

Moral Economy, Contract, and Negotiated Authority in American, British, and German Militaries, ca. 1740–1783*

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How do armies function? Why do large numbers of common soldiers follow the orders of small numbers of officers? These questions ought to interest more than just historians of war, for the way in which military organizations work can tell us something about processes of government in other settings. But the opposite is no less true: we can learn much about armies by looking at the societies from which they were recruited. To gain a better understanding of how eighteenth-century armies functioned—the purpose of this article—we need to borrow three concepts usually employed outside the military sphere: moral economy, contract, and negotiated authority.

The idea of a moral economy, initially applied to the *mentalité* of eighteenth-century English food rioters, is helpful as a means of illuminating the attitudes of common soldiers to their service.¹ The rank and file inhabited a world of custom, precedent, and rights. Officers who did not respect the soldiers' sense of a set of established entitlements were likely to find it hard to secure obedience. Related to the moral economy is contract, usually employed in political philosophy to describe the nature of the reciprocal relationship between ruler and the ruled. Eighteenth-century soldiers conceived of their service as a form of contract. The contract in question was implied rather than written; but if officers failed to live up to the terms of the tacit bargain struck at enlistment—a variation on the time-honored governing compact of obedience in return for protection—then soldiers felt themselves no longer obliged to obey. Successful officers recognized the need to work within the boundaries of the soldiers' moral economy and to acknowledge the rank and file's contractual thinking. Indeed, the key to officers' effective exercise of power was to appreciate its limits and act accordingly. Here our final borrowed concept is useful. For historians of the eighteenth century, negotiated

*I should like to thank the owners and custodians of the manuscript material used here for permission to consult and quote from their papers and the anonymous readers of an earlier version of the article for their helpful comments.

¹ The originator of the concept was E. P. Thompson: see his "The Moral Economy of the English Crowd in the Eighteenth Century," *Past & Present*, no. 50 (1971): 76–136, reprinted in his *Customs in Common* (London, 1991), chap. 4.

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authority came into scholarly currency mainly as a means of capturing the political relationship between Britain and its American colonies in the decades preceding the Revolution.² But the give-and-take that it implies, the need for the nominal superior to secure the agreement or at least acquiescence of the nominal inferior, makes it applicable to the way in which eighteenth-century army officers were obliged to operate. Their authority was far from absolute; they could not take it for granted that their men would always obey. Only by keeping within the lines drawn by the military moral economy and their soldiers' contractual attitudes could officers run their units effectively.

Many historians of eighteenth-century American armed forces assume that these military dynamics were unique to their subjects of study. The provincial regiments that were raised in the colonies in the Seven Years' War and the Continental army that fought under Washington during the War of Independence appear in many accounts as quite different from European militaries of the time. Americans, we are repeatedly told, would not unthinkingly obey. Soldiers in provincial regiments and the Continental army had a strong sense of the contractual nature of their service. They had their own moral economy of rights and obligations. Their officers, faced with soldiers who were tenacious in defense of what they saw as their entitlements, were forced to rely less on physical punishment and its threat and more on appeals to reason, virtue, and pride. To illustrate the supposed distinctiveness of this American military culture, historians of colonial and revolutionary armed forces often draw a stark contrast with what they depict as a highly disciplined British army, the product of a more hierarchical and authoritarian social order, commanded by officers whose control rested on brutal punishments that reduced the common soldiers to unquestioning automata.³

² See Jack P. Greene, *Negotiated Authorities: Essay in Colonial Political and Constitutional History* (Charlottesville, VA, 1994), esp. chap. 1.

³ For references to the moral economy, contractual attitudes, and negotiated authority in the American forces, see, e.g., Charles Patrick Neimeyer, *America Goes to War: A Social History of the Continental Army* (New York, 1996), esp. 117, 132, 163, 164; Wayne Bodle, *The Valley Forge Winter: Civilians and Soldiers in War* (University Park, PA, 2002), 128–29; Gregory T. Knouff, *The Soldiers' Revolution: Pennsylvanians in Arms and the Forging of Early American Identity* (University Park, PA, 2004), 101. For more clearly exceptionalist claims, often making a direct comparison with the British army, see, e.g., Howard H. Peckham, *The War for Independence: A Military History* (Chicago, 1958), 204; Alan Rogers, *Empire and Liberty: American Resistance to British Authority, 1755–1763* (Berkeley, 1974), chap. 6; Douglas Edward Leach, *Roots of Conflict: British Armed Forces and Colonial Americans, 1677–1763* (Chapel Hill, NC, 1986), chap. 6; Fred Anderson, *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766* (New York, 2000), esp. 145–47, 219–21, 370–72; John Ferling, *Almost a Miracle: The American Victory in the War of Independence* (New York, 2007), 17–18; John A. Ruddiman, “A Record in the Hands of Thousands”: Power and Negotiation in the Orderly Books of the Continental Army,” *William & Mary Quarterly*, 3rd ser., 67 (2010): 747–74.

Those who have studied the eighteenth-century British army more closely—a rather small number of historians—realize that the contrast is greatly overdrawn. British redcoats were far from robot-like. Several scholars have demonstrated that members of the British rank and file had a well-developed sense of their rights and staunchly resisted any attempts to infringe them.⁴ But these historians are mainly interested in the life of the common soldiers as an aspect of labor history; they say comparatively little about the various means—besides the lash and the noose—by which the British army’s officers sought to secure the obedience of their men.⁵ The current article builds upon earlier work on the British rank and file and provides some new evidence of their attitudes drawn from the period ca. 1740–83, or what we might loosely describe as the era of the American Revolution. But its main contribution lies in shedding light on the officers and the ways in which their authority was negotiated.⁶ Here the evidence is almost exclusively taken from the time of the War of Independence. The article also seeks to move beyond a simple Anglo-American perspective by considering the German auxiliary forces that served alongside British troops during that conflict. By 1781, these German soldiers, known generically (but often inaccurately) as Hessians—they came from Brunswick, Waldeck, Ansbach-Bayreuth, and Anhalt-Zerbst as well as Hessen-Kassel and Hessen-Hanau—constituted some 37 percent of the British forces deployed in North America.⁷ They provide, in other words, a large enough sample for us to see whether German troops also operated on the basis of a military moral economy, contract, and negotiated authority.

Special features of the War of Independence, a skeptic might object, make the British and German military units campaigning in North America unrepresentative of British and German armed forces more generally. In America, desertion from the British and German forces was arguably facilitated by the presence of

⁴ See, esp. Peter Way, “Rebellion of the Regulars: Working Soldiers and the Mutiny of 1763–1764,” *William & Mary Quarterly*, 3rd ser., 57 (2000): 761–92, which explores a moment of dramatic defiance; and Stephen Brumwell, *Redcoats: The British Soldier and War in the Americas, 1755–1763* (Cambridge, 2002), 127–36, 313–14, which discusses some of the rank and file’s ideas of “Rights and Resistance,” and offers a brief comparison with the Continental army. See also Gareth William Morgan, “‘A Clever Little Army’: The British Garrison in Boston, 1768–1776” (DPhil diss., University of Sussex, 2004), chaps. 4 and 5; and Michael N. McConnell, *Army and Empire: British Soldiers on the American Frontier, 1758–1775* (Lincoln, NE, 2004), esp. 23, 94–95.

⁵ For soldiers as workers, see esp., Peter Way, “Class and the Common Soldier in the Seven Years War,” *Labor History* 44 (2003): 455–81.

⁶ An insightful recent essay by William P. Tatum III touches upon some of the issues covered here, but mainly from the perspective of military law: see his “‘The Soldiers Murmured much on Account of this Usage’: Military Justice and Negotiated Authority in the Eighteenth-Century British Army,” in *Britain’s Soldiers: Rethinking War and Society, 1715–1815*, ed. Kevin Linch and Matthew McCormack (Liverpool, 2014), 95–113.

