"[AMERICA] MAY BE CONQUERED WITH MORE EASE THAN GOVERNED": THE EVOLUTION OF BRITISH OCCUPATION POLICY DURING THE AMERICAN REVOLUTION

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ABSTRACT

John D. Roche: "[America] may be conquered with more Ease than governed": The Evolution of British Occupation Policy during the American Revolution
(Under the Direction of Wayne E. Lee)

The Military Enlightenment had a profound influence upon the British army's strategic culture regarding military occupation policy. The pan-European military treatises most popular with British officers during the eighteenth century encouraged them to use a carrot-and-stick approach when governing conquered or rebellious populations. To implement this policy European armies created the position of commandant. The treatises also transmitted a spectrum of violence to the British officers for understanding civil discord. The spectrum ran from simple riot, to insurrection, followed by rebellion, and culminated in civil war. Out of legal concerns and their own notions of honor, British officers refused to employ military force on their own initiative against British subjects until the mob crossed the threshold into open rebellion. However, once the people rebelled the British army sought decisive battle, unhindered by legal interference, to rapidly crush the rebellion. The British army's bifurcated strategic culture for suppressing civil violence, coupled with its practical experiences from the Jacobite Rebellion of 1715 to the Regulator Movement in 1771, inculcated an overwhelming preference for martial law during military campaigns.

The British army's beliefs about occupation policy changed slowly during the American Revolution. General Thomas Gage initially hoped a military show of force would awe the American colonists into submission. This approach failed in Boston between 1768 and 1770 due to legal restraints. The creation of a garrison government by appointing Gage

as the governor-general in 1774 only prompted escalation, ultimately resulting in both civil war and martial law in June 1775. When the British captured New York City in 1776 they did not reconstitute civil government because of their belief in imminent victory. However, by 1777 Sir William Howe realized that Commandant James Robertson could not administer the entire city on his own and implemented hybrid civil-military organizations such as the Court of Police and the Superintendent of Imports and Exports to enhance order. The British replicated these bureaucracies in every other city they occupied. By 1779, Commandant James Pattison and Superintendent Andrew Elliot sought to use effective governance as a war-winning weapon in the battle for the colonists' hearts and minds.

To my wonderful family: Daddy's big book report is finally done!

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One of the greatest challenges of the historical discipline is having the time and financial support required to conduct the necessary archival research to make an original contribution to the field. Without a doubt, I owe Colonel Mark K. Wells of the United States Air Force Academy's Department of History a tremendous debt of gratitude for sponsoring my Ph.D. Considering that the Air Force made me a fulltime student for three years and that it still took me six and a half years to complete my degree it is inconceivable that I could have done this on my own while serving on active duty any other way. I am also extremely grateful to the David Library of the American Revolution for their fellowship sponsorship. Not only is the David an incredible one-stop-shop for microfilmed archival material from around the globe relating to the American Revolutionary period, but their dedicated and knowledgeable staff – especially Meg McSweeney and Katherine Ludwig – made my two months of research there astoundingly productive and delightful as we

The historical community at large also played a significant role in flushing out my ideas by permitting me to present early drafts of my chapters at various conferences. The Society for Military History gave me an opportunity to present at its 79th annual conference. Holly Mayer provided insightful remarks as my commentator, and Andrew Jackson O'Shaughnessy shared his manuscript on British officers during the American Revolution with me. In October of 2012 the Urban History Association included me in its sixth biennial conference during which Barnet Schecter, Rohit Aggarwala, and Benjamin Carp all provided invaluable feedback as well as additional avenues to explore for my research. Due to the special relationship between the history departments at the University of North Carolina, Chapel Hill and King's College London (KCL) I had the opportunity to present at KCL. Not only was I honored to have David Bell comment on my conference paper, but the trip to London enabled me to spend two weeks conducting research in the National Archives at Kew. I would like to thank Emily Merrill for including me on an all- graduate-student panel during the 2014 Organization of American Historians annual conference. Caroline Cox and Jessica Choppin Roney's feedback on my paper was particularly helpful for bridging the intellectual frameworks with the practical activities of the British when dealing with civil violence. Last, but not least, I was privileged to have Jack Greene comment on my chapter dealing with the transition to martial law in Boston during the Agora Institute's October 2015 conference examining whether or not the American Revolution was a just war.

TABLE OF CONTENTS

Introduction ……..ix

Chapter 1: "Harmony between the Gown and the Sword": The Evolution of Military Commandants and Occupation Policy, 1647 – 1777 ……1

Chapter 2: British Officers' Perspectives of Proper Military Force along the Spectrum of Violence ……...……..48

Chapter 3: The British Army's Prerevolutionary Responses to Civilian Violence ……70

Chapter 4: "Whether we are or are not a proper garrison town": The Occupation of Boston, 1768 – 1770……..120

Chapter 5: "No Law can be in force where there is a civil War": The British Army's Governance of Boston, 1774-1776 ……...154

Chapter 6: "From the success that had attended the British army, very beneficial consequences were expected to result": The New York Campaign, 1776 – 1777 ……...185

Chapter 7: "And it is most devoutly to be wished that the Continent may follow the Example of this City": The Evolution of British Occupation Policy in New York City, 1777 – 1780 219

Conclusion ……252

Bibliography……..261

Introduction

This study examines the influence of the Military Enlightenment upon the British army's strategic culture during the eighteenth century regarding the proper response to civil disturbances and the governance of populations living within occupied cities.[1] It does this in two ways. First, it examines the pan-European intellectual currents transmitted by the seventeenth- and eighteenth-century military treatises most popular with British officers by building upon Ira Gruber's study of the books officers owned and read.[2] Second, it analyzes the British army's experiences with suppressing rebellions between 1715 and 1780. These intellectual and practical influences shaped the army's responses towards the American colonists during the American Revolution.[3] This study is also heavily indebted to John Lynn's cultural model of warfare which Lawrence Freedman succinctly summarized as "an

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[1]John A. Lynn, *Battle : A History of Combat and Culture* (Boulder, Colo.: Westview Press, 2003), xix-xxi, 125-127, 359-369; Wayne E. Lee, "Warfare and Culture," in *Warfare and Culture in World History*, ed. Wayne E. Lee (New York: New York University Press, 2011), 1-12. Lee defines cultures as "'habitual practices, default programs, hidden assumptions and unreflected cognitive frames' that inform their [any group of humans living or working together over time] choices, or indeed they will have created 'a repertoire or 'tool kit' of habits, skills, and styles from which people construct 'strategies of action.' Crucially, if the community persists, it will then transmit that repertoire to the next generation 'through teaching, imitation, and other forms of social transmission.' Finally, such transmission occurs not merely through words but also through symbols and actions." Lee also identifies five overlapping types of culture related to military organizations: societal (subset of parent society), strategic (how the military or its political masters approach the challenge of winning), organizational (the military's bureaucratic and operational preferences), military (the attitudes of the military elite), and soldiers (the beliefs of the common soldier).

[2]Ira D. Gruber, *Books and the British Army in the Age of the American Revolution* (Chapel Hill: University of North Carolina Press; Copublished with the Society of the Cincinnati, 2010).

[3]When I use the term "American Revolution" I am not merely referring to the American War of Independence from 1775 – 1783, or "American Rebellion" as my subjects saw it, but rather the sociopolitical phenomenon from 1754 – 1820 that created a new American identity, won the nation's independence, secured it with a strong central government, and resulted in an unprecedented degree of social equality for landowning, white men.

interaction between an idealized discourse of war and the realities of combat, mediated through political and social structures and prevailing patterns of thought."[4]

The central research question this study seeks to answer is "What role, if any, did the British army play in governing the American colonists who lived in British-occupied territory during the American Revolution?" I freely confess my research question came from present concerns about the United States' difficulties after capturing Baghdad on April 9, 2003. Despite the brilliant three-week campaign of "shock and awe" which eviscerated the Iraqi military and led to the overthrow of Saddam Hussein's regime, an incipient insurgency soon to be followed by a civil war engulfed the country. Speaking with some of my U.S. Army colleagues I was shocked to learn that when the armored "Thunder Runs" captured the heart of Bagdad the crews radioed back to the division for guidance and the response was an unbelievable "There is no plan." As an eighteen-year Air Force veteran who is a staff officer by trade, I was flabbergasted to hear the Army say it had no plan since I have firsthand experience with war planning and know that the Joint Forces Commander (JFC) has his staff plan for nearly every conceivable contingency using sequels and branches to capitalize on success or overcome setbacks.

Strictly speaking, of course, the United States did have a plan, but the State Department wrote it, so the Pentagon initially rejected its sage advice.[5] I had the privilege to work at U.S. Central Command (USCENTCOM) from September 2006 through January 2007 and saw the genesis of "the surge." During that time I read the Army and Marine

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[4]Lawrence D. Freedman, "Battle: A History of Combat and Culture from Ancient Greece to Modern America," *Foreign Affairs* 82, no. 6 (2003).

[5]Eric Schmitt and Joel Brinkley, "The Struggle for Iraq: Planning; State Dept. Study Foresaw Trouble Now Plaguing Iraq," *The New York Times*, October 19, 2003.

Corps' newly-released joint Army Field Manual 3-24 and Marine Corps Warfighting Publication 3-33.5 entitled *Counterinsurgency* which placed a dramatic new emphasis on stability operations in the wake of major combat operations. While defeating Iraq's fielded military forces was our primary concern in 2003, by 2007 the U.S. realized it needed to win the peace as well and providing governance for the local population was an essential task in that process.[6]

Given my longstanding interest in the American War of Independence I immediately began to wonder how the British army governed the colonists who lived behind their lines during the war. The initial difficulty in trying to answer this question was finding a suitable location for my research. Throughout the war British forces won most of the battles and generally went wherever they chose, but the colonists' displays of loyalism upon the redcoats' arrival generally dissipated with their departure. In 1781, Commander-in-Chief (CINC) Lieutenant General Sir Henry Clinton wrote to Secretary of State for the Colonies Lord George Germain,

> if we have not their [colonists'] hearts – *which I fear cannot be expected in Virginia* – there is reason to believe on the first turn of fortune . . . they will revolt again . . . For my part I am convinced that, unless our friends join us heartily, though we may conquer, we shall never keep. How the experiment has failed in the Carolinas I cannot judge, nor dare I say it will not likewise in Pennsylvania. But that is now the only place on this continent left untried[7]

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[6]"Field Manual 3-24/Marine Corps Warfighting Publication 3-33.5 Counterinsurgency," ed. United States Department of the Army and United States Marine Corps Combat Development Command (Washington, D.C.: Headquarters, Dept. of the Army: Headquarters, Marine Corps Combat Development Command, Dept. of the Navy, Headquarters, U.S. Marine Corps, 2006). See pages 5-3 through 5-6 for a discussion of the need to reestablish governance in areas affected by insurgency.

[7]Henry Clinton to George Germain, Jun. 9, 1781, in Henry Clinton, *The American Rebellion: Sir Henry Clinton's Narrative of His Campaigns, 1775-1782, with an Appendix of Original Documents*, ed. William B. Willcox (New Haven: Yale University Press, 1954), 528-529. See also Andrew Jackson O'Shaughnessy, *The Men Who Lost America : British Leadership, the American Revolution, and the Fate of the Empire*, Lewis Walpole Series in Eighteenth-Century Culture and History (New Haven: Yale University Press, 2013), 220-221.

Although Clinton doubted the British army would find a large reservoir of Loyalists anywhere in the country at this late stage in the war, he was certain that those who did rally to the king would need on-going support from the British army to maintain their fidelity. Fortunately for me and this study, there were places in North America that experienced prolonged protection under British arms and became Loyalist strongholds during the war: coastal cities.

During the war the British army occupied the major port cites of Boston, New York, Newport, Philadelphia, Savannah, and Charleston in addition to numerous smaller inland towns. The problem with the major port cities was that most of them were not garrisoned for prolonged periods of time, and many experienced precarious security conditions while under royal authority due to sieges or amphibious assaults which prevented the reestablishment of civil governance. The Americans besieged Boston for eleven months, from April 19, 1775 until March 17, 1776, when William Howe evacuated his army to Halifax in preparation for the upcoming New York campaign. We will examine New York later, and remain with Sir William Howe for now. Forces under General Howe occupied Philadelphia on September 26, 1777, but his failure to support Lieutenant General John Burgoyne led to the loss of an entire army at the Battles of Saratoga and resulted in General Howe's recall. Sir Henry Clinton replaced Howe as the CINC and abandoned the city on June 18, 1778, in accordance with his orders. Despite the British army's frivolity within Philadelphia during that winter, garrisoning the city was significantly more difficult than expected due to the slowness of reducing Forts Mifflin and Mercer to open the Delaware River

for supplies, as well as Lieutenant General George Washington's audacious and nearly successful attack on Germantown.[8]

Generals Henry Clinton and Earl Percy captured Newport, Rhode Island on December 7, 1776, and the British held on to this vital port for nearly three years finally abandoning it under Clinton's orders in October 1779. Although the occupation of Newport was the British army's third longest during the war, the town's security was always dubious. On July 10, 1777, Major General Richard Prescott, who assumed overall command in Rhode Island when both Clinton and Percy left, was captured by Rhode Island militia Colonel William Barton, but eventually exchanged for Continental Major General Charles Lee. The following summer, from July 29 – August 31, 1778, Newport's new commander, Major General Robert Pigot, successfully defended the post against a combined Franco-American amphibious assault that outnumbered his defenders by nearly two to one, but only because Clinton and Admiral Richard Lord Howe mounted a rescue mission that drove off the French fleet and reinforced the garrison.[9]

George Germain had directed Henry Clinton to implement his "southern strategy" beginning in 1778, but the need to relieve Newport in the presence of the French fleet made such a move impossible until the next year.[10] On December 29,

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[8]John M. Coleman, "Joseph Galloway and the British Occupation of Philadelphia," *Pennsylvania History* 30, no. 3 (1963); John W. Jackson, *With the British Army in Philadelphia, 1777-1778* (San Rafael, Calif.: Presidio Press, 1979); Frederick Bernays Wiener, "The Military Occupation of Philadelphia in 1777-1778," *Proceedings of the American Philosophical Society* 111, no. 5 (1967); Stephen R. Taaffe, *The Philadelphia Campaign, 1777-1778*, Modern War Studies (Lawrence: University Press of Kansas, 2003).

[9]William Bradford Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence* (New York: Alfred A. Knopf, Inc., 1964), 243-259; Ira D. Gruber, *The Howe Brothers and the American Revolution* (Chapel Hill: The University of North Carolina Press, 1972), 304-324.

1778, a force of 3,500 British troops under the command of Lieutenant Colonel Archibald Campbell captured Savannah, Georgia. The British held the town until July 11, 1782, making it the second longest occupation during the war. Like Newport, however, British control received a severe test in the form of a Franco-American amphibious assault once again led by French Admiral Charles Hector Théodat, Comte d' Estaing. The allied force totaled 3,100 Americans and 4,500 Frenchmen who beseiged the Savannah garrison of 4,813 men for three weeks before launching their fateful assault on October 9, 1779 which failed miserably. Eleven days later, d'Estaing withdrew his forces and ended the siege.[11]

The other major southern port captured as a result of the "southern strategy" was Charleston, South Carolina. Clinton, eager to redeem his failure to take the city in 1776, personally led the siege of the town which began on April 1, 1780 and culminated in the capture of the nearly 6,000-man American garrison on May 12, 1780. This was the greatest American defeat of the war resulting in the loss of the entire army of the Southern Department as well as a vital port. Charleston remained in British hands for the next nineteen months until December 14, 1782 when the British evacuated it. Although the rebels eventually regained control of the

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[10]The "southern strategy" was George Germain's plan to capitalize on the supposedly overwhelming number of Loyalists who lived in the South to tip the balance in Britain's favor following France's entry into the war. When France entered the war in 1778 the colonial civil war transformed into a global imperial struggle. Britain redeployed a significant portion of its troops from North America to protect its possessions in the West Indies. Therefore, Sir Henry Clinton did not have enough forces to both win decisive victories against the Continental army and provide garrisons to secure his gains. Germain insisted that the southern Loyalists could be armed and trained to hold the territory conquered by the British army, thus freeing the regulars to continue their pursuit of the Continentals while reclaiming the South for Britain. For one of the most current discussions of the topic see David K. Wilson, *The Southern Strategy : Britain's Conquest of South Carolina and Georgia, 1775-1780* (Columbia, S.C.: University of South Carolina Press, 2005), 59-77.

[11]*Encyclopedia of the American Revolution : Library of Military History*, ed. Mark Mayo Boatner and Harold E. Selesky, 2 vols. (Detroit: Charles Scribner's Sons, 2006), 2:1035-1040.

countryside and harassed Charleston with raids, the city never experienced a serious threat to British control.[12] While the overall duration and security of Charleston's occupation made it a viable candidate for study, the reassertion of royal authority in that city so late in the war posed significant challenges to demonstrating change over time.

Therefore, this study examines a number of post-rebellion occupations by the British army from 1715 through 1771, as well as the army's action in Boston before and after the commencement of hostilities, but focuses on the experiences of the British army in New York City. The British occupied New York City for over seven years from September 15, 1776 through November 25, 1783. New York City is the perfect case study because it was both the longest and most securely held American city during the War of Independence.[13] The British army's initial counter-revolutionary efforts in New York between 1776 and 1777 relied upon decisively defeating the Continental Army. The Howe brothers' desire to reach a reconciliation with the colonists shaped the Howes' approach so that they alternated between offering negotiations and pardons with seeking decisive battles when many of the colonists rebuffed the diplomatic overtures. The British army initially implemented martial law in the territory they controlled and crafted occupation policies which

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[12]George Smith McCowen and South Carolina Tricentennial Commission., *The British Occupation of Charleston, 1780-82* (Columbia,: Published for the South Carolina Tricentennial Commission by the University of South Carolina Press, 1972), 1-12.

[13]New York experienced frequent assaults on its outposts, but none of those attacks – such as Staten Island, Powles Hook, Stony Point, or Verplanck's Point - ever threatened British control of the city. George Washington desperately wanted to conduct a Franco-American amphibious assault to retake the city, but only one weak attempt ever materialized in 1778 when D'Estaing's fleet sat outside of the lower harbor looking for an opportunity to strike before setting off to attack Newport.

promised to support military victory by minimizing civilian interference. After the French openly joined the war in 1778, the British radically altered their strategy. Instead of militarily defeating the Americans and then reestablishing government, the British sought to defeat the rebels by normalizing local government first. Their purpose was twofold: first, they sought a propaganda victory by ameliorating the civilians' hardships and demonstrating the benefits of imperial rule. Second, empowering the civilian population would improve cooperation and therefore increase the British army's ability to mobilize resources for the war effort. In short, this strategy was the cheaper one in the face of a newly world-wide war.

The garrison commandant, the British officer responsible for maintaining order within the city, played the lead role in this pacification effort. The British army's experience in New York City provided a rude awakening to royal officials who expected inhabitants in conquered areas to flock to the royal standard and reestablish prewar patterns of urban living. Instead, the British army and colonial officials learned a series of dearly-bought lessons which influenced the evolution of British occupation policy. Although wartime exigencies prevented the full restoration of civil government, successive commandants and their appointees created hybrid civil-military courts, regulated the economy, and provided for both the poor and refugees. Persuaded that these practices were working, the British army then employed the lessons learned regarding occupation in New York City to all of their subsequent conquests.

Chapter one delves into the pan-European military treatises from the 1600s and 1700s that were most popular with the British officers who fought the American

War of Independence. They demonstrate how the Military Enlightenment, an offshoot of the European Enlightenment, focused a great deal of attention upon the treatment of inhabitants within a garrisoned town. French military thought tended to dominate the discourse and established a carrot-and-stick approach to governing the local populace, while simultaneously developing the concept of a commandant which the British and Hessians both copied.

Chapter two explores how the British officers' favorite military treatises framed civil disturbances. The literature clearly demonstrated the belief in a spectrum of violence ranging from riot at the lowest level to civil war at the upper extremity. Equally important, the military treatises advised military commanders to tailor their responses to the specific level of violence that confronted them. This guidance dovetailed nicely with British concerns about sullying their honor by killing peasants or risking imprisonment for overzealous deeds trying to support the civil authorities.

Chapter three demonstrates the military treatises' influence on the British army's behavior during prerevolutionary precedents from the 1715 Jacobite Rebellion through the Battle of Alamance in 1771 which culminated the Regulator movement in North Carolina. The precedents show the British army's paradigmatic approach to rebellion involving decisive battle, pardons, and utilizing a scorched-earth approach against hard core resisters. It further elucidates the role of the legislature and the judiciary in pacification work that largely went unheeded by the army, and simultaneously shows the great restraint the army exercised for all civil disturbances short of rebellion. The reason for this restraint was the British officers' insistence

that riots and insurrection were something other than war, and the officers' "Refusal to Consider [them] as War" prompted the British army to confront them in an ad hoc fashion or not at all.[14]

Chapter four explores the tremendous restraint that CINC Thomas Gage employed in his efforts to support royal government in Boston during peacetime. The British ministry first tried to intimidate the colonists through "saturation policing" which flooded Boston with 1,200 soldiers. Unfortunately for the British ministry, General Gage was a strict constructionist when interpreting the rules for employing force or evaluating where the inhabitants' outbursts fell on the spectrum of violence which prevented the army from acting unless requested to do so by the civil authorities and then only following their express commands.

Chapter five investigates the ministry's attempt to impose garrison government in Massachusetts by making Thomas Gage the Governor-General of the colony with a mandate to enforce the Coercive Acts. This chapters also witnesses the transition of Boston from peacetime to wartime in the wake of the Battles of Lexington and Concord. Gage has been roundly criticized, both by contemporaries and historians, for his decisions during this period, but the circumstances he found himself in greatly circumscribed the viable options available to him.

Chapter six takes the reader through the 1776 New York campaign to demonstrate the hold the military treatises and earlier precedents had on Sir William Howe's decisions during those pivotal six months. This chapter also introduces

[14]Lynn, *Battle : A History of Combat and Culture*, 360-361.

Major General James Robertson who served as the Commandant of New York City twice, and later received an appointment as New York colony's royal governor.

Finally, chapter seven traces the evolution of British occupation policy in New York City from 1777 through 1780. Despite the continued belief in victory through decisive battle in 1777, William Howe began to realize that more had to be done to restore order within the city. He relied on Robertson as the commandant, but also began to experiment with hybrid civil-military government by creating positions for local Loyalists such as the Superintendent of Imports and Exports and the Board of Police which he would replicate in Philadelphia. Other commandants continued to expand these hybrid organizations to ensure civil governance under martial law, and the British army emulated these examples in all of their following occupations. As a matter of fact, when the British captured Charleston in 1780, it was the first time they had a formulated plan for exactly how they intended to govern the civil populace based on the lessons learned in New York City. It had taken the British army four years to come up with that plan, which struck me as profound since it also took the United States four years to develop its comprehensive occupation policy for Iraq.

Chapter 1 "Harmony between the Gown and the Sword": The Evolution of Military Commandants and Occupation Policy, 1647 - 1777[1]

"In fact, no State can be in Repose, repel Injuries, or defend their Laws, their Liberties, and their Religion, without Arms: Without them the Majesty of Kings would not be respected, and this would soon occasion Revolts and Commotions of their Subjects at home and War from abroad . . . Sovereigns having no other Tribunal but that of Arms to decide their Quarrels, Prudence requires they should always be prepared for War."
Prussian King Frederick II quoted in *Essay on the Art of War* (1761)[2]

Eighteenth-century British imperial administrators, especially army officers, acknowledged the supremacy of civil over military authority, but nevertheless insisted that effective civil government was inherently dependent on military might. English and British law both cemented the preeminence of civil authority throughout the empire, but the pan-European intellectual currents visible in the extensive military literature published between 1647 and 1777 demonstrated the *ancien régime* officer corps' belief that military force undergirded civil authority. Because armies often operated in lawless environments where there was no constituted civil authority, such as newly conquered territories or regions that were in rebellion, they had to fill the power vacuum and provide both functions. It is for this reason that this chapter will focus on the axiomatic principles regarding governance in the military literature of the time instead of delving into British law. The treatises British army officers most frequently read help to explain why the British Empire developed hybrid civil-

[1]Roger Boyle Earl of Orrery, *A Treatise of the Art of War [Electronic Resource] : Dedicated to the Kings Most Excellent Majesty*, Art of War. (In the Savoy: Printed by T.N. for Henry Herringman ... 1677), OCLC 12367435, 50.

[2]*Essay on the Art of War: In Which the General Principles of All the Operations of War in the Field Are Fully Explained. The Whole Collected from the Opinions of the Best Authors [Electronic Resource]*, (London: printed for A. Millar, in the Strand, 1761), ESTCT70387, 6-7.

military positions such as governors-general and commandants to provide colonial and municipal governance at the beginning of the American Revolution. That literature carefully delimits the respective responsibilities of governors-general and commandants as well as how they should interact with the civil populace. Although the bookends for this study are William Aylesbury's English translation of *The Historie of the Civill Warres of France* (1647) by Italian diplomat Enrico Davila, and British Major Robert Donkin's *Military Collections and Remarks* (1777), the historical precedents available to British officers reached back to antiquity, and many of those ancient works were published in various editions for a contemporary military audience during this period.

Since time immemorial military force has been necessary for establishing effective governance over newly conquered territory, protecting friendly cities during wartime, and enforcing governmental authority during civil disturbances. Florentine politician and philosopher Niccolò Machiavelli famously wrote, "The principal foundation that all states have . . . are good laws and good arms . . . because there cannot be good laws where there are not good arms, and where there are good arms there must be good laws."[3] Machiavelli, of course, was not insinuating that strong-armed military dictators were incapable of implementing detrimental laws. Instead, he was referring to the symbiotic relationship of the governmental authority derived from the enforceability of its laws. The ultimate guarantor of law enforcement is military power, whether relied upon simply as a deterrent or actually employed. On the other hand, the constant use of military force would undermine the legitimacy of that government which ultimately seeks the peaceful exercise of authority without violence (beyond that explicitly judicial and usually applied to individuals). Thus,

[3]Niccolò Machiavelli, *The Prince*, 2nd ed. (Chicago, Ill.: University of Chicago Press, 1998), 48. The first edition of *The Prince* appeared in 1532, five years after Machiavelli's death.

governments and military officers repeatedly sought the proper balance between civil authority and military power within newly conquered or imperiled sovereign territories. When considering the proper delineation of civil and military powers in contested territories, eighteenth-century British officers had a wealth of historical precedents at their disposal. Examining the military treatises most popular with British officers of the eighteenth century helps bring into focus the British army's paradigm of governance on the eve of the American Rebellion. Under conditions of uncertain security, including most colonies, British officers advocated what historian Stephen Saunders Webb has termed "garrison government" and imagined the model operating at both the imperial level, via the governor-general, and the local level, via a commandant.[4]

French and British seventeenth- and eighteenth-century military treatises clearly demonstrate the conceptual developments associated with the roles and functions of governors and commandants. Historian Ira Gruber's investigation of the books owned or referenced by British officers of the Revolutionary era revealed a lively professional interest in technical military treatises, with a special interest after the 1740s in those produced by French authors. Particularly popular were: Lieutenant General Feuquières's *Memoirs of the Late Marquis de Feuquières* (1737), Marshal Turenne's *Military Memoirs and Maxims* (1744), Professor William Duncan's translation of *The Commentaries of Caesar* (1753), Marshal Saxe's *Reveries; or Memoirs Concerning the Art of War* (1759), and Turpin de Crissé's *An Essay on the Art of War* (1761). Gruber's analysis focused on what these works

[4]Stephen Saunders Webb, *The Governors-General: The English Army and the Definition of Empire, 1569-1681* (Chapel Hill, NC: University of North Carolina Press, 1979), 3-56.

had to say about strategy more generally, but all these authors also had much to say regarding civil-military relations and the treatment of the civilian populace.[5]

Surprisingly, none of the military treatises examined for this study provided a formal definition for a civil governor. Instead, they assumed readers would know what a governor was. A careful reading and collating of their various unstated assumptions generates a definition of a civil governor as that official who represents the central body politic and exercises both political and military authority over the civilian population on its behalf. A text from the Italian historian and diplomat Enrico Caterino Davila can provide a representative example. Davila was a soldier during the French Wars of Religion (1568-1592) and he recounted the war in his *Historie of the Civill Warres of France*, translated into English by William Aylesbury for King Charles I in 1647. Gruber's analysis has shown that between 1710 and 1799 seventeen percent of his sample of British army officers either owned or read it.[6] Davila wrote, "And the Catholick King [Philip II of Spain] sending at the same time the D. [uke] of Alva Governor into Flanders, to curb the insolencies of those (who . . . had at once withdrawn themselves from their obedience to the Catholick Church and the temporall jurisdiction) . . ." The primary function of a civil governor was to exert "temporall jurisdiction" over the local population. Davila further noted that in 1552 the "Duke of Guise, who with the forces of his Government [France] had already reduced Mets [sic] into the Kings [Henry II] obedience, and placed the Mareshal de la Vieux-Ville Governor there." In

[5]Ira D. Gruber, *Books and the British Army in the Age of the American Revolution* (Chapel Hill and Washington, D.C.: Copublished by the University of North Carolina Press and the Society of the Cincinnati, 2010), 279. Gruber looked at the libraries of 42 British officers to identify the works that they considered authoritative. They appeared in 268 editions and seven languages, so the publication dates above correlate to the most popular English editions.

[6]Gruber, *Books and the British Army in the Age of the American Revolution*, 284.

this narrative, a governor exercised political authority over cities once they had been conquered militarily. Finally, "that they [the inhabitants of Grenoble upon surrendering] should acknowledge King Henry the Fourth for their lawfull Prince, by whose appointment they should receive a Garison [sic] and a Governor."[7] The emphasis here is not only on establishing the governor's role in exercising political authority over civilian populations, but also that the appointment of a governor was symbolic of the change in political masters of a territory. From these examples it is clear that governors were predominantly political officials, rather than strictly military ones, who both symbolized and exerted political authority over the local inhabitants.[8] However, in order to exercise that political authority, especially in newly conquered territories, governors had to rely upon military power.

Military writers have grappled with the inherently hybrid civil-military nature of governors since ancient times. This is particularly true when delimiting the extent of governors' civil and military authority, especially in cities with civilian populations. The Greek historian Lucius Flavius Arrianus, more commonly known simply as Arrian, wrote the *History of Alexander's Campaigns* in the second century C.E., and his text remained a popular authority for British officers, with nineteen percent of Gruber's sample owning some version.[9] Arrian quoted a declaration from the Macedonian King Alexander the Great to the

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[7]A.C. Davila, C. Cotterell, and W. Aylesbury, *The Historie of the Civil Warres of France* (Printed by R. Raworth, and are to be sold by W. Lee, D. Pakeman, and G. Bedell, 1647), 111, 123, 490. The two governors within French cities, one of for the garrison and the other for the populace, were distinct positions from the provincial governors in France.

[8]David Avrom Bell, *The First Total War : Napoleon's Europe and the Birth of Warfare as We Know It* (Boston: Houghton Mifflin Co., 2007). Bell cogently argues that that there was no distinction such as "military" and "civilian" prior to the Napoleonic Wars, and that Old Regime officers "did not draw sharp lines between their professional role as military officers and their social identity as aristocrats." Nevertheless, it is clear that some officials' duties focused more on governance while military officers disproportionately served as the instruments of state-sanctioned violence.

[9]Gruber, *Books and the British Army in the Age of the American Revolution*, 143, 284.

Persian Emperor Darius III stating, “I have beaten thy Governors, and Captains, and afterwards thyself and thy whole Army, in a pitch'd Battle; and have already, by the Permission of the Gods, gain'd Possession of Asia."[10] Governors, known as satraps, in the Persian Empire were responsible for one of twenty imperial provinces as well as the cities therein. Alexander stresses that he has beaten Darius’s governors as well as his captains to demonstrate that both Persia’s civil and military authority have been overthrown. While Arrian’s history undoubtedly recognizes the military functions of a governor, he demonstrates the separate civil and military responsibilities within a conquered city. Arrian wrote, “He [Alexander] constituted [appointed] Mazaeus, Governor of the City [Babylon], Apollodorus of Amphipolis, Captain of those Troops left with Mazaeus, and Asclepiodorus the Son of Philo, Gatherer of the Tribute."[11] While Mazaeus was responsible for the overall administration of the city as its governor, the specialized tasks of defense and revenue were delegated to other individuals. Arrian also noted divisions of military authority between the garrison forces and troops dedicated to provincial defense. He wrote, “And then, leaving Abulites, a Persian, Governor of the Country round Susa, Mazarus, one of his Friends, Commander of the Castle, and Archelaus the Son of Theodorus Captain of the Forces, he directed his March against the Persians.”[12] In this scenario, Abulites was the civil governor of the province, Mazarus was the garrison commander or commandant, and Archelaus was the military commander of the provincial forces. It is important to acknowledge that this translation likely misunderstands the actual Greek military governance system, and foists

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[10]J. Gray, *Arrian's History of Alexander's Expedition* (printed for T. Worrall; J. Gray; L. Gilliver; and R. Willock, 1729), 103.

[11]*Arrian's History of Alexander's Expedition* (printed for T. Worrall; J. Gray; L. Gilliver; and R. Willock, 1729), 169.

[12]Ibid., 170.

upon the text terms and divisions that were understandable to an eighteenth-century audience. Even more insightful, the author of the 1729 English translation, J. Gray, wrote in a footnote that the first century C.E. Roman historian Quintus Curtius Rufus "mentions Artabazus, as promoted to the Government of Bactria, but takes no notice of Archelaus the son of Androcles, who was made Governor of the Castle of Aornus" and furthermore that Artabazus was ninety-five at the time of his appointment which caused Gray to assert that a younger man would be "much fitter to keep the Country in Subjection than he, who was just stepping into his Grave."[13] The early eighteenth-century view of Macedonian governance in occupied territory stressed its coercive nature while simultaneously distinguishing between a provincial governor who was in charge of the civil government, a military governor who commanded the garrison within a fortress, and a military officer whose responsibilities encompassed the rest of the province.

Codifying governors' powers took much longer than one would expect in Europe because of their hybrid civil-military responsibilities. The major legal treatises of the 1600s and 1700s attempted to clarify the duality of the position. The influential Dutch jurist Hugo Grotius, in his *De Jure Belli ac Pacis* first published in 1625, had his text translated for English audiences in 1655, which resulted in nineteen percent of eighteenth-century British officers owning it.[14] In that version, he argued that a governor's responsibilities were far too encompassing to myopically focus on righting wrongs with military force. He wrote, "not always are Governors bound to take arms for the just cause of a subject, but so, if, without incommodity of all or most of the subjects, it may be done. For the Governor's office is

[13]Ibid., 204, n1.

[14]Gruber, *Books and the British Army in the Age of the American Revolution*, 284.

rather conversant about the whole than about the parts."[15] Grotius was articulating that the governor had both civil and military responsibilities, and that he needed to ensure proper balance between the two. Yet, according to Grotius, the governor still possessed sufficient military authority to undertake such campaigns. Likewise, in *The Law of Nations* (1729), the Swiss jurist Emmerich Vattel maintained that the constitution of a state determined "how and by whom the people ought to be governed; and what are the laws and duties of the governors."[16] In Vattel's view, there was no optimally-balanced relationship between civil and military authority, merely a constitutional one based on tradition.

The traditional French solution to the ambiguity regarding governors' civil and military powers was to appoint two of them to each city, which Feuquières describes as the "Governour of the Town" and the "Governour of the Citadel."[17] The writings of foreign diplomats testify to this long-standing practice. One such observer was the Italian Cardinal Guido Bentivoglio d'Aragona who was a *nuncio*, or papal ambassador, in Brussels to the Hapsburg Austrian court from 1607 to 1615. Bentivoglio's observations during his diplomatic mission served as the foundation for his account of the protracted Dutch Revolt in *Della Guerra di Fiandria* published in three-volumes between 1635 and 1640. Henry Carey, Earl of Monmouth, translated the work into English in 1654 under the title *The Compleat History of the Warrs of Flanders*. Twelve percent of Gruber's sample owned some edition of

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[15]Hugo Grotius, *The Illustrious Hugo Grotius of the Law of Warre and Peace: With Annotations, Iii Parts, and Memorials of the Author's Life and Death*, ed. Clement Barksdale, Grotius, Hugo, 1583-1645. De Jure Belli Ac Pacis Libri Tres. English (London: Printed by T. Warren, for William Lee ... 1655), EEBO13031638e, 452.

[16]Emerich Vattel, *The Law of Nations; or Principles of the Laws of Nature: Applied to the Conduct and Affairs of Nations and Sovereigns*, 2 vols., (1729), 1:16.

