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Brewed in Blood:

Military Justice and Hydra's Many Heads

Patrick Dunn¹ could write Latin. That proved his undoing. Dunn, who claimed to be the nephew of a Protestant cleric in Ireland, had been “bread a servt.” in Dublin where he became a freemason. Yet 1756 found him in London and in the grip of army recruiters to whom he affirmed his respectability to disprove he was of the rootless proletariat, in the words of the Press Act of March 1756, those “able bodied Men as do not follow or exercise any lawful Calling or Employment, or have not some lawful and sufficient Support”.

Unconvinced, the press consigned Dunn to the 35th Regiment along with 500 other men ensnared in Britain's metropolis, safely stowing them away on transport ships at Gravesend.² After a transatlantic sailing, the 35th arrived at New York in June 1756, and soon moved inland shortly before the French capture of Fort Oswego in early August spread fear through the frontier. Lord Loudoun, Commander-in-Chief of the British forces, worried of the 35th's “prest Men, I dare not yet trust so near the enemy,” not just because of their “raw” fighting abilities, but also as he feared they would abscond to the enemy. In fact, six men deserted to the French in early September,³ Dunn among them. He claimed to have been “unfortunately In veighgled [sic] away by some persons who gave yr. petitionr. such a potion of Liqr. that put yr. honrs. petitionr. out of his natural Senses.” On the third day he surrendered at Fort Edward. Dunn begged Colonel Ralph Burton for a pardon as he was “not understanding the affairs of the army or never heard the Articles of War nor was attested but quite Ignorant.”⁴

Ignorant of the army Dunn may have been but once Burton discovered his knowledge of Latin the wheels of military justice began spinning to their inexorable end. Burton paired Dunn's bilingualism to his Irish ethnicity and surmised that Dunn must be a priest. The army banned Catholics at this time but, when wars strained recruitment, officers tacitly enlisted them in the 18th century variant of a don't-ask-don't-tell policy. But the specter of a hedgerow priest preaching to closeted Catholics in the ranks in a war against a Catholic power proved too horrible to tolerate, especially at this juncture in time. The month before, Irish Catholic deserters from Oswego who had returned with the French and Indian force that took the fort and massacred members of the garrison.⁵ Burton's suspicion of Dunn became Loudoun's certainty and soon the pressed man acquired the reputation of priest and leader of the other deserters.⁶ Dunn pleaded not guilty to the charge of desertion before a general court martial at Albany on September 23, reminding the court he had turned himself in, but to no avail. The next day, accompanied by the provost guard and Reverend John Ogilvie, he went to the gallows before which his regiment stood in formation to witness the punishment. Perhaps he divulged his true story to clear his conscience for Ogilvie noted in his journal: "Patrick Dunn of the 35th. Regt. was hang'd for Desertion, he dy'd a strict Papist."⁷

Patrick Dunn's story lays bare the army's implicit assumption of complete control over soldiers' bodies unto their very lives, indicating that the state viewed them as existing outside civil society and subject to extraordinary punishment in ways that evoked, even exceeded, slavery. In the army against his will, Dunn asserted his will by deserting, exposing himself to military law, which promptly nailed him upon the cross of army discipline. His case certainly was not unique, only unusual in that it can be pieced together more fully. Officers deemed

military work, however mundane, a matter of life and death that required exact performance. Failure to meet these expectations or attempts to escape the labor contract merited swift discipline. However, the pervasiveness and perversity of military discipline testifies not only to the iron will of the army but also to the willingness of soldiers to contest that will. As in other workplaces, military camps witnessed a struggle between masters interested in wringing as much labor as possible from their servants, and servants with an abiding desire to escape as much as humanly possible the harsh labor regimen.⁸ They sought to escape military employ, and the army, like all masters, sought legal recourse for the loss of labor by whipping and executing those recaptured, making these more than simple instances of flight from work. As Peter Linebaugh and Marcus Rediker wrote in *The Many-Headed Hydra*, military discipline “relied ultimately on the terror of the gallows and the whipping post.”⁹

The Atlantic proletariat flourished where economic exploitation and class oppression waxed strongest, a product of the historical tides roiling the early modern Atlantic. But it was not purely an aquatic phenomenon. As capital became imperialistic, it breached the sea walls, swept up the continents’ riverine systems, and flooded lands beyond the littoral to leave a residue of peoples caught in its ebb and flow. Soldiers played a fundamental role in this colonization. However, for all the resiliency of the many-headed proletariat, let us remember it succumbed to Herculean capital, which in this instance wielded the club of military justice.

a state of servitude in the midst of a nation of freemen

Violent punishment pervaded 18th century society,¹⁰ most harshly to protect private property.

The law operated to maintain social order but that order was not some abstraction, being

rather the construction of dominant social groups, which wielded terror so as to protect their class interests. Douglas Hay argued that executions comprised “the climactic moment in a system of criminal law based on *terror*.”¹¹ Moreover, the law’s exercise of majesty, justice and mercy also functioned as instruments of terror, giving the power of life and death exclusively to the representatives of the propertied class.¹² The charade of justice in civil society, however, pales before military justice, which applied corporal punishment more brutally and imposed capital punishment more liberally.

The Crown derived the power to form courts-martial from the Mutiny Act originating in the crisis of 1689. According to the Bill of Rights, the maintaining of a standing army in peacetime required annual parliamentary legislation. This act enabled the Crown to draft Articles of War and establish courts-martial to oversee the operation of military justice.¹³ The Mutiny Act detached military from civil justice, in the most fundamental way by treating soldiers as non-citizens, punishing them in a more summary fashion.¹⁴ Contemporary commentators, including Blackstone, deemed military justice arbitrary and subversive of the rights of Britons.¹⁵ “How much therefore is it to be regretted that a set of men, whose bravery has so often preserved the liberties of their country, should be reduced to a state of servitude in the midst of a nation of freemen!”¹⁶

The Mutiny Act¹⁷ established a broad array of offences meriting capital punishment,¹⁸ but identified non-capital offences with far less specificity, instead characterizing them generally as “Immoralities, misbehaviour, or neglect of duty” subject to penalties of imprisonment and corporal punishment, being only limited by the provision not to harm life and limb.¹⁹ General courts martial tried all capital offences whereas regimental courts martial tried minor

offenses.²⁰ Courts martial differed from civil courts in a number of key ways. First, rather than a grand jury a court of enquiry composed of officers decided whether the alleged misconduct merited legal proceedings.²¹ Second, juries did not render the verdict in courts martial, this duty falling to the members of the court. Third, whereas in the civil court system, the police, jury, prosecutor and judge represented distinct interests, the members of a court martial handled all these functions. Fourth, the decisions of regimental courts martial were not subject to royal review, a commanding officer's authorization substituting. In short, courts martial protected the interests of the defendant less than in the civil justice system.

