need allowed officers to justify coercive interference in enlisted lives that ultimately served to uphold and strengthen existing social hierarchies. By positing their interventions as necessary for the proper functioning of the army,

144.Hurl-Eamon, Marriage and the British Army in the Long Eighteenth Century, 5, explores the “surprising resilience of partnerships severed by war and army anti-marriage policies.”
officers could justify interference in matters that would not be acceptable even in the
highly-stratified class system of civilian society, such as meddling in men’s marital
relationships. The class hierarchy supported the military hierarchy, but this also
worked the other way around: the military hierarchy was used to shore up faltering
social hierarchies of deference. The army’s demands for bodily control supported
tactical movement on the battlefield, but also could be used to support the class
hierarchy. When Cuthbertson wrote that “Soldiers should be instructed, never to
avoid their Officers, through design, but rather to put themselves in the way of being
seen, that they may have an opportunity of shewing their respect,” by elaborately
saluting them, he was seeing an opportunity to use military practice and the military
system of coercive discipline to increase, display, and solidify the distinctions
between two social classes as well as two military ranks.145

The goal was to collapse the multiple systems for organizing authority and power
in the civilian world into a very simple one, with just two levels: the officers, and the
enlisted. Subordinating the enlisted by assaulting their masculinity—insisting that
they were to be obedient not only because of their lowly military rank, but because
they were economically dependent on their officers, unable to regulate their own
behavior without an officer to enforce morality, and ought to be seen as akin to
children rather than adult men—allowed the officers to exercise extreme power over
enlisted soldiers. But it ultimately left army officers unable to effectively advocate
for the subordination of lower-ranked men who were officers rather than enlisted
men, for subordination had now been conclusively linked with low status, denial of
male privilege, and a lack of proper masculinity.

Chapter 3: Above the Law

“When a young gentleman betakes himself to the profession of arms, he should seriously reflect upon the nature and duties of the way of life he has entered into, and consider, that it is not as the generality of people vainly imagine, learning a little of the exercise, saluting gracefully, firing his platoon in his turn, mounting a few guards (carelessly enough) and finally, exposing his person bravely in the day of battle; which will deservedly, and in the opinion of judges, acquire him the character of a good officer: no, he must learn cheerfully to obey his superiors, and that their orders and his own be punctually executed.”

So opened General James Wolfe’s “Instructions for Young Officers,” a work later compiled with his other writings and orders and published in a hagiographic volume after his glorious death upon the Plains of Abraham. And Wolfe was not alone among senior officers and military writers in his repeated admonitions to young men desiring military careers to take note of the importance of obedience, not only for the enlisted soldiers of the army, but also for the officers themselves.

In regard to this latter group, writers seemed to assume that even the most obvious principles of military subordination were not readily apparent to the aspiring officer. “Orders must be obeyed,” one treatise on military discipline advised, along with an explanation that a military force could not function without “A due deference to our Superiors” and showing the proper “attention, submission and respect to all those whom his Majesty shall think fit to place above us.” This treatise then went on to warn officers against entering into conspiracies against their commanding officers.

146. Wolfe, General Wolfe’s Instructions to Young Officers Also His Orders for a Battalion and An Army, 1.
Such entreaties for officers’ obedience in prescriptive works suggest an army which had considerable difficulty enforcing a military hierarchy of subordination and obedience, not only (or even primarily) between the officers and the enlisted soldiers, but among the officers themselves. And this suggestion is confirmed by army and government records demonstrating that junior officers were insubordinate to their seniors, and senior officers were insubordinate to the crown. Similarly, records of officers’ courts-martial are replete with examples of officers’ gross insubordination, disobedience of orders, neglect of their duties, and violent quarrels with each other.

These problems with subordination were the consequences of borrowing existing frameworks of deference and hierarchy to support military authority. Linking (as shown in the previous chapter) subordination and obedience to being lower-class and un-masculine had allowed the army to support a rigid class divide that allowed the officer class to consolidate their power over the enlisted soldiers under their command. However, it came at the cost of greatly weakening the army’s power to extract obedience from the officers themselves, as these men now considered subordination and obedience to be lower-class and un-masculine.

Thus, there was need for a compromise, some way to make subordination palatable to the officer class. Officers claimed that they were deserving of particular powers and privileges because of their innate status as gentlemen. This appealed to many officers because it had the advantage of putting junior officers on a level of social equality with their superiors, and subtly undermined the ability of the officers at the top of the military hierarchy to exercise authority over officers lower on that hierarchy. The compromise proposed was that officers had two characters:

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149. Guy, Oeconomy and Discipline: Officership and Administration in the British Army, 1714-63, 37-42.
that of the military officer, which was public, subject to military regulation, and
dependent on the needs of the service; and that of the gentleman, which was
private, not to be exposed to public view against his will, and an area into which the
military had no rights to intrude.150 Even military authors who insisted on the
supreme importance of obedience conceded this distinction: “The private and the
public man must ever be distinguished,” one wrote, in a section otherwise devoted to
insisting on officers’ proper subordination to their superiors.151 Yet conceding that
gentlemen had the right to have unregulated private lives did not resolve the
conflict; it merely shifted its terms, displacing the dispute over subordination into a
dispute about whether or not an officer’s insubordinate behavior was public or
private.

Junior officers naturally insisted that their often unmilitary and insubordinate
behavior only occurred while they were acting as private gentlemen, and their
superiors countered with arguments that officers’ actions did in fact affect the well-
being of the regiments, and thus ought to be subject to military regulation. But
junior officers argued strenuously for their immunity to regulation on the grounds of
their high social class. Being subject to rules and orders, they suggested, was
tantamount to oppression or even slavery; such treatment was perhaps fit for the
men of the lower classes, but an officer ought to above such petty regulation. In
fact, they claimed, being above the law was an essential marker of their high class
and their gentlemanly status, and when their superiors insisted on their cheerful

150. See Louise Carter, "British Masculinities on Trial in the Queen Caroline Affair of 1820", *Gender &
History* 20, no. 2 (2008): 248-269, on the separation between public and private life as a particularly
aristocratic claim; at the end of the eighteenth century and especially in the nineteenth century, the
rising middle class sought to strengthen their own cultural power and reverse the trend of the 17th and
18th centuries that saw the privileges of manhood increasingly concentrated in the upper class by
asserting that there was no such divide, and that private vice made a man unfit for public office.

obedience to orders, they were undermining officers’ status as well as the class
divisions on which the army depended.

Essential to these claims of being above the law was a strict distinction between a
man’s two roles: he was both an officer and a gentleman, but rarely both at the
same time. This was the basis of the protest made by Captain Patrick Wauchope and
Captain James Higginson of the 50th Regiment when they were court-martialed in
Plymouth in 1781 for “Sowing the Seeds of disunion in the Regiment, and Spiriting
up Officers to revolt against their Commanding Officer,” Lieutenant Colonel John
Gordon. Unhappy with Gordon’s orders regulating what times of day the officers
were permitted to leave the camp, as well as Gordon’s insistence that the officers’
personal servants (who were also enlisted soldiers in the regiment) attend military
drills instead of waiting on their masters, the two captains had supposedly acted as
the ringleaders in forming an agreement among most of the regiments’ officers to
“send Col. Gordon to Coventry” in protest—shunning the colonel by refusing to speak
to him off duty or to dine with him socially.

In their defense, Wauchope and Higginson claimed that the court had no right to
censure or even inquire into their behavior, because these actions towards their
colonel were merely the actions of “private gentlemen” choosing not to associate
with Colonel Gordon in his character as a private gentleman. Socially shunning the
Gordon did not involve “the most distant Idea of opposing him in his Command, or
behaving disrespectfully to him, or of obstructing the Duty of the Regiment in any
respect whatever,” but was “merely not being upon speaking terms with the Lieut.
Colonel as a private Gentleman.”\textsuperscript{152} Other officers of the regiment concurred: Ensign

\textsuperscript{152}WO 71/58, p. 12.
Robert Patrick claimed that when he agreed to send the colonel to Coventry, "he had no other Idea then [sic] that of not speaking to him as Mr. Gordon." 153

Other officers accused of disrespect to their superiors made similar claims. Captain John Rutherford, charged with writing an insulting letter to his commanding officer, defended himself by claiming "I wrote to the private Gentleman and not to the Officer, and therefore could have no intention of offending against Military Authority." Rutherford claimed that the source of his dispute was a matter in his personal life, and one which his commander had no right to interfere with. While he would put up with any military inconvenience the Colonel might impose, he could not countenance "a personal degradation," which would, presumably, be an unbearable insult to his character as a gentleman. 154

Captain Benjamin Chapman, called upon by Captain Benjamin Charnock Payne to testify to the latter’s excellent character, made clear the perceived difference between the two roles, officer and gentleman, and the distinct attributes of each: “As a Gentleman,” Payne possessed “the Strictest Integrity and Honour, and [was] of the most Humane and Benevolent disposition.” As an officer, Payne was known for “the most unshaken Zeal for the service, and the most exact attention to every point of his duty.” 155 Therefore, it was possible that one could object to a man’s behavior as an officer, but have no quarrel with his behavior as a gentleman, or vice versa. For example, one officer reported that Lieutenant Nathaniel Fitzpatrick’s “behaviour as a Gentleman has been very exceptionable”—that is, extraordinarily poor. (Fitzpatrick had slept with the acknowledged mistress of another officer of the regiment while suffering from a venereal complaint, thereby infecting both her and her original lover

153.WO 71/58, p. 28.
155.WO 71/81, p. 162.
with the disease.) But “as an Officer in action,” Fitzpatrick had “behaved remarkably
gallant.”156 Major Edward Drewe, court-martialed for his various neglects of military
duty and for being absent without leave, had the opposite problem: when an officer
was asked if he had “ever declared at any time, that Major Edward Drewe had not
acted as an Officer and Gentleman,” he replied, “As an Officer I have said so! As a
Gentelman [sic] I never did.”157

The statement that Captain Wauchhope and Captain Higginson offered in their
defense suggested that as military officers, they were obliged to obey their colonel,
but as gentlemen, they were naturally allowed to interact with Gordon on whatever
terms they pleased:

we have ever been taught to think that if an Officer in the British
Service supports in private life the Character of a Gentleman, and
in his public capacity, discharges his duty with zeal and attention;
he is placed far beyond the reach of censure, and that it is
perfectly immaterial what footing he is on with his Commanding
Officer in his private capacity, as a Gentleman or any other
whatever.158

Gordon had no possible grounds to object to his officers’ ostracization of him, for
military law could not be presumed to "restrain the private Conduct of an Officer, as
to direct to whom in the Mess room his conversation should be addressed, with
whom he should live in habits of Friendship or intimacy.” No officer had the right to
order his subordinate officers to associate with him, and he could not deprive an
officer of “the choice of his friends and associates.”159

The officers’ dispute with Gordon demonstrated how the life of the officer and the
life of the gentleman commonly came into conflict in the 18th-century army, as

158.WO 71/58, p. 75.
159.WO 71/58, p. 75.
officers tried to reconcile their positions as officers—defined by military hierarchy—with those of gentlemen, a position which carried with it a presumption of equality with all other gentlemen.

One’s status as an officer was undoubtedly predicated on military rank: the hierarchy was explicit and accepted by all. Just as a lieutenant could give an enlisted soldier an order and expect it to be obeyed, no one disputed a general’s right to give orders to a colonel, a colonel to give orders to a major, a major to a captain and so on down to the lieutenants and ensigns.

However, many officers—junior officers especially—maintained that this hierarchy applied only to military matters. Commanding officers might give their subordinates all manner of military instructions—who was to mount guard and when, who was allowed a leave of absence and who must stay, how the companies of the regiment were to be paraded, and so forth—but the loftiest general officer had not the slightest right to concern himself with the off-duty conduct of the lowliest ensign. Off duty, officers were private gentlemen, and there was no rank in the private sphere: one was either a gentleman or not a gentleman, and that was it; no man could be more of a gentleman than another.

This was the root of the officers’ problems with Colonel Gordon’s behavior: By seeking to regulate actions unconnected to their military lives, he undermined the idea of the fundamental equality of all gentlemen. Ensign Francis Kirkpatrick testified that a meeting was held among the officers of the 50th, during which they agreed to shun Gordon, because “The officers of the Regiment found themselves very much hurt and distressed in consequence of some very disagreeable Orders given out by Lieut. Col. Gordon,” and “had found from the tenor of his Conduct he was determined to give the Officers every uneasiness in his power.” These “disagreeable orders” were the ones specifying that “no Officer [was] to leave Camp
till he has seen the Orders of the day.” This meant, in practice, that the officers couldn’t “go the smallest distance from Camp till three or four o’Clock in the afternoon” without violating those orders, and therefore were extremely unpopular among the officers because it restricted their social lives.¹⁶⁰

Drinking, whoring, and other forms of pleasure-seeking social activities were seen as an officer’s right. Unlike enlisted men, who found their movements closely controlled in large part to prevent them from social activities their officers found harmful, for a commander to restrict officers’ freedom of movement was considered (by officers) tyrannical and oppressive, and a violation of their rights as gentlemen. The military governor of Minorca was called upon to defend himself upon the floor of the House of Commons for the outrageous abuse of prohibiting the officers stationed there from “the social pleasure of making an afternoon visit above two miles without special licence.”¹⁶¹ Similarly, Lieutenant George Evans Bruce found his commander’s demands that he actually supervise the picket guard on the nights that he was assigned to supervise the picket guard to be an intolerable infringement, for in having to spend the night away from the assembling halls and dining rooms of the town, he “was debarred of the happiness of Society.”¹⁶²

Gordon’s subordinates shunned him for insisting that no officer was to leave the camp until the orders for the day had been read, a measure they found “disagreeable” and oppressive because “As the orders of the day were Seldom given out before three or four o’Clock, sometimes later, they found they were debarred of dining out of their own Mess, or enjoying any Society, it likewise debarred them of Morning Amusements, which Officers are naturally to expect.” When Gordon claimed

¹⁶⁰.WO 71/58, p. 18.
¹⁶¹.Guy, Oeconomy, 38.
¹⁶².WO 71/55, 22.
that these were purely military instructions, his subordinates retorted that his rank allowed him much unofficial and tyrannical power over subordinate officers, should he choose to exercise it: "a Commanding Officer must be possessed of very little ingenuity indeed, who cannot by the tenour of his conduct, make the lives of those under him very unpleasant, and yet in his public Orders bear the appearance of having only the good of the Service in view."163

By claiming that military orders were interfering with their social lives, and that their right to have a social life took precedence because it was inextricably linked with their status as gentlemen, officers cordoned off a great part of their lives from the oversight of military authority and the duty of obedience. In contrast to the regulation of enlisted marriages, no one regulated the sexual behavior of officers. Visiting brothels, keeping mistresses, and having sex with other men’s wives were all unregulated by the military law and also by any sort of social disapproval from their brother officers—officers openly and unashamedly testified about these activities seemingly without any concern that it might harm their reputation amongst their peers.

The testimony given in the trial of Ensign McDermott for the rape of another officer’s child in 1773 reveals how nonchalant officers were about their extramarital sexual behavior, as well as their general unwillingness to regulate or disapprove of each others’ behavior. A portion of McDermott’s trial for hinged upon whether he had previously shown an irresponsible character by visiting a brothel in Ireland when he was being treated for a venereal disease. One witness, Captain Craig, reported that "About four o’Clock the Morning after they arrived at Cork he met him

163.WO 71/55, p. 80. Note also Williamson, The Elements of Military Arrangement; Comprehending the Tactick, Exercise, Manoevres, and Discipline of the British Infantry, 10, who wrote that the colonel, with his power to grant or deny leaves of absence, recommend officers for promotion, or allow officers to sell out, "has it frequently in his power to thwart such of his officers as may have rendered themselves obnoxious to him, and to favour others."
[McDermott] in the Street very much in Liquor and afterwards in a Bawdy house.”
Later that morning, Captain Craig spoke to McDermott about “the great impropriety of going to a Bawdy house and laying with a Girl when he knew that he was disordered, that he mentioned in very strong terms as strong as he thought he could, without affronting him; that Mr. McDermott acknowledged it to be wrong but that being in Liquor he could not avoid it.\textsuperscript{164}

If there was anything improper in merely visiting the “Bawdy house,” the obvious tactic for McDermott at this point would be to ask Craig just exactly what he was doing there when he saw him. Instead, he admitted being there, but claimed that Craig misremembered the conversation later that morning, when he reminded Craig that he had only been there because Captain Craig himself had asked McDermott to show a captain from another regiment “to a Bawdy House.” And Craig had asked McDermott specifically because he was known to be acquainted with the town “and particularly so with those houses.” When asked if he could deny this, Craig could only testily reply that, “As he has already declared that he was very much in liquor he cannot remember particulars.”\textsuperscript{165} Nowhere was there a suggestion that either officer had done anything the least bit shameful by getting drunk in a brothel at four o’clock in the morning, one indication of the near-complete unwillingness of the officer class to regulate their own sexual behavior.

Except for the case of Lieutenant McDermott, who was brought before a court-martial because he was accused of raping an officer’s child, no other officer in this period was charged with a sexual crime. Furthermore, it is important to note that even McDermott’s case reveals the primacy of class in the military culture of the period: his alleged behavior was considered a serious crime not because the victim

\textsuperscript{164}WO 71/79, pp. 77-78.
\textsuperscript{165}WO 71/79, pp. 79-80.
was a child, but because the victim was of the upper class, the young daughter of an officer, and therefore any violation of her was also an insult to her father’s honor. Contrast this to the behavior of Ensign Johnstone in Michilimackinac in the 1770s, who tried to rape the daughter of a sergeant and never faced any consequences more serious than a damning indictment in the fort surgeon’s private diary.  

Disapproval only ensued when one officer’s sexual behavior infringed on the perceived rights of another officer. The other subalterns of the Queen’s Rangers refused to do duty or mess with Lieutenant Nathaniel Fitzpatrick because of “His laying with Capt. Murray’s Girl and thro’ her disordering him.” Murray had kept a mistress, Mary Duche, and when the regiment was ordered on an expedition to Salem in March 1778, Fitzpatrick had applied to his commander, Colonel Simcoe, “for leave to remain behind, being incapable of doing his duty from a Violent Venereal Disorder.” Mary Duche had stayed with Fitzpatrick and was under his protection while Murray was away on the expedition, but when Murray returned and resumed sexual relations with her, he soon discovered that both Mary Duche and himself were now “disordered.” This behavior was considered dishonorable because the girl was “look’d upon in the Regiment as kept by Captain Murray” and Fitzpatrick himself had told another officer that “she belong’d to Captain Murray.”

By refusing to be ashamed of their off-duty behavior, or to censure other officers for theirs, these officers linked the regulation of the non-military aspects of their lives with degradation: they were gentlemen, therefore their private behavior did not to be regulated and supervised like that of the lower classes. To regulate an officer’s behavior was to imply that he needed regulation, and thus was not of gentlemanly status. Captain John Rutherford considered it a grave insult when he was told that

he would not be given the money needed to pay the men of his company, unless he were actually present with his company and able to pay them immediately: “The Articles of War provide ample remedies against embezzlement of Regimental Money,” he stated indignantly. “All ungentlemanlike precautions are therefore unnecessary.” Indeed, putting such precautions in place would “injure the Credit of Officers, and place them in a point of view scarcely equal to Journeyman Carpenters.”168 Rutherford was suggesting that the very act of regulation was dishonorable, and thus was only fit for the lower classes.

Because officers insisted that it was an insult to regulate their behavior, they claimed to have actual private lives and a concurrent right to privacy. The army’s control over enlisted men’s clothing, location, access to alcohol, food choices, pay, physical discipline, and hours were all aspects of both military discipline and social control. Thus, officers had great reason to reject this sort of interference in their own lives, as it was also an assault on their status. Therefore, in contrast to enlisted men, officers’ conception of their own rights included a strong component of privacy. They insisted that their own bodies, words, letters, and conversation ought not to be “exposed” to public view, because of their class. For instance, Major Edward Drewe protested that the very act of his commander’s public censure of him by prosecuting him at a court martial was an outrage, because it denied his status-based right to privacy. While Drewe acknowledged that he had made some minor misdemeanors, they were “not of a Nature Sufficient to require less'ning Authority, by Exposing a Man of my Rank to the Publick as a Culprit”.169

The social conventions of gentlemanly behavior required officers to defend each others’ privacy. Officers had private conversations and private letters, and exposing

169.WO 71/55, p. 221.
them to public view was denounced as an ungentlemanly activity. Lieutenant George Quin of the 35th Regiment of Foot was called to account for his behavior at a court martial after he was caught standing on a table in the room of another officer, Lieutenant Eyre, listening to the conversation taking place in the room above. When Eyre discovered him, he claimed he told Quin “of the great impropriety” of his conduct, and Major Chester, who had been one of the group overheard, asserted that Quin had wounded the honor of the whole regiment after he had been discovered atop a table “for so shameful a purpose as to listen to our Conversation.”¹⁷⁰ (This case also gives some indication of the comparative magnitude of various breaches of conduct in officers’ minds. At the exact time he had been discovered on the table, Quin was supposed to be on guard duty. But the neglect of his duty was clearly seen as an inconsequential side note compared to the enormity of his improper behavior in eavesdropping on his fellow officers.)

Quin’s behavior was so shameful because the “private Conversation” of officers was supposed to be inviolate. Officers refused to reveal information they had acquired through this method to the court, and often the court (also comprised of officers) agreed about the impropriety of these inquiries. In the trial of Lieutenant Thomas Hardyman, when the parties disagreed about whether certain questions about what officers had said to each other in private should be allowed, the court declared that they were “of opinion that nothing exposing private Conversation should be asked.”¹⁷¹ Lieutenant Glenie, accused of making scandalous and insulting remarks about his commanding officer, vigorously protested the accusation, on the grounds that anything he had said about his commander had been said in private, and furthermore, that people who revealed what a gentleman said in private “must

¹⁷⁰.WO 71/96, p. 175, 188.
have some mean & self interested Views” in doing so, “or wish to become Promoters of Mischief.” Nothing said in such a conversation ought to be of interest to the court: “Private Reports of private Conversation, supposing them even to be true, are never carried by any Person who has not some or dishonorable Motives for doing so, & are seldom, I believe the Subjects of Discussion, before General Court Martials.”172

When Gordon tried to elicit testimony related to the defendants’ and other officers’ opinion of him to support his contention that Wauchope and Higginson had conspired to undermine his authority by organizing the officers to shun him, he found himself constantly thwarted by the officers, who refused to give any details about the various meetings of the dissatisfied officers on the grounds that it was private conversation. Ensign John Lucas was present at a conversation between Lieutenant Rowe and Ensign Kirkpatrick which related to Gordon, and both the court and Gordon asked him to repeat it. Lucas replied that he was “exceedingly sorry to incur the displeasure of this Court, but as an Officer and a Gentleman he cannot be persuaded to betray private conversation, which has no relation to the Prisoners or to the Charge, the Court must therefore excuse him.”173 Major Henry Oglivie, when asked if he had any conversation with the defendants about the matter, responded that “it was a matter of private opinion only.”174 In the defendants’ statement, they refused to give detailed public reasons for their behavior, because “there may be a thousand reasons for not chusing to associate with a Man in private, which this Court cannot enquire into, or possibly be informed of, the Tenor of a persons Conduct may be sufficiently disagreeable to justify a resolution of [shunning him] and yet those

172.WO 71/81, p. 196.
173.WO 71/58, p. 47.
174.WO 71/58, p. 64.
who form that resolution, may not chuse to point out to a Court Martial all their reasons for so doing.″

The trial further revealed the social necessity of respecting officers’ privacy as Lieutenant Rowe, who had found himself in the middle of the conflict between Lieutenant Colonel Gordon and his subordinate officers, became increasingly concerned about the other officers’ suspicion that he was a “tale bearer” who had violated social convention by alerting Gordon that the officers had held a meeting at which they had resolved to shun him. Rowe wanted to make it clear that it was some other person, not him, who had informed the first informed the colonel, for a reputation as a tale-bearer made an officer despised among his peers.

Other officers defended their silence about other officers’ misdeeds by claiming to detest tattle-tales. When Colonel Cosmo Gordon suspected that Major Collins knew the identity of the officer who had been aspersing his character, he demanded that Collins supply the man’s name, but Collins “seeming very uneasy, said it would be a very ungracious and disagreeable thing to him, to be oblig’d to be the informer.”

Dr. James Barton responded to another officer’s reporting his poor behavior to the general calling him “tattling Schoolboy” and castigating him for being willing to “blab my Conduct” to the general about Barton’s neglect of sick men in the hospital and his alleged medicine-pilfering. While the mistakes of the lower ranks were to be publicized, corrected, and punished as an example and deterrent to others, exposing an officer’s error was seen as illiberal, unjust, and proceeding from sinister motives, such as a desire to promote discord in the regiment: “I did refuse to tell my author and do still,” Ensign Cole insisted, “as I detest the Name of an Incendiary.”

175.WO 71/58, p. 85.
177.WO 71/58, p. 433.
one officer demanded to know of another whether he had reported his neglects to do
his guard duties to the commanding officer, the other replied that it was “never in
my recollection that I have ever reported an Officer’s mistake in my life.”179

This was, of course, a privilege reserved exclusively for officers. In sharp
contrast to their own prerogatives, officers did not acknowledge that enlisted men
had any right to keep secrets, or to have any aspect of their lives free from
interference by officers if the officers thought such interference necessary. Officers
took it as a personal affront when they discovered that one enlisted soldier had
concealed the crime of another enlisted man.180 Military treatises emphasized
importance of noncommissioned officers reporting the faults of enlisted soldiers and
not concealing them from officers; in fact, a willingness to inform on one’s fellow
soldiers often seems to be the primary attribute that qualified a man to be promoted
to corporal of sergeant, while non-commissioned officers who would "overlook many
un-soldier-like practices on Guard, or other duties, by way of keeping in favour with
the men" were to be dismissed immediately.181 And these non-commissioned-
officers themselves were not free from oversight and correction, for “as [the
Sergeant Major] has frequent opportunities, of closely attending to the morals and

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179. WO 71/55, p. 7. This class divide intersected the gender divide. Upper class women had the same
rights to privacy as upper-class men, or even more. See Judith L Van Buskirk, *Generous Enemies:
62-63, for the separation of public and private lives, which extended to respect for the private lives of
enemies of similar class; upon intercepting Washington’s correspondence, Howe opened the military
dispatches, but returned unopened a letter from Washington to wife, it being unthinkable to violate the
privacy of an upper-class man’s private life in this way. On the other side of the class divide, soldiers’
wives and lower-ranked women were treated similar to enlisted men—their communications,
movements, and bodies were not “above suspicion” and therefore inviolate.

180. Payne denounced Sergeant Smith and Sergeant Brogden for refusing to swear an oath that Private
McLaughlin’s wife was keeping an unlicensed tavern, deploring their “Disobedience.”WO 71/81, p. 207.

9. See also Simes, *The Military Instructor, for the Non-commissioned Officers and Private Men of the
Infantry*, 42, who informed corporals that their duty was “never conniving at” the faults of the enlisted
men, but reporting them to the officers.
behaviour of the Serjeants and Corporals, he should be quick in discovering their faults; and as ready in communicating them.”182

Wauchope and Higginson were on trial not only because they were suspected of leading the regiment’s officers in shunning Lieutenant Colonel Gordon, but because Gordon insisted that he had a perfect right to issue his unpopular orders regarding the regiment’s servants. Higher-ranking officers and the army administration often claimed that officers’ claims of privilege were interfering with the working of the military and therefore an officers duty to obey his military superior took precedence over these private privileges. Officers’ privileges could end up interfering with the welfare of the regiment as a whole, and this was a constant source of discord.

Officers’ rights regarding servants were an area in which officers’ privileges and regimental needs often came into conflict. As each officer was a gentleman, he required the services of a manservant. But wages and the other costs of keeping as servant were not just one more item on the extensive list of an officer’s expenses. Rather, this expense fell to the army, because every British officer had, by long-established custom, the perquisite of requisitioning a private soldier from the ranks to employ as his servant.183 Commanders protested that officers’ servants weakened the regiment by taking able-bodied men out of service in the ranks and away from regular duty. As Captains Wauchhope and Higginson revealed in the course of their trial, Gordon’s orders restricting officers from leaving camp before hearing the orders of the day was not the only source of his unpopularity with his subordinates. Gordon “frequently complained...of the Regiment Parading very weak, and recommended...some Method by detecting Malingrers [sic], and others who were

scurling, that the Regiment might appear stronger.” Alas, one of his methods for strengthening the regiment was to order the servants who attended and served the officers’ mess to attend military parades and training instead of serving the officers’ meals. But denying an officer the use of a servant was an affront. Gordon’s subordinates maintained that he had done it deliberately to “distress” them, as Gordon’s orders had disturbed their mess arrangements: Ensign Elliot claimed that “the Mess was very near broke up in consequence of that Order,” and related that one day he “sent for some supper into his own Tent, having a companion there, when he received for answer that he could not have any, as there would not be enough for Dinner the next day.” This was because the mess sutler and other mess servants, despite being “old Soldiers & perfect in their Exercise,” were refused permission to go to several miles to Plymouth to buy supplies, the markets in camp not sufficient to “afford provision proper to Mess a Corps of Officers.”

After the mid-Georgian reforms of the army, the privilege of requisitioning servants from the ranks was one of the few privileges that officers still retained, and thus was defended fiercely. When commanding officers demanded that they give up these servants “for the good of the regiment,” officers’ privileges and military service became set against one another, and officers suspected that commanders’ pleas to do their duty in spite of personal inconvenience was just a way to deprive them of their privilege and status. Furthermore, because of officers’ lack of pay and general inability to support a household, the lone servant that came as a perquisite

186.WO 71/58, p. 9, 27.
187. For another conflict between officers over the question of servants, see WO 71/82, 116-127, in which a lieutenant protested a situation where “I was refused the Indulgence of having my black Servant excluded from labour” while another officer had “3 Taylors, 2 Barbers, 2 Ladies of the bed chamber” to attend to him.
with their commission might have been the only person with whom they were in relationship of personal subordination and their last link to any patriarchal status deriving from personal authority over a subordinate. Resisting their commanders’ demands regarding servants was a way to protect their gentlemanly status, and thus, status and therefore masculinity now became linked with insubordination.

Gordon’s other main charge also indirectly assaulted his subordinates’ status when he accused them of violating military discipline by refusing the show him the customary respect and courtesies due to him as their commanding officer. The captains insisted that they had never encouraged any of the officers to show "the smallest disrespect" to Gordon, and certainly never "spirited up any other Officer or Officers of the Regiment to revolt against the Commanding Officer," nor did they "ever sow the Seeds of disunion in the Regiment." Colonel Gordon (and, ultimately, the court-martial board) disagreed, asserting that the officers’ behavior had in fact crossed the line into military disrespect. The regiment’s major, Thomas Baskerville, reported that Gordon had complained to him "that some of the Young Officers in delivering in their Reports have not done it in the stile he thought they should have done it, when delivering a Report to their Commanding Officer."

Gordon’s primary complaints were hat-related: Ensign Samuel Swinton said that when he "gave in his report of the Quarter Guard about three weeks ago, he took of [sic] his hat in the most respectful manner to the Lieut. Colonel; as some time was taken up in reading the report, and the Lieut. Colonel having put on his hat, the Evidence did not stand with his off, but put it on likewise, for which the Lieut. Colonel reprimanded him." Ensign Edmund Tyrewhitt was returning to camp and met Gordon "on the road, and passed him without touching his Hat." A few days later

188.WO 71/58, p. 37.
Gordon asked him what he meant by such behavior, "told him if he ever passed him again without paying him the Compliment of the Hat, that he would put him in Arrest, that he was but a boy, and not to be too consequential." Gordon also issued numerous orders relating to proper hat behavior when guards or detachments marching from one post to another passed the lieutenant colonel, and reprimanding various officers whom he thought had not carried out the proper hat courtesies towards him.

By stressing that the officers were neglecting courtesies due to the military officer, rather than to the private gentleman, Gordon attempted to demonstrate that their behavior was a violation of military law. He further claimed that the officers’ inadequate attention to these courtesies due him were directly harming the regiment. "[W]hen examples of this nature are daily shown to the Soldiers," he said, referring to the officers’ insubordinate hat behavior, the enlisted soldiers followed their example, "the effects of which are frequent punishments in the Regiment."

Even worse, Gordon complained, these punishments “I am told are constantly imputed to me as so many acts of cruelty,” damaging his reputation and his authority as the regiment’s lieutenant colonel. "[I]f instead of forming cabals and associations against their Commanding Officer, every Captain of a Company attended strictly to his charge in preserving good Order and Discipline, which he is bound by every tye of honor and principle to do, punishments would be less frequent, I should hear less trouble, and the imputation of cruelty would be taken off my shoulders.” In other words, Gordon was suggesting, the good of the regiment required officers to show him properly subordinate behavior.

189.WO 71/58, p. 44.
190.WO 71/58, pp. 58-59, for Gordon’s various orders on this point.
But displaying subordinate behavior did not appeal to junior officers, who thought that it threatened their high social position as gentlemen, as well as betraying a lack of manhood. Once the army had convincingly linked subordination with unmanliness and low social status, the complementary association of insubordination with masculinity and high social status could not be far behind. Resistance to orders demonstrated spirit, courage, manliness, and independence; obedience was servile, passive, feminized, abject, and carried with it the suspicion that it ultimately stemmed from fear.

Here, then, is some explanation for the military manuals’ constant pleas for officers’ obedience. Some even touched upon the problematic unmanliness of submission and tried to combat it: “It is a false notion,” Simes wrote, “that subordination, and a passive obedience to superiors, is any debasement of a man’s courage; so far from it, that it is a general remark, that those armies which have been subject to the severest discipline, have always performed the greatest things.”

Yet authors seemed to be blind to the status implications of their instructions. The system as proposed by military theorists and defended by senior members of the military not only put enlisted soldiers in a dependent position, but did the same to lower-ranking commissioned officers. In urging officers to think of their military duty first, Cuthberson used particularly unfortunate language in his attempt to persuade: Cuthbertson’s ideal corps was modeled on the family, with the commander in the role of the “fond Parent” and the officers “like obedient Children, sensible of his Experience and Judgment, and anxious to oblige.” But Cuthbertson did not

seem to consider that officers might resent and resist a system that put them in the subordinate role of the “obedient Children” of the commander.

In its ideal form, the patriarchal military hierarchy was presented as a harmonious pyramid of increasing authority: the enlisted men were to obey the non-commissioned officers, who were in turn supposed to obey the company’s subaltern officers (ensigns and lieutenants), who obey the captain. The regiment’s captains were to be under the authority of the major and the lieutenant colonel. Obedience was to flow smoothly up the pyramid, and orders were supposed to flow back down. But many junior officers found little personal benefit in such a system. Uncritically accepting the legitimacy of their superiors’ authority over them was not only a threat to their class status and masculinity, but also had the potential to interfere with many of the enjoyable aspects of their lives, if a conscientious attention to duty took precedence over social outings or gatherings with friends. And properly playing their own patriarchal role brought few benefits they valued.194

In theory, officers’ own authority over enlisted men was supposed to assuage the resentment they might feel about being subordinate to their own superiors. In practice, however, many officers found their authority over the enlisted to be deeply unsatisfying. This was the alternate side of the regime of constant supervision detailed in the previous chapter; the consequence of asserting enlisted men’s incompetence and inability to properly feed themselves and manage their money.

194.For alternate codes of manhood and inversion of patriarchal norms by young men, see Alexandra Shepard, “From Anxious Patriarchs to Refined Gentlemen? Manhood in Britain, Circa 1500–1700”, Journal of British Studies 44, no. 02 (2005): 281-295, and Stephen Banks, “Killing with Courtesy: The English Duelist, 1785–1845”, The Journal of British Studies 47, no. 3 (2008): pp. 528-558. On soldiers as the only adult men who were exempt from having to support their dependents, because parishes by law had to support their indigent wives, see Hurl-Eamon, Marriage and the British Army in the Long Eighteenth Century: ‘The Girl I Left Behind Me’, 111. For the attraction of army life, which provided a community that supported and embraced a violent, anti-patriarchal vision of masculinity, for men unable to aspire to "legitimate" patriarchal authority, Susan Gane, "Common Soldiers, Same-Sex Love and Religion in the Early Eighteenth-Century British Army", Gender & History 25, no. 3 (2013): 637-651.
was to demand that their officers spend much of their time supervising and inspecting their men.