⁷ Rodney Atwood, *The Hessians: Mercenaries from Hessen-Kassel in the American Revolution* (Cambridge, 1980), 257 (Appendix D).

civilians who spoke the same language. This linguistic encouragement did not apply in the Low Countries, the traditional venue for eighteenth-century conflicts between Britain and France, where German forces were also often deployed as allies or auxiliaries of the British. The ease with which those who fled their regiments in North America could disappear may well have made their officers try all the harder to keep them, adopting a more negotiated style of authority than in other settings less conducive to desertion. But desertion rates in North America were in fact not appreciably different from desertion rates elsewhere. The proportion of Hessian troops deserting in the colonies was comparable to that of eighteenth-century German armies in general (which mainly campaigned in German-speaking lands) and the British army in Ireland (where, according to one report, there was “an almost universal disposition of the lower Class of People to assist Deserters”).⁸ There is no compelling reason, then, to believe that the British and Hessian forces in America operated on a different basis from other British or German armies.⁹

Gaps in the evidence make it difficult to paint a full picture. Unsurprisingly, perhaps, we have limited access to the minds of the common soldiers. Not many of them left any record of their thoughts, and those few accounts that we have focus largely on matters other than the rank and file’s relationship with its officers. We are therefore reliant on fugitive scraps of firsthand testimony, supplemented by secondhand glances into the world of the soldiery provided by official records—particularly order books and court-martial proceedings—and private sources, principally officers’ diaries and letters. The lives of the noncommissioned officers—the corporals and especially the sergeants—are perhaps still more obscure, but their role was probably crucial. A variety of contemporary sources tell us that sergeants drilled the men and supervised their routine daily tasks.¹⁰ In all likelihood, middle-aged sergeants cautioned young and inexperienced ensigns and

⁸ See, e.g., M. S. Anderson, *War and Society in Europe of the Old Regime, 1618–1789* (London, 1988), 165. For the Irish situation, see British Library, London (henceforth, BL), Buckinghamshire Papers, Add. MS 40,178, fol. 29, Nugent Temple to Thomas Townshend, November 8, 1782.

⁹ See, e.g., the situation in a British garrison in the Mediterranean: Ilya Berkovich, “Discipline and Control in Eighteenth-Century Gibraltar,” in Linch and McCormack, *Britain’s Soldiers*, 114–30.

¹⁰ Military manuals recommended that sergeants and corporals should purchase food for their squads using the soldiers’ subsistence money: see, e.g., Humphrey Bland, *A Treatise of Military Discipline: In which is Laid Down and Explained the Duty of the Officer and Soldier, through the Several Branches of the Service*, 9th ed. (London, 1762), 225; Thomas Simes, *The Military Guide for Young Officers* (London, 1776), 143. For the importance of noncommissioned officers more generally in the regimental order, see Robert Hinde, *The Discipline of the Light-Horse* (London, 1778), 99. See also, for actual practice, Huntington Library, San Marino, CA, Order-book of Archibald Campbell, standing orders, June 30, 1778, HM 617, fol. 86.

lieutenants against too punctilious an approach, or too quick a resort to severe punishment. Sergeants may also have tried to defuse difficult situations between officers and common soldiers by acting as intermediaries. Unfortunately, we have little source material that sheds light on such processes, which means that any account of authority and its negotiation must almost certainly be incomplete.¹¹ Related to this problem is a wider one: official records are more likely to identify and illuminate breakdowns in order and crises of command than the successful functioning of a military unit. Yet, despite these evidential limitations, with a little effort we can capture the essentials of the inner life of eighteenth-century British and German armies.

I

James Wolfe, later immortalized by his early death at Quebec, wrote in October 1755 of British troops who had “no idea of a free born English Soldier’s marching, working, or fighting, but when he thinks proper.”¹² Wolfe’s depiction is a far cry from American historians’ image of redcoats cowed by brutal discipline, but it accords with what we can glean of their attitudes from other sources. When they felt aggrieved at what they regarded as a breach of the military contract, or behavior by their officers that ran counter to their sense of fairness and to the customs and traditions of the army, soldiers were likely to demonstrate their dissent by leaving (desertion), by taking from the local inhabitants what they felt that they had been denied by their officers (plunder), or even by expressing their displeasure by refusing to obey orders (mutiny).

Each of these manifestations of dissent could, of course, have other causes than the soldier’s perception that his officer had failed to fulfil obligations inherent in the bargain struck at the moment of recruitment. Desertion, for instance, might arise from a soldier’s local attachments, or his intention to profit by reenlisting in a different corps, or his overwhelming sense of fear, or even his sickening of using violence against others. Plunder might simply be a product of the soldier’s desire to make money by selling stolen goods, often to buy alcohol. Mutiny could stem from a lack of respect for inexperienced or unsuitable officers. But in many cases,

¹¹ For an instance of a British sergeant trying to persuade a corporal to apologize to a lieutenant over a seemingly trivial incident, see the Seven Years’ War account of William Todd in Andrew Cormack and Alan Jones, eds., *Journal of Corporal Todd, 1745–1762*, Army Records Society, 18 (Stroud, 2001), 209–10. Interestingly, this particular little crisis appears to have been resolved not by the sergeant’s intervention but by the lieutenant’s fellow officers appealing to the battalion commander on the corporal’s behalf. The *Journal of Corporal Todd*, 35, 37, 103, also provides examples of the attentiveness of sergeants to the well-being of the men.

¹² West Sussex Record Office, Chichester, Goodwood MSS, 223/3/5, Wolfe to the Duke of Richmond, October 25, 1755.

desertion, plundering, and mutiny seem to have been the consequences of the rank and file's belief that the military moral economy had been ignored or that the implied military contract had not been honored.¹³ The parallels with American thinking will be apparent if we look in turn at British soldiers' ideas on the legitimate exercise of authority, their length and location of service, their pay, and their provisions.

Far from meekly accepting whatever their officers did, British soldiers showed their displeasure if they thought that a line had been crossed. They appear to have acknowledged that their officers could legitimately impose their own noncorporate penalties for minor infractions; confinement to quarters, extra duties, and ordering offenders to wear their regimental jackets inside out, all recommended in military manuals, seem not to have caused ill-feeling among the rank and file.¹⁴ Roger Lamb, a soldier in the Ninth Foot, was later to praise his battalion commander, Major Mason Bolton, for employing such methods to bring erring members of the rank and file back into line.¹⁵ But soldiers resented and resisted arbitrary physical penalties imposed by officers acting without the sanction of a military court. The adjutant-general himself, perhaps recognizing the rank-and-file perspective, expressed uneasiness about officers' beating the soldiers on their own authority; the practice should be used as little as possible, he wrote in July 1775.¹⁶

At least a few members of the rank and file were so confident of their right to better treatment that they wrote to superior officers, or even government ministers in London, to protest company or regimental officers' abuse of their authority. An artilleryman penned his complaint to the commander-in-chief in 1779: too many troops in America, he wrote, were beaten "like Dogs" without the authority of courts-martial.¹⁷ The following year an anonymous soldier similarly told the secretary at war that in the Twenty-fifth Foot "no Man is Beat with a Cane or

¹³ For other causes of desertion, plunder, and mutiny, see, e.g., West Sussex Record Office, Chichester, Goodwood MSS, 223/3/16, Wolfe to Richmond, July 10, 1757; the general court-martial of John Renshaw and Edward Slater of the 35th Foot, The National Archives, Kew (henceforth, TNA), War Office Papers, WO 71/81, pp. 166–77; Thomas Jones, *History of New York*, ed. E. E. DeLancey, 2 vols. (New York, 1879), 1:136–37; BL, Liverpool Papers, Add. MS 38,212, fol. 216, Alexander Donald to Charles Jenkinson, November 12, 1779. Peter Brock, "The Spiritual Pilgrimage of Thomas Watson: From British Soldier to American Friend," *Quaker History* 53 (1964): 81–86, discusses a redcoat who deserted because he became a conscientious objector.

¹⁴ See, e.g., Bennet Cuthbertson, *Cuthbertson's System, for the Complete Interior Management and Oeconomy of a Battalion of Infantry* (Bristol, 1776), 125, 127; Hinde, *Discipline of the Light-Horse*, 99.

¹⁵ Roger Lamb, *Memoir of His Own Life* (Dublin, 1811), 68.

¹⁶ TNA, War Office Papers, Adjutant-General's Letter-book, WO 3/5, p. 49.

¹⁷ TNA, War Office Papers, WO 71/89, p. 86, William Naylor to Clinton, April 17, 1779. The fact that Naylor was court-martialed is a reminder that officers did not always accept soldiers' views on discipline.

Stick at the pleasure of an Off^r . . . but is legally tried by a Court Martiall And if by them found guilty, is punished accord[ing]ly.” The writer continued that soldiers so treated “esteem *their officers* And in *Action will Stand by them,*” but added “how different is the disposition of other Regiments!” His request was simply that “in General orders you would please give it out that no off^r *what-ever,* he be, shall have it in his power to Beat the meanest of the *rank and file* without being tried by Court Martial.”¹⁸

Soldiers complained of other forms of ill-treatment that they believed to be unfair, and they took other forms of action in response. Regimental or even company commanders who suspected a noncommissioned officer of wrongdoing might strip him of his rank. In December 1777, Colonel James Pattison of the Royal Artillery declared in daily orders that an undisciplined bombardier (the equivalent of a corporal in the infantry) was “unworthy of Remaining a Non Commiss’d officer” and should be “Reduced to a Gunner from this day from Rank and pay.”¹⁹ Summary demotion of this kind could easily lead to as much resentment as did arbitrary physical punishment, if the rank and file thought that the officer had acted hastily and unjustly. Corporal Thomas Sullivan of the Fortyninth Foot was reduced to a private by his battalion commander in September 1777. Sullivan believed that his lieutenant-colonel took this drastic action simply because Sullivan could not explain the provenance of a piece of mutton roasting on a campfire. The discontented Sullivan continued to serve in the ranks until June of the following year, when he deserted. His decision to leave the army owed much, no doubt, to his marrying a twenty-year-old Philadelphian woman in December 1777. When the army evacuated the city, Sullivan and his wife had to make an uncomfortable choice; she could follow him and his regiment, or Sullivan could leave the army and stay in the city. But, by his own account, his decision to desert was also influenced by “the ill usage I received (undeservedly,) when I was in the 49th Battalion,” which seems to be a reference to the loss of his corporal’s rank on the lieutenant-colonel’s command.²⁰

British soldiers enlisted in peacetime were usually expected to serve for as long as the army needed them, but wartime recruits (the majority of men serving during conflicts) were in a different situation.²¹ To encourage enlistment when

¹⁸ BL, Liverpool Papers, Add. MS 38,214, fol. 323, Anon. to Jenkinson, November 3, 1780.