Arthur Gilbert examined over 1,000 general courts-martial cases for the Seven Years' War. Of these, 19.2 percent resulted in acquittals, 24.3 percent in capital convictions, and 52.8 percent in lash convictions. The average number of lashes awarded was 742 but with 45.2 percent awarded 1,000 lashes or more. Desertion constituted the most common crime committed by soldiers in the Seven Years' War, and those accused rarely won acquittal, only 9.8 percent. Furthermore, courts, capitally convicted and sentenced to death approximately one third of men tried for desertion compared to 24.3 percent for all crimes as a whole.²² However, calculating the number of lashes or conviction rate cannot compute human suffering. Moreover, there exists a relativist tendency in the literature, portraying the operation of military law, however harsh, as broadly reflective of contemporary criminal justice practices.²³ But this misses the point that such practices had become more punitive in the 18th century, and avoids the reality that capital and corporal punishments nonetheless terrified soldiers with their ferocity. Moreover, such a reading implicitly accepts the political economy of that system, naturalizes the law, makes criminality deviant, and punishment a

just consequence. No interrogation of the regime of crime and punishment occurs, how it necessarily functioned as the creature of particular segments of society, and involved different classes in a relationship of dominance and dependence. Crime did not constitute original sin; actions first had to be criminalized. From the military perspective, a new military discipline developed beginning in the late-16th century leading to professionally trained armies, but also to the army assuming property rights in its laborers, with officers perceiving disobedience and desertion as a form of theft of labor owed.²⁴ More so than in civil society, the justice system in the military involved labor issues, and the Articles of War formed a code of discipline for extracting as much labor as possible from its martial workers.

whipt till the Blood Came out

Military punishment involved the dramaturgy of terror. First, the scale of punishment exceeded social norms. Courts martial occurred with a sickening regularity, rarely a week passing without executions. And whereas society's staged floggings intended more to shame than disable the criminal, corporal punishment in the army literally stripped the flesh from the felon. The evil became, if not banal, commonplace. Second, military punishment displayed a cruel personal face. The accused knew the officer-judges. The army made comrades of the convicted complicit in his degradation. Many of those who witnessed the carrying out of the sentence knew the recipient, and at times were forced to carry out the punishments themselves, all the better to insure the message of the terrible act struck home—those who break the rules pay the pound of flesh. If, as Peter Linebaugh argued, “the Tyburn hangings were the central event in the urban contention between the classes,”²⁵ then the

parade ground where military justice typically unwound marked the front line of class conflict within the war industry.

The terror for soldiers began in the courtroom. Confronted by their officers, men to whom they had been trained to show absolute obedience, and run through a gauntlet of bewildering procedures with no right to counsel as in civil courts, most defendants must have felt overwhelmed, especially given the stakes on the table, violent corporal punishment or their lives. The charge was read to the defendant who then entered his plea. If not guilty, the judge advocate presented the evidence against, including witness testimony. The accused then had the opportunity to speak in his defense, and at the end of proceedings to sum up his position, to which the prosecutor could respond.²⁶ While defendants had the right to challenge court members and question the evidence brought against them, few did so, not having the expertise. Soldiers also recognized the very unequal nature of the court martial system, which, despite the pretense of impartiality, placed superiors and usually their accusers in a position to decide their fate. As in civil courts, a statement of support to the court from a social superior often acted to dampen the harshness of a penalty. Conversely, being given a bad character by a witness virtually sealed one's fate. Most plead extenuating circumstances, called an officer as a character witness and/or threw themselves on the mercy of the court.²⁷ Sentencing closed formal proceedings and punishment tended to follow swiftly except in the case of death penalties where the sentence had to be reviewed by the king or his designate; but even in these cases, death could soon follow if the right of review had been delegated far enough down the chain of command. Executions the day following the trial occurred regularly with the intention of achieving the most impact as exemplary punishment.

Regimental courts martial left few records, although they tried the great majority of military offences, thus rendering invisible the main experience of crime and punishment in the military. Regimental courts ran more informally, requiring only five commissioned officers as opposed to 12 for general courts martial with the regiment's sergeant major often acting as prosecutor. A soldier typically pleaded extenuating circumstances or called in a character reference, as few were acquitted. The commander could reduce or pardon a sentence but not impose a harsher one.²⁸ The Mutiny Act left vague the offences subject to a regimental court and set no limits to corporal punishment short of harm to life and limb, and as a result these courts operated with little attention to civil legal practices.²⁹ Officers took advantage of this flexibility to charge soldiers with lesser offences so they could be tried "without regard for law, procedure, or even equity." The punishments ordered proved relatively mild in comparison to general courts martial, typically in the 200-300-lash range, and commanders did regularly pardon those convicted.³⁰ Nonetheless, according to their foremost scholar, "The Regimental Courts were a convenient 'legal' device for punishing soldiers without being overly concerned with the niceties of English civil, or even military, law. It provided a blanket under which soldiers could be severely punished in what *seemed* like a court system, but was in reality only a dubious variation on . . . arbitrary 'justice'."³¹

Courts martial comprised only the more formal mode of enforcing discipline whereas soldiers as often experienced the administration of summary punishment without benefit of legal process. Men could be summarily punished for such military offences as being improperly dressed and sleeping on guard duty, as well as more social crimes like marrying or working for a civilian without permission.³² Commanding officers issued standing orders

stipulating specific offences and the punishment offenders could receive. General Braddock's order book provides some instructive examples. Soldiers or camp followers discovered beyond the piquets faced being tied up, given 50 lashes and marched through camp to expose them. Drunken men were threatened with 200 lashes without court martial and those giving liquor to the Indians would "receive 250 lashes without a C't Mart'l." Any noncommissioned officer or soldier found gaming would "immediately receive three hundred lashes without being brought to court martial, and all standers by or lookers on shall be deemed principals and punished as such." And finally, in a clear violation of the Mutiny Act if implemented, Braddock warned: "Any person whatsoever that is detected in stealing shall be immediately hanged witht [without] being brought to a Court Martial."³³ Officers also verbally reprimanded soldiers, reported them to a commanding officer, or publically humiliated men. They also imposed minor punishments such as standing extra guard, being sent to drill, or performing fatigue duties.³⁴ Fines were also imposed for any losses or damage caused by a soldier's misdeeds, to be paid for by stoppages to his pay.³⁵ Soldiers could also be sent to the "bread & water house"³⁶ or immured in the black hole.³⁷ Even without the benefit of a standing order, an officer could apply immediate "manual correction" with his hands or cane.³⁸ Peter Cloyne, a recent recruit of the 51st Regiment, went to get a drink when on a hot march in 1755, causing an officer to "beat him several times on the head, with a Gun, so that the Blood run down in Several places." He deserted the next day.³⁹ In the most extreme form of summary justice, a member of the Quebec garrison besieged by the French army was hanged "*in terrorem* without any trial" on 30 April 1760 for breaking into storehouses for liquor, an act of "justice" meant to discourage the many others engaged in this activity.⁴⁰