Military manuals warned that supervision must be the officer’s constant duty; one claimed that each time he encountered his men on parade, the officer was to “observe, that there are none of the detachment sick, lame, or drunk: that each man is provided with a loaf, canteen, two flints, sixty rounds, and firelock in good order.”¹⁹⁵ This supervision and inspection, the manuals warned, were essential to a functioning army. Bland claimed that ensuring that soldiers used their pay to buy food and not liquor was “a Duty incumbent on every Officer to be more than ordinary careful in this Particular, and not to think themselves above looking into these Things,” because “when it is neglected, great Numbers” of their soldiers would “fall sick and die” from the resulting malnutrition.¹⁹⁶

Because the ideological framework that justified officers’ control over enlisted men relied on presenting the enlisted as childlike and incompetent, constant supervision and minute observation was considered the only way to regulate their behavior. “Nothing animates soldiers so much as the constant presence of the officers, upon all duties,” one author wrote.¹⁹⁷ And after time, it was hoped, “the Soldiers will soon perceive, that as the smallest omission in point of Dress, cannot escape observation, the sooner it becomes satisfactory to the Officers, the happier must their time be, when reprimands or punishments are no longer necessary on that account.”¹⁹⁸ Meanwhile, improper supervision would inevitably “bring the men

¹⁹⁵.Callandar, Military Maxims, Illustrated by Examples, 6.
¹⁹⁷.Callandar, Military Maxims, Illustrated by Examples, 42.
to disorders and crimes, and consequently to punishment, which would be avoided by a proper care of them, and watch upon their conduct.\footnote{Wolfe, \textit{Instructions to Young Officers}, 20.}

Manuals and orders emphasized that officers were to supervise rather than entertain themselves: “An officer upon service, that indulges in a disposition for wine, women, for play, will neither gain reputation or honour,” one wrote,\footnote{Callandar, \textit{Military Maxims, Illustrated by Examples}, 42.} while Colonel Wolfe’s instructions for young officers insisted that they were to make themselves useful in mundane training tasks, not occupying their time socializing until an opportunity for wartime glory presented itself.\footnote{Wolfe, \textit{Instructions to Young Officers}, 1.}

But in arguing for the importance of these supervisory tasks and more mundane aspects of military duty, commanders were contending against a general culture of anti-military behavior by the military’s own officers. The army was seen as a fashionable profession for a wealthy young man, one which provided him with ample opportunities to wear a splendid uniform, attract the admiration of ladies, and enjoy a robust social life of dinners, balls, drinking, and gaming. An officer stationed near the enemy during wartime might be castigated for staying up all night drinking, but officers’ late hours were of little concern in other regiments, especially if they were stationed in Britain or other areas where enemy attacks were considered vanishingly unlikely. The officers of the Hertfordshire Militia seem to have been regularly out dining and playing at cards in local assembly rooms until the early hours of the morning without garnering any censure from their commander unless it directly interfered with their duties. This was the fate of Lieutenant George Evans Bruce, who was seen one night returning not with the picket guard he had been ordered to supervise, “but in a Phaeton [a light, fast carriage often favored by dashing}
gentlemen] about Breakfast time.” The commander’s insistence that Bruce be more attentive to his duty was apparently found restrictive enough for Bruce to reply with a demand to be allowed to resign his commission, claiming that he found his commander’s “Rules to be illiberal” and that he consequently found it “impossible...to comply with your Lordship’s strict Discipline.”

That a commanding officer insisting that his subordinates do their duty when they were assigned to do duty could possibly be considered overly “strict Discipline” seems strange to modern sensibilities, but the eighteenth-century British army could be surprisingly lax for officers. In peacetime, up to half the officers of a regiment stationed abroad might be away on leave in more congenial places, usually visiting family or friends in Britain, at any one time. It was thought unnecessary for the whole complement of officers to be present in a peaceable garrison, and duty was easy and undemanding for those who remained. An officer might find himself called upon to mount guard or serve as officer of the day perhaps twice a week, and, other than an occasional appearance at evening roll call, generally had the rest of the day to do as he pleased. And there is evidence that even these light duties were perceived by officers to be more in the line of suggestions or polite requests from their commanding officer rather than non-negotiable orders.

Anti-military behavior was common, widespread, and unremarkable. Wolfe, when he was the commander of the 20th Regiment in Scotland in 1750, repeatedly scolded his officers for neglecting to oversee how their men spent their pay, which, he claimed, had led to “shameful drunkenness observed among the men, on pay-days

203.Stephen Conway, "British Army Officers and the American War for Independence", William and Mary Quarterly: Third Series 41, no. 2 (1984): pp. 265-276. Guy, Oeconomy and Discipline : Officership and Administration in the British Army, 1714-63, 14. Conway notes that, on average, about 40% of a regiment’s officers were absent from the regiment whenever it was posted overseas.
204.Odintz, pp. 28, 68.
in particular,” and reminded them that “there is a standing order in the regiment for
frequently visiting the quarters and messes.”205 The majority of officers in the
Gibraltar garrison casually ignored orders that they were to attend the evening
parade every day throughout the 1770s.206 Stationed at St. Lucia in the West Indies
in 1780, Major Edward Drewe vowed to never show up to parades unless a general
officer was there to see him, and once absented himself for several weeks to visit a
friend stationed on a ship nearby.207 In military garrisons throughout the empire,
officers sent NCOs to command guards in their place or left their guards a few
minutes after arriving so they could go drinking, and the repeated pleading orders
commanders issued for their officers to do their assigned duty and the records of
courts-martial for neglects of duty make it clear that officers could generally ignore
the duty roster with no official sanction until those neglects became truly
egregious.208

Officers defended their claims to gentlemanly status by enforcing sharp contrasts
between themselves and the men in the ranks. Officers and enlisted men were
judged by different standards; identical behavior resulted in different responses
according to rank. Whereas a soldier was commonly enlisted for life, and only
discharged if the army could find no more use for him, an officer could resign his
commission at any time. When George Evans Bruce encountered delays when he
was trying to attempt to resign his over differences of opinion with his commander

205. Wolfe, Instructions to Young Officers, 20.
208. e.g. WO 71/55, pp. 1-26; WO 71/58, pp. 424-467; WO 71/55, 314-339; WO 71/56, pp. 255-270; see
also WO 71/54, pp. 234-246, for the case of a gunner who, exasperated at his officers’ not keeping a
proper guard on the magazine of a defensive fortress on the coast of England, and preferring to be
bribed to allow men to go to London instead of doing their duty, wrote petitions to the board of
ordnance complaining about his officers’ lack of diligence and was eventually accused of writing
inflammatory anonymous letters threatening to blow up the magazine if security was not improved.
and found the Lord Lieutenant of Ireland disobliging, he was outraged, asking, “for what can be more introductive of Slavery in the Military that the [Lord] Lieut. of a County refusing Officially to apply to His Majesty” to release an officer from his commission? Captain William Barry made a similar comparison when he defended his right to resign his commission so he could make insulting remarks about his commander without any fear of offending military propriety: “I lay it down as a Principle, that an Officer in the British Army is not compellable to Continue there against his Inclination, and that he has a Right to resign whenever he pleases”; if he were compelled to “continue in it for Life...he is no longer a Freeman but a Slave.”

A private soldier who did not report for duty and who was found more than a mile away from camp was automatically considered a deserter and might be convicted and executed, while an officer who did the same might be charged, at most, with being absent without leave. Major Drewe left his regiment to visit a friend on board ship for weeks at a time, didn’t show up to a court martial he was supposed to be on the board of, and constantly neglected to appear at regimental parades, but when called upon to defend his behavior, he blithely observed that “tho’ I miss’d some Parades,” they were those “where I had no Command, and was of no Consequence,” and claimed that his long shipboard visits were “To relieve my mind by Changing the Scene; of Course conceiving some Indulgence due to my Rank.”

Officers demonstrated their class status by deliberately flaunting insubordinate behavior and displaying their immunity to the rules and regulations that governed enlisted men’s behavior. One humorous guide for officers advised:

211. WO 71/55, p. 221.
Whenever you mount guard, invite all your friends to the guardroom; and not only get drunk yourself, but make your company drunk also; and then sing, and make as much noise as possible. This will shew the world the difference between an officer and a private man; since the latter would be flayed alive for the least irregularity upon duty.\textsuperscript{212}

Though satirical, this advice was borne out in reality. Enlisted men were frequently confined for drunkenness or bad behavior while drunk, whereas no one seemed to care about officers’ drunkenness until it reached truly egregious levels, such as when Lieutenant Charles Bernard Warde was tried “for being Drunk at Roll Calling and speaking obsencely [sic] on Parade.” Warde had come to a parade appearing to be “in Liquor,” then “fell into some Wild Discourse with Mr. Sidney the Surgeon of the Regiment,” and “among other things talked of a Bolus to cure an ulcer in the Leg of a Wench whom he kept, and concluded by saying with an Execration that she was a Damned good F__k.”\textsuperscript{213} Captain Hamilton got drunk and stumbled into the enlisted men’s barracks and started beating the men asleep in bed with his cane, but was never tried or even censured for it; instead an enlisted man was tried for resisting his assault. This was reflective of a larger cultural shift in the perception of drunkenness in the eighteenth century, from a universal sin to an act which was unfortunate but pardonable when done by the rich, but something to be controlled and regulated when done by the poor.\textsuperscript{214}

The role that insubordination played in establishing upper-class masculinity was generally masked in the more serious military works, confined to remarks like those of Cuthbertson, who claimed that a regiment marked by disorder and discontent was

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\item \textsuperscript{212}Williamson, \textit{Advice to the Officers of the British Army with Some Hints to the Drummer and Private Soldier}, 74-75.
\item \textsuperscript{213}WO 71/73, pp. 291-299.
\item \textsuperscript{214}Rabin, “Drunkenness and Responsibility for Crime in the Eighteenth Century,” 457. Simes, \textit{The Military Medley}, 186, warned that soldiers convicted of “the Crime of Drunkenness should be punished with Severity” because it was “a Crime, which is the Forerunner of all Evils, viz. mutinous Behaviour to their Superiors, Quarrels…Neglects of Duty, Desertion, and often Theft.”
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often the fruit of a commander who attempted to enforce his rules "by the most severe Austerity, without the least Endeavour to soften the Appearance of it's being so, by occasionally throwing in gentle, persuasive Arguments, by which alone, Gentlemen (particularly those of British Constitution) are to be governed," thereby obliquely acknowledging that it was a mark of gentility to be insubordinate in the face of strictness.215 The status conferred by defiance to orders was openly acknowledged in humorous publications: "Evening roll-calling, which drags one from the bottle, is a most unmilitary custom: for drinking is as essential a part of an officer's duty as fighting." If the colonel was so unwise as to "insist on the attendance of the officers, they should not fail to get a little mellow first, to shew the world that they are no milk-sops." Of course, this spirited insubordination was a particular privilege of the upper class; "if any of the soldiers should presume to imitate their example, they must be confined and brought to a court-martial; for what is commendable in an officer, may be in the highest degree reprehensible in a private man."216

By setting up military duty and gentlemanly status in opposition to each other, insubordination became linked with high status. The separation of the public sphere of the officer and the private sphere of the gentleman allowed men to assert their status by refusing to act properly as officers while often avoiding censure. It also allowed them to uphold their masculinity by only showing obedience in certain very circumscribed contexts; they based their claims to status on the idea that their behavior did not need to be regulated, so of course they tried to put as much of their behavior as possible into the non-regulated 'private' category. Furthermore, the

216.Williamson, Advice to the Officers of the British Army with Some Hints to the Drummer and Private Soldier, 77-78.
ability of insubordination to convey masculinity took on greater importance in the army because, in the eighteenth century, older forms of gaining and displaying masculine status were losing their potency and becoming more difficult for officers to obtain as the benefits and privileges associated with manhood accrued in much greater proportion to those of high rank and wealth, rather than being available on more egalitarian terms and granted with age and marital status.217

Examining officers’ perceptions of the relationship between masculinity and subordination demonstrates why there was constant tension between officers of different ranks. Senior officers were anxious to exact subordination and junior officers were anxious not to give it, and both groups were anxious to characterize this behavior in terms favorable to them: those in authority insisted that the subordination of the officers under them was nothing more than the “respect” due to them, while those primarily asked to obey denounced it as “servility.”218  Even Cuthbertson suggested that pleas for officers’ obedience must take into account the needs of their status. Yes, the junior officers ought to cheerfully obey their commander, but it was also the commanding officer’s duty to behave with “Judgment, Coolness and Affability” to his officers, without which it would be impossible for his subordinates to obey him happily.219

Officers made a distinction between the ‘public officer’ and the ‘private gentleman’ as a way of trying to reconcile military subordination with their class privilege. But when military duty and private status came into conflict with each other, there was a growing perception that it was more important to be a good

gentleman than a good officer. Major Drewe certainly thought so, wanting to publish the proceedings of his own court martial (in which he was found guilty and cashiered) in order to vindicate his character. In his opinion, he could publish the record of his trial without any shame whatsoever, for although the trial showed him to be “neglectful, perhaps in Some of the forms of Service,” his “Character was unimpeached in the Essentials,” for it had not been proven that he had ever acted unlike a gentleman. 220 Even Lieutenant Colonel Gordon ultimately prevailed by arguing that his character as a gentleman was more important than his character as an officer. In the trial of Captains Wauchhope and Higginson, Lieutenant Colonel Gordon again and again elicited information that the quarrels his subordinates had were with the orders he gave as a military commander only; they had found no fault in him in his “character as a gentleman.” Gordon used this as the foundation of his claim that the officers’ behavior was unjustifiable because all of them stated that they had no problem with him as a private gentleman and that he had not done anything ungentlemanlike. This was a tacit admission that had he not upheld the proper character as a gentleman, his subordinates would in fact have had the right to shun him and to eject him from the army.

Officers lived in constant fear of showing an unmanly submission that would betray their lack of gentlemanly status and therefore their unfitness for military command. Ironically, one of the most reliable ways to counteract any suspicion that they were not autonomous, independent, and masculine was to disobey the orders of their superiors and position themselves as men who were above the law. Thus, junior officers were increasingly at odds with higher-ranking officers and military

220.WO 71/55, p. 211.
administrators who wished to uphold the army’s hierarchy, seeking to undermine the hierarchy in order to defend their personal claims to masculine status.
Chapter 4: The Cult of Courage

The military career of Edward Drewe, a major in the 35th Regiment of Foot until he was court-martialed and dismissed from the army in 1780, reads almost as a parody of Wolfe’s description of an unsatisfactory officer that opened the previous chapter. Drewe had joined the army as a young man in 1769, and his wealth enabled him to rise quickly in ranks, so that he was the major of the 35th Regiment by 1779, despite his commanders’ reports of his many “Neglects, and Inattentions” to their orders. Drewe had, in fact, “bravely exposed his person” in battle, having led the 35th’s light company at the Battle of Bunker Hill, and he clearly considered the wounds he had received there the crowning achievement that would indisputably and irrevocably “acquire him the character of a good officer.” However, his career ended after he was tried at court-martial by his commander, Lieutenant Colonel Cockburn, who accused him of a litany of crimes including “frequently Absenting himself from the Service of the Regiment for Weeks together,” and “disobedience of orders.” Furthermore, Drewe had indulged in “Repeated Neglects of duty,” the most notorious of which was publicly revealing that he had not even lived up to Wolfe’s sarcastic standard of “learning a little of the exercise,” but rather had so little experience of the manual exercise that he was completely unable to drill the battalion.221

Drewe did not dispute the substance of Cockburn’s accusations. He had, in fact, skipped parades, made extended visits to friends, and stayed in bed late into the mornings rather than performing his administrative duties as one of the regiment’s field officers. On the day that Cockburn had demanded that he drill the battalion,

221.WO 71/55, pp. 197-198.
Drewe testified, he had in fact declined to do it: “Taken Unawares, Several Strangers Present, not having seen that Exercise Practiced for above two Years: I excused myself,” he said, adding that he could “honestly...Confess that I am no Parade Officer.”222 But if Drewe lacked military knowledge, could not properly perform the duties of his rank, and was spending most of his days drinking in hovels late at night and then lying in bed until noon, then just what qualities in himself did he propose as justifications for his continued service as an officer?

Yet Drewe had little problem speaking in his own defence. His early history in the army, he thought, proved his fitness to be an officer beyond all doubts. He had “wished to be Early Distinguished” in his army career, and the opportunity had come within two days of the 35th’s arrival in Boston on June 17th, 1775, when the 35th was part of the force ordered to attack the fortifications that the rebelling colonists had hastily erected on Bunker Hill. Drewe, who had gained command of the light company only the day before, led it into action, with devastating results: “my Company was Cut to Pieces, to six Privates, almost in my Sight. I received that day, Three Wounds, two Contusions; and had my Shoulder dislocated.”223 Drewe suggested that he may have had his faults in his lack of care and attention to his company, his constant absences from parades, and his neglect of the duller administrative duties of an officer, but all that was immaterial in the larger scale of things, for he undoubtedly possessed the one true absolutely necessary quality for a British officer: unmatched physical courage. In Drewe’s eyes, the events that led to his dismissal from the army were completely counteracted by his battlefield valor.224


223.WO 71/55, p. 213. The Battle of Bunker Hill was notorious for the high casualty rate for the British, especially among the officers. Though the great loss of life made many consider it a disaster, it was a bonanza for the surviving officers, many of whom wrote gleeul letters home announcing that they had moved several steps higher on the seniority lists of their regiments over the course of a single afternoon. Conway, “British Army Officers and the American War for Independence,” 276.

224.Edward Drewe, Military Sketches (Exeter: B. Thorn and Son, 1784), ii.
He had shown courage, so his ignorance and inattention to the less important aspects of a military career were immaterial.

Colonel Cockburn saw things differently. In his reply to Major Drewe’s statement, he acknowledged the basic facts of the situation as Drewe had laid them out: “The Prisoner did March that Light Infantry Company as their Captain into the Field, at Bunker’s Hill. He had the Misfortune there, to be Wounded in the Multitude, and had the good Fortune, to recover from those Wounds.” But, Cockburn continued, “Did he there display any Judgment, as an Officer! No. Does a Wound mark the Merit of an Officer? no! Yet ever Since that day it has been rung in our Ears, the Military Atchievements [sic] and Exploits of that Captain Drewe.” Yes, Drewe had in fact been wounded, Cockburn suggested. He had perhaps even shown great physical courage in battle. But Cockburn ridiculed the idea that all an officer needed was courage: “Thank God every British Soldier Possesses true Courage. Something more I conceive is required for the Officer.”

On the surface, this dispute between Cockburn and Drewe appears to be a straightforward conflict about the foundations of military virtue, with Cockburn insisting that no man was fit to be an officer if he was not competent at the various duties that were an officer’s lot, while Drewe argued for the ultimate primacy of the virtue of courage. But the two men actually represented the two sides of a more veiled debate about the proper sources of masculine status for army officers: the wealthy Drewe considered his high rank no less than his due because he had money and social prominence, while Cockburn had spent many years resenting the promotions of younger, well-connected men over his head while he loyally did his

duty in a remote Florida garrison and consequently thought that age and experience ought to be the primary qualifications for high military rank.

But the two officers also placed these rather self-interested arguments about individual rank and status within a framework of concern for the national interest. Britain’s various imperial wars of the eighteenth century had frequently stimulated anxieties about British martial masculinity; every lost battle had unleashed a new round of fretting about whether British soldiers had lost the manly qualities necessary for battlefield success. Cockburn’s insistence that officers be experienced, dedicated, and knowledgeable about the technical aspects of fighting with muskets made him the natural ally of commentators such as Major Robert Donkin, who argued that Britain’s burgeoning culture of luxury, refinement, and gentlemanly politeness was imperiling British masculinity, and, consequently, the nation’s ability to wage war effectively.²²⁶ Donkin worried that a desire for wealth and pleasure rendered a man incapable of waging war and therefore unmasculine, writing that the “insatiable desire of making money, and that mean dispiriting passion, love of pleasure, renders us at times incapable of conducting either a sea or land war!”²²⁷ Drewe, on the other hand, wrote numerous essays claiming that the strictures of linear warfare itself were emasculating, and dangerously feminizing the soldiers forced to practice it, because they restrained soldiers from exercising the manly courage that was fundamental to proper martial masculinity. Furthermore, he claimed, the savage discipline associated with linear warfare threatened the very foundations of the state by being inimical to British liberty. As this chapter shows,


the case between Drewe and Cockburn highlighted the tensions that were evident in the British army at this time, as it sought to uphold two increasingly contradictory goals: the value of courage—which had immense cultural prestige as a key masculine virtue in both the military and civilian worlds—and the needs of the British army itself, which was struggling to adapt to the increasingly technical demands of early modern warfare.

Cockburn’s case against Drewe was a testimony for the importance of officers’ behavior off the battlefield. Any true British soldier, Cockburn had suggested, had the ability to show courage in battle. But the modern British army had need of officers who were capable of more than merely braving the enemy’s shots on the field of battle: it was their job to ensure that the enlisted soldiers of the regiment were well-disciplined, to train the soldiers in the various formations and maneuvers, to inspect their clothing, weapons, and food, and many other administrative tasks essential to maintaining a functioning infantry regiment. Thus, Cockburn argued, Drewe’s disinterest in these non-combat duties was actively harming the regiment.

Cockburn blamed the way that promotion and rank were distributed in the army: Drewe had achieved a high rank at a young age not because of his exceptional military skill, but because of his wealth and connections, which allowed him to purchase promotions.

Describing himself as “the only son of a Gentleman of Family; my Fortune independent of a Profession,” Drewe noted that he “did not rise Unexpectedly” to the rank of major of the 35th Regiment, but that “my Birth, my Indulgent Parents, and my liberal Command of Money, entitled me at least to expect this Step.”228 Drewe was in the fortunate position of being able to buy high status in the army. His

military career started with his purchase of an ensigncy in the 35th in 1769, and by the time the regiment arrived in Ireland in 1773, he had also purchased his promotion to lieutenant. When derided by Lieutenant Colonel Cockburn for unmilitary behavior rendering him unworthy for promotion, Drewe defended his purchases, noting that when he purchased his promotion to captain in 1774, he had been recommended for that promotion by Cockburn.229

But Cockburn furiously refuted Drewe’s implication that he gained his promotion from any merit whatsoever. “I perfectly agree,” he stated, “that a liberal Command of Money, procured him his present Rank. That, and that only has.”230 Another officer remarked that it was “well known Mr. Drewe gave an Uncommon great Sum for his Commission.”231 Although the government had established set prices for commissions for various ranks, and made intermittent attempts to enforce them, the actual prices paid for commissions fluctuated widely depending on the availability of commissions, the fashionability of the regiment, the current location of the regiment (regiments stationed in or near London commanded a substantial premium over those assigned to distant, unhealthy, or unpopular places), and supply and demand.232 They might go for far less than the regulation price, or for far more. Drewe reportedly paid 4000 guineas (£4200) to be promoted to major of the 35th Regiment, a substantial premium over the established price for a majority in a regiment of foot, which was only £2600.

230.WO 71/55, 244.
232.Throughout the century, the crown made attempts to regulate the commission trade: to establish a minimum age, so that commissions could no longer be bought for very young boys; setting minimum amounts of time to be served at a given rank before the officer was eligible for promotion, and to establish fixed prices for each promotion. However, these regulations were not consistently followed; men with money or influence could generally flout them.
Cockburn claimed that he found Drewe to be an inadequate and incompetent officer and his recommendation of Drewe for promotion to captain occurred only because the peculiarities of the system of promotion by purchase or influence had created an unfortunate collision of circumstances that resulted in Cockburn’s reluctant acquiescence to the promotion of the wealthy but undeserving Lieutenant Drewe: As Cockburn explained, when the 35th was stationed in Ireland in 1773, a Succession in the Regiment was Recommended, by the (then) Lieut. Colonel Allen, from the Majority down; in which Succession Lieut. Massey...declared himself a Purchaser of the Company; but on the Commission coming over to Ireland, Mr. Massey, found he could not raise the money.\(^{233}\)

This situation reflects the complex maneuvers surrounding officers promotions: the Regiment’s Lieutenant Colonel, Richard Allen, had a vacancy for the rank of major of the regiment. That rank would be offered to the most senior Captain, if he was willing and able to pay the £700 required to purchase that promotion. If he was disinclined or impoverished, the offer would pass to the next most senior Captain, and so on down until a purchaser was found. But this promotion would, in turn, create a vacant Captaincy in the regiment, and an opportunity for one of the lieutenants to be promoted into it. As related by Cockburn, this opportunity was seized upon by Lieutenant Massey, and he secured the promotion to captain.

But Massey proved to be short of funds when it came time to actually pay for his promotion, and asked his commander to use his influence with the Lord Lieutenant of Ireland “not to Publish those Commissions, for if they had been Published, he would of Course been out of the Army, by being Obliged to put up that Company for sale.”\(^{234}\) That is, if Massey’s new promotion to captain were made public, Massey would owe the government £700 for it, and—not having the money he owed—he

\(^{233}\) WO 71/55, p. 240.
\(^{234}\) WO 71/55, p. 241.
would be forced to raise it by selling the Captaincy again right after he obtained it. Massey proposed instead that his superiors discreetly ignore his previous request and allow him to remain a lieutenant.

But just as the captain’s promotion to major opened up a spot for one of the lieutenants to be promoted to captain, the promotion of Lieutenant Massey had allowed for a promotion of one of the regiment’s ensigns to his newly-vacated lieutenancy, which then allowed an entirely new man to be commissioned as an ensign. If Massey did not take up his promotion to captain, he would destroy the promotion chain for everyone below him. Thus, this was not a feasible solution: the Lord Lieutenant of Ireland had already promised these two promotions to other men, and was not about to revoke them and disappoint two officers with important political connections merely because Massey was insolvent. If the 35th wanted to keep Massey from having to sell out, the only solution was to find another lieutenant in the regiment to purchase the captaincy, at which point the new lieutenant and the new ensign could just take the spots opened up by his promotion instead.

Here the well-heeled Lieutenant Drewe eagerly stepped in to save the situation. He had the money, and Cockburn claimed that he was forced to recommend him for promotion and did so only to save Massey from being forced out. He did so with much resentment, having observed many “Neglects, and Inattentions” in Drewe’s behavior as lieutenant. But the perquisites of the Lord Lieutenant of Ireland gave him no choice. Although having, as Drewe described it, a “liberal Command of Money” was the quickest and surest path to promotion regardless of military merit, it was not the only path. Contemporary records make numerous references to the role

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235. The deeply contingent nature of military promotion was well known at the time; see, for instance, the example warrant for a promotion in Simes’ *Military Medley*, which specifies, after the retirement of the major (“A.”), which senior captain was to succeed to the majority, and followed the promotion chain all the way down through the ranks to “..and I. Gentleman, to succeed to the said H. as Ensign” (Simes, *The Military Medley*, 180.).
of “interest” in gaining commissions or promotions—that is, their tendency to go to people with parliamentary connections, to relatives of peers and people who controlled parliamentary seats, and so on. These commissions gained from “interest” often did not have to be paid for, and the men with the power to issue commissions—the Secretary at War, the Lord Lieutenant of Ireland, and the Commanders-in-Chief of Britain and North America in wartime—found themselves continually deluged with letters from commission-seekers and their patrons.

Patronage and using one's influence to secure plum positions for one’s relatives and friends was a normal and acceptable part of a high-ranking officer's duties. For example, in Lord Loudoun’s list of men who were to be provide ensign’s commissions and why, he noted that some had been of great service to the army in North America, others came with recommendations from peers of the realm, and one was “A Relation of Mine.” A satirical advice manual warned generals not to try too hard

236 An ensign’s commission for a relative was a common favor asked by MPs who were “Friends of the Government,” and were an especially common source of patronage in Ireland, often to the detriment of the army (Odintz, 288-292). James Agnew, an officer stationed in British North America, wrote numerous letters to his wife reporting on the schemes of other officers stationed at Halifax to ensure that their friends and relations would be favored for promotions. One major, he claimed in 1758, was considering making a winter trip across the Atlantic to London in hopes of using his influence to secure a “Company without Money” (i.e. a promotion to the rank of Captain without the payment of £700 usually required) for a friend (James Agnew to Mrs. Agnew, Halifax, 6 November 1758, Agnew Correspondence, Huntington Library, HM 2909). By 1762, with the war in North America winding down, Agnew himself was claiming that he would leave the army if a promotion to Lieutenant Colonel was not forthcoming, adding however that his “hopes were never more sanguine than at the present, for by the late promotions made at home,“ he was “now the oldest [i.e. most senior] Major in the Army” (James Agnew to Mrs. Agnew, Quebec, 6 March 1762, Agnew Correspondence, Huntington Library, HM 2918). Fourteen years later, during Revolutionary War, Agnew triumphantly reported that he had been appointed Brigadier General by Howe, which put him in far better financial circumstances as well as putting him in position to dispense patronage of his own: he lamented that their son was not with him in Canada, for, Agnew reported, “I could have had him appointed my Major of Brigade which is more than ten shillings a day, & got him a company without purchase” (James Agnew to Mrs. Agnew, Halifax, 24 April 1776, Agnew Correspondence, Huntington Library, HM 2921).

237 Odintz, 303, 253-54. Odintz notes, for example, the extreme influence that one colonel of the 8th regiment, Bigoe Armstrong, exerted in snatching up vacant commissions in that regiment for his Armstrong relations; at one point nearly a third of the regiment’s officers were related to him. Captain Dussaux claimed that Lieutenant Colonel Cane’s accusation and prosecution of him at a court-martial was done “from Sinister designs” rather than any crime he had committed; because, Cane’s “Son in Law being the eldest Lieutenant” in the regiment, if Dussaux was convicted and cashiered, Cane’s relation could be promoted into Dussaux’s vacant captaincy (WO 71/55, p. 17).
to defeat the enemy, as victory might “put an end to the war, before you have
provided for your relations and dependents.”

Cockburn was hardly alone in denouncing the role that wealth and interest played
in obtaining promotion. Promotion was hard for men without money or connections,
often only coming after a wartime casualty necessitated promoting an officer to fill a
vacancy without requiring any payment from him. After many years of service,
these men might be lucky enough to rise to the rank of lieutenant-colonel, but it was
far more likely for them to retire still at the relatively lowly rank of captain.

Meanwhile, it was well-known that officers with connections rose quickly though the
ranks regardless of merit. Some satirical instructions to commanders warned
them not to promote an officer, “however brilliant his merit, unless he be your
relation...As you probably did not rise to your present distinguished rank by your
own merit, it cannot reasonably be expected that you should promote others on that
score.”

These older officers with much military experience but who lacked high rank
 inveighed against young, uncommitted officers whose money had bought them
positions of authority, and the numerous detractors among the authors of popular
military treatises, who claimed that it weakened the army. Major Donkin compared
the current British practice unfavorably to the virtuous Romans, who had demanded
that all officers choose between “devoting themselves entirely to the service, or

238. Williamson, Advice to the Officers of the British Army with Some Hints to the Drummer and Private
Soldier, 9-10.
240. WO 71/54, 155-176, for an example of the role of patronage as a regular method of obtaining
promotion; despite his thought that Lt. Bird was somewhat neglectful of his duty, Lieutenant Colonel
Bayard was Bird’s “particular friend” who had brought him into the corps, given him his original
commission, introduced him to all his friends, and “seem’d to be very urgent always to further him in
said Corps, and took a very active part for his promotion and Interest, Recommending him for a
Lieutenancy in the last promotions which were sent to Sir William Howe” (p. 171).
241. Williamson, Advice to the Officers of the British Army with Some Hints to the Drummer and Private
Soldier, 4-5.
letting them that did their duty, pass over their heads.” Donkin was particularly incensed by the ability of well-connected officers who stayed in London while their regiments were stationed abroad to use their proximity to the sources of power to gain promotions at the expense of officers who were actually doing their duty, which would have put him in sympathy with Lieutenant Colonel Cockburn. When Cockburn was a mere Captain, he protested the promotions of two other officers in the regiment, Captain Sherwood and subsequently Captain Gaul, to the rank of major, noting that while he "was struggling with an unhealthy climate at the risque of his life to do his Duty" in a Florida garrison, Sherwood and Gaul had "reaped the fruits of his Labour" by staying home in England, where they were in a prime position to snap up the vacancies in the regiment. Officers proposed various schemes for ensuring that the men who were actually doing their duty with regiments stationed abroad were not at a disadvantage, such as Major Donkin’s proposal “for all majors prior to 1773, that are able and willing to purchase lieutenants colonelcy, to give in their names in order to be transmitted to the war office, that their pretensions may be considered when any promotions by purchase are going on at home.”

As Cockburn’s further accusations of Drewe indicated, his resentments of the officers who had been promoted ahead of him stemmed not only from their literal good fortune, but also from what he perceived as their military incompetence and lack of professionalism. Sherwood and Gaul had preferred soft assignments in London to the arduous duties of a frontier garrison in a remote outpost of empire. Drewe at least showed a willingness to cross the Atlantic and actually join his


243. BP 6A/516, James Cockburn Memorial), cited in Odintz, p. 131. It was common for many of a regiment’s officers to be away on leaves of absence while it was stationed abroad; Stephen Conway calculates that, on average, about 40% of a regiment’s officers were absent from the regiment when it was posted overseas. Conway, “British Army Officers and the American War for Independence,” 268-269.

regiment, but had little interest in the non-combat duties of an officer. As well as his various “Inattentions” while a lieutenant, after his promotion to captain, “he often neglected, and Disobeyed Orders, in the care of his Company, and Attendance on Parades.”  

Drewe’s next promotion to major did not improve his conscientiousness. Despite written orders obliging “all Officers to attend Parade Morning and Evening,” Drewe “very seldom, not for Weeks together made his Appearance on the Regimental Parade.” Lt. Shaw confirmed that he “heard Major Drewe declare, that he never would attend a Regimental Parade, unless a General Officer was there.”

And on the rare occasions that Drewe actually did attend the parade, Cockburn claimed that Drewe made his utter inability to act as a field officer unmistakably plain. The final straw occurred when “one Evening on the Parade,” Cockburn explained, “I did Order him as Major of the Regiment, to put the Regiment thro’ the Manual Exercise,” —the regiment’s customary musket drill in which they practiced loading, presenting, and firing their weapons. “The Major’s answer to me was, that I took him then unprepared, and that he was not then Capable of performing it.”

By allowing commissions and promotions to be purchased, wealthy men could obtain military rank without military experience, which, in the opinion of some writers, directly affected the fighting ability of the army. For example, General Humphrey Bland praised the sophisticated tactics of armies of the Dutch Republic, which he claimed were only possible because of the superior experience of their officers, who were promoted by merit, “as the Selling and Buying of Commissions is a Traffick...unknown, or at least not allowed of, in the Republick.”

245.WO 71/55, 244, 240-41.
More common were complaints that those who expected to be quickly promoted to high rank often lacked of knowledge about the more humble aspects of company and regimental administration, and were uninterested in gaining it, seeing that knowledge as the provenance of poorer men who expected to spend many more years as subalterns and captains. “When noble Birth and high Connections give certain Hopes to a young Officer, of his speedily arriving to the Rank of Colonel, he may in that case despise the Minutiae of the Service,” Cuthbertson noted disapprovingly. Cuthbertson claimed his instruction manual detailing the basic military duties of an officer “may in a particular manner be useful to those, whose Connections hurry them into rank, before they are qualified, by Application, to discharge the several Duties of it with Honour.”

Simes argued that because influence was so much more reliable than merit in gaining “Preferment,” fortunate young officers were apt to neglect their duties: “Money and powerful Relations will always procure them what they want; they have, therefore, no Occasion to apply themselves to the Knowledge of their Duty.” And it was widely regarded as a commander’s lot to resign himself to “the intrusion of interest, too often exerted in favour of very improper persons,” because “when by these means, a man is forced upon a Regiment, there is scarcely an immediate redress, let his qualifications be ever so improper for the military profession.” All a commander could do was to try to make sure that the ensigncies that were within his power went to men “unexceptionable in every respect,” in order to “guard against the mischief” that would surely be forthcoming from the political appointees.

249. Cuthbertson, A System for the Compleat Interior Management and Oeconomy of a Battalion of Infantry, ix-x.
251. Cuthbertson, A System for the Compleat Interior Management and Oeconomy of a Battalion of Infantry,
As well as pointing out the negative effects on the service, those without money decried the purchase system in the language of outraged masculinity, claiming that worthy officers were passed over for promotion and had to bear the humiliation of younger, richer men holding higher military rank — and thus authority — over them. These men repeatedly used the term "mortification" to refer to this violation of the age-based social hierarchy.\footnote{Shepard, "From Anxious Patriarchs to Refined Gentlemen? Manhood in Britain, Circa 1500–1700," 295, suggests that during this period, class distinctions began to override age as a marker of status for men.} "[W]hich among us without interest...can expect to be more than a lieutenant colonel after 40 years service, with probably the mortification of having seen many younger officers of power and credit skip over out heads in that period?" asked Major Donkin.\footnote{Donkin, \textit{Military Collections and Remarks}, 129.} Captain Alexander Macintosh of the 10\textsuperscript{th} Foot complained that "nothing is more mortifying to an old Soldier, than to be commanded by a number of young inexperienced Boys (which is often the case in our Service)".\footnote{WO 1/992, Capt. Alex. Macintosh in Barrington, Boston, 9 January 1776, quoted in Urban, \textit{Fusiliers : The Saga of a British Redcoat Regiment in the American Revolution}, 12.} Another wrote of "meritorious Officers" who had the "cruel Mortification of seeing themselves commanded by young Men of opulent Families, who came much later into the Service, and whose Fortunes have enabled them to amuse themselves frequently elsewhere, while the others, continually at Quarters, have done the Duty of those Gentlemen, and have learnt their own."\footnote{Simes, \textit{The Military Medley}, 303.}

In Cockburn’s eyes, Drewe was the very picture of a young man of opulent family who indulged in private pleasures while other officers were forced to take up the military duties he neglected. Drewe, as the regiment’s major, ought to have been working closely with Lieutenant Colonel Cockburn in administering the regiment and issuing orders to the different companies and detachments. But Cockburn

\footnote{1-2.}
disapprovingly elicited testimony from his adjutant that he “seldom saw him [Major Drewe], tho’ he called at his Tent every day from Ten, Eleven, and Twelve oClock, and his received Information from his Servant, that he was then asleep in Bed.” The adjutant professed himself “much surprised at his laying in Bed so late,” and could think of no acceptable reason for it: “I did not Conceive he laid in Bed from Sickness, as I have seen him walking Out afterwards.” The cause of Drewe’s late risings soon became apparent, as one officer testified, “it was no Wonder it was so, for that he had heard that the Major was every night drinking” and another claimed that “Major Drewe had been seen night after night, drinking in a hovel, near the Lime Kiln.” A Brigadier General told Cockburn “that he was Obliged a Second time to reprimand Major Drewe, for some Misbehavior he heard him Committ in a Hutt, at an Unseasonable hour of the night.” And Lieutenant Shaw’s testimony showed that Drewe was keeping rather different hours and had rather different tastes in breakfast food from the other officers of the regiment: Shaw "went to Robinson's Tavern to get Breakfast" and was shown to a room in which Major Drewe was still in bed. "After I had been some time in the Room," Shaw continued, "the Major’s Servant came in; I asked him, if he had not better wake his Master to take some Tea; he Answer’d he believed his Master would rather have Grogg."256

Cockburn’s claim that Drewe’s late hours and constant drinking constituted unmilitary behavior were hotly contested by Drewe, who demanded to know precisely which of the Articles of War forbade him from consuming alcoholic beverages with his breakfast. As for his late hours, he stated, "I never heard for my part, that lying a Bed in the Morning was inconsistent with my Rank. I thought it the Privilege of a great Man."257

256.WO 71/55, pp. 198-204.
This refusal to abide by the more sober and dutiful conventions of social behavior, however, did not make Drewe as much of an outlier as Cockburn might have wished. Heavy drinking was the norm for most officers, and Drewe’s habit of taking part in the opulent privilege of lying in bed all morning was, for the time, an astonishingly mild example of an officer’s indulgence in decadent self-gratification. Many other officers were notorious for indulging in the whole trinity of luxurious vices—drinking, whoring, and gambling.