¹⁹ Royal Artillery Institution, Woolwich, Royal Artillery Brigade Orders, 1777–78, MS 57, p. 57.

²⁰ American Philosophical Society, Philadelphia, Thomas Sullivan Journal, pp. 253, 300, 406–7.

²¹ On paper, the British army was some 48,647 strong at the beginning of the War of Independence, but in practice probably no more than 36,000 officers and men were actually serving. See Stephen Conway, *The British Isles and the War of American Independence* (Oxford, 2000), 13. Between September 1775 and September 1780 alone, more than 73,000 men were added: see BL, Liverpool Papers, Add. MS 38,344, fol. 162.

soldiers were desperately needed, British governments offered new recruits the opportunity to serve for only three years or the duration of the war.²² Men who were compelled to serve under the provisions of parliamentary recruitment acts, or who volunteered to avoid being pressed, were enlisted on the same short-term basis. Soldiers who had joined up on the understanding that they would serve only for a set number of years naturally anticipated that they would be able to leave the army at the expiry of their term, just as did American provincials in the Seven Years' War and Continental soldiers in the War of Independence. While the evidence relating to British soldiers' sensitivity about the length of their service is not substantial, the few indications we have point unmistakably to the kind of contractual attitude usually associated with their American counterparts. In the spring of 1747, in the closing stages of the War of the Austrian Succession, soldiers pressed three years earlier demanded their discharge. From the point of view of their commanding officers, the timing could hardly have been worse. The army, together with its allies, was about to embark on that year's Flanders campaign against the French. The aggrieved soldiers were bought off only by the payment of a guinea per man and a promise of immediate release when the troops went into winter quarters.²³ The following September, regular troops in the Louisbourg garrison also argued that, having served three years, they were now entitled to their discharge; whether they were given an extra sum of money to continue serving is not clear.²⁴ In the spring of 1762, a similar discontent emerged in the army in America. An officer's notebook records the "unbecoming behaviour of some Soldiers who have lately demanded their Discharge alledging that their term of Service was expired." On this occasion, a significant inducement was required to persuade the soldiers to continue with their regiments: "Each man whose time of Service is expired [will] be reinlisted for the War only and receive a gratuity of 3 Guineas, and his discharge upon Application, at the expiration of it."²⁵

Soldiers might also hold their officers to promises about the location of their service. Those assured upon enlistment that they would be dispatched to one theater of war could become mutinous if they were then ordered to go somewhere quite different. As with length of service, the soldiers believed that a condition agreed upon when they were recruited had not been met, and they were therefore

²² For short-term enlistments during the War of Independence, see notice signed by Lord Barrington, the secretary at war, December 16, 1775, TNA, War Office Papers, WO 26/29, p. 169.

²³ Bodleian Library, Oxford, MS Eng. hist. g.4, p. 137, Order-book of Ensign Hamilton, 3rd Foot Guards, April 17, 1747.

²⁴ National Archives of Scotland, Edinburgh, Cuninghame of Thornton Muniments, GD 21/625, Garrison Orders at Louisbourg, September 4 and 10, 1747.

²⁵ National Army Museum, Chelsea, MS 6707-11, Notebook of Lieut. Hamilton, April 17, 1762.

free to refuse to comply with their officers' commands. The most spectacular rebellions occurred in Highland regiments in which the rank and file had expected to cross the Atlantic to North America, only to find that their corps was ordered instead to sail to India. Perhaps Highlanders were particularly prone to mutiny in such circumstances. Their regiments contained large numbers of men who had been recruited as a result of the influence of their landlords and might therefore have been especially disaffected if their expectations of paternal care were disappointed.²⁶ But probably more significant was the enthusiasm of many Highlanders to go to America. They seem to have viewed military service there as a means of migration—assuming they survived the war, their regiment would be disbanded in America and the discharged soldiers might even be offered land grants in the colonies.²⁷ India, by contrast, was much less attractive as a destination, despite its reputed riches. Mortality rates were particularly high among the troops that went to Asia, and good-quality land—the real draw for Highland recruits thinking of postwar possibilities—was not as readily available as it was in North America.²⁸ Even so, the virtues and disadvantages of the respective postings were probably less important for the soldiers than their sense of a broken contract. We can surmise that the mutineers justified their actions on the grounds that the bargain struck at enlistment had not been honored. They were protesting at being recruited on the basis of their serving in one place and then being allocated, without their consent, to another. The mutiny in 1778 of Seaforth's Seventy-eighth Highlanders owed much to rumors that the regiment was about to embark for service with the British East India Company. In 1783, two more regiments—the Seventy-seventh and Eighty-third—similarly rebelled, again largely owing to their being ordered to sail for India.²⁹ Andrew Marshal, surgeon to the Eighty-

²⁶ We need to be careful not to exaggerate the role of landowners in the enlistment of soldiers for the Highland regiments; Highland landowners used their reputation as men of influence to persuade the government in London to allow them to raise new regiments, but they tried hard to spare their own estates from over-recruiting. See Andrew Mackillop, *“More Fruitful than the Soil”: Army, Empire, and the Scottish Highlands, 1715–1815* (East Linton, 2000); and Stephen Conway, “Entrepreneurs and the Recruitment of the British Army in the War of American Independence, 1775–1783,” in *War, Entrepreneurs, and the State in Europe and the Mediterranean, 1300–1800*, ed. Jeff Fynn-Paul (Leiden, 2014), 111–30.

²⁷ For Highland soldiers and the pull of land in America, see Matthew Dziennik, “The Fatal Land: War, Empire, and the Highland Soldier in British America, 1756–1783” (PhD diss., University of Edinburgh, 2010).

²⁸ See, e.g., Centre of South Asian Studies, Cambridge, Cromartie Papers (photocopies), Eyre Coote to Lord Macleod, August 31, 1780, for the unhealthy state of the 73rd Regiment and the desire of many of its officers to return to Europe as quickly as possible.

²⁹ Sylvia R. Frey, *The British Soldier in America: A Social History of Military Life in the Revolutionary Period* (Austin, TX, 1981), 74. For Highland mutinies as a particular

third Foot, left a vivid account of the mutiny, with the men “convening in small circles, talking to one another.” Senior officers at Portsmouth, where the regiment was due to embark, tried on several occasions to quell the unrest by making concessions, including offering to replace the unpopular lieutenant-colonel.³⁰

British soldiers were also likely to mutiny if their pay was not forthcoming or was subject to new deductions. The most celebrated incident, affecting British troops in North America, occurred at the end of the Seven Years’ War in 1763.³¹ Sir Jeffery Amherst, the British commander-in-chief, ordered money to be docked from the pay of his soldiers to cover part of the costs of their provisions. Amherst was responding to a new emphasis on economy encouraged by the government in London, which was trying to come to grips with a national debt that had grown enormously as a result of the war. But if he pleased his political masters, he alienated his own troops. The extensive nature of the mutiny—it spread rapidly across the British outposts in North America—revealed the soldiers’ deep commitment to defending the pay to which they felt themselves entitled. Faced with such extensive resistance, Amherst had no choice but to stage a tactical retreat. A few weeks after bringing in the change, he offered concessions that lessened the monetary loss to the soldiers.³² But even in this moderated version, Amherst’s “reform” of deductions left the rank and file worse off than they had been before. The mutiny subsided, though not in some garrisons until the spring of 1764, and resentment remained for years afterward, not least among some of the junior officers, who were all too aware of the hardship inflicted on their soldiers.³³ Both the government and the military leadership should have anticipated that any attempt to alter the rank and file’s remuneration would cause trouble. A similar mutiny had occurred at the end of the previous war, in 1747, when regular soldiers in the garrison of recently captured Louisbourg objected to the introduction of new deductions.³⁴

phenomenon, see John Prebble, *Mutiny: Highland Regiments in Revolt, 1743–1804* (Harmondsworth, 1975).