Summary punishments may have accorded to established army customs,⁴¹ but it does not therefore follow that the punishments the army imposed on soldiers were benign. Many constituted cruel assaults on the human body and soldiers experienced them as such, either viscerally as the victim or empathetically as enforced witnesses of military justice.⁴² A review of the punishments inflicted on war workers almost daily in the name of maintaining an exact discipline reveals the theater of war to be a staging ground for terror.

The application of torture-like punishments persisted in the military despite their apparent elimination in the Articles of War, particularly as ordered by regimental courts martial. Riding the wooden horse involved making men straddle a wooden sawhorse structure, sometimes with the crossbar planed to an edge, with muskets or weights attached to the legs, which could lead to the dislocation of joints.⁴³ Running the gauntlet entailed making a man run between lines of men, sometimes more than a regiment, who beat him as he passed. A soldier at Lake George in May 1757, “Run the gandtelit through 30 men for sleeping upon gard which Cryed Lord god have mercy on me the B[l]ood flying every stroke this was a sorrowfull sight.”⁴⁴ The practice of piqueting involved suspending an offender over a sharpened stake, which could lame the man.⁴⁵ Soldiers could also be placed in irons, either as a summary punishment or for longer periods while awaiting court martial.⁴⁶

However, whipping comprised the signature British punishment.⁴⁷ In some ways, the lash’s flaying of flesh more graphically captured the army’s pretension to ownership of its soldiers than did hangings where the invisible spirit merely dissipated, as the message of the lash lived on in the scars written in obscene cursive across the backs of its victims. Sentences of corporal punishment ranged from in the tens as awarded by regimental courts to as high as

2,000 lashes for capital offences.⁴⁸ Typically, men were tied to crossed halberds while drummers, their arms strengthened by their trade, wielded the whip.⁴⁹ Meant as a public spectacle and performance of military labor discipline,⁵⁰ whippings took place in front of the assembled ranks; more specifically before the victim's own company to insure the message struck home. He also could be paraded from regiment to regiment where they had a portion of their sentence administered.⁵¹ Given that the number of lashes, they could be applied in several doses over a number of days so that the soldier would be fit for service afterward.⁵²

A Massachusetts soldier, David Perry, conveys the harrowing experience of a whipping at Halifax in 1762:

Three men, for some trifling offense which I do not recollect, were tied up to be whipped. One of them was to receive eight hundred lashes, the other five hundred apiece. By the time they had received three hundred lashes, the flesh appeared to be entirely whipped from their shoulders, and they hung as mute and motionless as if they had long since been deprived of life. But this was not enough. The doctor stood by with a vial of sharp stuff, which he would ever and anon apply to their noses, and finding, by the pain it gave them, that some signs of life remained, he would tell them “d-mn you, you can bear it yet”—and then the whipping would commence again. It was the most cruel punishment I ever saw inflicted, or had ever conceived of before,—by far worse than death.⁵³

Others, once given a taste of the lash, could not face the punishment. A soldier involved in the theft of £160 from a lieutenant of the 45th Regiment at Louisbourg in 1760 received a sentence of 1,000 lashes. After suffering upwards of 300 strokes one day he hanged himself in the guardhouse before having to face the rest.⁵⁴ Some officers did not let death deter from the remorseless exercise of justice, however. A light infantryman at Crown Point in 1759 was whipped to death, even receiving “25 lashes after he was Dead.”⁵⁵

to be hanged or shot as you imagine may tend most to strike a Terrour

The whip may have defined military discipline but capital punishment conveyed its ultimate meaning. In the discretion exercised by judges in handing down capital punishment; in the choice of the mode of death; in the choreography of the actual taking of human life; and in the discretion exercised through pardon, the military stage-managed executions to make real the puissance of military justice.⁵⁶

Judges when handing down a capital sentence specified the means of execution, by firing squad or by hanging. Perishing by musketfire lent the illusion of a proper soldier’s death and typically offered a quicker end, whereas hanging evoked civilian criminality, an ignominious end in front of comrades. More “military” offences like desertion could secure death by firing squad, whereas crimes against property like theft, or against the state such as treason led to the gallows.⁵⁷ But, as often as not, the decision rested on what message should be sent. Thus, General Jeffery Amherst in 1759 advised Colonel Thomas Gage that a light infantryman sentenced to death for desertion should “be hanged or shot as you imagine may tend most to strike a Terrour and hinder others from falling into that vice.”⁵⁸

To instill terror in the ranks, the companies or regiments of the prisoners were ordered to be in attendance. For example, when John Edwards and Thomas Davis of the 45th Regiment were executed at Louisbourg in December 1758: “ye 4 Regiments were Drawn up in a Square Rownd ye Parade & they were hang'd in ye Middle.”⁵⁹ The attempt to evoke terror had its greatest effect when friends of those to suffer death were forced to carry out the sentence. Richard Studs, a regular soldier in the 27th Regiment, deserted from the camp at Lake George. Brought before a general court martial in July 1759, Studs claimed he had been scared by an Indian while on cattle guard and got lost in the woods, but the court found him guilty and sentenced him to be shot to death that same day. This much can be gleaned from the court martial record, but from an eyewitness account of the execution the true impact of such an event can be better realized. According to Lemuel Wood, a Massachusetts provincial soldier:

the Provost guard brought forth ye Prisoner and marched him Round befoer all ye Reglars Rigmt from thence to ye Place of Execution there was Drawn out of ye Regmt to which ye Prisenor Belonged 100 Plattons of 6 men Each ye Prisenor was brought and set befoer one of the Platones and kneeled Down upon his knees he Clinched his hand the Platton of 6 men Each of them fired him through ye Body ye other Plattoon then Came up instantly and fird him through ye head and Blowed his head all to Peaces they then Dug a grave by his Sid and tumbled him in and Covrd [sic] him up.⁶⁰