The military culture of womanizing was extremely disreputable in North American civilian eyes because it normalized not just fornication, but also adultery. It was almost unremarkable for officers to be having affairs with the wives of other officers, and this culture of adultery extended to—and perhaps was even more prevalent at—the highest ranks of the army. Generals Howe, Burgoyne, and Clinton all had mistresses who accompanied them during their North American campaigns, and each of them was another man’s wife. These women’s husbands were all lower-ranking men who, it was said, had willingly prostituted their own wives in return for lucrative government appointments or other favors. Most notorious in this regard was Howe, whose affair with Elizabeth Loring was deeply criticized in the press both in Britain and in America. Her husband, Joshua Loring, was a prominent loyalist whom Howe appointed to be the commissary for prisoners of war. Perhaps following in Howe’s footsteps, Burgoyne’s mistress, whom he took on the Canadian expedition which was to end in disaster at Saratoga, was also the wife of a commissary. Clinton’s

261. O’Shaughnessy, *The Men Who Lost America British Leadership, the American Revolution, and the Fate*
mistress, with whom he had five children, was the wife of an enlisted soldier, Thomas Baddeley, who seems to have gained an officer’s commission out of the affair and was promoted through the ranks to captain before he conveniently died in 1782. Tales of wives of enlisted soldiers furthering their husbands’ careers through adultery were prevalent enough for writers to make references to the advantages of having “a pretty wife, sister, or daughter” for enlisted men seeking promotion to a NCO position, or for sergeants wanting to make the grand leap over the class divide into an officer’s commission.

British commanders were derided by civilians, especially God-fearing New Englanders, not merely because of their mistresses, but because their adulterous affairs were perceived as merely one part of a personal life steeped in the indulgence of luxurious vice. Burgoyne was criticized for spending the days before the devastating surrender at Saratoga staying up all night carousing with his mistress, singing, and drinking. Broadsides claimed that Howe spent his days playing cards, his nights in bed with whores, and all of his waking hours drinking, going so far as to claim that Howe deliberately delayed engaging the rebels so he could continue to enjoy the charms of his mistress. But those who criticized high-ranking military men for their lives of immoral excess did not cite their need to adhere to the rules

262. O’Shaughnessy, The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire, 238.
264. O’Shaughnessy, The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire, 238.
265. O’Shaughnessy, The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire, 158.
that governed ordinary men’s social behavior. Rather, they claimed, these commanders’ indulgences in luxurious vice was harming the nation’s ability to wage war. Luxury was making these men soft and and unmanly, sapping their appetite for aggression and attack.

Members of the military disapproved of lack of aggression and connected it to luxurious living; ideas on martial masculinity were heavily influenced by contemporary ideas of classical virtue. In Major Donkin’s view, the Romans were the quintessential exemplar of a warrior race, not only because of their stringent martial discipline, but because they rejected luxury: “fewer things were necessary for their sustenance; they were more frugal, their studies and exercises more useful and manly than ours.”

He connected manliness with enduring hardship and rejecting luxury, and was also implying a link between luxury and insubordination. The body of officers might not have gone as far as Donkin, but in general they were in agreement that too much concern with commerce and comfort were incompatible with martial masculinity, proudly enumerating the hardships they had suffered on campaign and expressing disdain for those who were too concerned with material comforts. For Donkin, war was the ideal—and indeed the only—antidote to luxurious vice. The American war, he argued, provided an opportunity to combat the addiction to luxury that was crippling the country. Suffering physical hardship, especially if it was done on a military campaign, was a source of pride and masculine status.

But Drewe rejected the idea that he needed to suffer hardship in order to properly prepare himself for the manly art of war. Rather, he suggested, he had already proved his courage and his manhood in battle, and therefore he could indulge himself. Suffering hardships during war not only made men more masculine

267.Donkin, Military Collections and Remarks, 3-4.
but also seemed to give men some immunity from the charge that they were unmanly for wallowing in luxurious vice when they were wallowing in luxurious vice. Drewe clearly seemed to feel that because he had been wounded in battle, he could lie in bed all day and drink all night without incurring any deserved censure.

This was due to the strong association of violence with masculinity, and the role that violence played in masculinizing otherwise problematic behavior. Violence was indisputably a masculine act; a man who talked pleasantly in the company of women and behaved with unfailing politeness might be thought unmanly, but a man who killed in battle could then talk pleasantly in the company of women without suspicion. War was a way to reconcile politeness and luxury—which might otherwise have problematic effeminate connotations—with masculinity.268 Michèle Cohen suggests that the concept of chivalry allowed the refashioning of the polite gentleman into an indisputably masculine character; exaggerated courtesy and veneration of women and other refined behavior to the weak or unfortunate could now be cast in this heroic medieval mold.269 However, violently masculine behavior was necessary to give such chivalrous behavior the proper tint of honorable masculinity rather than of craven effeminacy; a man could behave generously to a distressed enemy on the battlefield precisely because his previous violence negated claims that his good behavior was motivated from weakness and fear.

Courage, as the source of the soldier’s violent battlefield behavior, was therefore the foundation of all military virtue. By positing courage as the basis for his status

268. On support for the army and imperial conquest as a way to negate feelings of inadequacy and unmanliness: John Tosh, "Masculinities in An Industrializing Society: Britain, 1800–1914", *Journal of British Studies* 44, no. 2 (2005): 330-342. Also, Kate Haulman, "Fashion and the Culture Wars of Revolutionary Philadelphia", *The William and Mary Quarterly* 62, no. 4 (2005): 625-662, on how the connection between ornamental dress and femininity was often severed if the ornamental dress in question was a military uniform.

as an officer and the heart of the code of military masculinity, Drewe had the advantage of advocating for a value that was unassailable. No commentator could possibly propose that courage was a dispensable asset for a military man. Even officers who spent immense time and effort to arguing for the necessity of strict military discipline admitted its supremacy. “No qualification whatever can supply the want of courage in a military person,” wrote one such author, in a work otherwise devoted to minutely detailing the ways that soldiers ought to show proper military subordination.  

In fact, officers who wanted to argue for the the value of discipline and subordination often had to try to hijack the cultural power of courage by insisting that the submissive behaviors that they wished to encourage in their subordinates were actually proofs of manly courage. The soldier’s “natural and laudable passion for true glory,” one enlisted soldier recalled being told in an officer’s speech, was supposed to inspire in him “a sentiment of dignity, which leads to cleanliness, and neatness in dress, to abstain from drunkenness and every other abject vice; it renders them attentive and diligent on duty, cool and brave in action; on all occasions they will be patient, obedient, disinterested, and generous. The approbation of their officers will follow, and from thence many indulgences.” Here, the officer was trying to convince his men to behave in the way officers found ideal, by connecting military glory and fame not only to the conventional links with courage and gallantry, but also the less intuitive attributes of obedience, cleanliness, and sobriety.

271. Roger Lamb, An Original and Authentic Journal of Occurrences During the Late American War From Its Commencement to the Year 1783 (Dublin: Wilkinson & Courtney, 1809), 224-226.
This sort of rhetoric was a way to try to link the culturally exalted values of masculinity with obedience by proposing a mutual association with courage. The link between manliness and courage was longstanding and uncontroversial, and its counterpart, the link between cowardice and effeminacy, was deployed as an effective way to punish those who avoided battle by forcing them to wear women’s clothes and thus taking away their place at the top of the gender hierarchy. This use of the gender hierarchy to shame men for cowardly behavior can also be seen in this order issued by General Wolfe: “If the soldiers of a company discover a maligner [sic] at any time, or one of those rascals that shun duty and danger, from cowardice or effeminacy, they are to inform the non-commissioned officers of the company, who is to acquaint the captain of it, that such female characters may be properly distinguished.”

But Wolfe’s order was also an innovation, because it characterized the refusal to work, as well as the refusal to fight, as unmanly cowardice. This was in keeping with a larger rhetorical strategy that attempted to associate courage with obedience to orders. “[T]he present method of fighting,” one military writer observed, required not physical strength, but obedience; thus courage “has been found to consist more in discipline, than in any particular constitution either of mind or body.” The supposed link between courage and subordination was emphasized by several other writers, many of whom referenced Saxe’s contention that “It is a false notion, that subordination, and a passive obedience to superiors, is any debasement of a man's courage.” In fact, Simes added, “so far from it, that it is a general remark, that

273.Wolfe, Instructions to Young Officers, 41.
those armies which have been subject to the severest discipline, have always performed the greatest things. ²⁷⁶

But Saxe was quoted so assiduously precisely because the eighteenth-century mind would not be persuaded on this point. Manly courage was demonstrated not by subordination but by its exact opposite. Submission to another’s authority could not be divorced from the suspicion that it ultimately stemmed from fear, and thus obedience could never have an untroubled and uncontested existence as a primary value of military masculinity. They thought, with Dr. Johnson, that “insolence in peace is bravery in war,” and so in spite of military men’s pleas that subordination was the most fundamental foundation of a functioning army, in the public mind courage would ever remain more fundamental still, and in any direct contest between the two the cultural power of courage must invariably triumph. ²⁷⁷

Courage, Drewe claimed, was ultimately the only thing a soldier absolutely required, far more important than learning about musket drills and maneuvers. And this attitude was a common one. Many officers reacted with bewilderment to the idea that they ought to educate themselves about military matters, learn their military duties, and behave with strict adherence to proper military discipline, and, indeed, often disdained those with technical military knowledge, such as the army’s engineers and artillery officers. ²⁷⁸ Bennett Cuthbertson bemoaned the “indolent Dispositions” of officers who were unwilling to do the work of properly administering a battalion, ²⁷⁹ and Thomas Simes and Humphrey Bland admonished officers to

²⁷⁷ Spring, With Zeal and with Bayonets Only: The British Army on Campaign in North America, 1775-1783, 124.
²⁷⁸ Starkey, “War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781,” 12.
²⁷⁹ Cuthbertson, A System for the Compleat Interior Management and Oeconomy of a Battalion of Infantry, iv.
remember the need to "apply ourselves to the Study of the military Art," but perhaps were not too successful in reforming attitudes towards study. A satirical book of "Advice to the officers of the British Army" claimed that young officers who were “advise[d] to learn the manual, the salute, or other parts of the exercise” ought to reply "that you do not want to be drill-serjeant or corporal--or that you purchased your commission, and did not come into the army to be made a machine of."

Furthermore, the author advised, "It will also be perfectly useless for you to consult any treatises of military discipline, or the regulations of the army. Dry books of tactics are beneath the notice of a man of genius, and it is a known fact, that every British officer is inspired with a perfect knowledge of his duty, the moment he gets his commission." Perhaps even in reference to Drewe’s case, his “Advice for the Major” remarked on the uselessness of learning how to maneuver the battalion, for “no other manoeuvres are used upon service, but to march up to the enemy, when the battalion feels bold, and to run away, when it is not in a fighting humour.”

But Drewe, for his part, mocked those who emphasized turning out a regiment with a proper, orderly, military appearance, suggesting that they were fools who thought that looks were more important that fighting ability. He ridiculed the idea that the carping of drill sergeants could play any essential role in assuring victory in battle. "Do you think…that the field of Blenheim was won by the manoeuvres of its general?” he asked sarcastically. “No; he was entitled to his success by the superior polish of his boots…can ye think, that the success of an army depends on the genius

280. Simes, _The Military Medley Containing the Most Necessary Rules and Directions for Attaining a Competent Knowledge of the Art: To Which Is Added An Explication of Military Terms, Alphabetically Digested_, 32.

281. Williamson, _Advice to the Officers of the British Army with Some Hints to the Drummer and Private Soldier_, 72.

282. Williamson, _Advice to the Officers of the British Army with Some Hints to the Drummer and Private Soldier_, 44.
of its leader? Does it depend on the vigour of its troops? No. On whom does it depend but its drill serjeants.\textsuperscript{283}

An officer who had too much concern for these matters, Drewe and other officers asserted, were betraying an officer’s exalted position as a member of the upper class. They objected to the idea that they should learn the duties of enlisted men, on the grounds that this was demeaning to their class position as gentlemen.

Training the men, they claimed, was for the NCOs and perhaps the adjutant, not a task for the commissioned officers.\textsuperscript{284} In fact, Lambart claimed, when “such minutiae are dwelt upon by an officer,” it was a threat to the class system as a whole, “by serving to level and confound distinctions” between the classes. In order “to preserve a suitable dignity for himself,” an officer ought to “leave those littlenesses to those below him.”\textsuperscript{285} Drewe went the furthest in mocking officers concerned with “the interior oeconomy of a regiment or company. This concern with “the domestic duties of a soldier,” was supposed to be an object of such consequence, that whole volumes have been written on it, in which the character of a drum-major has been delineated with uncommon exactness, and every possible method of cleaning the accoutrements ascertained with

\textsuperscript{283}Drewe, \textit{Military Sketches}, 60-62.

\textsuperscript{284}The adjutant was usually a commissioned officer, who had the responsibility for the administrative tasks of the regiment, such as issuing routine orders to the sergeants, keeping the regiment’s musters, and supervising the imposition of the sentences of regimental courts-martial, as well as being in charge of training and drilling recruits. He held that appointment in addition to his officer’s commission and received additional pay for carrying out these duties, but the appointment was by no means a sought-after one; officers with financial means shunned the position, part of a larger trend of officers more explicitly associating routine or administrative military tasks with the lower class. During this period, another staff appointment, that of quartermaster, slid definitively downward into an NCO position: “The rank [of quartermaster] was looked upon as menial, and unless they already held some other regimental commission troop quartermasters were treated only as slightly superior warrant officers. As the century progressed, troop and battalion quartermaster ships were increasingly regarded as fitting rewards for senior sergeants.” Guy, \textit{Oeconomy and Discipline: Officership and Administration in the British Army, 1714-63}, 14.

\textsuperscript{285}Lambart, \textit{A New System of Military Discipline, Founded Upon Principle}, iii-iv.; see also, Williamson, \textit{Advice to the Officers of the British Army with Some Hints to the Drummer and Private Soldier}, 39: “The study of the manoeuvres you may leave to the serjeant-major, and that of the exercise to the drill-serjeants: all that is necessary for you to learn, is how to drop the point of your sword.”
the nicest precision; yet notwithstanding this assistance, the task has been found so arduous, as to employ half the time of many able officers, who, by the oath, the cane, the aid of courts martial, and an unremitted attention, have absolutely arrived at the perfection of settling their weekly pay bill, and bringing their shoes and firelocks to a tolerable degree of polish.286

But worrying about these matters of military minutia merely revealed one’s lack of status. “I confess my deficiency in this great branch of my profession,” Drewe stated, claiming that this was because he was “born a gentleman, and educated as a soldier,” and therefore his “intercourse with mechanics has been but partial.” In fact, he managed to link the neglect of boring military duties with proper upper-class behavior: “altho' I allow a lance corporal to be of great use in his department, yet I have perhaps fondly supposed that a commissioned officer was a superior personage, whose dignity must not be prostituted; that he should command the troops he is entrusted with, not act simply as the first non-commissioned officer amongst them.”287

But more importantly, Drewe claimed, the strict discipline and control over enlisted men that was characteristic of linear warfare was an active threat to the nation. To control each minute aspect of the soldier’s life, to reduce him to the most wretched submission, to make manifest the officer’s power of life or death over him—this was, in the British imagination, the glory or the shame of the Prussian system of military discipline. As Drewe described it,

The genius of the King of Prussia combines the most minute attentions to trifles, with the sublimest depth of military tactics; and he has won victories. But some of our commanders overlooking, or rather not comprehending, the elevated scale of war, have fixed all their attention on these trifles, hoping also to win victories by the assistance of hatters, cordwainers, and

286.Drewe, Military Sketches, 42-43.
287.Drewe, Military Sketches, 42-43.
taylors. But this would rather excite the smile of pity, than call for
the scourge of satire. The evil is of a deeper root. Frederick's
rigour is excessive, and his troops are amongst the best in the
world. We have therefore adopted this rigour, in all its force,
judging little of different situations, and still less of that attention
which should be paid to national character.288

The armies of each nation were thought to have a distinct temperament. The
French were thought to be in general indisciplined, but superior to all other nations in
art of sieges and fortifications, whereas the Germans (the Prussians in particular)
were thought to be naturally obedient and pliable. The English were praised for their
courage and eagerness to enter battle, but they were also thought to be
undisciplined and insubordinate.289 Rigorous discipline, Drewe argued, might work
for Frederick's troops, but it was not suitable to the British character:

The Prussian armies are chiefly composed of native Germans,
slaves from their birth; and soldiers of fortune, without home or
connexion. Deprived of these social ties, which call forth the finer
feelings of the mind, they are patient, submissive, and indifferent
to all worldly matters. Unaccustomed to lenity or comfort, with
them battle is vacation from punishment, and holds forth the hope
of relief from a painful existence. But far different is the high-born
spirit of the British soldiery. Active from the love of fame, and their
country; for these they risque all the comforts of our genial
government. In general, independent, accustomed to the freedom
of reasoning on the conduct of others, and of judging for
themselves, how impolitic is it to introduce this discipline amongst
them!290

Britons, Drewe argued, naturally possessed a tendency to be liberty-loving and
courageous, and attempts to impose German methods of discipline merely
squandered this priceless national asset. Bland tried to counteract this claim,

288.Drewe, Military Sketches, 44.
of the British Army, 1715-1795, 267; Armstrong Starkey, "Paoli to Stony Point: Military Ethics and
290.Drewe, Military Sketches, 44-45.
asserting instead that the English lack of discipline stemmed from officers' neglect, not some inherent property of national character. Although conceding that “It is allow'd by all Nations, that the English possess Courage in an eminent Degree,” Bland denied that insubordination was an essential part of the British national character:

We have a common Notion, that this Sang Froid, or Obedient Quality in the Dutch, is owing chiefly to Nature, by their having a greater Proportion of Phlegm in the Constitution than the English, by which their Minds are not so soon agitated as ours. But I look upon this way of Reasoning, to be rather a plausible Excuse for our own Neglect, in not bringing our Men to the same Perfection of Discipline, than the Production of any natural Cause in the Dutch.291

Bland opined that “a natural Love of Independancy...reigns in all Mankind,” and that officers must forever be on their guard against it; when troops became used to having their own way, it would require “Time, infinite Pains and Severity, to reduce them to their proper Obedience.”292 But those who concluded that the English could not learn discipline “are certainly mistaken in that, since none are more capable of Instruction than the English; and when proper Means are used, neither Patience, nor Obedience are wanting in them.”293

But Bland’s view was not widely adopted; instead, most continued to assert that it was not possible to bring English troops to the same discipline of a Prussian regiment. Nor was it wise to attempt it, for English indiscipline was the inevitable result of English courage.294 Furthermore, they claimed, indiscipline was merely the price to paid in a country which placed such emphasis on liberty. Although the harsh

293.Bland, A Treatise of Military Discipline, 147.
methods favored by Frederick the Great became popular among some British regiments after the Prussian successes during the Seven Years’ War. However, commentators generally argued for the unsuitability of German methods for liberty-loving Englishmen, who would not submissively accept beatings like the downtrodden wretches of Frederick’s armies. Drewe himself made a ferocious critique of admirers of the Prussian method, denouncing the foolishness of those who focused on “trifles” and ended by directly blaming the fad for the majority of the army’s problems: it encouraged tyranny; its “uncontrouled oppression” would “sink the tender spirit in despondence, or rouse the more active one to revolt”; and it caused disharmony among the officer class. In his view, the army ought to encourage spirited, high-minded valor, not an excessive concern with trifling matters like properly cocked hats, perfect lines, or exacting obedience to orders.

And even more dangerously, Drewe argued, strict disciplinary practices were destroying the soldiers’ masculinity. The focus on soldiers’ dress and the overwhelming emphasis on ensuring that they appeared in a proper uniform was making soldiers submissive and effeminate. Modern scholars suggest that the soldier’s splendid, fashionable, and ornamented uniform led to fears that they had a too feminine concern with appearance, but this was not precisely the connection. Military dress did, in fact, threaten masculinity, but not precisely because of ornamentation or fashionability. Rather, military dress was associated with subordination, and subordination was unmanly. The uniform brought fears of

296. Drewe, Military Sketches, 44-45.
297. Hurl-Eamon, Marriage and the British Army in the Long Eighteenth Century, 101, 119, 92-94. posits that soldiers’ uniforms—which attracted the admiration of women and homosexual men—made them vulnerable to the charge of being too feminine, a charge that they sought to refute by hyper-masculine behavior such as womanizing and displaying battle wounds; Haulman, “Fashion and the Culture Wars of Revolutionary Philadelphia,” 637. suggests that the gender confusion caused by fashionable men threatened the stability of divisions between masculine and feminine.
emasculaton not because it was ornamented, but because it was regimented—the man wearing it had to submit his body to it. This link was understood at the time; the same regiments that were renowned for their strict discipline were also the ones most admired for their military appearance. Military commanders’ mania for all things Prussian in the wake of Frederick’s victories extended not only to desires for the unquestioning obedience reputed to be the hallmark of Frederick’s troops, but also a wish to turn out their regiments in the neat, orderly style of a Prussian regiment.298

This connection between military dress and an unnatural subordination was understood by both Cuthbertson, who emphasized its importance, and by Drewe, who denounced it. Cuthbertson claimed that the dress of a battalion was important for establishing its reputation: “it is often suspected, that a slovenly and irregular method of dressing, bespeaks a drunken, unregarded Battalion.”299 Furthermore, he noted the importance of dress for forming a soldiers’ character and bringing him to the requisite subordination: “When once a Soldier can be brought to take a delight in his Dress, it will be easy to mould him to whatever else may be desired, as it is in general a proof, that he has thrown off the sullen, stubborn disposition which characterizes the peasants of most countries.”300

The willingness to delight in dress was the willingness to submit to authority. For Cuthbertson, then, particularly concerned with reforming the British army on proper Prussian-style lines, controlling the minute aspects of a soldier’s appearance was

integral for establishing the necessary military discipline. Drewe, on the side of proper masculine insubordination, claimed that a concern with appearance made soldiers unmanly. In a letter to an editor which Drewe wrote in the guise of an old soldier who had fought with Wolfe upon the Plains of Abraham, who was now sadly confronted with the pernicious new fashion of the military, he wrote, “I live in a town, Sir, where a body of troops are quartered; they have what is called a Macaroni colonel; of course all his soldiers are macarones. When this regiment parades, the men are so curtailed in their cloaths, that they appear like a set of trimmed game cocks.”

For Drewe, the limited movement allowed by tightly tailored uniforms made the man who wore it “ridiculous,” and “a man turned into a monkey.” The problem with military dress was that it prevented proper manly violence; it was suitable only for the drill-sergeant-style uniform firing, not the dashing, aggressive, personal violence proper to a man. In another fanciful writing imagining a confrontation between the 300 Spartans of Thermopylae and a British regiment following the new system, he described the dress and fighting methods of the latter as so emasculating that a proper army would be dishonored by fighting them:

Each figure was screwed into a jacket of such excessive tightness that not a sinew had room to play, and the whole body resembled much the form of a trussed rabbit...its head was loaded with a quantity of flour, and dragged back upon its shoulders by the weight of an enormous queue made of sheep's wool, and on the head was perched a hat which seemed to be the manufacture of Lilliput...there strode out from the ranks a form clad nearly in the same vestment, but whose shoulders were so broad, and whose face was so terrific, that I doubted not his being the champion of the army, who had advanced to defy the boldest Spartan to combat. He appeared conscious of his superior strength, since he had no other arms, than a small rattan in his hand...

301. Drewe, Military Sketches, 63.
pronounced [the commands] in a shrill and delicate voice...After which he strode back, and again sheltered himself amidst the ranks....[T]wo orderly corporals rushing from the ranks, armed with hair brushes, began dusting of coats, settling of hats, straitening of queues....Now had the Spartan phalanx reached the opposing foes...and to all appearance would have entirely routed them...when, wonderful to relate! I beheld them face to the right about, and, marching back, take their way to Sparta, leaving the pass undefended....I was thunder struck, that Leonidas, who had so bravely opposed the united powers of Asia, should tamely give up so important a pass to an army that scarce seemed women. I thought in my dream that I saw him march off with shame and indignation in his countenance, and I determined to enquire the reason: he gloomily replied, the spears of my Spartans have been embrued in the blood of men, and shall not be stained with that of monkies.302

Military dress did have a level of ornamentation that could be perceived as suspiciously feminine, but those associations ought to have been wholly nullified by the uncontestly masculine acts of battlefield violence that soldiers performed. But, as this passage by Drewe suggests, the emphasis on tactics that required soldiers to robotically follow the instructions of drill sergeants (who, in Drewe’s account, were also derided for giving the commands of war in “shrill and delicate” voices), as well as the increasing confinement required by the new military uniforms, did not allow soldiers to perform proper violent masculinity. Their tactics did not allow it, and even if the tactics were dispensed with, the clothes they wore was too confining to wield swords and attack the enemy directly. And furthermore, the desire to exercise masculine violence must have been utterly trained out of an army that displayed such a feminine concern with making a neat and ornamental appearance—why, to rush upon the enemy ranks, sword in hand, and deliver glorious death might result in some dirt settling upon their coats, or set their hats askew, or disarrange their hair!

Drewe bemoaned this current effeminate trend, which made soldiers unworthy to be the successors of the men who had fought at the great British victories of the Seven Years’ War at Blenheim, Minden, and Quebec: “Where is now the manly look, the vigorous form, that iron body which alike defied the deadly engines of the foe, and the bitterest inclemency of heaven? Alas, they are fled to the Russian or the Turk. In Britain they are found no more. Hence then ye less than women in the form of men. Resign the sacred name of soldier.”

For Drewe, these changes in military dress and tactics so feminized soldiers that they would find it impossible to exercise proper martial, masculine courage, which he considered the fundamental basis of all military virtue.

Even those who wanted to insist on the absolute necessity of obedience in a military context had to contend with the adoration of courage. Military authors conceded that disobedience of orders that proceeded from rashness and eagerness for battle was “more excusable than the other [disobedience from cowardice], though the Consequences may prove as fatal, since it proceeds from a mistaken Zeal; but the other from a want of Courage.”

When strict military duty clashed against manly courage, at the highest levels of government, in the opinions of the men most concerned with maintained discipline and subordination in the officer corps as well as the army as a whole, military duty won, but only very reluctantly. It was difficult to believe that a man who had shown conspicuous courage could be wholly wicked. Having shown courage in battle, or, even better, having been wounded in action, had great value for enlisted men as well as officers. Private Thomas Bartley of the 47th had been convicted of desertion in New York in 1779, a crime that carried a death sentence, but upon an officer’s testimony that he had previously “behaved

very bravely in action” and “been wounded, once or twice,” the court took notice of these “favourable circumstances” and chose to “recommend him as an object of mercy.”

Drewe received some similar consideration. When Drewe’s court-martial proceedings were forwarded on to London for review by the Judge Advocate General, Charles Gould, they came with a note from the commander in the West Indies, General Vaughan, cataloging “several circumstances...favourable to Major Drewe.” Gould then related these circumstances to the king, who wanted further details of the proceedings. He had then “taken into his Royal Consideration the several Matters produced in Evidence, wishing to have discovered some ground for a Mitigation of the Sentence.” Alas, Drewe’s behavior had been proved beyond a doubt to be unmilitary and unprofessional and the king could not continue to allow him to serve because it was “indispensably necessary, in point of Example and for the enforcing of a Strict observance of discipline,” to dismiss him. Yet the king came to his decision only “with much regret, having been informed of [Drewe’s] Spirited behaviour and the wounds sustained by him in the Service of his Country” at Bunker Hill. Furthermore, the king wished to have it known that he remained convinced that, whatever failures Drewe had displayed as a military officer, he still retained an “unimpeached Character as a Gentleman.”

So Drewe was dismissed, but he retained the moral high ground, in great part because the cult of courage was associated with the aristocracy; it was more naturally theirs than the mechanized ways of linear warfare. This suggests another important point: in Britain, the methods and practices of linear warfare were

305.WO 71/90, pp. 92-95.
not compatible with the values and ideals of martial masculinity. Officers longed for what they imagined were the epic days of medieval combat—aristocratic, chivalrous, and glorious, with ample opportunities for individuals to distinguish themselves in combat by performing dashing feats of sword-fighting. The realities of linear warfare, which, when properly executed, allowed an infantry officer no opportunity at all for engaging in personal violence, were not at all to their taste. (If the battle proceeded perfectly, an officer would never come into contact with enemy forces, and would do no more to inflict damage upon them than wave his sword as a signal for his men to fire their muskets.)

And in their resistance to the orderly and disciplined ways of linear warfare, men like Drewe promoted a vision of martial masculinity that was actually increasingly separate from the practice of war itself. In his criticism of linear warfare, Drewe made the interesting suggestion that the well-regulated battlefield was no longer the prime place make a display of conspicuous masculine courage, and that battle might no longer serve as adequate public proof of the masculine qualities necessary for a military man. This idea, combined with the perception (discussed in the previous chapter) that officers’ private lives were separate from and unregulatable by the military hierarchy, led to a military culture in which the private realm of officers’ personal honor became the primary arena for establishing and defending masculine status. But like the realm of the battlefield, the most important method for gaining honor and status remained the exercise of violence.

308. Starkey, “War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781,” 10. See O’Shaughnessy, The Men Who Lost America, 210, for how the Revolutionary War was an extreme disappointment in this regard, full of unconventional tactics and an untraditional enemy. Roger Manning, in Swordsmen: The Martial Ethos in the Three Kingdoms, suggests that the resurgence of aristocratic interest in the military actively hindered the development of a modern and professional military, as the presence of aristocrats concerned with their own honor and making a visible, individual courageous display on the battlefield came into conflict with professional military men who privileged competence, technical skill, and actually winning the battle over the fame of the most illustrious participants.
Chapter 5: No Retreat

Lieutenant Hugh Campbell of the 35th Regiment, on trial in 1783 for the murder of Lieutenant Boyle of the 27th Regiment of Foot, described “The Melancholy circumstances that closed a Friendship of long standing” between himself and the deceased: Campbell, Boyle, and a few other officers from the several regiments stationed in St. Lucia had gone on a pleasure outing, one part of which involved a recreational journey by canoe. Whilst in the canoe, Campbell “told the deceased, who steer’d, (in a Jocular manner without the most distant idea of giving him Offence) that he knew not how to Steer and that he swayed the Canoe from one side to the other.” Boyle responded “in a very serious tone, 'don’t be a boy’” and “in a very aggravating and impolite tone, said, I was a Blockhead. I then, vexed at his reply, told him he was a Fool and told him he shou’d make choice of better Language when he wished to express himself.”

When the party reached the shore, Boyle demanded to know how the two of them would make up the quarrel—that is, inquiring whether Campbell was prepared to issue an apology for his insulting remarks, or whether the two men would have to fight a duel. As Campbell related it, the two other officers in the party "then interfered, and endeavoured to make up the difference between us, saying it was Nonsense for Friends to Quarrell about so trifling a matter.” Both Boyle and Campbell reaffirmed their friendship with each other: “the Deceased then said Campbell is the last Man in the World I would wish to quarrel with, I then said Mr. Boyle is the last Man I would quarrel with.” But, added Campbell, "as I am conscious of having given no Offence I can make no Apology,” and Boyle “in an outrageous

309.WO 71/97, pp. 67-68.
manner said I had injured him, and that I must fight him to which I replied I will as you desire it, the deceased then proposed as I was better acquainted in the Town than him, I should endeavour to borrow Weapons."

Despite many attempts by Campbell to reconcile with Boyle, the duel took place the following morning, and Campbell shot and killed Boyle. No one disputed this fact. Campbell admitted to fatally shooting Boyle. But he by no means considered himself guilty of murder. "I find myself unfortunate, and unhappy, when I reflect upon the event, but it is not the unhappiness attendant on guilt," he told the court. He had "not been the Aggressor," he said, and so "I feel myself acquitted, in my own breast of having acted wrong." But most importantly, he claimed, no guilt could be attached to him because he had no choice in the matter: "[T]he disagreeable affair I have been engaged in, was unavoidable—unless I could submit to be stigmatized a Coward."310

And, in the eyes of the officers of the British army, Campbell’s behavior was proper and justified. They did not consider it morally wrong to kill rather than be branded a coward. As the previous chapter showed, courageous violence on the battlefield was a marker of masculinity, and a very appealing one for military men. But its inevitable corollary was the extreme stigmatization of cowardice. An officer could not allow the slightest imputation of cowardice to go unchallenged. (In fact, a lack of reaction to an accusation of cowardice was itself taken as evidence of cowardice—proof that the man was too frightened to take action to defend his reputation.) This led, as this chapter shows, to a military culture in which quarrels and duels were endemic, because officers had no way to honorably retreat from conflicts with other officers. Too frequently, a conspicuous and often deadly act of

310.WO 71/97, p. 80.
violence was required to defend one’s reputation as a man of courage and to
preserve one’s honor.

Boyle and Campbell’s trivial quarrel over canoeing skills escalated to a fatal duel
because, as Campbell’s testimony implies, both parties thought they had been
insulted and deserved an apology, and neither party thought they could apologize to
the other without incurring shame. In the final attempts at mediation before the
duel occurred, the officer acting as Boyle’s second reported that Boyle claimed that
"no Apology should be sufficient, except a very abject one, made before the
Gentlemen and the Drummer who were in the Canoe." And this “abject” and semi-
public apology was precisely what Campbell could not honorably do in the hours
before a scheduled duel. To apologize before dueling, even if one was clearly in the
wrong, might be taken as a sign of cowardice—it might be taken to mean that one
had only apologized because one was afraid to hazard one’s life in a duel. One could
apologize, of course, after the duel had concluded.

Mutual friends of the disputing officers often had the role of trying to determine
on what the terms the two would apologize to each other. Demands that public
offense be paired with public apology, similar to Boyle’s contention that he would
only accept Campbell’s apology if it was made before all those who had been present
in the canoe, were common. To take another example, when Ensign Townshend laid
out his apology requirements in a letter to his commander, he claimed that "As the
insult offer’d to me by Mr. Haines was of the most public nature, if he will in the
most Publick manner beg my pardon for it; On having done so, I am ready to

311.WO 71/97, p. 74.
1660-1800", The Historical Journal 45, no. 3 (2002): 525-545; Stephen Banks, A Polite Exchange of
Bullets: The Duel and the English Gentleman, 1750-1850 (Woodbridge, Suffolk: Boydell Press, 2010),
132.
acknowledge that I mistook his intentions.” Townshend’s letter also alludes to another aspect of the negotiation over what types of apology were proper and did not show any unmanly submission: the careful distinction between an acknowledgment of fault, and begging pardon. After Lieutenant Anthony Allaire and Ensign Robert Keating got into a fight one evening after they had both been drinking, the other officers of the regiment tried to reconcile them, but although Allaire was willing to “acknowledge his fault to Mr. Keating,” he “would not beg his Pardon as it happened at a Drunken Frolick.” Only if the concessions made by each party were strictly equivalent would he agree to more: “as it was my Opinion that the fault was equal on both sides, I could never think of asking his Pardon singularly; This I'll agree to that as Mr. Keating and I have both been in the wrong we'll ask Pardon (reciprocally).” Allaire was making a further distinction with this proposal of a negotiated, mutual, simultaneous exchange of apologies, more likely to be considered honorable than the suspicious and unmanly unilateral offer of an apology. One officer even had to defend the terms on which he had apologized: “I did not think it unbecoming my Character to confess myself sorry for any Improprieties I might have Committed, and therefore made an Apology to Captain Holms with which he was satisfied. But this I did in such Terms as became me, and he was intitled to, and not in abject or disagreeable ones.”