³⁰ National Archives of Scotland, Leven and Melville Muniments, GD 26/9/520/14.

³¹ Paul E. Kopperman, “The Stoppages Mutiny of 1763,” *Western Pennsylvania Historical Magazine* 69 (1986): 241–54; Way, “Rebellion of the Regulars”; Brumwell, *Redcoats*, 133–35.

³² BL, Bouquet Papers, Add. MS 21,635, fols. 6–8.

³³ See Lieut. William Feilding to the Earl of Denbigh, January 19, 1776, in *The Lost War: Letters from British Officers during the American Revolution*, ed. Marion Balderstone and David Syrett (New York, 1975), 60.

³⁴ See Robert Ellison to Henry Ellison, 28 June 1747, in Edward Hughes, ed., “The Correspondence of Colonel Robert Ellison of Hebern, 1733–48,” *Archaeologia Aeliana*, 4th ser., 31 (1953): 17; National Archives of Scotland, Hamilton-Dalrymple of North Berwick Muniments, GD 110/919/12, John Suttie to Sir Hew Dalrymple, June 30, 1747.

Much less conspicuous, but no less important, was the smaller-scale mutinous behavior, sparked by disputes about pay, which seems to have been as commonplace in the British army as it was in the American Continental forces. A frequent cause of rank-and-file grievance was failure to pay additional money for extra work that they considered above and beyond their duty as military men. Amherst in 1759 tried to end disputes on this issue by stipulating the rates of pay to which soldiers were entitled if they served as artificers or laborers in the public service.³⁵ In December 1763, his successor, Thomas Gage, advised the secretary at war that soldiers whose pay was now reduced by deductions for their provisions were even more likely to be sensitive about receiving proper remuneration “for every piece of work” undertaken “for the Publick.”³⁶ Late pay was even more contentious, and much more difficult for officers to tackle. In 1777 more than fifty troops in different British regiments in North America refused to obey orders until their grievances—notably pay arrears—were redressed.³⁷ Nor was mutiny the only response of the soldiers to delays in receiving pay. In October 1745, George Wade, commander of the British forces assembled in northern England to resist the advance of the Jacobite army from Scotland, told the government in London that he desperately needed more money, “for if the Troops are not regularly paid, they will of course plunder the Country.”³⁸

British soldiers similarly showed their contractual mind-set when they protested at inadequate provisions. Troops at Oswego mutinied in the summer of 1755 when they regarded reduced rations as a violation of “their Right.”³⁹ If their regular food rations were cut, they also had little compunction in stealing food from local inhabitants. At times, when on campaign, genuine food shortages could mean that soldiers purloined food because they were desperately hungry. As British troops on Burgoyne’s expedition advanced into New York and ran short of food, they dug up potatoes scarcely fit to eat “without thinking in the least of the owner.”⁴⁰ Burgoyne’s orders commented disapprovingly that “Parties of thirty and Forty men att a time have gone out of Camp, and taken away Every kind of Greens Which the Inhabitants had for the Sustenance of their Famillys.”⁴¹ But even when there was no absolute shortage of food, officers recognized that unless their soldiers were supplied with fresh provisions to supplement the salt rations sent from Britain and Ireland, trouble would ensue. Desertion might be justified

³⁵ Brumwell, *Redcoats*, 128.

³⁶ Clarence Edwin Carter, ed., *The Correspondence of General Thomas Gage with the Secretaries of State, and with the War Office and the Treasury, 1763–1775*, 2 vols. (New Haven, CT, 1931), 2:215.

³⁷ Frey, *British Soldier in America*, 73–4.

³⁸ University Library, Nottingham, Newcastle of Clumber MSS, NeC 1691, Wade to Henry Pelham, October 17, 1745.

³⁹ Brumwell, *Redcoats*, 128.

⁴⁰ BL, Diary of Lieut. William Digby, Add. MS 32,413, fol. 64.

⁴¹ William L. Clements Library, Ann Arbor, Michigan, Forty-seventh Foot Order-book (typescript copy), August 27, 1777.

by a lack of fresh food. Officers sometimes associated soldiers' plundering from the inhabitants with a shortage—or unfair distribution—of fresh meat.⁴²

Court-martial records provide us with one of the few ways of glimpsing rank-and-file attitudes at first hand, rather than through the refracted accounts left by their officers. Testimony given at courts-martial suggests that soldiers saw any reduction in their rations as a breach of the implied military contract. Thomas Reedman, a private in the light infantry company of the Forty-third Foot, accused with others in March 1779 of having killed and stolen an ox on Long Island, New York, argued that he had been “forced to it” by the removal from his standard rations of the “Small Species”—items such as butter, cheese, and peas. His fellow defendants, tried the next day, put forward the same defense.⁴³ On the face of it, their argument seems odd and unconvincing. It was the small species that were missing from their rations, not the meat. Why should they steal meat to make up for a loss of the small species? But their action becomes more explicable if we think in contractual terms: the soldiers believed that their officers had failed to provide them with the full rations that were their entitlement, which meant that they were now free to find their own food supplies. Some support for this interpretation comes in the form of a letter written a few years earlier by an officer to his father, in which the officer explains that “If the men chuse it, they may receive 7lb of fresh beef, instead of all the articles [in their standard ration] except flour.”⁴⁴ Reedman and his colleagues perhaps reasoned that as the small species had been removed from their rations, they were within their rights in seeking fresh meat as a replacement.

II

American provincial soldiers who came into contact with the British regulars in the Seven Years' War often commented on the extreme floggings and even capital penalties inflicted on disobedient soldiers. Capital punishment may have been far from unknown in colonial America, but the courts usually limited corporal penalties to the biblically sanctioned thirty-nine strokes of the whip.⁴⁵ To colonists accustomed to such a system, British military practice appeared shockingly in-

⁴² For the consequences of a lack of fresh provisions, see R. A. Bowler, *Logistics and the Failure of the British Army in America, 1775–1783* (Princeton, NJ, 1975), 53; and Henry Cabot Lodge, ed., *André's Journal*, 2 vols. (Boston, 1903), 1:71.

⁴³ TNA, War Office Papers, WO 71/88, pp. 324–34.

⁴⁴ Frederick Mackenzie to his father, June 29, 1773, in *A British Fusilier in Revolutionary Boston: being the Diary of Lieutenant Frederick Mackenzie, Adjutant of the Royal Welch Fusiliers, January 5–April 30, 1775, with a Letter describing His Voyage to America*, ed. Allen French (Cambridge, MA, 1926), 19.

⁴⁵ See Kathryn Preyer, “Penal Measures in the American Colonies: An Overview,” *American Journal of Legal History* 26 (1982): 326–53. See also, for the study of a particular colony, Douglas Greenberg, *Crime and Law Enforcement in the Colony of New York, 1691–1776* (Ithaca, NY, 1974).

humane. One anonymous American diarist, apparently from a New England provincial regiment, noted in October 1755 the death of a British soldier who had been whipped the day before; shortly afterward, he recorded the severe whipping of two further regulars.⁴⁶ Another New Englander, part of the garrison of newly conquered Louisbourg in October 1758, equally appalled by the penalties that could be inflicted under martial law, observed that “ye regulars . . . are but little better than slaves to their Officers.”⁴⁷

British general courts-martial—the highest military tribunals—sentenced convicted men to 500 lashes as a matter of course; it was not unusual for them to stipulate one thousand for more serious offences.⁴⁸ Very occasionally, offenders found themselves facing an even greater ordeal: five soldiers of the grenadier company of the Seventy-first Highland Regiment, convicted of robbing a New York inhabitant in March 1779, were each sentenced to 1,500 lashes.⁴⁹ The most heinous crimes, or those that most detrimentally affected the army’s discipline, attracted the death penalty.⁵⁰ Even brigade, garrison, and regimental courts martial, dealing with lesser offences, could lay down punishments in excess of the upper limit of the number of lashes usually inflicted on soldiers in the Continental army.⁵¹ In June 1744, William Harris, a soldier in the Royal Regiment of Fusiliers, was sentenced by a regimental court-martial in England to 200 lashes for selling his “new Regim^t Shirt & Shoes.”⁵² At Philadelphia, thirty-three years later, an artilleryman found guilty of “being Absent seven Days without leave” was ordered by a brigade court-martial “to Receive 500 Lashes in the Usual Manner.”⁵³ Order books, which contain copies of the commander-in-chief’s instructions to the army as a whole, or of brigade or regimental commanders’ orders to particular units, repeatedly threatened the common soldiers with extreme penalties if they transgressed even in the most minor way (“The Soldiers are once more forbidden to go into any Man’s Field or Garden, to steal roots; any one detected

⁴⁶ Newberry Library, Chicago, Case MS oE 199, M 36 1755, Anon. Diary of the French and Indian War, October 24 and 28, 1755.