Wood in his diary captured another mournful scene several days later. A general court martial found Thomas Dayley of the 17th Regiment guilty of robbery and, “being a netoreous offender” for past crimes of theft, sentenced him to death. The next day he was brought to the same place where Studs was executed to be shot in the same manner, but “he was very Lorth to Die they could not Perswad him to kneel down to be Shot they then tied him hand and foot but Could not make him Stand still they then took and tied [him ed.] to an old Log and he hung Down under Sid ye Log they then fird and killed him.”⁶¹ As in civil society, displaying the dead miscreant’s body graphically expressed the message of discipline. Thus John Boyd of the 28th Regiment, found guilty of deserting a sentry post and fighting for the French against the British at Quebec, was ordered hung in chains “on the very Spot where he appear’d in Arms against those Colours which he had sworn to Defend.”⁶²

How soldiers responded to the spectacle of execution is difficult to gauge. In civil executions the crowd could identify with either the state or the felon depending on the circumstances.⁶³ There are no instances of soldiers rescuing those about to be executed and only intimations of anger with the spectacle of punishment. Colonial soldiers unused to military discipline were charged with “Pulling up the wiping [sic] post & Carrying it of [sic]” at the camp by Fort Beauséjour in July 1755.⁶⁴ Also at times the army could not find a hangman from the soldiery to carry out a capital sentence.⁶⁵ And in May 1757, on Nutting Island near New York, a mob of soldiers attacked the Provost Marshall, his guard, and the Executioner while in the execution of his duty, pelting them with rocks and dirt.⁶⁶

Deterrence comprised the central purpose of the terror of both capital and corporal punishment, but the army’s policy of crime prevention failed, particularly with regard to

desertion. Men continued to take flight from the army despite the fierce punishment. John Stanwix wrote from Carlisle, Pennsylvania in 1757, that desertion remained a problem though he had hung eight men from the Royal American Regiment. "I am apprehensive there will be no stoping [sic] of it without hanging every Deserter taken and condemned."⁶⁷

Recognizing the limited effectiveness of terror, the military found it necessary to soften the iron fist with the glove of mercy. The granting of pardons or the partial remission of sentences acted to achieve this end.⁶⁸ For a mass execution of at Fort Ontario on Lake Ontario in July 1760, ten convicted deserters were marched to the gallows "for the execution of the prisoners under sentence of death." Nine received pardons on the spot, but the execution of a Connecticut provincial proceeded as "a sufficient example and warning to the following prisoners, who were under sentence of death, never to desert again, as likewise to put a stop to any more desertions in the army."⁶⁹ But we should not forget the ultimate purpose of this charade of death, to inspire mortal terror, as James Robertson, the commanding officer in Florida, made clear. A general court martial at St. Augustine in September 1763 condemned four deserters to death and two to 1000 lashes each. The four condemned were to "equally undergo the fear but one alone suffers the pain of death, four partys are prepared to shoot them, four Coffins are made, they are all to kneel in a row, blindfolded, but when one party fires, the others will be order'd to recover their arms." The regiment would be told certain death would follow all future desertion.⁷⁰

The army stage-managed even the issuance of pardons in a way intended to unbalance clemency with fear in its scales of justice. As if to draw attention to the fact that mercy could not be counted upon by miscreants, the decision of whom should be pardoned at times was

left up to the fates. In December 1759, in the midst of a cruel Quebec winter where the men suffered from poor provisions, William Davis of the 58th Regiment and Daniel Coleman of the 43rd stole a bag of bread from the King's Stores while on sentry duty. Sentenced to death, General James Murray ordered the two "'shall cast Lots and do reprove him whose fortune Shall Favour'." John Knox described the affair. "The two men, who were condemned to die for robbery, have thrown dice for life, the Governor having been generously pleased to pardon one of them; eleven was the lucky number, which fell to the lot of a soldier of the forty-third regiment . . . the other poor fellow was instantly executed."⁷¹ Murray appears to have favored this strategem, for when the deserters Patrick McGuire and James Savage of the Royal Americans received a death sentence at Quebec in March 1760, he ordered the two to cast lots. McGuire apparently won the game and the reprieve but Fortune failed to continue favoring him, for, convicted of theft in July 1761, the army duly executed him.⁷²

Despite the very real state sponsored violence perpetrated on its military workers in the name of discipline, soldiers regularly contested the legal order that held them in thrall. From shirking work through desertion up to the pinnacle of opposition, mutiny, soldiers sought to exert some control over their working lives, often with deadly consequences. Rather than aberrations from a legally defined norm, that is simple criminal acts, such actions constituted an engagement with the military power structure and the legal system that supported it, part of a broader proletarian struggle with the emerging capitalist order. The army's role in this struggle must be taken into consideration, most straightforwardly in exposing living beings to

physical danger, and more perniciously by subjecting them to an often brutal and arbitrary work regime policed by whips and the threat of capital punishment.

The fiscal-military state intended courts martial and the punishments they dispensed to maintain order in an institution, the army, which it set outside everyday society. Fielding an effective fighting force formed the army's central purpose, and the operation of military justice focused on this goal. The fact the system constituted a peculiar form of criminal justice geared to warmaking should not blind us, however, to the fact that the enforcement of labor discipline among a particular class of workers largely comprised its main function. The army did not punish all soldiers but did expect them to abide by an exact discipline. Even that expectation broke down in practice, discipline becoming less precise as the combination of soldier recalcitrance and the military's insatiable need for manpower conspired to moderate the operation of military justice. In the place of an absolute economy of crime and penalty, the army settled on exemplary punishment to provoke terror in its men with the intention of promoting order. This enforcement regularly manifested itself in displays of physical violence perpetrated against soldiers carried out before and sometimes by their peers. In recounting the history of the Atlantic proletariat we should not privilege the resistance of the Hydra to the extent that Hercules becomes impotent. In myth as in human history after all, the labor of Hercules defeated the laboring serpent.

¹ His surname was also at times recorded as Dun.

² Petition of Patrick Dunn "Desarter", [Sept. 1756], LO2483/44; Press Act cited in Richard Middleton, "The Recruitment of the British Army, 1755-1762," Journal of the Society for Army Historical Research, v. 67 (1989), 229; Loudoun to Daniel Webb, 27 March 1756, LO974/21.