Campbell’s defense suggested that he desperately wanted to reconcile with his friend, but had no way to do so while retaining his own honor. He was ultimately

313.WO 71/54, p. 395; see also WO 71/60, p. 399, for a second’s report that the quarrel between two officers “would not be made up unless Captain Townshend would make a public apology to Mr. McKenzie on the place where he had affronted him.”

acquitted, possibly because he was able to document his numerous attempts to make peace with Boyle through the mediation of other officers. He and Boyle had agreed to duel at 6 a.m. on March 22, 1783, but the night before, Campbell had sat up until 1 a.m. waiting for the visit of another officer, a mutual friend, "expecting by his assistance to have settled the difference without coming to the extremities proposed by the deceased." Alas, Campbell reported, "in this expectation I was unfortunately disappointed," and so in the morning, Campbell and his second went to Boyle’s quarters, "where we were confident in finding him in Bed and settling the dispute in an amicable manner," but found that Boyle had already left to go to the appointed dueling grounds. Upon hearing this, Campbell and his friend thought that they "had then no alternative left, but to follow them, which we did, without Weapons, still hoping to settle the matter without coming to extremities." But when they met Boyle at the agreed place, he refused to reconcile, and preferred to lend Campbell one of his own pistols instead of delaying the duel any longer, and the duel occurred, leading to Boyle's wounding and subsequent death.

Note again Campbell’s defense: he had no other options; he did not desire the duel, but he had to fight it—the choice ultimately came down to killing his friend over an argument about how to paddle a canoe, or being “stigmatized a Coward” forevermore, and he chose the only honorable course. In the perception of the general public, this behavior was ridiculous but hardly unexpected for a military man. In the popular culture of the eighteenth century, army officers were notorious for dueling, especially over relatively trivial incidents that nevertheless managed to offend their touchy honor. And the army’s court-martial proceedings confirm this

318. Shoemaker, "The Taming of the Duel: Masculinity, Honour and Ritual Violence in London, 1660-1800," 540, finds that a third of the duels that took place in Britain before 1774 were fought by military officers, and 44 percent of the duels from 1775-1800. Banks, "Killing with Courtesy: The English Duelist, 1785–1845," 532, finds that duels were unequivocally linked with the military in the age of the
view, recording innumerable duels, fights, quarrels, and other outbreaks of violence among officers, quite often for rather minor reasons—duels that started over such incidents as one officer presuming to give another advice on how best to strike the balls during a game of billiards, or Ensign Gaskell and Lieutenant Dalrymple’s fight, in which swords were drawn, which stemmed from a dispute the officers had over which of them was handsomer, who was more educated, and which man most resembled the regiment’s dog.319

The clear threat that honor culture presented to the military hierarchy (because officers perceived some insult in their commander’s orders, and demanded to duel), and the very fact that these altercations were recorded and preserved because officers were prosecuted for indulging in them, might lead to an expectation that military authorities made serious attempts to suppress the practice of dueling among officers and reform the duel’s inevitable precursor—the military culture of extreme sensitivity to matters of honor.320 Yet even the authors who most emphasized the importance of officers’ subordination to their superiors endorsed the importance of honor and the need to preserve it at all costs. "I don't pretend to say, that one

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319. Gaskell and Dalrymple, WO 71/77, pp. 107-117. WO 71/66, 136-146, for duel provoked by one officer giving another advice on playing billiards; WO 71/91, pp. 412-427, another case that started as a billiard-room quarrel; WO71/76, pp. 11-21, for a fight that began over a card game. WO 71/83, 309-331: Lieutenant Peter Augustus Taylor and Captain Job Williams of the Queen’s American Rangers got into a violent quarrel (which led to Taylor’s death) about whether the tablecloths in the officers’ mess had been “plundered” by Taylor, or sent to him by his mother. However, trivial incidents that escalated into violent conflicts and even death were not confined to officers; for example John Cameron and Edward Yeats, both enlisted men of the Royal Artillery, got into a fight (which led to Yeats’ death) that started in a dispute about the proper way to spell the word “Spain.” Minorca, 1769, WO 71/77, pp. 222-225.

320. See Banks, A Polite Exchange of Bullets: The Duel and the English Gentleman, 1750-1850, 225, on the practical difficulties of exercising military authority without offending honor.
should tamely suffer an Affront,” Simes remarked. “No! A Gentleman should defend
his Honour, and rather lose his Life than bear an Insult or Spot on his Reputation.”

Honor was thought to be particularly fragile and easily tarnished. Cuthbertson
claimed that the best officers were “of so refined a composition, that the small stain
is never to be erazed.” Donkin compared honor to “the eye, which can't suffer the
least moat [sic] in it, without being blemished! Honor may be called a precious
stone, which the smallest speck makes less valuable! it is a treasure irrecoverable
when once unfortunately lost!” Furthermore, Donkin claimed, life had no value if
honor was lost.

Honor was more important than life, worth dying for, and worth killing for.
“[W]hy should he be acquitted who kills in defence of life, yet he condemned, who
kills in defence of his dearer reputation?” one officer asked. Campbell appealed to
the court’s “just sense of the dearness of an Officer's reputation, and the delicacy of
his honor,” and was acquitted, suggesting officers’ general agreement on this
point. Thus, opponents of dueling had the difficult task of attempting to separate
the duel from the demands of honor, which could not be gainsaid. But this is not to
say that the practice of dueling reigned unopposed in the military. As Campbell’s
own testimony suggests, officers did in fact recognize and lament the high costs of a
dueling culture.

It was common for officers to express regret for a duel, and condemn those of
quarrelsome temperaments who dueled frequently or goaded others to duel, but
these men cannot be properly categorized as opponents to dueling. They were not

324. Drewe, Military Sketches, 40-41.
325. WO 71/97, 80.
exactly in favor of dueling, but the most accurate way to describe them is anti-anti-dueling; to them, pro-dueling sentiment was dangerous to good order, the brotherhood of officers, and life itself, but anti-dueling sentiment was more pernicious still, for it threatened honor. In this vein, Donkin suggested that abolishing the duel could come about only if men became so craven as to fear death, and so insensitive to the claims of honor that fear of some other, lesser social sanction could override it. Until that unhappy day came to pass, Donkin wrote, ending dueling was impossible for purely pragmatic reasons: “The extinction of dueling is become impracticable! for what penalties can intimidate men superior to the fear of death? or stigmatize what honor approves?”

Donkin insisted that the price to be paid for officers’ collective honor was a fair one: “Was a computation to be made of all that have fallen in duels for a series of years, the inconsiderableness of the number wou’d but ill justify the extravagant clamour against them.” But even officers who were horrified at the wasteful violence of the duel felt a profound ambivalence about dueling. It led, as in the case of Campbell and Boyle, to good friends killing each other over a trivial argument over how to paddle a canoe, but officers refused to consider the dueling a fundamentally immoral act. Some officers went so far as to concede that a man who deliberately provoked duels was akin to a murderer, but all recognized the necessary role that the duel played in safeguarding reputation and restoring honor.

In fact, the role of violence in establishing, maintaining, and damaging masculine status and reputation, combined with officers’ preoccupation with upholding their class position within the military hierarchy, made the duel a necessary part of military life, and is an explanation for why it could not be eradicated. Linking honor

with the ability to perceive insult led to the belief that the most honorable men were those who were insulted even by small and accidental slights.\textsuperscript{328} But protecting one’s honor was an assertion not only of one’s masculinity, but also a marker of class. Gentlemen could not be expected to put up with insults or abuse, and that very unwillingness to put up with insult or abuse was a way of asserting gentlemanly status in an era when the definition of who was a gentleman was becoming more and more vague.\textsuperscript{329} These sentiments were echoed in the words of one officer, who insisted that if he didn’t “demand the Satisfaction of a Gentleman,” he was “unworthy of the Rank of an Officer.”\textsuperscript{330} Dueling was so prevalent not because officers were too prideful and irrationally concerned with minor points of honor, but because the culture of military masculinity had left them with no alternative but to be (rationally) concerned with minor points of honor if they wanted to defend their class status, upon which their military authority ultimately rested.

Furthermore, dueling was not only the result of honor culture, but also enforced it; the prevalence of dueling had the pernicious side effect of destroying officers’ ability to retreat honorably from a conflict. An apology could be construed as cowardice, the desire to avoid the hazard of the duel. Engaging in violence, on the other hand, established one’s masculinity and honor.

The stereotypical perception of dueling as an expression of chivalry and concern for women has little basis in fact. It was threats to specifically masculine status that provoked violence and duels, and protecting women’s interests was only incidental. Duels that started over women did not stem from the chivalrous defense of a woman in distress, but only the distress of (or, for that matter, the negligible

\textsuperscript{330} WO 71/91, 97-112.
inconveniencing of) a woman over whom a man had a proprietary interest—because his honor was diminished if he publicly demonstrated that he could not protect her interests.331 When Ensign George Hume beat George Terry with a cane in a Gibraltar bathhouse in 1770 for insulting Ann Wentworth, he acted not out of a disinterested concern for Wentworth, but because she was a visitor from Ireland and explicitly under Hume’s “protection.”332 The 1782 duel between Captain Townshend and Ensign McKenzie in Jamaica may at first appear to have been caused from the chivalrous motivations common to romantic fiction—Townshend had objected when McKenzie had thrown a bottle that struck a black woman—but a closer examination of the case reveals that the duel was fought not in the cause of the protection of a woman, but for the honor of a man. The woman had seized one end of Townshend’s walking stick, and he had been struggling with her to regain control of it when the bottle struck her. But the deadly insult in this quarrel came not from the fact that McKenzie had thrown the bottle at a woman, but that Townshend asked McKenzie to declare upon his word of honor that he didn't throw the bottle with a “design to strike that black Woman.” Upon hearing McKenzie’s reply that “he declared upon his word of honor and as he was a Gentleman that he did not intend to strike the Woman with the Bottle” but rather intended to throw it at the "Croud of Negroes" around the woman, Townshend claimed to be "astonished,” and observed that there was no crowd around the woman except for some officers. In other words, Townshend had responded to McKenzie’s declaration upon his word of honor with an implication that McKenzie had just told a clear lie. Townshend then further escalated

331. Banks, *A Polite Exchange of Bullets: The Duel and the English Gentleman, 1750-1850*, 58: “One might react aggressively when one’s theatre companion was obliged to rise from her seat by a latecomer; one did not react if from one’s townhouse one could hear one’s neighbour beating his wife.”

332. WO 71/77, 278-284.
matters by announcing to the assembled officers that he was shocked that a man could make such an untrue statement while wearing the uniform of a British officer.

As the court-martial testimony makes clear, the officers perceived the injured party in this dispute to be not the woman struck by the bottle, and not Townshend, who had objected to this treatment of a woman, but McKenzie, who had been publicly accused of being a liar. Townshend did not challenge McKenzie to a duel, but the other way around—McKenzie sought the duel after Townshend insulted him by challenging his veracity, telling acquaintances that "he had been very much insulted by Captain Townshend," having been "told by him that he was not worthy to wear His Majesty's Cloth." And Townshend and the other officers explicitly denied that the treatment of the woman was a factor in the duel, as Townshend had declared "that if he must go out with Mr. McKenzie it would not be for the Cause of a black Girl," but because the two officers had each objected to the other's behavior, considering it dishonorable—and, more importantly, a personal insult.333

An examination of the numerous courts-martial of army officers for making insulting remarks, engaging in violent quarrels, and dueling provides a taxonomy of the fighting words of the late eighteenth century. These generally fell into two categories: denigrations of the target's abilities or behavior, and implications of insufficient masculinity. In this latter category were terms such as "Puppy" and "Schoolboy," popular for insulting younger officers. Lieutenant Charlton indignantly reported that during a dispute Lieutenant Edwards had insulted him, "making use of the Expressions 'Impertinent Puppy' and 'Young Bear.'"334 "Rascal," "Scoundrel," and "Villain" were also popular insults, but as these were direct reflections on an officer's moral character they had more serious

consequences. Because officers were court-martialed not only for inflicting violence upon each other after being provoked by such language, but also for the “ungentlemanly” act of uttering the insulting remarks themselves, we can attempt to reconstruct a hierarchy of insulting remarks from officers’ defenses to these charges. Lesser insults were followed by officers defending themselves by claiming that the language they used did not, technically, defame another officer’s character, such as when Captain Harrington Baudin tried to claim that he was innocent of the charge of taking “ungentlemanly and unjustifiable liberties with the Character of Lieut. Berks,” because he had merely called Berks a “Fool” and “stupid fellow.” Unlike terms such as “rascal” or “scoundrel,” Baudin argued, this species of name-calling ought not to render him subject to official disapproval because although his words were “a reflection on his Mental Abilities,” they were “no Impeachment of his Moral Character.”

Berks defended himself from the charge of insulting Baudin with a similar claim: "As for the Words false and Blockhead, I acknowledge that they are not the most civil that might have been picked out of the Dictionary; but...surely, Sir, they cannot be worth the notice of the Court.”

The moral judgment implied in such terms as “Rascal,” “Scoundrel,” or “Villain” frequently provoked duels because they implied that an officer’s character and reputation as an honorable gentleman was deficient. But because courage was the virtue prized above all others by soldiers, the acknowledged basis of all martial virtue, the term “Coward” occupied the pinnacle of the military man’s hierarchy of insults. A man who had been called a coward could not dismiss it or laugh it off—he

had to demand a retraction, and, if that was not forthcoming, issue a challenge to duel.337

Equally damning as accusations of cowardice were accusations of lying, a situation that might initially appear odd considering officers’ general lack of appreciation for traditional moral prescriptions. But to call another officer a liar was a shocking insult not because lying was considered an inherent moral wrong, but because lying was considered the act of a coward.338 “Calumny is the weapon of a coward, and his shield the secrecy of others,” claimed a series of military aphorisms.339 The subtle distinction officers made between privacy and secrecy illuminate the links that officers drew between openness, candor, and courage, and the concurrent link between secrecy, falsehood, and cowardice.340 Privacy, as we have seen in a previous chapter, was an officer’s right. On the other hand, secrecy was a pernicious fault.

It is important to note, however, that this perjorative use of the term “secrecy” applied only to interpersonal violence between officers. Officers could have secret meetings amongst themselves, or keep secrets from other officers, without any loss of honor; these actions were merely an exercise of their right to privacy. But for an officer to attack the body or reputation of another officer without making public the

337.Court-martial testimony records that many of these other, less serious insults were not always taken seriously, but a claim that an officer was a coward always was. Gilbert, “Law and Honour Among Eighteenth-Century British Army Officers,” 75, suggests that of the four primary violations of the officers’ honor code (1. cowardice 2. insufficient regard for one’s social status 3. accusations of lying or slander 4. defaming the regiment), acting in a manner perceived as cowardly, or accusing another officer of being a coward, were the most serious. See WO 71/92, pp. 76-88 for an example of officers’ behavior being constrained by fears that it would be perceived by onlookers as “timorousness.”

338.Banks, A Polite Exchange of Bullets: The Duel and the English Gentleman, 1750-1850, 48. on accusations of lying as insults to courage: “it was not the allegation of having uttered a falsehood that wounded the honour of the accused, but rather the implication of a lack of courage.”


340.e.g. WO 71/81, p. 244: a character witness claimed that one officer was known “to be a Gentleman of Nice Honor, strict Veracity, great Candor, and unblemished Integrity.”
information that he was the one who had fired the shot, or first circulated the insulting rumor, was grossly dishonorable.

When Lieutenant Colonel Cosmo Gordon accused Frederick Thomas of, among other things, “secretly aspersing his Character,” he pointed to the adverb to imply particular misconduct. As Gordon related it, Thomas had been spreading rumors that he had behaved improperly during a recent battle. The defendant, Thomas, agreed with Gordon’s assessment of the wickedness of making secret aspersions, remarking on the “Odiousness of the Charge—It implies a secret & assassin like stabbing in the Dark at Lieut. Col. Gordon’s reputation.” Such an action, he stated, “implies...the want of every human Virtue, for they must be incompatible with that Heart that is base enough to attempt to undermine a Reputation.” If the court did find him guilty of such a shameful crime, Thomas said, he would “beseech them in Mercy to deprive me of Life by the same Sentence.”341 These melodramatic words, implying that to be judged a man who destroyed reputations by secret machinations was a fate worse than death to a man of honor, were similar to the dismay expressed by men accused of cowardice, and quite appropriate when one realizes that this charge of secrecy was actually a veiled charge of cowardice. By attacking another’s officer’s reputation in secret, a coward wounded the man without exposing himself to retaliation, just as an assassin was denounced as a coward for killing his mark without giving his victim an opportunity to defend himself.

A public attack, on the other hand, demonstrated one’s courage (and also masculinity—when Gordon first tried to determine the source of the rumor, he called upon the officer who has been making unflattering remarks about him to be “Manly enough to declare it” in his presence).342 Thomas’s defense was that he could not

341.WO 71/56, p. 95.
342.See also Wolfe, Instructions to Young Officers, 20. Faced with anonymous letters complaining about conditions in the regiment, Wolfe issued orders forbidding the “mean and underhand practice.” The
possibly be guilty of secretly aspersing Gordon's character, as he "publickly, openly, and to Colonel Gordon's own Face, accused him on the spot of Neglect of Duty." Thomas avowed that he had made a proper “honest & open Attack” against Gordon—and, he implied, Gordon was the one truly at fault, for responding with court proceedings rather than with a duel.

Even more damaging than verbal insults were physical assaults. To receive an assault impugned a man’s courage and masculinity, but it was also an attack on his social position as a member of the upper class. To strike a gentleman (and officers were—in theory—all gentlemen) with one's fists or with a cane was a deadly affront. A gentleman was someone whose person could not be assaulted, and in fact this was one of the prime characteristics that distinguished a gentleman from other men. (The distinction that gentlemen made between their public and private characters also served to distinguish between honorable and dishonorable violence; “wounds received in fair action” on the battlefield were by no means dishonoring, because there, the attack was made on the officer’s public character in a military setting. Dishonorable assaults were those made on a man’s private character as a gentleman.)

Only gentlemen had honor. The common perception among the upper class was that the "lower orders" lacked the fine feelings of honor of a gentleman, and thus beating them caused them to suffer no shame, but only the physical pain of the

disdain for secrecy as an unmilitary and unmanly virtue existed in the Continental Army as well. Confronted with the news of Benedict Arnold’s treason, General Greene painted the action as shameful: “Our Enemies despairing of carrying their point by force are practising every base Art to effect by Bribery and Corruption what they cannot accomplish in a manly way.” (General Greene's Orders, Sept. 26 1780, Showman, Cobb, and McCarthy, Papers of General Nathanael Green, 6: 314-315, cited in Ruddiman, "A Record in the Hands of Thousands": Power and Negotiation in the Orderly Books of the Continental Army,” 762.)

343.WO 71/56, p. 94.
344.Gordon and Thomas did in fact fight a duel over this dispute four years later in 1784, in London, in which Gordon killed Thomas and was tried for his murder.
assault. For that reason, a soldier might need a savage flogging of hundreds of lashes to convince him of the error of his ways, while a single blow to the person of a gentlemanly officer would permanently dishonor him. To officers, the need for different punishments based on a criminal's class was unquestioned:

punishments...are peculiarly adapted to the respective ranks; for what would be an adequate punishment for an offence in one rank, might be extremely inadequate in another: as, for instance, simple dismissal, which is a very heavy penalty to an officer, might be esteemed by a private soldier rather a benefit than otherwise; whereas, a few lashes, which might be inflicted on the latter for a trifling breach of duty, would be to the former a most irreparable injury as depriving him of his honour, and rendering him unfit for the the society of gentlemen.346

In practice, the bodies of the enlisted and the officers were treated with blatant disparity. After "high words" passed between Lieutenant William Hamilton and Captain Richard Nesbitt over the pulling down of a hut, a bystander reported that he "heard Lieut. Hamilton say that he did not care a fart for him [Nesbitt], and that he would blow a ball through his old head." Nesbitt replied with a threat of disgraceful physical violence, telling Hamilton that "if he continued to make use of such abusive language he should be obliged to stop his mouth by gagging him.” Hamilton responded with an insult and threat of equally disgraceful violence, calling him “a Rascal, a Scoundrel and a Coward, and said that he would cane him at the head of the Regiment.” When Nesbitt had Hamilton arrested after making this last remark, Hamilton protested that his words were quite reasonable under the circumstances, demanding of an eyewitness, "Had an Officer threatened to gag him, what would he have done?”347 Meanwhile, gagging an enlisted man or physically confining him was routine. Ordinary soldiers were kept under lock and key in conditions far worse than

that of a confined officer, who when under the most strict arrest still had the freedom of his own quarters. One officer testified that an enlisted man “is apt to get in liquor and is then so impertinent and noisy that they are often obliged to gag him.”

Thomas Bailey, a private, described the wretched conditions of his confinement in the guard house after he had been accused of assaulting an officer in Boston in 1775: he found himself “almost perished with the cold not able to walk to keep myself warm nor seeing a bit of fire for the forty hours I was there Confined which caused a violent pain in my head.” Particularly troublesome prisoners were confined in the “Black Hole,” a part of the guard room with no regular access to light, where prisoners were often kept on a diet of bread and water.

It was certainly not unthinkable for enlisted men, confined in these harsh and unpleasant conditions, to break their arrest and escape their confinement. On the other hand, such behavior was unimaginable for an officer, so much so that no precautions were put in place to prevent an officer from breaking his arrest, and, indeed, it was considered a grave insult to put a guard at an officer’s door, or take any measures whatsoever to prevent his escape. In 1780, Lt. Fortye of the 75th, stationed in the British garrison at Gorée, off the coast of Senegal, was put under arrest by the town major, the latter telling him “that it was his Orders, that he should go to his room as an Officer and a Gentleman.” But Fortye answered, “I will go to the black Hole first” and then started walking to the guard house. The enraged

349.WO 71/82, 191.
350.Simes, The Military Guide for Young Officers: Containing a System of the Art of War, 166-167, described it as a room “free from damp,” and “to be supplied with clean and dry straw once a week,” but otherwise to be “as dark and dismal as possible.”
351.WO 71/54, pp. 57-58. After James Williams had been apprehended as a deserter and was being carried back to his home regiment to be court-martialed, “the Corporal of the Guards that escorted the Prisoner from London to Winchester, reported...that the Prisoner on the March had broke his Handcuffs two or three times, and that he found it a very difficult matter to bring him safe to Winchester.” Another witness testified to two additional pairs of handcuffs that Williams had broken out of at various points in his numerous escape attempts.
town major sent a sentry after him, and only after the intercession of another officer was Fortye persuaded to “go to his room as a Gentleman” and not to force anybody to participate in “the Violation of an Officer’s privilege.” The town major noted that he dismissed the sentry as soon as the lieutenant agreed to go to his room, and when Fortye was found guilty of “refusing to go to his room when Ordered under an Arrest,” the court “in consideration of his being put under the Charge of a Sentry, and afterwards complying to go to his Room, do therefore Adjudge that to be a sufficient punishment, for that part of the Crime laid to his Charge.”

Far worse than putting a sentry at an officer’s door was to take measures not only to alert the arresting officer that the prisoner was escaping (an enlisted sentry posted at an officer’s door was prevented by the disparate rules of power and bodily integrity from doing much more than allowing the officer to push past him, and then informing his commanding officer), but to suggest that not only the honor of his word, but also the integrity of his body, was now compromised.

This was done through the implied willingness to use physical force against his person. Captain William Dussaux of the 6th Regiment of Foot, accused of various financial irregularities and put under arrest, revealed the conditions he had been subjected to in tones of outrage: After he had been arrested, the regiment was ordered to move from their previous quarters to new ones, and during this journey, the commander ordered that Dussaux was ordered “to be Marched between the Battalion and Rear Guard with fixed bayonets in an ignominious and disgraceful manner like a common Criminal.” Dussaux used this incident as proof of the fundamental injustice of his treatment at his commander’s hands, for this

352. WO 71/55, p. 150-166.

353. For example, see WO 71/55, pp. 68, 56-57, in which the enlisted sentry at the cabin door of the ship was repeatedly shoved aside by Lieutenant Edwards and the petty officers of the ship, and was consequently useless for keeping anybody but the common sailors out of the space.
“humiliating treatment” for his “pretended Crimes” was “a punishment quite unprecedented in our Army” and a “wanton violation of the most sacred and dearest right of an Englishman, which exempts his person from any Confinement, much more a disgraceful one, without good and sufficient cause.”

Dussaux’s co-arrestee, Captain James Scott, who had endured similar treatment, even more explicitly claimed that this “disgraceful confinement” was shocking because it subjected officers to treatment that was normally meted out only to enlisted men and others who lacked gentle status: “Such treatment to Officers must annihilate every distinction of Military rank, after this [they] may expect to be put in Irons and Dungeons.”

Scott insisted that officers should not and could not be treated with the harshness that was customary towards enlisted men: “Officers in the English Army are not to be ruled with a rod of Iron,” he claimed. “Military discipline and Obedience from inferior towards superior Officers,” should instead proceed “from the liberal principles of the Officers, from their Zeal for their profession, their love of their Country and Attachment to their most gracious Sovereign.” Scott based his appeal not only on the contention that these admirable qualities were sufficient to motivate an officer to perform his military duties, but also on the claim that using any other methods to direct officers would only lead to ruin: further treatment such as he and Captain Dussaux had endured, he said, “must extinguish in [them] all ardour for their profession and damp the Spirit which is Characteristic of Englishmen.”

354.WO 71/54, 16-17.
356.WO 71/54, pp. 31-32.
The freedom of movement allowed to officers was considered so fundamental a right that it often persisted even after an officer had been arrested. Officers distinguished between being under a “close arrest,” in which an officer was confined to his quarters, and the far more common practice, in which an officer was nominally under arrest but had few restrictions. He was not permitted to be on duty or bear arms, and often enjoined from being out of his quarters after a certain hour of the evening, but otherwise he was free to come and go as he pleased.

These important distinctions in the treatment of the bodies of the upper-class officers and the lower-class enlisted soldiers were fundamental in upholding officers’ honor. Honor was inseparable from class position. An example of this is found in the 1777 conflict between Ensigns William Mair and Thomas Smith of the 60th Regiment of Foot, which stemmed from a rumor going around the regiment that Mair had “spread reports prejudicial to the Character of Ensign Smith” by “declaring...in the presence of several people, that he had horsewhipped or Caned Ensign Smith at St. Augustine.” When Mair allegedly claimed to have beaten Smith, he dishonored Smith by implying that his body was not immune to physical assault, that he was not a member of the officer class. And the insult to Smith was exacerbated by the particular disgrace of the weapons that Mair was said to have used. A cane was used to beat persons of low status—children, servants, a particularly recalcitrant enlisted man. A whip was even worse, being used to formally punish enlisted malefactors and—a fact probably not lost on these officers stationed in the Caribbean—slaves.

Smith’s status was threatened on two fronts: first, it was rumored that he had been caned or horsewhipped; second, reports were circulating that he had “patiently suffered” this shameful treatment. Despite the general advocacy of the virtues of patient suffering and submissive resignation to insult and misfortune in the Christian writings of the time, no officer concurred with this assessment. In fact, to say that
an officer had reacted to an insult with “patient suffering” was defamatory. During Smith’s trial, Ensign George Dennis, whom Smith had named as the man who had been telling others that Smith had been horsewhipped by Mair, was asked if he had “ever at any time cast any reflections upon Mr. Smith for or upbraid him with or insinuate to him that he had patiently suffered any disgraceful treatment from Mr. Mair?” Dennis denied it absolutely—for if he had ever made such a claim, Smith would have had a legitimate grievance against Dennis for aspersing his character.357 Patience and resignation might be virtues fit for weakly women, but a manly man responded to an insult, whether in the form of a word or a blow, with “proper resentment.” This emotion, resentment, was an assertion of not only masculinity but also class, an emotion elite men reserved for themselves alone. It was anger that stemmed not from the irrational outbursts of passion and the lack of self-control characteristic of the lower sorts, but righteous anger, rational anger, anger that was entirely reasonable, because it was generated directly in reaction to a threat to a man’s social status or reputation as a honorable gentleman.358

But for army officers, responding with the proper resentment meant not only the mere expression of emotion, but also action. When Ensign Townshend and Lieutenant Haines fell to arguing, Haines, “being raised to a great degree of Passion gave him the Lye,” that is, accused Townshend of being a liar. Townshend replied that Haines was the liar, and Haines objected to this behavior, saying that “his retorting the Lye was no resentment shewn at all.” For Haines, and for the British officer corps more generally, “proper resentment” for a gentleman meant willingness to inflict violence. Haines went on to demonstrate exactly what he meant, when he

357.WO 71/54, pp. 84-85.
358.Nicole Eustace, *Passion Is the Gale : Emotion, Power, and the Coming of the American Revolution* (Chapel Hill: University of North Carolina Press, 2008), 160, on resentment as an alloy of anger and reason, an emotion that “resulted from a man’s rational appraisal that the words or actions of another menaced his honor and social standing.”
said that if being called a liar "was not sufficient for him (Mr. Townshend) to resent it as a Gentleman, desired him to take that; at the same time giving him a Blow with a Riding Switch." Ensign Townshend’s response to being hit by a riding switch wielded by Lieutenant Haines was to attempt to strike Haines back, and thus "put the Can’d Townshend on a footing" of equality with Haines. The actions of both men suggest the power of violence to repair insult. It re-established his status and served as a public display of his masculinity and his willingness to use force to defend his reputation.

Violence had redemptive power, because violence established one’s lack of cowardly submission. Behaving “submissively” was not a virtue; Lieutenant Triste used that very word to condemn Captain Payne’s behavior when the baggage wagons he was leading were confronted by a New York mob. “[H]e yielded them up very submissively,” he said of Payne, when called to give evidence that Payne had “acted a cowardly, pusillanimous, and unsoldierly part” by allowing the baggage to be taken from him. And Payne’s violent propensities were cited by the officers who sought to defend him: "if I had any reason to Complain of Captain Payne’s Conduct it was rather for recommending Violent than Pusilanimous Measures,” Major Hamilton stated when he testified in favor of Payne’s character and behavior.

360.Shoemaker, "Male Honour and the Decline of Public Violence in Eighteenth-Century London," 193-194, on violence as the near-inevitable result of “perceived threats to male honour” and the expectation that men were “to confirm their status by physically defending their integrity and reputation against all challenges. They could not allow themselves to be verbally insulted or physically jostled without responding.” Joanne E Myers, "A Case of Murderous Sensibility: James Hackman, Interiority and Masculine Agency in Late Eighteenth-Century England", Gender & History 20, no. 2 (2008): 312-331, on the eighteenth-century perception that violence was a natural male act. Bailey, "'I Dye [sic] by Inches': Locating Wife Beating in the Concept of a Privatization of Marriage and Violence in Eighteenth-Century England," 291, on how men whose wives threatened their public reputation needed to inflict violence on their wives to maintain masculine status.
361.WO 71/81, pp. 132-133.
tendency towards violence, then, was perhaps a vice, but as it was seen as almost the exact opposite of cowardice, it was by far the preferable vice.

Not responding with violence—or at least the threat of future violence embodied in a challenge to duel—demonstrated a lack of “proper resentment” that was fatal to an officer’s reputation. If an officer failed to display it, he could be suspected of cowardice—rumors might fly that he had accepted some dishonorable treatment out of fear—or alternately, that he lacked a proper understanding of his class position. Being insulted without responding with resentment called into question one’s status as a gentleman, and were grounds for being dismissed from the army. Officers were tried for behavior unbecoming the character of an officer and a gentleman for allowing themselves to be assaulted or insulted without responding with appropriate resentment, as was the case with Captain John McKinnon, who was sentenced to be discharged after he was convicted of “Suffering himself to be kicked by Captain McEvoy...without properly resenting it.”

In officers’ understanding, displaying resentment was a virtue. But officers went further in their assessment, claiming that displaying resentment was not only proper, but inevitable. In the civilian sphere, resentment’s initial claim to being a proper and exclusive emotion for upper-class men stemmed from its close association with reason; it was presumed to proceed from a rational assessment of injury. But in the late eighteenth century, resentment changed from a reasoned evaluation of insult that led to righteous anger, to the immediate arousal of the passions and anger from circumstances under which it was reasonable to be angry.

Military understandings of resentment paralleled its civilian evolution into a less

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364. Simes on officers’ “virtuous resentment” which led to an admirable desire to inflict violence on the enemies of one’s country: Simes, *The Military Instructor*, 105.
controllable emotion, as officers insisted that feelings of resentment at injury were fundamental to the character of “a Man of honor and sensibility.” The person who gave him the injury might be his superior, and in direct military command over him, and the army might in fact work more smoothly if the injured man could swallow his resentment and continue to obey orders, but officer after officer insisted that this was impossible. The feelings of resentment were natural and manly, and to try to suppress them would be to suppress the very characteristics that made a man an acceptable officer. Not to feel insulted was a sign that one was in some way crippled: “Unless the senses be palsied, the feelings of nature will operate,” Captain John Rutherford claimed. In this way, they seized hold of the language of sensibility and turned it to support their own purposes.

Officers frequently invoked their own sensibility when tried by court-martial, claiming overwhelming emotion as a defense for their violent and insubordinate behavior. “[M]y mode of acting towards Mr. Cawley, tho perhaps of too violent a nature to correspond with the Strictest Rules of my profession, was by no means unmerited,” claimed Ensign Farrell. He described Cawley’s behavior as "so cruel and so unjust an Attack as this upon my feelings as a Man, as an Officer and a Gentleman” that it “roused my resentment and I was so far led away by passion as to make use of the Expressions, for the impropriety of which I am now brought before you." But Farrell claimed that he could not have done otherwise: "my situation at that time was such as that few Young Men in a Similar one could have


368.This also paralleled civilian developments. Rabin, "Drunkenness and Responsibility for Crime in the Eighteenth Century," 469, catalogs the emergence of the language of sensibility in civilian courtrooms in the second half of the eighteenth century, as it became increasingly acceptable for defendants to plead for mitigation on the grounds of being provoked into uncontrolled emotional outbursts.
Commanded their Temper."369 After being insulted, "I could not refrain from an immediate resentment," another officer claimed.370

Lieutenant Richard Berks and Captain Harington Baudin of the Nottingham Regiment of Militia were both tried by court-martial in 1782, Berks for striking his superior officer and Baudin for using "language...of a gross and unwarranted nature" towards Berks—accusing him of being an embezzler and a "Scoundrel" while the regiment’s officers were gathered on the parade ground—"which produced an Affray between them." Berks defended himself with an impassioned speech justifying his violent reaction, claiming that when Baudin

presumed to make me the public butt of his low Buffoonery, when he dared before the Corps of Officers to call in question my Integrity, he Sir who had so often attempted to wound my reputation in the dark, when this Man, I say, Sir, dared charge me with the foul Crime of Embezzlement, and in the same breath to insult me with an opprobrious appellation that includes all infamy, the appellation of Scoundrel, I confess Sir, my indignation overpower’d my reason and I struck him.371

Berks’ defense not only cited his overwhelming emotion as a defense for his violence, but also invited the members of the court martial board to display their own sensibility by recognizing and affirming the emotions that he had felt upon being insulted. Could "you Mr. President, or you Gentlemen of the Court...bear without discomposure perpetual injuries and a constant endeavour to undermine and ruin your Character by Practices the most dishonest as well as unceasing efforts to turn your most indifferent actions into ridicule,” he asked. "[A]s I conceive you to be not only Men of Probity, but of feeling, Men who know the value of a good Name, and are

370.WO 71/83, 309-331. See also Drewe, Military Sketches, xv-xvi, who claimed that a meritorious man, accused unjustly, cannot abide being thought a coward and must act to defend his reputation.
alive to what ever might concern your Honor, so I shall confide in your Justice, being the Justice of humanity."

Other officers used similar tactics. “I was tortured to agony, irritated even to anguish, by menace, insults and blows,” one officer explained. “I submit to this Court, what my feelings as a man of honor must have been,” Lieutenant John Heslop stated, “when I was informed that Colonel Barton had called my Veracity in question, and accused me of Perjury. This Charge awakened my sensibility, roused my Passions, and as I was grieved by so base an insinuation, I determined to pursue every prudent step, to obtain Justice from the Author of so illiberal false and scandalous an Assertion.”

Civilian men who claimed to have been overwhelmed by their passions faced the danger that this lack self-control would mark them with the stigma of feminine hysteria or a lower-class inability to regulate oneself. But this central worry about male demonstrations of sensibility was far less of a concern in the army, because officers sidestepped it handily by integrating their displays of sensibility with violence. When the expression of sensibility was actually an uncontrolled violent outburst, it masculinized the feeling and immunized it from accusations of a feminine lack of control. Furthermore, the redemptive power of violence, in particular violence motivated by the treatment of a gentleman in such a way as a gentleman ought not be treated, affirmed rather than undermined an officer’s claim to belong to the upper class. Reacting to this treatment with violence—verbal or physical—enhanced an officer’s status, even if (or especially if) it was violence that violated the

373.WO 71/54, p. 158.
375.Myers, 315.
376.Myers, 323.
military’s chain of command because it was inflicted on a superior officer. It was then further proof of the man’s willingness to defend his honor even at the cost of risking his career. “[H]aving received a Treatment from Lieut. Col. Doyle while his inferior Officer, that had hurt my feelings as a Gentleman,” Captain Barry claimed, had led directly to “my Resentments being warm, my Sensibility awakened by Insults, & Injuries,” and Barry’s subsequent insubordinate behavior to Doyle.377 In Barry’s mind, this behavior was natural, justified, and evidence of a proper gentlemanly sensibility. But it was also an implicit assertion of the supremacy of private honor over military law.