⁴⁷ B. F. Brown, ed., “Extracts from Gibson Clough’s Journal,” *Historical Collections of the Essex Institute* 3 (1861): 104.

⁴⁸ For punishment in the British service, see Frey, *British Soldier in America*, chap. 4. For British general courts-martial sentences from the American war period, see TNA, War Office Papers, WO 71/80–95.

⁴⁹ TNA, War Office Papers, WO 71/88, p. 350.

⁵⁰ See, e.g., *Rules and Articles for the Better Government of His Majesty’s . . . Forces* (London, 1778), 39–43.

⁵¹ For regimental courts-martial, see Glen Stepler, “British Military Law, Discipline, and the Conduct of Regimental Courts Martial in the Later Eighteenth Century,” *English Historical Review* 102 (1987): 859–87.

⁵² Royal Fusiliers (City of London Regiment) Museum, the Tower of London, MS R-26(a).

⁵³ Royal Artillery Institution, Brigade Order-Book, 1777–78, MS 57, p. 103.

will be severely punished.”)⁵⁴ On some occasions, senior officers promised summary execution for soldiers who stole from the local inhabitants.⁵⁵

Rather than accepting this brutally violent picture as all we need to know about how authority was exercised in the British army, we might want to consider a different perspective; one that gives rather more agency to the soldiers themselves. Repeated orders promising dire penalties—up to and including death—might be interpreted as a sign not of the power of officers, but of their weakness. Orders would not have had to be repeated if they were being obeyed; threats would not have had to be made time after time if soldiers were truly deterred by the possibility of the most awful retribution. General Howe, having told his troops shortly after they landed on Long Island in August 1776 that “he is determined to Shew no mercy to any man found Guilty of Maurauding,” found himself obliged to make the same claim a few days later: “The General again repeats in Orders, that no Mercy will be shewn to any Man found Guilty, of Plundering.” The following week, the response had apparently been so unsatisfactory that he felt he had to up the level of threat: “The Provost Martial [*sic*] has a Commission to Execute upon the Spot any Soldier he finds Guilty of Marauding.” For all Howe’s attempts to sound tough, the impression that his men were not deterred is hard to avoid. We can even detect a trace of desperation in his orders.⁵⁶

Once we appreciate the limits of officers’ power, we can begin to discern the importance of negotiated authority. Officers could not take their men for granted and assume a robotic obedience; they were obliged to recognize that the rank and file had minds of their own, with which they had to engage in order to encourage them to do their duty. Major John Pitcairn, in charge of the Marines in the Boston garrison just before the outbreak of the War of Independence, wrote of treating his men “with mildness” and seeking “to persuade them to behave well.”⁵⁷ Either through choice or necessity, officers like Pitcairn dealt with their soldiers as thinking beings, capable of responding to exercises of clemency, paternal care, and appeals—personal, professional, and political. Many of the methods British officers employed, in other words, bore a remarkable resemblance to those usually associated with the American Continental army during the War of Independence.

⁵⁴ TNA, War Office Papers, WO 36/2, fol. 34.

⁵⁵ See, e.g., the order-book entry of December 5, 1775, in *The Kemble Papers*, vol. 1, New-York Historical Society Collections, 16 (New York, 1884), 269; and Library of Congress, Washington, DC, Washington Papers, Series 6B, vol. I, Captured British Order-book, June 21, 1777.

⁵⁶ William L. Clements Library, General Order-book of the forces under Howe, August 23 and 31, September 6, 1776. It should be said that some of his subordinates criticized Howe for not carrying out his threatened punishments: see, e.g., E. Stuart Wortley, ed., *A Prime Minister and His Son from the Correspondence of the Third Earl of Bute and Lt. General the Hon. Charles Stuart, K.B.* (London, 1925), 99, 116.

⁵⁷ BL, Mackenzie Papers, Add. MS 39,190, fol. 209.

Even though the British army's courts-martial sentenced soldiers to terrifying punishments, these were not always inflicted. Capital penalties were often remitted, and general officers, who had to confirm general court-martial decisions, sometimes chose to lessen the severity of corporal punishments.⁵⁸ Regimental commanders, for their part, exercised discretion over which men to send up to a general court-martial and which to bring before their own lesser court-martial, where they could control the level of the penalty.⁵⁹ They could also use their power of clemency to pardon offenders brought before lower courts: Colonel Pattison of the Royal Artillery did so on numerous occasions while his unit was stationed in Philadelphia during the War of Independence.⁶⁰ Even junior officers might decide which offenses to report to their superiors and which to overlook: Captain John Peebles of the Forty-second Foot allowed his men some latitude when it came to stealing root vegetables and garden produce;⁶¹ Captain Patrick Ferguson of the Seventieth drew the line at poultry and pigs.⁶² Company officers might also provide character references for offenders brought before courts-martial or plead mitigating circumstances to reduce their punishment. At a general court-martial held in Boston in December 1775, Captain William Foster of the Marines testified that a soldier in his company accused of stealing wine "was one of the last men he should have suspected to have been guilty of theft."⁶³

Discretion, some scholars argue in relation to the workings of the eighteenth-century English penal system, was merely a tool used to reinforce authority, a "soft" accompaniment to the "hard" approach of the extensive use of the capital penalty.⁶⁴ If we apply this view to the army and its punishment regime, we might

⁵⁸ See, e.g., William L. Clements Library, Sir Henry Clinton Papers, Order of August 15, 1780.

⁵⁹ For an insight into the scope provided by lesser courts-martial, see TNA, War Office Papers, WO 72/8, Stephen Payne Adye (deputy judge advocate in America) to Charles Gould (the judge-advocate general), May 20, 1778.

⁶⁰ Royal Artillery Institution, Royal Artillery Brigade Orders, 1777–78, MS 57, pp. 102, 140, 159–60, 184, 185, 190, 199.

⁶¹ Ira D. Gruber, ed., *John Peebles' American War: The Diary of a Scottish Grenadier, 1776–1782* (Mechanicsburg, PA, 1998), 481.

⁶² William L. Clements Library, Clinton Papers, Ferguson's report, November, 1779.

⁶³ TNA, War Office Papers, WO 71/82, p. 231.

⁶⁴ Douglas Hay, "Property, Authority, and the Criminal Law," in Douglas Hay, Peter Linebaugh, John J. Rule, E. P. Thompson, and Cal Winslow, *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (Harmondsworth, 1977), 17–63. Hay's argument, it should be said, set off a lively debate: see, e.g., John Langbein, "Albion's Fatal Flaws," *Past & Present*, no. 98 (1983): 96–120; Peter King, "Decision-Makers and Decision-Making in the English Criminal Law, 1750–1800," *Historical Journal* 27 (1984): 27–54; Peter Linebaugh, "(Marxist) Social History and (Conservative) Legal History: A Reply to Professor Langbein," *New York University Law Review* 60 (1985): 212–43. Peter King returns to the issue in his *Crime, Justice, and Discretion in England, 1740–1820* (Oxford, 2000).

see discretionary activity—whatever form it took—as doing little more than marginally tempering the violence of an essentially coercive system of control, and at the same time strengthening its terrorizing impact by enhancing the impression that the officer had the final say over the soldier’s fate. But, on the basis of the evidence available, we could just as easily argue that officers’ use of discretion reflected their realization that terror alone could not induce their men to follow orders. Officers felt the need to cultivate their soldiers’ loyalty and affection; discretion might even be conceived as a form of persuasion.

We can see paternalism in the same way. It no doubt reinforced officers’ authority by making soldiers grateful, but it also suggests that officers recognized that their men had to be won over; their obedience could not be taken for granted. To encourage the troops, and to show them that the army’s leaders cared, general officers ordered rewards to be given to the common soldiers at particular moments. Earl Cornwallis seems to have been especially committed to this approach. In the spring and summer of 1781, he decided that his troops in North Carolina and Virginia should be given extra allowances of rum on numerous occasions.⁶⁵ Different sources reveal that regimental officers offered financial assistance when their men were in distress. A surviving notebook of Lieutenant-Colonel Sir John Wrottesley of the Guards suggests that he lent impecunious soldiers money during the Pennsylvania campaign of 1777.⁶⁶ Ensign Daniel Gwynne of the Ninth Foot wrote home to arrange for his sergeant’s pay to be transmitted to a needy relative (“The poor Man had no way of sending it to her but by applying to me,” Gwynne told his father on June 11, 1778).⁶⁷ The journal of Captain Charles Napier of the Eightieth Foot shows that he decided to make financial provision for the widow and two children of one of his company sergeants who had died on the voyage from Scotland to New York in August 1779.⁶⁸ In each of these cases, we can view the officers’ actions teleologically, as having the likely result of increasing their hold over the rank and file, but we should also recognize that for the officers themselves the spur might well have been a sense that they had to demonstrate a commitment to their men if they were to expect their men to show a commitment to them.