³ Petition of Patrick Dunn to Loudoun, [Sept. 1756], LO2484/44; Stephen Brumwell, "The British Soldier in the Americas, 1755-1763," (D. Phil. Thesis, University of Leeds, 1998), 20; Maj. Henry Fletcher, A Return of a Detachment; Impressed Men; and Recruits of His Majesties [sic] Thirty Fifth regiment of Foot, 4 Sept. 1756, LO2774/44; [Loudoun] to Colonel Burton, 17 Sept. 1756, LO 1828, box 41; [Loudoun] To the Duke of Cumberland, 3 Oct. 1756, LO 1968, box 44.

⁴ Petition of Patrick Dunn "Desarter", [Sept. 1756], LO2483/44; Petition of Patrick Dunn to Loudoun, [Sept. 1756], LO2484/44. To be officially enlisted to the army a recruit had to be attested by a justice of the peace, and to be subject to military law a soldier had to have been read the Articles of War on a regular basis. See: Great Britain, Parliament [An act for the better recruiting of His Majesty's Forces on the Continent of America; and for the Regulation of the Army . . .], 25 March 1756, LO2583/21.

⁵ Declaration of some Soldiers belonging to Shirley's Regiment, 21 Aug. 1756, in Documents Relative to the Colonial History of the State of New York; Procured in Holland, England and France, ed. E. B. O'Callaghan (Albany: Weed, Parsons & Co., 1856), 7:126-27; Claude Frederick Huttenac, John Noel, Joseph Guinegault, Peter Febure, Peter Pilly & Phillip Leforne, 21 Aug. 1756, LO1542/35; René Chartrand, "Montcalm's Irish Soldiers, 1756-1757," Irish Sword: Journal of the Military History Society of Ireland, 26:103 (Summer 2008), 1-2. Two years later, French colonial authorities dispatched this company, numbering two sergeants, two corporals, one drummer, 43 rank and file, four women, a young girl and a baby, to France to join the King's Irish brigades, safe from recapture and sure execution by the British army. See: "1757 *Engagement des Irlandois Deserteurs*," in Collection de manuscrits contenant lettres, mémoires, et autres documents historiques relatifs à la Nouvelle-France recueillis aux Archives de la province de Québec ou copiés à l'étranger; mis en ordre et édités sous les auspices de la Législature de Québec, avec table, etc., ed. Faucher de Saint-Maurice, vol. 4 ([Québec?: s.n.], 1885), 97-99; Earl Loudoun, Memorandum Books, vol. 2, 8 May 1757, HM 1717, Huntington Library.

⁶ Col. Ralph Burton [to Loudoun], 10 Sept. 1756, LO1756/39; [Loudoun] to Burton, 17 Sept. 1756, LO1828/41; Burton to Loudoun, 21 Sept., LO1867/42.

⁷ WO71/44/143-45; Loudoun, General Orders, 22 Sept. 1756, LO1538/35; "The Diary of Reverend John Ogilvie 1750-1759," 375.

⁸ For example, On May 19, 1756, only a month before Dunn arrived in Albany, a general court martial had tried fifteen soldiers of the 44th and 48th regiments for the capital offence of desertion. Thirteen received death penalties; the other two suffered 1,000 lashes. Of those 13 men sentenced to death, two deserted because they had not been clothed upon enlistment as promised, one was lured away by his former master, and another deserted when offered other work at significantly more than the 6 pence per day a soldier earned. WO71/43/136-50.

⁹ Peter Linebaugh and Marcus Rediker, The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic (London: Verso, 2000), 32.

¹⁰ Alexandra Shepard, The Meaning of Manhood in Early Modern England (New York: Oxford University Press, 2003), 130-35.

¹¹ Douglas Hay, "Property, Authority and the Criminal Law," in Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson and Cal Winslow, Albion's Fatal Tree: Crime and Society in Eighteenth Century England (New York: Pantheon Books, 1975), 17-18, 25.

¹² Hay, "Property, Authority and the Criminal Law," 26-49, 52-53 .

¹³ D. P. O'Connell, "The Nature of British Military Law," Military Law Review, 19 (Jan. 1960), 142-44; E. Samuel, An Historical Account of the British Army, and of the Law Military, as declared by the Ancient and the Modern Statutes, and Articles of War for its Government . . . (London: William Clowes, 1816), 199.

¹⁴ Mutiny Act of 1689 reproduced in William Winthrop, Military Law and Precedents (2nd ed. Washington: Government Printing Office, 1920), 929.

¹⁵ Blackstone maintained: "For martial law, which is built upon no settled principles, but is entirely arbitrary in its decisions, is . . . in truth and reality no law, but something indulged rather than allowed as a law. The necessity of order and discipline in an army is the only thing which can give it countenance." Sir William Blackstone, Commentaries on the Laws of England in Four Books, vol. 1 (Philadelphia: J. B. Lippincott Co., 1893), 413 (http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=2140&chapter=198677&layout=html&Itemid=27, accessed 8 July 2010).

¹⁶ Blackstone, Commentaries on the Laws of England, vol. 1, 414-17.

¹⁷ In 1721, Parliament extended the Articles of War to the colonies. Stanley McCrory Pargellis, "The Four Independent Companies of New York," in Essays in Colonial History presented to Charles McClean Andrews by his Students (New haven, CY: Yale University Press, 1931), 115.

¹⁸ Officers did not face corporal punishment, however, risking being cashiered from the army instead. Even noncommissioned officers could not be whipped until broken back to the ranks. Samuel, An Historical Account of the British Army, 209-10. The number of capital offences declined over time. For example, in 1718, sleeping on or departing from guard duty, and resisting or striking an officer became subject to corporal punishment. Sylvia R. Frey, "Courts and Cats: British Military Justice in the Eighteenth Century," Military Affairs, vol. 43 (Feb. 1979), 7.

¹⁹ Mutiny Act cited in Samuel, An Historical Account of the British Army, 211; *ibid.*, 224-28.

²⁰ Alexander Fraser Tytler, An Essay on Military Law, and the Practice of Courts Martial (London: T. Egerton, 1806), 176; Arthur N. Gilbert, "The Regimental Courts Martial in the Eighteenth Century British Army," Albion, vol. 8 (1976), 50-66; Frey, "Courts and Cats," 6.

²¹ Tytler, An Essay on Military Law, 340-48; Stephen Brumwell, Redcoats: The British Soldier and War in the Americas, 1755-1763 (Cambridge: Cambridge University Press, 2002), 103.