[17]Feuquières *Memoirs of Feuquieres*, 343.

this authoritative work.[18] Although a narrative, and not a military advice manual, Bentivoglio's history clearly demonstrated the French practice of placing two governors within a city; the first to command the town itself, and the second to oversee the fortress that guarded the town. Bentivoglio wrote, "Monsieur di Gomeron was Governor of this place [town of Han], and Monsieur Orveglier, his brother by the mothers [sic] side commanded the Castle, which joy'nd upon the Town on one side."[19] Although the bureaucratic establishment of a military governor and a civil one would seem to address any confusion, the French habit of granting multiple offices to one person undermined such clarity.

Even under the Continental European practice of appointing both a military and a civil governor to rule a city, the true source of civil and military authority became opaque when the same officials held both civil and military titles. The Frenchman Claude Louis Hector, Duke of Villars (another influential authority studied by eleven percent of British officers) made this apparent in his writings.[20] English publishers translated and sold his *Memoirs of the Duke de Villars, Marshal-General of the Armies of His Most Christian Majesty* (1735) only one year after its initial publication in French. The swiftness of this translation was not surprising given Villars's exceptional military career and the widespread interest in this work. Villars was one of only six French officers to hold the rank of Marshal of France. He fought in the Dutch War (1672-1678), the War of the League of Augsburg (1688-1697), the War of the Spanish Succession (1701-1714) and the War of the Polish Succession (1733-1738). He commanded in eleven major battles, losing at Malplaquet

[18]Gruber, *Books and the British Army in the Age of the American Revolution*, 124.

[19]G. Bentivoglio and H.C. Monmouth, *The History of the Wars of Flanders* (D. Newman, 1678), 269.

[20]Gruber, *Books and the British Army in the Age of the American Revolution*, 286.

(1709) to the combined forces of John Churchill the Duke of Marlborough and Prince Eugene of Savoy, but avenging himself upon Prince Eugene at the Battle of Denain (1712).[21] In his memoirs, Villars listed the titles of his father as the "Baron of Maclas and of Sara; Lieutenant-General of the King's Armies; Commandant of the King's Orders; Governour of Damvilliers and of Bezançon; Assistant Judge in Causes both Civil and Criminal, and Embassador Extraordinary in Spain, Piemont, and in Denmark."[22] This plurality of office holding, even when they were not all held simultaneously, added to the confusion over the true limits of authority each title conferred upon the holder when they all resided within the purview of one person.

Further obfuscating the civil and military authority of governors was the fact that many military authors referred to governors as commandants. The term commandant usually denoted a commander of a military unit, a city, or a fortified location. For instance, Davila noted the military authority of officers who protected towns that served as magazines when he referred to the official defending the town of Graveling as its "Governor of a Town" or "Governor of a Garrison."[23] Regardless of whether the governors served in command of the garrison or the town, the French experience during the Wars of Religion, as recorded by one of the participants, clearly indicates that governors commanded troops. The French,

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[21]Trevor N. Dupuy, *The Harper Encyclopedia of Military Biography*, ed. David L. Bongard and Curt Johnson (New York, NY: HarperCollins, 1992), 776-777.

[22]Guillaume Plantavit de La Pause, *Memoirs of the Duke De Villars, Marshal-General of the Armies of His Most Christian Majesty. [Electronic Resource] : Containing, His Rise under the Most Famous French Generals of the Last Age; the Difficulties He Met with from the Ministry; His Intrigues at the Court of Bavaria; and His Secret Negotiations in Vienna, Relating to the Succession of the Spanish Monarchy. Intermix'd with a Great Number of Military Observations on the Battles in Which He Fought. Extracted from Original Papers. Translated from the French*, ed. Claude Louis Hector duc de Villars, Plantavit De La Pause, Guillaume, 1685?-1760. Mémoires Du Duc De Villars. English (London: printed for T. Woodward in Fleetstreet, C. Davis in Pater-noster-Row, and A. Lyon in Russel-Street, Covent-Garden, 1735), OCLC Number: T148129, 2.

[23]Davila, Cotterell, and Aylesbury, *The Historie of the Civil Warres of France*, 948.

therefore, used the term governor interchangeably with commandant in both its generic sense as a commander of military forces and in its specific sense as the garrison commander of a city. Regardless of their title, these executive officers functioned as "mid-level managers of war" who were responsible for translating strategic guidance from multiple military and civilian superiors into policies and executable orders.[24]

By the time of the American War of Independence British military treatises defined the word commandant as "that person who has the command of a garrison, fort, castle, regiment, company, &c."[25] The term was used interchangeably with the word commander in military organizations of the time. The English translation of Turpin de Crissé's *An Essay on the Art of War*, read by twenty-seven percent of British army officers, used commandant in lieu of commander throughout the text referring, for example, to the "commandant of escort," "commandant of the detachment," and "commandant of the guard."[26] While Marshal Saxe, the fourth most influential authority for British officers, also used the term in this fashion citing "commandants of battalions," he distinguished between commanders in charge of military units and those responsible for a fortress calling the latter "commandant of the citadel."[27] In *The Military Guide for Young Officers* (1776), found in the libraries of fourteen

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[24]Paul Kennedy, "History from the Middle: The Case of the Second World War," *Journal of Military History* 74, no. 1 (2010): 1.

[25]Capt. George Smith, *An Universal Military Dictionary, a Copious Explanation of the Technical Terms &C. Used in the Equipment, Machinery, Movements, and Military Operations of an Army* (London: J. Millan, 1779).

[26]Turpin de Crissé, *An Essay on the Art of War* trans., Captain Joseph Otway, 2 vols. (London: A. Hamilton, 1761), 170, 196; Turpin de Crissé, *An Essay on the Art of War*, trans., Captain Joseph Otway, 2 vols., vol. 2 (London: A. Hamilton, 1761), 1:31 (hereafter cited as *Essay on the Art of War*).; Gruber, *Books and the British Army in the Age of the American Revolution*, 281.

[27]Maurice Saxe, comte de, *Reveries, or, Memoirs Concerning the Art of War. By Maurice Count De Saxe, Marshal-General of the Armies of France. To Which Is Annexed, His Treatise Concerning Legions; or, a Plan for New-Modelling the French Armies. Illustrated with Copper-Plates. Together with Letters on Various Military Subjects, Wrote by the Marshal to Several Eminent Persons; and, the Author's Reflections on the Propagation of the Human Species. Translated from the French. To Which Is Prefixed an Account of the Life of*

percent of British officers, Englishman Thomas Simes quoted the Duke of Cumberland's regulations that used the term "Commandant of a town."[28] Finally, Major Robert Donkin's *Military Collections and Remarks* (1777) also used the word commandant interchangeably with commander discussing a "commandant of corps," "commandant of irregulars," "commandant of rangers," and a regiment's "colonel commandant."[29]

Vagaries of terminology aside, it was clear that the "commandant" of a city, among other things, was first and foremost the commander of that city's garrison. Whatever power he had to control the city's population and enforce his edicts depended on the men in his garrison. Captain George Smith's *Universal Military Dictionary* (1779) succinctly explained a garrison as:

> …a body of forces, disposed in a fortress or garrison town, to defend it against the enemy, or to keep the inhabitants in subjection; or even to be subsisted during the winter season: hence garrison and winter-quarters are sometimes used indifferently, for the same thing; and sometimes they denote different things. In the latter case, a garrison is a place wherein forces are maintained to secure it, and where they keep regular guard, as a frontier town, a citadel, castle, tower, &c. The garrison should always be stronger than the townsmen.[30]

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the Author. (Edinburgh: Sands, Donaldson, Murray, and Cochran. For Alexander Donaldson, at Pope's Head, [1759].) (cited hereafter as *Reveries, or, Memoirs Concerning the Art of War*). ESTC T097719; ibid., 280. Forty-three percent of British officers referenced Saxe. The top three authors in British military libraries were Caesar with sixty-seven percent, Vauban at fifty percent, and Marlborough with forty-eight percent. A note on the problem of translation: while many British officers could read French, this study uses the English translations they most commonly owned.

[28]Thomas Simes, *The Military Guide for the Young Officer, Containing a System of the Art of War; Parade, Camp, Field Duty; Manoeuvers, Standing and General Orders; Warrants, Regulations, Returns; Tables, Forms, Extracts from Military Acts; Battles, Sieges, Forts, Ports, Military Dictionary, &C. With Twenty-Five Maps and Copper Plates. By Thomas Simes, Esq. Aothor of the Military Medley. The Second Edition, with the Addition of the Regulations of H.R.H. The Late Duke of Cumberland, &C. In Germany and Scotland.* (London: J. Millen, 1776), 60; ibid., 285. (cited hereafter as *Military Guide for the Young Officer*).

[29]Robert Donkin, "Military Collections and Remarks. [Three Lines from Tortenson] Published by Major Donkin.," (New-York: H. Gaine, 1777), 235, 249, 253.

[30]Smith. *Universal Military Dictionary*, s.v. "Garrison." Other pertinent definitions from Smith: *Winter-quarters* signifies a place where a number of forces are laid up in the winter season, without keeping the regular

Smith thus asserted that the primary responsibilities of the garrison commandant were to defend the fortified location against attacks by the enemy, to control the civilian population, and to protect the army's magazines.[31] This definition of a garrison and its functions remained nearly identical to the one Feuquières advanced forty years before.[32]

The military treatises demonstrated that the garrison commandant had supremacy over all military matters relating to the defense of the post. Bentivoglio related that during the siege of Res the Spaniard Ramiro di Gusman "commanded in chief therein" and "because the Garrison was not sufficient to defend both the Town and Fort, the Governor [Gusman] sent to the Admiral, desiring him that with all speed send him some more men."[33] Gusman ultimately received a reinforcement of 700 infantry and successfully broke the siege by ordering a naval officer stationed across the Rhine in part of the city's outworks to dispatch troops to him. Although other officers, even those from separate services, normally took orders from commandants as they directed the defense of the post, this practice did not resolve seniority issues amongst officers. Main armies, or line troops, frequently entered frontline cities to either protect them, or recuperate from battle. The officer in charge of the

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guard. *Garrison-town*, generally a strong place in which troops are quartered, and do duty, for the security thereof, keeping strong guards at each port, and a man-guard in or near the market-place.

[31]Smith, *Universal Military Dictionary*, s.v. "*Magazine*." A place in which stores are kept, or arms, ammunition, provisions, &c. Every fortified town ought to be furnished with a large magazine, which should contain stores of all kinds, sufficient to enable the garrison and inhabitants to hold out a long siege, and in which smiths, carpenters, wheelwrights, &c. may be employed in making every thing belonging to the artillery, as carriages, wagons, &c.

[32]Feuquière, *Memoirs of Feuquiere*, Glossary, GAL – GAT. Fequière wrote a "Garrison *town*, is a strong Place, in which *Troops* are quartered, and do Duty for the Security of the Place; keeping strong Guards at each *Post*, and a Main Guard in the *Market-Place*. The *Troops* that are put into a Town, either for their Security or Subsistence during the Winter time, or are there in the Summer for the Defence of the Place, are called *the Garrison of that Town*."

[33]Bentivoglio and Monmouth, *The History of the Wars of Flanders*, 328-330.

line troops usually outranked the city's commandant, leading to numerous disputes over who should command the line troops while they were in the city and who could command the garrison soldiers.

The military treatises demonstrate that there was serious tension over the chain of command between line and garrison soldiers, and that tension was aggravated by the garrison commandant's long term role in governing or controlling the town's civilian inhabitants. When regular forces entered a garrisoned town, even to defend the place, they usually remained under the overall command of their regimental officers, even if their unit performed tasks assigned to it by the commandant. Villars cited the French siege of Mons in March 1691: "This City [Mons] was vastly strong, of great Importance, and defended by a large Garrison. The Prince of Gremberg was Governour of it; and Lieutenant-General Fagel, commanded the Dutch Troops there."[34] Although Governor Gremberg controlled the garrison, the Dutch forces that entered the city remained under the control of their senior officer. The Frenchman, Jean Dumont, Baron de Carlscroon, weighed in on the seniority debate between line and garrison troops in *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough* (1737). The significance of Dumont's history was the influence of the Duke of Marlborough's exploits upon the British officers of the eighteenth century. Only the Roman general Gaius Julius Caesar and French military

[34]Plantavit de La Pause, *Memoirs of the Duke De Villars, Marshal-General of the Armies of His Most Christian Majesty. [Electronic Resource] : Containing, His Rise under the Most Famous French Generals of the Last Age; the Difficulties He Met with from the Ministry; His Intrigues at the Court of Bavaria; and His Secret Negotiations in Vienna, Relating to the Succession of the Spanish Monarchy. Intermix'd with a Great Number of Military Observations on the Battles in Which He Fought. Extracted from Original Papers. Translated from the French*, 176.

engineer *par excellence* Sébastien Le Prestre de Vauban were held in higher regard by British officers than Marlborough.[35]

One principle Dumont established with certitude was that the governor was the supreme commander of the forces assigned to garrison duty. In June 1702 Louis-François Duke de Boufflers outmaneuvered the commander of Dutch forces in Flanders, Godert de Ginkell Earl of Athlone, and forced him to retreat into the city of Nijmegen. Even though Athlone was the senior ranking Dutch officer in the entire Flanders region, Dumont wrote "the Governor and Commander in Chief, who attended wherever his Presence was necessary, had caused the two Battalions, which was the whole Force of the Garrison, to be posted on the Counterscarp."[36] Despite Nijmegen's imminent danger of a general French assault, and the presence of a higher ranking officer with a larger army residing in the city, the governor of the garrison remained the Commander-in-Chief of the city's defensive forces and determined where to place them.

Such surety of authority quickly came into doubt in French garrisons when outside forces entered the city, especially if their commander held a higher military rank than the commandant. For example, Dumont noted, "This Gentleman [French General Megrigny], whom his abilities raised to the Post of Lieutenant-General of the French King's Armies, was

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[35]Gruber, *Books and the British Army in the Age of the American Revolution*, 196.

[36]Jean baron de Carlscroon Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes*, ed. Jean Author Rousset de Missy, Dumont, Jean, Baron De Carlscroon, 1667-1727. Histoire Militaire Du Prince Eugene De Savoye, Du Prince Et Duc De Marlborough Et Du Prince De Nassau-Frise. English (Dublin: printed for Philip Crampton, Bookseller, at Addison's-Head, opposite to the Horse-Guard in Dame-Street, 1737). [1], ESTCN4071, 212.

Governor of the Citadel [in Tournay], and commanded therein during the Siege."[37] The governor of the citadel was usually the senior ranking officer. Unfortunately, this passage does not indicate whether the governor had been acting as the commandant of the citadel and was relegated to second in command, or if another military officer previously commanded the citadel whom Megrigny replaced while the governor continued to exercise control over town. These types of ambiguities became fertile ground for recriminations and finger-pointing following a defeat. One memorable example was the Duke of Marlborough's victory over the French garrison occupying the town of Dendermonde in 1706 which fell to him in only seven days. The French officers involved "impute this sudden Conquest to a Misunderstanding between the Governor and the Officer who commanded the French Troops."[38]

It was not until the middle of the eighteenth century that authors began to systematically address not only this specific ambiguity concerning the chain of command, but also the proper interaction between increasingly distinct civil and military officials. Given Great Britain's extensive imperial holdings, it should not be surprising that officers in Great Britain were at the forefront of this topic. However, Prussians rather unexpectedly proved themselves as the other major source of guidance on military governance of towns.

One of the most influential authorities on this subject was the British Lieutenant General Humphrey Bland. Bland's distinguished military career included service with the Duke of Marlborough during the War of Spanish Succession, participation in the suppression of the Jacobite Rebellion of 1715, appointment as the Quartermaster General of British

[37]Ibid., [3], 258.

[38]Ibid., [3], 81.

forces, as well as aide-de-camp to King George II during the War of Austrian Succession. Furthermore, he commanded cavalry at the decisive Battle of Culloden in 1746 where the Duke of Cumberland effectively ended another large-scale Jacobite rebellion begun the previous year. Bland was wounded at the Battle of Lauffeldt in 1747, and received the governorship of Gibraltar to convalesce. Bland's regulatory masterpiece *A Treatise of Military Discipline* went through nine editions from 1727 - 1763 and thirty-eight percent of eighteenth-century British officers read at least one of the versions.[39] Interestingly, the fifth edition, printed in 1747, was the first to codify garrison duty and the relationship of the military to the inhabitants of the city based on Bland's experiences in Gibraltar.[40]

Considering Bland's nearly sixty-year military career which overwhelmingly consisted of fighting the French, as well as his five-year governorship of Gibraltar, he was the perfect person to bring clarity to both French and English practices of civil governance by codifying them. Other mid-century military authors explicitly discussed the French administrative model of dual governors, but left many unanswered questions. In his *Military Maxims and Memoirs of Marshal Turenne* (1744), read by thirty-six percent of British officers, French Marshal Turenne plainly stated, "You always put in a citadel a governor, who is to be independent of the governor who commands in the town."[41] Although Turenne clearly indicated that the two governors had separate commands, he failed to explain who had seniority and the extent of their respective authority. Fortunately Lieutenant General

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[39]Gruber, *Books and the British Army in the Age of the American Revolution*, 281.

[40]Ibid., 70.

[41]H. de La Tour d'Auvergne Turenne, *Military Memoirs and Maxims of Marshal Turenne: Interspersed with Others, Taken from the Best Authors and Observations*, trans. A. Williamson, 2 ed. (London: Printed for J. and P. Knapton at the Crown in Kudgate Street, 1744), 108.; Gruber, *Books and the British Army in the Age of the American Revolution*, 281.

Bland answered these two latter questions when he explained the French chain of command thusly: "As there are separate Governours for the most part in France, the Governour of the Town has no Command over the Governour of the Garrison or Citadel; neither has he the Liberty of going into the Citadel without Leave of the Governour of it." Bland clearly stressed that the citadel governor was also the garrison commander. Furthermore, Bland emphasized that the citadel governor generally outranked the other governor when he wrote that "the Governour of the Citadel is obliged to send every Day to the Governour of the Town for the Parole, tho' his Rank in the Army should be Superior to the other's."[42] The irony of a British officer clarifying the French Army's dual chain of command for civil and military administration surely delighted Bland's readership.

Contrary to the French practice, the British did not officially employ a system of dual governors. Instead, the governor of the town was usually a royal civil governor and the governor of the citadel or garrison was a military officer who more often than not assumed the title of commandant. Civil governors were theoretically the ultimate authority in their towns because "a commission of Governor creates him [the governor], in a manner, Captain-general in his own town" similar to the military authority that the King held over the entire nation.[43] In reality, however, disputes often erupted between civil governors and military commandants over the extent of one another's authorities because military commanders often held equivalent or superior rank to local governors. Bland explained the hierarchy within a British garrison town as follows: "Whoever is Governour of a Town, has the entire

[42]H. Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service* (Printed for D. Midwinter, J. and P. Knapton, 1743), 204. The parole was a security technique used in garrison. It was the password of the day that garrison troops used to challenge individuals who sought entrance into the town or beyond security posts.

[43]Simes, *Military Guide for the Young Officer,* 106.

Command of the Troops which compose the Garrison, tho' Officers of a Superior Rank to him in the Army should be order'd in with them."[44] Therefore, according to Bland, the British bureaucratic hierarchy between civilian governors and military officers was the exact opposite of the French model which made military commanders supreme.

Furthermore, the British and Dutch recognized the need to provide commandants greater authority than normally afforded by their military rank specifically for the purpose of defending the garrison. The rationale for this deviation from the British army's seniority system was "For the Town being committed to his [the governor's] Charge, he is answerable to his Master for it, and consequently cannot give up the Command without express Orders from him in due Form, or from him to whom he shall delegate his Power."[45] Although many governors also held army commissions, their de facto authority when appointed governor of a town might greatly exceed their commissioned rank. This enhanced positional authority delegated to commandants derived from either a royal commission or the direct orders of senior ranking officers.

The Prussian Army also recognized the delicate balancing act of civil-military relations between governors, garrison commandants, and other units which might be stationed in a town. The Prussians delineated their expectations for the command of garrisons and their civilian populations in *Regulations for the Prussian Infantry* (1759). With this document the Prussians, similar to the Dutch and English, codified a chain of command for civil and military matters between the governor, commandant, and any other officers

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[44]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 192.

[45]Ibid., 192.

residing in town. These regulations stipulated that authority was not beholden to rank, but rather determined by position. The Prussians exerted tremendous influence over British military thinking by the second half of the eighteenth century for three main reasons. First, the dramatic victories of Frederick the Great at the battles of Rossbach and Leuthen seemed to prove the superiority of the Prussian military system. Second, the Prussians were British allies during the European phase of the Seven Years' War (1756-1763) which provided continuous contact and interaction between officers from the two armies. Third, Prussia successfully occupied and retained Silesia in part due to wise occupation policies.[46] With regard to those policies, the *Regulations for the Prussian Infantry* (1759) specified that "The Commanding Officer of a regiment in garrison, shall not interfere with any part of the duty relating to the garrison, but shall be obedient to all the orders of the Governor and Commandant of it, although himself be a General in the army, and the Commandant Colonel only."[47] The Prussian regulations further acknowledged the uniqueness of the commandant's position by giving him direct reporting authority to the King. The regulations stated, "When any thing extraordinary happens in a garrison, the Governor, or in his absence, the Commandant must make a written report thereof to his Majesty."[48] This arrangement recognized the importance of providing sufficient authority to the civil and military officers who the King, his ministers, and the army hierarchy held responsible for failures.

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[46]C.M. Clark, *Iron Kingdom: The Rise and Downfall of Prussia, 1600-1947* (Belknap Press of Harvard University Press, 2006), 233-234.

[47]Infantry Prussia . Armee, *Regulations for the Prussian Infantry. [Electronic Resource] : Translated from the German Original. With Augmentations and Alterations Made by the King of Prussia since the Publication of the Last Edition. To Which Is Added, the Prussian Tactick; Being a Detan of the Grand Manoeuvre, as Performed by the Prussian Armies*, (London: Printed for J. Nourse, against Katherine Street, in the Strand, 1759), ESTC N13079, 252.

[48]Ibid., 249.

Although the Prussian regulations resolved the seniority questions between line and garrison officers by establishing the commandant's military supremacy over the garrison, they did not delineate the commandant's authority *vis-à-vis* the civil authorities within the garrison. Instead, the British were the first to codify how commandants fit into the civilian chain of command. Bland explained the typical line of succession in British garrison towns writing:

> In the Absence of the Governor, the Command devolves on a Lieutenant Governour: And if the Town-Major has a Commission of Town-Major Commandant (which is sometimes conferr'd on those Abroad) the Command falls to him in the Absence of the Governor and Lieutenant-Governour; otherwise it goes to the eldest Officer in the Garrison, whether he is of the Horse, Foot, or Dragoons, who is called, during the time, Commandant of the Garrison. This is a general Rule; but as they may be obliged, on particular Occasions, to throw a considerable Body of Troops into the Garrison (either for the Defence of it, or to annoy the Enemy) and that a general Officer of a considerable Rank may be Order'd in with them, it is usual to give him a Commission of Commandant of Troops, in the Body of which is particularly specified, how far his Power over them is to extend, to avoid all Disputes that might happen betwixt him and the Governour about it: And tho' this may, in a great measure, lessen and divide the Governour's Power, yet the outward Marks of Distinction are generally left with him, such as the giving the Parole, the Administration of the Civil Affairs, Keeping the Keys of the Town, &c. as also the Signing of the Capitulation, jointly with the Commandant of the Troops, in case of a Surrender.[49]

Bland later reemphasized that the civil officials were superior to military officers insisting that military officers only assumed command of a town as a result of the absence or incapacity of the civil officials. He wrote, "When the Governour, Lieutenant-Governor, and the Major Commandant are absent, or by Sickness rendered incapable of Acting, the eldest Officer in the Garrison is to take the Command upon him, who is called Commandant of the

[49]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 192.

Garrison."[50] Despite differences of terminology, the French employed a similar military command structure in their towns. In the *Art of War* (1776), the Town Major of Toulon, Monsieur de Lamont, wrote that "the major has the third place in command next the Colonel and Lieutenant Colonel of a regiment, and to the governor and deputy governor in a town."[51]

French and British authors also stressed that the governor and commandant had special political authority to negotiate the surrender of their city or fort. As Bland previously indicated, the governor was responsible "to his master" for the safety and security of the post entrusted to his care. Therefore it was only natural that the final decision on whether or not a besieged position would surrender rested with the governor or commandant. In *The Historie of the Civill Warres of France,* Davila recorded the prominent position that a governor played in the enactment of the Peace of Alais signed on September 27, 1629 between French King Louis XIII and the Huguenot leaders of La Rochelle. Davila wrote, "Monsieur de Byron, the Governor appointed by the King, entered Rochel[le] with one of the publick Heralds, took possession of the Government, and caused the peace to be proclaimed."[52] The capitulation of the garrison and the arrival of a new governor symbolized the transition of government there. In his own work, Villars discussed the siege of Freiburg in 1677 noting, "An Assault was made on the outward Wall, and the Marquis de Villars mounted thither at

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[50]Ibid., 200.

[51]de Lamont and L. Valiere, *The Art of War: Containing, I. The Duties of All Military Officers in Actual Servlce; Including Necessary Instructions, in Rnany Capital Matters, by the Knowledge of Which, a Man May Soon Become an Ornament to the Profession of Arms. By Monsieur De Lamont, Town-Major of Toulon Ii. The Duties of Soldiers in General; Including Necessary Instructions, in Many Capital Matters, by Remaining Ignorant of Which, a Man Who Pretends to Be a Soldier, Will Be Every Day in Danger, of Bringing Disgrace Upon Himself, and Material Injury to the Cause of His Country Iii. The Rules and Practice of the Greatest Generals, in the Maneuvres of Encamping, Marching, Order of Battle, Fighting, Attacking, and Defending Strong Places, with the Manner of Surprising Towns, Quarters, and Armies; Exhibiting What Is Most Requisite to Be Known by All Who Enter into the Military Service* (Philadelphia: Robert Bell, 1776), 45.

[52]Davila, Cotterell, and Aylesbury, *The Historie of the Civil Warres of France*, 393.

the Head of the Grenadiers. The very next Day the Governour capitulated for the City and the Castle, which one would have imagined could not have been taken when the Season was so far advanced."[53] While Villars's statement was self-serving, it showed that governors had the authority to capitulate before it was a military necessity. One must suppose that a governor could only do so over the objections of the military officers within the city, thereby demonstrating the ascendency of civil authority. Dumont also demonstrated the military authority of governors during a siege in *The Military History of Savoy and Marlborough*. He wrote "the Town [Yvreé] was reduced to such a Condition that the Governor demanded a Capitulation, which the Duke de Vendome refused him, unless he would also surrender the Citadels. Upon this the Governor withdrew his Artillery and Ammunition to the Forts, and abandoned the Town."[54] This demonstrated the give and take of capitulation negotiations, and the ability of the governor to balk at any time. In *The Military History of Europe, &c. From the Commencement of the War with Spain in 1739, to the Treaty of Aix-la-Chapelle in 1748* (1755), William Biggs discussed the Count de Clermont's siege of Ypres whereby after two bloody repulses his troops gained the covered way "and took Possession of the lower Town, where several Officers and Soldiers were made Prisoners: Whereupon the Governor

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[53]Plantavit de La Pause, *Memoirs of the Duke De Villars, Marshal-General of the Armies of His Most Christian Majesty. [Electronic Resource] : Containing, His Rise under the Most Famous French Generals of the Last Age; the Difficulties He Met with from the Ministry; His Intrigues at the Court of Bavaria; and His Secret Negotiations in Vienna, Relating to the Succession of the Spanish Monarchy. Intermix'd with a Great Number of Military Observations on the Battles in Which He Fought. Extracted from Original Papers. Translated from the French*, 78.

[54]Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes*, 2:330.

called a Council of War, in which it was agreed to demand a Capitulation."[55] Councils of War were a time-honored tradition of soliciting advice, and of diffusing blame when the fortunes of war turned against governors and commandants. Nevertheless, the governor called the council and could have independently overridden its advice. The undeniable military authority to surrender a city or fortress rested with the civil governor, or the commandant in his absence.

British understandings of civil-military relations in the eighteenth century also required the civil governor to have sufficient military authority to provide for both the defense and good order of the town on a day-to-day basis. As a result, governors dictated a whole range of policies by which the military officers residing in the town had to abide. One of the most obvious restrictions governors exercised over the officers concerned their ability to place their troops under arms. Bland wrote, "no Colonel can order his Regiment under Arms, either for Exercise, punishing Offenders, or otherwise, without having Leave every time from the Governour."[56] This restriction partially resulted from ideological motivations, namely Britain's traditional fear of standing armies, but from practical considerations as well. By bolstering the governor's military authority in such a visible and recurring way, it reinforced the concept that the governor was the captain-general of the town, and promoted discipline by inculcating proper subordination. The requirement for gubernatorial permission to be armed inside the city, coupled with the means for communicating the granting of that permission throughout the city, also averted unpleasant surprises for sentries and the civilian

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[55]W. Biggs, *The Military History of Europe, &C: From the Commencement of the War with Spain in 1739, to the Treaty of Aix-La Chapelle in 1748 ... Also ... A ... History of the Rebellion in Scotland* (R. Baldwin, 1755), 235-236.

[56]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 197.

population. The sudden appearance of an armed regiment could easily incite fears that the town was in imminent danger of an attack. However, because officers requested the use of their regiments' weapons a day in advance the governor's answer could be made public the night before, thus countering any surprises. Keeping soldiers unarmed also added a layer of protection for the civilian inhabitants from the criminals and ne'er-do-wells in the ranks who sought to take advantage of them.

The civil governor was also the final arbiter in criminal legal matters. Surprisingly though, the civil governor's authority extended to martial law because courts-martial and their resulting punishments could only take place with his permission. Bland insisted that "No regiment can hold a Court-Martial, or Punish any of their Men, without first obtaining the Governour's Leave, or the Commandant's in his absence."[57] Bland noted, however, that once the governor consented, standard convention permitted the colonels of regiments to conduct as many regimental courts-martial as they saw fit unless and until the governor specifically revoked his permission. The Prussians placed similar restrictions upon their commanders. The *Regulations for the Prussian Infantry* stated, "no General, or Commanding Officer has a power to release any officer from confinement, or to punish any Soldier, without having first made a report thereof to them [Governor or Commandant]."[58] In contrast, the Prussians caveated this rule for the enlisted men. A commanding officer could punish both noncommissioned officers and soldiers for small offenses with methods including the picket, wooden-horse, and tying neck and heels. While these forms of corporal

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[57]Ibid., 197.

[58]Prussia . Armee, *Regulations for the Prussian Infantry. [Electronic Resource] : Translated from the German Original. With Augmentations and Alterations Made by the King of Prussia since the Publication of the Last Edition. To Which Is Added, the Prussian Tactick; Being a Detan of the Grand Manoeuvre, as Performed by the Prussian Armies*, 252.

punishment were brutal, they rarely permanently maimed or killed their victims. Prussian officers were free to carry out these disciplinary actions against their troops as long as they reported their occurrence to the Governor or Commandant and informed him of the crimes for which they had been imposed.

Civil governors and garrison commandants assumed a great deal of positional military authority given their unique mission requirements for securing a town. Nevertheless, there were certain limits to their positional military authority. Foremost amongst these was their influence over the administration of regiments within the town but not assigned to the garrison. The commanders of those regiments remained unfettered in the administration of their units. The *Regulations for the Prussian Infantry* stated that "the Governor and Commandant are entirely to give up the care and judicial management of regiments to their respective General and Commanding Officers."[59] French authors such as Turpin de Crissé, on the other hand, largely dismissed the positional authority of commandants. In his two-volume work, *An Essay on the Art of War* (1761), he wrote "A particular commandant is only the channel by which they [the general's orders] are executed."[60] One reason for this dismissive attitude towards commandants was the French Army's practice of using dual governors. Since the governor of the citadel usually outranked the governor of the town, he frequently assumed command of forces entering the garrison based on his seniority rather than his position as governor or commandant. Furthermore, the geographical limits of a commandant's authority when he was not the senior-ranking officer were all too obvious to de Crissé. He wrote, "the duty of a commandant only is to be careful

[59]Ibid., 252.

[60]Crissé, *Essay on the Art of War*, 2:23.

of the interior security of the quarter, and that of the general to provide for the exterior, at the same time not neglecting its interior."[61] Therefore, if a general had a particularly nasty dispute with a commandant, he could simply set up camp outside of the city to retain both his seniority and independence.

While the city's walls circumscribed the limits of the governor's and commandant's military powers, they also unmistakably demarcated their immense civil authority. Bland indicated, "How far the Governour's Power extends over the Civil, must be determined by the Laws and Constitution of the Country: However, all Persons in the Town, whether Ecclesiastical or Civil, are subject to his Jurisdiction, as far as it relates to the Order and Preservation of the Town." Just as the governor's positional authority superseded military seniority in the previous examples, so too did it supplant aspects of civil law. In the British system certain constitutional constraints prevented the court-martial of civilians. Bland recognized these protections by adding "whoever Offends therein, tho' he may not have the Power of Punishing, yet he may secure their Persons 'till they can be Tried in a regular Manner for the Crimes they have committed."[62] During times of war and depending on the nature of the crime this detention policy could lead to extended periods of confinement awaiting a fair and speedy trial by one's peers. Lesser offenses usually resulted in some form of minor corporal punishment and banishment from the town. The Prussian constitution, on the other hand, was more authoritarian in nature and granted commandants a substantially larger degree of authority over the inhabitants of cities while simultaneously limiting the powers of other officers. The *Prussian Regulations for Infantry* stated,

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[61]Crissé, *Essay on the Art of War*, 2:22.

[62]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 193-194.

> No General, or Commanding Officer of a regiment in a garrison, shall assume any authority over the burghers, that being the sole province of the Governor or Commandant, unless it shou'd become necessary on some sudden occasion to confine one, on account of any quarrel between him and the Soldiers; or, when a Soldier makes any just complaint against his landlord: Occurrences of this nature must be reported by the Adjutant to the Governor or Commandant, who has a discretionary power either to release, or punish such burgher. [63]

The Prussians clearly sought to achieve a delicate balance between providing for defense of the town against external enemies while maintaining internal order, and although they allowed a military official to exercise that authority, they nevertheless precisely limited that authority to the commandant or governor. They recognized that the governor and commandant were the proper officials to perform this hybrid civil-military function. By making the governor and the commandant the final arbiters in disputes between the military and the city's civilian inhabitants, the Prussians implemented a bureaucratic check that protected soldiers from the inhabitants' cupidity while simultaneously guarding the town's people from military despotism.

Clearly defining the respective civil and military powers that governors and commandants each possessed provided for more effective governance of occupied cities. A seventeenth-century soldier, the Englishman Roger Boyle who was the Baron Broghill and the first Earl of Orrery, succinctly distilled the heart of wartime civil-military relations based on his experiences in the Wars of Three Kingdoms, and most famously in the Irish campaigns of that period. Boyle was an avowed Royalist who fought against the Irish Catholics in the Irish Confederate War between 1642 and 1647, changing sides to the Parliamentary forces along with his lord the Marquis of Ormonde. Boyle served the

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[63]Prussia . Armee, *Regulations for the Prussian Infantry. [Electronic Resource] : Translated from the German Original. With Augmentations and Alterations Made by the King of Prussia since the Publication of the Last Edition. To Which Is Added, the Prussian Tactick; Being a Detan of the Grand Manoeuvre, as Performed by the Prussian Armies*, 253.

Roundhead forces until the execution of Charles I in 1649. Boyle then went into self-imposed retirement in England, and even plotted to restore Charles II, but ultimately served the Lord Protector Oliver Cromwell during his conquest of Ireland. In the course of those campaigns Boyle helped capture two garrisons outside of Wexford, defeated two separate relief forces in battle, and successfully conquered the towns of Kilkenny, Clonmel, and Limerick.[64] In Boyle's *Treatise of the Art of War* (1677), he noted the natural tension that existed between civil and military officials writing "the Military Power must be respectful to the Civil, so the Civil Authority ought to be kind to the Soldiery; 'tis very rare where the former is constantly practiced, that the latter is omitted; but 'tis rare indeed where the Garrison is churlish, to find the Magistrates obliging."[65] Yet he stressed the singular importance of civil-military cooperation to winning over the population:

> The Inhabitants of Towns are commonly a sort of People, who are gained by the good usage of those who have the power to treat them ill; but are soon lost to those, who being paid to protect them, do notwithstanding abuse them: The harmony between the Gown, and the Sword, is absolutely necessary; and may with facility be attain'd, by the good conduct and discretion of the chiefs of both Parties.[66]

In Boyle's opinion in order to win the war even the Irish deserved humane treatment; and the best way to secure "good usage" of the subjugated population was for civil-military cooperation, or "harmony between the Gown, and the Sword." Boyle's thinking, however, represented a radical departure from the longstanding tradition of relying on brutality and terror to rule conquered territories. Therefore, although his seventeenth-century

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[64]L. Stephen and G. Smith, *The Dictionary of National Biography* (Oxford University Press, 1959), 1031-1034.

[65]Orrery, *A Treatise of the Art of War [Electronic Resource] : Dedicated to the Kings Most Excellent Majesty*, EEBO 12367435e, 50.