British officers reasoned with their soldiers on many occasions. Orders appealed to the soldier’s self-interest as often as they threatened dire retribution for disobedience. In March 1777, Howe informed the troops under his command that “Several Lots of Ground being now inclos’d in Order to supply the Army . . . with

⁶⁵ William L. Clements Library, Order-book, Cornwallis’s forces, April 23, May 14, 19, 20, 23, 30, 1781; Library of Congress, British Order-book, Virginia, June 4, 1781; Boston Public Library, Boston, Massachusetts, MS qAm 1995, Order-book of Capt. John Hawthorn, Eightieth Foot, July 4, 1781.

⁶⁶ Historical Society of Pennsylvania, Philadelphia, Sir John Wrottesley’s Notebook.

⁶⁷ Clwyd Archives, Haverfordwest, Gwynne Letters, D/CT/271.

⁶⁸ BL, Napier Family Papers, Add. MS 49,092, fol. 38.

Greens and Vegetables of all Kinds,” he would therefore punish any soldiers “guilty of breaking down any Fence or Inclosure.”⁶⁹ Soldiers often took down fences and other wooden structures to use for fuel; Howe was explaining that the removal of fences could have adverse effects on the soldiers’ food supplies. Brigade orders for the British troops campaigning in Virginia in 1781 similarly treated soldiers as rational beings, capable of responding to appeals to their self-interest as well as to fear. On June 1, the commander of the brigade ordered his men not to “destroy the Bolting Cloths or any thing belonging to the Milns in the Country, as it is of great importance to the Army having them fit for use.” The next day’s orders revealed that the appeal had not worked, but at the same time that officers continued to rely on the soldier’s sense of his own interests to secure compliance. “The reason the Troops can only be supplied with Indian meal instead of Flour is owing to some Soldiers having cut the Boulting Cloth at Prices Mill.” This explanation was followed by a threat of punishment for anyone “detected in cutting or spoiling any thing belonging to a Mill”—but the incentive for good behavior was increased by promising that the offender’s unit would “receive Indian Meal or Flour with the Bean in it for the next Fortnight.”⁷⁰

In this last example we see an appeal to self-interest supplemented by an appeal to unit solidarity—disobedience would disadvantage not just the individual involved but all of his comrades, too. Officers often proceeded on the assumption that regimental pride could be used to secure good behavior. An officer of the Forty-seventh Foot, when it was camped at Fort Edward, New York, during Burgoyne’s descent from Quebec, told his troops that two “hardened and atrocious wretches,” who had robbed and threatened an inhabitant, were now in custody—“a Circumstance which he doubts not, will give the highest satisfaction to all the men; who he is sensible, felt equally with himself, the insult that had been offered them, and the Ignominy which was stamped upon the Corps.”⁷¹ As the army marched across New Jersey, in the summer of 1778, the commander of another unit attempted a similar appeal to group pride: as “No Regiment having been formerly more Conspicuous for its Discipline than the Royal Fusiliers,” the lieutenant-colonel described himself as “Mortified at Observing the great Irregularity and Excesses that have been Committed within these few days.”⁷²

Officers also played on their men’s sense of soldierly honor without referring to their regiment or corps. When Howe’s troops were about to land on Staten Island in the summer of 1776, the general appealed to his soldiers’ “Superior Discipline” as

⁶⁹ New York State Library, Albany, MS 6744, Order-book, Howe’s army, March 16, 1777.

⁷⁰ Library of Congress, British Order-book, Virginia, June 1 and 2, 1781.

⁷¹ William L. Clements Library, Forty-seventh Foot Order-book (typescript copy), August 7, 1777.

⁷² Historical Society of Pennsylvania, Seventh Foot Order-book, June 21, 1778.

he tried to persuade them not to ill-treat the local inhabitants.⁷³ The next year, troops of the Forty-seventh Foot were upbraided following a drunken brawl with German auxiliaries. Their officer conveyed the impression that the most shocking aspect of their indiscipline was that “one of the greatest principals of military Order was so far forgot by some British Soldiers that a Guard was insulted.”⁷⁴ Cornwallis, for his part, spared no rhetorical effort to persuade his troops in North Carolina that without their help in detecting plunderers, “the Blood of the Brave & Deserving Soldiers will be Shed in vain, & it will not be even in the power of Victory to give Success.”⁷⁵

During the War of Independence, officers often appealed to their troops by referring to the need to win over the people, or to protect loyal inhabitants who had already suffered at the hands of the rebels. The soldiers, in other words, were treated as though they understood that this was a struggle for American allegiances and not just a conventional conflict between two armies. Before the main British army sailed from Halifax to New York to begin the 1776 campaign, Howe reminded his men that they were wrong if they imagined that “the Crime of stealing is lessened” if the property they took belonged to “persons ill affected to Government.” Rather than just requiring obedience, he explained why the troops should follow his order: pillaging not only eroded the army’s discipline but also risked losing “the affection of the people.”⁷⁶ When, later the same month, his soldiers arrived in New York harbor and were preparing to land, Howe also stressed the politics of the war, though this time he justified restraint on the grounds that the people were friendly. “As the Inhabitants of the Country are known to be well affected to Government & have suffer’d great depredations from the rebels,” Howe “recommends” that the troops offer “protection [to] the Familys & properties of the people of the Country.”⁷⁷ Lieutenant-Colonel Archibald Campbell issued similar orders to the soldiers under his command as they prepared to land in Georgia in late December 1778. He reminded the troops that the purpose of their expedition was “the Relief and Protection of His Majesty’s Loyal Inhabitants . . . who have long withstood the Savage Oppression of Congress.”⁷⁸

Campbell, as we can see, assumed that his men were familiar with the political dimension of the war and aware of the peculiar nature of the conflict. He was not

⁷³ William L. Clements Library, Order-book of the forces under Howe, June 29, 1776.

⁷⁴ William L. Clements Library, Forty-seventh Foot Order-book (typescript copy), July 18, 1777.

⁷⁵ A. R. Newsome, ed., “A British Orderly Book, 1780–1781,” *North Carolina Historical Review* 9 (1932): 296.

⁷⁶ National Army Museum, 5904/175, Fourteenth Foot Order-book, June 7, 1776.

⁷⁷ William L. Clements Library, Order-book of the forces under Howe, June 29, 1776.

⁷⁸ Isle of Cana, Campbell of Inverneil Papers, “General Orders on Board the Phoenix Man of War. 22d. December 1778,” Campbell’s Journal of an Expedition against the Rebels of Georgia, p. 20.

alone. British officers—just like their American Continental army counterparts—made direct appeals to the cause for which their troops were fighting. Perhaps we might interpret such appeals as attempts to inspire soldiers to extra effort rather than to persuade them to obey. But in practice the two are difficult—perhaps impossible—to disentangle. While we have little or no direct testimony to help us to understand officers' thinking, it seems reasonable to suppose that they believed that inspiration encouraged soldiers to follow orders that the uninspired might question, or even refuse to accept. Inspiration, in other words, could be a form of persuasion, which officers used because they recognized that they could not be sure of the soldiers' obedience.

The soldier's patriotism was often invoked. Cornwallis flattered his troops by referring to his having "seen so many proofs of their Zeal for the Service of their Country."⁷⁹ A short while later, to deter soldiers from "Stragling out of Camp in search of Whiskey," he appealed to them as individuals, claiming that each soldier possessed "so much Honor & publick Spirit" that "at a time when Britain has so many Enemies And his Country has so much Occasion for his Services," he would "not run the hazard" of being captured by the enemy.⁸⁰ British officers also referred in more philosophical terms to the cause for which the army was fighting. Lieutenant-Colonel Campbell, as part of his attempt to persuade his troops not to misbehave when they landed in Georgia, referred to his own pride at leading "such gallant Troops, . . . employed on a service so essential to his Country, by which the Rights of Britons may be secured, legal Government established, and the Insolence of usurped Authority annihilated."⁸¹

III

British officers and rank-and-file soldiers turn out, then, to have had much more in common with their American counterparts than many contemporary and historical accounts allow. But it was not just Americans who exaggerated—and in many cases, still exaggerate—the distinctiveness of their military. Britons were (and are) no less inclined to identify their army as different from others. The point of comparison in their case was continental Europe, and particularly the German states, where soldiers were thought to be poor benighted creatures, reduced to a robotic obedience by the most brutal discipline—an image remarkably similar to the one beloved by Americans describing the British army.⁸²

⁷⁹ Newsome, "A British Orderly Book," 296.

⁸⁰ William L. Clements Library, Order-book of Cornwallis's forces, February 22, 1781.

⁸¹ Isle of Cana, Campbell of Inverneil Papers, "General Orders on Board the Phoenix Man of War. 22d. December 1778," Campbell's Journal, p. 20.