²² Gilbert, "Changing Face of British Military Justice," table 1, pp. 81, 82. Gilbert made a comparison to the British navy, and found the lash average in that branch to be significantly lower, but the navy lash produced much more physical harm. In general, a trend towards more humane justice existed in the navy, but he felt that this could partly be explained by the fact that a more skilled sailor was harder to replace than a soldier. *Ibid.*, 81-82.

²³ "Seen in the context of the times," argued Sylvia Frey, "the army's reliance on harsh physical punishment was neither excessive nor untypical but reflected prevalent views on criminal law enforcement." Frey, "Courts and Cats," 7. Similarly Glenn Stepler sees military justice as being broadly in line with civil justice, dominated by upper classes and subject to much discretionary moderation of sentencing by pardon. A system based on class subordination, paternalism and deference, like civil courts, it unduly punished crimes against property, even more so than military crimes.²³ But he thinks soldiers broadly accepted the system. As they came from a society inured to physical punishment, "the common soldier was unlikely to feel that the army's use of corporal punishment was particularly cruel or unusual." Stepler, "Common Soldier in the Reign of George III," 181.

²⁴ John Childs, Armies and Warfare in Europe 1648-1789 (New York: Holmes and Meier, 1982), 67-70.

²⁵ Linebaugh, London Hanged, xix.

²⁶ For a full examination of courtroom procedure, see Tytler, An Essay on Military Law, 218-57.

²⁷ Frey, "Courts and Cats," 6; WO71/68/112-192.

²⁸ Tytler, An Essay on Military Law, 177, 179; Glenn A. Stepler, "The Common Soldier in the Reign of George III, 1760-1793" (D.Phil. Thesis, Exeter College, University of Oxford, 1984), 162-68.

²⁹ A sampling of regimental courts martial held by the garrison of Montreal from 1760 to 1763 provide insight into the types of crimes and scale of punishments administered by these courts. Three provincial troops found guilty in June 1760 of absenting themselves from the regiment received 150 lashes, another 500 and one man was acquitted. In November that year, two Royal American soldiers suffered 500 lashes each for stealing a barrel of flour from the King's store, whereas two men of the 46th Regiment sentenced to 100 lashes each for insolence and disobedience of orders, received a pardon from the general, and a soldier of the 80th was acquitted of theft. In September 1761, the provost martial, tried for letting a prisoner escape and for repeated misbehavior and disobedience of orders, was found not guilty of the first charge but guilty of the second, and ordered reduced to the ranks and dismissed from the service. That November, three men from the 44th and 80th regiments found guilty of being drunk and disorderly in the hospital received sentences of 200 lashes, 150 lashes and 24 hours in the black hole, although the General pardoned them. The next month, a man of the 46th broke into Major Christie's house in the night time and stole his property, carrying it off five leagues distance without pass or leave, for which he was to receive 200 lashes, but the General pardoned him. A soldier in the Royal Americans tried in March 1762 for robbing a soldier of the 44th of 3 dollars and 6 shillings was sentenced to 300 lashes and ordered to refund the money, however the general remitted the corporal punishment. That May a mattress in the artillery received 200 lashes for striking a gunner of the citadel, and

being continually drunk and breeding disturbance in the barracks. In August, a court punished a soldier with 300 lashes for receiving stolen veal, getting drunk and lying out of his quarters without leave, and the next month, another ordered an unspecified number of lashes and reduced an artillery bombardier to mattress for insulting a sergeant in the execution of his duty and for disobedience of orders. In April 1763, a court acquitted an artilleryman of making a false complaint against a captain to the General, but ordered a bombardier reduced to mattress and to receive 100 lashes for disobedience of orders and insulting a corporal in the execution of his duty, to be reduced. See: Journals of the Hon. William Hervey In North America and Europe, From 1755-1814; with Order Books at Montreal, 1760-1763 (Bury St. Edmund's: Paul & Mathew, 1906), 76-77, 136, 153, 156, 157, 160, 165, 170, 171, 181. Noncommissioned officers also came before regimental courts. At Albany in September 1757, a court broke Sergeant Bain of the 44th to private for going ashore without leave when sergeant of the guard. Corporal Rankin, also of the 44th, received a suspension for a month for disobedience of orders, the surplus of his pay to be applied to the care of the company's sick, while Corporal Jemmison suffered the same penalty for neglect of duty. See: Disney Orderly Book, 15, 17, 21 Sept. 1757.

³⁰ The court also did not have to record the proceedings and send them to the Judge Advocate General and the King to review, thus avoiding the possibility of dismissal of charges or reduction in sentence. This set regimental courts apart from general courts martial apart as well as civil courts where Royal review was mandatory. For example, William Dalton of the Royal Americans confined and awaiting trial by a regimental court for defrauding a Quebec merchant of 18 pairs of shoes in 1760, deserted from the guardhouse. This brought him before a general court martial, which sentenced him to death. WO71/46/301-05.

³¹ Gilbert, "Regimental Courts Martial," 57-66. Those convicted by a regimental court martial could appeal to a general court but it is not clear how automatic this right was. The army also tried to stymie appeals before they necessitated the convening of a general court martial. In those appeals that went ahead the defendant could face additional punishment being added to his sentence for a "frivolous" appeal. Gilbert found this to be the normal outcome, with over 200 additional lashes being added to punishment in cases he reviewed. This proved to be the case in appeals brought to general courts martial at Halifax in the early 1750s, with sentences typically increased by 100-200 strokes of the whip. See: WO71/40/41-42; WO71/40/42-43; WO71/40/7, 9; WO71/40/4-6, 8; WO71/40/6, 9; WO71/40/60-62; WO71/40/62-63; WO71/40/82-84; WO71/40/51-54; WO71/40/181-83; WO71/46/129-30.

³² Stepler, "Common Soldier in the Reign of George III," 151-53.

³³ Major General Edward Braddock's Orderly Books, From February 26 to June 17, 1755. From the Originals, in the Congressional Library (Cumberland, MD: Will H. Lowdermilk, 1878), 36-37, 38, 39, 40, 41, 49. Similarly, Loudoun ordered any man found more than a mile from camp at Halifax in 1757 immediately hanged. See Disney Orderly Book, 12 July 1757.

³⁴ Stepler, "Common Soldier in the Reign of George III," 155-57.

³⁵ Stepler, "Common Soldier in the Reign of George III," 157-60.