[66]Ibid., 50.

contemporaries did not embrace the mild occupation policies he advocated, Boyle helped to lay the foundations for the dual carrot-and-stick approach used by eighteenth-century commandants.

Eighteenth-century officers only gradually adopted Boyle's magnanimous thinking because of their reverence for the military examples from classical antiquity. The ancient world's well-established practice of ruling with an iron fist made harsh behavior towards conquered peoples both expected and permissible by the laws and conventions of warfare through the eighteenth century. The Dutch jurist Hugo Grotius cited Saint Paul the Apostle's justification for nonresistance to oppression writing, "It is necessary for this life we should be subject, not resisting, if they (the Governors) shall please to take any thing from us."[67] While Europeans could and did select from myriad biblical examples of brutal conquests, they were also steeped in the literature of classical military commanders who emphasized the same conduct. The British officers who fought the American War of Independence admired the writings of the Roman general Julius Caesar above all others.[68] In William Duncan's popular 1753 translation of *The Commentaries of Caesar*, there are several memorable instances of military brutality towards civilians. Caesar himself estimated that one million Gauls, many of them noncombatants, died during his conquest of the region from 58 – 51 B.C.E. Those initially spared by the Romans found themselves sold into slavery. For example, when the Aviatiei, a Cisalpine Gallic tribe, pretended to surrender their stronghold as part of a *ruse de guerre* and subsequently rose in rebellion, Caesar's forces slaughtered 4,000 of their soldiers

[67]Grotius, *The Illustrious Hugo Grotius of the Law of Warre and Peace: With Annotations, Iii Parts, and Memorials of the Author's Life and Death*, 146.

[68]Gruber, *Books and the British Army in the Age of the American Revolution*, 280. Sixty-seven percent, or 28 of 42, British officers surveyed either read or owned *The Commentaries of Caesar*.

outside the gates, and enslaved the town's remaining population of 53,000.[69] In 51 B.C.E. one of Pompey the Great's adherents, Consul Marcus Cladius Marcellus, penalized the inhabitants at Caesar's newly-founded town of Novocomum in Cisapline Gual by stripping them of their Roman citizenship. In an act of political theater, Marcellus demonstrated their second-class status within the empire by arresting and scourging one of their leading officials who was in Rome at the time, since that punishment could not legally be inflicted on citizens.[70] In 46 B.C.E. the Mauretanian King Bogud and Caesar's ally Publius Sittius captured the Numidian capital of Cirta. Bogud and Sittius offered safe passage for Numidian King Juba's garrison, but they refused and instead "were taken by storm, and the Citizens all put to the Sword. They [Bogud and Sittius] then fell to ravaging the Country, and laying all the Cities under Contribution."[71] A final, but by no means exhaustive, example of Rome's fire and sword policy towards conquered places from *The Commentaries of Caesar* occurred after the Battle of Thapsus on February 7, 46 B.C.E. Caesar defeated Metellus Scipio, commander of the Republican force, and Scipio's cavalry led his army's retreat. When the Republican cavalry arrived at the North African city of Parada the inhabitants refused to let them in because they had already heard of Caesar's victory. This enraged Scipio's cavalry who "forced the Gates, lighted a Great Fire in the middle of the Forum, and threw all the Inhabitants into it, without distinction of Age or Sex, with their Effects."[72] Destruction, poverty, and enslavement were the penalties of military defeat in the ancient world.

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[69]Julius Caesar, *The Commentaries of Cæsar, Translated into English. To Which Is Prefixed a Discourse Concerning the Roman Art of War. By William Duncan, ... Illustrated with Cuts*, Caesar, Julius. Works. English (London: printed for J. and R. Tonson and S. Draper, and R. Dodsley, 1753), ESTC T136453, 38.

[70]Ibid., 167.

[71]Ibid., 296.

[72]Ibid., 315.

Although highly formalized surrenders granted under the "honors of war" tended to mitigate the brutality of victorious eighteenth-century armies, they still relied upon what historian Armstrong Starkey has termed a "culture of force."[73] This was certainly evident in occupied towns during the period. Whether the garrison resided in a friendly town to protect it, or a conquered town to keep it in subjection, a general uprising by the inhabitants was by far the greatest danger with which a garrison had to contend, and the military frequently resorted to ferocious measures to prevent or subdue the populace.

The safest policy for commandants to pursue when it came to uprisings within the town was preemption. The most effective method of preemption was to eliminate conspirators before they had a chance to implement their plans, which therefore resembled the cold-blooded practices of ancient generals. In 1650 the French governor of Lyons, Marshal of St. André, ordered his garrison to round up all the local Huguenots suspected of conspiring to revolt. He hanged many of them and sent the rest to Paris for trial.[74] Such swift action prevented the immediate plot and served as a deterrent against future conspiracies. Although preemption was the most efficient course, it had two main weaknesses. First, it required excellent intelligence so that the governor would both receive the warning far enough in advance to blunt the uprising and only detain those actually involved in the plot. While a friendly town could usually be expected to furnish such reliable information, the same cooperation would be incredibly difficult to come by in a conquered town. Second, the persecution of innocent people resulting from bad intelligence would

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[73]For "honors of war" see Fred. Anderson, *Crucible of War : The Seven Years' War and the Fate of Empire in British North America, 1754-1766*, 1st ed. (New York: Alfred A. Knopf, 2000), 195-196; See Armstrong Starkey, *War in the Age of the Enlightenment, 1700-1789*, viii for culture of force.

[74]Davila, Cotterell, and Aylesbury, *The Historie of the Civil Warres of France*, 65-66.

likely alienate the population resulting in a self-reinforcing cycle of bad intelligence making the populace hostile and preventing the collection of more accurate information.

Considering all of the difficulties with implementing an effective preemption strategy, most commandants advocated reliance upon robust security instead. British Lieutenant General Bland insisted that proper procedures for securing the city would ensure the timely sounding of the alarm so that "Upon any considerable Rising of the Inhabitants, or Tumult in the Town, that the Governour may be able to disperse the Mob and bring the Offenders to Justice."[75] George, Duke of Albemarle elaborated on the security measures necessary to control the inhabitants thusly:

> If you mistrust the fidelity of the Towns-men, you ought to keep a good Main-guard upon the Market-place, and small Guards at all the crossstreets, and then make it death for any Townsman to come out of his house upon any Alarm. And if the Towns-men have any meeting together at any time without the Governours consent, they ought to be imprisoned. The like must be observed if they are found out of their Houses after nine of the Clock at night. Likewise if you mistrust the fidelity of the Towns-men, it is very necessary that there be a work raised against the Rampier of the Town, the which must face the Town, and command part of it, and one of the Ports.[76]

Albemarle and the other military authors recognized that in most cities the townsmen had a huge numerical advantage over the garrison. To offset the overwhelming numbers the inhabitants could bring to bear, commandants placed maximum security in gathering places such as the market and prohibited public meetings without the governor's consent. Albemarle also provided a plan for containing revolts. By placing guards at street intersections the troops could prevent other inhabitants from joining an angry mob. The

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[75]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 198.

[76]George Monck Duke of Albemarle, *Observations Upon Military & Political Affairs [Electronic Resource]*, ed. John th cent Heath, Observations Upon Military and Political Affairs. (London: Printed by A.C. for Henry Mortlocke ... and James Collins ... 1671), 134.

requirement for the inhabitants to remain in their houses upon the sounding of the alarm, and the policy of using lethal force on those who disobeyed, further served to quell uprisings by keeping them from overwhelming the garrison or reaching a critical mass.

Marshal Turenne seconded the wisdom of confining civilians within their houses during an alarm. In his *Military Memoirs and Maxims* he wrote "In case of an alarm, they [townsmen] are immediately to retire into their houses; and, if it be night, to illuminate their windows, that the garrison may the better see their way. You let them all know, that if they meditate a revolt, you'll set fire to the four corners of the town, and cut off every man of them."[77] Turenne advocated such harshness in these circumstances because the sounding of the town alarm meant that an emergency condition existed which could be an attack, a revolt, a fire, or some combination of the three. Undoubtedly tumult amongst the civilian population was most dangerous when the garrison was under siege because of their ability to distract soldiers from defending their alarm posts, or outright surrendering the city to the attacking forces. Turenne further explained,

> You build citadels in great towns, to hinder the inhabitants from revolting against the garrison, who may not be safe among a numerous and ill-disposed people, especially whilst their town is bombarding, and their houses burning about their ears. The populace, who are easily raised into a rebellion, and little addicted to like the best rulers, want such a curb upon them.[78]

The Marquis de Surville, the French governor of the Flemish city of Tournai, appreciated how readily a subject population might revolt. Between July and September of 1709 Tournai endured a sixty-nine day siege by the Duke of Marlborough. Despite desperate shortages,

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[77]de La Tour d'Auvergne Turenne, *Military Memoirs and Maxims of Marshal Turenne: Interspersed with Others, Taken from the Best Authors and Observations*, 132.

[78]Ibid., 108.

and out of fear of inciting an insurrection, Surville failed to conduct a thorough search of the city to find hidden provisions for the garrison. When the Allies captured the town they found the caches Surville left untouched which could have prolonged his defense.[79]

Many officers recognized that the terror created by a successful assault or a particularly ruthless artillery bombardment would likely lead to a rebellion against the garrison as the panic-stricken population lashed out in an effort to put an immediate end to the fighting so as to save their lives and property. Feuquières recounted a siege from 1672 when the inhabitants of the Bavarian city of Groll forced the garrison to surrender after an intense four-hour artillery bombardment. The Elector of Bavaria employed sixty-five mortars against the city which set the entire town ablaze and, according to Feuquières, "made the Inhabitants compel the Garrison to capitulate, in order to preserve themselves from the Flames."[80] In 1705 the Hapsburg claimant to the Spanish throne, Archduke Charles, held a council of war to debate the merits of attacking Barcelona. Archduke Charles forcefully argued in favor of the attack "insisting that if once a Breach was made the Inhabitants would oblige the Governor to surrender."[81] Charles was wrong about means, but he correctly predicted the outcome. The Allied forces captured neighboring Fort Montjuic on September 13th, and within three weeks pounded Barcelona's garrison into submission. In 1707 Prince Eugene of Savoy laid siege to the French garrison in the Piedmont stronghold of Susa. On

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[79]Feuquières, 2:344.

[80]Feuquières, 2:266.

[81]Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes*, 3:5.

September 22 "The Commandant in Suza [sic] finding he had not Troops enough to defend the Town, abandoned it as he had done the Posts in the Neighborhood. The inhabitants in the Night . . . sent Deputies to offer the Keys to Prince Eugene."[82] Two weeks later, on October 3, the Allies breached the citadel and the French troops surrendered. Military commanders knew that military operations which threatened a city's inhabitants with a horrific death often drove a wedge between the inhabitants and the defending garrison, turning the inhabitants into a military asset for the attacker.

Despite the brutality evinced by some commanders in moments of mortal peril, warfare in the eighteenth century began to assume a different character than what had preceded it. The bloodbaths endured in conflicts as recently as the Thirty Years' War (1618-1648) gave way to a more limited form of warfare. One reason for a more restrained method of warfare in the eighteenth century was the desacralization of war goals as evidenced by the Edict of Nantes (1598), Treaty of Westphalia (1648), and Glorious Revolution (1688/89).[83] While denominational strife remained a constant concern, especially in France after King Louis XIV revoked the Edict of Nantes and England during Jacobite rebellions in 1715 and again in 1745, monarchs focused more of their attention on external foes.[84]

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[82]Ibid., 3:113.

[83]The Edict of Nantes granted freedom of conscience to Huguenots and restored many of their civil rights. The Treaty of Westphalia empowered princes to choose the state religion for their inhabitants, but permitted dissenters to hold religious services at will in private and during scheduled times in public. The Glorious Revolution marked the Protestant ascendency in England. Despite various Jacobite uprisings, there was never another Catholic monarch of England, Scotland, and Ireland following the overthrow of King James II.

[84]See Ciro Paoletti, "War, 1688-1812," in *A Companion to Eighteenth-Century Europe*, ed. Peter H. Wilson (Malden, MA: Blackwell, 2008), Speelman, Patrick John. "Henry Lloyd and the Military Inheritance of the Enlightenment." Order No. 9990357, Temple University, 2000, Neill, Donald A. "Ancestral Voices: The Influence of the Ancients on the Military Thought of the Seventeenth and Eighteenth Centuries." *The Journal of Military History* 62, no. 3 (Jul 01, 1998): 487, Lynn, JA. 2001. The Treatment of Military Subjects in Diderot's 'Encyclopedie'. *JOURNAL OF MILITARY HISTORY* 65, (1): 131-165, O'Kane-Lipartito, Jeremy Black, "Britain as a Military Power, 1688-1815," *The Journal of Military History* 64, no. 1 (2000), *European Warfare, 1660-*

The military revolution was another reason that warfare became more limited.[85] The dramatically increasing number of fortifications as well as soldiers required to man them, coupled with the dynastic or minor territorial concessions that came out of most peace

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1815 (New Haven: Yale University Press, 1994), Hew Strachan, *European Armies and the Conduct of War* (London Allen & Unwin, 1983), Robert Michael Citino, *The German Way of War : From the Thirty Years' War to the Third Reich*, Modern War Studies (Lawrence, Kan.: University Press of Kansas, 2005), *Restraints on War : Studies in the Limitation of Armed Conflict*, ed. Michael Howard (Oxford: Oxford University Press, 1979), Richard Arthur Preston, *Men in Arms : A History of Warfare and Its Interrelationships with Western Society*, ed. S. F. Wise (New York: Holt, Rinehart, and Winston, 1979), *European Warfare, 1350-1750*, ed. Frank Tallett and D. J. B. Trim (Cambridge: Cambridge University Press, 2010), J.A. Lynn, *The Wars of Louis XIV 1667-1714* (Taylor & Francis, 2013), M. S. Anderson, *War and Society in Europe of the Old Regime, 1618-1789*, War and European Society (Montreal: McGill-Queen's University Press, 1998); Jeremy Black, *European Warfare in a Global Context, 1660-1815*, Warfare and History (London: Routledge, 2007), Christopher Duffy, *The Military Experience in the Age of Reason* (London: Routledge & Kegan Paul, 1987); Armstrong Starkey, *War in the Age of Enlightenment, 1700-1789*, Studies in Military History and International Affairs, 1537-4432 (Westport, Conn.: Praeger, 2003).

[85]On January 21, 1955 Historian Michael Roberts delivered a paper entitled "The Military Revolution, 1560 - 1660" in which he argued that the tactical innovations introduced by Maurice of Nassau and Gustavus Adolphus required more discipline, which demanded more drill, and more time to train soldiers resulting in the evolution of standing armies. These standing armies soon dwarfed any European armies seen since Roman times. The need to provide for these larger armies encouraged centralization and helped lead to the development of the nation-state. Geoffrey Parker, on the other hand, contends that the growth of armies preceded the tactical developments that Roberts credits for increasing the size of armies and instead identified the adoption of *trace italienne* fortifications as the causal agent of army growth during the period of 1500-1800. See Geoffrey Parker, *The Military Revolution : Military Innovation and the Rise of the West, 1500-1800*, 2nd ed. (Cambridge ; New York: Cambridge University Press, 1996) and *The Military Revolution Debate : Readings on the Military Transformation of Early Modern Europe*, ed. Clifford J. Rogers, History and Warfare (Boulder: Westview Press, 1995). Other major works on the military revolution include David Parrott, *The Business of War : Military Enterprise and Military Revolution in Early Modern Europe* (Cambridge: Cambridge University Press, 2012); Jeremy Black, *Beyond the Military Revolution : War in the Seventeenth-Century World* (New York: Palgrave Macmillan, 2011); *The Dynamics of Military Revolution, 1300-2050*, ed. MacGregor Knox and Williamson Murray (Cambridge: Cambridge University Press, 2001); David Eltis, *The Military Revolution in Sixteenth-Century Europe*, International Library of Historical Studies; Tauris Academic Studies (London: *Medieval Military Revolution : State, Society and Military Change in Medieval and Early Modern Europe*, ed. Andrew Ayton and J. L. Price, Tauris Academic Studies (London: I.B. Tauris Publishers, 1995), Brian M. Downing, *The Military Revolution and Political Change : Origins of Democracy and Autocracy in Early Modern Europe* (Princeton, N.J.: Princeton University Press, 1992); Jeremy Black, *A Military Revolution? : Military Change and European Society, 1550-1800*, Studies in European History (Atlantic Highlands, NJ: Humanities Press, 1991); *The Military Revolution and the State, 1500-1800*, ed. Michael Duffy, Exeter Studies in History ; No. 1 (Exeter: University of Exeter, 1980); *War in the World : A Comparative History, 1450-1600* (Houndmills: Palgrave Macmillan, 2011); *Early Modern Military History, 1450-1815*, ed. Geoff Mortimer (New York: Palgrave Macmillan, 2004); Jeremy Black. "A Revolution in Military Cartography?: Europe 1650-1815." *The Journal of Military History* 73, no. 1 (2009): 49-68; Kelly DeVries, "The Military Revolution Debate: Readings on the Military Transformation of Early Modern Europe," *The Journal of military history* 61, no. 1 (1997); Williamson Murray, "War and the West," *Orbis* 52, no. 2 (2008); William R. Thompson, "The Military Superiority Thesis and the Ascendancy of Western Eurasia in the World System," *Journal of World History* 10, no. 1 (1999); John A. Lynn, "Recalculating French Army Growth During the Grand Siecle, 1610-1715," *French Historical Studies* 18, no. 4 (1994).

treaties, led to the proverb that "war was the sport of kings." The ever-increasing costs imposed on the monarchies to train, equip, and field professional armies unlike employing mercenaries created a desire to conserve military strength. Not only did the goals and means of warfare change, but so did the *mentalité* of the belligerents. From the late seventeenth century through the middle of the eighteenth century Europe underwent the major intellectual revolution known as the Enlightenment. While the Enlightenment was a multiplicity of divergent intellectual trends, one of its currents emphasized the adherence to rationalism in order to improve life.[86] Most historians have accepted the Enlightenment explanation at face value, but not Armstrong Starkey. His article on eighteenth-century military culture concluded, "In summary it appears that Enlightenment writers allowed warriors a wide range of action limited only by the rule of necessity" and Starkey further claimed that the officer corps' culture rather than strict Enlightenment thinking "set the limits of violence."[87] Based on the corpus of works most preferred by British officers in the 1700s, Starkey appears to be half right. Officer culture and military necessity both pushed commanders to "let loose the dogs of war," but the larger societal influences of the Enlightenment fostered a propensity towards treating inhabitants with lenience.

The British, French, and Prussian military authors from the turn of the seventeenth to the late eighteenth centuries were experienced professionals who advocated kindness towards the civilian population not out of Enlightened altruism, but rather self-serving pragmatism.

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[86]The precise boundaries of the Enlightenment remain in dispute. Historian Paul Hazard places it from 1680-1715 in his work, *The European Mind, 1680-1715*. Others, such as Jonathan Israel in *Radical Enlightenment Philosophy and the Making of Modernity, 1650-1750* see a longer process that he periodizes into two eras. Israel claims that the there was a preliminary "crisis of the European mind" from 1650-1680 and that the Enlightenment proper occurred from 1680-1750.

[87]Armstrong Starkey, "War and Culture, a Case Study: The Enlightenment and the Conduct of the British Army in America, 1755-1781," *War & Society* 8, no. 1 (1990), 8.

Time and again the military authors stressed the need to "win the hearts" of the inhabitants to gain military advantages, particularly better intelligence and greater security for garrisons in towns. They advocated employing the carrot-and-stick approach of placating inhabitants as much as possible, while simultaneously relying on threats to bring the recalcitrant in line. Interestingly though, the commanders rarely carried out the threats against civilians, and instead inflicted draconian punishments upon their own soldiers whose arrogance or criminal behavior threatened to alienate the local inhabitants.

Military commanders were suspect of both their own citizens and the inhabitants of conquered towns. Despite this apprehension most believed gentle treatment could gain the cooperation of the local populace. Turpin de Crissé cautioned commanders

> If a general establishes his quarters in a conquered country, he must use many more precautions than if he established them in any other, because in that situation he, will be very near the enemy, who will never remain quiet, and of whom he should always be watchful. Besides, the inhabitants are always to be feared, as they are naturally more attached to their old sovereigns than their conquerors unless the humanity of the latter hath wiped from their remembrance those horrors with which war is generally attended, and that, by a strict discipline among his troops, the general hath acquired a set of faithful subjects for his master.[88]

Roger Boyle similarly wrote, "The Inhabitants of Towns are commonly a sort of People, who are gained by the good usage of those who have the power to treat them ill; but are soon lost to those, who being paid to protect them, do notwithstanding abuse them."[89] Boyle clearly articulated the significance of civilians' expectations to crafting policies within the garrisoned town. Boyle recognized that inhabitants expected their own army to behave

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[88]Turpin de Crisse, *An Essay on the Art of War,* 2:4-5.

[89]Orrery, *A Treatise of the Art of War [Electronic Resource] : Dedicated to the Kings Most Excellent Majesty*, 50.

benevolently when in garrison. If they failed to do so then they undermined the very reason for them being there and any legitimacy they had as the populace's protectors. All of this conformed perfectly to Enlightenment-era social contract theory as advocated by Thomas Hobbes and John Locke. What was even more insightful was Boyle's understanding of the psychology of a conquered populace. As enemies they expected the soldiers' full wrath, so when they received kind treatment they frequently became cooperative.

The Elector of Bavaria, Maximillien Emmanuel II, also appreciated the power of expectations. In December 1703 he forced the Bavarian town of Augsburg to surrender. The Elector shrewdly had the terms of the capitulation exclude Augsburg's civilian population so that "they might lie entirely at his Mercy." Dumont explained the Elector's rationale thusly: "As soon as the Imperial Garrison was gone the Elector sent twelve Battalions and fifteen Squadrons into the Place, informing the Citizens, that notwithstanding they deserved worse Treatment, yet he would be satisfied if his Garrison was payed and maintained at their Expence."[90] The inhabitants of Augsburg knew that they were liable to be murdered, pillaged, and raped under such terms. Considering the grim specters that the inhabitants conjured in their minds, the Elector's actual demands for wages and supplies to support the garrison were a tremendous reprieve and accordingly more likely to be complied with by the inhabitants than if the surrender guaranteed them protections. Marshal Turenne concurred with the carrot-and-stick approach writing, "Make them [inhabitants] your creditors for large sums; gain them by kind-ness, and keep them obedient by your authority, and turn out all that

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[90]Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes*, 283-284.

refuse to take the oaths of fidelity to his Majesty."[91] By ensuring benevolent treatment for their own subjects as well as conquered foes, commandants gained both legitimacy and cooperation from the garrisons' inhabitants.

Another tried and true tactic used to gain the inhabitants' cooperation was to appoint an officer who held their respect. Before French forces laid siege to the Piedmont town of Turin in May 1706, Victor Amadeus II Duke of Savoy appointed

> the Marquis de Carail, Commandant of the City of Turin, the Officers and Persons of Quality were ravished at the News. The People in general testify'd their Joy likewise upon this Occasion; for besides the universal Esteem the Marquis de Carail was in, the noble Defence he had lately made in the Town and Castle of Nice, did not a little augment the Confidence which was now reposed in him nor were they deceived, his Experience and Courage were singularly distinguished in a Siege where he every Day discovered his Capacity in the Orders he gave, and his Vigilence from his Watchings and Fatigues.[92]

The inhabitants' "universal Esteem" of the Marquis de Carail derived from his defense of Nice. On October 31, 1705 the Duke of Berwick ordered his 5,000 soldiers to begin siege works against Nice. By November 14 Berwick's men surrounded the town, positioned their artillery, and Berwick demanded the Marquis de Carail surrender the garrison. In an effort to mount a more effective defense and prevent civilian casualties, Carail permitted the town to capitulate immediately, but moved the garrison into the citadel to carry on the fight. Carail's defense lasted until January 6, 1706 when he capitulated in an effort to spare the lives of his

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[91]de La Tour d'Auvergne Turenne, *Military Memoirs and Maxims of Marshal Turenne: Interspersed with Others, Taken from the Best Authors and Observations*, 133.

[92]Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes*, 2:44.

men because the French had breached the walls of his fortress and Carail did not think "it proper to expose himself to be taken by storm."[93] The inhabitants of Turin enthusiastically received a commander who demonstrated both military competence and concern for the well-being of the inhabitants under his protection.

The Austrian General Berenclau demonstrated similar finesse in his dealings with the Bavarian inhabitants during his 1744 campaign in the Upper Palatinate. Berenclau made all of the requisitions for his 60,000 troops through the Bavarian bailiffs and magistrates along his line of march prior to his arrival. This minimized the looting and marauding that generally took place when armies provisioned themselves directly from the inhabitants. The French commandant of the province "promised the Subjects his Protection; but on the Approach of the Austrians, he thought proper to retire, without making any Resistance."[94] The French commandant's failure to honor his word and protect the Bavarian subjects provided the perfect foil to Berenclau's civil treatment of enemies and Carail's conscientious defense that sought to protect the inhabitants as long as he could without causing an effusion of blood.

According to the military authors the best way to maintain positive civil-military relations was to keep the soldiery in line and that required discipline. Roger Boyle summed up the benefits of a well-disciplined garrison on civil-military relations as follows:

> He ought to take constant care that none of his Garrison be insolent, or so much as disrespectful to the Civil Magistrates, or Inhabitants; for if those which are employed to protect them, become their Tyrants, it makes them in Sieges, or Dangers, apt to conspire to change their Masters; at least makes them unready to assist, or supply the Garrison, since the service of Fear is

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[93]Quoted in L. Frey and M. Frey, *The Treaties of the War of the Spanish Succession: An Historical and Critical Dictionary* (Greenwood Press, 1995), 309-311.

[94]Biggs, *The Military History of Europe, &C: From the Commencement of the War with Spain in 1739, to the Treaty of Aix-La Chapelle in 1748 ... Also ... A ... History of the Rebellion in Scotland*, 252.

> alwayes paid with reluctancy, but that of Love with chearfulness. And every one that lives at ease in a Garison, make it his delight, as well as it his interest, to contribute what he can to preserve it. . . The Sacred Scripture teacheth us, That a City which is divided, cannot stand. A Governor need not be at much, or constant trouble, to bring this one essential thing to pass; for two or three smart Examples imposed on the Faulty, will deter the rest from committing like offences; for the Soldiery seldom repeat those Crimes, which they know their chief Commander does dictate, and will certainly punish… I have had the Honour to be the Governor of several Garisons, and by punishing irremittably the least rudeness of the Soldiery, to the Inhabitants, I never desired any thing of these, for those, that was denied me.[95]

Boyle recommended that the governor hold weekly courts-martial arguing that the soldiers would be more deterred from committing crimes if they knew that punishment would be certain and swift.

In a similar vein Turpin de Crissé argued that maintaining strict discipline was equally necessary in conquered provinces as it was in sovereign territory. He contended that soldiers who pillaged the enemies' baggage would also "plunder the inhabitant and the peasant" resulting in "many more inconveniencies than advantages." Winning over newly conquered peoples with "gentle behavior" would create a "favourable impression" more advantageous "than all the plunder they could take." Crissé claimed that Roman expansion policy attempted to "attain their ends by soft and gentle measures, before they proceeded to the severities and horrors of war" so that they could eventually turn conquered people into allies. According to Crissé, the essential problem of occupying a province as a conqueror rather than a governor was that "If the inhabitants of the conquered countries, instead of the usage common to faithful subjects, are treated with too much severity, the conqueror will find nothing but exasperated hearts, and enemies whom fear, and not love, render obedient to him." In a direct challenge to Machiavelli's famous maxim that it is better to be feared than

[95]Orrery, *A Treatise of the Art of War [Electronic Resource] : Dedicated to the Kings Most Excellent Majesty*, 50.

loved, Crissé insisted that fearful men were more dangerous because they were likely to rebel or serve as spies. He emphasized the need for strict discipline in friendly country too, maintaining that "it would be very bad policy to ruin whole families for ever" by permitting soldiers to plunder. Even in sovereign territory "such an injustice would cause a disaffection, which has been often known to be closely followed by rebellion."[96]

In *The Military Guide for Young Officers* (1776) Thomas Simes focused on the disciplinary problems of marauding and oppression. He argued vehemently that strict discipline must be maintained at all times, whether in the field, winter quarters, camp, or city. Simes averred that marauders were a disgrace to both their own army and the profession of arms. He insisted that officers employ strict punishments for those soldiers who exploited the poor peasants. In Simes's opinion, a commander's permissiveness resulted in the myriad of evils stemming from indiscipline, and therefore the rapes and violence soldiers committed stained their commander's honor and that of the regiment. Such lack of discipline undermined the function of armies within friendly territory because "Licentious armies, spread a plague, instead of giving protection" and relief could only be expected "when the country can lose, and the army gain no more." Simes drove home the point that the plundering by ill-disciplined troops would only cease after the countryside and inhabitants had been stripped bare. He contended that commanders who imposed death sentences for such offenses "swept off whole companies without remedy." Simes concluded by sardonically noting that "Friendship so expensive, is unworthy of purchase; and it may be

[96]Crissé, *Essay on the Art of War*, 67.

tolerable to be at the mercy of a foe, than thus to suffer by the avarice of a friend; since to be hug'd or pistol'd to death, are equally destructive."[97]

Tactful civil-military relations not only gained the cooperation and, in some cases, the allegiance of the local populace, they also provided an essential military advantage by generating reliable military intelligence about the strength, disposition, and intentions of enemy forces. The Duke of Albemarle wrote, "A Governor of a Town should be careful always to have parties abroad, that he may the better secure his own Quarters, and trouble the Enemy. And especial care must be taken for getting constant intelligence from the next Frontier Towns of his enemy."[98] Crissé recommended going into the surrounding countryside and rounding up "principal inhabitants, if they can secure them by means of whom he will be able, to gain information of the enemy, whether he is in detachment or in full force, whether he has been at the village and by what road he marches."[99]

In conclusion, British governance of cities during the eighteenth century posed significant civil-military challenges that bedeviled both civil magistrates and military commanders. The inherent problem for city garrison commanders was the large non-military population in their midst which created a security dilemma. Not only did the populace usually dwarf the local garrison kept for its security, but ill-conceived occupation policies and enemy action held the potential to foment revolts without notice. Therefore, heavy-handed security measures often reduced rather than enhanced the safety of a city by alienating the inhabitants. The key to governing large bodies of troops and city dwellers in a

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[97]Simes, *Military Guide for the Young Officer, 91-92.*

[98]Albemarle, *Observations Upon Military & Political Affairs [Electronic Resource]*, 135.

[99]Crissé, *Essay on the Art of War*, 40.

confined urban space was to create a liaison who could interface between civil and military officials to manage the mundane points of tension between the two groups such as military discipline, housing, soldiers' employment in the economy, and so on. Officers throughout Western Europe dedicated substantial energy to solving the problem and ultimately created the hybrid civil-military post of commandant as a military counterpart to the civil governor. They delineated the commandant's authority both geographically and institutionally: within the confines of the city and its immediate surroundings, commandants were the third highest ranking official in the civil chain of command after the governor and his lieutenant. Commandants were responsible for security and order within the town which made them the sole military officer, besides the governor if he held a commission, in the garrison with authority over the inhabitants. Within the British imperial system, commandants were the military officers with the most authority in the garrison, even when a higher-ranking military officer resided in the town, and the commandant retained full control over the forces assigned to the garrison at all times.

Although the respective civil-military authorities and responsibilities of governors and commandants remained somewhat ambiguous on the eve of America's colonial uprising, the seventeenth- and eighteenth-century military treatises most popular with the British officers who would go on to fight the American Revolution demonstrated the development of commandants and established some key guidelines for governing cities. While the British model of governance clearly advocated the supremacy of civil over military authority, the evolution of the position of commandant simultaneously demonstrated the military underpinnings of civil authority, and set the stage for true "garrison government" during the

American War of Independence. In his *Military Collections and Remarks* (1777), British Major Robert Donkin ruefully averred,

> In all conquered countries, no government can answer equal to a military one . . . The want of power in civil governors to apprehend suspected persons, seize treasonable papers, quell tumults and disperse seditious meetings, when a state is in danger, is a most ridiculous form of administration. Had such authority been lodged with the chiefs of the [American] Provinces four years ago, no civil war durst ever have shewed it's furious head! Happy if we, from seeing our errors now, take the proper precautions to prevent the like in the future.[100]

Donkin believed that the weakness of civil governors in North America prevented effective governance which encouraged the spread of rebellion during the early phases of the American War of Independence. Donkin and his brothers-in-arms saw the separation of civil and military authority as an impediment to effective governance. They therefore advocated for its fusion within a governor-general who could immediately address local disturbances while simultaneously endorsing the benevolent treatment of civilians because "generous behaviour will so gain the hearts of the country people."[101]

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[100]Robert Donkin, Military Collections and Remarks. [Three Lines from Tortenson] Published by Major Donkin., (New-York: H. Gaine, 1777), 219-220.

[101]Donkin, *Military Collections and Remarks*, 229; Young, *Maneuvers, or Practical Observations on the Art of War* quotes the following order from Major Wolfe at Stirling dated February 12, 1748: "The soldiers are to avoid all kind of disputes with the inhabitants; and if at any time there should happen any tumult or riot, they are by no means to mix with the people of the town, or to be concerned with them. The officer of the guard is to order a detachment to seize any men who disobey these orders, and to make them prisoners; and the serjeants and corporals are required to prevent so much as depends upon them all quarrels and disturbances. It is likewise ordered there be not the least subject of complaint in any of the quarters."

Chapter 2 British Officers' Perspectives of Proper Military Force along the Spectrum of Violence

"The head, the heart, and support of that rebellion, revolt, insurrection (do not dispute with me about names) are the four provinces included between Hudson's River and Boston: if we could or can subdue these four provinces, the war is at an end."
Welsh Major General Henry Lloyd in *The History of the Late War in Germany* (1781)[1]

Eighteenth-century British military officers clearly identified a spectrum of civil conflict that ranged from rioting at the lowest level of violence, followed by insurrection and rebellion (or revolt), to civil war at the upper limit. British officers operated solely under the direction of civil authorities during all domestic disturbances short of rebellion. In order for British officers to "let loose the dogs of war" one of two conditions had to be met; first, the officers could wait for British magistrates to call for their assistance after the magistrates declared the populace in open rebellion or; second, officers could use their professional judgment, informed by the army's inherited institutional culture, to take the initiative and act independently depending on the severity of the violence. Officers rarely behaved so aggressively given the tremendous legal and financial risks associated with such action. However, the British army's intellectual inheritance from pan-European military treatises shaped both the officers' understanding of, and responses to, civil disturbances.

At the low end of the spectrum of violence, riots have been differently interpreted by contemporary authors and modern historians, especially with respect to the rioters' motivations. Eighteenth-century observers dismissed rioters as an unthinking "mob" of criminals and ne'er-do-wells who took advantage of civil disorder to enrich themselves with

[1]H. Lloyd, *The History of the Late War in Germany: Between the King of Prussia, and the Empress of Germany and Her Allies* (Printed for S. Hooper, 1781), 2:185.

plunder. Modern historians, however, such as George Rudé, Eric Hobsbawm, Edward Palmer Thompson, and Wayne Lee have reshaped the understanding of rioting from a mere criminal activity to a form of political protest. Rudé's extensive use of the records from the court proceedings against rioters illuminated the "faces in the crowd," which cogently demonstrated that "mobs" consisted primarily of "sober workmen" rather than the indolent dregs of society.[2] E. P. Thompson pioneered the concept of the "legitimizing notion" of the crowd whereby the mob sought to impose morally-just actions based on communal standards through violence against corn hoarders, turnpike tolls, or enclosures of common-use property. Thompson emphasized that riots perpetuated for political purposes were well-regulated by their leaders so the mob only attacked specific targets and shunned widespread pillaging during the disturbance.[3] Historian Eric Hobsbawm also emphasized the collective bargaining aspect of mob violence, and identifies it in behavior such as sabotaging machines.[4] Finally, Wayne Lee, building on Thompson's research avers, "there was a spectrum of violence that encompassed a variety of behaviors from judicial punishment, through shaming parades and riots, and on up to war. For each point on the spectrum, society had defined behaviors appropriate to the situation and censured those who violated those norms." Equally important, Lee points out that there was a "powerful societal demand for

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[2]George F. E. Rudé, *The Crowd in History : A Study of Popular Disturbances in France and England, 1730-1848* (London: Lawrence and Wishart, 1981). See also from Rudé *The Crowd in the French Revolution* (London: Oxford University Press, 1972) and *Wilkes and Liberty* (London: Clarendon Press, 1965).

[3]Thompson first displayed his approach to crowds in E. P. Thompson, *The Making of the English Working Class* (New York: Vintage Books, 1966). He explicitly argued for a moral economy in "The Moral Economy of the English Crowd in the Eighteenth Century," *Past & Present*, no. 50 (1971). Thompson republish and addressed critics of his moral economy theory in chapters four and five of *Customs in Common*, ed. E. P. Thompson, Making of the English Working Class. (New York: New Press : Distributed by W.W. Norton, 1991).