Self-control and “coolness” were still prized, especially on the battlefield, and were not incompatible with being a man of sensibility: At his trial, Payne’s friends testified that he was “sensible, polite, Cool, and Spirited.”378 At courts-martial, it was common for the opposing officers to each call upon witnesses to testify to his own "coolness and decorum" in contrast with the other party’s "passion."379 But although calmness was advisable for officers to maintain in their day-to-day life, as well as in battle, such calmness in response to a definitive personal insult was described with the term “Stoicism.”

In the later eighteenth century, the tenets of this classical philosophy were still admitted to be a moral ideal, but it was increasingly portrayed as a virtue impossible for the feeling man to actually achieve, especially a man with the honor-sensitive temperament that suited him to military life. Berks asked if any men in the court were “such Stoics as to bear yourselves accused of infamous actions, and insulted with appellations too opprobrious and too vulgar for either the ears of the lips of a

379.WO 71/82, p. 177. Also WO 71/54, p. 182: “I was cool and determined and...Mr. Smith was transported with passion throughout the whole transaction.”
Gentleman without emotions of Anger, or the kindling of any agitating passion,” and implied that forbearance after such treatment was an impossible standard to which to hold an officer.380 Captain Payne, accused of “Tyrannical, cruel and oppressive treatment to Non Commission Officer & Men,” defended his angry beatings of the soldiers under his command in similar terms: “I must own, Gentlemen, that I have never considered it as a Crime to resent when provoked, nor can I boast of that calm Stoicism that can with Indifference turn aside from offered insult.” Brought to righteous resentment by insolent treatment from his inferiors, he had lashed out at them, but this was only a natural feeling. Payne did “confess also that from Warmth of Temper, I may have sometimes carried my Resentment farther than the Occasion would justify on cool reflection,” but it was outrageous for him “to be branded with the odious Epithets of Tyrant and Oppressor” for merely resenting what a gentleman ought to resent.381 Similarly, Lieutenant Colonel Peacocke objected to being “prosecuted for the little irregularities of temper” that even the best officer would be led to if faced with an undisciplined regiment.382

When officers’ righteous rage resulted in violent actions to their enlisted subordinates, it was often a matter of little concern to military authorities. But violence to superiors almost inevitably led to a court-martial. During these trials, some officers claimed that they had heroically controlled their temper so far as to refrain from attacking their insulter outright, but that they could not be expected to refrain from “demanding the satisfaction of a gentleman”—a duel. After Colonel Barton had accused him of perjury, Lieutenant Heslop testified, he had taken the “prudent step” of speaking to Barton warning him to “be more circumspect in what

381.WO 71/81, pp. 212-213.
382.WO 71/60, p. 149.
you say of me.” But after Barton replied that Heslop was “a lying Scoundrel” and threatened to horsewhip him, Heslop claimed that he could hardly be expected to refrain from demanding gentlemanly satisfaction.\footnote{WO 71/94, p. 273-296.}

An officer insulted either verbally or physically by an enlisted man had some different options for inflicting retaliatory violence. He could have the man arrested and tried by a court-martial, which might sentence him to a savage flogging or even to death for his crime, or he could choose the more direct method of beating the offender on the spot. But the only proper method for using violence to remove the stain of an insult or an assault from one’s social equal was the duel.

After Ensign Mair had ascertained that Ensign Smith had, in fact, publicly called him a coward, he wrote out a formal challenge to be delivered to him:

Sir,

The affront you gave me demands immediate reparation and I insist on your meeting me with a brace of Pistols this Evening at half an hour past Six o’Clock on the race Course at the Starting post, bring your friend with you, I shall bring mine. If you have not Pistols I have one at your Service.

I am Sir Your Humble Servant
William Mair, Ens., 60th\footnote{WO 71/54, p. 93.}

This letter laid out the basic requirements for a duel: It specified the time and the place the men were to meet (preferably an out-of-the-way one to minimize the likelihood of passers-by coming upon the scene and meddling).\footnote{The public was increasingly willing to intervene in dueling, either by physically stopping duels or notifying the police, and so dueling had to move to out-of-the-way places and odd hours (Banks, “Killing with Courtesy: The English Duellist, 1785–1845,” 543).} Likewise, it specified the weapons to be used (swords or pistols were the only acceptable options). The reference to each man bringing a “friend” with him to the meeting referred to the seconds, who would negotiate with each other to determine the
precise terms of the duel—for example, how many paces apart the duelists would stand, and how many shots each man was to fire—once both parties had reached the appointed place.386

Mair’s letter also demonstrated one of the other commendable traits in a duelist: a cool and dispassionate character. It conveyed the information that Mair felt so injured by Smith’s remark that he insisted on Smith’s coming to some place where Mair could fire a loaded pistol at him, but it did so in a polite manner, following all the proper conventions of letter-writing etiquette. Mair indulged in no name-calling or recriminations that might betray an uncontrollable rage. He courteously offered Smith the use of one of his pistols. The overall tone was meant to communicate that Mair had been grievously insulted, that he resented that insult extremely, and that Smith would have to hazard his life to rectify that insult, but that Mair nevertheless remained a gentleman in control of his emotions.

Because it satisfied the demand for violence without sacrificing the residual desire for emotional control, the duel was an opportunity to display the ideal species of upper-class masculine anger. The ritual required feeling angry, but also required controlling the expression of anger and resentment until it could be properly discharged.387 The duel also served as categorical proof of a officer’s courage. Spontaneous violent behavior affirmed one’s masculinity and was also evidence for courage, but the duel was a more perfect showcase of the virtue. Inflicting violence on another person indicated a lack of fear of that person, but standing before a loaded pistol or naked blade and risking death indisputably established (or re-established) an officer’s reputation as a courageous man; this was why the duel

386.WO 71/54, p. 53.
387.Eustace, Passion Is the Gale: Emotion, Power, and the Coming of the American Revolution, 187-188, on resentment, as distinct from rage and fury—anger that was respectable because it was both justified and restrainable.
served as a definitive refutation of an accusation of cowardice. There was no moral dispute to be settled by dueling. The purpose of the duel was not to redress wrongs—one dueled even if one thought one was clearly at fault—the purpose was to affirm the courage of the participants and to counteract claims that they were cowardly or dishonorable.

This was why Lieutenant Campbell and Lieutenant Boyle had chosen to resolve their argument over the proper way to paddle a canoe through a deadly duel. The duel was not fought to uphold the superiority of one canoeing method over the other—nobody thought that because Campbell had triumphed and killed Boyle, his assertion that Boyle did not know how to steer a canoe had now been proven indisputably true. Rather, the duel was fought because not fighting it would make both officers vulnerable to the charge of cowardice. And Campbell’s defense statement shows that this was a normal part of officers’ military culture. “It gives me satisfaction when I consider my case is left to the decision of a Court who have a just sense of the dearness of an Officer's reputation, and the delicacy of his honor,” he stated. Campbell expected the officers judging him to hold him blameless, to understand the supreme importance of an officers’ personal honor. And he was correct to do so; the court-martial unanimously found him not guilty of murdering Boyle.

And this dispute, by no means atypical, suggests some reasons for officers’ constant quarrels, fight, duels, and other violent behavior: often, no middle ground was possible. No compromise could be honorably reached. The social benefits of

391. Peter Way, “Rebellion of the Regulars: Working Soldiers and the Mutiny of 1763-1764”, William and Mary Quarterly 57, no. 4 (2000): pp. 761-792, suggests that this lack of a middle ground was an inherent feature of eighteenth-century society, whose hierarchical structure allowed for no compromise
inflicting violence were high, and the social costs of accepting violence were ruinous. Officers had created a society in which inflicting violence was a key way to gain masculine status—indeed, refraining from violence under many circumstances was seen as unmanly and dishonorable. However, because they also considered being the victim of violence deeply shameful, army society was a place of continual tension as men all sought to inflict violence on others, while preventing others from inflicting violence on them.

Because officers held to courage as a most perfect expression of masculine virtue and status, violent behavior was one of the easiest and most effective ways for officers to gain status. This, combined with the practical difficulties of conducting warfare with an army that held pacifist values, made it perhaps inevitable that the eighteenth-century British army would develop a culture of violence and a society in which violence was an essential marker of masculinity. But it came at the cost of making officers ever more disinclined to seek peaceful rather than violent resolutions to conflicts. Violence gained so much cultural power as a fundamental value of military masculinity that, as the next chapter shows, military commanders had extreme difficulties regulating the various quarrels that broke out over questions of officers’ personal honor, even when these disputes threatened the interests of the army itself.
Chapter 6: A Government of Men, Not of Laws

On February 22, 1780, John Lawrence was tried for murder. Lawrence, an ensign in the 1st Battalion of New Jersey Volunteers, was brought before a military court in New York, then occupied by the British Army, and accused of murdering Ensign John Moffatt of the Queen’s Rangers. The prosecution’s case seemed clear: Several witnesses agreed that Lawrence had shot Moffatt with a pistol and the ball had gone all the way through Moffatt’s body. Moffat collapsed to the ground and, upon being approached by an anxious friend who had witnessed the scene, could say only “My dear fellow I am killed” before dying.

But this was no unprovoked attack by Lawrence. His homicidal violence took place in a highly ritualized form, and was mirrored in every particular by the victim, Ensign Moffat. The encounter took place beside a hill on the property of Mrs. Pryan, a widow, and both ensigns had travelled several miles from their respective quarters in New York to arrive there. The journey had been arranged the night before through several messages exchanged between the two ensigns, who had agreed upon a suitable place and time for their meeting. Furthermore, each of them had brought another officer with them: Lawrence had brought another ensign in the battalion, John Thompson, to accompany him, while Moffat had asked his friend Lieutenant John Pendred, a fellow officer in the Queen’s Rangers, to accompany him. Once all four men had arrived at the appointed place, Pendred and Thompson chose the ground in consultation with the other two, agreed that Moffat and Lawrence should stand six yards from each other, and marked out the distance. Thompson testified that he had personally witnessed that Lawrence and Moffat each had a pistol loaded with one shot, and Pendred testified that both had waited to shoot until they were given an express command to fire. The two men fired at exactly the same
time, and both bullets hit their targets: Lawrence received a slight wound on his right side, but Moffat was fatally wounded and died within minutes.

The encounter had, in other words, conformed in every particular to the rules and customs of the duel. In this regard, none of the witnesses could find any fault with the conduct of either Ensign Lawrence or Ensign Moffat, who had exchanged shots precisely according to the established procedure. Moreover, each had conducted himself in a cool and dispassionate manner throughout the proceedings, and—apart from the portion of the event when they fired loaded pistols at each other—were careful to behave to each other with courtesy and consideration. On the journey to the appointed dueling grounds, Lawrence and Moffat had a friendly conversation about matters unrelated to their dispute, and Lawrence, who had brought two pistols with him, graciously asked Moffat if he would care to choose one of them to use. Moffat, with equal politeness, declined and said he would rather use one of his own. Though each thought the insult done to himself by the actions of the other severe enough to necessitate the hazarding of his life in this contest of honor, neither lost his self-control and charged at the other in a rage at any point. Neither did they resort to vulgar brawling with their fists or sticks; instead, they were careful to confine their exercise of violence to the civilized and gentlemanly method of exchanging pistol fire.

Furthermore, Ensign Thompson and Lieutenant Pendred had behaved in a similarly exemplary fashion as seconds. They understood that their role was not to act as partisan supporters of their particular friend, joining in the contest of arms and turning it into a general mêlée, but to be disinterested regulators of the event: marking out the ground, overseeing the loading of the weapons, and giving the command to fire. They also had important duties before the duel itself: they were charged not only with carrying messages between the duelists, but also with
attempting to persuade the duelists to make up their differences amicably and negotiating with their counterpart to see on what terms the principals would apologize or ask the other’s pardon and obviate the need to duel. Thompson and Pendred had spoken with each other and discovered that both parties refused to make any acknowledgment of wrongdoing as each thought himself entirely innocent of any misconduct and unjustly injured by the other. Thompson “thought it was a pity that the dispute could not be settled without a Duel,” and Pendred told him that “he had endeavoured every thing in his power to Settle the affair,” but they both concluded that their efforts had been to no avail, and that a duel was inevitable.392

Yet, no matter how impeccably the duelists and seconds had behaved according to the rules of gentlemanly honor, they had acted in a manner totally contrary to the rules of the actual law. Dueling was manifestly illegal, and the law made no provisions for exceptions when death occurred in the private settling of differences through a proper and gentlemanly duel. In this legal theorists were agreed: a death that took place during the course of a duel was, legally speaking, indistinguishable from a homicide.393 To arrest and try John Lawrence for murder was the state’s only possible correct response according to the common law.

But none of the participants in the duel between Ensign Lawrence and Ensign Moffat seemed to be troubled about its illegality, and though many of them thought that the duel was regrettable, none thought it was immoral. Rather than dueling, which had an unfortunate tendency to kill its participants and undermine the unity of the officer class, military authorities had been promoting the court-martial as a non-violent method of dispute resolution since well before the mid-eighteenth century. The court would hear the complaint of the aggrieved party, question witnesses, allow

393.Banks, A Polite Exchange of Bullets, 11-16.
the defendant to tell his side of the story, determine whether a serious offense to honor had actually occurred (important in an age when drunken quarrels about the proper way to strike billiard balls or which officer was the handsomer could escalate into deadly duels), and sentence one or both parties to publicly ask the other’s pardon, or, if the matter was especially egregious, dismiss them from the army. In this way, disputes could be settled without the risk of death for any of the participants.394 Yet the court-martial did not work as anti-dueling advocates had hoped. In the trial of Ensign Lawrence for the murder of Ensign Moffat, the utter impotence of the law to outlaw dueling was made plain. The court-martial board questioned the witnesses minutely about all aspects of Lawrence’s conduct and declared themselves satisfied with it. Lawrence had, in fact, shot Moffat with a pistol and killed him, but the death had occurred during a duel in which he had conducted himself with the utmost propriety. Therefore, they acquitted him, in flagrant defiance of the law but in their eyes the only verdict they could honorably render.

In this case, then, the court-martial, which military leaders hoped to promote as an alternative to dueling, was itself used to give public sanction to an officer who not only spurned the court-martial as an authority in matters of honor, but who openly declared that he had killed another man completely unjustified by any law other than that of honor. Lawrence’s acquittal signaled that whatever the law might declare, dueling remained a viable method for receiving satisfaction for slights to one’s honor.

Had the incident taken place in Great Britain, civilian authorities might also have involved themselves. Lawrence might have found himself facing a jury of tradesmen, farmers, and merchants unconcerned with a military man’s delicate

sense of honor—or he might have had to flee abroad to avoid prosecution. By the early 19th century, the mood of the country turned decisively anti-dueling: less tolerant of violence, more enamored with the ideals of politeness, self-restraint, and respectability as markers of masculinity; and more convinced that all men ought to be subject to and governed by the rule of law. To duel was to publicly claim to be above the law—a reason why it had such appeal for elite men, but also why the duel was attacked so vigorously by middle-class reformers. In Britain, anti-dueling advocates directly interfered when they saw a duel, but they also used the law to prosecute duelists, who in turn sought to conceal their actions from the law. Gentlemen who dueled had to conspire to prevent prosecutions by concealing the manner of death and refusing to testify if they were witnesses, and even producing deathbed declarations that they wished no one to face any legal consequences for killing them.

Thus, in Britain, the law was increasingly more effective at preventing duels and undermining dueling culture. But Lawrence killed Ensign Moffat in British-occupied New York during the American War of Independence, and there was no civilian

395. Donna T. Andrew, "The Code of Honour and Its Critics: The Opposition to Duelling in England, 1700-1850", Social History 5, no. 3 (1980): 409-434, however, suggests that Lawrence might not have done too badly with a civilian jury in England, though it still might have convicted him of manslaughter and fined him. In 1780, before opponents of dueling became powerful, his scrupulous observance of dueling convention would probably have reflected well on him with a civilian jury as well as in a military court.


397. Shoemaker, "The Taming of the Duel: Masculinity, Honour and Ritual Violence in London, 1660-1800," 540, on dueling as a marker of elite status because the act was a statement that one was above the law, and the increasing isolation of such a position by the beginning of the 19th century.

authority by which he might be tried. The military court of the British army was literally the only court in town, and it gave the officers deciding cases an ability to impose their own views of honor and acceptable violence that was only possible on the contested edges of the British empire. Abroad, therefore, military duelists were willing to take their chances with a jury that was far more assuredly of their peers than any that might be assembled from the civilians of the British Isles.

Army officers were one of the last holdouts of men claiming to be above the law, and in a courtroom where other army officers acted as judge and jury, they often did not even need to conceal their beliefs or their actions. Officers who dueled considered it prudent to conceal their intentions before the duel took place, but afterwards, they openly related them to the court. Lawrence and the other officers present at the duel showed no reticence at testifying to what had occurred. And in their decision to acquit Lawrence, the officers of the court-martial board manifest their rejection of the principle of the rule of law. The law said that what Lawrence had done was murder, but in the officers’ minds he had only done what any honorable gentleman would do. Their sense of honor demanded that Lawrence, and others who had committed similar deeds, be judged not by the standards of the law, but by their own personal judgment as honorable men.

Two things were necessary for the court-martial board to acquit Lawrence when the law said he was guilty of murder: A lack of a civilian court, which would otherwise have jurisdiction for trying a murder case, and the system of military law

399. Just as openly, Ensign Mair avowed his machinations to circumvent the Articles of War and his commander’s duty to prevent quarrels between officers from escalating into full-fledged duels. “I considered that had I made any shew of resentment upon that occasion, we would…have been both put under an Arrest; and brought to a Court Martial,” at which point “my hands [would be] so far tied from receiving, or taking that proper satisfaction which I was determined then to demand and have….whereas I further considered that if we were not put under an Arrest, it would give me an Opportunity of calling Mr. Smith to a proper Account for such his behaviour to me, and of which in my own mind I had formed a fixed and determined resolution” (WO 71/54, p. 124).
in which the procedures for administering military justice were controlled almost entirely by officers.

In keeping with contemporary ideas about British liberty and fears of the military usurping control of the government, military law was supposed to occupy a position strictly subordinate to the civilian system of law. The Articles of War insisted that soldiers accused of non-military crimes were to be tried by civil magistrate:

> if any Officer, Non-commission Officer, or Soldier, shall be accused of any capital Crime, or of any Violence or Offence against the Person, Estate, or Property of any of His Majesty's Subjects, which is punishable by the known Laws of the Land; the Commanding Officer or Officers of every Regiment, Troop, Company, or Party, is and are hereby required to use his utmost Endeavours to deliver over such accused Person to the the Civil Magistrate; and shall also be aiding and assisting to the Officers of Justice in the seizing and apprehending of such Offender, in order to bring him to Trial.  

What this meant was that unless an area was under martial law, a court-martial had no right to try non-military crimes. If a soldier deserted, or disobeyed his superior, or neglected his duty, that was the legitimate province of the military court. However, if a soldier committed a robbery, rape, or murder, he was to be delivered up to the civilian authorities to be tried by them.

But military courts often illegally usurped the power of the civil law. When William Turner and John Ball, privates in the 50th, were accused of desertion and of a robbery in Salisbury, a general court-martial tried them for both crimes and convicted and sentenced them. But when the proceedings were sent to London for the sentences to be confirmed, the Judge Advocate General ordered the commander to turn the two men over to "a Civil Magistrate, in order to their being Tried for the Robbery, with which they are charged, in the Ordinary Course of Law."  

401. WO 71/54, p. 52.
was a problem because the crime was committed in Britain, a civilized territory with a functioning legal system. But overseas, it is most likely that trying this case in a military court would have been completely authorized; in imperial space, there was usually no civilian court to which these crimes could be referred. Away from Britain, and especially in wartime, officers necessarily had to be the sole administrators of military law; they were often far from alternate sources of authority, and during a war it was naturally extremely inconvenient to demand that the army be accompanied at all times by civilian judicial authorities, especially as the army might occasionally need to resort to immediate and summary punishment to preserve order.

The necessities of empire and war made it a requirement to cede almost all control of the military justice system to officers and removed central oversight. Supposedly, a check on officers’ power existed because all general courts martial (the only ones allowed to try capital cases) had to have the proceedings sent to London for approval by the king before the sentence could be executed, but this, too, needed to be dispensed with in overseas posts. The right to approve the proceedings and confirm the sentences of courts-martial was delegated to the commander-in-chief. The government eventually received records of these proceedings, but this was so that they could properly archive and preserve them in accordance with the Articles of War, rather than to approve of them. Because only the military commander of the theater and not the government in London had to approve of the sentences of overseas courts-martial, in imperial settings, one of the

402. See Tatum, "Civilian Intervention and Military Justice in the Eighteenth-Century British Atlantic," 66: "For much of the eighteenth century, key portions of the British Atlantic were claimed solely by military garrisons, which were, in theory, free to proceed as they desired in maintaining order as long as their reports met with approval from the army's headquarters at the Horse Guards."
only sources of civilian oversight, observation, and control was removed, leaving the army free to impose its own values.403

Almost the entire court-martial process was under the control of the officers. The commander-in-chief determined whether a general court martial was to be held or not (and in the case of regimental courts-martial, this was the job of the regiment’s commander); the court-martial board, which acted as judge and jury, was drawn exclusively from the roster of officers; the Deputy Judge Advocate, who controlled the administrative aspects of the trial, was also an officer. Enlisted men were specifically barred from all these roles—most importantly, they were never permitted to sit on court-martial boards, even when the defendant was one from their own ranks. The class hierarchy meant that it was unthinkable to have enlisted judging officers, or even other enlisted soldiers. Therefore, officers’ practical ability to manipulate the court-martial meant that they operated more like two parallel justice systems, separated by class, in which the double standards for acceptable behavior for officers and for enlisted that existed in practice were also formally upheld by the law.404

The power that officers held within the system of military law gave them the ability to direct the legal procedures that governed courts-martial. Unlike civilian courts, which by the eighteenth century had been transformed into spaces where formal legal procedure was interpreted by lawyers and judges with specialized legal training, courts-martial retained a more informal tone. Officers who judged cases

lacked legal training, and the format of the trial was often subject to the whims of the senior officer presiding over it.405

In many cases, the court-martial board appear not to have been conversant with recent legal developments. For example, the court allowed hearsay evidence, although legal authorities as well as Adye’s *Treatise on Courts-Martial* declared that it ought to be disallowed.406 And in contravention of the standard of proof nominally required in civilian courts by this time, courts-martial convicted on evidence that was hardly conclusive beyond a reasonable doubt.407 This was especially apparent and complained of in cases of desertion, the crime most often tried before a general court martial, but convictions despite scanty or contradictory evidence occurred in trials for other crimes as well. Furthermore, court-martial boards were apparently often ignorant of the most basic principles of modern legal procedure. Cuthbertson had to warn officers that members of the court-martial board were not supposed to give evidence in the cases they were judging.408

However, this is not quite to say that officers rejected any innovation in law. The end of distinction between principals and accessories in felonies—so that “any soldier who shall persuade another to desert the service, or to commit any other crimes contrary to the articles of war, will be deemed a principal, and be perhaps found more deserving of punishment than the person who actually commits the crime”—was a reflection of a comparative development in common law, which no longer held that "those only were to be judged principals in felony, who actually did

407. Dayton notes that during eighteenth-century, courts in North America were increasingly influenced by new rules of evidence and higher standards of proof, imported through treatises on English law (pp. 59-60).
the fact; as in murder, those only who gave the mortal blow; in rape, those only who actually ravished the party," but now asserted that all those present with intent were to be treated as principals.409 Officers freely borrowed the common law developments that would enhance their power, but rejected the others. Thus, this was not the wholesale rejection of the legal process, but an insistence on using and controlling the legal process, and a firm intention that military justice should proceed according to their own values and allow them to uphold those values; the more objective law and the increasingly elaborate legal process that was developing in the common law did not suit their purposes.

In general, therefore, they were ignorant of the law, and furthermore they were indifferent to their ignorance. The Deputy Judge Advocate was the only person on the court-martial board who had any legal training. He supposed to challenge the selected members of the board if he doubted their ability to be impartial, collect the witnesses before the trial, notify the prisoner when his case was to be heard and give him a copy of the charges brought against him, and ask the prisoner which witnesses he intended to call in his defense so that Judge Advocate could call them to appear. However, he had no vote and had no power to overturn the verdict of the board even if it was not in accordance with the law.410 Even throughout the trial, he could offer advice as to what was legal and what was not, but the court-martial board was not actually obliged to accept his judgments.411

411. Adye, who acted as Deputy Judge Advocate in numerous cases in North America during the Revolution, complained about the tendency of court martial boards to ignore legal rules and admit evidence that was irrelevant to the charge, despite his attempts as Deputy Judge Advocate to insist on proper legal procedures: "Every Court Martial brings together a new set of men, who from not having fixed rules or recorded precedents, have each an Opinion of their own to adopt. Young men are too apt to imagine, that the parchment on which their Commissions are written, inspires them with military knowledge, and those in superior ranks...fancy that length of service must make them adepts in their profession, and consequently render them above information" (Stephen Payne Adye to Sir Charles Gould, 30 September 1782, Stephen Payne Adye Papers, American Philosophical Society).
The trial of James Barton, Surgeon to the 88th Regiment, in Jamaica in 1781, clearly demonstrated officers’ unwillingness to abide by the Deputy Judge Advocate’s legal advice. In this case, the deputy judge advocate made repeated objections to the questions that the court asked of the witnesses—primarily, it seems, because the court was seeking hearsay testimony. But the court constantly overrode him and demanded that their questions be answered. When he later objected to a question asked by the defense of one of its own witnesses, "as not tending to disprove any thing contained in the Charge," the reply was, "The Court were of Opinion that it ought to be answered." And, in fact, they did not just overrule his objections; a few pages later, when the deputy judge advocate himself wanted to ask a question, it was "Rejected by the Court"!412

And in the regimental courts-martial formed to try lesser offenses, there was no provision to have an officer with knowledge of the law present for the trial, and the officers serving on regimental courts often found themselves quarreling with each other about points of law and about how to conduct a regimental court martial.413 With no deputy judge advocate to advise them on legal points, the members disputed over whose opinion should prevail. Lieutenant James Paterson was tried for his "unmilitary behavior" to Captain Faviere, who was president of a regimental court martial that the lieutenant was a member of. The two men quarreled over what was proper to enter in the court martial proceedings, Faviere insisting on his own opinion because "he was a Judge." Paterson "then said that he was a good a Judge as he, in an angry manner, & that they were all Judges alike."414

414.WO 71/78, pp. 75-78. The diary of George Nicholson, a major 3rd Regiment of Foot, offers a more extended view of officers’ squabbles over their authority to judge and punish enlisted men, containing a complaint that a sentence that Nicholson imposed on a drunken sergeant was countermanded due to the defendant “being a favorite of the Commanding Officer” who was “Jealous of his Power &
Eighteenth-century commentators commonly disparaged military law and denounced it for its lack of consistent guiding principles. The seemingly arbitrary nature of courts-martial and military justice in general was the most prominent criticism. But more generally there was a contemporary belief that army life was not compatible with traditional English liberties—a view adopted not only by civilian critics but also by officers themselves.

"The rigorous principles of military law, and the arbitrary manner in which it is administered, have given occasion to several writers, to exercise their real or pretended humanity, in lamenting that so many of their fellow creatures are unhappily subjected to its coercion," wrote John Williamson in his treatise on the discipline of war. But, he continued, the military could not have the same liberties as civilian society, for "those principles and institutions, that constitute freedom in a state, would be productive of licentiousness in an army." He argued that, because of the military's needs, "Courts-martial are certainly warranted to act in a more summary, which some may call a more arbitrary, manner than the courts of common law: and it cannot be expected, that they should be in every respect tied down to the observance of the same punctilio."

Officers were convinced that if they were forced to observe the "punctilio" of civilian court practice, the law would be incapable of delivering true justice. In his analysis of regimental courts, Glenn Steppler claims that the absence of codified

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419.Williamson, The Elements of Military Arrangement, 125.
standards in fact allowed for a more nuanced response to the disparate defendants they tried: "the chronic drunkards, the insensitive brutes and the honest soldiers gone astray by misadventure," he suggests, all required different standards of judgment: merciless floggings for the "unsavoury and unruly men," and lighter sentences or outright pardons for the "men of better character and generally good behaviour."420 Certainly, the discretion allowed to officers in these regimental courts could prove more advantageous than a strict adherence to a harsh and inflexible legal code. However, these benefits were only realized when officers were diligent, experienced, and men of good judgment—and the complaints about officers' neglects of duty and inappropriate levity seem to imply that many were not. Those who wished to uphold the 'consequence' of courts martial not only had to fend off challenges to their authority from enlisted defendants, but also had to police the behavior of the officers assigned to judge the cases. Despite the Articles of War warning that "All Members of a Court-martial are to behave with Decency," there were complaints about inappropriate levity and lack of attention by officers assigned to sit on regimental courts martial, particularly the youngest officers.421 Occasionally this behavior was egregious enough to result in the courts-martial of the officers themselves, such as Lieutenant Samuel Shephardson of the Royal Artillery, who was accused of being drunk while serving on a court martial.422

420. Steppler, "British Military Law, Discipline, and the Conduct of Regimental Courts Martial in the Later Eighteenth Century," 878-879. See also Rabin, "Drunkenness and Responsibility for Crime in the Eighteenth Century," 477, who suggests that in England's civilian courts, "the plea of drunkenness provided a convenient and almost universally applicable excuse that could serve as grounds for lesser punishment or pardon." This gave juries a way avoid conforming to the harsh legal code of the time, instead adhering to the older practice of determining an appropriate punishment based on the defendant's character rather than the standardized sentences prescribed by the law.


The "immilitary & improper behaviour" of Lieutenant James Hoy at the regimental court martial held by the 39th Foot at Gibraltar in July 1779 began when Hoy objected to the wording of the charge in the first case to be tried, claiming that it was disallowed by the Articles of War. During the next case, the president of the court "could not prevail on Mr. Hoy to attend, as he was turning over the Articles of War, still objecting to the former Crime, and saying he wondered he cold not find the Article that was against it, which he continued to do so (i.e. turning over the leaves) during the greatest parts of this tryal." When the court then proceeded to the trial of two soldiers who had "broke into the house of a Serjeant of the 12th Regiment and ill treated his Wife," Hoy wanted to ask her prurient questions about just exactly what sort of ill-treatment she had received. When another officer said that he was convinced that she had been treated rudely and that "he did not think it necessary to urge the Woman to say any thing that was indecent; that they were not trying the man for a Capital Crime" (i.e. the victim had only accused the soldiers of assault, not rape, and therefore was not obligated to give the intimate details necessary to prove a charge of rape), Hoy insisted on questioning her further, claiming that "as a Member of the Court Martial I may ask any question I please." The president exclaimed, "why will you put a Modest Woman to the Blush by obliging her to answer so particularly upon so nice a point," and he and Hoy got into a quarrel that led to Hoy's arrest and court-martial.423

Yet such behavior was supposed to be an isolated incident. Officers proposed that a court-martial board comprised entirely of officers was superior to a civilian jury, for "an officer is bound by a sense of honour with which we cannot always expect a juryman to be actuated," and that officers, with their liberal education,

gentle birth, lofty principles, and delicate sense of honor, were manifestly superior to the rustic clods that the system of trial by jury might select. Officer defendants echoed this view on the superiority of military courts to civilian because they were tried by men of honor. "It is a privilege and the dearest one which a Soldier enjoys as a Compensation for the civil Liberties which he relinquishes," claimed one officer, "that he is tried in a Court of honor, where no Stain can be fixed on him by the low chicaneries of form unsupported by the sacred and substantial Maxims of Justice."  

Stephen Payne Adye, an army officer, a deputy judge advocate, and the author of a popular guide to conducting courts-martial, with the customary British pride in the system of trial by jury, explicitly compared the military and civilian systems of justice, and defended the military system from critics who pronounced it corrupt, capricious, and a perversion of traditional English liberty. Indeed, Adye claimed, the court-martial had several advantages over a trial in a civilian court, primarily in that it did not need a unanimous verdict. Adye claimed that the requirement for unanimity in trials by jury meant that, because the jury was not allowed "meat, drink, fire, or candle" until they had delivered a verdict, jurymen would agree to convict the defendant simply so that they could leave, "injur[ing] their souls for the conveniencies of their bodies." Even in capital cases where the sentence was death, the concurrence of nine of the thirteen members of the court-martial board was sufficient. Adye suggested that when the members of a jury were required to come to a unanimous verdict, they would be too "ready to acquiesce in the sentiments of some overbearing and dogmatic leader."  

426. Adye, A Treatise on Courts Martial, 27-30. See An Act for Punishing Mutiny and Desertion, 15, for the relevant Article of War providing that military trials ought normally ("except in Cases which require an immediate Example") to proceed only "between the Hours of Eight of the Clock in the Morning and Three in the Afternoon," adjourned until the next day without hesitation when necessary, and without
Remarks that the court martial's lack of formal legal principles was, in fact, a benefit were common. Williamson claimed that a military court was "not be governed by the same principles, clogged with the same formalities, nor open to the same sophistry and chicanery, with the ordinary courts of law."

While the civilian courts of Britain were filled with cases where clearly guilty prisoners were acquitted on legal technicalities, the army scorned them. Military courts were, as seen, readily prepared to convict or acquit in defiance of the established law to uphold their own values.

Military law, Adye claimed,

is laid down in so plain and simple a manner, that every military man is or ought to be well acquainted with what are thereby deemed crimes, and may judge in a great measure what is to be expected by one who is guilty of any of them, but at the same time he has the satisfaction to know that he must be previously convicted by a court, where justice and equity always preside, and where the innocent can run no risk of punishment, but the guilty are sure to meet with their deserts.

And if this was indeed so, officers might have been happier. While it was certainly preferred to civilian law, even plain and simple military law had its pitfalls. Officers showed a deep distrust of legalism, which they saw as a pernicious influence that might result in the conviction of defendants who—in their opinion—were not at fault at all (such as an officer who had honorably dueled) and

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428. Douglas Hay, *Albion’s Fatal Tree : Crime and Society in Eighteenth-century England* (New York: Pantheon Books, 1975), 33, argues that legal technicalities served an important function in convincing the public that the law was not merely "the creature of a ruling class," but a high and impartial ideal to which all were subject.
430. See, for instance, Andrew Jackson O'Shaughnessy, *The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire* (New Haven: Yale University Press, June 11, 2013), 300, in which the British officers who plundered St. Eustatius after the island's capture defended their actions by claiming that, as military men, they could not be expected to know the law.
likewise the acquittal of the certainly guilty (such as an enlisted man who had shown
undoubted insolence to his officers but was now demanding appeals and re-trials and
careful records showing that every particular of his trial had been conducted with
exact adherence to legal procedure).

Those who turned up in court looking too prepared with notes and legal treatises
were regarded with suspicion.431 There was a concern that too much formality and
preparation got in the way of truth; this why witnesses were forbidden to prepare
their testimony in advance. This was also the reasoning behind the ban on defense
attorneys. Although a prisoner was allowed to seek the advise of counsel before his
trial, no lawyer was to be permitted "to take an active part in the trial, as by
addressing the court, questioning the evidences, &c."432 Writing at the end of the
eighteenth century, Tytler sugested that it was "not unusual for a prisoner to request
the aid of counsel to assist him in his defence," but not in any direct fashion; rather,
the counselor was limited to "suggesting fit questions to the witnesses, or in drawing
up in writing a connected statement of his defence, and observations on the general
import of the evidence." This, Tytler thought, was an acceptable reliance on a legal
specialist, for "in those unhappy circumstances, the party may either want ability to
do justice to his own cause, or may be deserted by that presence of mind which is
necessary to command and bring into use such abilities as he may actually possess."

431. Written documents, in particular, seem to have been regarded with some disfavor. Richard Joseph
Sulivan, Thoughts on Martial Law, with a Mode Recommended for Conducting the Proceedings of
General Courts Martial (London, 1784), 59, claimed that all witnesses must give their evidence “viva
voce, no matter prepared in writing is admissible; neither is a witnesses permitted to read it as his
deposition: he may, however, have reference to notes.” Tytler, An Essay on Military Law and the
Practice of Courts Martial, 251-252, wrote that “No witness is permitted to read his evidence to the
court; for this might give room for subornation of evidence, against which every court is most anxious
to guard, by the preliminary questions, whether the witness has been instructed to say, or received any
reward, or promise of reward, for giving his testimony.” See also the legal dispute between Thomas
and Gordon (discussed later in this chapter)—there was a common perception that a man who came
into a military court with lots of legal-looking papers and testimony he wished to read was clearly up to
no good.

However, he denounced the excessive legal formalities of civilian courts, warning that "the prisoner's counsel who properly understands his duty, will see that it is his part not to embarrass, to tease, or to perplex the court." He was not "to force the discordant and unsuitable axioms and rules of the civil courts upon a military tribunal, but candidly to instruct himself in that law which regulates their procedure, and accommodate himself to their forms and practice." Tytler was of the opinion that military men and lawyers simply did not mix:

Courts-Martial being in general composed of men of ability and discretion, but who, from the nature of their profession and general mode of life, are not to be supposed versant in legal subtilties, or abstract and sophistical distinctions...counsel, or professional lawyers, are not allowed to interfere in their proceedings...For lawyers being in general as utterly ignorant of Military law and practice, as the members of Courts-Martial are of civil jurisprudence and the forms of the ordinary courts; so nothing could result from the collision of such warring and contradictory judgments, but inextricable embarrassment, or rash, ill-founded, and illegal decisions.