³⁶ Daniel Disney Orderly Book, 10 Oct. 1757.

³⁷ Otho Hamilton to Capt. John Hamilton and the Convention of Officers Mett at Lieut. Newtons, 18 Sept. 1757, LO4492/99.

³⁸ Stepler, "Common Soldier in the Reign of George III," 153-54.

³⁹ WO71/44/237-38, 251.

⁴⁰ Knox II, 298.

⁴¹ Stepler, "Common Soldier in the Reign of George III," 161.

⁴² Colonel James Prevost, a Swiss professional soldier recruited to lead a battalion in the new Royal American Regiment, garnered a reputation for cruelty in his introduction of Prussian-like punishment to the British forces. Prevost subjected a soldier to a punishment called "the Book" for getting drunk. He was tied by the hands and feet "and laid on his face in a Corner of the Guard Room with a Stick thrust thro' his Legs & Arms to prevent his being able to turn out of that Posture." Prevost ordered him to be kept like that from one evening to the next, but the officer of the guard untied him in the middle of the night or else "he would have been dead before Morning." Prevost denied knowledge of this "cruel practice" but Loudoun affirmed "I do know that it has been practised, & with very harsh Circumstances attending it, in your Battalion." He made clear to Prevost that such "extraordinary Punishments" were forbidden in British Service. Another time when Prevost was away from his battalion, an Irish draft who had been confined was beaten with sticks by two

corporals because he made a noise. He died within 10 days with no care being taken of him, although he complained that he was dying from the bruises. His case was hushed up and the corporals were scapegoated by a court martial, and broken to the ranks. See: Loudoun to H.R.H. [Cumberland], 25 April-3 June 1757, LO3463/75; James Prevost to Capt. Cunninghame, 23 April 1757, LO3435/74; [Loudoun] to Col. Prevost, 25 April 1757, LO3469/75.

⁴³ Frey, "Courts and Cats," 7; Gilbert, "Regimental Courts Martial," 54. Samuel Burgoine of the 45th Regiment stationed at Halifax in 1750, refused to stand guard and abused a corporal, claiming it was not his turn. A regimental court martial ordered him to ride the wooden horse as punishment for an hour. He appealed, but the general court martial affirmed this punishment and added 200 lashes. Burgoine (also Burgoyne) had been previously been a sergeant but earlier that year a court had broken him to private for leaving the fort without permission. See WO71/40/44-45; WO71/40/32-33. A court martial tried two Massachusetts provincials in 1754, "for Curseing and Wising Damnation to them Selves and others threatening Mens Lives," and sentenced one to "Rid the Wooden horse: att which time the Regiment Were Mustered all In arms to Behold the Sight." Eleazer Melvin, "Journal of Capt. Elezar Melvin's Company, Shirleys's Expedition, 1754; Letter From John Barber in Shirley's Expedition of 1755; And Muster-Roll of Capt. Paul Brigham's Company, 1775-77" New England Historical and Genealogical Register, vol. 27 (1873), 283. In July 1755, at Fort Cumberland in Nova Scotia, "a Great Disturbance In Camp among the People by Reason of thare Not having there allowance of Rum," led a court martial to order one man to be whipped and 3 to ride the wooden horse. See "Diary of John Thomas," Nova Scotia Historical Society, Report and Collections, vol. 1 (1879), 127. Several incidents of punishment by wooden horse occurred among the provincial troops besieging Fort Beauséjour in Acadia during July 1755. A court martial sentenced a provincial soldier charged with breaching the order against discharging his weapon in the evening when on guard "to ride the wooden horse one Hower." Peter, an Indian soldier, tried for "Fighting with his Mess Mate and Bighting a Peice [sic] of his arm," rode the wooden horse for half an hour. Another, found guilty for neglect of duty, had to ride the horse an hour with two firelocks tied to his legs. See: John Winslow Journal, 1 July 1755, vol. 1, p. 103, Massachusetts Historical Society, Boston; *ibid.*, 31 July 1755, p. 123; *ibid.*, 24 July 1755, p. 121. A Massachusetts provincial on the Ticonderoga expedition of 1758 was made to ride the "Wooden Horse" for disobeying orders. See "Journal of Rev. John Cleaveland, June 14, 1758-October 25, 1758," Fort Ticonderoga Museum Bulletin, vol. 10 (1959), 229. The punishment could also be imposed on civilian workers. As a result of a dispute with wagoners at Fort Bedford in Pennsylvania in 1759, Captain Johnston made one "ride the wooden Mare, with three Muskets tied to each foot, near a quarter of an Hour," although the officer was relieved of command as a result. See: George Stevenson to Bouquet, 11 Oct. 1759, Add. MSS. 21644, BP7/441-442; Bouquet to Captain Ourrey, 29 Oct. 1759, BP4/131.

⁴⁴ Luke Gridley's Diary, 30. Also during the siege of Quebec, a soldier convicted of an unspecified crime was made to run the gauntlet. See also Timothy Nichols Diary, 18 Aug. 1759, mfm. P-363, reel 6, MHS. For a graphic description of a British soldier's running of the gauntlet in the American Revolution, see Charles Ira Bushnell, A Narrative of the Life and Adventures of Levi Hanford, Soldier of the Revolution (New York, 1863), 20-21.

⁴⁵ Gilbert, "Regimental Courts Martial," 54. Caleb Rea, a doctor with the Massachusetts provincials in 1758, complained "there is almost every Day more or less whiped or Piqueted or some other ways punished." The Journal of Dr. Caleb Rea, ed. F. M. Ray (Salem: Essex Institute, 1881), 36-37.

⁴⁶ A young soldier lay in irons at Fort Bedford in 1763 for leaving the post without permission, while Henry Bouquet put four deserters in chains at Fort Pitt in 1760, although his senior, Robert Monckton, advised "I should think they had best get a good Flogging for leaving their Command, & let them go about their business." See: John Armstrong to Bouquet, 26 August 1763, Add. MSS. 21649, BP12/311; Bouquet to Monckton, 20 Dec. 1760, BP3/174; Monckton to Bouquet, 26 Jan., 1761, BP3/191.

⁴⁷ John Childs, Armies and Warfare in Europe 1648-1789 (New York: Holmes and Meier, 1982), 68-70.

⁴⁸ For example, Aaron Millforth, a private in the New York regiment, received an extreme sentence of 2,000 lashes for desertion at Albany in June 1757. Lazarus Berkeley of the Royal Americans, sentenced to 2,000 lashes for desertion and robbery at Quebec in 1763, had his sentence remitted to 1,000. WO71/65/322-26; WO71/48/306-08.