[4]E. J. Hobsbawm, "The Machine Breakers," *Past & Present*, no. 1 (1952).

violence to be culturally legitimate."[5] Just as British society as a whole recognized a spectrum of violence which conditioned what was "culturally legitimate," so too did the British army possess an institutional culture, as transmitted by historical precedent and the military treatises its officers read most often. This culture shaped their understandings of, and responses to, violence.

The major problem with riot suppression in eighteenth-century Great Britain was the disconnect between what the law stated and what British society and the army considered to be culturally legitimate. According to common law it was a misdemeanor crime for three or more people to gather with intent to commit disorder. However, if the group used force or violence to achieve its illegal ends their crime became a felony. The rationale behind the felony charge was that the crowd was levying war against the King, and that was treason. Once the mob's action became treasonous, magistrates and everyone else – private citizens and the army – were empowered to use any force necessary to restore order.[6] Fearing that the common law provisions for suppressing riot were inadequate to deal with the mounting Jacobite threat, in July 1715 King George I assented to "An Act for preventing tumults and riotuous assemblies, and for the more speedy and effectual punishing the rioters." This new Riot Act defined riot as twelve or more persons being "tumultuously assembled together, to the disturbance of the public peace." The Riot Act required that when riots broke out the local magistrates – justices of the peace, sheriffs, mayor, bailiffs, or other civil officers – had to read the proclamation set out by the act. The proclamation stated,

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[5]Tony Hayter, *The Army and the Crowd in Mid-Georgian England* (London: Macmillan, 1978), 36-37. Wayne E. Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, Southern Dissent (Gainesville: University Press of Florida, 2001), xiii-xiv.

[6]Ian Gilmour, *Riot, Risings and Revolution : Governance and Violence in Eighteenth-Century England* (London: Hutchinson, 1992), 139-140.

> Our Sovereign Lord the King chargeth and commandeth all Persons being assembled, to immediately disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon pains contained in the Act made in the first year of King George, for preventing Tumults and riotous Assemblies. God Save the King.

Once officials read the Riot Act the crowd had one hour to disperse. Those who failed to disperse within that timeframe, regardless of whether or not they had perpetrated any violence, were guilty of a felony offense, and the Riot Act authorized the use of lethal force. The Riot Act also granted immunity to officials who used force against mobs from criminal or civil liability.[7] Historian Richard Vogler pithily explained the Riot Act as, "a law to abolish law; a kind of modified martial law against rioters."[8] Despite the enormous powers and legal protections afforded government officials by the Riot Act, both political and military leaders were reluctant to make use of them.

Eighteenth-century British magistrates hesitated to employ military force against riots because of the longstanding British fear of military despotism. They had no other reliable force, however, that could be used for police duty against large-scale riots. Parish constables were normally responsible for apprehending criminals and bringing them to court, but the only weapon this largely honorary position holder had at his disposal was a staff. The *posse comitatus* was an assembly of all able-bodied males fifteen years of age and older throughout the county. They could suppress short-lived disturbances, but could not be kept in the field for long. The Lord Lieutenant of every county also had an entourage of "javelin men" armed with javelins and swords, but they were predominantly ceremonial and too few in number to

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[7]Qtd. in Adrian Randall, *Riotous Assemblies: Popular Protest in Hanoverian England* (Oxford: Oxford University Press, 2006), 24-26.

[8]Richard Vogler, *Reading the Riot Act : The Magistracy, the Police, and the Army in Civil Disorder* (Philadelphia: Open University Press, 1991), 2.

handle a serious crowd. The most obvious choice for riot suppression was the militia, but like the *posse comitatus*, it consisted of all the able-bodied men from the same community. Such men were unlikely to forcibly disperse their neighbors, and in fact, the militiamen frequently joined the rioters. A notorious example of this happened during the 1757 Militia Act Riots in which East Riding mobs ranging from several hundred up to 3,000 men "Armed with clubs, and arms" rioted against their inclusion in the militia under the leadership of their local constables.[9] Considering the lack of a reliable force to function as the police during large-scale civil disturbances, the local magistrates and central government turned to the British army.[10] The necessity of the situation, however, did not alleviate concerns over militarism.

Unlike the contemporary continental European powers whose large armies more directly undergirded the rule of absolute monarchs, Britain historically did not maintain a peacetime standing army that could perform the functions of a police force. The most notable exception to this trend was Oliver Cromwell's reliance upon military force during the Interregnum from 1649 – 1660. Following the Restoration Charles II maintained an army of 9,000 men, but he rarely used it for civil disturbances and when he ordered it out during the Bawdy House Riots of 1668 the troops did not fire on the rioters. James II did rely upon his expanded army to suppress all types of dissent, but his brief three-year reign culminated in the Glorious Revolution. The revolutionary settlement of 1689 included a Bill of Rights which required Parliamentary consent to maintain a peacetime army, thus firmly establishing

[9]Hayter, *The Army and the Crowd in Mid-Georgian England*, 101-102.

[10]Randall, *Riotous Assemblies: Popular Protest in Hanoverian England*, 35-36.

civil control over the military.[11] The chain of command in Britain also strengthened civil control of the military. Requests for troops normally came from the local justice of the peace who submitted the request to the Secretary of State. If the Secretary of State approved using military force he would send his recommendation to the Secretary at War who would then dispatch the closest troops.[12] Beginning with Secretary at War William Yonge in 1735, officers ordered to aid the civil authority always received the caution "not to repel force with force, unless it shall be found absolutely necessary or being thereunto required by the civil magistrates" even though such restraint had no statutory basis.[13] In 1765 Secretary at War William Barrington, 2nd Viscount Barrington, dispatched troops to civil magistrates to help them restore order, but warned that "frequent use of soldiers to suppress civil commotions, has an evident tendency to introduce military government, than which there can not be a more horrible Evil in a State."[14]

The limited number of instances in which the Secretaries at War ordered troops to aid the civil authorities further demonstrated their restrained response to civil disturbances. A random sample of the marching orders they issued to army units in England between 1726 and 1776 shows that only thirty-nine percent of cavalry units and thirty-five percent of infantry regiments ever supported civil authorities. Of the units that received such orders, providing aid to the civil authority only constituted 3.5% of the cavalry units' time and

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[11]Gilmour, *Riot, Risings and Revolution : Governance and Violence in Eighteenth-Century England*, 136-137; Randall, *Riotous Assemblies: Popular Protest in Hanoverian England*, 38-39.

[12]Hayter, *The Army and the Crowd in Mid-Georgian England*, 47.

[13]Richard Arnold to O.C. Honeywood's Dragoons, Apr. 25, 1734, W.O. 5/31, 25 qtd. in ibid., 13.

[14]William Barrington to John and Robert Andrew, Aug. 1, 1765, W.O. 4/77, 377-8 qtd. in ibid., 28.

1.66% of the infantry units' time.[15] Britain's overwhelming fear of military despotism clearly manifested itself through the reluctance of the Secretaries at War, the civil officials who controlled the army on a day-to-day basis, to use the army to suppress civil disturbances. Unlike Yonge and Barrington, however, the officers in charge of the army did not shun riot duty out of a fear of military government or a *coup d' etat*. Instead, officers loathed suppressing civil disturbances out of fear of the legal consequences as well as an occasional sympathy for the peasants.

Although the Riot Act indemnified officials, including British officers and their soldiers, against all criminal and civil liability for any actions they took to suppress a riot, that legal protection did not prevent local juries from indicting them for murder and destruction of property. In 1776 Dr. Samuel Johnson noted, "The characteristic of our own [Great Britain's] government at present is imbecility. The magistrates dare not call the Guards for fear of being hanged. The Guards will not come, for fear of being given up to the blind rage of popular juries."[16] Johnson and the army had sufficient examples of this dilemma to tread lightly during civil disturbances. Magistrate John Evans ordered the army to suppress a corn riot in Carmarthen during June 1757 which resulted in the death of five colliers. Before ordering the troops to fire in self-defense he read the Riot Act numerous times and even offered corn at reasonable rates. The jury ultimately acquitted Evans, but his life was in as much danger from the court as it was from the mob.[17] Another noteworthy

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[15]J. A. Houlding, *Fit for Service : The Training of the British Army, 1715-1795* (Oxford; New York: Clarendon Press; Oxford University Press, 1981), 396-405. 25 of 65 cavalry units and 31 of 88 infantry regiments aided civil authorities.

[16]J. Boswell and J. Wright, *The Life of Samuel Johnson ... Including a Journal of His Tour to the Hebrides. To Which Are Added, Anecdotes by Hawkins, Piozzi, &C. And Notes by Various Hands* (1835), 301.

[17]Hayter, *The Army and the Crowd in Mid-Georgian England*, 17.

civil disturbance during this time was the Massacre at St. George's Fields on May 10, 1768, in which a mob of 15,000 protested the arrest of John Wilkes who had just been elected as the Member of Parliament for Middlesex. The crowd assembled close to the King's Bench Prison chanting "No Wilkes?, No King" as well as "Wilkes and Liberty!" The size and vehemence of the crowd convinced Magistrate Samuel Gillam to order the troops to open fire which resulted in the deaths of seven people.[18] In the wake of the massacre, Gillam was tried for murder, but he too was acquitted. Nevertheless, the indictments highlight how the public questioned the legitimacy of military actions against the populace. The most famous pre-revolutionary court case involving the British army was the trial following the Boston Massacre on March 5, 1770. Captain Thomas Preston and eight of his soldiers were arrested and charged with murder after the soldiers fired at a Boston mob without orders, killing five people. Preston and six of the soldiers were acquitted, but two of the soldiers who fired directly into the crowd were convicted of manslaughter and branded.[19] Based on the trials' overwhelming not guilty verdicts the army should have taken solace that the Riot Act was indeed providing them with legal protections for carrying out their duties. However, the possibility of a bloodthirsty jury, coupled with the questionable legitimacy of their actions in the public's eyes, inhibited officers engaged in riot duty even when they acted under the direct command of civil magistrates.

Civil and military officials also resented riot duty because it frequently contradicted their notions of honor and justice. In 1756 British Colonel James Wolfe, the future major

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[18]Charles Tilly, *Popular Contention in Great Britain, 1758-1834* (Cambridge, Mass.: Harvard University Press, 1995), 156-157.

[19]Richard Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, Pivotal Moments in American History (Oxford: Oxford University Press, 2010), 221 – 225.

general and hero of Quebec in 1759, succinctly demonstrated his disdain for fighting predominantly unarmed civilians while simultaneously expressing sympathy for their complaints. Wolfe wrote,

> What kind of duty do you think I am engaged on and what enemy am I opposed to? Hungry weavers! A dishonour to our arms; and they have had the imprudence to make assaults, and commit riots *à ma barbe* - but as the poor devils are half starved, and as their masters have agreed to mend their wages, I have hopes that they will return to work, rather than proceed to hostilities; for one or other they must do, in a very few days.[20]

Barrington vented his distaste for the task when he referred to military interventions in riots as, "a most Odious Service which nothing but Necessity can justify."[21] Barrington also sympathized with the rioters' grumbles and advised Wolfe the following year, "[an officer's] prudence and humanity should make him very cautious of proceeding to extremity with an ignorant and miserable multitude, whose grievances are sometimes real and to be pitied, though their misguided attempts to redress them are to be checked and repressed.[22] The British army's desire to maintain law and order without causing excessive bloodshed led to the practice of shooting over the mob's head. After Magistrate Samuel Gillam (discussed above) ordered the troops to fire during the King's Bench Riot, he regretfully pleaded with the officer on the scene in the hope that his order had not inflicted too much damage upon the people. The officer responded, "You may depend upon it, there was no mischief done, because we always fire in the air."[23] Whether the officers ordered their men to throw away

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[20]James Wolfe to Lord George Henry Lennox, Nov. 6, 1756, qtd. in Hayter, *The Army and the Crowd in Mid-Georgian England*, 170.

[21]William Barrington to Weymouth, Apr. 18, 1768, qtd. in Houlding, *Fit for Service : The Training of the British Army, 1715-1795*, 65.

[22]William Barrington to James Wolfe, Jan. 8, 1757, WO 4/53, 40 qtd. in Hayter, *The Army and the Crowd in Mid-Georgian England*, 58.

[23]Testimony of James Earle in *R. v. Gillam*. T.S. 3213, box 920 qtd. in ibid., 179-180.

their volleys, or the men did it on their own because of their sympathies for the crowd, army units did not frequently fire into riotous crowds at point-blank range.

Eighteenth-century British officers and officials sought to minimize military intervention and the amount of force used to quell riots because they did not normally consider rioters particularly threatening. One major reason officials discounted them was because riots were endemic during the 1700s. The British military was neither large enough nor sufficiently distributed throughout the country to police such a chronic problem. Another practical reason for military nonintervention in riots was their evanescent nature. Whether they occurred in an urban or rural setting, they frequently dissipated long before the government could mobilize the military to suppress it. Most importantly, however, was the near universal conviction that dealing with riots was a function of civil government. During the Wilkes riots in 1768, Alderman Beckford pithily summed up this opinion during a debate over how to suppress the disturbances saying, "I was always of opinion, that mobs might be quelled without the aid of the military."[24] The military, likewise, saw rioting as a criminal matter best handled by the civil authorities. British Lieutenant General Humphrey Bland, author of *A Treatise of Military Discipline* (1743) and Governor and Commander-in-Chief of Gibraltar from 1749 to 1754, echoed Alderman Beckford's sentiment when he wrote, "Upon any considerable Rising of the Inhabitants, or Tumult in the Town, that the Governour may be able to disperse the Mob and bring the Offenders to Justice."[25] Not only does Bland place responsibility for riot suppression squarely on the civil governor's shoulders, but he also demonstrates the army's assumption that riots were not that dangerous and should therefore

[24]Qtd. in ibid., 20, 39.

[25]Bland, *A Treatise of Military Discipline: In Which Is Laid Down and Explained the Duty of the Officer and Soldier, Thro' the Several Branches of the Service*, 198.

be handled as a criminal matter. In summary, British officers viewed riots as the least threatening form of civil disturbance because they were localized affairs ostensibly caused by either criminal intent or just grievances. Military leaders were also reluctant to intervene in riots due to their fear of prosecution, ideological concerns about militarized government, and a distaste for using force against fellow subjects.

British officers' firsthand experiences with civil disturbances were central to forming their beliefs about how and when military force could and should be used against the civilian populace. Their experiences, however, were not the sole source of their understanding of the utility and legitimacy of using the army as a police force. The pan-European military treatises of the time were the other significant factor which established culturally legitimate uses of force among British army officers as part of their increasing professionalization.

By analyzing the language eighteenth-century authors used to describe various civil disturbances and the government's responses to them, contemporary British officers' understanding of those phenomena becomes clearer. The authors, and subsequently the officers, identified a spectrum of violence that ran from riot all the way up to civil war, each requiring different responses. Riots only rarely appeared in this form of military literature, but insurrection, the next category on the spectrum of civil violence, frequently did. Unlike riots, British officers and officials considered insurrections politically-motivated disturbances that frequently had the support of "men of quality." This secretive support made insurrections significantly more dangerous than mere rioting because, according to contemporaries, it infused the mob with reason, and the ability to strategize to achieve its backers' political goals.

All of the military treatise authors agreed that insurrections were particularly dangerous compared to riots because of the involvement of gentlemen who could provide both guidance and material support. In Castruccio Buonamici's *Commentaries of the Late War in Italy* (1753), which discussed the Italian campaigns of the Austrian War of Succession, the author noted that "the affairs of the government transacted with tolerable harmony, when a sudden and unforeseen insurrection broke out. A set of profligate and audacious villains convened the very dregs of the people, being all persons of abandoned characters, or desperate fortunes."[26] While Buonamici disparaged the motivations of the instigators of the insurrection, he aptly demonstrated their effectiveness in mobilizing the rabble. Where most insurrections had sponsorship, this was not true for all of them. When discussing the violent protest against the Archbishop of Canterbury in 1640 the Earl of Clarendon called it "This infamous, scandalous, headless insurrection, (quashed by the deserved death of that one varlet,) was not then thought to be contrived or fomented by any persons of quality."[27] In highlighting this exception, Clarendon made clear that insurrections supported by "persons of quality" were substantially more dangerous than ones lacking such support and direction.

Insurrection could escalate into outright revolt and rebellion. Eighteenth-century authors and officers saw revolts and rebellions as coequal phenomena in terms of severity

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[26]Castruccio conte Buonamici, *Commentaries of the Late War in Italy, [Electronic Resource] : Translated from the Original Latin of Castruccio Buonamici: To Which Is Prefixed an Introduction. By A. Wishart, M.A*, Buonamici, Castruccio, Conte, 1710-1761. Commentaria De Bello Italico. English (London: printed for A. Millar, in the Strand, 1753), 452.

[27]E.H. Clarendon, *The History of the Rebellion and Civil Wars in England, Begun in the Year 1641: With the Precedent Passages and Actions, That Contributed Thereunto, and the Happy End, and Conclusion Thereof by the King's Blessed Restoration, and Return Upon the 29th of May, in the Year 1660* (Printed at the Theater, 1707), 247. The varlet, or rascal, executed was a sailor tried for treason.

because the people were armed and used their weapons during the disturbances. Military authors and officers believed that military force was the appropriate response to such armed opposition. The only difference between the two was that when conquered people who did not owe fealty to the central government resorted to violence the authors and officers generally called it a revolt, whereas when subjects and other members of the body politic lashed out they were in rebellion (although, in fairness, the strict distinction in definition suggested here was not universally observed, in part because of the often slippery definition of when a people had been "conquered," and when conquered peoples shifted into the status of subjects). In William Duncan's translation of the British officers' most admired authority, Julius Caesar, for example, Duncan used the terms revolt and rebellion interchangeably. In Duncan's account, Caesar classified the Arverni tribal chieftain Vercingetorix's pan-Gallic military campaign of 52 B.C.E. alternately as "an universal Revolt of Gaul" and an insurrection. Following the Roman defeat at the Battle of Gergovia Caesar feared that the need to consolidate his remaining forces would create the impression "that a Retreat occasioned by the fear of an Insurrection, might not carry with it the Appearance of a Flight."[28] Caesar, of course, regrouped his forces and fought the decisive Battle of Alesia in September of 52 B.C.E. defeating as many as 250,000 troops under Vercingetorix's command and those who came to lift Caesar's siege. Despite Duncan's imprecision, the Vercingetorix campaign clearly illustrated the British officers' understanding that revolts were serious military threats posed by subject peoples, often newly-conquered, who sought to overturn the political order.

[28]Caesar, *The Commentaries of Cæsar, Translated into English. To Which Is Prefixed a Discourse Concerning the Roman Art of War. By William Duncan, ... Illustrated with Cuts*, Book VII, 127.

What made rebellions and revolts particularly dangerous to eighteenth-century observers was the possibility of external support, while riots and insurrections tended to be purely domestic affairs. External support posed the prospect of a rapidly expanding conflict that could result in full-blown war against a traditional enemy. Britain had substantial experience with state-sponsored rebellion during France's support for the Jacobite Rebellions of 1715 and 1745. The French hoped those rebellions would open a second front against the British during both the Wars of Spanish and Austrian Succession. Captain Robert Parker of the Royal Regiment of Foot in Ireland commented upon the grave military threat posed by the '15 and the army's role in suppressing it. In his *Memoirs of the Most Remarkable Military Transactions* (1747) he wrote, "Many people in Oxford Were deeply concerned in this Rebellion, and . . .waited only for the rising at Bristol and Bath: But Major-General Pepper, at the head of two Regiments of Dragoons, entering, the Town at break of day, kept all quiet." Parker concluded that "In short, the good intelligence which the Court had from all parts, and the disposition which the Duke of Marlborough made of the few Troops that were then in the Kingdom, put an effectual stop to all further risings in England."[29]

The '15 posed the greatest Jacobite military threat to the British home isles domestically, but the '45 left an indelible impression upon the authors of the day because of its influence upon military operations on the European continent. In his *Military History of Europe* (1755), British officer William Biggs dejectedly wrote that during the fall of 1745 the Allied forces in Belgium "were obliged to act only on the Defensive, especially when the

[29]Robert Parker, *Memoirs of the Most Remarkable Military Transactions from the Year 1683, to 1718. [Electronic Resource] : Containing a More Particular Account, Than Any Ever yet Published, of the Several Battles, Sieges, &C. In Ireland and Flanders, During the Reigns of K. William and Q. Anne. By Captain Robert Parker, Late of the Royal Regiment of Foot in Ireland, Who Was an Eye-Witness to Most of Them. Published by His Son* (London: printed for S. Austen, 1747), 267-268.

English Troops were called Home to quell the Rebellion that so much threat[e]ned the Tranquillity [sic] of the British Nation."[30] French King Louis XV's successful diversion of British troops from the Continent in 1745 demonstrated the dangers posed by foreign enemies either fomenting inchoate rebellions or supporting full-fledged ones.

The Jacobite Rebellions were particularly dangerous in the minds of eighteenth-century British army officers because they threatened to push conflict against the Protestant government to the highest end of the spectrum of violence: civil war. The military treatises of the time all considered civil war the worst fate that could befall a nation. Writers stressed the severity of such conflicts, the possibility of smaller conflicts escalating into civil war, and how they originated from domestic factions. When recounting the English Civil War of 1642-1651 the Earl of Clarendon noted,

> Amongst all the observations that may be made out of this History, there seems none more melancholic, than that, after so much misery and desolation brought upon these kingdoms by that unnatural Civil War, which hath yet left so many deep and lamentable marks of its rage and fury, there have hitherto appeared so few signs of repentance and reformation.[31]

James Anderson's *Essay on the Art of War* (1761) was a compilation of advice from European military commanders which also commented on the brutality of civil wars. Anderson explained the general consensus regarding civil war thusly:

> Civil and Religious Wars are ever unhappy for the States who sustain them. These sorts of War, which the Animosity of the different Parties, and Fanaticism, always carry beyond the Bounds of Humanity and the Duties of

[30]Biggs, *The Military History of Europe, &C: From the Commencement of the War with Spain in 1739, to the Treaty of Aix-La Chapelle in 1748 ... Also ... A ... History of the Rebellion in Scotland*, 315.

[31]Clarendon, *The History of the Rebellion and Civil Wars in England, Begun in the Year 1641: With the Precedent Passages and Actions, That Contributed Thereunto, and the Happy End, and Conclusion Thereof by the King's Blessed Restoration, and Return Upon the 29th of May, in the Year 1660*, 1:xlii.

> Society, have in general no other Rules, but those of the Offensive or Defensive.[32]

The leading military thinkers of the day regarded civil wars as the most destructive forms of conflict because of the "Animosity" and "Fanaticism" exhibited by the belligerents. Many other authorities concurred with the severity of civil war. Scottish Medical Doctor Patrick Abercromby averred, "so natural 'tis for Rebels to destroy, what they most set up for, their native Country, and so usual it has been in all Ages to foreign Princes to foment Abroad, what they most detest and fear at Home, Rebellion and Civil War." Abercromby further claimed that civil war was far more destructive than obedience to even the worst kings. He recounted the evil deeds of Scottish King Ferquhard II (r.646 – 664) who supposedly raped his daughter, murdered his wife, and committed other sacrilegious acts. Yet, when the nobles suggested open defiance the priests counseled against it, and Abercromby approved writing, "A civil War might have ensu'd, and with it, as is ordinary, more Mischief than Tyranny it self can Work."[33] British Major Robert Donkin, author of *Military Collections and Remarks* (1777), echoed Abercromby on this point by quoting the ancient Greek historian Plutarch noting, "That civil war is an hundred times worse than the most unjust monarchy."[34] Finally, Abercromby asserted the self-destructive nature of civil wars and how they provided opportunities upon which foreign opponents could capitalize. He discussed the political rivalry for control of the crusader state of Jerusalem in the 1180s C.E. between Guy of Lusignan and Raymond III of Tripoli asserting that Raymond initially bided his time because

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[32]James Anderson, *Essay on the Art of War: In Which the General Principles of All the Operations of War in the Field Are Fully Explained. The Whole Collected from the Opinions of the Best Authors [Electronic Resource]*, 187-187.

[34]Robert Donkin, Military Collections and Remarks. [Three Lines from Tortenson] Published by Major Donkin., (New-York: H. Gaine, M,DCC,LXX,VII. [1777]), 37.

"to commence a civil War as Matters then stood, was to give up both King and Kingdom to Foreign Infidels [Sultan of Egypt Saladin], ready to catch at all Opportunities of subduing the Christian States."[35] The infighting amongst the leaders of the Crusader states ultimately contributed to Saladin's decisive defeat and capture of Guy of Lusignan at the Battle of Hattin in 1187.

This widespread belief in the devastating consequences of civil war put a premium on preventing them, or failing that, ending them quickly. Simultaneously, however, military and political leaders needed to avoid a heavy-handed approach that could call their legitimacy into question. For as Captain Dumont pointed out in *The Military History of Savoy and Marlborough* (1737), impolitic use of force could cause a revolt to become a civil war. Dumont gave the example of the Camisards, French Huguenots in the Cevennes region, whose violent retribution against the French clergy during the Spanish War of Succession stemmed from their persecution following the revocation of the Edict of Nantes in 1685:

> At first some small Parties of Men driven from their Houses, went up and down the Country, and plundered here and there whatever they could lay their Hands on, Which considering the miserable Poverty and great distress these poor Creatures were in, were looked on rather as the Effects of Despair than Disaffection; but by Degrees a new Spirit arose, the Plunderers falling continually on Priests Houses or, Monasteries, which was thought sufficient Proof that they were angry with the Established Religion; the Clergy upon this cried aloud to the Secular Power, and by procuring Forces to suppress these Disorders excited a Civil War, which threatened much Mischief, and, which lasted for several Years, notwithstanding the Marshal de Montrevel was quickly sent with an Army of regular Troops to reduce them.[36]

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[35]P. Abercromby, *The Martial Atchievements of the Scots Nation: Being an Account of the Lives, Characters, and Memorable Actions, of Such Scotsmen as Have Signaliz'd Themselves by the Sword at Home and Abroad, and a Survey of the Military Transactions Wherein Scotland or Scotsmen Have Been Remarkably Concern'd, from the First Establishment of the Scots Monarchy to This Present Time* (R. Freebairn, 1711), 77, 611, 275-276.

[36]Dumont, *The Military History of the Late Prince Eugene of Savoy, and of the Late John Duke of Marlborough, [Electronic Resource] : Including a Particular Description of the Several Battles, Sieges, &C. In Which Either or Both Those Generals Commanded. Collected from the Best Authors in All Languages. To Which Is Added, a Supplement, Containing a Succinct Account of the Remarkable Events Which Happened in*

While Louis XIV's deployment of his army to suppress what his clergy viewed as an insurrection was consistent with the military authors' opinions about the proper use of military force in civil disturbances, it also highlighted the danger inherent in a heavy-handed approach when the ruler's legitimacy was in question.

By declaring a religious war against his Huguenot subjects Louis XIV called his own legitimacy into question according to two precedents established by Hugo Grotius. First, his Huguenot subjects could claim that Louis XIV was making war on his people and therefore reverted himself back to the status of a private citizen. Second, the sheer number of Huguenots in France prevented a truly effective military solution to the problem. Grotius, basing his opinion on guidance from the ancient Roman philosopher Seneca insisted, "Moreover, where offenses are of that nature, that they may seem worthy of death, it will be a point of Mercy, because of the Multitude of them, to remit somewhat of extreme right . . . pardon is necessary . . . What takes away anger from a wise man? The Multitude of Trangressors."[37] Despite his role as Defender of the Faith, Louis XIV would have been wise to take Machiavelli's advice concerning religious matters. Machiavelli had cautioned,

> As to wars about Religion, if they be civil wars, they are almost always the effects of an imprudent partiality in a Sovereign, who has been weak enough to favour one Sect at the expence of another, and has either too much confined, or too much indulged the public exercise of certain modes of worship; but especially if he has interfered too busily in party quarrels, which are but short-lived sparks, when a Prince does not interpose on one side or other, though they often break out into raging flame, when he foments them by espousing either. To maintain civil government in due vigour, and to allow a general liberty of conscience; to act like a King rather than a Priest, is the surest way to preserve

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the Late War, and Wherein Neither of the Illustrious Generals above-Mentioned Had Any Share, Particularly in Spain: From the Year One Thousand Seven Hundred and One, to One Thousand Seven Hundred and Thirteen. With a Concise History of the Last War in Germany and Italy. In Four Volumes, 2:239.

[37]Grotius, *The Illustrious Hugo Grotius of the Law of Warre and Peace: With Annotations, III Parts, and Memorials of the Author's Life and Death*, 603.

> a State from those tempests, which the dogmatical Spirit of Divine is always endeavouring to excite.[38]

Eighteenth-century authors and officers understood that military force could be counterproductive when used in the wrong situation or if applied too freely.

Numerous eighteenth-century authors stressed how the government's lack of legitimacy was the characteristic that elevated a conflict into a civil war proper, and was what made them so dangerous. Dutch jurist Hugo Grotius claimed that, "in Civil wars. . .when the people is so divided into equal parts, that it is doubtfull on which side the right of Empyre lyeth: or, when the right being much controverted, two contend about succession into the Throne. For in this case, one Nation is for the time reckoned as two."[39] As the nation devolved into two or more competing factions the allegiance of the "persons of quality" was up for grabs and opportunistic men naturally supported the side that best suited their interests rather than abstract notions of authority. In *The History of the Civill Warres of France* (1647) Italian historian H.C. Davila commented, ". . . (as it is usuall in civill Wars) men were led by divers unknown interests and inclinations)."[40] Abercromby discussed the proclivity of factions to support claims to the throne based on their own interests, writing, "Prince Gregory, the son of Dongallus, now a man, (and a great man he afterwards prov'd) had a better Title in Law, and therefore could not fail of a Party to promote his Pretensions. Upon this a Civil War commenc'd. . ." He goes on to write,

> Tis true, that some Years afterwards new Tumults were rais'd, that the Quarrels of private Men broke out into a sort of a civil War : But I no where read that ever any complain'd, that the King had taken too much upon him; that he had

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[38]*The Works of Nicholas Machiavel*, 2:436-437.

[39]Grotius, *The Illustrious Hugo Grotius of the Law of Warre and Peace: With Annotations, III Parts, and Memorials of the Author's Life and Death*, 277-278.

[40]Davila, Cotterell, and Aylesbury, *The Historie of the Civil Warres of France*, 296.

> invaded the Priviledges [sic] of the Subjects ; or that, by forcing Justice, tho in Spite of all the great Men in the Nation, he -had acted against, or infring'd the Law.[41]

The great Enlightenment philosopher François-Marie Arouet, more commonly known by his *nom de plum* Voltaire, also commented upon the role of factions in civil wars. In *The History of Charles XII King of Sweden* (1760), Voltaire maintains that, "These two factions [the Princes of Sapieha and Oginsky] had begun from private quarrels, and degenerated into a civil war."[42] Of course, the prime historical examples that informed most military authors' paradigm of civil war came from the Roman Empire, especially the civil wars fought between Sulla and Marius and Julius Caesar and Pompey. Machiavelli wrote, "The Nobility therefore, having no other remedy left, were forced to throw themselves into the arms of Sylla [sic]; and having made him the head of their faction, a civil war immediately ensued: in which, after terrible slaughter on both sides, and many changes of fortune, that of the Nobility at last prevailed."[43] Julius Caesar noted the fluid nature of political allegiance during his civil war writing,

> That in a civil War it was lawful for every Soldier to choose what side he pleased: That the same Legions who a little before had fought on the side of the Enemy, might without scruple return again to the same Cause, since Caesar's conferring Favours upon his enemies ought not to render them unmindful of prior and greater Obligations: That even the municipal Towns were divided in their Affection, and sided some with one Party, some with another.[44]

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[41]Abercromby, *The Martial Atchievements of the Scots Nation: Being an Account of the Lives, Characters, and Memorable Actions, of Such Scotsmen as Have Signaliz'd Themselves by the Sword at Home and Abroad, and a Survey of the Military Transactions Wherein Scotland or Scotsmen Have Been Remarkably Concern'd, from the First Establishment of the Scots Monarchy to This Present Time*, 138, 679.

[42]F.M.A. Voltaire and W.H. Dilworth, *The History of Charles XII. King of Sweden, Tr. By W.H. Dilworth* (1760), 23.

[43]*The Works of Nicholas Machiavel*, 3:129-130.

[44]Caesar, *The Commentaries of Cæsar, Translated into English. To Which Is Prefixed a Discourse Concerning the Roman Art of War. By William Duncan, ... Illustrated with Cuts*, 211.

Civil wars were threatening because the government's pillars of strength one day could join the opposition the next without any legal or moral sanction.

In conclusion, eighteenth-century British officers exercised tremendous restraint in the employment of military force against civil disturbances which ranged from simple riots all the way up to civil wars. As a matter of fact, British officers seldom acted as a police force in either riots or insurrections, but waited until the violence crossed the rebellion threshold. They did so for a number of reasons, but first and foremost was self-preservation. Notwithstanding the criminal and civil immunity the Riot Act of 1715 granted to individuals who assisted in "preventing Tumults and riotous Assemblies," British grand juries frequently brought murder charges against both magistrates and officers who killed rioters during their efforts to maintain order. While the juries did acquit the overwhelming number of officials indicted, the expense and stress of such judicial proceedings made most officers wary of using their troops against the mob. The British army also had a distaste for such work on ideological grounds insisting that overuse of the army would lead to despotism and there was no honor in vanquishing the poor wretches who made up the mob. Contemporary pan-European military treatises comprised the other ideological component which shaped the military culture of the British army as well as its views on civil disturbances.

On the one hand, the military literature bolstered the British officers' predilection for restraint. Military authors and officers dismissed riots as criminal behavior of a fleeting nature that could best be handled by local civil magistrates. While the treatises insisted that insurrections were significantly more dangerous than riots because of the participation and leadership of "men of quality" who sought political goals, such events were still best handled by civil government. On the other hand, according to most authors and the position adopted

by the British army, military force should only be used once a disturbance became a rebellion or revolt. The distinction between these two events, albeit far from universal or consistently employed, was that rebellions were the acts of subjects who owed the government fealty while revolts tended to be conducted by subjugated peoples. Regardless of the body politic to which they belonged, rebellions and revolts both employed weapons against established authority. Both military treatises and British officers felt that military force was the only appropriate response in such circumstances to quickly eliminate the threat before foreign powers could become involved or the conflict escalated into the worst possible scenario: civil war. The British officers who contended with the civil disturbances in prerevolutionary America brought this inherited practical and cultural framework with them to the colonies and used it as a guide for their largely-successful actions.

Chapter 3 The British Army's Prerevolutionary Responses to Civilian Violence

"Victory, terror, and a general pardon may force the people to submission, re-establish union and the public tranquility. If the people in general have not from personal motives revolted, but have been excited from ambition and authority of a few considerable men, means may be found to sow dissension among them; a pardon may then incline them to disperse."
Welsh Major General Henry Lloyd in *The History of the Late War in Germany* (1781)[1]

As the previous chapter showed, British officers operated solely under the direction of civil authorities during all domestic disturbances short of rebellion; however, once British officers had positive orders from the magistrates that the populace was in open rebellion or revolt the officers were free to operate independently and preferred a heavy-handed military solution consisting of decisive battles and scorched-earth campaigns. The British army's dualistic attitude about civil disturbances had profound implications for its military occupation polices. It caused army officers to ignore the fundamental truth that British civil authorities, both at the national and local levels, played a key role in either suppressing or exacerbating popular violent uprisings through their willingness to negotiate and their administration of justice following the disturbances. This chapter explores the various approaches the British army employed against civil disturbances based on the officers' assessment of the nature of the conflict. It will examine a number of eighteenth-century prerevolutionary precedents, including the Jacobite Rebellions of 1715 and 1745, Commander-in-Chief (CINC) Thomas Gage's reaction to the Stamp Act Riots and the Quit-Rent Rebellion in New York, as well as Governor William Tryon's handling of the Regulator

[1]Lloyd, *The History of the Late War in Germany: Between the King of Prussia, and the Empress of Germany and Her Allies*, 2:177.

Movement in North Carolina. These examples demonstrate the influence of military treatises on military practice. The British army's successes in these earlier civil conflicts reinforced a paradigm that shaped how it responded to the outbreak of war following the battles of Lexington and Concord. Unfortunately, British officials in America mistakenly concluded they were merely fighting a localized rebellion, and approached it as such, when in reality the conflict rapidly escalated into a civil war.