Military commentators made unflattering comparisons to civilian courts, with predictions of further woe if military courts continued the trend of adopting practices then becoming increasingly common in civilian courts, such as the innovation of reply and rejoinder: "[O]f late the judge advocate has been permitted to reply to the prisoner's defence, and bring other evidences to endeavour to weaken what the prisoner and his witnesses have urged, and to strengthen the testimony of witnesses for the prosecution," Adye wrote in 1778. And "where such a reply has been allowed, as it seems but just that every advantage should be granted the prisoner to clear himself of the crime, he is always indulged with an answer, and new witnesses to confirm his former assertions, which is called a rejoinder." By 1791 this custom

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had apparently become well established, and Williamson condemned in particular the protracted exchanges of lawyerly rhetoric at the end of cases: "It is now the general practice of courts-martial, when the prisoner has finished his defense, to allow the prosecutor to reply...The prisoner is also permitted to rejoin...This reply and rejoinder seem to be a excrementitious shoot, which has sprung from the unnatural mixture of civil with military law, since counsel have been admitted at courts-martial.” And in “the pleadings of counsel at common law,” it was even worse, for there "we have reply, rejoinder, sur-rejoinder, rebutter, and sur-rebutter." If military courts adopted this practice of allowing extended statements and replies to statements by each side’s counsel, he claimed, the now-straightforward military justice process would become “frittered and lengthened out in the same manner” as the civilian courts.436

The general principle that officers wished to adopt regarding military courts was that the individual judgment of the members of the jury ought to have primacy over formal legal practices. This was most apparent in considering which witnesses ought to be permitted to give testimony. The focus on individual judgment allowed the court martial board to dismiss the testimony of some witnesses because of their personal feeling that the witness was unconvincing; but, on the other hand, this principle also allowed the a wider variety of people to testify because the court-martial board, rather than the court, was to determine whether they were proper witnesses. In his defense statement, one officer reminded the court martial board that they must evaluate the honesty of the witnesses as well as the substance of their testimony, and "reject all Evidence however legal or formal that does not bring the Conviction of Truth to his Mind along with it.” This, he added, “is the Office of

the English Jury and this is the single Cause why England is a free Nation and why the other Nations that surround her are not free." Thus, the rejection of legalism and the rule of law, in favor of personal feeling and judgment, was now being proposed as the foundation of English liberty.

This was in keeping with army officers’ culture and ideas on masculinity. The law was a tool, useful for bolstering the authority they enjoyed by virtue of their class and rank, but also something that could not be allowed to reign supreme over their lives, because of its ability to interfere with military authority, class privilege, and masculine honor.

Especially in its opposition to private violence, the law undermined the fundamental sources of officers’ identity as honorable gentlemen. Maintaining their status necessarily required the judicious exercise of violence, and they had an understanding that the law was not the sole arbiter of interpersonal violence. Certain relationships, even when they were characterized by extreme or even lethal violence, were outside the regulation of the law. The duel as a method for settling disputes between gentlemen was one primary example of officers’ preference for extralegal violence over the using the law.

Defensive violence was not only natural and uncontrollable, but also an action that had clear moral superiority over seeking redress from the law. Officers believed that legal mechanisms allowed others to abuse them contrary to the rules of honor enforced by violence. Lieutenant Colonel Frederick Thomas bewailed his position as defendant in a court martial:

In addition to the Mortification of being obliged to answer to such a Charge from such a Man, I have found myself a Prisoner, subjected to the Humiliation (without having it in my Power to make the proper reply) of having myself loaded with every

437. WO 71/60, p. 150, Portsmouth, 1782.
approbrious Epithet; with a Torrent of Abuse and Aspersion, not hastily dropt from Excess of Passion, but coolly and deliberately from written Papers.\textsuperscript{438}

His prosecutor’s use of the law rather than violence to satisfy the supposed slight Thomas had given him; Thomas’s own inability to reply to insulting words with violence, because they were said in a courtroom and he was a prisoner of the court; and the legal process which allowed his adversary to “coolly and deliberately” think up insulting remarks about him, write them down so he could remember them later, and then say them in the public forum of the court, Thomas suggested, were all nearly intolerable to a man of proper honor.

Rev. Robert Newburgh, chaplain to the 18\textsuperscript{th} Regiment during its unhappy postings in North America in the years leading up to the Revolution, was despised the other officers of the regiment for constantly rumors and accusations that he was a “notorious Buggerer” with lawsuits instead of violence. Furthermore, he was continually offering up various papers and certificates as legal proof of his innocence from the charges. The officers of the 18th soon became exasperated with these sorts of appeals. In their minds, a man who was accused of buggery ought to challenge or assault the person who had so insulted his character; to respond by deluging the various third parties who had heard the accusations with certificates from respectable persons testifying that he was not a buggerer but a decent Anglican clergyman was the height of ridiculousness.

But Newburgh was not a soldier—could a clergyman really be expected to engage in the violent defense of honor customary to a military man? Perhaps not, but in that case, the officers of the 18\textsuperscript{th} insisted, Newburgh had no right to claim the masculine privileges and honors that were rightfully the soldier’s.

\textsuperscript{438}WO 71/56, p. 125.
The officers initially called a court of enquiry to into Newburgh’s behavior and reputation. Captain Benjamin Chapman claimed to have observed “unbecoming behaviour in him [Newburgh] as a Clergyman,” citing among other things an incident “on a Sunday in the month of November last at Bristol in the province of Penselvania; he was walking with Colonel Fanning, when the Rev. Mr. Newburgh Galloped Close by him full Speed, in a very unbecoming dress.” Colonel Fanning “asked him if he knew whose groom that was,” and Chapman “answered that he was sorry to say, he was a Clergyman and Chaplain to the 18th Regt. and Colonel Fanning reply’d he was also sorry to see it, for that he Looked more like a Groom or a Jockey than one of that Sacred Function.” This, according to Chapman, was the final straw. This incident (and the rumors of sodomy that were constantly surrounding Newburgh) were the “particular reasons he determined within himself never to take any notice of him unless unavoidably compelled to it.”

The particulars of Newburgh’s “Indecent dress” were described in detail: “a Close light Coloured Surtout, with a Scarlet or Crimson falling Collar, with a round Buck Hatt, perfectly in the Stile of a Groom.” Furthermore, Newburgh had also been seen “in the Barracks and Streets at Philadelphia in a Dress that had not the least resemblance to that usually worn by a Clergyman,” such as “a light Coloured frock made of Bath Coating, Close Buck or Lamb skin Breeches, white Silk Stockings, and a smart Fashionable Cocked Hatt, in short what is now termed a Macaroni Dishabille.” And his fashionable dress was not the only defect in Newburgh’s “appearance and Deportment.” Chapman related that, “to his utter Surprise,” he had seen Newburgh “during an Entertainment, plant himself in the front row of the Stage Box in Philadelphia Theater.”

439.WO 72/7.
“This Style of Behaviour...might indeed become a Captain of Grenadiers,” Chapman claimed. Such a dashing officer, he implied, perhaps had the right to parade himself in fashionable attire at fashionable entertainments, unhampered by any accusation of effeminacy for his eye-catching clothing because of the glorious violence he dispensed on the battlefield. But, he continued piously, it was “badly Suited to the Gravity and Dignity of a Clergyman, whose Character should be like that of Caesars Wife, not only free from Vice but even from the Appearance of it.” In fact, Chapman claimed, Newburgh’s dress and behavior were offending the inhabitants of Philadelphia, “a Country, where strict Propriety and Decorum are the distinguishing Characteristick of almost every Clergyman, and who Studiously avoid appearing at any publick amusement whatsoever.” But Chapman’s complaints suggest another intriguing point. He was implying that soldiers were immune to the normal rules of local behavior—they could patronize the theater and wear fashionable clothing decidedly not in keeping with the sober tastes of the local Quakers, but Newburgh, by doing these things, was scandalizing the local community. And it was wrong for him to cause scandal, but officers could not be expected to restrain their disorderly drinking, swearing, violence, whoring, and theater-visiting merely because the locals disapproved.

Newburgh in particular ought to have been careful to avoid any appearance of scandal, Chapman noted disapprovingly, for his “reputation was by no means free from blemish,” but Newburgh showed an utter disinclination to reform his behavior: “when the Impropriety of his wearing a very fashionable Cock’t Hatt was mentioned to him,” Newburgh “replied in a very determined Tone of voice, that he would next day wear another still more fashionable.”

441.WO 71/80, pp. 112-113.
Newburgh was also hated by the officers of the 18th for encouraging the enlisted men of the regiment to pursue legal means of redress. Private Nicholas Gaffany, who spent many months trying his officers’ patience by demanding his legal rights, consulting lawyers, bringing charges against his officers for daring to punish him without trying him by court-martial first, and being flogged for his impertinence for doing these things, claimed that Newburgh had encouraged him in these legal activities and offered to pay his fees for consulting an attorney. Captain Shee claimed that had Newburgh not been there to egg him on, Gaffany “would not have carried Matters to those violent lengths, had he not been assisted.” Shee characterized Newburgh as a “Miscreant, Enemy to the peace & harmony of the Regt.” Therefore, the officers of his regiment considered themselves utterly justified in using legal trickery of their own to attempt to remove Newburgh from the regiment.

Soldiers who chose to use the law when military ideas about masculinity demanded that they should respond to insult with violence were scorned. But there was also a more generalized disapproval of people who eagerly embraced the law and sought out precedents, legal rules about evidence, and other such things to support themselves in the courtroom. The army, Williamson wrote, had better things to do with its time than to indulge offenders with the “the sophistry and chicanery of the ordinary courts of justice, and the useless forms, with which their proceedings are impeded.”

Military courts showed a marked dislike of those who were thought to have evaded justice due to their exploitation of legal technicalities, such as Private John Bolton of the 35th, who was tried for desertion in Brooklyn in July 1778. An officer
reported that Bolton had actually deserted from the 35th almost two years previous to his trial, but by January 1778 he had enlisted in the New York Volunteers, a loyalist corps. But Bolton had gotten into trouble and had apparently been sentenced to be flogged when,"in order to avoid a punishment assigned him," he told the adjutant that he "declared himself a Deserter from the 35th Regt." This strategy was successful in the short term—the adjutant of the New York Volunteers "therefore had not punished him" and instead sent him to the custody of the 35th, where the lieutenant colonel of the regiment had pardoned him. But in July Bolton went missing again, and when he was recaptured he was tried and sentenced to death.444

The court showed a similar disdain for officers who sought legal loopholes. While some officer defendants emphasized their "Candour," "Manly Openness," and trust in the court-martial board’s ability to instinctively determine whether their actions were honorable or not without any reference to law books or any code other than the informal one of honorable military gentlemen, others seized upon the court-martial’s (deliberate) resemblance to a civilian court and barraged the court with objections, demands for clarifications of legal technicalities, and sarcastic references to the Articles of War.

Captain George Isham Parkyns, accused of being away without leave for several months and of embezzlement, objected to individual questions asked by the prosecutor of the witnesses giving evidence against him, some of the witnesses themselves, and to the particular article of the Articles of War under which he was charged, requiring the court to be cleared several times while the board discussed and determined the merit of the objections.445 Captain John Rutherford, charged with "insulting his Commanding Officer," informed the court that he had "carefully

444.WO 71/86 p. 216–218
examin’d the Articles of War, and so far from finding any crime specified under the denomination of 'Insult'; I have not been able to find even the word itself. If there is such a word, the Judge Advocate will I am sure do me the favor to point out the passage which contains it. If there is no such word how shall I reply to a Charge under a denomination not found in the Law itself?” He also noted that he had also done the court’s work for them should they wish to contend that case law and precedent might support the charge even if statute did not: “I have examined such trials as I have been able to select, to seek for a precedent of the charge of Insult; but have not succeeded. I have enquired of Military Gentlemen for such a precedent; but also without success.”

Major Edward Drewe replied to his prosecutor’s charge that he was constantly “lying a Bed in the Morning” by demanding to to know “under what Article of War it falls,” and also wanted similar information about the supposed crime of “Breakfast[ing] on a Crust of Bread accompanied by Grog, Punch, or Porter.”

Although Adye in the 1770s was insisting that courts-martial needed to name specific violations of the Articles of War with which to charge defendants in order to add legitimacy, by 1800 Tytler was recommending that courts omit them to prevent sophistry, perhaps in direct response to officers who followed the example of Rutherford and Drewe:

It was formerly a very usual custom, to express in the sentences of Courts-Martial, the particular Articles of War of which the sentence declared the prisoner to be guilty of a breach or violation; but the more recent, and better practice, is to omit all such reference to the Articles of War; as being in itself unnecessary, and frequently affording handle for cavilling, and sophistical objections of irregularity or incongruity with the articles referred to.

446.WO 71/55. p. 304.
Officers and enlisted alike were disposed to prefer direct and manly violence to the indirect, circuitous, lengthy, and somewhat effeminate recourse to the law. The wartime needs of the empire gave officers far more authority to use the law for their own purposes than they would have been allowed at home, but empire and war also had effects on officers’ view of the law. The finer points of law were not something that could be indulged in uncivilized places, or in wartime. Military law was a marker of empire; uncivilized colonies in the throes of war and rebellion could not be allowed the same civil liberties as the metropole. “The slow and cautious procedure of the King’s ordinary courts of justice, keeps no pace with that daring celerity which attends the operations of rebellion; nor are their regulated forms and publicity of procedure fitted to bring to light the dark designs of a conspiracy,” wrote Tytler.449 In these circumstances, he argued, it was foolhardy to depart from the necessary speed and secrecy of military law in order to indulge defendants with the rights they rightfully ought to enjoy only in peaceful Britain. And war itself disrupted the workings of law and the pursuit of justice. When Lieutenant Colonel Cosmo Gordon wanted to prosecute another officer, Frederick Thomas, for aspersing his character by questioning his behavior during a Revolutionary War battle, the events of the war itself overtook him. Eventually, Gordon and Thomas had to fight a duel to settle the matter, four years after the events that provoked it, and on another continent, because the matter of whether or not Gordon had behaved as a coward in a battle now had absolutely no chance of being resolved by a trial—all of the other witnesses had died in subsequent Revolutionary War battles.450


450. Sir Charles Gould to Stephen Payne Adye, 15 September 1783, Stephen Payne Adye Papers, American Philosophical Society. See also the cases referred to in Alryyes, “War at a Distance: Court-Martial Narratives in the Eighteenth Century,” 532-533, for the sheer length of time between the events themselves, the trial, and publication of the proceedings: Crookshanks’ trial took place in 1747, and
Often, officers’ understanding of the law was like paperwork to fill out, a formality that was necessary to keep up appearances. When circumstances allowed, it could help create a pleasing appearance of civilization. The court-martial’s primary value in an imperial setting was to establish and legitimize colonial authority. The appearance of legality seemed to be more important than an actual commitment to the law. So officers found that the apparatus of the law had its uses. But they also recognized its dangers, and were determined to keep it firmly under their own control.

Officers thought that the law was a threat to their honor. As seen in the examination of dueling at the beginning of the chapter, a strict adherence to the terms of the law could be an obstacle to protecting honor and reputation, and it was often willingly broken by officers seeking what they claimed was a higher form of justice.\footnote{Kirke published the proceedings in 1772; Wall’s crime was committed in 1782, and he was hanged for it 1802.} When Private Nicholas Gaffany used the system of military courts to bring charges against one of his officers, Captain Shee, Shee’s reply to Gaffany began,

> An attack upon the Character of any Individual let his Situation in Life be what it may, is, & ought to be considered as a circumstance of the most serious nature, "Good name in man or Woman, is the immediate Jewel of our Souls." If this Hypothesis be true in it's [sic] general sense, How much more forcibly must it appear when applied to the Reputation of a Soldier, the Characteristick of whose profession is Honour, Without which he may be justly looked upon as a Body without a Soul, An object deserving the Scorn and Reproach of every one.\footnote{Gilbert, "Law and Honour Among Eighteenth-Century British Army Officers" notes that after an officer had been insulted it was difficult to respond in a way that was both honorable and legal.}

Of what value could the law be to officers if it could be used to damage their honor and their reputations in this way? Already they had discovered themselves willing to die to protect their honor, and kill to protect their honor, and to inflict
brutal violence, and to break the law to protect their honor. Is it any wonder that they would also use all the power that the court-martial placed in their hands to subvert the workings of the law in defense of their honor?
Chapter 7: The Supremacy of Honor

Even by the standards of a culture that celebrated violent masculinity and upheld the principle that deadly force was acceptable if necessary to defend personal honor, the quarrel between Ensign William Mair and Ensign Thomas Milward Smith, both of the 60th Regiment of Foot, had spun wildly out of control.

The conflict had started while the regiment was stationed in Jamaica in 1777. In the presence of several other officers, Smith had told a barkeeper to “give my Compliments to Mr. Mair and tell him he is a damned Coward.” Once Mair had heard the remark, Mair sent Smith “a Challenge in writing to fight with Pistols and meet that Evening at six o’clock at the horse course.” But that meeting resulted in not a duel, but a violent argument over the conditions under which the men sought to duel. When the negotiations about the terms of the duel were revealed in court, it could not be doubted that the participants were not so much concerned with upholding gentlemanly honor as with trying to murder each other. Each man had been determined to fight the duel with the weapons he thought had the best chance of inflicting a fatal wound upon the other party.

Smith then caused further embarrassment when he blatantly violated the cultural standard that assumed that an officer need not be supervised when under arrest, because his word of honor was sufficient to bind him. When the officers’ commander, Captain Spiesmacher, had heard of the dispute, he had confined both men to their quarters. Ensign Smith, Spiesmacher said, had “leave to go out to dinner,” but was required to be back in his quarters by the evening. But a few days later, Smith was seen at a tavern two hours after he was supposed to be in his

453.WO 71/54, 75-77.
quarters, “in a dispute with one Mr. Eberall [about] which of the two, Lord Chatham or Lord Mansfield was the better Orator.” This quarrel about the speechmaking abilities of the two politicians then escalated into a general mêlée in the tavern, in which Smith was “extreamly abusive” and “Challenged almost every body in the house to fight with him.”

But the final straw occurred the evening after the abortive duel, when Mair’s second, Lieutenant Palmer, and Ensign Smith were together on the parade, “in the dismissing of which,” reported one witness to this very public altercation, “Ensign Smith treated Lieutenant Palmer with disrespect, that Lieutenant Palmer reprimanded him for it in words arose between them, in the course of which dispute Lieutenant Palmer was heard to say ‘You puppy or you Rascall if you don’t hold your Jaw I will Lather you.’” After another exchange of insults, both men drew their swords, fought, and were disarmed and rearmed themselves numerous times before they were finally separated, with Lieutenant Palmer wounded in several places, and both men were put under arrest.

All these events worked to undermine the military hierarchy and destroyed military discipline. But examining the conflict between Mair, Smith, and Palmer and the way in which Captain Spiesmacher responded to it reveals how honor culture harmed the military, but also the difficulties the army had regulating it. Commanders had an interest in preventing quarrels, but their efforts were complicated by the complicity of army administrators in the masculine culture they found detrimental to the army. Their high rank placed them at a remove from the mass of officers, but they were ultimately of the same class and occupation. They had lived their lives within the midst of the culture of martial masculinity that they

455.WO 71/54, pp. 77-78.
now found so exasperating, and they found it difficult, if not impossible, to regulate
it. Upholding the honor-conscious masculinity of army officers meant allowing them
to subvert the law and regulate themselves by the standards of gentlemanly
behavior instead, even when it was detrimental to military and imperial interests.
Whereas the previous chapter has focused on junior officers’ determination to uphold
the principles of honor culture even if it subverted the law, this chapter focuses on
the effects of using honor culture, rather than the law, to govern officers’ behavior.
This culture of masculine violence was a threat to military discipline, but the
government capitulated instead of making real efforts to end it; tacitly they
recognized that officers’ personal honor must necessarily trump military interests
and the hierarchy.

Captain Spiesmacher’s original arrest of Mair and Smith after he had heard about
the challenge to duel was the orthodox response of a commanding officer. The
Articles of War banned officers from dueling itself, but also prohibited the mere
sending of a challenge to duel. But there his strict adherence to the terms of the
law ended. At the court-martial, he made it plain that he objected to the behavior of
the two ensigns not because they had planned to duel, but because they had wildly
deviated from proper dueling behavior.

This was not unusual behavior for an officer. Not only did officers undermine the
anti-dueling prescriptions of the Articles of War by declining to use the court-martial
as a peaceful method for the settlement of their disputes, they subverted the charge
of “behavior unbecoming” and the institution of the court-martial itself to uphold,
strengthen, and encourage the practice of dueling. When court-martial boards were
faced with a case that might involve dueling, their concern was not to discover

456 An Act for Punishing Mutiny and Desertion, 156-158.
whether a challenge had been issued or accepted or if a duel had taken place and to punish the participants according to the regulations set down by the Articles of War. To them, whether or not a duel or an invitation to duel had taken place was not important; what mattered was whether the participants had dueled *improperly*.

Dueling had certain standards. The participants might kill each other, yes, but no one was to be killed dishonorably. No one was even to be touched dishonorably. The rules of the duel stipulated that the participants were only to be assaulted in two specific ways—by the blade of a sword or by the shot of a pistol. Only these two methods, with their associations with battlefield combat, allowed violence but not dishonor to be inflicted upon the body of a gentleman. Officers were censured for proposing any other means for settling disputes among themselves. Ensign Fothergill, accused of lying by Lieutenant Mostyn and wanting "to have the Satisfaction of a Gentlemen," told Mostyn that "he did not understand the use of a Sword but wo[ul]d either draw a Pistol or play at Handy Fisty with him." Mostyn frostily replied that to "fight handy Fisty" was "not a Gentlemanlike way of fighting."457

Similarly, when Ensign Somerville Murray was accused before a court martial of "behaving unbecoming the Character of an Officer and a Gentleman," the complaint made against him was not that he had challenged another officer to duel, but that he had challenged another officer to duel, and then suggested that the weapons to be used be their own fists rather than swords or pistols, the only weapons suitable for gentlemanly fighting. He had further breeched propriety by calling at the quarters of his opponent the next day with a mere sergeant in tow for his second, when all the unwritten rules of dueling insisted that all participants of a duel must be gentlemen,

and that, indeed, only gentlemen had a sufficiently refined sense of honor to understand the principles behind dueling. His outraged opponent indignantly pointed to this behavior as proof that Murray was no gentleman and ought to be dismissed from the army.\textsuperscript{458}

Mair and Smith did nothing so vulgar as proposing to settle their difference with a fistfight. But their argument about whether their duel ought to be fought with pistols or swords betrayed a rather dishonorable concern with committing convenient homicide rather than establishing a reputation for manly courage. Opponents of dueling who denounced the practice as the moral equivalent of murder were not exaggerating for effect. Certainly there were men who were drawn into duels much against their will and against their inclination. But other men deliberately provoked and actively sought duels, because for them the duel served as a \textit{de facto} legal method of killing another man.

Earlier historiography on dueling often notes its ritual nature and how one could refute accusations of cowardice merely by standing and “receiving fire,” even if both parties merely fired into the air. However, this is more accurately a description of British dueling conventions of the early-to-mid-nineteenth century, when the practice was in decline. In the nineteenth century, when the duel was a dying practice, it was socially acceptable to accept a challenge and then fire into the air during the duel itself, thereby technically satisfying the requirement to shoot, but at the cost of turning the duel into something of a farce.\textsuperscript{459}

\textsuperscript{458}WO 71/80, pp. 207-265.

\textsuperscript{459}Banks suggests that the duel’s purpose as a venue for men to display their courage by being shot at would be fatally undermined if the participants refused to make an earnest effort to harm each other, and argues that this was indeed the mechanism through which the duel fell into irrevocable decline in Britain as it was standard practice by the 1830s to merely fire in the air. When nobody could take seriously the possibility that the contesting parties were actually trying to kill each other, the duel naturally lost its power to prove the participants’ courage (Banks, "Killing with Courtesy: The English Duelist, 1785–1845," 555).
Although many duels ended once the parties had exchanged fire—this being sufficient to prove the courage of both participants—the practice of confining the duel to a single exchange of shots was by no means universal.\textsuperscript{460} It was not the case at all in most of military duels of the late eighteenth century, in which the participants were expected to at least attempt to kill each other, and manipulating the circumstances of the duel to make it less lethal was not widespread and an open secret yet. In fact, in this this earlier period honor codes \textit{insisted} that the participants must at least give a credible display of deadly intent; “dumb-shooting or firing in the air” was explicitly forbidden.\textsuperscript{461}

When the seconds negotiated the terms of the duel between Mair and Smith, they “agreed that Mr. Mair and Mr. Smith should each exchange two Shot with the Pistols and that if neither of them received a wound by the Pistol Shot that then they should determine the matter with their Swords.”\textsuperscript{462} By stipulating that the duel was not to end until at least one party was wounded, the participants specifically ensured that the duel would \textit{not} devolve into any relatively non-violent ritual exchange of inaccurate pistol fire.

The clear point of the engagement was not to discharge any accusations of cowardice by standing and receiving fire, but to actually wound at least one of the participants. Before the duel, a witness reported that Smith “say’d that ‘with this good Sword (putting his hand to his Sword and then putting himself in a fencing posture) I will do for Mr. Mair if he were attended by twenty of his Country Men.’”\textsuperscript{463} Smith was even more explicit on the dueling ground, according to the report of Mair’s second, Lieutenant Palmer: “Mr. Smith declared he would only fight [with

\textsuperscript{460}Banks, \textit{A Polite Exchange of Bullets: The Duel and the English Gentleman, 1750-1850}, 132.
\textsuperscript{461}Banks, "Killing with Courtesy: The English Duelist, 1785–1845," 554.
\textsuperscript{462}WO 71/54, p. 90.
\textsuperscript{463}WO 71/54, p. 83.
pistols] upon Condition that Mr. Mair would draw Swords afterward if no wound was received, that he came with a resolution (first drawing his Sword) to do Execution and pistols would not answer his purpose. 464

Homicidal intentions among duelists were by no means universal, but many officers seem to have seen duels as an opportunity to kill. The night before he was killed in a duel, one officer was heard to say that he had his opponent “now in his Clutches and he should not escape so easily as he thought.”465 After a fight between Lieutenant Bird of the King’s Orange Rangers and his commanding officer, Lieutenant Colonel John Bayard, which ended in Bird’s death, several witnesses claimed that Bird had deliberately provoked the fight, in which he had hit Bayard with a cane. Upset with Bayard for refusing him a leave of absence, Bird sought to revenge himself through a duel. One officer reported that Bird had told him that “he [Bird] had repeatedly Challenged Col. Bayard, but never could get him to give him satisfaction, and that he was determined to Cane Col. Bayard, and oblige him to fight.” Another said that Bird claimed that “the next time Col. Bayard insulted him, he would take a Cane in one hand and his Sword in the other, and Cane Col. Bayard at the point of his Sword and then he would be forced to fight him.”466

Ensign Mair suspected from Ensign Smith’s strange behavior regarding the initial alleged insult Mair had given to Smith that Smith was trying to provoke a duel. After Smith had found out that rumors were circulated through the regiment that Smith had allowed himself to be caned or horsewhipped by Mair, Smith had told another

464. WO 71/54, p. 91.
465. WO 71/97, 79.
466. WO 71/54, p. 172, 158. The case also reveals Bird’s readiness to duel other officers in the regiment: Lt. Bird’s conduct was extraordinary as at the dinner he behaved so offensively as to “endeavour to turn a Gentleman from the head of his own table.” (Lt. Col. Bayard was the host). Other officers objected to this after dinner, and Bird told one of them, Captain Rotton, “if you think yourself ill used, I am ready to give your satisfaction, Capt. Rotton told him he did not sport with his Life in that manner, that if he had thought it so serious a matter he would not have given him an opportunity of calling for Satisfaction.”
man, in the presence of several other officers of the 60th, that Mair was a coward. Mair claimed that this was a violation of proper gentlemanly behavior: Smith should have either called upon Mair and given him a chance to explain that he had never actually claimed to have disgracefully assaulted Smith, "or at least he ought to have sent me a Challenge." The only way that Mair could "account for his behaviour on this occasion" was by speculating that because Smith was brought up in the Army from his infancy and thereby supposed to know the Laws of dueling better than I confess I do, or had an opportunity to do, he thereby wished or wanted to draw the Challenge from me, from which it was his opinion, that he would have the choice of weapons, and thereby avail himself of that skill and knowledge he had of the Sword and which he knew very well I professed I had no knowledge of.467

Mair pointed to this as a further example of Smith’s poor character: “it is not to be thought that an Officer and a Gentleman would insist upon an undue advantage, a Gentleman will always fight on equal terms.” Smith had “often boasted that he was an expert Swordsman,” while Mair had “just come from the Study of Divinity” and, due to this “Sudden departure and change in Life” to a military career, “had little or no opportunity of Studying the polite accomplishments, particularly the use of the Sword.”468 It was considered bad form to insist on fighting with swords against an opponent who did not have the same skill level.469

In the end, the duel didn’t happen—not because Mair and Smith thought better of their homicidal intentions, but because each man was insistent on securing terms most favorable to himself for killing the other man, and could not come to an agreement on this point. Smith wanted to make sure that the duel was fought with

swords alone, or, as his second choice, to be started with a single exchange of pistols shots before proceeding to swords. Mair refused to fight with swords at any point during the duel, citing his ignorance, and instead insisted on fighting exclusively with pistols. But Mair made certain that all knew that his preference for pistols stemmed not from any attempt to mitigate the inherently hazardous conditions of a duel (pistol fire in this age was inaccurate enough that a single exchange of shots would quite possibly result in no wound to either party, unlike a sword fight), but merely from his desire to fight with weapons with which both he and Smith had similar levels of skill. Mair declared that he would "fire as many Pistols with Mr. Smith as he pleased," and that he was willing to exchange shots with Smith "as long as there is Powder and Ball."470

Dueling provided numerous opportunities for officers’ status to be threatened, because of the contradictory demands of trying to channel passion and resentment into proper gentlemanly modes of expression. It was not proper to be in an uncontrolled rage; one was to be resentful, yes, but coolly resentful. One might be in a passion, but one was to make visible attempts to control it. One did not let one’s resentment lead one into ungentlemanly behavior. Allowing a duel to descend into a brawl was a betrayal of one’s status as an officer and a gentleman.471 When Lieutenant Haines accused Ensign Townshend of “ungentlemanlike behavior” because when Haines struck him, Townshend “did not draw his Sword but clench’d his fist, and attempted to strike him,” Townshend acknowledged that this was what he had in fact done, but denied that this was an attempt to fight in a vulgar and ungentlemanlike way. Rather, he claimed, he was not brawling, but had specifically

471.See, for example, WO 71/69, p. 70, in which a duel between officers started with pistols and swords, but ended with the participants trying to beat each other with sticks before being pulled apart by other officers.
chosen not to draw his sword in order to assault Haines in a way that disgraced Haines’ body to the same degree that Haines had just disgraced his by hitting him with a riding switch: “Can it be wonder’d that I shou’d first wish to put the Can’d Townshend on a footing to obtain Satisfaction of the can’d Haines, on equal terms before I drew that Sword, which I allow to be the Weapon a Gentleman shou’d have recourse to.” Courts-martial faced a parade of cases like this one, featuring defendants who had shown themselves incapable of restraining their tempers long enough to even have a duel, with far worse consequences to the service.

The abortive duel between Mair and Smith did not descend into a vulgar fistfight during the duel itself, but the next evening, as Captain Spiesmacher related, “fresh matter occurred which has involved another Officer in this Unhappy dispute”: the fist-and-sword-fight that broke out between Ensign Smith and Mair’s second, Lieutenant Palmer, on the regimental parade ground.

The fight between Palmer and Smith was improper because it violated the conventions of fair play and appropriate weapons. Corporal Strauss reported that after the initial insults, the two men stood around daring each other to draw swords, but neither did, until Palmer took "the Stick or Supple Jack that was in his hand and gave Ensign Smith two or three blows, upon Ensign Smith receiving the last blow his hatt fell off; and as he was picking it up he drew his Sword"; Palmer drew as well, and after "several passes at each other," Palmer's sword bent or broke. Upon "seeing his Sword had failed him, he immediately turned from Ensign Smith and desired that he might be kept from him as his Sword had failed him, and was making towards the Guard house, and was striving to straighten his Sword" when "Ensign

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Smith's seeing Lieutenant Palmer's back to him, he advanced and ran Lieutenant Palmer into the back.\footnote{WO 71/54, p. 96.}

Palmer had violated the rules of gentlemanly combat by striking Mair with a “Stick or Supple Jack,” and Mair had behaved dishonorably when he tried to strike Palmer when he was disarmed and when his back was turned. But the far worse violation committed by both men was indicated by Corporal Strauss’s eyewitness testimony: that he was in fact an eyewitness reflected damningly on Palmer and Smith’s behavior by having an altercation witnessed by enlisted soldiers. One of the requirements of a proper duel, as was alluded to in the arrangements originally made by Mair and Smith, was a certain degree of privacy. Duels usually took place in an isolated location at odd and early hours of the morning, not only to prevent interference from bystanders but also to prevent the lower orders from witnessing a display of the officer class as anything other than a united brotherhood.

Furthermore, it prevented enlisted men from seeing an officer suffer shameful or dishonorable treatment should matters get out of hand. Officers found it humiliating to be struck or insulted, but to have that treatment witnessed by their social inferiors was utterly intolerable. Major John Cotton was convicted of “using opprobrious Language and improper behavior towards Lieutenant Thomas Simpson of the same Regiment, tending to the breach of good Order and Military Discipline.” Upon reviewing the proceedings, the king noted that Cotton’s behavior was especially bad because Cotton had called particular attention to it (instructing his listeners to “take notice that Lieut. Simpson is a Rascal and Scoundrel and that I call him so”) and he had done it “at the head of the Battalion” in the presence of all of the men. And the ridiculous origins of the dispute between the two men—Cotton’s servant had spotted
his own mislaid stockings on Simpson’s legs—further diminished the dignity of the officers before their men.\footnote{WO 71/54, pp. 262-285.} Captain Dussaux claimed that being marched at the point of bayonets when under arrest was not only a violation of his sacred rights as an Englishman, but also scandalous because it had been done in full view of the enlisted soldiers of the regiment.

Palmer and Smith’s fight had occurred directly after the regimental parade, when the majority of the enlisted men were present to witness it and observe the particular details of the officers’ poor behavior and name-calling. Sergeant Jacob Kurtz reported that "Mr. Palmer say’d 'God damn the good for nothing rascal carry him to the Guard Room’; Private Atherton claimed that Palmer had called Smith "a puppy" and a “Rascal” and said "that if he did not hold his Jaw he would thrash him and then have him a one blow with his Stick."\footnote{WO 71/54, p. 107.} Corporal Peters related that after Smith was under arrest, he wanted to know if Palmer had been wounded. Upon Peters telling him that he "did not know but that some of the Men had carried him to his Lodgings,” Smith "then say’d he wished he run the Yankee (meaning Mr. Palmer as I believe) through the Arse."\footnote{WO 71/54, p. 113.}

Officers attempted to further reinforce their power and the authority of their position by drawing on the institutional power of the army, claiming that the assaults and insults they had suffered required retribution not only because it insulted their personal honor as gentlemen, but because it also insulted their authority as officers, and by extension the authority of the army as a whole. Captain Dussaux claimed that when enlisted men witnessed his treatment it was a “Subversion of the very foundation of Military Order and Discipline,” because it had the effect of “making an
Officer of the Rank of Captain appear in a contemptible and humiliating light to the Soldiers. 477

When Lieutenant Glenie was reprimanded for disobeying Captain Aubrey’s orders, he complained that, whatever faults he may have committed, Aubrey had most unjustifiably undermined his authority with a public general order given out that might be interpreted as a reprimand of him for neglect of duty: "It appear’d to me, I must confess an Order, very extraordinary and equally personal. It cou’d not possibly answer any one good End, but it had an Evident tendency to hurt the Service, as it shew’d clearly to every Person & Soldier in the place, that he wished as far as in him lay, to exhibit the Engineer [i.e. Glenie] in as insignificant & contemptible a light as possible, on the most trivial & frivolous Pretences. It render’d the Men themselves more negligent in discharging their duty, & more presumptuous in neglecting it." 478

Major Drewe, defending himself from charges of neglecting his duty by not appearing at parades, as we have seen, claimed that Colonel Cockburn’s public disrespect of him was the true fault. According to Drewe, he could hardly appear at a military parade if he was not treated with the deference due to him from his rank. Any neglect of duty on his part in not attending parades was completely overridden by Colonel Cockburn’s worse neglect of duty by treating him disrespectfully whenever he did attend. A great many people heard Cockburn "at the Publick Parade, speak of me in a Manner tending to lessen my Authority, with the Officers, and Men," Drewe claimed. Not only had Cockburn given Drewe orders in an "unnecessarily loud" voice and "in a haughty, imperious and Overbearing Manner," he had also publicly criticized Drewe: another witness heard Cockburn say "he was

Actually, Drewe claimed, it was rather his duty not to show up to parades in those circumstances, “lest the Men in Particular should Observe any Disagreeable altercations, between the Lieut. Colonel and the Major,” which would have the sad consequence of “greatly Affect[ing] this Discipline of the Regiment.”