⁴⁹ Brumwell, Redcoats, 101.

⁵⁰ Michel Foucault noted that torture in the form of corporal punishment was meant to mark the body of the victim as a sign of their crime, but it also was meant to be a spectacle, an excess of violence underlining the power of the law, while exposing the victim to shame. Discipline and Punish: The Birth of the Prison, trans. Alan Sheridan (New York: Pantheon Books, 1977), 34.

⁵¹ William Antrobus of the New York troops and Robert Smith of the New Jersey provincials, sentenced to 1,000 lashes for desertion at Montreal in June 1760, were ordered to be “marched by a guard from the provost to the parade at the mounting of the guards tomorrow morning, where they are each to receive two hundred lashes from the drummers of the garrison: then they are to be marched to camp and receive two hundred lashes from each of the three regiments of the New York troops, and two hundred from the New Jersey regiment. A mate of the Hospital will attend the punishment.” Journals of the Hon. William Hervey, 70.

⁵² Hence, a general court martial convicted three men of theft of a keg of beer at Fort Cumberland during Braddock’s expedition, and “Conelly is to receive 900 lashes at 3 different times 300 lashes each time. Jas Fitzgerald and Jas Hughes are to receive 600 lashes each at two different times, 300 lashes each time.” And at Halifax in 1757, a general court awarded James Granger of the 45th 1,000 lashes for desertion, 500 to be given the next day and the rest when a surgeon deemed him fit. Braddock’s Orderly Books, 34-35; Disney Orderly Book, 12 July 1757.

⁵³ David Perry, “Recollections of an Old Soldier: The Life of Captain David Perry, A Soldier of the French and Revolutionary Wars,” The Magazine of History, 35:1 (1928), 11, 23.

⁵⁴ Diary Kept at Louisburg, 1759-1760, by Jonathan Proctor of Danvers from the Original in the Possession of the Peabody Museum, Salem (Salem, MA: The Essex Institute, 1934), 10.

⁵⁵ Samuel Morris Journal, 2 Sept. 1759, William L. Clements Library.

⁵⁶ “The public execution is to be understood not only as a judicial, but also as a political ritual. It belongs, even in minor cases, to the ceremonies by which power is manifested,” affirmed Foucault. The right to enforce the laws of the realm and punish offenders remained a right of monarchs who deployed the terror of public executions as an expression of regal power. And this power of wielding public terror to establish social order was closely connected to exercise of war making power by the king. The connection between the king and public executions was even more direct in the British military, where he was responsible for drafting the Articles of War. In sum, executions acted out the class struggle but as directed from on high to reaffirm the ultimate goal of military discipline—the virtual extinction of dissent. Foucault, Discipline and Punish, 47-49, 57.

⁵⁷ Thus, a court sent three soldiers convicted of desertion in November 1757 to the firing squad. By comparison, another court at Crown Point in 1759 sentenced a man convicted of robbery to the gallows in the hope it would “Intirrely put a Stop to that Infamous practice of Some Villains Robing their officers and Comrades” (although he later received a pardon), and some rangers who deserted from Halifax for Louisbourg in 1757, carrying a list of British forces swung from the gallows on a hill in front of the camp. Loudoun to Gage, 5 Nov. 1757, Thomas Gage Papers, American Series, vol. 1, William L. Clements Library [hereafter in form GP1]; Orderly Book of David Holmes, 4 Oct. 1759; .

⁵⁸ Amherst to Gage, 24 Jan. 1759, Jeffrey Amherst Papers, vol 4, Clements Library [hereafter in form AP4].

⁵⁹ “The Diary of Nathaniel Knap of Newbury” Society of the Colonial Wars in the Commonwealth of Massachusetts, Proceedings, no. 2 (1895), 23.

⁶⁰ WO71/67/192-94; “Diaries Kept by Lemuel Wood,” Historical Collections, vol. 19 (Jan.-March 1882), 73-74.

⁶¹ “Diaries Kept by Lemuel Wood,” 144.

⁶² WO71/68/9-11.

⁶³ Foucault, Discipline and Punish, 58; **Linebaugh**.

⁶⁴ John Winslow Journal, 24 July 1755, vol. 1, p. 121.

⁶⁵ If a hangman could not be found to execute George Edwards, a deserter from the 17th Regiment, in August 1759 at Ticonderoga the provost martial was to perform the deed himself. John Jones of the New York Independent Regiment was sentenced to die at Oswego in July 1760, but Amherst pardoned him on the condition that he serve as executioner for the Provost during the campaign. And at Crown Point in August 1761, “as a hangman Cannot be found,” Alexander Mcclean of the 55th sentenced to death for desertion was “to be Shot to morrow at 1 Oclock after Noon by a Party of ye 55” on the meadow near their encampment. Amherst to

Haldimand, 29 July 1760, SN: 001040, p. 93, Correspondence with General Sir Jeff. Amherst, 1758 to 1777, B.001, The Haldimand Collection (<http://haldimand-collection.ca/b-001-correspondence-with-general-sir-jeff-amherst-1758-to-1777>, accessed 12 Feb. 2012); William Douglas Orderly Book, 3 Aug. 1759; Orderly Book of Sarjeant John Grant, 2 Aug. 1761, HM 595, Huntington Library.

⁶⁶ The sentence the executioner was attempting to execute is not recorded. WO71/44/391-93.

⁶⁷ John Stanwix to Loudoun, 25 Oct. 1757, LO4705/103.

⁶⁸ Thus at New York in October 1757, a court sentenced William Richards and Rowland Brown to death for desertion from their New York Independent Company. Loudoun ordered Richard's execution to proceed as he had already been pardoned the previous spring for the same offence and pardoned Brown, "but the Pardon not to be intimated to him till he comes to the Place of execution and sies the other Shott." Loudoun Memorandum Books, vol. 4, 6 Oct. 1757; Loudoun, Warrant for the Execution of Rowland Brown and William Richards, with a pardon to Rowland Brown, 16 Oct. 1757, LO4647/102.

⁶⁹ Journals of the Hon. William Hervey, 88, 91-92.

⁷⁰ James Robertson to Amherst, 26 Sept. 1763, AP1; Amherst to Lt. Col. Robinson. 14 Oct. 1763, AP1.

⁷¹ WO71/46/8-10, 13-14; Knox II, 232.

⁷² WO71/68/28-29; WO71/70/272-74.