⁸² For a modern and more wide-ranging comparison, see John Childs, "The Army and the State in Britain and Germany during the Eighteenth Century," in *Rethinking Leviathan: The Eighteenth-Century State in Britain and Germany*, ed. John Brewer and Eckhart Hellmuth (Oxford, 1999), 53–70.

In June 1743, Lord De La Warr, an officer in the British army then campaigning in western Germany, related an encounter with Prussian troops who were garrisoning the Rhineland outpost of Wesel. "In this Town," he wrote portentously to Lord Cowper, "we first Saw Prussian discipline." The soldiers, he went on to explain, were treated like "so many Slaves and Prisoners."⁸³ His implication, of course, was that his own men were not. Britons observing the harsh punishment regime of the German auxiliaries who fought alongside their own army in the War of Independence also gave the impression that these methods were quite different from the ones pursued in the British military. An English traveler, after having witnessed Hessian discipline for the first time, in the bloody form of running the gauntlet inflicted on an unfortunate corporal, denounced the auxiliaries as "a set of cruel unfeeling people."⁸⁴

Some German sources themselves seem to corroborate the picture painted by British commentators. The journal of a Hessian sergeant records matter-of-factly that one soldier was sentenced by a court-martial "to run the gauntlet 18 times on 2 days through 200 men."⁸⁵ Another Hessian soldier related how conscripts who had planned to desert were betrayed and then punished by having "to run the gauntlet, from twelve to thirty-six times." The observer, recently conscripted himself, was clearly horrified by such brutality: "It was simple butchery," he wrote.⁸⁶ Frederick the Great of Prussia, the preeminent German commander of the age, recommended iron discipline to keep his troops in order. Any infraction had to be punished severely, Frederick pronounced, since the common soldiers "can be held in check only by fear."⁸⁷ German accounts, furthermore, suggest that the British troops were more resistant to this kind of treatment. Baroness von Riedesel, the wife of the senior Brunswick officer in North America during the War of Independence, noted in her journal that the British soldiers with whom the baron served were "proud and, as the common belief has it, difficult to keep in submission."⁸⁸

On the basis of such statements, we might be tempted to conclude that the military moral economy, contractual thinking, and negotiated authority were part of a distinctly Anglo-American political culture. Britons and Americans, after all, shared the same language of liberty, however much they might disagree in the

⁸³ Hertfordshire Archives and Local Studies, Hertford, Cowper Papers, D/EP F249, De La Warr to William Cowper, 2nd Earl Cowper, June 16, 1743.

⁸⁴ *The Journal of Nicholas Cresswell, 1774–1777* (London, 1925), 221.

⁸⁵ Thomas H. Edsall, ed. and trans., *The Journal of Lieutenant John Charles Philip von Krafft* (New York, 1968), 159.

⁸⁶ Margarete Woelfel, ed. and trans., "Memoirs of a Hessian Conscript: J. G. Seume's Reluctant Voyage to America," *William & Mary Quarterly*, 3rd ser., 5 (1948): 558.

⁸⁷ Jay Luvaas, ed. and trans., *Frederick the Great on the Art of War* (New York, 1966), 77.

⁸⁸ Marvin L. Brown Jr., ed. and trans., *Baroness von Riedesel and the American Revolution: Journal and Correspondence of a Tour of Duty, 1776–1783* (Chapel Hill, NC, 1965), 109.

revolutionary period about its meaning and implications. Both thought in terms of the rights of the “freeborn Englishman,” a body of entitlements derived from natural law but partially enshrined in such constitutional landmarks as Magna Charta (1215), the Petition of Right (1628), and the Bill of Rights (1689).⁸⁹ We might easily see the character of the British and American armies, then, as a product of the participatory and antiauthoritarian political dispensation that united, as well as ultimately divided, the transatlantic British nation.⁹⁰ If negotiated authority and contractual tendencies were more marked in the American military than in the British, we could regard this merely as a reflection of the more hierarchical and deferential nature of eighteenth-century Britain; but those tendencies were still discernible in the British army, which, like the American, was inevitably shaped by the rights-based society from which it emerged.

Yet replacing the notion of American military exceptionalism with a broader vision of Anglo-American distinctiveness will not do. German forces differed from the American and British in many respects, particularly in the way in which they were recruited, with a much heavier emphasis in German armies on conscription to fill the ranks, and a more aristocratically dominated officer class.⁹¹ In the view of some historians, furthermore, German soldiers came from a very different kind of society from their British and the American counterparts, one that was much more ordered and regimented.⁹² Even so, many of the attitudes and dynamics we can see in the American armed forces in bold and striking oil paints, and in the British army in more muted pastel tones, still appear in the German forces, albeit in the fainter hues of a watercolor.

Rank-and-file German auxiliary soldiers during the War of Independence seem to have conceived of a military moral economy as much as their British and

⁸⁹ For the seventeenth-century origins of the concept of “freeborn Englishmen,” see Rachel Foxley, “John Lilburne and the Citizenship of ‘Free-born Englishmen,’” *Historical Journal* 47 (2004): 849–74.

⁹⁰ For the rights of Britons, or, more often, of Englishmen, that featured so heavily in colonial protests against parliamentary taxation in the 1760s, see, e.g., Edmund S. Morgan, ed., *Prologue to Revolution: Sources and Documents on the Stamp Act Crisis, 1764–1766* (Chapel Hill, NC, 1959).

⁹¹ For conscription, see, e.g., Christopher Duffy, *The Military Experience in the Age of Reason* (London, 1987), 89–94; M. S. Anderson, *The War of the Austrian Succession, 1740–1748* (London, 1995), 29–35. See also Peter H. Wilson, “The Politics of Military Recruitment in Eighteenth-Century Germany,” *English Historical Review* 117 (2002): 536–68. For comparisons of the proportion of noble officers (which can be a little misleading, given that titles were bestowed more readily on the Continent than in the British Isles), see Christopher Storrs and H. M. Scott, “The Military Revolution and the European Nobility, c. 1600–1800,” *War in History* 3 (1996): 15–16.

⁹² Peter K. Taylor, *Indentured to Liberty: Peasant Life and the Hessian Military State, 1688–1815* (Ithaca, NY, 1994), esp. chap. 6. More generally, see Marc Raeff, *Well-Ordered Police State: Social and Institutional Change through Law in the Germanies and Russia, 1600–1800* (New Haven, CT, 1983).

American counterparts did, and, like British and American fighting men, they saw their service in contractual terms. Ansbach-Bayreuth troops displayed a keen sense of their entitlements when they mutinied over what they perceived as unfair treatment by their officers while the unit was in captivity in Maryland after the surrender at Yorktown. While the background to the Ansbachers' resistance is unclear, the diary of one of the troops suggests that a dispute over pay was a factor. On this occasion, as all those involved were prisoners of war, we might reasonably conclude that the officers were in a less powerful position than normal, as their command over their men had already been undermined. Yet the same diarist recorded an Ansbach-Bayreuth soldier's speaking out about a grievance regarding his pay some years before.⁹³ A different source reveals that the Ansbach grenadiers collectively complained in 1777 when they were not paid what they felt was their fair share of "the [prize] Money distributed amongst the Troops that were employed in the Jerseys."⁹⁴

We also know that Ansbach troops displayed a propensity to desert if required to work on fortifying positions; the soldiers in question appear to have regarded such labor as a breach of the military contract.⁹⁵ A German noncommissioned officer noticed a similar reluctance—among the Hessians rather than the Ansbachers—to stay with the colors if regular rations were not forthcoming. The Hessian *Jägers*, according to his account, "deserted in large numbers" when they had to endure short rations ("scarcely 5 lbs of bread in 7 days and 2 days rice instead of bread") in November 1778. The same noncommissioned officer commented the following month that the problem would become much more widespread if supplies remained below the standard that the soldiers expected: "if bread should fail for a few days more, a general desertion would be inevitable."⁹⁶

British commentators in the same war, despite the tendency of some of them to trumpet the difference between their own men and the Hessians, also acknowledged that German soldiers thought and acted in accord with their understanding of military service as contractual. In the autumn of 1775, the British government negotiated with Lieutenant-Colonel Georg von Scheither, a Hanoverian officer, who offered to raise a contingent of troops in Germany for British service. Scheither initially hoped to recruit a military unit that he himself would command (as he had done in the Seven Years' War) and began to enlist soldiers on that basis. He soon discovered, however, that Lord North's government wanted to incorporate his soldiers into existing (and understrength) British regiments. An official either

⁹³ Johan Conrad Döhla, *A Hessian Diary of the American Revolution*, ed. and trans. Bruce E. Burgoyne (Norman, OK, 1990), 112, 202.

⁹⁴ William L. Clements Library, Clinton Papers, Charles Cathcart to Clinton, November 5, 1777.