The Jacobite Rising of 1715 was an attempt to overturn the Glorious Revolution of 1688 by supplanting George I with James Francis Edward Stuart, derisively called the "Old Pretender" by Hanoverian political partisans.[2] The armed rebellion lasted a mere five months, from September 6, 1715, when John Erskine, the Earl of Mar proclaimed the rebellion on behalf of the King James III of England and VII of Scotland, until February 4, 1716, when James Stuart fled Scotland for the safety of France following the disintegration

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[2]See John Christopher Malcolm Baynes, *The Jacobite Rising of 1715* (London: Cassell, 1970); Bruce Lenman, *The Jacobite Risings in Britain, 1689-1746* (Aberdeen: Scottish Cultural Press, 1995); D. Szechi, *1715 : The Great Jacobite Rebellion* (New Haven: Yale University Press, 2006); Karl Schweizer, "Jacobitism and the Historian: Some Neglected Sources on the Jacobite Insurrections of 1715 and 1745," *Canadian Journal of History* 48 (2013); E. J. O Ciardha, "A Fatal Attachment: Ireland and the Jacobite Cause 1685-1766 (Bl)" (Ph.D., University of Cambridge, 1999); Allan I. Macinnes, "Jacobitism in Scotland: Episodic Cause or National Movement?" The Scottish Historical Review 86.2 (2007) 225-252; Victoria Henshaw, "A Reassessment of the British Army in Scotland, from the Union to the '45," *Northern Scotland* 2, no. 1 (2011); Edward Furgol and M. Furgol Edward, "This Seat of Mars; War and the Bitish Isles 1485-1746," *Seventeenth-century news* 70, no. 1/2 (2012); Cynthia Ann Gladstone, "High Crimes: The Law of Treason in Late Stuart Britain" (Ph.D., The University of Texas at Austin, 2003); Lisa Steffen, *Defining a British State : Treason and National Identity, 1608-1820*, Studies in Modern History (Houndmills, Basingstoke, Hampshire: Palgrave, 2001); Wilfrid R. Prest, *Albion Ascendant : English History, 1660-1815*, The Short Oxford History of the Modern World (Oxford: Oxford University Press, 1998); Colin G. Calloway, *White People, Indians, and Highlanders : Tribal Peoples and Colonial Encounters in Scotland and America* (Oxford: Oxford University Press, 2008); Bruce Lenman, *Britain's Colonial Wars, 1688-1783*, Modern Wars in Perspective (Harlow, England: Longman, 2001); Jonathan Oates, "The Aftermath of the Fifteen in the North of England," *Northern history* 45, no. 1 (2008); Susannah Abbott, "Clerical Responses to the Jacobite Rebellion in 1715," *Historical research : the bulletin of the Institute of Historical Research* 76, no. 193 (2003); John L. Roberts, *The Jacobite Wars : Scotland and the Military Campaigns of 1715 and 1745* (Edinburgh: Polygon at Edinburgh, 2002); Lawrence Bartlam Smith, "Spain and Britain, 1715-1719 : The Jacobite Issue" (OCLC Number: 15316869, Garland Pub., 1987); Alistair Tayler, *1715: The Story of the Rising*, ed. Henrietta Tayler (London, New York, T. Nelson, 1936); Mark W. Konnert, *Early Modern Europe : The Age of Religious War, 1559-1715* (Peterborough, Ont., Canada: Broadview Press, 2006).

of his army. Despite the brevity of the conflict and its ignominious end, the '15 posed serious political and military challenges to Hanoverian rule in Britain and it brought a forceful response from civil and military officials which necessitated a forceful response on behalf of the army as well as civil officials.

British legal precedents clearly established the '15 as a rebellion which demanded military intervention. The very act of raising James Stuart's standard not only communicated the Jacobites' desire to overthrow George I, but since the standard was a military ensign used to rally forces, it also demonstrated their intentions to bring about this political revolution by force of arms. Under British law once subjects took up arms they became traitors against the King who were guilty of rebellion.[3]

An aggravating factor was the external support that the Jacobites received from France. King Louis XIV had provided refuge for James II when he fled Britain in the wake of the Glorious Revolution. The Sun King subsequently supported an abortive amphibious assault in 1708 designed to land James Stuart at the head of a French Army on the Firth of Forth. Following this debacle France continued to provide sanctuary for prominent Jacobite defectors including Henry St. John, 1st Viscount Bolingbroke. In preparation for the Rising of 1715 Louis XIV outfitted twelve ships to carry 2,000 French troops along with 12,000 muskets, 18,000 swords, 4,000 barrels of powder, and 18 cannons to train and equip the Jacobite rebels under the command of John Erskine, 22nd Earl of Mar. England's envoy to France, John Dalrymple, 2nd Earl of Stair, dutifully reported these preparations to George I's

[3]Wayne Lee, *Barbarians & Brothers: Anglo-American Warfare, 1500 – 1865*, 71.

government in August 1715.[4] As England's traditional foe, France's alliance with the Jacobites and overt military assistance dramatically increased the danger posed by the '15."[5]

The British government and its 32,000-man army were eager to achieve a military solution to the Jacobite rising by vanquishing its 20,000 soldiers in decisive battles that would firmly cement the Hanoverian succession and reestablish British control over Scotland.[6] By sheer coincidence the three most significant engagements of the war – Sheriffmuir, Preston, and the capture of Inverness – culminated on November 13, 1715. King George I appointed John Campbell, 2nd Duke of Argyll, as the Commander-in-Chief of Hanoverian forces in Scotland in recognition of his excellent service under John Churchill, 1st Duke of Marlborough, during the War of Spanish Succession as well as his Scottish heritage which could serve as a recruiting tool among his clan.[7] Argyll's 3,600 soldiers fought the first major battle against approximately 8,900 Jacobite troops under Mar at Sheriffmuir. The battle was a tactical victory for the Jacobites who inflicted over 1,000 casualties on the British troops while suffering 1,500 themselves but retaining possession of the field; however, it proved to be a strategic defeat because Mar's hesitation prevented his soldiers from annihilating the battered British force, and the Jacobites retreated back into the Highlands following the battle.[8] Meanwhile, two hundred miles to the south in Preston,

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[4]John Christopher Malcolm Baynes, *The Jacobite Rising of 1715* (London: Cassell, 1970), 43.

[5]Szechi, *1715 : The Great Jacobite Rebellion*, 2.

[6]Ibid., 86, 126. These numbers represent the total strength that the belligerents raised throughout all theaters of the conflicts. The opponents' "main" armies were only a portion of this total and therefore significantly smaller in size.

[7]Baynes, *The Jacobite Rising of 1715*, 44.

[8]Szechi, *1715 : The Great Jacobite Rebellion*, 158-159.

England, Hanoverian Major General Sir Charles Wills's 3,000-man force, reinforced by 500 cavalry under Lieutenant General George Carpenter, 1st Baron Carpenter, convinced the 1,500 besieged Jacobite city defenders to surrender "at [the victor's] discretion" which only prohibited their immediate execution.[9] This victory cleared England proper of any overt Jacobite threats, and permitted the British government to transfer the bulk of its forces, most significantly the newly-arriving Dutch and Swiss mercenaries that it received in December, to Scotland.[10] Finally, Scottish clans loyal to the Hanoverians led by Simon Fraser, 11th Lord Lovat, recaptured Inverness from the Jacobites. The British army and its allies seized the initiative with these victories and all but eliminated the existential threat to the Hanoverian dynasty.

The victories at Preston and Inverness, coupled with the draw at Sheriffmuir, not only turned the military tide against the Jacobites in November 1715, but they also created room for diplomatic maneuvering. Prominent Jacobite leaders such as Alexander Gordon, Marquess of Huntly, John, Master of Sinclair, Sir Robert Gorden of Gordonstoun, and David Smythe of Methven recommended to the Earl of Mar that they approach Argyll and seek terms for a negotiated settlement to the rebellion. As Commander-in-Chief, Argyll favored a political solution that would bring an abrupt conclusion to the rebellion, but King George I and his ministers were adamant that the Jacobites needed to be punished for their transgressions to prevent future uprisings. When Argyll complained to Westminster that the government's harsh terms only served to prolong a dying movement the Secretary of State for the Northern Department, Charles, 2nd Viscount Townshend, replied by writing, "The

[9]Ibid., 179.

[10]Ibid., 142-143.

king was surprized to find your Grace attribute the continuance of the rebellion to the orders of his Majesty has thought fitt to send you." Furthermore, George I "was from the beginning of the rebellion of an opinion that he could not either in honour or conscience go into any measures in relation to the rebells, but such as would effectively secure the future peace and quiet of his faithfull subjects."[11] There would be no negotiations because the Jacobites' unnatural rebellion made them traitors which demanded their unconditional surrender and deprived them of such soldierly niceties as the honors of war or prisoner of war status.

The Jacobites' defeats, together with James Stuart's precipitous flight from Scotland on February 5, 1716, ended the immediate military threat posed by the rebellion. While the British army had defended the regime and defeated the armed Jacobites, its military campaigns had done nothing to eliminate Jacobitism; instead, the civil government conducted a heavy-handed, and largely counterproductive pacification campaign against the Jacobite fighters and their supporters before, during, and after the fighting.

British civil authorities, forewarned by their spies about the Jacobites' intentions to rise, had sought to kill the rebellion in its cradle with preemptive legislation. On July 12, 1715 Parliament passed the Riot Act. The act declared that upon its promulgation by any civil official, crowds consisting of twelve or more people had to disperse. If they did not do so within one hour they became guilty of treason. At that point civil officials could use any force necessary against the crowd, including having British soldiers open fire upon them, without any civil or criminal liability. Just over two weeks later on July 31st, King George I decreed a one-year suspension of habeas corpus. By eliminating the habeas corpus protections the government could conduct warrantless searches and imprison anyone they

[11]National Archives of Scotland 2/4/393/29: to Argyll, Whitehall, Dec. 6, 1715, qtd. in ibid., 160-162.

suspected of supporting the Jacobites indefinitely without a trial or any evidence.[12] By the end of August Parliament also passed "An Act for Encouraging Loyalty in Scotland" which required "suspected Person or Persons, whose estates or principal Residence are in Scotland, to appear at Edinburgh, or where it shall be judged expedient, to find Bail for their good behavior" in an attempt to decapitate the Jacobites' leadership. The government declared those who refused to comply as rebels, but their severity backfired because it convinced three peers with nothing left to lose to "come out" in support of the rebellion.[13] Laws, however, are only as effective as their enforcement, and so the Whig ministry turned to the British army to execute its new policies.

Eighteenth-century Britain lacked either national or municipal police forces which dictated that the British army would play a key role in efforts to suppress the '15, even beyond fighting in open battle[14] Civil officials directed the army to attack the Jacobites' will and means to resist through the military occupation of cities sympathetic towards them. Lord Berkeley, Lord-Lieutenant of Gloucestershire, deployed three regiments and a detachment of horse to secure Bristol. Major General George Wade captured Bath and seized a Jacobite arsenal there. Government forces similarly garrisoned Cornwall, but Oxford proved to be the most recalcitrant Jacobite stronghold inside England. Despite a raid by two regiments of dragoons on October 6, 1715, which led to the arrest of twelve Jacobite leaders, the decapitation strike did little to temper the anti-Whig sentiments in the town. As if to taunt George I's government, the Oxford University undergraduates attempted to raise a Jacobite

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[12]Margaret D. Sankey, *Jacobite Prisoners of the 1715 Rebellion : Preventing and Punishing Insurrection in Early Hanoverian Britain* (Aldershot, England: Ashgate, 2005), 4-5.

[13]Baynes, *The Jacobite Rising of 1715*, 42, 92.

[14]Hayter, *The Army and the Crowd in Mid-Georgian England*, 3.

regiment following the arrests. This prompted a second raid three weeks later on October 27th, followed by placing a permanent garrison of a regiment of foot to act as a more powerful deterrent.[15] When it came to rebellion suppression, the British army in Georgian Britain acted as a national police force. Arresting prominent Jacobites eviscerated the enemy's potential leadership, and such shows of force tended to dissuade the rank-and-file in England, but when these efforts at intimidation failed, then confiscation of war *matériel* deprived hardcore Jacobites of their means to resist and military occupation ensured a swift response to any disturbances.

Although the army arrested Jacobite leaders and captured its soldiers following military victories, the ultimate authority for dealing with the rebels was the civil government. Only civil authorities had the requisite legal authority to punish traitors through imprisonment, execution, deportation, and land confiscation. George I and his ministers initially sought draconian punishments for the Jacobites based on their treasonous activities. The Act of Attainder passed by Parliament in 1715 declared that the Jacobite elite "did in a traitorous and hostile manner take up arms and levy war against his present most gracious Majesty with in this realm, contrary to the duty of their allegiance."[16] Furthermore, in 1716, Parliament established special courts in London to try the Jacobite rank-and-file as "such persons as have levied war against His Majesty during the late rebellion."[17] The presumed sanctions for these crimes were beheading for peers, being drawn and quartered for the commoners, and having all of the family property confiscated through attainder; however,

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[15]Baynes, *The Jacobite Rising of 1715*, 23-24; Szechi, *1715 : The Great Jacobite Rebellion*, 142.

[16]Qtd. in Baynes, *The Jacobite Rising of 1715*, 198-199.

[17]Qtd. in ibid., 186.

political realities in the wake of the rebellion ultimately forced the organs of government to make practical concessions to mercy.

Although British law and diehard Whig partisans both condemned anyone who either fought on behalf of or collaborated with the Jacobites, even under duress, the British government never realistically contemplated legal proceedings against the tens of thousands of its subjects who met those criteria.[18] The British government did not even attempt such stern measures against the 1,785 Jacobites it captured during the conflict.[19] Instead, it sought to make an example of the British peers and army officers who had sided with the Jacobites with executions, judiciously used deportations against commoners, and the attempted confiscation of Jacobite estates to break their political power. On February 24, 1716, the ministry beheaded the Earl of Derwentwater, a wealthy English Catholic and the illegitimate son of Charles II, and Viscount Kenmure, a Presbyterian Scot, for High Treason; between May and July 1716 only four more attainted leaders of the revolt met their fate: Colonel Henry Oxburgh, Richard Gasgoigne, John Hall, and the Reverend William Paul.[20] The only other group so unfortunate was the six British officers serving with the Jacobites captured after the surrender of Preston. Only one officer, Captain James Dalziel, could prove that he resigned his commission prior to joining the Jacobites and therefore earned acquittal from a military court martial. The British army summarily executed four of the others and gave a temporary reprieve to Lord Charles Murray due to his father's political influence.[21]

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[18]Szechi, *1715 : The Great Jacobite Rebellion*, 199.

[19]Baynes, *The Jacobite Rising of 1715*, 104, 192.

[20]Ibid., 189.

[21]Ibid., 127.

The British courts commuted the death sentences of approximately one-third of the common Jacobite soldiers. Of the 1,785 captives held by the British following the rebellion, 638 of them ultimately received deportation to the colonies in lieu of execution; 495 went to North America while the other 123 went to the West Indies. Such concessions were built into the early modern justice system which relied on both terror and mercy. In cases such as these widespread commutations of sentences addressed the practical difficulties of executing all of the offenders for treason while simultaneously providing political dividends by demonstrating the government's benevolence.[22] Many Whig ministers also believed that the exiles would not escape justice because they would receive indentures of seven to fourteen years in the New World, and those sold in the Caribbean were unlikely to survive such a long tenure in the tropics given the disease environment.[23] Those Whig ministers would have been chagrined if they learned that many of the prisoners selected for transportation either bribed the ship captain for their freedom, had relatives purchase their indentures, seized the prison ship through a mutiny, or arrived in North American colonies where the healthy environment and need for labor dramatically reduced fatalities.[24]

The final major punishment that the British government sought to impose in the wake of the '15 was the large-scale confiscation of Jacobite property. The ministry calculated that thirty-eight Jacobite estates worth £29,771 were subject to this penalty, and they established the "Commissioners Appointed to Enquire of the Estates of certain Traitors in that Part of

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[22]Julius R. Ruff, *Violence in Early Modern Europe, 1500-1800*, New Approaches to European History (Cambridge: New York : Cambridge University Press, 2001), 73 – 116.

[23]Szechi, *1715 : The Great Jacobite Rebellion*, 207-208.

[24]Sankey, *Jacobite Prisoners of the 1715 Rebellion : Preventing and Punishing Insurrection in Early Hanoverian Britain*, 59-76.

Great Britain called Scotland" to legally seize the attainted property.[25] Unfortunately for the commissioners, they had to navigate the Scottish courts, and Scottish sentiment, already sympathetic towards the Jacobites, grew even more obdurate towards George I's regime in the wake of the ministry's decision to hold Jacobite trials in England with English judges and juries in flagrant violation of the terms of the Act of Union.[26] As a result, Scottish solicitors used every legal legerdemain at their disposal to prevent the confiscations. One notorious example noted by the commissioners was the transfer of the estates of James Carnegie, Earl of Southesk, on July 20, 1716 to Sir John Carnegie of Pittarow who was "the late Earls next Heir; and there fore most likely to preserve the Rents of the Estate for his Use."[27]

Scottish resistance after the conflict, however, was not limited to the courts. Mob violence also prevented the commissioners from surveying the estates in question, and even though they received military support at times, British officers usually declined to aid the commissioners without direct orders from the Secretary at War because of the legal and financial risks that they exposed themselves to in the absence of positive orders. In the end, the legal and extralegal Scottish resistance prevented all but a handful of the endangered estates from being expropriated. [28]

In the wake of the Jacobite Rising of 1715 British officials initially tried to distinguish between committed Jacobites and the rank-and-file soldiers who lacked any

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[25]Lenman, *The Jacobite Risings in Britain, 1689-1746*, 162.

[26]Baynes, *The Jacobite Rising of 1715*, 196.

[27]Qtd. In Lenman, *The Jacobite Risings in Britain, 1689-1746*, 164.

[28]Szechi, *1715 : The Great Jacobite Rebellion*, 209, 232; Lenman, *The Jacobite Risings in Britain, 1689-1746*, 168-170. Scottish civil authorities were highly unlikely to authorize military action which would expose the British army to criminal and civil charges in the event of a skirmish. Furthermore, officers who committed the King's soldiers without express orders were personally liable for the costs associated with those missions.

ideological ardor and had been coerced into rebellion. The Hanoverian government did not object to British Commander-in-Chief (CINC) of Scotland Argyll's policy of simply disarming the Jacobite soldiers and sending them home after they took an oath of allegiance to King George I. General William Cadogan succeeded Argyll as the CINC of Scotland on February 27, 1716 and despite his truculent temperament, he continued this humane policy.[29] To snuff out the final embers of the lingering discord in Scotland, the Whig Parliament passed the Indemnity Act of 1717, also known as the Act of Grace and Free Pardon, which freed the vast majority of the remaining 1,100 Jacobite prisoners, and gave them permission to return to their "home and safety" or resettle overseas.[30] The Act of Grace, however, did not reverse any of the property confiscations, nor did it pardon four prominent Jacobites still in custody – Robert Harley, Thomas Harley, Lord Harcourt, and Matthew Prior – and it exempted the entire Clan MacGregor. These gestures of clemency went a long way towards pacifying the Scottish Jacobites; there would not be another major rebellion in the north country for twenty-eight years.[31] Terror mixed with mercy worked, or at least it did in the aftermath of major military victories.

The '15 demonstrated two essential aspects of British civil-military cooperation for suppressing a rebellion: first, it showed the essential role played by both Parliament and the judiciary. Parliament provided the legal framework for successfully ending the rebellion by suspending habeas corpus and indemnifying military officers through the Riot Act. In the wake of military victory, Parliament also passed the Act of Grace in an effort to remove any

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[29]Szechi, *1715 : The Great Jacobite Rebellion*, 203; Baynes, *The Jacobite Rising of 1715*, 200.

[30]Baynes, *The Jacobite Rising of 1715*, 192-193, 202.

[31]There was, of course, the Rising of 1719 in which a Spanish invasion force landed to instigate a Jacobite rebellion, but it garnered a cool reception from the Scottish Jacobites and quickly met defeat during the Battle of Glen Shiel on June 10th of that year.

residual grudges amongst those with Jacobite sympathies, while the judiciary punished the leading rebels for their crimes against the king. Although the Scots seethed that trial by English juries was a violation of the Act of Union, the legal proceedings had legitimacy within the rest of the British Isles and so the rest of George I's subjects accepted their verdicts. Second, the British army demonstrated its willingness to use military force to crush open rebellion. In areas where violence had not yet broken out, the army sought to dissuade potential rebels through shows of force, establishing garrisons, and confiscating weapons. Wherever the army found subjects in open revolt the British officers sought decisive battle against the rebels and went after their property. By raising the Pretender's standard the Jacobites freed the British army to act, but the Hanover's success in the '15 was equally dependent on the legitimacy provided by Parliament and the judiciary which ensured the army operated within the law's compass, even if at its very extremes.

The Jacobite Rising of 1745 was another rebellion which sought to supplant the Hanoverian dynasty with the Stuart line. While the main goal of this movement was to crown James Stuart as the rightful king of Great Britain, this time it was his son Charles Edward Stuart, known as Bonnie Prince Charlie, who snuck into Scotland and fomented the subsequent military campaign in the British Isles. The '45 shared with the '15 all of those elements that firmly established it as a rebellion: it was yet another military effort by British subjects to overthrow their sovereign with overt French assistance. One major difference between this contest and the '15 was that the '45 occurred during the War of Austrian Succession (1740-1748) when the British army had most of its soldiers deployed in Flanders. The army's weakness in the initial stages of the rebellion helps to explain the Jacobites' early successes. The other major difference was that once the Hanoverian regime quelled this

rebellion it implemented a decidedly harsher and longer-term pacification policy against the Scottish Highlanders.[32]

Charles Edward Stuart arrived in the Hebrides on August 3, 1745. He spent the next two months rallying the Highland clans to his father's banner which produced some 2,000 troops.[33] One of his early political successes was to secure the defection of Lord George Murray from the Hanoverian fold. Sir John Cope, Commander-in-Chief (CINC) of the

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[32]The historiography on the '45 is vast. The works cited here provide the essential understanding of the topic. Jonathan Oates, *Jacobite Campaigns : The British State at War*, Warfare, Society and Culture ; No. 3 (London: Pickering & Chatto, 2011); Maggie Craig, *Bare-Arsed Banditti : The Men of the '45* (Edinburgh: Mainstream, 2009), Murray Pittock, *The Myth of the Jacobite Clans : The Jacobite Army in 1745* (Edinburgh: Edinburgh University Press, 2009); Martin B. Margulies, *The Battle of Prestonpans, 1745* (Stroud, Gloucestershire: Tempus, 2007); John Sadler, *Culloden : The Last Charge of the Highlands Clans, 1746* (Stroud, Gloucestershire: Tempus, 2006); Jonathan Oates, *York and the Jacobite Rebellion of 1745*, ed. Research Borthwick Institute of Historical, Borthwick Papers, 0524-0913 ; No. 107 (Heslington, York: University of York, Borthwick Institute of Historical Research, 2005); Frank McLynn, *Bonnie Prince Charlie : Charles Edward Stuart*, Mclynn, Frank. Charles Edward Stuart (London: Pimlico, 2003); Christopher Duffy, *The '45 : [Bonnie Prince Charlie and the Untold Story of the Jacobite Rising]* (London: Cassell Military, 2003); Roberts, *The Jacobite Wars : Scotland and the Military Campaigns of 1715 and 1745*; Stuart Reid, *1745 : A Military History of the Last Jacobite Rising* (Staplehurst, Kent: Spellmount, 1996); Diana Preston, *The Road to Culloden Moor : Bonnie Prince Charlie and the '45 Rebellion* (London: Constable, 1995); *1745 : Charles Edward Stuart and the Jacobites*, ed. Museums Glasgow, Museum National Army, and Robert C. Woosnam-Savage, Charles Edward Stuart and the Jacobites (Edinburgh: HMSO, 1995); George Forbes, *Rebellion : Bonnie Prince Charlie and the 1745 Jacobite Uprising* (Glasgow: Lang Syne Publishers, 1995); John S. Gibson, *Edinburgh in the '45 : Bonnie Prince Charlie at Holyroodhouse*, ed. Society Saltire ([Edinburgh]: Saltire Society, 1995); Leo Gooch, *The Desperate Faction? : The Jacobites of North East-England, 1688-1745 [Sic]*, Jacobites of North-East England ([Hull, England]: University of Hull Press, 1995); John S. Gibson, *Lochiel of the '45 : The Jacobite Chief and the Prince*, Lochiel of the Forty-Five (Edinburgh: Edinburgh University Press, 1994); Jeremy Black, *Culloden and the '45* (New York: St. Martin's Press, 1990); Carolly Erickson, *Bonnie Prince Charlie : A Biography* (New York: W. Morrow, 1989); *The Jacobite Challenge*, ed. Jeremy Black and Eveline Cruickshanks (Edinburgh; Atlantic Highlands, NJ, USA: J. Donald; Distribution in the United States of America and Canada by Humanities Press, 1988); Frank McLynn, *The Jacobite Army in England, 1745 : The Final Campaign* (Edinburgh: J. Donald, 1983); Annette M. Smith, *Jacobite Estates of the Forty-Five*. (Edinburgh: J. Donald, 1982); W. A. Speck, *The Butcher : The Duke of Cumberland and the Suppression of the 45* (Oxford: Blackwell, 1981); Frank McLynn, *France and the Jacobite Rising of 1745* (Edinburgh: University Press, 1981); Byron Frank Jewell, "The Legislation Relating to Scotland after the Forty-Five [Microform]" (OCLC Number: 1848090, 1975); David Daiches, *Charles Edward Stuart; the Life and Times of Bonnie Prince Charlie* (London: Thames and Hudson, 1973); John Prebble, *Culloden*: *The Magnificent Reconstruction of the Highlanders' Tragic Moorland Battle* (Harmondsworth, Middlesex, England: Penguin, 1967); Katherine Tomasson, *Battles of the '45*, ed. Francis Buist (London: B.T. Batsford, 1962); James Sir Fergusson, *Argyll in the Forty-Five* (London, Faber and Faber, 1951); B. G. Sir Seton, *The Prisoners of the '45*, ed. Jean Gordon Arnot, Publications of the Scottish History Society. Third Series, Vol. 13-15 (Edinburgh, Printed by T. and A. Constable Ltd. for the Scottish History Society, 1928-1929, 1928); Robert Harris, *A Patriot Press : National Politics and the London Press in the 1740s* (Oxford: Clarendon Press, 1993); Linda Colley, *Britons : Forging the Nation, 1707-1837* (New Haven: Yale University Press, 2009).

[33]Black, *Culloden and the '45*, 72-79.

British forces, had appointed Murray as the Deputy Sheriff of Perthshire, and Murray even attempted to mobilize the militia on behalf of Cope in that role.[34] However, Charles's capture of Edinburgh on September 11th convinced Murray to fight for his conscience. He joined the Jacobites as a Lieutenant General and served as the CINC of their army in all but name.

The three successive British CINCs who took the field during the '45 all agreed on two things: their regular troops were superior to the Jacobite rebels, and the quickest way to crush the rebellion was to inflict devastating military losses on them. The British army's confidence in these two assumptions never faltered, even in the wake of the embarrassing defeats at Prestonpans on September 21, 1745, and Falkirk Muir on January 17, 1746 respectively. General John Cope led his approximately 2,000 British troops against a like number of Jacobites at Prestonpans. Although Cope established a strong defensive position for his units at the Firth of Forth with a bog covering his flanks, Murray benefited from local informants who showed him a route through the swamp. The rush of Highlanders at dawn literally caught Cope's men sleeping on the job which resulted in roughly 300 casualties and a rout for the regulars.[35] Even worse for the British, Cope's men had been the only regular force in Scotland, and their defeat opened England to invasion. The Jacobites exploited this situation by marching to within 130 miles of London and occupying the city of Derby. The purpose of the incursion was twofold: to rally English Jacobite support and to encourage France to send an invasion force. When neither happened, the Jacobites hastily retreated to Scotland in fear of the British troops commanded by Prince William, Duke of Cumberland

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[34]Reid, *1745 : A Military History of the Last Jacobite Rising*, 23.

[35]Simon Schama, *A History of Britain*, 3 vols. (New York: Hyperion, 2000), 2:378.

and Captain General of the British army, who were returning from the continent. The fleeing Jacobites ran into Lieutenant General Henry Hawley and his 8,000 soldiers in Scotland. The two armies, again of equal size, clashed in the largest battle of the conflict at Falkirk Muir. Once again Murray achieved a tactical victory over the British army by inflicting 650 casualties on it at a cost of 130 of his own men, but he failed to capitalize on this success. The Duke of Cumberland finally achieved both victory and decision at the Battle of Culloden on April 16, 1746. His success was the result of a nearly 2:1 numerical superiority (9,000 to 5,000); marshy terrain which nullified the Highlander charge; and the inability of the Jacobites to take them by surprise. Cumberland's forces killed nearly 1,500 Jacobites and took another 700 prisoners, including over two hundred French troops.[36]

Culloden was the decisive engagement the British army had sought since the beginning of the conflict, not merely because of the significant physical damage it inflicted upon the Jacobite Army, but because it convinced Charles Edward Stuart that his cause was hopeless and prompted him to disband his army and flee to France. In the immediate aftermath of Culloden Jacobite solider John Daniel noted,

> At first we had great hopes of rallying again, but they soon vanished, orders coming for everyone to make the best of his way he could. So some went one way, some another; and those who had French Commissions surrendered; and their example was followed by my Colonel, Lord Balmerino, though he had none. Many went for the mountains, all being uncertain what to do wither to go.[37]

Yet, despite this disastrous defeat and the disintegration of the main Jacobite army, Jacobitism itself remained unbroken. The Hanoverian government knew this all too well and

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[36]Ibid., 2:381-385.

[37]Qtd. in Reid, *1745 : A Military History of the Last Jacobite Rising*, 174.

its plan for the eradication of Jacobitism relied upon legal prosecutions, military occupation and governance of the Highlands, and a fundamental restructuring of Highland society to prevent further rebellions.

Following the victory at Culloden the Hanoverian regime held at least 3,471 men, women, and children who they treated as common criminals rather than prisoners of war. The government ultimately executed 120 men including four peers: Simon Fraser, 11th Lord Lovat, Charles Radcliffe, titular 5th Earl of Derwentwater; William Boyd, 4th Earl of Kilmarnock; and Arthur Elphinstone, 6th Lord Balmerino. Twenty-four members of the Manchester Regiment, the only English soldiers to defect to the Jacobite cause, comprised the other notable group the ministry targeted for judicial execution for "High treason and levying War." While some officials such as "Butcher" Cumberland wished to see more executions, the sheer number of captives overwhelmed the legal system's ability to investigate and prosecute them all for treason. Instead, on July 23, 1746, the Privy Council extended exemplary punishment to the common people who "not being Gentlemen or Men of Estates, or such as shall appear to have distinguish'd themselves by any Extraordinary Degree of Guilt," by having them draw lots so that only one of every twenty common prisoners faced trial.[38] Despite this tactic, the government still held over three hundred trials which tried suspected rebels *en masse*. Those who faced these trials did so with mortal peril because an English judge in southern London set the bar so high in order to demonstrate coerced participation in the rebellion. The judge averred, "that there is not nor ever was, a tenure which obligeth tenants to follow their lords in rebellion. And as to the matter of force . . . the fear of having houses burnt or goods spoiled . . . is not excuse for joining and marching with

[38]Qtd. in Lenman, *The Jacobite Risings in Britain, 1689-1746*, 271-275.

the rebels." Defendants who argued that they had been forced to rebel needed to demonstrate "a present fear of death" upon their enlistment, and that they deserted the Jacobite army at the first opportunity.[39] With the odds of acquittal stacked against them, over 800 commoners pleaded for mercy and accepted deportation to the colonies in-lieu-of their treason trials. By the time the trials had finished, no less than 1,585 prisoners had been released, but the fate of another 700 have been lost to the historical record.[40] There was, however, one group of captives who received prisoner-of-war status: French troops, regardless of their nationality, who fought with the Jacobites.[41] The British officials' punctilious adherence to the rules of war regarding the two hundred or so Frenchmen was dictated by the ongoing War of Austrian Succession and the fear that if they treated the French soldiers as rebels the French would retaliate on the Continent against the British prisoners they captured during their victory at the Battle of Fontenoy on May 11, 1745.

As in the '15, France ultimately sent the Jacobites a fair amount of material support and at least token military assistance during the '45. As early as October 7, 1745, a French ship brought £5,000 pounds in gold and 2,500 stand of arms to Montrose, and even more significantly, Captain Alexandre de Boyer, Marquis d'Esguilles, King Louis XV's unofficial ambassador to the Jacobites. Encouraged by what he saw at Montrose, d'Esguilles recommended that France provide additional support to the Jacobites. On November 14, 1745, a squadron of two French frigates and six privateers carried John Drummond, 1st Lord Drummond, and his Royal Ecossois Regiment, six detachments from the Irish regiments

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[39]Qtd. in Geoffrey Gilbert Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, Early American Studies (Philadelphia: University of Pennsylvania Press, 2006), 50.

[40]Ibid., 3; Reid, *1745 : A Military History of the Last Jacobite Rising*, 178.

[41]Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 30.

serving in the French army, and prodigious quantities of arms and ammunition to England. Unfortunately for the Jacobites, the Royal Navy intercepted the convoy and captured or dispersed much of it. Nevertheless, the Jacobites still received 800 regular troops, and desperately needed artillery in the form of two 18-pounders, two 12-pounders, and two 9-pounders. In mid-March *Le Prince Charles* sailed for Scotland with £12,000 in gold guineas, the usual miscellaneous collection of French and Spanish officers, as well as a picket of the Regiment Berwick. The Royal Navy's interception of those supplies and foreign soldiers impelled Charles Edward Stuart into his desperate attack at Culloden. However, French gold also played a key role following that battle, because the £35,000 of it smuggled into Scotland and distributed to clan leaders such as Sir Donald Cameron of Lochiel encouraged them to continue the rebellion after their defeat at Culloden.[42]

The Duke of Cumberland was initially eager to return to the Continent following his victory at Culloden so that he could reinforce the Allied armies at the start of the spring campaign. He stopped his forces at Inverness for a month in the belief that the rebellion was over and the Highlanders would submit a general surrender.[43] To his dismay, but not his surprise, the Highlanders proved recalcitrant. An anonymous English pamphlet captured the public sentiment by contending, "A Scot is a natural hereditary Jacobite, and incurable by acts of lenity, generosity, and friendly dealing."[44] Cumberland agreed with this assessment and had no compunctions about falling back on the brutal pacification policies he had implemented since the beginning of 1746 to bring the rebels to heel. In Cumberland's mind

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[42]Reid, *1745 : A Military History of the Last Jacobite Rising*., 52, 82-83, 116, 176; Lenman, *The Jacobite Risings in Britain, 1689-1746*, 259.

[43]Reid, *1745 : A Military History of the Last Jacobite Rising*, 175.

[44]Qtd. in Lenman, *The Jacobite Risings in Britain, 1689-1746*, 264.

the most pressing task was to disarm not only the Jacobite soldiers, but all people living in any region suspected of supporting the rebellion. On February 24, 1716, Cumberland had issued a proclamation demanding that "all common ordinary people, who have born arms or otherwise been concerned in this rebellion," to turn their weapons over to the local officials, register their names and places of residence, and "to submit themselves entirely to the King's Mercy."[45] The Highlanders who complied with these requirements received certificates from the army which were supposed to protect them from further harassment, but the army's officers and their soldiers did not always honor them.[46]

Cumberland and his subordinates subjected those who refused to either disarm or cooperate with the British army to a policy they called "military execution." Military execution did not simply refer to a death sentence for violators administered by court martial; rather, it was a scorched-earth policy of pacification which produced an orgy of violence. The ministry gave Cumberland tacit approval to implement this policy by having Parliament pass legislation that gave his soldiers immunity from criminal liability for any of their actions in Scotland. Cumberland and his army exploited this immunity to the utmost. For example, on May 22, 1716, Major General Humphrey Bland ordered Colonel John Campbell, 4th Earl of Loudon, to march on the Cameron Clan's territory and "If any of the country people did not come in immediately, deliver all their arms, and submit to the King's mercy, he was to burn and destroy their habitations, seize all their cattle, and put the men he found to death,

[45]Qtd. in Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 61-64.

[46]Lenman, *The Jacobite Risings in Britain, 1689-1746*, 263. The Macphersons were the one clan that completely disarmed, and yet Cumberland made an example of them when they refused to give their oath to him directly. Additionally, in May 1746 Sir Ludovic Grant imprisoned James Grant of Sheuglie, the Reverend John Grant, as well as sixteen Grants of Glenmoriston and sixty-eight of Glenurquhart who complied with the terms of Cumberland's proclamation.

being pretty well assured it will be difficult for him to shed innocent blood in that country."[47] Lieutenant Colonel Whitefoord explained that in his operations during July 1746 rebels found in arms or who ran away at their approach were summarily shot. For those lucky enough to escape, the British army's wrath fell upon their homes and loved ones. Whitefoord cavalierly described the wholesale burning of homes, removal of livestock, and destruction of farming equipment during his operations.[48] Even more shocking for the time was the systematic brutalization of the civilian female population. Cumberland coldly declared, "The ladies must be taught to know they may be punished for rebellion," and although he did not expressly order his soldiers to rape Scottish women, he did not reprimand them for doing it either.[49] Since rebellion was an act not protected within the laws of war, the British army did not feel confined by those laws, and therefore waged an indiscriminate one against the entire Highlander population.