Smith's defense statement made a similar claim: “even in civil Society there are various Modes of insulting a person, both in Public and private, but the Severest trial of a Man is by a Blow, this is the treatment of a Slave or of a Malefactor and he who is above the Rank of the lowest of Mankind or has any consciousness of his own welfare, ought in Justice to himself and the community require Satisfaction, because it is an Offence against Society, of which the Laws take Cognizance.”

When Lieutenant Berks and Captain Baudin began to quarrel on the parade ground, another officer highlighted the importance of concealing officers' disputes from outsiders and those of lower rank: "An altercation hereon arose, and several very high words passed...Perceiving the affair likely to take a Serious turn I turned to Lieut. Col. Gould who was on Horseback and desired the meeting of Officers might Adjourn, as I saw several Soldiers and Strangers assembling near the place.” And when the Berks and Baudin’s courts-martial were reviewed by the king and the Judge Advocate General, the latter reported that “His Majesty extremely disapproves the reciprocal Conduct of Capt. Baudin & Lieut. Berks in suffering their Animousities to break forth in an open violation of good Order,” and demanded that the two

479.WO 71/55, 232-235. Drewe elicited testimony about what company this last witness (Captain Massey) had the charge of, because he was the captain of the grenadier company. That company generally lined up at the extreme right of the formation, the implication being that if Massey, standing at the head of the grenadiers, could hear Cockburn’s words, then so could the rest of the battalion.

480.WO 71/55, p. 225, 221.


482.WO 71/60, p. 248.
officers make “a mutual and public Apology” in order to rectify the “ill example thereby exhibited to the Soldiers.”

But Palmer and Smith’s fight was so scandalous because it not only undermined the military hierarchy, but also overturned it. The enlisted men of the battalion not only witnessed the fight, but had to break it up, disarm the men (repeatedly), and confine them. After Smith tried to stab Palmer in the back, Private Thomas Knox reported that “Matthew Keith and I immediately laid hold of Mr. Smith and Corporal Strouss came up and took his Sword from him.” Private Matthew Keith reported that he “laid hold of Mr. Smith and say’d ’Mr. Smith for god’s sake moderate your passion.’” Sergeant Kaston had to find Smith and “took him by the Arm and told him he must go with him to his Lodgings.” During the subsequent outbreak of fighting, Corporal John Peters, the corporal of the guard that night, said that he saw Smith go “up to Mr. Palmer and made a lunge at him and say’d to Mr. Palmer, ’If you speak one word Sir, you are a dead Man,’” requiring Peters to intervene physically. “I and one Landerkin immediately charged our Bayonets against Mr. Smith,” Peters reported, and Sergeant Kurtz “interfered and took Mr. Smith’s Sword from him and took the Stick from Mr. Palmer.” The enlisted men then “took him into the Barrack Yard as a Prisoner.”

This fight destroyed the illusion that officers were worthy of special status and privileges because they, unlike enlisted men, were able to moderate their tempers, behave rationally and virtuously, and to regulate themselves and others. Palmer and Smith had exposed their bodies to the forcible touch of their social inferiors, because their uncontrolled behavior had given the enlisted witnesses no other option for preventing them from killing each other. In doing so, they put in jeopardy not only

their own privileged status, but also the status and reputation of the officer class as a whole. Thus, Captain Spiesmacher felt obligated to prosecute all the officers who had been involved in the affray—not because they had participated in the illegal practice of dueling, but because they had violated the social rules that governed the practice of dueling.

But the court martial did not limit itself to regulating acceptable dueling behavior. It also asserted itself as an authority on what actions were too serious to be resolved without a duel—in other words, it sanctioned officers not only for improper challenges and behavior, but also for not demanding satisfaction when they had been, in the courts’ opinion, grievously insulted. Captain John McKinnon was discharged from the army after he was charged with “Suffering himself to be kicked...on a Parade, without properly resenting it.” This public reception of a bodily assault from another officer, which McKinnon had neglected to respond to with a challenge or a demand for a formal and public apology, destroyed his ability to be perceived as a gentleman and his authority as an officer.\textsuperscript{485} Similarly, Captain Lowe was court-martialed after another officer had, in the presence of other officers and gentlemen, said to his face that he was “a dirty Dog and no Gentleman.” Lowe did not respond properly, according to his brother officers; he merely “soon went away” and “never afterwards...shew’d any resentment at such Treatment.”\textsuperscript{486}

In fact, officers’ actions reveal that to refuse to demand satisfaction for a slight to one’s honor was a greater offense than to unlawfully challenge another officer to a duel. Lieutenant Mark McGrath was arrested and tried for the crime of “suffering himself to be posted as a Coward by Mr. John McLaughlan.” McLaughlan, acting as the company adjutant, had made an incorrect report, for which McGrath had rebuked

\textsuperscript{485}WO 71/87, 173-176.
\textsuperscript{486}WO 71/58, 520-526.
him. McLaughlan reacted angrily, claimed he was an injured party, and, in the customary fashion, sent other officers of the regiment with messages to McGrath insisting on an apology before the other officers. But McGrath refused to make any apology, and “said that a Court martial must decide the difference” between the two of them. McLaughlan “replied that was not the manner he wished to have it settled,”—by which he meant that he wanted to duel. McLaughlan refused, and two weeks later McLaughlan was observed “putting up a Paper upon the Publick Post,” alleging that Lieutenant McGrath was a coward. When the commanding officer of the garrison, Captain Holmes, saw the paper, he immediately ordered the arrest of not only McLaughlan but also of McGrath. Holmes was even explicit about his reasons—McLaughlan, obviously, ought to be arrested for so publicly broadcasting his dispute in language calculated to provoke, but in his mind, McGrath, too, was at fault for “not accepting the Challenge and settling it in a private manner.”

Lieutenant McGrath strongly objected to his arrest, but he did not do so by appealing to military law and claiming that he had done nothing wrong according to the Articles of War, and that all the fault was on McLaughlan’s side—he had been the one to speak insolently to his superior, to issue a challenge to duel, and to publicly use provoking language impugning the reputation of an officer. Rather, McGrath claimed, there was no possible way he could have, as the formal charge put it, “suffer[ed] himself to be posted as a Coward,” because the paper accusing him had been on display for all of three minutes before he had been arrested by Captain Holmes, and McGrath himself had never even seen it. The quick arrest made it impossible to determine whether McGrath would have responded properly to this accusation of cowardice. But McGrath further claimed that his refusal of duel was entirely proper and in no way an admission of cowardice, for the dispute concerned “a point of duty upon the Parade,” and therefore McLaughlan “had no business to
make a point of honour of it.” Furthermore, McGrath testified, he was under no obligation to render unto McLaughlan the honor of deigning to duel with him, for although McLaughlan was acting as the company’s adjutant (normally a position given to one of the company’s junior officers), he was merely a sergeant major and therefore McGrath “could not look upon him as a Commissioned Officer” and, correspondingly, a gentleman. Because it was perfectly acceptable for a gentleman to decline to duel with someone below his station (indeed, it would have been a betrayal of the solidarity and privileges of his class to have accepted), and because McGrath’s supposed insulting behavior did not actually impugn McLaughlin’s honor (and, in fact, McLaughlin’s lack of an officer’s commission suggested that he might not actually have any honor to impugn), McGrath was acquitted as soon as these facts were made known. In fact, the court went so far as to claim not only did they “most Honorably Acquit him,” but added that “it is the farther opinion of this Court that the Conduct of Lt. McGrath on this occasion has been thoroughly consistent with the Character of an Officer and Gentleman; Judging it proper at the same time to declare the whole Charge appears groundless false & malicious & that the Conduct of Acting Adjutant McLaughlin is highly censurable tending to subvert all order, Subordination and military Discipline.487

When Captain Spiesmacher was relating the disagreement between Ensign Mair and Ensign Smith, which within a few days had escalated to a plan to duel, he noted that the two men and their seconds had in fact met at the appointed dueling grounds, but “what passed…I am sorry to say was nothing but bad language.” In other words, Captain Spiesmacher, who was the present commander and whose job it was to prevent quarrels and challenges between officers, reacted to the news that

the duel had been prevented from occurring not with relief but with censure for the officers who had not dueled, but had merely met each other on the dueling grounds to exchange verbal insults instead of pistol fire. And Mair, faced with this disapproval, insisted that he had been prepared to fight: "I do declare to this Court and to the world, that I would have fought him as I told him on the Ground, according to the tenor of the Note, with Pistols, and that as long as there was Powder and Ball," he claimed. Here, the open admission of an intent to duel, grossly contrary to the Articles of War, was considered clearly preferable to even being thought too afraid to fight a duel.

A court-martial even more completely demonstrated its willingness to uphold the values of the officer class rather than the law when it convicted an officer of ungentlemanly conduct after he declined a challenge to duel. When the case was sent back to England for review, the Judge Advocate General objected to the conviction: "I do not conceive that the sentence of a Court of Justice can at any rate be supported which awards a punishment for neglecting to seek a method of redress forbidden as well by the military as the common law." But this was the very limit of central administrators’ ability to interfere with officers’ ability to use military courts for their own purposes. The Articles of War stipulated that the king or the commander-in-chief was to approve of all court martial verdicts and sentences. This was supposed to provide some constraint on the power of the court-martial board, as the commander could pardon the defendant, reduce the sentence, or point out errors and order the court to correct them. He could not, however, order them to change

488.WO 71/54, p. 77.
489.WO 71/54, p. 128.
their verdict.\textsuperscript{491} With the king or commander having only the power to pardon those they thought were convicted unjustly, and having no power to punish a defendant that the court-martial refused to convict, control of the court-martial remained firmly with officers.\textsuperscript{492}

But kings, military commanders, and government officials was also unable to effectively regulate honor culture because they themselves were also complicit in it.\textsuperscript{493} The position of the law was that a death occurring during a duel was clearly murder; however, royal pardons for those who killed during duels were routine in both the seventeenth and eighteenth centuries.\textsuperscript{494} And civilian courts also refused to adopt the view that killing a man in a duel was indistinguishable from homicide. Civilian jurors in the eighteenth century consistently proved unwilling to convict a man for killing in a duel, so long as both parties had behaved "honourably."\textsuperscript{495} There is only one known execution of a man for killing another man in a duel—and this because it was done improperly, and in such a manner (specifically, without witnesses and without seconds) that made it impossible to determine if what had occurred was a death from dueling or a murder. It did not conform to the norms of honor culture, and its secrecy associated the killer with the dishonorable assassin rather than the candid gentleman.\textsuperscript{496}

\textsuperscript{491}Steppler, "British Military Law, Discipline, and the Conduct of Regimental Courts Martial in the Later Eighteenth Century," 871; Thomas Reide, \textit{A Treatise on the Duty of Infantry Officers and the Present System of British Military Discipline} (London, 1795), 94: "A court-martial is sometimes ordered to revise its proceedings, particularly where the sentence is supposed not to be adequate to the crime or evidence adduced, but this can only be done once, and the court may adhere to the original decision."

\textsuperscript{492}See Odintz, 70-71, 497. for cases where officers used the court martial to excuse their peers in spite of commanders’ disapproval and refused to change their verdicts when he protested.

\textsuperscript{493}Banks, 101.

\textsuperscript{494}Banks, 11-16, 23.

\textsuperscript{495}Banks, 141.

\textsuperscript{496}Banks, 133.
This established practice of pardoning or acquitting duelists undermined government attempts to abolish the duel, but even more problematic was the fact that high-level government officials and army administrators dueled themselves. Lord Germain, the Secretary of State for America, participated in a duel in 1770, which originally stemmed from a charge that he had behaved as a coward during the Battle of Minden. He was almost drawn into another in 1778.\textsuperscript{497} Colonial leaders, too, often put personal quarrels above their military or administrative duties, personally fighting in deadly duels even on the eve of battle.\textsuperscript{498} Admonitions to more junior officers to put aside their differences for the greater good could not be very effective when men at the highest level of government routinely let their concerns about their individual honor to override national interest.\textsuperscript{499}

And when they were not dueling, they and other high ranking officers were often using their time and influence to settle quarrels among their subordinates. Lord Amherst had to try to reconcile two officers willing to kill each other over hot words that broke into a fistfight; likewise, the altercation between Lieutenant Graydon and Lieutenant Scriven of the 60\textsuperscript{th} is notable for the time that other officers of the regiment had to spend resolving the disputants’ quarrels over points of honor and investigating the conditions under which they would apologize to each other. The perceived importance of personal honor in relation to military duty is further suggested by the fact that, after all these attempts at mediation, Lieutenant Graydon then applied for leave from active military status so he could travel from Spanish

\textsuperscript{497} O’Shaughnessy, \textit{The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire}, 170.

\textsuperscript{498} Banks, \textit{A Polite Exchange of Bullets: The Duel and the English Gentleman, 1750-1850}, 18, 100-101, notes that “The island of Dominique was left without both a governor and a lieutenant governor in 1775, for the former had been shot by the latter

\textsuperscript{499} O’Shaughnessy, \textit{The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire}, 8.
Town to Kingston to consult with a friend on the matter of whether he should apologize to Scriven, and was given it.500

The immense social power of honor culture is indicated by the further language in the Articles of War, which banned officers from "reproachful or provoking Speeches or Gestures"; sending challenges; carrying messages of challenges from one officer to another; and "knowingly and willingly suffer[ing] any Person whatsoever to go forth to fight a Duel." Furthermore, it promised punishment not only those who fought duels, provoked duels, challenged others to duels, and failed to do their utmost to prevent duels, but also to officers who berated or shamed other officers who refused to duel. “Whatsoever Officer or Soldier shall upbraid another for refusing a Challenge, shall himself be punished as a Challenger,” it declared, and attempted to remove by fiat the customary stigma that accrued to any officer who refused to duel: “We hereby acquit and discharge all Officers and Soldiers of any Disgrace, or Opinion of Disadvantage, which might arise from their having refused to accept of Challenges, as they will have only acted in Obedience to Our Orders, and done their Duty as good Soldiers, who subject themselves to Discipline.”501 Yet the language used indicates why these prohibitions were so ineffective—with its emphasis on how obedient and subordinate those who refused challenges were, the Articles implicitly endorsed the view that an officer who dueled was displaying a manly independence to authority.

Because officers who openly and flagrantly violated the law by dueling were often acquitted, because officers who had the misfortune to be convicted were often pardoned, because there often was no further penalty for dueling other than the risk of death or injury during the duel itself, officers sneered at those who considered

501.An Act for Punishing Mutiny and Desertion, 158, Section 7, Article 5.
themselves bound by the spirit as well as the letter of the Articles of War. In fact, the Articles of War made it more difficult for officers to oppose dueling, because it unambiguously forbade the practice, but the army rarely followed through on its threatened punishments. Thus, to refrain from dueling could be interpreted as the act of a fool and a coward whose fear of the toothless threats of the Articles of War overrode his concern for his priceless and irreplaceable honor.

The Articles of War praised officers who refused challenges in quite damning terms when it lauded them as “good Soldiers, who subject themselves to Discipline,” and it is not coincidental that officers used the terms of the Articles of War to accuse each other of unmanly and cowardly obedience when they referred to its strictures. In fact, the duel’s illegal nature gave further opportunities for officers to demonstrate their superior masculinity, such as ridiculing those who neglected to act with the proper secrecy to ensure that the quarrel would not culminate in an actual duel. When Ensign Garrison told Ensign Leech that he “looked upon it as a mark of his Cowardice to call on him [to duel] in so public a place,” the implication was that a proper challenge to duel was delivered in private, and the only reason for delivering it so publicly was in the hope that other officers would observe it, and consider themselves forced to intervene.502

The prohibitions of the Articles of War did not prevent dueling; at best it forced the duel to become a slightly underground activity, as officers tried to adhere to the letter of the law while blatantly violating its spirit.503 When Ensign Mair was tried for sending a challenge, he admitted he had done so, but claimed that he tried “to avoid as much as possible a literal breach of the Articles of War relative to Challenging,

503.WO 71/85, 9-24, for one of the rare instances when an officer actually cited the Articles of War as a reason for his refusal to duel.
and that as much as was consistent with my honor and Character.” Officers often tried to shield themselves from prosecution by issuing challenges orally to ensure that no written challenge could be presented as evidence at a court-martial, or they resorted to euphemisms and unclear language that implied, but did not state. Ensign Farrell, who was tried along with his opponent for dueling, testified as to the sort of language used to plan the duel:

a gentleman of the 92nd Regiment called on me and told me that Mr. Cawley desired a meeting with me in half an hour at the bottom of the Race Course. I asked him if he was his friend when he said he was. I asked him if I was to meet Mr. Cawley with Pistols, when he said Yes, I accordingly waited on the Gentleman at the time appointed.

It was a near-universal practice among officers to use the ambiguous term “friend” rather than the unmistakable “second,” though this had dangers of its own. In the dispute between Lieutenant Colonel Bayard and Lieutenant McDonald of the King’s Orange Rangers, witnesses to the negotiations for a duel reported that neither party had made public mention of “Weapons or Seconds.” But Bayard had made his intentions quite clear when he gestured to Captain Johnston and said that “he had his friend then with him, on purpose to have satisfaction.” (Unfortunately, this nebulous term, so useful for lending some slightly plausible deniability if the matter led to a court-martial, ended up misleading the proposed second himself. Johnston’s reply revealed that he had been under the impression that Bayard was using the term “friend” in its more traditional sense: Bayard had asked Johnston to come to this meeting as Bayard’s friend, and Johnston had assumed Bayard wanted him

504.WO 71/54, p. 129.
505.WO 71/60, p. 368-369. The “gentleman of the 92nd,” Lieutenant Wells, refused to answer questions about whether he had known about the challenge, claiming that “he could not reply to the Question without criminating himself,” as he could theoretically have been prosecuted both for knowing about the duel beforehand and doing nothing to stop it, and for actually relaying the challenge from Cawley to Farrell.
there to help settle the quarrel amicably. Thus, when Bayard stated that he had brought Johnston as his friend, Johnston immediately disclaimed it, saying, “Yes Bayard, but not to go to the Field.”

Captain William Barry, who thought himself insulted by his commanding officer, Lieutenant Colonel Doyle, responded to a message from Doyle by telling the messenger that he “did not know what business Col. Doyle could have with him,” and that “he would meet him at the back of the burnt Church in the Ruins.” Barry was then told that a burnt church “was a very improper place to settle business in,” but that was precisely the point of Barry’s remark. The only reason a gentleman would go to such a place would be to fight a duel, so Barry’s proposed meeting place was a barely-veiled challenge to duel.

Honor culture undermined the military hierarchy, but attempts to disrupt it did so as well. Even the Articles of War, otherwise dedicated to strengthening and upholding the military hierarchy, was forced to interfere with the military hierarchy in order discourage dueling, when it granted to all officers the “Power to part and quell all Quarrels, Frays, and Disorders,” even if the quarrelers were of superior rank or belonged to another regiment.

More importantly, honor culture undermined the law. The Articles of War banned the rituals of dueling, yet these rituals often served to mitigate the damage caused by the duel, and a properly-conducted duel was less destructive to military order, honor, and human life than the uncontrolled brawl that might otherwise occur. Thus, even officers who opposed honor culture and the violence that sustained it often

506.WO 71/92, 115-147.
508.An Act for Punishing Mutiny and Desertion, 156-158. See WO 71/97, pp. 1-8 for a case in which a lieutenant had to break up a fight between two captains, and put them into arrest, because no higher ranking officer was present.
found themselves violating the Articles of War as they tried to prevent or at least
delay informal violence by channelling it to the formalized structure of the duel.

The Articles of War banned dueling, but the supremacy of honor in officers’
conceptions of masculinity meant that officers dueled regardless of the practice’s
legality; the fact that it was illegal did not stop them from dueling, but only served to
further convince them that the law operated in opposition to masculine virtue, and
that breaking the law was often the necessary action of an honorable man.

The crown’s response to a rash of duels and other quarrels that broke out among
the officers stationed in Jamaica in 1782 suggests another consequence of the
entrenched culture of violent defenses of honor. The king and the Deputy Judge
Advocate noted that “the Several Duels which have lately taken place in the Island of
Jamaica appear to have been occasioned by contentious and provoking Language,
improper to be used by one Gentleman towards another.” Therefore, they
suggested, it would have

a Salutary effect if a special Order be issued as by His Majesty’s
immediate Command, admonishing and strictly injoining all
Officers bearing His Majesty’s Commission carefully to repress
inordinate animosities and expressly inhibiting under pain of His
Majesty’s Severe displeasure any intemperate, reproachful, or
provoking Speeches from one officer towards, or respecting the
Character of another, as having a natural and obvious tendency to
the breach of good Order and highly detrimental to His Majesty’s
Service. 509

In other words, the crown’s solution to this outbreak of dueling was not to
reiterate the prohibitions of the Articles of War and demand that officers refrain from
dueling, but rather that officers should stop doing things that caused other officers to
issue challenges to duel.

And what caused these duels? One stemmed from an officer feeling personally offended when another officer confined the first officer’s personal servant for not attending drills. Another started, as we have seen, when one officer, Captain Townshend, felt personally offended after another officer, Ensign McKenzie, threw a bottle at a black woman in his presence, challenged him on whether he had done it deliberately, and implied that he was a liar. The officers’ general appraisal of the affair was that McKenzie obviously had to refute the claim that he was a liar by issuing a challenge, so in prudence Townshend ought not to have made such a fuss about the circumstances of the bottle-throwing—which, after all, had not injured anyone that the officers considered important. This altercation was also actually indirectly the cause of the third duel, which occurred after two officers had been seen flourishing their swords in front Townshend’s house after he had been wounded in the second duel, which Townshend’s friends perceived as a mortal insult to the honor of the convalescing officer.

In essence, officers were being instructed that other officers’ abuse of their power over enlisted soldiers or colonial civilians ought to be overlooked in order to preserve harmony among the officer class. The response of another officer on hearing the reason behind one of these quarrels was in keeping with the crown’s message: “if we as Brother Officers did not look over trifles of this nature and be more obliging to each other,” he said, “there would be an end to all kind of Society and we should lead the most wretched lives imaginable.”510 Casting “reflections” on other officers’ misbehavior, pointing out their abuse of enlisted soldiers or civilians, or expressing open disapproval of another officer was dangerous and unproductive.

When officers’ personal honor was threatened, they were to act outside the law; when attending to the unimportant concerns of those not within the officer class, it was trivial and quarrelsome to question an officer’s treatment of them—and it could not be done except at the extreme cost of also calling into question the officer’s honor. This was a culture that had strong incentives to uphold neither the supremacy of the rule of law nor a strict commitment to the welfare of civilians.
Chapter 8: Imperial Protectors?

Major Robert Donkin, reflecting on “heroism” in a military treatise published during the Revolutionary War, was surprisingly unconcerned with the purely military side of this virtue. The highest form of heroism, in his mind, was not a dashing cavalry charge through enemy lines, or an inspiring feat of battlefield bravery. Rather, he claimed not to have

read or heard of a nobler kind than that exhibited by the earl of Peterborough at the siege of Barcelone in 1705...He flew everywhere with his officers; found [his allies] the Germans and Catalonians ransacking the houses of the principal inhabitants! disperses them, and restores the plunder they had taken: meets the duchess of Popoli in the hands of these Germans who were going to dishonor her! and delivers her safe to her husband.511

Note the proper targets of heroic protection in Donkin’s mind: the property of the wealthy, and the honor of aristocratic women. To be a hero was to be the defender of class and gender hierarchies, a protector of property and of upper-class women, who, by virtue of their status and gender, could not be perceived as threats to a military campaign or—more importantly, to the masculinity of individual officers. Thus, officers could come to the aid of such women, even if they were on the opposite sides of a war.

This chapter examines how officers’ established ideas about masculinity, status, and the rule of law constrained how they could act as imperial protectors during the American War of Independence. Officers’ affinity for the ideals of chivalry might have inclined them to act in a protective role to enhance their claims to masculine status in some cases, but the military tactics of the war, the increasing cultural divergence between the army and the colonists, and the leveling ideologies of the

511.Donkin, Military Collections and Remarks, 143-144.
Revolution all worked to convince many British officers that the colonists were, in general, undeserving of protection.

Roger Lamb, who had served as an enlisted soldier in the British Army in the Revolutionary War, expressed great annoyance that reports of atrocities committed by British troops had freely circulated in Britain during the war. "It cannot be matter of much surprize, that such reports were fabricated by the Americans to serve their own purposes," he wrote, “but that they should obtain circulation and credence at home is truly astonishing."512 The fact that they did—that Britons as well as Americans could readily believe that their army would treat civilians in wartime with violence and brutality—suggests that the culture of the army was growing more distant from British culture as well as from that of the American colonies.513

Americans were increasingly uneasy about British rule not only because they associated it with corruption and tyranny, but also immorality.514 British soldiers were denounced for the danger they presented to American women (and relatedly, to the masculine and patriarchal identity of American men) because of their supposed sexual immorality. Anti-British propaganda contrasted virtuous American sexual propriety with the licentious, unrestrained, and shameless attitudes of British troops of all ranks towards sex.515

The war itself made matters worse. In occupied towns where no civil government existed, the army was free to impose its own norms, completely

512. Lamb, An Original and Authentic Journal of Occurrences During the Late American War From Its Commencement to the Year 1783, 158.
513. Anderson, A People’s Army, 118.
514. Robert M Calhoon and Robert M Weir, "The Scandalous History of Sir Egerton Leigh", The William and Mary Quarterly 26, no. 1 (1969): 47-74, on increasing American “feeling that Great Britain and her servants were corrupt.”
515. Block, "Rape Without Women: Print Culture and the Politicization of Rape, 1765-1815," 861.
disregarding civilian mores. British military authorities had little interest in regulating the morality of the people when it did not adversely affect the army’s needs. Prostitution flourished, even more scandalous than before the British occupation because it was now open rather than hidden. Prostitution flourished, even more scandalous than before the British occupation because it was now open rather than hidden.\(^{516}\) Theaters, associated with immorality and idleness in colonial America and barely tolerated before the war, now proliferated, a very popular entertainment among the gentlemen of the British military.\(^{517}\) And soldiers showed no inclination to be restrained by the dictates of religion. Officers violated the Sabbath with bawdy entertainments and made few efforts to promote religion among their men.\(^{518}\) Americans (and well as German soldiers allied with the British) expressed horror at the irreligious behavior and blasphemous language commonly used by British soldiers.\(^{519}\) Americans in mortal dispute over loyalty to Great Britain could agree that British military leaders were far too inclined to chase women and indulge in other luxurious vices, and Britons with widely differing views on the morality of the war itself were often unified in their condemnation of vices of high-ranking military officers.\(^{520}\)

Most importantly, among civilians in both Britain and America, the acceptability of violence was in decline, and violence was rapidly losing ground as an essential marker of masculinity.\(^{521}\) In particular, private violence to settle disputes rather than

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\(^{518}\) Anderson, 116-117; Van Buskirk, 32-33, suggests that the army’s appropriation of religious spaces as entertainment venues further alienated the populace.

\(^{519}\) Spring, *With Zeal and with Bayonets Only*, 135.

\(^{520}\) Van Buskirk, *Generous Enemies*, 30-31; Royster, 14; Stead, ”Contemporary Responses in Print to the American Campaigns of the Howe Brothers,” 130-131.

\(^{521}\) Shoemaker, ”Male Honour and the Decline of Public Violence in Eighteenth-Century London,” 190-191, argues that the long-term decline in homicide between the 16th to 19th centuries was due to a change in the role public violence played in constructing masculinity. Before, it was an essential part
having recourse to the law was becoming more problematic; it was less and less acceptable for people to claim that their high status made them above the law. This was occurring in Britain itself, but even more so in North America. In Britain, using one’s position and influence to help relations was normal; the rise of revolutionary spirit in the thirteen colonies meant that men now gained status instead by publicly proclaiming their concern for the common good over enriching their relatives.\(^{522}\)

But some of the army’s vestigial practices made it hard to distinguish between legitimate privilege and immoral corruption. Putting fictitious names on muster rolls was a common practice of Tudor proprietary soldiering. The pay assigned to these non-existent soldiers could be used to pay for common regimental supplies, supplement the pay of officers, or provide pensions for the widows and orphans of the regiment’s soldiers. In theory, this practice was banned in the early eighteenth century because it was too similar to the crime of submitting a false muster—putting fictitious names on muster rolls to pocket the pay the government would provide for them.\(^{523}\) Yet decades later, the practice continued with the approbation of the king himself, who ordered his officials “to allow upon the Muster-rolls of all the Regiments, Troops, and Companies, a Number of fictitious Names therein mentioned, instead of private Men, in order to raise and settle a Fund of the Maintenance of such Widows or Officers as are or shall be intitled to his Royal Bounty,” adding that in this case, “no Allowance of any such fictitious Name upon any Muster-roll shall be construed to be a false Muster.”\(^{524}\)


\(^{523}\)Guy, Oeconomy and Discipline: Officership and Administration in the British Army, 1714-63, 64.

\(^{524}\)An Act for Punishing Mutiny and Desertion, 22-23; Guy, Oeconomy and Discipline: Officership and Administration in the British Army, 1714-63, 76, on other difficulties distinguishing ‘corruption’ from
The far clearer division between legitimate practices and corruption in America led to a growing American perception that the British, corrupted by aristocratic vices, were unfit to rule. But British officers, who perceived a strict separation between their private and public lives, found this idea ridiculous. Their authority certainly didn’t come from any conspicuous public virtue they might chance to display; their authority stemmed instead from something more intrinsic to their character—their status, acquired at birth, as gentlemen of honor. This status was so connected with them personally that no vice (so long as it was not dishonorable vice) could remove that authority from them; indeed, the very fact of their authority and high social position allowed them to have an unregulated private life and indulge in private misbehavior, if they were so inclined. Restraint, sobriety, refraining from violent outbursts—these were things that the unfortunate men at the lower end of the social spectrum were forced to do; they were markers of their lack of masculine power. An officer, on the other hand, by virtue of his high rank and social position, could enjoy all the luxurious vice he pleased; it might perhaps reflect poorly on some aspects of his character, and lead him into some sad financial and personal woes, but to suggest that such behavior made him unfit to be an officer and a source of authority

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was preposterous.\textsuperscript{526} Thus, when officers encountered colonial inhabitants, the two groups often had completely different ideas about legitimate sources of authority.

The two groups also differed on the correct way to conduct a war. The terrain of North America did not suit British ideals of warfare. “The nature of the country was peculiarly favourable to defence,” one soldier wrote, with “many natural barriers of hills and mountains, intersected by rivers, and interspersed with trees, rocks, and precipices; several defiles, skirted by impenetrable woods, and majestic rivers, flowing with impetuous currents, which seemed to bid defiance to the invader.”\textsuperscript{527} When rebel forces took full advantage of this defensive terrain, sheltering behind trees to pick off individual soldiers with rifles and negating the British army’s superior battlefield discipline by fighting in wooded and mountainous areas, British soldiers reacted with contempt.\textsuperscript{528} These methods of fighting were “skulking,” and “cowardly”; their use of the rifle was not honorable—it was the tool of the assassin, not the brave soldier.\textsuperscript{529} The rifle was inhumane, barbaric, and the weapon of a coward.\textsuperscript{530} The rebel refusal to attack openly, to declare their hostile intentions

\textsuperscript{526}Phylis Deutsch, “Moral Trespass in Georgian London: Gaming, Gender, and Electoral Politics in the Age of George III”, \textit{The Historical Journal} 39, no. 3 (1996): 637-656, notes the increasing popularity of linking the right to rule with personal moral virtue. Carter, "British Masculinities on Trial in the Queen Caroline Affair of 1820," 258, 265, suggests that by the early nineteenth century, "private behaviour had become as crucial to masculine reputation as it had long been to feminine reputation" as it "became increasingly impossible for men who wished to be entrusted with public confidence in political and civic life to openly diverge from contemporary ideals concerning private conduct. The public man whose private life was in disarray undermined his reputation as a wise and judicious man, diminished the currency of his word and damaged public trust in his overall competency to fulfill his office or station."

\textsuperscript{527}Lamb, \textit{An Original and Authentic Journal of Occurrences During the Late American War From Its Commencement to the Year 1783}, 63.


\textsuperscript{529}Spring, \textit{With Zeal and with Bayonets Only: The British Army on Campaign in North America, 1775-1783}, 134.

\textsuperscript{530}Starkey, "Paoli to Stony Point: Military Ethics and Weaponry During the American Revolution," 13-15.
before shooting, rather than firing without warning from a hidden position, was in
the view of British troops a serious breach of proper masculine battlefield behavior.531

Officers took an exceedingly dim view of what they termed la petite guerre. It
was a form of warfare that was both cowardly and savage. Officers disliked the
"barbarous" nature of guerrilla warfare in America, and, after the rebels allied with
France in 1778, were far more keen on fighting the French, who had undisputed
status as a sovereign nation and adhered to the accepted norms of European
warfare.532 “The rebellion now in America,” Donkin wrote, was sadly characterized by
the miseries of guerrilla warfare, not only because of the terrain, which favored
defense, but from "the cowardliness of the rebels, who delight more in murdering
from woods, walls and houses, that in shewing any genius or science in the art
military.”533 (Donkin’s introduction mentioned that the profits from the sales of his
book were to be used "to relieve and support the innocent children and widows of
the valiant soldiers inhumanly and wantonly butchered" while "peaceably marching
to and from Concord" on 19 April, 1775.534)

Officers’ rhetoric about "secret" and "Assassin-like" attacks on an officer’s
reputation—in comparison to open, honest, and manly accusation—was reflected
exactly when military positions rather than other officers’ reputations were being
attacked. They linked the bayonet charge with bravery, in contrast with the

531.Stephen Conway, "The British Army, 'Military Europe,' and the American War of Independence", 

532.Conway, "British Army Officers and the American War for Independence," 273; Lambart, A New
System of Military Discipline, Founded Upon Principle, 275, suggested that enemies on the battlefield
could find common ground by their shared ideals of courageous military behavior.

533.Donkin, Military Collections and Remarks, 223; Spring, With Zeal and with Bayonets Only : The British
Army on Campaign in North America, 1775-1783, 128-129, describes enlisted feeling of British
superiority over the inferior military skill of the rebels, as well as outrage over their “unnatural rebellion.”
See also Lambart, A New System of Military Discipline, Founded Upon Principle, 251, who advised
officers to teach their men to despise their enemy: “The more that the private men can be brought to
hold their enemy in contempt, the more resolute they become.”

534.Donkin, Military Collections and Remarks, iii.
American penchant for fortifying defensive positions from which they could fire in relative safety. "Men of their bodily strength and even a coward may be their match in firing," Burgoyne told his troops, "but the bayonet in the hands of the valiant is irresistible. The enemy, convinced of this, will place their whole dependence in entrenchments and rifle pieces. It will be our glory and our preservation to storm when possible."535

Because the rebels were using methods of fighting which they associated with cowardice but also savagery, British soldiers argued that colonists did not deserve the practices of "civilized" warfare. Furthermore, the rebels were rebels; even commanders who were acclaimed for their compassion and advocated for the humane treatment of enemy soldiers often maintained that these guidelines only applied to those participating in "legitimate" wars between sovereigns.536 But rebellion was a criminal act, and those in rebellion against legitimate authority had forfeited any right to protection.537

This was a common view among military and legal theorists of the eighteenth century, and soldiers who were tried for various crimes against civilians proposed similar justifications for their behavior. Three men who were "employed in recruiting for different provincial Corps in His Majesty’s Service" were accused of breaking into the house of William Seton, a New York merchant, in the middle of the night and stealing furniture, guns, money, silverware, and variety of clothing, including the handkerchief that Seton was carrying at the time and the hat on his head. When the

men were charged with the crime, all three men acknowledged that they had robbed Seton’s house, and they had “never made a secret of what they had done,” because “Mr. Seton was reputed to be a notorious rebel.” Therefore, they claimed, they thought that the pillaging of his house was “a meritorious act in favour of the King and Government.” Though this defense was not accepted by the court, some measure of its general popularity among the soldiers is indicated by the orders General Howe had to issue informing the members of his army that a person’s open statement of disdain for British authority did not render him an acceptable target for theft.