⁹⁵ Joseph G. Rosengarten, ed. and trans., "Popp's Journal, 1777–1783," *Pennsylvania Magazine of History and Biography* 26 (1902): 31–2.

⁹⁶ Edsall, *Journal of Lieutenant John Charles Philip von Krafft*, 70, 76.

at the War Office or the Treasury, commenting on Scheither's scheme, sensibly warned that changing the conditions on which the men were recruited ran the risk of encouraging desertion. While he offered no explanation, we can surmise that he reckoned that Scheither's troops would feel that they had been enlisted to serve alongside fellow German recruits, but that they were now to be dispersed and placed in British regiments where they would be isolated from their comrades. The same author went on to argue that all Scheither's recruits must be clearly informed about deductions from their pay when they enlisted; otherwise they were bound to feel aggrieved and were likely to desert.⁹⁷ Captain John Bowater of the British Marines, a far from sympathetic observer of Hessian ways, also recognized that German soldiers, as much as the British rank and file, had a keen sense of entitlement based on a contractual attitude to their military service. Bowater claimed in the late spring of 1777 that the Hessian auxiliary troops were cheated of half their pay by their prince, who pocketed the money for himself. Unsurprisingly, the German soldiers were "exceedingly dissatisfy'd at this, so that to make it up they turn their whole thoughts upon plunder."⁹⁸

Other testimony suggests different reasons for Hessian pillaging in the first months of their campaigning in America, but it again highlights the German soldiers' willingness to express their dissatisfaction when their settled expectations were not met. In the view of Richard Lorentz, the Hessian paymaster general, and Sir George Osborn, the British lieutenant-colonel who acted as Hessian muster-master, the auxiliaries initially believed that they had been paid differently from their British counterparts and protested at unaccustomed deductions from their pay for food. As Lorentz put it in his faltering English: "The Troops not customed to the loss of A Farthing on her Subsistance Money by Changing them maked great difficulty."⁹⁹ Osborn, in a more polished manner, said much the same in his examination before the House of Commons in May 1779: "At first they complained that any deduction should be made from their pay for provisions." Only when they discovered that they were regularly supplied, Osborn went on, did the Hessian soldiers accept the stoppages.¹⁰⁰

In the German units, as in the British and American ones, officers recognized the need to respect rank-and-file sensitivities. Captain Georg Pausch of the

⁹⁷ TNA, Treasury Papers, T 1/514, fols. 130–1, "Remarks on Lieutenant Colonel S[c]heither's Plan for raising Men in Germany for the service of Great Britain." For more on Scheither and his recruits, see the documents assembled in *ibid.*, War Office Papers, WO 43/405. I am grateful to Dr. Mark Wishon for showing me his copies of further material in Scheither's family papers in Hanover's Hauptstaatsarchiv, Hannover 47 II Nr 114.

⁹⁸ Bowater to Denbigh, May 22, 1777, in Balderstone and Syrett, *Lost War*, 126.

⁹⁹ TNA, British Army Headquarters (Carleton or Dorchester) Papers, PRO 30/55/3, 255(1), Richard Lorentz to Frederick Mackenzie, August 24, 1776.

¹⁰⁰ *The Parliamentary Register; Or History of the Proceedings and Debates of the House of Commons*, xiii (London, 1779), 98.

Hessen-Hannau artillery clearly disapproved of the way in which Lieutenant-Colonel Schiether's unfortunate troops were treated, describing them in his journal as "quite poorly maintained" and going on to note that "their complaints are astonishing." The context suggests that Pausch blamed the officers for this situation, not the common soldiers for protesting.¹⁰¹ Major Carl von Baurmeister, the adjutant-general of the Hessian forces, was no less critical of the way in which Scheither's recruits had been deceived and let down, writing that they had been enlisted on a false basis and were therefore "low-spirited." Baurmeister's letters and journals provide further evidence that German officers showed a keen awareness of their soldiers' sense of what was right and proper. In September 1776, Baurmeister reported back to the military authorities in Hessen-Kassel that when Howe ordered German auxiliaries to help demolish the recently captured Brooklyn lines on Long Island, General Leopold von Heister, the Hessian commander-in-chief, "pointed out that the troops could not be expected to do this work, which would take four weeks, without remuneration." Heister appreciated that his men's obedience could not be taken for granted: just as payment for extra work was a sensitive issue for British soldiers, so it was for the Hessian rank and file. Another episode recorded by Baurmeister relates to food shortages in the New York garrison in January 1779. Baurmeister commented that "the common soldiers, accustomed to getting their provisions regularly and unable to procure anything extra, were virtually at the end of their patience." As a result, he continued, desertions had increased, despite the "greatest watchfulness" by the Hessian officers.¹⁰²

German commanders, like their British counterparts, knew that they had to treat their men as thinking beings whose loyalty could not be guaranteed if the army disappointed their expectations. Colonel Johann August von Loos demonstrated a keen awareness of the need to show that he understood the soldiers' concerns while on the voyage to North America. On the very day when he recorded that the most attractive parts of the food supplies on board—mutton and dried asparagus—had run out, Loos used the tactic of publicly articulating his soldiers' discontent about their pay to show them that he was on their side. As the vessel in which he was sailing came alongside Admiral Lord Howe's flagship, Loos, recognizing that the Hessian paymaster was on board, used a megaphone to threaten Lorentz with dire consequences if the troops did not receive the money due to them. According to Loos, the soldiers, on hearing the colonel berating the unfortunate paymaster, shouted their support for their commanders' words.¹⁰³

¹⁰¹ Bruce E. Burgoyne, ed. and trans., *Georg Pausch's Journal and Reports of the Campaign in America* (Bowie, MD, 1996), 16.

¹⁰² Bernhard A. Uhlendorf, ed., *Revolution in America: Confidential Letters and Journals 1776–1784 of Adjutant General Major Baurmeister of the Hessian Forces* (New Brunswick, NJ, 1957), 59, 46, 248.

¹⁰³ Valentine C. Hubbs, ed. and trans., *Hessian Journals: Unpublished Documents of the American Revolution* (Columbia, SC, 1981), 28.

Loos, in other words, appears to have successfully deflected any criticism—about food or pay—from himself and his fellow officers and successfully focused it on Lorentz, an outsider to both Loos's regiment and the Hessian army.

We also know that once they arrived in America, Hessian officers allowed their men some degree of latitude when it came to stealing food from the local inhabitants. According to one account, written while its German author was a non-commissioned officer, when the soldiers in America were on short rations, officers tended to overlook the theft of cattle, poultry, and pigs. Complaints from aggrieved farmers elicited a decidedly lukewarm response from officers who appreciated that their men felt entitled to secure their own supplies when the army failed to provide them: the thefts, in the nicely chosen words of this Hessian journal, were “not very closely investigated by the staff and other officers.”¹⁰⁴ The testimony of German officers themselves supports the claim. Captain Johann Ewald of the Hessian *Jägers*, normally a stickler for discipline, turned a blind eye to his soldiers' taking “chickens, geese, and pigs” while they were encamped near New Rochelle, New York, in October 1776.¹⁰⁵ Latitude, as we have seen, could be a tool to reinforce the officer's authority; he chose what to condone and what to punish, thus creating a sense of his power, and gratitude at its not being used, among those he commanded. But latitude might also reflect the officer's recognition that too absolute an approach would be counterproductive; unless he showed some willingness to compromise, to recognize the soldiers' viewpoint, his men would think him unreasonable and would be less inclined to obey orders against more serious forms of plundering.

IV

Eighteenth-century Americans assumed that their own military was quite different from the British army that they fought alongside in the Seven Years' War and fought against in the War of Independence. Many American historians have worked on the same assumption. Eighteenth-century Britons, for their part, also liked to trumpet the uniqueness of their own army and contrast it with those of other European powers, especially the German states; indeed, they readily associated the British army with many of the libertarian tendencies that Americans have seen as the hallmark of their own fighting forces. British military historians, rather than exploring the situation in other militaries, have tended to accept eighteenth-century claims that the British army was very different from German armies.

¹⁰⁴ Edsall, *Journal of Lieutenant John Charles Philip von Krafft*, 60.

¹⁰⁵ Joseph P. Tustin, ed. and trans., *Diary of the American War: A Hessian Journal: Captain Johann Ewald Field Jäger Corps* (New Haven, CT, 1979), 8.

The contrast, both between Americans and Britons and between Britons and Germans, was overdrawn in the eighteenth century, and to a striking extent it continues to be overdrawn now. To say this is not to attempt to deny that differences existed between armies, even in the ways in which the military moral economy and contract were conceived and in which negotiated authority operated. But those differences were usually ones of degree, not of principle. Rather than thinking of contrasts and distinctiveness—of American or British military exceptionalism—we should recognize that common soldiers, European as well as American, conceived of a customary framework of rights and obligations and saw their service in contractual terms, while their officers recognized that their own power was far from absolute.