This Carthaginian peace model for suppressing rebellions deeply influenced the British officer corps. On March 7, 1755 as Britain prepared to launch the Braddock Expedition in North America, General James Wolfe, the future hero of Quebec, recommended to one of his fellow officers stationed at Fort Augustus, "A body of troops may make a diversion by laying waste a country that the male inhabitants have left to prosecute rebellious schemes. How soon must they return to the defense of their property (such as it is), their wives, their children, their houses, and their cattle!"[50] Even ten years after the

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[47]Qtd. in Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 63-66.

[48]Lenman, *The Jacobite Risings in Britain, 1689-1746*, 262-263.

[49]Qtd. in Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 73.

[50]Qtd. in ibid., 63.

beginning of the '45, Wolfe clearly saw desolation as a force multiplier that could keep the disaffected Scots quiet while Britain diverted troops to the American colonies. George Germain, 1st Viscount Sackville, who later became the Secretary of State for the Colonies, and led the British government's effort to suppress the American Rebellion from 1775 – 1782, described the effectiveness of Cumberland's heavy-handedness in Scotland. Following the victory at Culloden he wrote, "These hills will now have been thoroughly rummaged, and the inhabitants will have learned that they have placed a vain trust in them [for purposes of refuge]. Those who have submitted have been spared, and the others have borne the reward of their own wickedness and obstinacy."[51] British officers viewed the repressive measures in Scotland not only as an appropriate punishment for treason, but also believed that military necessity justified these methods.

Cumberland, Wolfe, and Sackville were not alone in their enthusiasm for an iron-fisted occupation of rebellious territories. William van Keppel, 2nd Earl of Albemarle, became CINC of Scotland when Cumberland departed at the end of July 1746. Albemarle told Thomas Pelham-Holles, Duke of Newcastle, that Scotland could not be pacified unless he razed the northern counties and deported most of the Highlanders. In a letter to Albemarle dated August 27, 1746, Major General Bland discussed the possibility of building additional fortifications throughout Scotland in order "to catch the Rebell or Thieving Highlanders." He sanguinely insisted,

> If the officers Commanding the Several Posts now forming the Chain follow their instructions, the Rebells in the Highlands can't be supplied with Victual, as they call Meal, from this Country, unless the Justices of the Peace and the Ministers are accessory to it by granting Certificates for that purpose; nor will

[51]Qtd. in G. Fremont-Barnes, *The Jacobite Rebellion 1745-46* (Osprey Publishing, Limited, 2011), 85.

> I answer for their not doing it from a mistaken notion of Christian Charity, now that they think the Rebellion, in a manner, over.[52]

Thus Bland recommended starving the Highlanders into submission and would brook no excuses based on humanitarian considerations. When the British army reassigned Albemarle to a posting in Flanders during March 1747, Bland replaced him as the CINC of Scotland, a position that he held from 1747 – 1749, after a quick sojourn to the Continent himself to participate in the Battle of Lauffeld on July 2, 1747 in which he was wounded, and again from 1753 to 1756. This hardened general who despised the Jacobites, attempted to starve them wholesale, and who unhesitatingly arrested Catholic priests and burned their churches, had to accept that there were limits to the effectiveness of a brutal occupation: it could destroy overt opposition, but it did not create cooperation. All of Bland's efforts merely targeted the stem of the Jacobitism weed without disturbing its roots. The British army's violence imposed horrific damage upon Scottish society, but did so only at a superficial level. Such heavy-handed tactics also revealed an axiom of rebellion suppression: the power to punish is not the same as the power to govern. Bland himself ruefully acknowledged, "Sheriffs, Deputy Sheriffs, Justices of the Peace, and other Civil Officers throughout the Kingdom [Scotland] are very remiss in their duty, and unwilling to seize any of the attainted Rebels, or those who harbour them and abett their causes."[53] Unfortunately for the British army and Scotland alike, Bland's solution to civil officials' laxity was simply more of the

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[52]Qtd. in Lenman, *The Jacobite Risings in Britain, 1689-1746*, 266.

[53]Gruber, *Books and the British Army in the Age of the American Revolution*, 70-71; Qtd. in Lenman, *The Jacobite Risings in Britain, 1689-1746*, 268-269; Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 72, 114.

same; to punish obdurate Scottish officials, suspected rebels, and the general population alike.

Meanwhile, Parliament agreed that the Jacobites needed to be punished, but they developed a carrot-and-stick legislative program designed to reduce the number of attacks in Scotland against both the people and the British army, while simultaneously uprooting the socioeconomic basis for Jacobitism. On August 1, 1746, Parliament passed the Act of Proscription. This measure contained a multifaceted attack upon the Highlanders' military prowess by not only sanctioning the British army's efforts to disarm them, but also by prohibiting them from wearing the tartan and all of the Highland dress considered to be military in nature. The Dress Act, which was not repealed until 1782, specifically stated,

> No man, or boy, within that part of Great Britain called Scotland other than such as shall be employed as Officers and Soldiers in His Majesty's forces shall, on any Pretence whatsoever, wear, or put on Clothes commonly called Highland Clothes; that is to say the Plaid, Philabeg, or little kilt, Trowse, Shoulder-belts, or any part whatsoever of what peculiarly belongs to the Highland Garb.[54]

This act was more than simple punishment, it was Parliament's shrewd attempt to assimilate the Highlanders by harnessing their martial prowess. For the next thirty-six years only Highlanders who served the Hanoverian regime could display the status symbols so revered in Scottish society. The MPs' most important legislative initiative to remake Highland society was the Heritable Jurisdictions Act of that same year. This act deprived the Scottish lairds of the civil and criminal legal authority they traditionally held over their dependents and transferred it to royal officials. This act deprived the lairds of their ability to mobilize their dependents for another rebellion. It did so in two ways: first, it diminished the lairds'

[54]Qtd. in Fremont-Barnes, *The Jacobite Rebellion 1745-46*, 89.

political prestige by eliminating their tenants' obligations; secondly, the abolition of the heritable jurisdictions stripped the lairds of their coercive tools which could be used to make their social inferiors "come out." Without a doubt, this act had the most far-reaching consequences for Highlander society and their future disinclination towards rebellion.[55]

Although Parliament sowed the long-term seeds of Highlander pacification in 1746, the British army's take-no-prisoners approach to pacification strengthened the resolve of those rebels who had still not made peace with the government. Parliament wisely offered a well-timed pardon with the Amnesty Act of 1747 which pardoned all Scotsmen who had given aid to the rebellion, but who had not taken up arms during it. This act of clemency gave lukewarm rebels an exit strategy from the conflict, and left the hardcore Jacobites isolated. As a result, the level of violence in Scotland decreased to pre-rebellion levels. Instead of conducting punitive scorched-earth campaigns to quell a still-popular uprising, the new security conditions permitted the British army to revert to its more traditional roles of providing law enforcement and building infrastructure projects.[56]

The '15 and the '45 elicited nearly identical responses from the British ministry and army because they were the same phenomena – regime-threatening rebellions – in their eyes. As such, the Hanoverian regime initially sought a military solution to the problem by attempting to achieve a decisive battle. Once the government accomplished that goal, at Preston in 1715 and Culloden in 1746, the British government employed strategies which became paradigmatic in all subsequent rebellions: a combination of pardons for the fence sitters and scorched-earth campaigns for the die-hards to destroy the rebels' will and means

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[55]Lenman, *The Jacobite Risings in Britain, 1689-1746*., 277; Reid, *1745 : A Military History of the Last Jacobite Rising*, 179.

[56]Plank, *Rebellion and Savagery : The Jacobite Rising of 1745 and the British Empire*, 103-104.

to fight. The British army also served as a police force responsible for capturing and turning rebels over to the judiciary. Those prisoners suffered detention, execution, deportation, and land confiscation which Parliament facilitated by passing Acts of Attainder, suspending habeas corpus, and providing legal immunity for soldiers conducting pacification operations. These two examples clearly demonstrate the effectiveness of the British triumvirate of political power – the army, the judiciary, and legislature – at suppressing rebellions in the British Isles. However, the triumvirate's willingness and ability to contend with civil disturbances - especially those not regarded as rebellions - in the North American colonies prior to the American Revolution proved to be more problematic.

Lieutenant General Thomas Gage almost singlehandedly determined the stance the British army took against the many commotions which ultimately resulted in the American Revolution. During his nearly twelve-year tenure as CINC in North America, from November 16, 1763 through October 10, 1775, Gage had to confront the Stamp Act Riots, a rebellion by tenant farmers in the Hudson River Valley, the use of his soldiers for garrison duty in Boston, and finally a revolutionary conflict which resulted in civil war. Although Gage's military contemporaries did not hold his battlefield prowess in high regard, his experiences and temperament made him an ideal selection for the post under most peacetime circumstances.

Gage was a long-serving officer who participated in all of Britain's major conflicts from the War of Austrian Succession through the American Rebellion. He received his first commission as a lieutenant in the Forty-Eighth Foot in 1741 at the age of twenty-one. He served under William Anne Keppel, Lord Albemarle, as his aide-de-camp during the disastrous battle of Fontenoy in 1745. When the Jacobite Rising of 1745 became critical

with their occupation of Derby, he returned to England with Albemarle and fought at the decisive battle of Culloden and remained with him in the Highlands to carry out the repressive pacification policies. Painter John Singleton Copley immortalized Gage's role post-Culloden in his 1768 portrait of him by showing Gage pointing to the roads built into the Highlands to pacify them.[57] In 1747 Albemarle and Gage both returned to the continent for the final two years of the War of Austrian Succession. In 1754, Gage now a lieutenant colonel and in command of the Forty-Fourth Regiment of Foot, participated in the opening campaign of the French and Indian War led by Major General Edward Braddock against Fort Duquesne. He also served in General James Abercromby's 1758 assault against Fort Carillon which resulted in another shameful defeat. A fellow staff officer characterized Gage's battlefield performance thusly: "Gage is certainly none of the Sons of Fortune."[58] As the leader of the vanguard during both battles he had the dubious distinction of participating in, and materially contributing to, some of Britain's most ignominious defeats. Nor did his combat luck improve when he was in overall command. As a newly-minted brigadier general in 1759, the new British CINC, Sir Jeffrey Amherst, tasked him with leading an independent command into Canada from the west as a distraction from the main thrust against Quebec. Gage's logistical difficulties and inflated estimation of the French forces opposing his march convinced him to halt his operations and earned him the opprobrium of Amherst.[59]

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[57]Carolyn Anderson, "Constructing the Military Landscape: Maps and Mapping in Enlightenment Scotland" (Dissertation, Edinburgh, 2009).

[58]Huck to Loudon, Dec. 3, 1759, LO 6153, Loudon Papers, qtd. in John W. Shy, *A People Numerous and Armed : Reflections on the Military Struggle for American Independence*, Rev. ed. (Ann Arbor, Mich.: University of Michigan Press, 1990), 88.

[59]*Encyclopedia of the American Revolution : Library of Military History*. V1, A – L, 400, John Richard Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution* (Baton Rouge:

While no one would mistake Gage for one of the "great captains" of his day, his temperament, demonstrated organizational abilities, and creative thinking made him an able administrator whose talents were tremendously beneficial to a large bureaucracy such as the British army. For instance, in 1757 he received permission to personally fund the creation of a light infantry battalion. He formed the Eightieth Foot as a more cost-effective and disciplined substitute for Major Robert Rogers's Rangers. Although the combat effectiveness of such light infantry versus the Rangers was questionable, Gage's demonstration of the concept was successful enough to earn adoption throughout North America and gain him preferment. Following the capture of Montreal on September 8, 1760, effectively ending the French and Indian War, Gage became the governor of that city and would remain so until 1763. During his oversight of the occupation Gage protected the inhabitants from abuse by his soldiers, respected French traditions and cultural norms, and displayed a degree of political acumen which largely placated the *habitants*. Gage's administrative successes made him the logical choice to succeed Amherst in the wake of Pontiac's Rebellion.[60]

Gage's first major test as the CINC of North America came in 1765 with the Stamp Act Riots.[61] Colonists in Boston, Massachusetts (August 14 and 26), Newport, Rhode Island

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Louisiana State University Press, 1948), 1-64, David Hackett Fischer, *Paul Revere's Ride* (New York: Oxford University Press, 1994), 32-37.

[60]*Encyclopedia of the American Revolution : Library of Military History*, 400-401; Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 65-88; John W. Shy, *Toward Lexington: the Role of the British Army in the Coming of the American Revolution* (Princeton, N.J.: Princeton University Press, 1965); *A People Numerous and Armed : Reflections on the Military Struggle for American Independence*.

[61]The Stamp Act Crisis was one of the pivotal events in the lead up to the American Revolution. See Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis : Prologue to Revolution* (Chapel Hill: Published for the Institute of Early American History and Culture by the University of North Carolina Press, 1995); Peter David Garner Thomas, *British Politics and the Stamp Act Crisis : The First Phase of the American Revolution 1763-1767* (Oxford: Clarendon Press, 1975); Philip Davidson, "Sons of Liberty and Stamp Men," *North*

(August 27), and Annapolis, Maryland (September 2) were the first to violently take to the streets to protest. It was not coincidental that none of these cities had anything more than a skeleton garrison of regulars at the time; instead, the bulk of the British army in the colonies was stationed in frontier outposts far from these seaboard population centers.[62] However, as Gage would discover from the vantage point of his own headquarters in New York City, the mere presence of troops did not prevent such violent outbursts, and in many ways made them more dangerous.

On August 14, 1765, a Boston mob, led by the forerunners of the Sons of Liberty, the Loyal Nine, began a campaign of violent intimidation against Andrew Oliver, who they suspected would become the colony's stamp distributor. The crowd hung Oliver in effigy, pilloried it through the town, and tore down the building on Kilby Street which rumors indicated Oliver intended to use as his stamp office. The mob then proceeded to Oliver's home where they beheaded his effigy and burned it in a bonfire on nearby Fort Hill. They then broke into Oliver's home, and unable to find him, vented their anger against his belongings. The Lieutenant-Governor and Chief Justice of the Peace, Thomas Hutchinson,

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Carolina Historical Review 9, no. 1 (1932) Lawrence Henry Gipson, *Jared Ingersoll; a Study of American Loyalism in Relation to British Colonial Government* (New Haven: Yale University Press, 1920); Francis D. Cogliano, *Revolutionary America, 1763-1815 : A Political History* (New York: Routledge, 2009); J. T. Headley, *The Great Riots of New York, 1712-1873* (New York: Thunder's Mouth Press : Distributed by Publishers Group West, 2004); Bernhard Knollenberg, *Origin of the American Revolution: 1759-1766*, Free Press Paperback (New York: Free Press 1965); *Growth of the American Revolution, 1766-1775* (Indianapolis: Liberty Fund, 2003); Peter David Garner Thomas, *George III : King and Politicians, 1760-1770* (Manchester: Manchester University Press, 2002); Eliga H. Gould, *The Persistence of Empire : British Political Culture in the Age of the American Revolution*, ed. History Omohundro Institute of Early American and Culture (Chapel Hill, N.C.: 2000); *A Companion to the American Revolution*, ed. Jack P. Greene and J. R. Pole, Blackwell Companions to American History (Malden, Mass.: Blackwell Publishers, 2000); *Events That Changed America in the Eighteenth Century*, ed. John E. Findling and Frank W. Thackeray (Westport, Conn: Greenwood Press, 1998); Allen S. Johnson, *A Prologue to Revolution : The Political Career of George Grenville (1712-1770)* (Lanham, Md.: University Press of America, 1997); Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776* (New York: Knopf, 1972).

[62]Shy, *Toward Lexington; the Role of the British Army in the Coming of the American Revolution*, 210.

brought Sheriff Stephen Greenleaf to Oliver's home in an effort to disperse the mob, but only received a shower of stones for his rash bravery. Massachusetts' Governor, Sir Francis Bernard, felt discretion was the better part of valor and retreated to the safety of Castle William in the middle of Boston Harbor. This episode was enough to convince Oliver the following day to promise not to accept an appointment as the stamp distributor if one should arrive.

Eleven days later, on August 26, Boston experienced another violent outburst under the direction of Ebenezer McIntosh and the Loyal Nine. That night two separate mobs targeted William Story, the Deputy Register of the Admiralty Court, and Benjamin Hallowell, the Comptroller of Customs. Both men's homes, private papers, and valuables suffered considerable damage and theft, but the mob did not stop there. The two groups merged and then assaulted Lieutenant-Governor Hutchinson's house. They destroyed walls, doors, windows, dismantled large portions of the roof, and cut down all the trees in Hutchinson's garden. The marauders also stole silverware, imported clothing, and £900 in cash. In the wake of the outbursts Sheriff Greenleaf arrested McIntosh, but released him when the Loyal Nine threatened to tear down the Customs House.[63]

Even though the behavior of the Boston crowds in many ways conformed to the norms for rioting, British officials viewed the events as an insurrection for two primary reasons: first, the crowds' behavior sought to accomplish the political goal of preventing the Stamp Act from going into effect; second, the Loyal Nine and "Gentlemen of Fortune" were guiding "the mob" which caused it "to think and to reason." As the Stamp Act Riots spread

[63]Morgan and Morgan, *The Stamp Act Crisis : Prologue to Revolution*, 125-149; Knollenberg, *Origin of the American Revolution: 1759-1766*, 229-230.

to New York Captain John Montresor insisted that lawyers and men of property had been "at the bottom of this disloyal Insurrection."[64]

The Stamp Act Riot, or insurrection according to British officials, in Boston created the archetype which all subsequent anti-stamp protests emulated. At first it appeared that New York City might be spared the turbulence which occurred in Boston because its stamp distributer, James McEvers, saw the handwriting on the wall and publicly renounced his commission on August 26th, the same night as Boston's second disturbance and Newport's first.[65] This was a major relief for Gage who began moving British troops from their western posts towards the seaboard and offering them to besieged governors, but only had enough men to offer each colony 100 regulars. While Governors Francis Bernard of Massachusetts and Lieutenant Governor Cadwallader Colden of New York desired military support, their instructions from London required the consent of their councils for the use of military force, and such consent was not forthcoming.[66] When Colden hinted that Gage should act upon his own authority and deploy the troops without the council's approval Gage rebuffed him in writing:

> It's needless for me to tell you, that the Military can do nothing by themselves; but must act wholy and solely in obedience to the Civil Power. I can do nothing but by Requisition of that Power, and when troops are granted agreeable to such Requisition they are no longer under my command, or can the officers do anything with their Men, but what the Civil Magistrate shall command . . . When people go into open Rebellion . . . then other Measures are taken.[67]

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[64]*Montresor Journals*, Nov. 6, 1765 and Feb. 4, 1766, qtd. in Edward Countryman, *A People in Revolution : The American Revolution and Political Society in New York, 1760-1790*, The Johns Hopkins Studies in Historical and Political Scienc; 90th Ser., 2 (Baltimore: Johns Hopkins University Press, 1981), 62.

[65]Morgan and Morgan, *The Stamp Act Crisis : Prologue to Revolution*, 158.

[66]Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 114.

[67]Thomas Gage to Cadwallader Colden, Aug. 31, 1765, in *Collections of the New-York Historical Society for the Year 1923*, 57-58.

Gage based his restrained response to the Stamp Act "Insurrection" on his understanding of what constituted a rebellion. His definition of the threshold between insurrection and rebellion would be severely challenged in the coming November.

As fate would have it, events conspired to place New York City back in the crosshairs of the Sons of Liberty as the Stamp Act's implementation date of November 1, 1765 approached. Following the initial crisis, Gage's men had worked feverishly around-the-clock for three days in sweltering heat during the first half of September to prepare Fort George's defenses to receive an assault. Two artillery companies also arrived during that month which provided the fort with a full complement of cannon, and bolstered the garrison from a paltry 46 to 130 men. While Gage could not order additional troops into the city, he did place Fort George on high alert and moved all of the military stores he could into it. These remained the defensive capabilities of Manhattan Island on October 23rd when the long-awaited shipment of stamps finally arrived in the harbor onboard the *Edward*. Colden had the stamps secretly placed in the fort for safekeeping and publicly indicated that he intended to enforce the Stamp Act. The protests on November 1 began rather muted, with signs threatening anyone who used the new stamps. When that evening arrived, however, a mob of 2,000 formed which carried a scaffold holding effigies of Colden and Satan. Colden, who had taken refuge in the fort, ordered Major Thomas James of the Royal Artillery to train the fort's cannon on the mob who had the audacity to march up to the gate and demand the stamps. The mob also had 300 carpenters with all the necessary tools to destroy the gate if the soldiers opened fire. They lit a bonfire within 100 yards of the fort and broke into Colden's coach house where they seized a chariot, a chair, and two sleighs which they committed to the bonfire along with the effigies. They then proceeded to Major James's house and

inflicted £1,500 of damage upon his property. The tumult continued for the next three days. During that time the mob more than doubled in size to 5,000 as protesters came in from the surrounding countryside. Not only did many of these new arrivals bring their firearms with them, but even more disconcerting for Gage was the fact that his men had been unable to move their entire arsenal into the fort which meant that the mob could seize upwards of 14,000 muskets if they were provoked. Given this untenable situation, the soldiers inside the fort decided to spike their cannons to prevent them from falling into the mob's hands in the event that they overwhelmed Fort George. Finally, on November 5th, Colden, with Gage's acquiescence, turned the stamps over to the corporation of the city of New York and the mob dispersed.[68]

As long as the disturbances in New York City did not cross the threshold from insurrection to rebellion the British army would only execute the orders of the civil magistrates. On the very day when the New York Stamp Act insurrection ended, Gage wrote a rather interesting letter to Brigadier General Ralph Burton at Montreal which said that he would remain idle in the absence of a formal requisition for military support, but if the situation "increases to Arms its Rebellion, . . . and particularly belongs to me to be active in suppressing it."[69] Despite the crowd being armed from at least November 3-5, Gage did not consider the mere presence of firearms as an escalation to rebellion. As far as Gage was concerned, the mob would not have crossed the threshold from insurrection to rebellion until it fired upon the soldiers or other officials. The previous day he wrote to the Secretary of

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[68]Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 113-123; Countryman, *A People in Revolution : The American Revolution and Political Society in New York, 1760-1790*, 38.

[69]Gage MSS, Nov. 5, 1765, qtd. in *The Era of the American Revolution*, ed. Richard B. Morris, Harper Torchbook (New York, Harper & Row, 1965), 205.

State for the Northern Department Henry Conway in order to explain his restraint. Gage insisted that Colden wanted to rashly fire upon "This Insurrection," which "would serve only to disperse them from about the Fort, but not to quell them." He emphasized that provoking the mob would be a particularly dangerous course of action considering the number of unsecured weapons in the city, and that "the whole wou'd immediately Fly to Arms, and a Rebellion began without any preparations against it, or any means to withstand it."[70] Clearly Gage believed that military force would be counterproductive in this situation considering his inadequate manpower. His cost-benefit analysis of the efficacy of military force was as important as the actions of the crowd in determining his cautious response.

Gage and his subordinate commanders were far bolder five months later when the "Great Rebellion" of 1766 commenced. The conflict initially began as a land protest by tenant farmers against some of the largest patroonships in the upper Hudson River Valley.[71] The epicenters of the disturbances were the 86,000-acre Cortlandt Manor and Philipsburgh's 205,000 acres in Westchester County, Dutchess County's 205,000-acre Philipse Highland Patent, and the 160,000-acre Livingston Manor in addition to Rensselaerwyck's one million acres in Albany County. The tenants' main grievances were illegitimate land grabs, excessive rents, the unwillingness of most patroons to sell any land, and the insecurity landlessness bred. For not only could a bad harvest lead to eviction, but the status of renter

[70]Thomas Gage to Henry Seymour Conway, Nov. 4, 1765, in *The Correspondence of General Thomas Gage*, ed. Clarence Edwin Carter, 2 vols. (New Haven: Yale University Press, 1931), 1:71.

[71]The Dutch West India Company promoted settlement in its New Netherland colony with generous land grants to any stakeholder who brought fifty families to the colony and recognized its monopoly on the fur trade. In return, the stakeholder would receive a parcel of land along a navigable river for sixteen miles on one side or eight miles on both sides with no interior boundary. This estate was their patroonship. The stakeholder, *i.e.* patroon, also held administrative and judicial authority over his tenants for all cases below fifty guilders or that did not involve capital punishment. See Sung Bok Kim, *Landlord and Tenant in Colonial New York: Manorial Society, 1664-1775* (Chapel Hill: University of North Carolina Press, 1978), 6.

disenfranchised these farmers because of the existing property qualifications for voting. When the tenants' appeals to their patroons and government officials went unheeded they only had two options: fight or flee. Many of them chose the first option.[72]

During the week of April 24, 1766, 300 farmers on Beverly Robinson's estate rose up and dispossessed an exploitative shopkeeper who lived there. The rioting quickly spread to Cortlandt Manor where the mob took inspiration from the recent Stamp Act disturbances. They reasoned that if British officials should have their houses torn down for their acts of injustice, then the great landowners of the Hudson Valley should suffer the same fate. With William Prendergast leading the way, the tenants who believed they had a right to the lands they worked and insisted upon a conversion of their leases to fee simple titles set off for Manhattan to demand "Mr. Cordtlandt . . . give them a grant forever of his lands" or they would exact their revenge. They arrived at Kingsbridge on April 29th, and the following day sent a delegation of six men to negotiate with the newly-appointed governor, Henry White, who had replaced Colden the previous November. White took a hard line with the tenants who the colony's elite delegitimized by calling "levelers." White refused to see them and called out both the regular troops and the city militia. He also offered substantial rewards ranging from £50 to £100 for the arrest of Prendergast and the other leaders, while commanding that the government officials in Dutchess and Westchester counties use the full force of the law to suppress the ongoing violence. The levelers hastily retreated when they failed to rally any support within the city and the riots on Cortlandt Manor soon petered out.

[72]Irving Mark, "Agrarian Revolt in Colonial New York, 1766," *American Journal of Economics and Sociology* 1, no. 2 (1942), 112-116; Edward Countryman, ""Out of the Bounds of the Law": Northern Land Rioters in the Eighteenth Century," in *The American Revolution*, ed. Alfred Fabian Young (Dekalb: Northern Illinois University Press, 1976).

This first outbreak, however, was merely the opening salvo in what would become the Great Rebellion.[73]

Rioting spread to other estates in the north and from May 17 to 20 Livingston Manor found itself engulfed in the turmoil. Reports came in to Moore stating that the tenants were "in arms to dispossess some and maintain others in their own, without rent or taxation." Even more disturbing was the news that Moore received from Crown Point. "Scores of Families" from New England began squatting around the fort and claiming "possession is eleven points in the Law and that they will take advantage of these Disturbances." Moore knew that he had to nip this behavior in the bud, or upstate New York would be inundated with Yankee squatters who could ultimately wrest control over the disputed territories from New York.[74] The question was how could he do it in the midst of the ongoing riots.

Fortunately for Moore, the levelers provided him with the answer when they escalated the conflict into an open rebellion. On June 6, 1766, levelers from Dutchess County led a rescue mission to free one of their own, John Way, who had been imprisoned for rent debt in the Poughkeepsie jail. They attacked the jail with a force of at least 500 men, and Sheriff James Livingston informed Moore that it would be suicide "to execute his office" in the face of such formidable force. This breakdown in the civil authority convinced Moore and his Council that the "Conspirators can not be suppressed without the aid from a Military Force." Within two weeks they duly requisitioned forces from Gage who was only too happy

[73]Sung Bok Kim, *Landlord and Tenant in Colonial New York : Manorial Society, 1664-1775* (Chapel Hill: University of North Carolina Press, 1978), 389; Countryman, *A People in Revolution : The American Revolution and Political Society in New York, 1760-1790*, 40.

[74]Qtd. in *A People in Revolution : The American Revolution and Political Society in New York, 1760-1790*, 40.

to comply. On June 19th, Gage ordered Major Arthur Browne to take the Twenty-Eighth Regiment of Foot north to Poughkeepsie to aid the civil magistrates.[75]

If any of the British officials had reservations about authorizing military force to suppress the rebellion the levelers soon removed them. Browne landed at Poughkeepsie on June 26th in the eye of a hurricane. Beverly Robinson informed him that most of the rebel leaders had desisted in their defiance and Browne confidently predicted that his regiment's show of force would deter the others. The soldiers set out on the morning of the 27th under the command of the sheriff. Their march was uneventful until the following day when they reached Fredericksburg. The levelers attacked the soldiers and wounded three of them in a number of skirmishes. These armed assaults against the King's troops clearly established the conflict as a rebellion. Major Browne immediately labeled the levelers as "Traitors," and Gage countermanded his initially restrained orders "not to repel Force by Force unless in case of absolute necessity" to giving the rebels "a good Dressing." Browne's subsequent operations captured more than sixty levelers and convinced Prendergast to give himself up.[76] Meanwhile, in Albany, Sheriff Harmanus Schuyler raised a force of 140 men on Rensselaerwyck to arrest the leaders of the disturbances there including Robert Noble, Michael Halenbeck, and twenty-seven others. Noble and thirty of his followers, convinced that Schuyler's posse was going to fire the town and put all of its inhabitants to the sword, confronted the sheriff outside of Nobletown. What began as a scuffle to take Noble into custody along a fence-line turned into a nearly hour-long firefight which produced eight casualties among the peace officers and a number of wounded among the tenants. Even

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[75]Kim, *Landlord and Tenant in Colonial New York : Manorial Society, 1664-1775*, 394.

[76]Ibid., 395-396.

worse were the reports that upwards of 1,700 armed levelers had converged upon Poughkeepsie and that during their southward march from Albany they broke open every jail on the east side of the Hudson. These three instances of armed assaults upon British officials removed any doubts as to the nature of the conflict, and opened the door for the British army to take more aggressive steps.[77]

By July 3rd Governor Moore not only repeated his request to Gage for military assistance, but also authorized all of New York's peace officers to apprehend Noble and his associates. General Gage ordered Browne to provide officials in Albany County "all the aid in your Power."[78] Despite the government's urgency, the military response was delayed due to logistical difficulties and the need to cobble together additional forces. Gage eventually dispatched Captain John Clarke and 100 men of the Sixty-Sixth Regiment and two artillery pieces consisting of a six-pound cannon and a howitzer. Clarke and his men finally reached Poughkeepsie on July 21st and discovered that the rebels had fortified a nearby house. He assaulted them with all the force at his disposal, and dispersed those he did not capture. After this success Clarke pressed on to Nobletown. Between July 26 and 28, the 66th destroyed a minimum of seven houses, burned numerous other structures, killed livestock, and notably stole "Every thing they could lay their Hands upon."[79] The only things left standing in Nobletown by the army were the crops in the field, and that was most likely due to the difficulty of burning them while they were still green. Despite this brutality, the

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[77]Ibid., 399-400; Countryman, *A People in Revolution : The American Revolution and Political Society in New York, 1760-1790*, 40-41.

[78]Thomas Gage to Arthur Browne, July 2, 1766, Gage Papers qtd. in Kim, *Landlord and Tenant in Colonial New York : Manorial Society, 1664-1775*, 400.

[79]Petition of William Kellog and others to the General Court, Jul. 30, 1766, qtd. in ibid., 401.

rebellion did not diminish, because Clarke was unsuccessful in capturing the rebels who resorted to hit-and-run guerilla tactics.

When Sir Edward Pickering arrived in Albany he altered his tactics to bring the rebellion to a close. While he continued the scorched-earth policy implemented by Clarke, he also realized the futility of chasing the tenants on their home turf, and so he emphasized moving his troops "by way of Feint" in order to surprise the rebels. Whatever crops they could not destroy they sought to guard with detachments because if they cut off the rebels' food supply they would have to "surrender or abandon the country." By August 11th, Pickering's men had also taken control of the Kinderhook and Claverack Roads which were the two main arteries through Rensselaerswyck. Within five days the British army managed to arrest thirty-two rebels, but still the rebellion went on. Although the troops continued their heavy-handed pacification efforts for the next month, Gage realized that the British army was being used as a political pawn in the on-going fight between New York and Massachusetts over their respective boundaries and therefore abruptly recalled all of the regulars telling Captain Clarke the fiction that "The Country being in peace, the Civil Officers will have no further occasion" for military aid. [80]

Although Gage and the British army were ultimately unsuccessful in either quelling the Great Rebellion of 1766, or addressing any of the structural issues that brought it about, the conflict clearly demonstrated those conditions under which British army officers would intervene in civil disturbances, as well as how they would use violence in doing so. First, the civil authorities, namely New York Governor Moore and his council, authorized Gage to use troops to suppress the disturbances in the Hudson River Valley. Unlike during the Stamp Act

[80]Ibid., 400-401, 404-407

"Insurrection," New York's council willingly gave their consent for British military operations against the land rioters. Second, the levelers consistently escalated their violence until their use of firearms to attack government officials met Gage's stringent definition of rebellion. What began as riots amongst tenant farmers seeking ownership of their land between April 24 and 30 evolved into a rebellion by June 27th when they fired upon Major Browne's 28th Regiment of Foot and wounded three of his men. When Gage learned that the rioters had fired upon the King's Troops he instantly labelled them as "Traitors" and ordered Browne to give them "a good dressing" which consisted of battles against the rebels and a scorched-earth policy towards their communities.

Governor William Tryon's handling of the War of the Regulation in North Carolina from 1765 to 1771 provides yet another example of how British officials categorized and responded to civil disturbances in the years preceding the American Revolution.[81] William Tryon came to North Carolina in 1764 as its lieutenant governor, and succeeded to the governorship in 1765 following the death of the incumbent Arthur Dobbs. As the colonial governor Tryon was the captain general of the province and outranked all regular military officers except generals. His appointment, however, was not that of a mere political general. Tryon had substantial military experience in the British army dating back to 1751 with service in the First Regiment of Foot Guards. In 1758, during the Seven Years' War, he participated in the amphibious raid against Cherbourg-St. Malo as a captain, and although he

[81]John Spencer Bassett, "The Regulators of North Carolina (1765-1771) " Academic Affairs Library, University of North Carolina at Chapel Hill, James P. Whittenburg, "Backwoods Revolutionaries: Social Context and Constitutional Theories of the North Carolina Regulators, 1765-1771" (OCLC Number: 17726183, 1974); James Joseph Broomall, "Making a Considerable Tumult in the Streets": People, Papers, and Perspectives in the North Carolina Regulation" (M.A., The University of North Carolina at Greensboro, 2006).

nearly died, his performance merited a promotion to lieutenant colonel that same year.[82] So although no regular British army units participated in the suppression of the North Carolina's Regulator Movement, Tryon had been immersed in the culture of the British army and dealt with the disturbances accordingly.

The Regulator Movement was an attempt by North Carolina farmers from the Piedmont counties of Orange, Anson, Rowan, and Mecklenburg to "regulate" and reform local government abuses. Most notably these farmers demanded better representation in the tidewater-dominated colonial government, and sought to end rapacious exploitation through fee-gouging by corrupt colonial officials. They did so with a twofold strategy which implemented both legal and extralegal methods. They petitioned the colonial government, held meetings with local officials, and brought lawsuits against the worst offenders. When those legal avenues failed to achieve the desired results, the Regulators took the law into their own hands by refusing to pay taxes, seizing back property confiscated by the courts to pay off debts, and closing the courts down to prevent further judgments.[83]

Edmund Fanning, one of Tryon's close friends and political allies, became the Regulators' lightning rod for everything that was wrong in the colony. Fanning's cupidity was notorious and as Orange County's register of deeds, Judge of the Superior Court, and militia colonel, his graft knew no bounds. Surprisingly, in 1768, when the Regulators felt their supplications to Governor Tryon had fallen upon deaf ears, they only tangentially targeted Fanning. On April 8th, Sheriff Hawkins, also of Orange County, seized the horse

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[82]*Encyclopedia of the American Revolution : Library of Military History*, 1172-1173; Paul David Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service* (Chapel Hill: University of North Carolina Press, 1990), 1-18.

[83]Marjoleine Kars, *Breaking Loose Together : The Regulator Rebellion in Pre-Revolutionary North Carolina* (Chapel Hill: University of North Carolina Press, 2002), 2.

and saddle of a Regulator who refused to pay his taxes. In response, a group of 60 to 100 protestors captured the sheriff and paraded him through Hillsborough where they fired three shots at Fanning's house, but did not commit any other acts of violence. Fanning, who considered the event to be "an absolute Insurrection of a dangerous tendency," called out the militia.[84] The militiamen, however, were sympathetic to the Regulators. From their perspective the Regulators had only rioted by adhering to the well-established tradition of the skimmington in order to protest an injustice. Therefore, they were unwilling to use military force against the Regulators.[85]

Not surprisingly, Governor Tryon sided with Fanning's interpretation of events ordering all of the Regulators involved "in such Insurrections to disperse" and consistently referring to the Regulators as "insurrectionists." Tryon's stern assessment may seem unexpected at first considering his generally favorable disposition towards the Piedmont farmers. He was well aware of the abuses committed by certain officials, and implemented reforms to try to curb them. Earlier in 1768, in response to previous disturbances, Tryon had approved legislation which published standardized court fees, and even restricted the collection of taxes to five places within each county to provide proper oversight. While the effectiveness of these reforms was certainly dubious, Tryon had made a good-faith effort to respond to his subjects; therefore, the Regulators' continued defiance seemed more ominous. It led Tryon to believe that the Regulators did not simply want equitable taxation, but rather sought "Abolition of [all] Taxes and Debts."[86] This radical demand, coupled with their

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[84]William Tryon to Edmund Fanning, Apr. 27, 1768, qtd. in Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 71.