But methods of abusing civilians could closely resemble actions that were considered legitimate acts of war. When some soldiers of all ranks maintained that plundering enemy civilians was a soldiers’ natural right, they were referring to the taking of civilians’ property for their own personal use. In theory, this was supposed to be easily distinguished from the legitimate seizure and destruction of rebel property by the institution of the army, or the requisitioning of supplies for the use of the army. However, the distinction was far more difficult to uphold in practice, especially because of the custom of distributing prize money after the successful capture of enemy property. Furthermore, many British officers believed that plundering and burning the colonists’ property would be an effective method for reconciling them to British rule by demonstrating the might of the crown’s forces and


539. Fourteenth Foot Orderly Book, 5904/175, National Army Museum, cited in Conway, “The Great Mischief Complain’d Of”: Reflections on the Misconduct of British Soldiers in the Revolutionary War,” 379. Also, WO 71/91, pp. 154-200: the defendant’s statement justifying his robberies: “being out of the Line often under the Sanction of General Clinton to distress the Rebels; the Encouragement given them has induced me to go greater lengths than Government might think proper to countenance; tho’ in fact these people that has been distressed, are as great Rebels, & as ill wishers of His Majesty’s Government, as any we ever plundered out of the Lines, by permission of His Excellency the Commander in Chief.”

the price they would pay for continued resistance. Even those who favored a
conciliatory stance advocated for their views not on the grounds that taking colonists’
property was immoral or illegal according to the rules of war, but that it was impolitic
and would alienate their support for the crown. 541 Similarly, assaults on civilians
resembled too closely the soldiers’ actual battlefield behavior. The tactics of guerrilla
warfare and the use of rifles by the rebelling colonists led to a desire for retaliation
against these enemies, who did not clearly identify themselves as combatants, and
made it easier to justify attacks on civilians. 542 These practices belied claims that
legitimate targets for violence were to be found only on a designated field of
battle. 543

Captain John Campbell of the Corps of Engineers was charged with “beating and
offering to send to the Guard Mr. Joseph Tweedy, a Gentleman of the Town of
Newport; for Persisting he was right in what he had done; and for Declaring, let the
Consequences be what they will, under the like Provocation, he would beat him
again.” Campbell’s defense statement claimed that Tweedy was merely
masquerading as a gentleman, that he was “in fact the son of a Transported Convict,
an inveterate Rebel, and himself notoriously reprobated.” He claimed that Tweedy
was connected “to a Man, engaged in the heat of Rebellion,” and was only in
Newport to protect this rebel’s property. Campbell praised “His Majesty’s most
Clement intentions of recalling his deluded American subjects, to a proper sense of
their real Interest, and Duty,” but suggested that Tweedy was pretending to be a
loyal subject and that his complaint was merely an example of attempts by

541.Conway, “To Subdue America: British Army Officers and the Conduct of the Revolutionary War,”
542.Starkey, “Paoli to Stony Point: Military Ethics and Weaponry During the American Revolution,” 13;
Conway, “To Subdue America: British Army Officers and the Conduct of the Revolutionary War,” 398.
Spring, With Zeal and with Bayonets Only: The British Army on Campaign in North America,
1775-1783, 136-137.
543.Conway, “The Great Mischief Complain’d Of”: Reflections on the Misconduct of British Soldiers in the
Revolutionary War,” 377.
“atrocious Rebels to indulge their Rancour, and throw a die against the Honor and fortune of his [the King’s] most approved servants whilst they themselves risque nothing.” He warned against allowing “such Complainants” the ability to “with Impunity give Officers the trouble of sitting Courts Martial” as it would soon “prove an incessant source of dangerous accusations against the very worthiest Characters.”

Campbell was proposing that the rule of law had little place in this war; it was a threat to officers trying to subdue the rebellion and allowing American civilians access to courts, even military courts, was making officers vulnerable to the twisted designs of rebels intent on distressing them.

Yet the rule of law and a conciliatory attitude towards American civilians had advocates as well. There was a widespread belief by both officers and civilians that assault, theft, and rape by an occupying army was merely one of the usual costs of war borne by a civilian population. But the presence of loyalists, and the fact that the British saw the Revolutionary War as a rebellion by their own people rather than war against a foreign enemy, complicated the situation, as British officers and officials disagreed on whether the colonists would be more likely to reconcile themselves to British rule if treated mildly or if terrorized into submission.

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544.WO 71/84, p. 159-177; for a similar case, see WO 71/88, pp. 16-29: Accused of abusing and arresting Thomas Royse, an inhabitant of New York, without cause, Lieutenant Pritchard claimed that his actions were justified because of Royse’s “insolent manner” and because “Royse had been one of those who were Guilty of carrying people about upon Rails for their attachment to Government, and used to have many private meetings of suspicious people at his house.”


546.The diverse views of British officers are explored by Stephen Conway in “To Subdue America,” pp. 381-407. Joseph S. Tidermann, in “Patriots by Default: Queen’s County, New York, and the British Army, 1776-1783,” The William and Mary Quarterly, Third Series, Vol. 43, No. 1 (Jan., 1986), pp. 35-63, argues that the presence of the British army in New York throughout the war gradually turned the inhabitants, initially indifferent to independence, into strong supporters of the patriot cause through their misbehavior and abuse of authority. Conway supports this view somewhat, suggesting that officers in America had considerable autonomy, allowing officers who adopted a more severe approach to circumvent the conciliatory approaches favored by Howe and Clinton (pp. 400-401).
Therefore, officers subscribed to a range of views on how seriously they should attempt to prevent wartime crimes. Some thought that the army should act decisively to curb plundering and pillaging by soldiers, while other officers led raids of the countryside and appropriated civilian property for themselves.  

Some officers thought that the only way to win the war was to regain the loyalty of the American colonists. Imagining that the colonists had been unhappily deluded by republican demagogues, they believed that if the army could enforce law and order in the areas that it occupied, and treat colonists with kindness and consideration, the Americans would soon perceive the benefits of being under British rule, and abandon the rebel cause. But naturally plundering civilian property and abusing civilians more generally would not cause anyone treated so to like the British any better, and loyalists whose property was damaged or confiscated might turn against the British. Commanders issued orders exhorting troops to respect the property of the inhabitants and to give them no “Annoyance.” General Howe’s orders called for officers to extend greater amounts of control over their soldiers, “as the Present Licentious behaviour of the troops is a Disgrace to the Country they belong to.” He condemned theft and marauding, and threatened to hang soldiers caught plundering without trial.

But although commanders favoring reconciliation often issued orders of this sort, the majority of soldiers were of a different opinion. Enlisted soldiers argued for

549. O’Shaughnessy, The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire, 116, on plunder as a problem for the British, alienating Loyalists as soldiers did not distinguish between them and supporters of the revolutionaries.
550. General Orders, September 6, 1776, in the Orderly Book of the British Regiment of Foot Guards.
551. Conway, “To Subdue America: British Army Officers and the Conduct of the Revolutionary War,” 386, suggests both Howe and Clinton sought to win the approval of colonists by refraining from plundering or other ‘uncivilized’ methods, directing that “the peaceable Inhabitants are not on any Account
the legitimacy of plunder, and their officers were often also of the opinion that the rebelling colonists deserved whatever distresses the army inflicted upon them.\textsuperscript{552} Despite commanders' high-minded and humanitarian orders, officers' desire for harshness often prevailed on the ground, as the junior officers were far more able to direct the actual treatment of civilians in practice than the high-level commanders.\textsuperscript{553}

Officers insisted that proper behavior towards civilians in Britain necessarily differed from proper behavior overseas; it was ridiculous to have the same standards--it would make imperial governance impossible. Imperial warfare provided an opportunity to use different military norms and disregard the laws of war adhered to in Europe; indeed, many Britons held the idea that disputes in colonial zones necessarily had to be settled, ultimately, with violence, rather than the law.\textsuperscript{554} Rebels and savage people were treated differently from European regular troops; the developing standards of legal and illegal warfare were thought to apply only to regulars.\textsuperscript{555} And before the war, the civilian inhabitants of Britain to some extent agreed.\textsuperscript{556}

But Americans rejected this view; they made the appeal that their colonies were not like other colonies, and they refused to play the role of the imperial Other, citing their kinship ties with and cultural similarities to the inhabitants of the metropole.

\textsuperscript{552}Conway, \textit{Military-civilian Crime and the British Army in North America, 1775-1781}, 86-87; Conway, "British Army Officers and the American War for Independence," 266, disputes the widespread but unexamined view that many British army officers opposed serving in the American War of Independence and refused to serve there, and argues that British officers, on the whole, were not ambivalent about the war and thought that the rebels deserved war rather than appeasement.

\textsuperscript{553}Conway, "To Subdue America: British Army Officers and the Conduct of the Revolutionary War," 405, 382.

\textsuperscript{554}Eliga H Gould, "Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, Circa 1772", \textit{The William and Mary Quarterly} 60, no. 3 (2003): 471-510.

\textsuperscript{555}Starkey, "Paoli to Stony Point: Military Ethics and Weaponry During the American Revolution," 12.

\textsuperscript{556}Gould, "Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, Circa 1772," 483, 509-510.
Loyalists insisted that they were Britons and deserved the same rights and protections as the citizens who lived in Britain itself; the rebels insisted that they had been Britons, deserved the same rights and protections as other Britons, and were rightfully rebelling against Britain because they had been denied these rights. The inability to easily distinguish loyalists from rebels caused further headaches for soldiers wishing to punish the rebels but placate the loyalists, and colonists took full advantage of this difficulty.\textsuperscript{557}

American forces also weakened the ability of the British army to justify their poor behavior because they partially adopted the conventions of European warfare. The American War of Independence did not degenerate into unrestrained savagery because in addition to their militia and guerrilla forces, the rebels also decided to establish the Continental Army on a British model and fight according to European convention—thus restraining the ability of the British to use the tactics of terror they had used in the '45 rebellion in Scotland. When faced with an enemy fighting according the rules of "civilized" warfare, officers and soldiers who used tactics fit only for "savage" opponents were harshly criticized for their inhumanity by their own countrymen.\textsuperscript{558} British soldiers seem to have clearly wanted to characterize their American counterparts as unprofessional rebels and not part of the larger European military community.\textsuperscript{559} But when they were faced with an enemy that consciously modeled its organization and behavior on their own standards, and which proposed


\textsuperscript{558} Starkey, "War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781," The author also refutes the popular conception of 18th-c. warfare as somehow more "civilized" and "restrained" than modern warfare, and argues that a slightly higher standard of behavior might have prevailed when compared to the 17th-century religious wars and the 19th-century Napoleonic Wars, but only in European warfare between established states; warfare against those considered "savages", whether they were non-European populations or Scottish rebels, was characterized by unrestrained brutality and terror.

\textsuperscript{559} Conway, "The British Army, ‘Military Europe,’ and the American War of Independence, 71.
to keep discipline in its ranks by the wholesale plagiarism of the British Articles of War, (the Continental Articles of War had almost no alterations other than the deletion of references to the King), the British could not deviate from their rules for war without attracting criticism from their own people.\textsuperscript{560}

The tendency of Britons to be critical of the army’s behavior to colonists, as well as some officers’ genuine distaste for brutality to civilians, meant that officers sometimes sought to play the role of imperial protectors. The failure of the British to act as proper protectors, and their arbitrary and tyrannical rule, were general themes of patriot propaganda.\textsuperscript{561} And officers in particular were often targeted by these works, as circulating reports of officers’ misbehavior undermined the legitimacy of British rule and officers’ role as authorities who could be counted on to restrain the baser passions of enlisted soldiers.\textsuperscript{562} Thus, British officers found value in refuting these allegations by using military courts to both give the appearance of their respect for the rule of law and to conspicuously display their behavior as imperial protectors.

Although the court-martial was a tool for controlling the internal affairs of the army, as we have seen, it could also be used to publicly control and demonstrate control of the behavior of their troops. Formally trying those accused of crimes against civilians had several advantages. Summary justice had an appearance of the exercise of arbitrary and capricious power, which in the political climate of North America, had become inextricably linked with tyranny. On the other hand, when

\textsuperscript{560}Starkey, “War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781,” 10.

\textsuperscript{561}Eustace, \textit{Passion Is the Gale : Emotion, Power, and the Coming of the American Revolution}, 466, on patriot writings characterizing the British as unfit parents unworthy of the loyalty and obedience of their American children. Block, “Rape Without Women: Print Culture and the Politicization of Rape, 1765-1815,” 859, on the usefulness of rape stories as anti-British propaganda.

\textsuperscript{562}Conway, \textit{Military-civilian Crime and the British Army in North America, 1775-1781}, 42.
colonists were allowed to confront their assailants at a court-martial, they could be reassured by its resemblance to a civilian court.

By using these military courts, the British army could publicly proclaim its respect for the rule of law and counteract patriot propaganda depicting the British as unfit rulers by showing that they took crime against civilians seriously. Furthermore, these courts enhanced British authority: if civilians used them to seek redress for their grievances, they were implicitly publicly acknowledging and accepting the authority of the British, and thereby legitimizing their rule in North America.

But civilians would hardly see military courts as an option if the courts themselves shielded members of the military from justice. Therefore, if the army was to successfully make the transition from classifying assaults on civilians or their property as legitimate acts of war or the unfortunate but inevitable consequences of war to crimes that ought to be prosecuted, officers had to demonstrate a willingness to prosecute other members of the British military community for crimes, to assist civilians with negotiating the intricacies of military law, and to actually convict accused soldiers brought before the court. This transition required the cooperation of members of the British forces in prosecuting other members of the same group. There was often no outside authority which could adjudicate these cases, and the British military had the responsibility of jailing, charging, trying, convicting, and punishing all offenders. Assaults, rapes and thefts could not be prosecuted as crimes unless members of the British military community acted at every stage of the proceeding, from the initial criminal investigation to the carrying out of the sentence.

Inertia and inaction played a significant role in the treatment of crimes against civilians. The default was for these crimes to be ignored; inattention at any stage doomed the process. Convicting soldiers for abusing civilians required people willing to disregard group loyalty to the army at every stage. The long chain of events from
the initial apprehension of the suspect to the administration of the sentence meant that there were numerous opportunities to disrupt the proceedings. Soldiers could turn a blind eye to crimes committed by their comrades; officers could refuse to assist the civilians who appealed to them for aid; soldiers stationed at the guard house could allow the prisoner to escape; the commanding officer could release the prisoner on his own authority instead of ordering him to be tried; the Deputy Judge Advocate could hinder the prosecution by not exerting himself to arrange for the presence of all the necessary witnesses; the court martial board could acquit the defendant in the face of flagrant evidence against him; and soldiers and officers with influence could use their connections to make sure that the sentence was never carried out. The process could also be interrupted without any person’s active intervention simply by the exigencies of war. After the British were forced to evacuate Boston in March 1776, Ensign James Foxon of the 10th Regiment of Foot, accused of plundering a house in Boston, had to be tried in Nova Scotia the next month, without any witnesses who had remained in Boston.

When the war itself did not make trying cases impossible, the initial step, apprehending the suspects, often required the direct efforts of British officers, who often had to personally chase down suspects when civilians complained to them. When a Long Island civilian was robbed and murdered by a party of soldiers one night, two Captains were ordered to wait on the beach for hours until daybreak to intercept them. When Elizabeth Johnstone appealed to Donald McIntire for aid after she was raped by two soldiers, McIntire, surgeon to the 43rd regiment, took

563.e.g. WO 71/86, pp. 155-158: three female camp followers were confined for plundering, but by the time of the trial, one had been “released by order of Genl. Knyphausen.”
charge and ordered her servants to restrain one of the men and "ran himself after
the other man." 566

Welbore Doyle, a lieutenant in the 55th Regiment of Foot who was staying at the
house of Joshua Loring, a resident of New York, awoke one night thinking he had
heard a noise in the cellar. He alerted Loring, and both men went in search of
soldiers to assist them. Then they entered the cellar, "and after searching a good
while for people, they found two soldiers in an inward Cellar," who were "beastly
drunk" after having consumed a good portion of the wine in Loring’s cellar. They
apprehended the two men, who were then "conducted both to the main Guard.” The
two men told the sergeant on duty that they would return in the morning to "send a
crime against the prisoners,”—make out a formal complaint of the crime with which
they desired the prisoners to be charged. 567

Even when officers did not have to personally chase down suspects and conduct
them to the guard house, they could be called upon to assist in the investigation of
crimes committed by soldiers in other ways, such as assembling their men so the
victims could examine them and determine whether any of them were seen at the
scene of the crime. 568 When Hannah Dray of Long Island complained to Colonel
Tarleton about the soldiers who had broken into her home, stolen numerous articles,
raped her mother-in-law, and tried to set the house on fire, Tarleton offered his men
a monetary reward for information concerning the crime, at which one of the soldiers
involved confessed and named his accomplices. 569

After a soldier was accused of a crime, he was customarily kept in the guard
house until a court martial could be assembled to try him. (An officer was generally

566.WO 71/82, p. 413.
568.e.g. WO 71/95, pp. 294-304.
569.WO 71/90, pp. 376-383.
allowed the privilege of being confined to his own quarters.) Keeping the accused in confinement actually required a number of people of varying ranks to cooperate in this goal. Prisoners could be released inadvertently when the guard was changed, or through the active intervention of officers, or through the collusion of the non-commissioned officers and enlisted men who actually supervised the prisoners for most of the day. When Loring returned to the guard house to charge the soldiers whom they had found drunk in his cellar, “he found to his great surprize, that they were both dismissed.” The captain on duty that night had sent them back to their own unit two hours later, and Loring had to go to another guard house, persuade the corporal there to “let him see all the men” on duty there, and pick out the suspects again.

If the suspects were to be kept in confinement, they had to officially be charged with a crime. As seen by Loring’s return to the guard house the morning after he and some soldiers had apprehended the men who had broken into his house, the responsibility for this lay with the victim; there was no duty on the part of the military to provide legal assistance in choosing the charges and writing them with the proper legal language, a practice that might hinder military officers who wanted to prosecute for crimes committed against them as well as civilians.

The 88th’s Surgeon, James Barton, was arrested for disrespecting Doctor John Hunter, his immediate superior, as well as a major. On the spot, "A Crime was wrote by Dr. Hunter sign’d and address’d to the Commanding officer...and given to Lieutenant French [the officer tasked the arrest] to be presented with the Prisoner." After being told a few days later “that no Crime had been given in against him [Barton],” Hunter “used the freedom to consult with General Garth upon this occasion,” and ended up charging Barton with another crime that he had not referenced the first time, and the result seems to have been two different sets of
charges leveled against Barton. Barton protested at his court-martial that he had been told about one set of charges earlier, only to found out at his court-martial that he would be tried for the other set.

Both incidents suggest that while complaining parties might appear to write out the charges against the defendant without the advantage of any particular legal knowledge, in practice there were opportunities for consultation with those with more knowledge. Hunter admitted that his unfamiliarity with military law led him to seek the advice of the general when he thought he had an opportunity to re-do his listing of Barton’s crimes, while Loring’s decision to return in the morning to give in a crime rather than writing one on the spot, as seems to have been more normal, suggests he might have wanted the opportunity to learn how best to charge his prisoners—though in this case, his delay also meant that the captain of the guard released his prisoners before he could return, thinking that they had committed no crime except being drunk in public.

Many female victims especially appear to have had the benefit of advice from someone knowledgable about the intricacies of military law. For example, Catherine Stone and Isabel Mitchell, unmarried women, seem to have been advised by an officer to charge their assailants with robbery rather than rape. This was done on the flimsiest of pretexts—a cloak had incidentally been carried away by one of the rapists—but allowed them to avoid the intrusive personal questioning customarily done by the court to a woman prosecuting a man for rape. Without such cooperation and informal assistance of members of the British military community, many victims of crime would not have been able to prosecute.

The women who complained of having been raped by British soldiers tended to be those who had reason to expect a sympathetic hearing by the British officers who comprised the members of the court-martial. Many of the victims had formal or
informal ties to the army or to Britain, and were Loyalists—not surprising as the
trials were primarily concentrated in New York City, which was occupied by the
British Army for the majority of the war, and thus became a haven for Loyalists
fleeing there from other parts of the North American Colonies. Catherine Stone and
Isabel Mitchell were servants of Mrs. Douglas, the wife of a British Lieutenant, and
lived in their house.\(^{570}\) Other women bringing rape accusations before the court may
also have had the help of British officers with whom they were acquainted, and who
advocated on their behalf and helped them prepare their cases for trial. Elizabeth
Johnstone apparently knew the surgeon Donald McIntire, who testified for the
prosecution at the trial of the men she accused; he testified that he had called at her
house earlier in the day. Hannah Dray might have been socially acquainted with
Colonel Banastre Tarleton; normally rather cavalier about the depredations of
soldiers under his command, Tarleton nevertheless personally visited her house to
inspect the damage after the robbery and rape, and furthermore offered a “Reward
for the discovery of the Party concerned,” after which one of the soldiers who had
participated in the robbery but not the rape confessed and named his accomplices.\(^{571}\)

Though officers were often ambivalent about whether colonial women—in the
abstract—were worth protecting, when faced with specific appeals from women they
knew, they leapt into the role of the heroic champion of a woman in distress. The
gentle treatment of women and the defense of their virtue were part of the chivalric
ideal that appealed to many officers.\(^{572}\) A woman appealing to an officer for
assistance after being raped gave him an opportunity to display his status as a
legitimate patriarch and masculine protector, especially valuable in a political climate

\(^{570}\)WO 71/85, p. 208.
\(^{571}\)WO 71/90, pp. 377-383.
\(^{572}\)Cohen, “'Manners’ Make the Man: Politeness, Chivalry, and the Construction of Masculinity, 1750–
1830,” 329.
that regularly used the rhetoric of rape to characterize the perceived relationship between Britain and the American colonies, and circulated stories of British soldiers as rapists in order to argue that the British were abusive and unfit rulers of the colonies.573

The court-martial provided a useful forum for displaying their authority, initiative, and bravery, which they could contrast with the timid responses of civilian men. When Lieutenant Robert Douglas, a Royal Artillery officer stationed in Philadelphia, learned that his maidservant Catherine Stone had been raped by a soldier and two other men connected with the army, he testified that he immediately went in search of her. Douglas noted that she had first tried to run away from her assailants and take refuge in a civilian’s house. (Catherine Stone testified that she “screamed out and made all the resistance she could, but nobody came to her assistance,” despite the fact that she briefly escaped from her captors and knocked at the door of a house, but that “the owner would not let her stay there,” and her captors dragged her away again.) But when Douglas had tried to locate her there, the inhabitants “acknowledged that a Woman had come there in a good deal of distress, but that they were afraid; as they were frequently alarmed with riots, that she was some disorderly woman, & they might get themselves into a scrape, they therefore insisted upon her quitting the house immediately.”574 By referring to Catherine Stone in such terms, they may have been trying to discredit her claims of being raped. Lieutenant Douglas, in contrast, presented himself as recognizing Catherine Stone’s right to protection from sexual assault.

573.Block, “Rape Without Women: Print Culture and the Politicization of Rape, 1765-1815”; see also O’Shaughnessy, The Men Who Lost America: British Leadership, the American Revolution, and the Fate of the Empire, 150-151, on Jane McCrea, who was killed by Indian allies of the British while she was supposed to be under the protection of her fiancee, a loyalist officer, which fueled American propaganda claiming that the British were unsuitable protectors.

574.WO 71/85, pp. 203, 206.
Another officer claimed that Catherine Stone had run up to him screaming for help and covered with blood, and that he had assisted her. Lieutenant William Green, the officer whom Catherine Stone appealed to for assistance after she escaped her captors, testified that when he had earlier that night “heard a female voice cry Murder,” he went to the door and attempted to ascertain if anyone needed assistance, but was foiled by the darkness of the night. That he had made such an attempt was in stark contrast to the civilians who turned a desperate Catherine Stone out of their house. William Green also testified that Catherine Stone “came running up to him and taking hold of him cry’d out, for God’s sake, Sir, save me, save me; that upon asking her what was the Matter, she said that she had been very ill used by three Men & beged that he would see her home as she was afraid to go alone.” And Lieutenant Douglas was instrumental in identifying the culprits and testifying before the court. After Catherine Stone and Isabel Mitchel told him about the assaults, he took careful note of their descriptions of their attackers and apparently had likely suspects apprehended and brought before him some days later, by which method he eventually identified the defendants.

Officers also portrayed themselves as the legitimate authorities to whom women could turn for redress and assistance by apprehending the culprit. Donald McIntire, a surgeon, testified that after Elizabeth Johnstone appealed to her for aid, he took charge and ordered the servants to restrain one of the men, John Dunn, and “ran himself after the other man,” apprehended him, and had them both conducted to their commanding officer. Colonel Robinson testified that when he saw Elizabeth Loundberry come out of her house looking distressed, “he went to her, and asked what was the matter.” Upon learning of the rape and ascertaining who committed

575.WO 71/85, p. 205.
the act, he “desired the Orderly Serjeant attending General Vaughan, to take them prisoners.” Women appear to have accepted the view that officers represented a higher standard of behavior as well: Elizabeth Johnstone told the court that when (the aptly named) Private John Lusty expressed his intentions of raping her, “she told him that if he did not let her alone, that she would tell his officers of him, upon which he said, damn you and the officers too.”

But the scarcity of these cases suggests that while officers took advantage of opportunities to portray themselves favorably when avenging injury done to their acquaintances when such opportunities presented themselves, they made no systematic efforts to prevent sexual assaults of civilian women. All of the cases prosecuted unambiguously fit the stereotypical pattern of the ideal rape case in the English Common Law tradition: an unexpected and violent act, often committed in conjunction with another crime (usually assault or robbery), perpetrated by a stranger to the victim, where there was absolutely no presumption of the defendant having any sort of legitimate sexual access to the woman.

All were crimes of extreme violence and included outrageous details which could have easily taken their place among patriot propaganda about British atrocities. Sergeant Boswell tore apart Elizabeth Loundberry’s house and dragged her to the bed, threw her on it, and raped her while she was attempting to hold on to a baby in her arms. Bartholomew McDonough raped Phebe Coe’s disabled daughter, and then he and two associates attacked, held down, and took turns raping Phebe Coe herself when she attempt to intervene and protect her daughter. Elizabeth Johnstone testified that two soldiers, John Dunn and John Lusty, had broken into her

house while intoxicated; that as she was at her spinning wheel, they grabbed her
and threw her on the bed and each held her down as the other raped her, in the
presence of her four-year-old daughter.\textsuperscript{580} Thus, these cases were brought to trial
not because they were representative, but because they were exceptional. They
were shocking crimes that demanded redress, and, from a legal point of view, they
were very strong, unambiguous cases with multiple witnesses. They were the ideal
cases for an officer seeking to make a public display of protective masculinity to lend
his assistance to, and the fact that the only rape cases for which detailed records
survive are these exceptionally violent ones suggests that British officers were not
interested in assisting in the prosecution of more ambiguous or less “serious” sexual
assaults, or in making any more systematic effort to prosecute rape cases, which
would not have given them the same opportunities for imperial display.

In general, successful prosecutions exploited tensions between soldiers of
differing statuses. In order to get to the stage of a verdict, civilians prosecuting
soldiers had to have the cooperation of members of the British army at numerous
points. But even after they had successfully brought the case to trial, they still had
to rely on the court martial board to actually convict the defendant. British military
courts and American civilians seeking redress for crimes had interests that only
occasionally overlapped, and it is at this juncture that convictions occurred.

Enlisted soldiers were at an obvious disadvantage because a British court martial
board was comprised exclusively of officers, who were much less willing to convict a
defendant who came from their own ranks.\textsuperscript{581} Suggestions that soldiers’ assaults and
plundering were undermining the authority structure of the army and appealing to

\textsuperscript{580}WO 71/82, p. 413. Laurel Thatcher Ulrich, in “Wheels, Looms, and the Gender Division of Labor in
Eighteenth-Century New England,” \textit{William and Mary Quarterly}, Vol. 55, No. 1 (January, 1998), 21, notes that household spinning was a particular source of feminine pride and status.

\textsuperscript{581}Peter Way, “Class and the Common Soldier in the Seven Years' War”, \textit{Labor History} 44, no. 4 (2003): 455-481, on the creation of class identity among enlisted soldiers.
the paternalistic feelings of both commissioned and non-commissioned officers helped civilians make the case that abuses of civilians should be considered crimes. Social differences between the accused and their judges, and the officers’ desire to reinforce those differences, helped women gain convictions. This was perhaps due to officers’ insecurity for their own authority; officers had considerable difficulty enforcing orders against plundering and marauding.

But more importantly, officers’ willingness to convict enlisted defendants, and their willingness to assist women prosecuting for rape at every step of the process, was not merely because the victims were often personally known to them and because crimes were egregious and undermined officer authority. Rather, officers’ behavior in these cases was an outgrowth of an existing cultural standard in the British army: Officers had already established their right to regulate the sexual behavior of enlisted men as part of a larger process of denying them the privileges that they would usually enjoy as adult men.

In the public view, these rape cases were crimes. But examined from within the workings of the internal social relationships of the army, officers intervention in the rape of civilian women by enlisted soldiers functioned similarly to, and had the same goal as, their interventions in the marriages and sexual relationships of enlisted soldiers examined in the second chapter. That is, all of these interventions were only tangentially related to protection or oppression of the involved women themselves; rather, they served to display the class-based power of officers to regulate and interfere with enlisted expressions of masculinity.

The independence of the court from both their military superiors and from the law itself allowed these rape cases to serve as displays of officers power. The only officer present who was required to have any legal training was the Deputy Judge Advocate, and while he was called upon by the court to clarify legal matters upon the
court’s request, the court was under no obligation to follow his guidelines and his opinions on proper legal procedure could be overruled by the court. Furthermore, he had no vote and had no power to overturn the verdict of the board even if it was not in accordance with the law. Thus, a victim who had a weak case but who had gained the sympathy of members of the court martial board might gain a conviction, while a victim who had a more substantial case but who was accusing a defendant of high status or who was known by reputation to the court might find the defendant acquitted despite the evidence presented.

For American civilians British military courts were not dispensers of justice, but occasional dispensers of the appearance of justice. Outraged civilians could extract very satisfactory outcomes from these courts when the prosecution of crimes done to them allowed officers to present themselves favorably to the court and to the world, or to uphold their status and reputation as upper-class gentlemen. But within the context of the American War of Independence, this was not the usual occurrence; it was far more common for officers to ignore civilian complaints, on the grounds that by rebelling, they had forfeited any claim to protection, or that the confiscation of property by the army was merely an inevitable burden of war that civilians must bear. And ultimately this business of portraying themselves as imperial protectors was a side note for officers. While appeals for individuals in need of aid allowed officers to play this masculine role, the winning of the war itself took precedence, because the loss of honor to be suffered from neglecting to protect a distressed civilian was entirely negligible compared to the loss of honor that would accrue to them from being defeated in battle by the enemy soldiers that they had denounced as skulking, unmanly cowards. Thus, they were willing to abandon the honor to be gained from playing the imperial protector role whenever it conflicted with the need to seek wartime victory.
Conclusion: No Surrender

The officers’ need for victory in battle was the logical outgrowth of their culture of manly honor. An officer could not submit to insult or interpersonal violence without losing honor, and the tactics of the rebels resembled too much the dishonorable assaults that an officer could not endure. Thus, the skulking way of war adopted by many fighting on the rebels’ side was not just a hated military tactic, but a personal insult that could only be rectified by the utter crushing of the rebellion.

Some officers might have had the idea that their Revolutionary War duties included upholding law and order, protecting the property and bodies of defenseless civilians, and generally acting to protect American colonists from the ravages of war. This, they thought, would end the unnatural rebellion of the colonists and win them back to loyalty to the mother country. But some officers had the exact opposite view—what would convince the colonists was not kindness and conciliation but wrath and destruction. With their fields destroyed and livestock stolen, American colonists might learn that defying the British had consequences, and their fear of being terrorized by republican revolutionaries might be replaced with a salutary fear of British power.582 If winning the war took primacy, and destroying civilian property and distressing the inhabitants was the way to win it, then officers were quite willing to embrace these tactics, or, even more easily, simply refuse to take any action to prevent abuses.583

582. Conway, “To Subdue America: British Army Officers and the Conduct of the Revolutionary War,” 400.
583. Conway, “The Great Mischief Complain’d Of”: Reflections on the Misconduct of British Soldiers in the Revolutionary War,” 387; see also Conway, “To Subdue America: British Army Officers and the Conduct of the Revolutionary War,” 405, on the emotional needs of the enlisted; officers could not or would not prevent their men from taking vengeance on people who had fought them using dishonorable tactics.
This understanding of how to gain loyalty was exactly what their previous experience running an army had taught them. Loyalty was won through coercion—there might be a role for love and kindness, but only when allied to a strategy of instilling fear. Thus, it is not surprising that officers as well as enlisted soldiers were dissatisfied at orders to act in a conciliatory manner and refrain from antagonizing the populace. Captain Payne clearly resented orders aimed at not escalating tensions with disaffected civilians in the volatile years of 1774 and 1775, reacting angrily to orders to march the companies of his regiment with the bayonets unfixed in order to appear less threatening to the crowd.584

Officers’ experience in the army did not incline them to conciliation; the enemy’s treatment of them was perceived as an insult, and their code of masculinity insisted that the only possible responses to an insult were violent retaliation or the permanent loss of all honor. Conciliation was dishonorable; it was the equivalent of being insulted and patiently suffering the insult. It was not the soldier’s way, and they did not think it was a real man’s way. The military conception of masculinity was too bound up in the ability to effectively deliver violence.

Thus, the army’s insistence on retaining the violent military masculinity that allowed them to continue to fight the War of American Independence made it impossible for them to actually win that war. Their reliance on violence as the most fundamental marker of masculinity inclined the army to prefer offense to defense, to attack and seek battle rather than withdraw and wait, and—most importantly—demanded that they seek victory in battle at all costs. Thus, they were far less resilient than their opponents. “We fight, get beat, rise and fight again,” the Continental General Nathanael Greene claimed after his troops were defeated at the

584.WO 71/82, p. 158.
Battle of Hobkirk’s Hill.585 This attitude would have been impossible for the British army to adopt. To accept defeat—to willingly embrace defeat in pursuit of larger goals—was unthinkable to them.

Military historians suggest that British commanders often went on the offensive even when the risks were high and the gains were uncertain because they believed that they could not even allow their troops to appear to retreat, fearing an increase in rebellious feeling from scornful civilian observers.586 Furthermore, they also adhered to military doctrines emphasizing attack, destroying the enemy’s army, and capturing key enemy cities.587 They were hampered by both their adherence to European military principles and their need for victory.

However, British generals’ pattern of gaining tactical victories that were nevertheless costly strategic defeats was not due to a lack of intelligence, or insight, or adaptability. Rather, adopting tactics that might have brought a greater chance of success had an enormous cultural cost. After building up the myth of the brave British fighting openly, in contrast to the cowardly rebels hiding behind defensive works, the British commanders would have more trouble advocating a defensive strategy, or one in which they avoided battle. And the officers’ culture, with its emphasis on honor, violence, and action—and the need to retaliate against attacks on one’s honor and reputation—might have made it psychologically impossible to hold to a defensive strategy. For British commanders, victory on the battlefield was nearly the sole criterion necessary for winning the war, and they consistently

586.Spring, With Zeal and with Bayonets Only : The British Army on Campaign in North America, 1775-1783, 27.
disregarded other goals in order to seek this type of victory.\textsuperscript{588} In their unwillingness to abandon certain cultural ideals about masculinity, and their preference for direct action and obvious victory, they were aided by the king himself, who favored commanders who advocated daring, high-risk strategies instead of those who advocated caution and defense.\textsuperscript{589}

But war also made Britain’s military masculinity vulnerable; defeat called into question the value and correctness of soldiers’ masculinity.\textsuperscript{590} Indulgence in luxury was linked to military defeat not only in America, but in Britain itself. Howe was criticized in Britain for settling down comfortably in occupied Philadelphia instead of engaging in vigorous military campaigns, and other commanders faced similar criticisms.\textsuperscript{591} These criticisms made officers even more sensitive to defeat, and more eager to risk all for victory.

This desire for victory at all costs meant the ideas about the law were always secondary concerns. When officers thought that particularly egregious crimes against civilians needed a public example of punishment to sway the population to their side, they readily subverted the course of justice to punish the guilty (so long as it did not violate the army’s class hierarchy). When they thought abusing civilians would help, they did that, too. Both of these tactics might form part of the army’s strategy for dealing with civilians. But dealing with civilians was not the army’s main

\textsuperscript{588}Spring, With Zeal and with Bayonets Only: The British Army on Campaign in North America, 1775-1783, 23.

\textsuperscript{589}O’Shaughnessy, The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire, 30.

\textsuperscript{590}John Tosh, "Hegemonic Masculinity and the History of Gender," in Masculinities in Politics and War: Gendering Modern History, ed. Stefan Dudnik, Karen Hagemann and John Tosh (Manchester: Manchester University Press, 2004), 49, suggests that unless military and civilian codes of masculinity bear at least some resemblance to each other, a military will not be perceived positively, and will not be able to attract recruits, thus making it impossible "for the state to have secure control over the means of violence."

\textsuperscript{591}Stead, "Contemporary Responses in Print to the American Campaigns of the Howe Brothers," 130-131.
business; they could not conceive of any victory that might occur without the army’s violence.

Therefore they were determined to fight to the end, and at the end they were still capable and willing to fight. Here, too, the army retained the sympathy of their king if not their countrymen. Even after his ministers had become disillusioned and despaired of victory in America, the king urged them to press on rather than "suffer his dominions to be dismembered."\textsuperscript{592} The king and the army both refused to accept defeat, but they were outnumbered by the rest of the country, who sought peace. Ultimately, ideas of manly honor and the norms of violence that developed to govern officers’ culture made the British army an effective fighting force in battle, but damaged its ability to function as an army of occupation among people who could not be made into unrelated, alien subjects of their dominion. Their culture made them ever more eager to seek violence, fueled by both professional pride and a desire for personal vengeance, and the types of people who could call upon them to act as imperial protectors without threatening their fragile masculine honor grew ever smaller.

Officers’ vigorous defence of their violent, arbitrary, class-based masculine privilege had constrained the ways that they could interact with Britain’s imperial subjects—especially when those subjects could make their own claims to imperial protection. Their default method of conflict resolution was violent coercion, and in their hyper-masculine environment violence soon became their only honorable option for numerous social interactions. But the fact that their culture of violence severely limited their options as imperial actors seemed to cause them little concern.

Ultimately this study reveals how marginal the idea of imperial effectiveness was for

\textsuperscript{592} O’Shaughnessy, \textit{The Men Who Lost America British Leadership, the American Revolution, and the Fate of the Empire}, 36.
the imperial army; it remained more concerned with preserving its internal social
dynamics. Thus, unwilling to give up its violent foundations, even to preserve the
empire, the imperial army withdrew from the lost American colonies and sought
instead distant lands where their violence might win them new empires.
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