[85]Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, 50-51.

[86]William Tryon to Lord Hillsborough, Dec. 24, 1768, CO 5/312 qtd. in Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 75.

possession of firearms, elevated the Regulators' rioting in his mind to the more severe offense of insurrection.

Tryon employed the traditional carrot-and-stick approach to quelling this insurrection. He ordered Attorney General Thomas McGuire to bring indictments against corrupt officials, which ultimately resulted in convictions and fines for both Fanning and the Orange County Clerk for "Taking too high fees." At the same time, he launched a military campaign to occupy Hillsborough as a show of force to cow the Regulators into submission. On July 6, 1768, he marched with approximately 1,000 militiamen into the backcountry. He remained there to protect Hillsborough's Superior Court from a force of 800 Regulators which threatened to shut it down. By September 14th, Tryon's force swelled to 1,461 militiamen, and the Regulator force nearly doubled, but when they parleyed with Tryon they offered to pay their taxes if Tryon would receive their complaints and pardon them for their previous breaches of the peace. Although Tryon's show of force enabled the government to continue to function in Hillsborough, and prevented an "effusion of blood," the Regulators demonstrated their continued defiance by simply dispersing and going home instead of adhering to Tryon's terms for pardon which demanded that they turn over seven of their leaders for trial, lay down their arms, and promise to pay their taxes. Nevertheless, Tryon was pleased with the outcome and wrote to Wills Hill, Lord Hillsborough and the Secretary of State for Colonies from 1768 - 1772, that "This lenity had a good Tendency, for the insurgents, finding their Ardour opposed and checked and that they were not the Masters of Government, began to reflect that they were misled and in error, and as proof of their change of Disposition they have since permitted the Sheriff to perform the Duties of His Office." Hillsborough commended Tryon for "the suppression of the Insurgents," and authorized his

plan of December 1768 to pardon all the Regulators for their offenses except Herman Husband who was a prominent ringleader.[87]

Tryon's reforms, show of force, and general leniency, however, did not dissipate the Regulator movement. For almost two years after 1768, the Regulators pursued reform through the colonial General Assembly, even successfully electing several political allies to that body. Frustration at a lack of change, however, led to renewed and escalated violence. Tryon finally became convinced that he had a full-blown rebellion on his hands. The first major incident that antagonized Tryon was yet another riot in Hillsborough. On September 24, 1770, a group of 200 Regulators surrounded the Superior Court in session with Judge Richard Henderson presiding. The Regulators barged into the courtroom and demanded that Henderson unseat the current jury and replace it with twelve of their own. After thirty minutes of debate Henderson tried to ignore the intruders in his courtroom and continue with the docket. This enraged the Regulators; they vented their wrath on none other than Edmund Fanning who was standing by the door. The Regulators also beat and whipped Attorney of the Court John Williams, Sheriff Thomas Hart, Superior Court Clerk John Litterell, and Justice Alexander Martin. They then forced Henderson to hold court under their auspices and extracted a promise that he continue the court the next day. When Henderson surreptitiously fled that evening, the crowd sought to punish him vicariously by targeting Fanning; however, moderate Regulators called for restraint and the crowd destroyed Fanning's home instead and chased him out of town. They also demolished the bell which Fanning had donated to the local church, and damaged many other buildings in town.[88] Less

[87]William Tryon to Lord Hillsborough, Dec. 24, 1768, CO 5/312 qtd. in ibid., 71-77.

[88]Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, 66-68.

than a month later on November 18, 1770, Judge Henderson informed Tryon that the Regulators had burned his farm and there were rumors that a Regulator army intended to march on Tryon's capital at New Bern.[89]

Tryon, seething at such blatant contempt for his authority, demonstrated his conviction that more forceful methods, including military action, were needed against the Regulators during the December 1770 session of the colonial assembly. He had consulted Attorney General McGuire about his legal options for suppressing the Regulators in the wake of the most recent provocations. Unfortunately for Tryon, the law was on the rioters' side. McGuire informed him that most of the Regulators' actions at Hillsborough amounted "only to a Riot," while others constituted high misdemeanors, but that nothing they had said or done was "Sufficient to Convict a Man of High Treason," and the other offenses were mere speculation.[90] In order to remedy his lack of legal cover for sterner measures against the Regulators he persuaded the colonial legislature to pass a Riot Act based on England's famous Riot Act of 1715 which originally targeted Jacobites. Known also as the Johnston Act, in honor of its author Assemblyman Samuel Johnston, the Riot Act contained the same provision about groups of twelve or more people committing a felony if they did not disperse within one hour of a magistrate reading them the act. However, this colonial version gave the government significantly expanded powers for dealing with riot. The Johnston Act made it a felony to disrupt a court or interfere with government officials; it permitted individuals accused under the act to be tried in any jurisdiction thus preventing jury nullification; and

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[89]Ibid., 71.

[90]Thomas McGuire to William Tryon, Oct. 18, 1770, qtd. in Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 79.

those indicted would have sixty days to appear for the trial. Those who failed to appear within sixty days were automatically judged guilty and could be killed on sight without further due process.[91] Equally important was Tryon's demand for military authority which required, "a sufficient Body of Men, under the Rules and Discipline of War, to march into the settlements of these Insurgents, in Order to Aid and protect the Magistrates and Civil Officers," to restore "Public Tranquility," and "to compel the Insurgents to Obedience to the Laws."[92] Tryon set the stage for a final showdown: either the Regulators would cease and desist their extralegal activities, or they would resist Tryon's new muscular approach which would place them in open rebellion. They chose the latter path.

On March 16, 1771, Tryon began to assemble his army for what would become the final showdown of the War of the Regulation. Tryon decided against asking General Thomas Gage for any regular troops, but he did request supplies such as cannons and flags. Tryon mustered a force of 1,100 men while his second-in-command, Hugh Waddell, led an independent command of roughly 284 men marching toward Hillsborough from the southwest. The campaign got underway on May 4th, but by May 10 was in serious trouble when a Regulator force of 2,000 turned away Waddell's detachment. Tryon left Hillsborough with his 1,300 troops in an attempt to relieve Waddell and bumped into another 2,500-man Regulator army along the Alamance Creek. After a confused attempt at negotiation, Tryon seems to have precipitated a battle on May 16th, in which he lost ten killed and sixty wounded, while the Regulators had nine killed, twenty to thirty taken prisoner, and scores wounded. Despite being outnumbered nearly two-to-one, and suffering similar

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[91]Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, 72-73.

[92]Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 79-81.

casualties, Alamance was a decisive victory for Tryon.[93] Once again the decisiveness of Alamance was not the physical destruction that it inflicted on the rebel army, but rather how it influenced the participants' behaviors. For the rebels the battle caused them to lose heart and apply for pardon. For example, Captain Benjamin Merrill was leading a Regulator force of roughly 300 men until he heard about the defeat at Alamance, at which point he disbanded the force and headed home. Tryon announced a pardon the day following the battle, May 17th, and within seven months 6,409 Regulators took advantage of it by turning in their arms, swearing an oath of allegiance, and promising to pay their taxes. [94]

Tryon's decisive victory at Alamance also permitted him to speak his mind freely. For the first time he called the Regulators what he felt they truly were: rebels.[95] As such, they faced the traditional legal punishments for rebels. The day after the battle Tryon called James Few "an Out Law... taken in the Battle," and summarily executed him as a warning to the rest of the defeated Regulators. Tryon spent the next month marching through the backcountry in an effort to "apprehend any of the outlaws that may be sculking [sic] in the Neighbourhood." Those he captured were either given summary justice which resulted in floggings, or bound and dragged along with the army for later judicial punishment. For the leading members of the movement who Tryon could not capture, he put their farms to the torch both as a punishment to them and a warning to others. When the army finished its punitive expedition and returned to Hillsborough on June 15, 1771, Tryon conducted a Court of Oyer and Terminer which tried fourteen Regulators and sentenced twelve of them to

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[93]Ibid., 81-86; Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, 89.

[94]*Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*., 90-92.

[95]Ibid., 89.

death. Only six of the condemned actually swung from the gallows on June 19th because Tryon pardoned six of them as a gesture of mercy. The following day Tryon turned his military command over to John Ashe and made his preparations to depart North Carolina. Tryon had received a commission as the governor of New York early in 1771, and now that he had vanquished the Regulators, he felt free to take up that plum post so he departed on June 30th. While the governorship of New York was not solely a reward for his hard line against the Regulators, Tryon's astute political management of the colonial turmoil certainly added luster to his rising star. More tangibly, Lieutenant General Thomas Gage and Secretary at War Lord Barrington recognized Tryon's service with a promotion to colonel in the British army. [96]

British army officers viewed Tryon's adept handling of the Regulator Movement as a validation of the "governor-general" construct in the colonies. Officers such as Major Robert Donkin, considered Tryon's ability as the civil governor to redress grievances by implementing political reforms as absolutely essential to mitigating civil disturbances given the slowness of eighteenth-century transatlantic communications and the reluctance of colonial councils to approve the use of military force.[97] When the Regulators reacted to Tryon's reforms and pardons with ever-increasing violence, Tryon used the legislature and a locally-raised army to put down what had become a rebellion in his mind based on his experiences as a British army officer. He sought and won a decisive battle at Alamance, which permitted him to use judicial punishment against the captured rebels and a scorched-

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[96]Qtd. in Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 85-88; William Tryon to Edmund Fanning, May 24, 1771, qtd. in Lee, *Crowds and Soldiers in Revolutionary North Carolina : The Culture of Violence in Riot and War*, 89.

[97]Robert Donkin, *Military Collections and Remarks. [Electronic Resource] : [Three Lines from Tortenson] Published by Major Donkin* (New-York: Printed by H. Gaine, at the Bible and Crown, in Hanover-Square, M,DCC,LXX, 1777), In: Eighteenth century collections online (online collection). Part 1, 219-220.

earth policy against those who remained at large. Tryon's successful suppression of the Regulator Movement stood in stark contrast with the difficulties Lieutenant General Thomas Gage continued to experience as the British Commander-in-Chief of the North American colonies.

In conclusion, British officers' understandings of the type of civil disturbances they were facing informed their responses to their situations. Great Britain's overwhelming success against civil disturbances during the first three quarters of the eighteenth century resulted from the use of a triad of approaches: military, legislative, and judicial. Depending on the nature of the conflict the government utilized these components to varying degrees, but all three were always present, otherwise the strands of government power would snap. During rioting and insurrections, such as the early phases of the Regulator Movement and the Stamp Act "Insurrection," the legislative and judicial instruments of power dominated. Military force could be used in "Aid to the Civil Power" during such instances, but only if called upon by the Governor and his Council or local magistrates, and in such instances they fell under the command of those civil officials. The British army's punctilious and chary use of military power, coupled with their tailored responses to different types of disturbances, clearly demonstrated how the pan-European intellectual currents of the Military Enlightenment shaped their behavior. Rebellions, however, were a different matter. The British army could act independently and upon their own initiative in those instances. Beginning with Jacobite Rising of 1715 most royal officials and British officers considered armed opposition to the government to be rebellion. CINC Gage more narrowly defined rebellion as the use of arms against government officials, rather than simply the presence of arms amongst dissidents, which explains the British army's restraint in the colonies in the

decade leading up to the American Rebellion. Although the British army certainly behaved differently depending upon the nature of the conflict, the standard procedures for dealing with rebellion had been ingrained in army culture during the Jacobite Rebellions. The army always sought to engage the rebels in a decisive battle to end the military threat, conducted scorched-earth campaigns against diehards who refused to surrender after pardons had been offered, and provided policing functions such as arresting prominent leaders and disarming the disaffected populations in the aftermath of their victory. Significantly, however, the army only dealt with the symptoms of rebellions. The legislative and judicial branches did the real work of pacification through executions, deportations, land confiscations, and reform measures which legitimated the government's response throughout the rest of Great Britain.

Chapter 4 "Whether we are or are not a proper garrison town": The Occupation of Boston, 1768 - 1770[1]

"should the time ever come when the law of the land shall be made to yield and truckle to military power, - what a scene of confusion would then open upon a people so jealous of their liberty?" *The Journal of the Times* December 6, 1768[2]

Following the Great Rebellion of 1766 there was a brief lull in British and colonial tensions; however, by 1768 British officials – especially Massachusetts's Governor Francis Bernard, North American Commander-in-Chief (CINC) Lieutenant General Thomas Gage, and Wills Hill, the Earl of Hillsborough as well as the Secretary of State for the Colonies – believed that circumstances in Boston required the British army to resume its role of colonial police force. Specifically, the colonies' vocal and disruptive opposition to the Townsend Acts (the first of which had passed Parliament on July 2, 1767), hardened British attitudes and led to the military occupation of Boston. British officials sought to enforce royal and parliamentary authority by "awing" the populace into submission with the aggressive enforcement of its laws through "saturation policing."[3] Governor Bernard was the strongest

[1]O. M. Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times* (Boston: Chapman & Grimes, 1936), 29.

[2]Ibid., 32.

[3]British civil and military authorities frequently spoke of the ability of a large body of regular troops to "awe," i.e. intimidate, mobs and their instigators. For example, Governor Francis Bernard wrote to the Earl of Hillsborough, July 9, 1768, "One regiment will secure the Castle, but will not be sufficient to awe the town." Bernard sent Hillsborough another letter on Oct. 3, 1768 saying, "My message (which was said to be very high, tho' I hope not too high for the occasion), altho' it did not disperse them, had the good effect to keep them in awe." in Governor Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, ed. Samuel Hood Viscount Hood (Boston; London: New England : Printed by Edes and Gill, printers to the Honourable House of representatives, 1769; Re-printed for J. Wilkie,

advocate for the military occupation of Boston because he had to confront mobs targeting not only royal officials, but those of his own government – most problematically the Governor's Council.

Between 1768 and 1770 the limitations of "saturation policing" in restoring Britain's authority became apparent. Despite deepening unrest, through 1770 the British army's role in the governance of Massachusetts remained one of providing "Aids to the Civil Power" within constitutional boundaries. Bernard and Gage both refused to assume responsibility for transforming Massachusetts into a "garrison government," thus eliminating any prospect of compelling the colonists to give due obedience to the Townshend Acts since the legislative and judicial instruments in the colony were already ineffectual at enforcing royal authority.[4] Contrary to Richard Archer's claim that the actions of the British army in Boston marked the beginning of the American War of Independence, this chapter shows that it was the army's inaction which fueled the revolutionary movement by creating grievances among the population while simultaneously instilling contempt for British arms.[5]

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[4]Thomas Gage to Earl Hillsborough, Sept. 26, 1768, "Whilst Laws are in Force, I shall pay the obedience that is due them, and in my Military Capacity confine Myself Solely to the granting Such Aids to the Civil Power, as shall be required of me." in Gage, *The Correspondence of General Thomas Gage*, 1: 196. Stephen Saunders Webb, "Army and Empire: English Garrison Government in Britian and America, 1569 to 1763," *The William and Mary Quarterly* 34, no. 1 (1977); *The Governors-General : The English Army and the Definition of the Empire, 1569-1681* (Chapel Hill: Published for the Institute of Early American History and Culture, Williamsburg, Va., by the University of North Carolina Press, 1979), 4. Webb explains "garrison government" thusly: "Through the military government of garrison towns, the English executive bypassed the corporate structures of traditional local government and weakened the autonomy of its gentry-and-merchant ruling class. Acting as governors, royal army officers imposed the crown's military and political will directly on the cities, the centers of subject populations. Garrison government expressed the growing force of the national executive in strategic seaports, border fortresses, and political capitals in the British Isles. From Britain and Ireland, garrison government was transplanted to America. Army officers, all of them garrison veterans and many of them town governors, constituted almost nine-tenths (87.5 percent) of the 206 colonial viceroys commissioned between 1660 and 1727."

[5]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, xviii.

The Townshend Acts took their name from Charles Townshend, Chancellor of the Exchequer, and consisted of five primary pieces of legislation. Parliament passed the New York Restraining Act, which although never implemented, it threatened to suspend the New York Assembly until it adhered to all of the provisions within the Quartering Act, specifically those requiring the colony to provide funding to support the troops within its midst. Townsend designed the other four measures as a comprehensive program to both regulate and tax trade with the colonies. The Revenue Act sought to raise between £30,000 and £40,000 annually by taxing glass, lead, and paper, while the Indemnity Act reduced the duty on British East India Company tea so that it could compete with smuggled imports. To put teeth into these new measures the Vice Admiralty Court Act established four additional courts – in Halifax, Boston, Philadelphia, and Charleston – to prosecute smugglers. Finally, the Commissioners of Customs Act created the American Board of Customs Commissioners. The act purposefully headquartered the five new commissioners in Boston because of the city's staunch opposition during the Stamp Act Crisis. The British government intended to use the revenue generated by these new acts to pay the salaries for crown officials in the colonies so that they would not be beholden to the colonial assemblies for their livelihood and could therefore be more aggressive in executing their royal duties.[6]

The colonists' first efforts to resist these new taxes and enforcement measures relied upon the power of the pen. The Pennsylvania lawyer John Dickinson wrote the initial installment of his famous *Letters from a Farmer in Pennsylvania* on December 2, 1767, denying any validity to Townshend's distinction between internal and external taxation, and

[6]*A Companion to the American Revolution*, 134-150; Benjamin L. Carp, *Rebels Rising : Cities and the American Revolution* (Oxford: Oxford University Press, 2007), 11; Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776*, 113.

insisting that all Parliamentary taxation violated the colonists' constitutional rights. Dickinson recommended that the colonies go over Parliament's head by directly petitioning the King for redress while simultaneously boycotting trade with Britain until they achieved a favorable resolution. Less than two months later, on February 11, 1768, the Massachusetts Assembly, under the leadership of Samuel Adams, followed Dickinson's advice and issued a Circular Letter to the other colonial legislatures without even waiting for a response from King George III to their petition. Not only did the Massachusetts Circular Letter declare that "imposing duties on the people of this province, with the sole and express purpose of raising a revenue, are infringements of their natural and constitutional rights," but it also rejected the concept of virtual colonial representation within Parliament, questioned crown officials unbeholden to the colonial assemblies, and contended that the Quartering Act placed unreasonable hardships upon the colonists.[7] Early the following month, on March 4th, ninety-eight Boston merchants approved a nonimportation agreement banning "any European commodities" and invited Philadelphia and New York to subscribe to the agreement.[8] The Bostonians, however, were not content to confine their protests to public proclamations and economic sanctions.

Bostonians also took to the streets and used mob action to coerce both British officials and the friends of government. On the day they agreed to nonimportation, March 4, 1768, Boston radicals rioted to intimidate crown officials and fence-sitting merchants. Massachusetts Royal Governor Francis Bernard described the lawlessness to William Petty,

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[7]"Massachusetts Circular Letter to the Colonial Legislatures," (Boston:1768). Massachusetts Circular Letter to the Colonial Legislatures; February 11, 1768.

[8]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 77-78.

the 2nd Earl of Shelburne, as "insurrections intended" to pull down the houses of British officials and thus intimidate them. First, one hundred "lads" marched through the town beating drums and blowing horns, not only disrupting the governor's session in the Council Chamber, but also barraging Customs Commissioner Charles Paxton's house with bellicose huzzahs. Then, "at least sixty lusty fellows" barraged Customs Commissioner William Burch's home with a similar cacophony, prompting Burch's wife and children to flee the residence out the back door for fear of what might occur. The marauding minstrels kept up their harassment all evening, and when Bernard protested to the Council they told him it was "the diversion of a few boys, a matter of no consequence."[9]

For the next two weeks Boston remained calm. Bernard received reports the Faction had moved their planned insurrection to the anniversary of the repeal of the Stamp Act, March 18th.[10] On the appointed day the Faction hung effigies of Customs Commissioner Charles Paxton and Inspector General of Customs John Williams from the Liberty Tree.[11] Although some gentlemen intervened to have the effigies removed and later prevented the

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[9]Francis Bernard to Earl of Shelburne, Mar. 19, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 16-17.

[10]Bernard Bailyn, *The Ideological Origins of the American Revolution*, Enl. ed. (Cambridge, Mass.: Belknap Press of Harvard University Press, 1992), 151, footnotes 10-12. Henry St. John, 1st Viscount Bolingbroke, famously wrote, "Faction is to party what the superlative is to the positive: party is a political evil, and faction is the worst of all parties." Governor Francis Bernard always referred to the colonial opposition in Boston as the "Faction" because he was convinced of their conspiratorial designs against his government and the British Empire. For example, in 1767 Bernard wrote, "Men of a Timid Complexion give up the Town, and expect greater Disturbances than have been hitherto; and at the same Time, wish for Troops to protect them, and are afraid of their coming here. Others persuade themselves that the Gentlemen of the Town will be able to keep it quiet, and defeat the Purposes of the Faction. I believe there is a good deal of Pains taken to prevent Mischief; on the other Hand the Faction is as indefatigable in promoting it. The Minds of the common People are poisoned to a great Degree; so that (to use an Expression of one of their own partisans) their Bloods are set on boiling." in Colin Nicholson, ed. *The Papers of Francis Bernard: Governor of Colonial Massachusetts, 1760-69*, 4 vols. (Boston: The Colonial Society of MAssachusetts, 2013). 3: 409-410.

[11]Gary B. Nash, *The Urban Crucible : Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1979), 352.

lighting of a bonfire in the city streets, the raucous activity of the mob that evening thoroughly terrified Bernard. The Governor conceded that the Bostonians' behavior did not constitute a riot stating that "it succeeded that it produced terror only and no mischief," but he also stressed that actual violence had only been avoided by the narrowest of margins maintaining that if the bonfire had been lit it "would probably have been a prelude to action."[12]

Following these events Bernard provided his London superiors with a dismal assessment of the situation within his province and Boston in particular. Bernard claimed that the common people had subverted key institutions of governance and royal authority such as juries "from the controul which in this defenceless Government the common people sometimes exercise over the laws, especially the laws of Great Britain."[13] Even worse, Bernard's instructions from London required him to gain his Council's consent before asking for troops, but the people exerted influence over the Governor's Council because of the provisions of the Massachusetts Charter. Bernard wrote, "This is one of the consequences of that fatal ingredient in this constitution, the election of the Council, which will always weaken this government, so that the best management will never make its weight capable of being put in the scales against that of the people."[14] Bernard conveyed just how truly impotent his administration was when he wrote, "For tho' I am allowed to proceed in the

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[12]Francis Bernard to Earl of Shelburne, Mar. 19, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 18; T. Hutchinson and J. Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774* (J. Murray, 1828), 18.

[13]Francis Bernard to Earl of Shelburne, Mar. 12, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 13.
[14]Francis Bernard to Earl of Shelburne, Mar. 5, 1768, in ibid., 12.

ordinary business of the Government without interruption, in the business of a popular opposition to the Laws of Great Britain founded upon the pretensions of Rights and Priviledges, I have not the shadow of authority or Power."[15] Bernard knew that he could not restore royal authority without soldiers, but the Council's refusal to consent to such a request bound his hands. Without an official request from Bernard, Lieutenant General Thomas Gage could also not legally send troops to Massachusetts from New York or Halifax. Bernard pleaded with the administration in London to send help warning,

> I do not expect the Government will ever recover its authority without aid from Superior Powers . . . the authority of the King, the supremacy of Parliament, the superiority of Government, are the real objects of the attack, and a general levelling of all the powers of Government; and reducing it into the hands of the whole people, is what is aimed at, (and will, at least in some degree, succeed, without some external assistance.[16]

Before Bernard received a response to his missive describing the enervation of his government and the seriousness of the challenges posed by the Faction's insurgents, events in Boston continued apace to ensure a heavy-handed response from London.

Since smuggling was rampant throughout the colonies, and especially in Boston, it was only a matter of time before the enforcement of the Navigation Acts caused friction. On May 9, 1768, John Hancock's sloop *Liberty* returned from Madeira and reported that it only had twenty-five casks of wine to declare. Although two tidesmen, one of whom was Thomas Kirk, boarded the vessel and accounted for all of its cargo, Royal officials suspected underreporting, but they had no evidence and therefore took no immediate action. A few weeks later Kirk changed his story with a sworn revelation that on June 10th he had been kidnapped and held hostage on the *Liberty* while dockworkers unloaded cargo. Kirk's sworn

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[15]Francis Bernard to Earl of Shelburne, Mar. 19, 1768, in ibid., 19-20.

[16]Francis Bernard to Earl of Shelburne, Mar. 12, 1768, in ibid., 14.

testimony, coupled with the presence of the 50-gun frigate HMS *Romney*, which had arrived in Boston on May 17th, gave the authorities the ability to act. Joseph Harrison, Collector of the Port, his eighteen year old son, and Benjamin Hallowell, who was still the Comptroller of Customs despite the abuse of his house during the Stamp Act "Insurrection," marched down to the wharf the same day and marked the *Liberty* with King George III's seal indicating it was forfeit while boarding parties of marines and sailors from the *Romney* seized the *Liberty*. A mob of 500 – 1000 men participated in the tug-of-war over the *Liberty*, and when they lost that struggle the mob turned its attention towards the three men onshore. The officials suffered a good drubbing, but managed to escape with their lives to the refuge of the *Romney*. Their property was not so fortunate. According to Lieutenant Governor Thomas Hutchinson the mob grew to "2 or 3000 sturdy boys and negroes," and when the crowd failed to find Harrison or Hallowell it ransacked their homes, as well as the home of John Williams, the Inspector General of Customs. To add further insult to injury, the mob seized Harrison's pride-and-joy sailing vessel. They dragged it one mile through the city to the Liberty Tree, condemned it in mockery of the Vice Admiralty Courts, and then took it to Boston Common where they burned it to the ground. Harrison and Hallowell ensconced themselves in Castle William a few days later, and Hallowell ultimately sailed to England with the news of the disturbances so the customs officers' version of events would help shape the imperial response before the Sons of Liberty's propaganda arrived.[17]

Bernard ensured that his version of the *Liberty* Riot accompanied Hallowell so that their accounts reinforced one another. More importantly, in the wake of the most recent disturbances, Bernard's ominous warnings became more urgent. First and foremost, Bernard

[17]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 85-90.

continued to insist that law and order had broken down in Boston. The Customs Commissioners could not collect any duties because they were refugees in Castle William and could not leave the safety of its confines. When the Bostonians mistakenly believed that one of their number, Mr. Robinson, was in his Roxbury home, a mob of fifty to sixty men travelled three miles to his residence, and split into two parties to surround the house in a failed effort to kidnap him. Shortly thereafter, thirty men seized a schooner previously impounded by two customs officials for smuggling molasses.[18] The mob confined the officers below deck while they secreted away the contraband. Bernard dejectedly noted that all of the attempted confiscations and seizures during the past three years had been thwarted by mob violence and that he was powerless to alter the situation unless he received substantial external support. Bernard wrote, "I have not received any request from the [Customs] Commissioners upon this occasion, nor do I expect it: for they know I can do nothing . . . the executive power of the Governor is perfectly impotent."[19] Although the situation was desperate, all was not lost. Bernard clung to the belief that a powerful demonstration of military might could salvage royal authority in Boston. As before, Bernard insisted that he could not request a military presence of his own accord without the consent of his Governor's Council for fear of being driven from his post, and therefore insisted that the ministry take the initiative to issue the directive itself. The force would need to be a significant one, however, because "One regiment will secure the Castle [William], but will not be sufficient to awe the town."[20] Providing physical security for crown officials was an

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[18]Francis Bernard to Earl of Hillsborough, Jul. 9, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 51.

[19]Francis Bernard to Earl of Hillsborough, Jul. 9, 1768, in ibid., 52-53.

[20]Francis Bernard to Earl of Hillsborough, Jul. 9, 1768, in ibid., 54.

essential first step, but in Bernard's judgement in order to be truly effective the military force would have to be large enough to "awe the town" psychologically.

Unbeknownst to Hallowell and Bernard, the Earl of Hillsborough, who was the first person to serve in the newly-created position of Secretary of State for the Colonies, had already decided how to deal with Boston's unceasing disorders after receiving the March dispatches. On June 8th, two days prior to the *Liberty* Riot, Hillsborough wrote "Secret and Confidential" orders to Gage "that such Measures should be taken as will strengthen the Hands of Government in the Province of Massachusetts Bay, enforce a due Obedience to the Laws, and protect and support the Civil Magistrates, and the Officers of the Crown, in the Execution of their Duty."[21] Hillsborough, in accord with Bernard's recommendations, sought to reestablish parliamentary authority with an overwhelming demonstration of military might against Boston to serve as an example to the rest of the colonies. He initially only ordered two regiments to Boston, but upon learning of the *Liberty* Riot Hillsborough ordered an additional two. By the end of June 1768 Gage thoroughly approved of this new approach writing to Secretary at War William Barrington "you cannot act with too much Vigour: Warm and Spirited Resolves . . . will be the only Effectual means to put a Stop to the Seditious Spirit, and daring Threats of Rebellion so Prevalent in this Country." Gage recommended that the ministry should "Quash this Spirit at a Blow, without too much regard to the Expence and it will prove oeconomy in the End."[22] Gage's advice clearly revealed the

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[21]Earl of Hillsborough to Thomas Gage, Jun. 8, 1768, in *The Correspondence of General Thomas Gage*, 2:68 – 69.

[22]Thomas Gage to William Barrington, Jun. 28, 1768, in ibid., 2:479-480.

British army's understanding of the deterrent value of force which could effectively prevent rebellions, and, if deterrence failed, suppress them.

British officials believed that a massive demonstration of military force would not only cow the Sons of Liberty and other disaffected inhabitants of Boston, but would simultaneously embolden royal authorities in Boston to enforce Parliament's laws. Empowering government officials in America was essential in Gage's mind because the Achilles heel of military aid to the civil power was the civilian authorities' general unwillingness to call upon it prior to open rebellion or the declaration of martial law. Gage wrote,

> Whilst Laws are in force, I shall pay the obedience that is due to them, and in my Military Capacity confine Myself Solely to the granting Such Aids to the Civil Power, as shall be required of me; but if open and declared Rebellion makes it's [sic] Appearance, I mean to use all the Powers lodged in my Hands to make Head against it.[23]

An overwhelming military force to provide saturation policing offered the potential of solving the inherent security dilemma in the colonies; namely, that officials did not call upon the military because they felt that they could not be protected against retaliation, while the military could not protect the officials through the enhancement of law and order because those very officials refused to authorize them to act.

British officials responded strongly to the events in Boston because they feared the city's efforts to engage the other colonies as well as the rest of Massachusetts in its disputes with the mother country. Gage told Barrington, "The People there [Boston] grow worse and worse, and if any thing is Rebellion in America, they seem to me in an actual State of

[23]Thomas Gage to Earl of Hillsborough, Sept. 26, 1768, in ibid., 1:196.

Rebellion."[24] Back in April 1768 Hillsborough ordered all the royal governors in North America to prorogue their assemblies to prevent them from deliberating upon the Massachusetts' Circular Letter disputing Parliament's power to tax. Hillsborough also directed Bernard to have the Massachusetts Assembly rescind its Circular Letter, but they refused to do so by a vote of 92 – 17.[25] When Governor Bernard informed his assembly that troops were on their way to Boston, the assembly reacted by forwarding a Circular Letter throughout Massachusetts calling for an extralegal convention. The resulting Massachusetts' Convention of Towns consisted of approximately seventy delegates and met on September 22, 1768. Lieutenant Governor Thomas Hutchinson explained the seriousness of this usurpation of royal authority writing,

> It must be allowed by all, that the proceedings of this meeting had a greater tendency towards a revolution in government than any preceding measures in any of the colonies. The inhabitants of one town alone took upon them to convene an assembly from all the towns, that, in every thing but in name, would be a house of representatives; which, by the [Massachusetts] charter, the governor had the sole authority of convening.[26]

Not only did the Massachusetts' Convention set a dangerous procedural precedent, but the meeting openly contemplated resisting the British troops' landing with force, and even prepared for such a brazen course of action by distributing weapons from the community arsenals under the pretext of concerns about hostilities with the French.[27] This particularly unnerved Bernard who confessed, "I much doubt whether the force already ordered by

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[24]Thomas Gage to William Barrington, Sept. 26, 1768, in ibid., 2:488.

[25]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 197.

[26]Ibid., 205.

[27]John C. Miller, "The Massachusetts Convention 1768," *The New England Quarterly* 7, no. 3 (1934).; Richard D. Brown, "The Massachusetts Convention of Towns, 1768," *The William and Mary Quarterly* 26, no. 1 (1969).

General Gage, viz. two regiments, will be sufficient" and went on to explain that he did not prohibit the Convention outright because "I dare not take so spirited a step without first securing my retreat."[28] Unfortunately for him and the rest of the royal officials, the dilapidated Castle William was the only citadel within the province, and its defenders were colonial militiamen of dubious loyalty.

Whether Bernard's motives for not acting against the Convention of Towns can best be characterized as cowardice or prudence, one thing is certain: royal authority within Boston lost all of its coercive power and the anti-crown faction was emboldened. As recently as June Bernard said, "when I consider the defenceless state of this town, I cannot think they [Faction] will be so mad as to attempt to defend it against the King's forces: but the lengths they have gone already are scarce short of madness."[29] By September 8th, however, Bernard had changed his mind and decided to unofficially leak Hillsborough's dispatch of the two regiments fearing that "if the troops from Halifax were to come here all of a sudden, there would be no avoiding an insurrection which would at least fall upon the Crown Officers, if it did not amount to an opposition of the troops."[30] By September Bernard wholeheartedly believed that garrisoning Boston would result in the further persecution of government officials and possibly an open revolt against the army. The impending arrival of the army posed another thorny problem for Bernard, namely, determining where Boston would house 1,000 soldiers.

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[28]Francis Bernard to Earl of Hillsborough, Sept. 16, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 74 – 75.

[29]Francis Bernard to Earl of Hillsborough, Jun. 18, 1768, in ibid., 37.

[30]Francis Bernard to Earl of Hillsborough, Sept. 16, 1768, in ibid., 70.

The British army derived its authority to quarter troops amongst the civilian population from Parliament's annual passage of the Mutiny Act. This act not only established the regulations for securing quarters and supplies for the troops, but also detailed recruitment practices, penalties for military crimes, and all other administrative policies necessary for running the army. Besides providing quarters, the local community needed to make "firewood, bedding, candles, salt, vinegar, cooking utensils, and a daily ration of beer, cider, or diluted rum" available to the troops free of charge. Because the Petition of Right in 1628 prohibited quartering soldiers in private homes throughout the British Isles, the Mutiny Act specified that barracks and public houses were the most proper facilities for sheltering the troops.

Quartering troops in the colonies had been the bugbear of civil-military relations ever since large numbers of regulars arrived during the Seven Year's War because Parliament's Mutiny Act did not specifically address North America. Although the crown and the colonies found a solution whereby the colonial assemblies passed their own Mutiny Acts during the war that applied equally to the British army and provincial forces, that compromise broke down by 1765 prompting Gage to request a modification to Parliament's Mutiny Act. Gage specifically requested that Parliament extend all of the provisions of the Mutiny Act to America, but considering the lack of barracks and public houses in the American colonies he also insisted on language that would permit him to quarter troops in private homes. This was not an innovation on Gage's behalf, for billeting in private homes was a longstanding practice in both Scotland and Ireland, and the colonial Mutiny Acts had permitted it as well.[31] Nevertheless, this last point was a nonstarter for Parliament. The

[31]Shy, *Toward Lexington; the Role of the British Army in the Coming of the American Revolution*, 165-168.

resulting Quartering Act, passed on May 15, 1765, gave Gage the power to impress wagons at the customary rate, discounted ferry passage for river crossings by fifty percent, provided free lodging to troops in public houses, and extended the penalties for harboring army deserters to America.[32] Gage's request to extend the Mutiny Act to America would be one of his many pyrrhic victories. As Lieutenant Governor Hutchinson explained: the previous act did not explicitly cover North America, it provided discretionary authority to royal officials to quarter troops in "inns, livery stables, retailing houses, &c." The Quartering Act of 1765 took away this discretion by demanding that the troops be placed in barracks prior to occupying any public facilities.[33]

The Boston Faction used the language in the Quartering Act of 1765 to frustrate every effort to garrison the city. Bernard dutifully approached the Council on September 19th to make arrangements for the troops from Halifax who were expected any day. During that meeting the Council demonstrated its intent to thwart the governor and the army with the strictest reading and narrowest interpretation of the law. The Governor's Council maintained "that as there were no barracks, they had nothing to do with it; for it was the business of the constables to billet them in the public houses, and the Council had nothing to do till the public houses were full."[34] As a result, they refused to take any action. Seeking to overcome the impasse Bernard held another session with the Council three days later. During this

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[32]Anderson, *Crucible of War : The Seven Years' War and the Fate of Empire in British North America, 1754-1766*, 648-650.

[33]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 207.

[34]Francis Bernard to Earl of Hillsborough, Sept. 23, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 76; "The Quartering Act of 1765," ed. Parliament (Great Britain 1765).

meeting the Council changed tactics. Instead of averring that no barracks were available, they insisted the township did have barracks, namely Castle William, which could accommodate all 1,000 soldiers. Therefore, it was the only legal place the British could put the troops without violating the Quartering Act of 1765. The Council, however, deferred any discussion of what the town should do when the additional 1,000 soldiers from Ireland arrived other than to insist it did not have the authority to draw money out of the treasury to build any new barracks.[35]

Bernard fervently protested such a strict construction of the Quartering Act by demonstrating how such an interpretation was completely impractical and violated the spirit of the law. First, he took issue with the Council's reading of the clause "villages, towns, townships, cities, districts, and other places" to mean that if barracks existed anywhere in the province the soldiers would have to be garrisoned there first before using public facilities.[36] Bernard insisted, "they confounded the words Town and Township; that the Castle was, indeed, in the township of Boston, but was so far from being in the town, that it was distant from it by water three miles, and by land seven."[37] Furthermore, placing all of the troops in Castle William was contrary to Hillsborough's explicit orders to Bernard and Gage which required one regiment to occupy the fort and the other to be stationed in the city. Second, Bernard argued that placing all of the soldiers on Castle Island was absurd because they

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[35]Francis Bernard to Earl of Hillsborough, Sept. 23, 1768, in *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 80.

[36]"The Quartering Act of 1765."

[37]Francis Bernard to Earl of Hillsborough, Sept. 23, 1768, in *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 79.

would be unable to support royal officials in the town proper from such a distance. Hutchinson agreed with Bernard's assessment, writing, "the castle, where the barracks are, is an island three miles distant; it is another place, and the purpose of sending the troops cannot be answered if they are lodged there."[38] Finally, Bernard admitted that Castle Island could hold 1,000 men during the summer, but the barracks in Castle William could only shelter half that number through the rapidly approaching winter. Given his orders and practical objections to the Council's position, Bernard offered the compromise of quartering the regiment assigned to the town of Boston in the Manufactory House since it was provincial property minimally occupied by squatters. The Council refused his offer and took delight by insisting that the troops must be billeted in accordance with the "act of Parliament."

The quartering negotiations with the Council were a charade because the anti-crown Faction did not want to find an accommodation; instead, they wanted to use the Quartering Act to secure either a tangible or moral victory over the government. Considering Boston's lack of public buildings, the enormous size of the proposed garrison, and the imminent arrival of winter, the Faction believed that an obstructionist adherence to the Quartering Act would give crown forces only two choices: leave Boston or violate the Quartering Act. If British officials scrupulously observed the colonists' interpretation of the act they would fail to occupy the town, and if they seized quarters in the town the Faction averred "they invade property, contrary to an act of Parliament, we may resist them with the law on our side."[39] It was a win-win strategy that would either prevent the army from assisting with the

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[38]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 208.

[39]Francis Bernard to Earl of Hillsborough, Sept. 23, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 77.

enforcement of the Townsend Acts, or give the Faction the moral and legal high ground in their stand against what they perceived to be garrison government. Bernard concluded "it was the intention of the faction to embarrass the business of quartering the troops, and thereby set them and the people together by the ears."[40] He determined to offer the Manufactory House to the army without the Council's consent "though I foresee it will create a clamour."[41] More importantly, the quartering debate convinced Bernard the Council had gone over to the anti-crown Faction lamenting, "I consider the government as entirely subdued . . . to speak plain, now the Council cooperate with the opponents of government . . . If the three regiments ordered to Boston were now quietly in their quarters . . . it would not follow that the civil Government could resume its functions."[42] Two days after Bernard penned this dismal and prescient account of royal authority in Boston the first troops arrived.

On September 28, 1768, the largest contingent of British soldiers seen in North America since the French and Indian War arrived in Boston Harbor onboard six British ships of war and two schooners. The embarked troops consisted of the 14th and 29th Regiments, two companies of the 59th Regiment, and a detachment of artillery for a total of 1,200 men.[43] Lieutenant Colonel William Dalrymple, the commander of the Boston garrison as well as the 14th Regiment, disembarked at Castle William where Bernard soon joined him. The two men decided to reconvene the Council the next day in a final attempt to gain their cooperation with quartering the troops. Dalrymple tried to ingratiate himself with the Council assuring

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[40]Francis Bernard to Earl of Hillsborough, Sept. 23, 1768, in ibid., 80.

[41]Francis Bernard to Earl of Hillsborough, Sept. 24, 1768, in ibid., 83.

[42]Francis Bernard to Earl of Hillsborough, Sept. 26, 1768, in ibid., 87 – 88.

[43]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, xiv.

them that "he hoped he was going among friends, and that his men would on their parts behave as such." He further advised the Council of his "desire to conduct the business in a manner that should be most easy and agreeable to the town." When the Council restated their position that both regiments must fill the barracks at Castle William before occupying any public houses in the town, Dalrymple fired back "he could not be answerable for the good order of his men, which would be impossible to preserve, if they were intermixed with the town people and separated from their officers."[44] The Council's intransigence convinced Dalrymple to deviate from his instructions and order both regiments into the town. Bernard concurred with Dalrymple's decision offering up the Manufactory House for one regiment while the other would have to encamp on Boston Common. On October 1, 1768, the troops entered the city, but failed to take possession of the Manufactory House because the squatters there, most prominently a man named John Brown, refused to comply with their eviction notices. As a result, the 14th Regiment commandeered Faneuil Hall as well as part of the Town House, the 29th Regiment encamped upon Boston Common to the best of its ability, and the 59th and artillery detachments occupied the South End in buildings by Griffith's Wharf.[45] These quartering difficulties, coupled with all of the other bad news emanating from Massachusetts, convinced Gage that he had to come to Boston to personally assess the situation.

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[44]Francis Bernard to Earl of Hillsborough, Oct. 1, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 90 – 91.

[45]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 111 – 113.

Believing that the "people in and about Boston had revolted" Gage left his headquarters in New York City and arrived in Boston on October 15, 1768, "to see and judge for himself" the city's circumstances as well as the most appropriate response.[46] Gage discovered that the "Disturbance in March was trifling," while "the Riot on the 10th of June; which was considerable" caused the Customs Commissioners to fear for their personal safety, but "Whether any harm would have actually happened to them had they remained in the Town, it is not possible to Judge." As far as the Convention of Towns was concerned, Gage noted "their very Dangerous Resolves" and deemed "their Intentions were suspicious." The Convention remained the key event bordering on rebellion in Gage's mind, but he also commented upon a democratic spirit within the town undermining royal authority writing, "There is in Truth very little [Government in Boston] at present. . ."[47] Surprisingly, four days later on November 3, 1768, Gage wrote to Hillsborough,

> Every thing now has the Appearance of Peace and Quiet in this Place, and I find some Prosecutions are commenced in the Court of Admiralty against two of the most popular Leaders [John Hancock and Daniel Malcolm], who dared to violate the Laws in a very daring and open Manner, and it is hoped that this Example will encourage the Civil Officers of every Degree, to do their Duty without Fear, and to curb effectually the Licentious and Seditious Spirit, which has so long prevailed in this Place. Your Lordship will See that the Presence of the Troops has already produced Some good Effect, and it appears very Necessary for His Majesty's Service, that both his Land and Sea Forces should be strong in North America for Some time to come . . ."[48]

This report seemed to support the most sanguine British expectations of what "saturation policing" could achieve. According to Gage and his overly-optimistic associates, in just a

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[46]Francis Bernard to Earl of Hillsborough, Oct. 1, 1768, in Massachusetts, *Letters to the Ministry, from Governor Bernard, General Gage, and Commodore Hood: And Also, Memorials to the Lords of the Treasury, from the Commissioners of the Customs : With Sundry Letters and Papers Annexed to the Said Memorials*, 91 – 92; Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times*, 6.

[47]Thomas Gage to Earl Hillsborough, Oct. 31, 1768, in *The Correspondence of General Thomas Gage*, 1:205.
[48]Thomas Gage to Earl Hillsborough, Nov. 3, 1768 in ibid., 1:206.

little over a month, the Redcoats and their naval counterparts had pulled Boston back from the brink of rebellion and breathed life into an enervated civil government by "awing" the population with the might of the British Empire. One week later, on November 10th, the 64th and 65th Regiments arrived from Ireland bringing the total number of troops to roughly 2,000 men in a city of only 15,520, or one soldier for every thirteen inhabitants.[49] Satisfied that the situation in Boston was well in hand, Gage departed for New York City on November 24, 1768.

Despite the British turning Boston into an armed camp the anti-crown Faction continued its subversive behavior. However, the Faction felt it was suicidal to confront the British army head on, so they adjusted their strategy and initially implemented a "no Mobs" policy.[50] The purpose of this new policy was twofold; first, they wanted to convince everyone - the British officers, other colonists, the ministry, and the populace of Britain - that the town had never revolted, and remained peaceful, thereby obviating the need for a garrison. Second, it prevented the royal officials from effectively employing their newfound military prowess. Instead of attempting to intimidate crown officials with mob violence, the Faction decided to challenge the occupation of Boston in the press, on the streets, and in the courts.

The Faction understood the value of controlling the narrative and thus battled to win public opinion. While royal officials also demonstrated an appreciation of the influence of information, they never developed a platform as successful as *The Journal of the Times*. Anonymous Faction writers first printed the publication on September 28, 1768, with the

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[49]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, xiv-xvi.

[50]Ibid., 123, 133.

arrival of the British troops in the harbor and continued its run until August 1, 1769, after Governor Bernard had been recalled and two of the regiments, the 64th and 65th, were removed from the city. The Faction sent copies of this publication, masquerading as a weekly newspaper, to other colonies where it found its way into the *New York Journal* only to be picked up later by the *Pennsylvania Chronicle* and other colonial newspapers.[51] It incessantly hammered the Faction's two main grievances: first, garrison government was a direct assault upon the colonists' rights by usurping civil authority, leading to the abuse of the civilian population while simultaneously undermining the moral and material strength of the army. Second, it persistently attacked the arrogance of the rapidly multiplying measures and men foisted upon the colony by Britain which threatened to bleed the colony dry.[52]

Both Governor Bernard and Lieutenant Governor Hutchinson bemoaned the maliciousness of the *Journal* as well as its effectiveness. Bernard sent Hillsborough an entire letter on the topic warning him that the Faction meant "to raise a general clamor against His Majesty's government in England and throughout America, as well as in Massachusetts" and by doing so "flattered themselves that they should get the navy and army removed, and again have the government and Custom House in their own hands." Bernard insisted that one of the authors must have been on the Council because all of Bernard's transactions with that body were "constantly perverted, misrepresented and falsified in this paper." He alluded to the Herculean task of combating such propaganda saying, "To act about answering these

[51]Ibid., 126.

[52]O. M. Dickerson, *Boston under Military Rule, 1768-1769: As Revealed in a Journal of the Times*, Journal of Occurrences. (Boston: Mount Vernon Press, 1936), xi.

falsities would be a work like that of cleaning Augeas's stable, which is to be done only by bringing in a stream strong enough to sweep away the dirt and collectors of it all together."[53]

Hutchinson was equally damning of the *Journal* while begrudgingly acknowledging its cogency. Hutchinson observed that when it came to "render[ing] the troops as odious as possible, and to inflame the minds of the inhabitants against them. Nobody succeeded better than the author or authors of a weekly publication, called 'The Journal of the Times,' which was managed with great art, and little truth." He further noted that "Every little insignificant fact relative to the troops, which was not thought worthy of notice, or made no impression, if known, was preserved," sent to the other colonies first for publication, and then usually republished in Boston two months later "when there was a general remembrance remaining of the fact, so as to make the aggravations more easily received." Like all great lies, the *Journal* included kernels of truth because "Many false reports, which had been confuted, were mixed with true reports, and some pretended facts of an enormous nature were published." Hutchinson ruefully concluded, "This paper had a very great effect."[54]

Boston's anti-crown Faction was not content to simply win the war of words and covertly attacked the British army's ability to effectively garrison the town. The primary way they accomplished this was by facilitating and encouraging the soldiers to desert. On October 9, 1768, in one of their earliest and most brazen efforts along these lines, unknown persons "cut to pieces or otherwise destroyed" the guardhouse being built along the neck of Boston for the garrison's security as well as to discourage desertion. Bernard offered a £20 reward to "any Person or Persons who shall discover and inform against the Offender or

[53]Qtd. in ibid., x.

[54]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 225.

Offenders" while simultaneously "requiring all His Majesty's Justices of the Peace, Sheriffs, and other Civil Officers within this Province, to do their utmost to discover and apprehend the Perpetrators."[55] Not surprisingly, the authorities never identified the culprits. Nevertheless, British officials were pressed to do something to stem the tide of runaways. In October 1768, the first month of the occupation, thirty-seven soldiers deserted. This number increased to fifty-five by the end of the year, and after being in Boston for twelve months 195 men, nearly twenty percent, were missing from British regiments.[56]

Royal officials in Boston attempted to remedy the desertion crisis with sterner measures against civilian abettors. Commodore Samuel Hood, commander of the naval forces in North America, insisted "that between forty and fifty had deserted since the 4th of last month [December 1768], many of which are harboured and concealed in the country, not 20 miles from Boston."[57] British officials' widespread belief that the colonists in and around Boston were implicated in the staggering desertion rates initially led the civil government to begin criminal prosecutions against local inhabitants. As early as October 12th Lt. Gov. Hutchinson imprisoned a man for enticing a soldier to desert. Within six weeks, however, it became clear that the civilian courts would not be of any help. Peter Oliver, Chief Justice of the Massachusetts Superior Court, preferred charges against a country dweller named Geary for enticing a group of soldiers to desert, but the jury returned a not guilty verdict at his trial

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[55]"By His Excellency Francis Bernard, Esq; Captain-General and Governor in Chief in and over His Majesty's Province of the Massachusetts Bay in New England, and Vice Admiral of the Same. A Proclamation.," *Massachusetts Gazette*, Thursday, October 13, 1768.

[56]G.W. Morgan and University of Sussex, *'A Clever Little Army': The British Garrison in Boston, 1768-1776* (University of Sussex, 2004), 138.

[57]Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times*, 51.

on November 24, 1768.[58] The practice of jury nullification in these cases became so commonplace that the civil officials declined to bring any more due to their predetermined outcome.

Along with their civilian counterparts, the British army and Royal Navy also actively combated the high desertion rate. They did so with the stratagem of disguised press gangs and harsher punishments for soldiers or sailors who attempted to desert or actually deserted. Unfortunately for the army and navy, these methods only had a modest impact on the desertion rate and thoroughly alienated the civilian inhabitants of Massachusetts. The American colonists' longstanding hatred of press gangs and their negative impact on civil-military relations was well known, but one noteworthy incident in January 1769 demonstrated just how contentious the issue had become. According to *The Boston Chronicle*, "We hear from Londonderry, in the province of New Hampshire, that a sergeant and some soldiers having apprehended two deserters, they were surrounded . . . by 100 or 150 armed men, who obliged them to release the prisoners." Within three weeks *The Journal of the Times* disputed this account insisting that two strangers in Londonderry had been arrested by four men dressed as sailors, and because of the sailors' "violent measures" and "lack of a warrant from any legal authority" a group of four townspeople, versus the reported 150, parlayed with them resulting in the release of the prisoners.[59] Regardless of which account was more accurate, they both demonstrated colonists thwarting British military discipline by aiding suspected deserters.

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[58]Ibid., 5, 28.

[59]For a discussion of impressment see Douglas Edward Leach, *Roots of Conflict : British Armed Forces and Colonial Americans, 1677-1763* (Chapel Hill: University of North Carolina Press, 1986), 52, 83; *The Boston Chronicle*, Monday, January 9, to Thursday, January 12, 1769; Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times*, 59.

As a result of colonial obstructionism and deteriorating discipline, British officers implemented harsher punishments within the Boston garrison. The most obvious example of this was the sentence of a General Court Martial, presided over by Dalrymple, to execute Private Richard Eames by firing squad for desertion on October 31, 1768. Similar courts imprisoned the next four soldiers convicted of desertion.[60] However, the large number of lashes – ranging anywhere from 200 to 1,000 - dispensed by the Regimental Courts Martial for other instances of dereliction of duty, especially drunkenness, shocked the colonists who insisted on the Biblical limitation of thirty-nine lashes found in Deuteronomy. Colonial observers claimed that such brutality merely demonstrated saturation policing Boston with unprecedented numbers of troops in peacetime was "as impolitick as it was illegal."[61]

The anti-crown Faction wholeheartedly averred that the British army's occupation of peacetime Boston was illegal, and therefore illegitimate. As a result, they challenged military control of the streets by insisting that the town watch, rather than military sentinels, had the ultimate authority over the entire population – soldiers included - to ensure the safety and security of the town. Both the town watch and military sentinels were required to keep a look out for fires, any criminal activity, and to identify strangers by challenging them.[62] The

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[60]Morgan and Sussex, *'A Clever Little Army': The British Garrison in Boston, 1768-1776*, 198-201.

[61]For a discussion of colonial attitudes toward corporal punishment see Fred Anderson, *A People's Army : Massachusetts Soldiers and Society in the Seven Years' War* (Chapel Hill: University of North Carolina Press, 1984), 111 – 141; Dickerson, *Boston under Military Rule, 1768-1769: As Revealed in a Journal of the Times*, 64.

[62]*A Military Dictionary: Explaining and Describing the Technical Terms, Phrases, Works, and Machines, Used in the Science of War ; Embellished with Copper-Plates of All the Common Works Used in Military Architecture: As Well as the Utensils Employed in Attacks and Defence ; with References for Their Explanation. And an Introduction to Fortification*, (G. Robinson, and Fielding and Walker, 1778). SEN. It defines a Sentinel as follows: "A private soldier . . . posted upon any spot of ground to stand and watch carefully for the security of the said guard, of any body of troops, or post, and prevent any surprise from the enemy."

watchman's or sentinel's call of "Who goes there?" led to innumerable disputes between the two groups during the occupation because each refused to recognize the authority of the other. The colonists maintained, "The town watch is appointed for our security in the night; to them and not to the military are the inhabitants legally obliged to give answer, when properly hailed." When a sentry in West Boston challenged a group of prominent citizens on December 2, 1768, they reacted by "refusing to declare themselves friends, tho' they informed them they were inhabitants, who thought themselves, not under a military, but a civil government; and therefore not liable to be thus called upon." When watchmen challenged British officers, on the other hand, the officers frequently responded that "they were the King's soldiers and gentlemen, who had orders from his Majesty, and they were above the Selectmen who gave them their orders"[63] The utter contempt demonstrated by both sides towards government officials who had an important job to do led to violence.

These disputes between the sentinels and the town watch were where the ideological dispute over Parliamentary sovereignty throughout the empire first erupted into violence during the occupation. Most of the violence resulted when inhabitants or soldiers refused to answer a challenge. For instance, on November 2, 1768, in two separate instances, sentinels manhandled inhabitants for failing to comply with their orders or not doing so quickly enough. In the first case, two men began to enter the town by crossing Boston Neck after identifying themselves to the guard. Upon passing the first guardhouse they encountered a second sentinel who challenged them again, and disliking their response bayoneted one of the men causing him to be "grievously wounded." In the second case, a guard knocked a traveler off his horse with a butt stroke from his musket for coming too close before answering their

[63]*Boston under Military Rule, 1768-1769: As Revealed in a Journal of the Times*, 34, 30, 26.

challenges. On December 5, 1768, three soldiers beat a man and "stamped upon him" for failing to answer when hailed, and robbed him for good measure. On the thirty-first of the same month, the sentinels posted to guard the residence of Brigadier General John Pomeroy, commander of the 64th Regiment and the man who assumed overall command from Dalrymple on November 28, 1768, assaulted two "young gentlemen" who did not identify themselves.[64] One of the men "received several blows" while the other was wounded by "a push from the muzzle of the musket in his face."[65]

All of this violence naturally caused both sides to turn to the courts as a way of settling these disputes to their own advantage. Despite holding opposed views, the colonists and the British were adamant that the rule of law must prevail. For the Americans, rule of law meant the supremacy of civil government over the military, while for the British it meant an end to the disorders within Boston and the effective implementation of royal and parliamentary policies at bayonet point if need be. On November 30, 1768, British sentinels detained a Boston merchant for thirty minutes after he failed to answer their challenge. Outraged by such an infringement of his rights, the merchant recorded the soldiers' names so that he could bring legal charges against them, which the *Journal* noted approvingly,

> we may expect soon to have it determined [by the courts], whether we are or are not a proper garrison town. Perhaps by treating the most respectable of our inhabitants in this sort, it is intended to impress our minds with formidable ideas of a military government, that we may be induced the sooner to give up such trifling things as rights and privileges.[66]

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[64]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 128. Archer mistakenly identifies this officer as Joseph Pomeroy, see *New-York Gazette, or Weekly Post-Boy*, October 24, 1768. For Pomeroy's assumption of command over the garrison see *The Boston Chronicle*, November 28, 1768.

[65]Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times*, 17-18, 31, 42-43.

[66]Ibid., 29.

Both sides, however, were disappointed with the pattern that emerged within the courts. As with the earlier attempts by British officials to prosecute the colonists for aiding and abetting deserters, the follow-on efforts to convict them of criminal violence overwhelmingly ended in acquittals, not for a lack of evidence, but rather due to jury prejudices and nullification. Two colonists assaulted Sergeants William James and Richard Pearsall aboard a ferry in front of numerous eyewitnesses, but Major General Alexander Mackay counseled them "to drop all prosecution as no address would be obtained for A Soldier in Boston."[67] On the other side, colonists frequently won convictions against British soldiers. However, the government managed to thwart such proceedings on a number of occasions in two basic ways. First, Massachusetts Attorney General Jonathan Sewall succeeded in getting many cases thrown out by entering *nolle prosequi* motions on behalf of the government.[68] When legal maneuvering failed royal officials accepted that the soldiers would be found guilty and simply refused to turn them over to local officials, and in some dramatic instances even staged quasi-official jailbreaks.

Despite all of the tumults, ill-will, and legal wrangling, the military commanders in charge of Boston's occupation – Lieutenant Colonel William Dalrymple, Brigadier General John Pomeroy, and Major General Alexander Mackay – actively sought a *modus vivendi* with the local population. Dalrymple tried to ingratiate himself upon his arrival, and although his

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[67]Depositions of William Jones, Richard Pearsall, John Arnold, John Shelley, Dennis Towers, Jacob Brown, Henry Cullin, John Dumphy, and John Timmons, Jul. 24, 28, Aug. 25, 1770, BNA, CO 5/88 XC1580 qtd. in Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 136. Major General Alexander Mackay did not arrive in Boston until early 1769 because he had been shipwrecked in the West Indies with part of the troops from Ireland. Mackay assumed command from Pomeroy as Boston's garrison commander in May 1769, but departed in August, which once again made Dalrymple the senior ranking officer in Boston. See Shy, *Toward Lexington; the Role of the British Army in the Coming of the American Revolution*, 310-311.

[68]*Nolle prosequi* is a Latin term literally meaning "be unwilling to pursue" resulting in no prosecution.

diplomacy failed, he still went to great lengths to minimize the imposition of the troops as they quartered themselves in the city. On December 13, 1768, Pomeroy won accolades from the citizens of Boston by suspending challenges from the sentinels to the inhabitants.[69] He made this prudent decision less than two weeks after taking command. Anne Hulton, the sister of Customs Commissioner Henry Hulton, described Pomeroy as "an amiable worthy Man" who "takes great care that his men shall give no real Offense."[70] By the time Pomeroy departed Boston on June 24, 1769, even the anti-crown Faction was publicly singing his praises, albeit without conceding any of their principles. They wrote,

> This Gentlemen has commanded the King's Troops here thro' the Winter, in such a Manner as to engage the Respect of the whole People; for altho' it is considered by the Province in general , as the greatest Injustice and Insult that this brave and loyal People ever experienced, the having Troops quartered upon them for the Purpose of quelling a Rebellion that never had existence, and for keeping good Order in a Town that is second to none for due Obedience to all Constitutional Laws; and however Irreconcileable they ever will be to a standing Army, or a Military Government, yet, they publickly declare, that this worthy good Officer, General Pomeroy's conduct, has in every Respect done Honor to the army, and as a Gentleman, his Departure is greatly regretted.[71]

Pomeroy's personal qualities and light touch made him a tough act to follow, but Mackay could read the writing on the wall and thus followed his predecessor's lead. In addition to keeping the virtual ban on challenges in effect, Mackay addressed the longstanding complaint by Bostonians that the soldiers not only broke the Sabbath, but their boisterous and profane activities impinged upon the worship services of the devout. By June 15, 1769, he forbid "horse racing, &c. in the Common on the Lord's day, by any under his

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[69]*The New-York Journal; or, the General Advertiser*, December 29, 1768.

[70]A. Hulton, *Letters of a Loyalist Lady: Being the Letters of Anne Hulton, Sister of Henry Hulton, Commissioner of Customs at Boston, 1767-1776* (Harvard University Press, 1927), 18.

[71]*THE Boston-Gazette, AND COUNTRY JOURNAL*, June 26, 1769.

command; and that the soldiers should not be permitted to walk the streets during the time of divine service."[72] Mackay also garnered substantial good will from Boston's civic leaders later that month when he complied with their requests for quarantining a soldier infected with smallpox on the west end of town in accordance with the town's medical procedures.[73]

Although Mackay was certainly responsive to Bostonians' concerns, his popularity with them mostly derived from his fortunate timing. Hillsborough directed Gage that he could remove all the troops from Boston if he saw fit, but Bernard ultimately convinced him to keep two regiments in the town for the continued protection of the royal officials as well as the "friends of government." Between June 24th and July 25th, 1769, the 64th and 65th Regiments departed for Halifax.[74] Mackay commanded a significantly smaller, and therefore less troublesome, garrison for his final month in Boston before returning to England with Bernard in August, leaving Dalrymple in charge once again.

Unfortunately for Dalrymple, the relative calm following the departure of Governor Bernard as well as the 64th and 65th Regiments in the summer of 1769 was short-lived. That fall Samuel Adams and the Sons of Liberty began more vigorous efforts to enforce the flagging Nonimportation Agreement. The Faction not only hung effigies of the merchants who violated the Nonimportation Agreement, but they also plundered their shops. By February 1770 the Sons of Liberty resorted to public shaming and harassment by placing placards labelled "IMPORTER" as another tactic to coerce noncompliant businesses. On

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[72]Dickerson, *Boston under Military Rule (1768-1769): As Revealed in a Journal of the Times*, 108-109.

[73]Morgan and Sussex, *'A Clever Little Army': The British Garrison in Boston, 1768-1776*, 70. For an excellent discussion of smallpox and its treatment in colonial America see Elizabeth A. Fenn, *Pox Americana : The Great Smallpox Epidemic of 1775-82* (New York: Hill and Wang, 2001), 1-43.

[74]Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 141.

February 22nd, these practices led Ebenezer Richardson, a government informant, to fire into a mob threatening his home and family, mortally wounding eleven-year-old Christopher Seider.[75]

In addition to these hostilities concerning the Townshend Duties, the lingering resentment towards the 1,000 soldiers still garrisoned within Boston began to boil over. On Friday, March 2nd, just eight days after Seider's death, workers at the ropewalk provoked a fight with Private Patrick Walker of the 29th Regiment when they tauntingly offered to let him "go clean my shit house" in response to his enquiry for work. This led to a series of ever-increasing street fracases over the next three days.[76]

The tensions in the occupied city finally exploded the following Monday, March 5, 1770. Private Hugh White was on sentry duty outside of the Customs House on King's Street. A mob of between fifty and sixty "Boys & Negroes" began taunting him with jeers of "Damn You fire, fire if you dare!" While this disruption was occurring, the town bells began to ring out which brought many inhabitants into the streets thinking there was a fire. The confused inhabitants were naturally attracted to the commotion on King's Street, and the crowd ultimately grew to between 400 and 500 people. During this time members of the guard notified the officer of the day, Captain Thomas Preston, of White's predicament and Preston immediately ordered the guard to support White resulting in Corporal William Wemms and six grenadiers to support White. According to Justice Peter Oliver the larger crowd of "Rioters pelted the Soldiers with Brickbats, Ice, Oystershells & broken Glass bottles" and continued to dare the soldiers to fire. When one of the "snowballs" hit Private

[75]Ibid., 178-181.

[76]R.J. Allison, *The Boston Massacre* (Commonwealth Editions, 2006), 1-8.

Hugh Montgomery's musket he stumbled, and fired his weapon as he regained his balance. This prompted the other soldiers to fire even though Preston never gave any such command. Three colonists fell dead, eight others were wounded, two of them mortally.[77]

Captain Thomas Preston and the eight British soldiers under his command that night were tried for the murder of five colonists, and even though only two soldiers received manslaughter convictions, the incident demonstrated the failure of saturation policing as well as the dangers to which it exposed the British army.[78] In the wake of the Boston Massacre Gage wrote to Hillsborough,

> I don't know, on what Foundation he [Lt. Gov. Hutchinson] has adopted the Sentiment, that Troops might be of Service [against future disturbances], tho' no Magistrate would interpose. When the troops first arrived indeed at Boston, the People were kept in some awe by them; but they soon discovered, that Troops were bound by Constitutional Laws, and could only Act under the Authority, and by the Orders of the Civil Magistrates; who were all on their Side. And they recommenced their Riots, tho' two or three Regiments were in the Town, with the same Licentiousness as before. I have reminded Mr Hutchinson of this Circumstance, and told him, I knew Nothing could resist Force, but Force; and I should be prepared, to give him every Aid and Assistance he should require from me . . .[79]

In the words of John Shy, Gage became convinced that keeping the troops in Boston under such conditions was "worse than useless" because instead of intimidating the population into acquiescence the garrison's presence provoked the very disorders that they were supposed to prevent.[80] Even worse, Dalrymple blinked when his men faced actual

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[77]Peter Oliver, *Origin & Progress of the American Rebellion : A Tory View* (Stanford, Calif.: Stanford University Press, 1961), 89.

[78]Frederic Kidder, *History of the Boston Massacre, March 5, 1770 : Consisting of the Narrative of the Town, the Trial of the Soldiers : And a Historical Introduction, Containing Unpublished Documents of John Adams, and Explanatory Notes* (Albany, N.Y.: J. Munsell, 1870), 123 - 285; Archer, *As If an Enemy's Country : The British Occupation of Boston and the Origins of Revolution*, 182 – 225.

[79]Thomas Gage to Earl Hillsborough, Jul. 7, 1770, in *The Correspondence of General Thomas Gage*, 1:263.

[80]Shy, *A People Numerous and Armed : Reflections on the Military Struggle for American Independence*, 90.

violence. Gage and the other British officers always insisted that when confronted with overt rebellion they would dispense with legal niceties and confront the revolt with military force. However, when Samuel Adams claimed in the forenoon of March 6th in response to the event on King's Street, that as many as 3,000 colonists were gathering in the countryside to march on the city, it convinced Dalrymple to evacuate not only the 29th Regiment which had perpetrated the "massacre," but also the 14th Regiment to Castle William.

Based on this experience Gage decided to withdraw the "peculiarly obnoxious" 29th from Boston all together and endorsed the 14th remaining in Castle William to restore tranquility to the city.[81] Saturation policing in Boston failed to restore royal authority because none of the civil magistrates, including Governors Bernard and Hutchinson, would authorize the British army to act. Meanwhile General Gage and his subordinate officers would not take any military action on their own initiative for fear of the legal and practical consequences of resorting to force. The British civil and military authorities' strict adherence to the constitutional constraints on the use of military force prevented the creation of a garrison government in Boston between 1768 and 1770 despite the military occupation of the city.

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[81]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 274-277; Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 90.

Chapter 5 "No Law can be in force where there is a civil War": The British Army's Governance of Boston, 1774-1776[1]

"The Military may hang a Spy in Time of War, but Rebels in Arms are tried by the Civil Courts."
Commander-in-Chief (CINC) Lieutenant General Thomas Gage to Brigadier General Henry Bouquet, October 15, 1764[2]

The British army's failure to awe Bostonians into submission with its saturation policing efforts to aid the civil authority between 1768 and 1770 highlighted the peacetime constitutional constraints upon military action which limited the soldiers' efficacy in reestablishing royal authority. The virtual elimination of the Boston garrison following the Boston Massacre in 1770 alleviated many of the worst symptoms of colonial discord; however, it did not address the root causes of any of them. Since the focus of this study is the British army's role in the governance of civilian populations during the American Revolution the events in Boston during the army's absence from the town in 1770 – 1773 are largely irrelevant. However, when Bostonians destroyed the East India Company's tea in December 1773, such open defiance encouraged London officials to implement true garrison government in the colony. In 1774 they appointed Lieutenant General Thomas Gage as the Governor-General of Massachusetts. By combining all civil and military authority within the hands of one man British officials expected to remove all legal impediments to the employment of military force, and therefore bolster royal authority by making saturation

[1]James Grant to Chemier, Aug. 11, 1775, James Grant of Ballindalloch Papers, DLAR

[2]Thomas Gage to Henry Bouquet, Oct. 15, 1764, qtd. in *The Era of the American Revolution*, 186.

policing effective. These hopes soon evaporated when news of the Massachusetts Government Act made the colony ungovernable starting in September 1774.

Although Gage had the legal authority to use all the force under his command, his 3,500 man garrison was insufficient to exert political control throughout the colony. He therefore focused on disarming the populace to prevent an overt rebellion which he felt ill-prepared to confront. Gage's efforts to confiscate weapons led ultimately to the Battles of Lexington and Concord and the siege of Boston. By June 12, 1775, Gage became convinced that negotiations could not repair the breach, and he declared martial law. Surprisingly, the transition from a peacetime garrison government to a wartime city under martial law did not significantly alter the British army's occupation policies in Boston. Nor did Major General William Howe's assumption of command in October 1775 when the ministry recalled Gage to London. Instead, changes to how the army governed the inhabitants of Boston were dictated by demographic shifts, supply challenges, and the need to maintain good order and discipline within the garrison during wartime. Ironically, the dissolution of civil government and the introduction of martial law provided more protections for the inhabitants while dramatically increasing soldiers' punishments.

After Gage removed the soldiers from Boston in 1770 the town lived one crisis away from disaster for the next three years which finally came with what John Adams called the "Destruction of the Tea" on December 16, 1773.[3] When news of the Boston Tea Party

[3]James M. Volo, *The Boston Tea Party : The Foundations of Revolution* (Santa Barbara, Calif.: Praeger, 2012); Harlow G. Unger, *American Tempest : How the Boston Tea Party Sparked a Revolution* (Cambridge, MA: Da Capo Press, 2011); Benjamin L. Carp, *Defiance of the Patriots : The Boston Tea Party & the Making of America* (New Haven: Yale University Press, 2010); Laurie O'Neill, *The Boston Tea Party [Electronic Resource]*, Spotlight on American History (Brookfield, Conn.: Millbrook Press, 1996); Wesley S. Griswold, *The Night the Revolution Began; the Boston Tea Party, 1773* (1972); Donald Barr Chidsey, *The Great Separation; the Story of the Boston Tea Party and the Beginning of the American Revolution* (1965); Benjamin Woods Labaree, *The Boston Tea Party* (1964); Nick Bunker, *An Empire on the Edge : How Britain Came to Fight America* (New York: Alfred A. Knopf, 2014); Alfred Fabian Young, *The Shoemaker and the Tea Party :*

reached London in January 1774, Parliament exploded in an uproar. For the past decade they had indulged their petulant colonists by providing them with military protection, differentiating between internal and external taxes, repealing the Stamp Act as well as the majority of the Townshend Duties, and yet the colonists, and Bostonians in particular, continued their defiance of imperial rule. Parliament was through negotiating, but unsure of its next step.

Fortuitously for the ministry, Gage happened to be on leave in London when news of the Boston Tea Party arrived, and in February 1774 King George III held an audience with him to solicit Gage's opinions about the disturbances in Boston. Considering the British government's subsequent actions, Gage must have reiterated the same hardline opinion to the king that he had repeatedly told Lord Barrington since 1770, namely that

> No common Means will reduce them now to a Legal Obedience and Subordination; you have tried the temper of the Council, and of the Magistrates, and have found upon trial, that Every Part of the Civil Government is of the same Leaven with the People. You have found also that lenient Measures, and the cautious and legal Exertion of the coercive Powers of Government, have served only to render them more daring and licentious. No Laws can be put into Force; for those who shou'd execute the Laws, excite the People to break them, and defend them in it. Nothing will avail in so total an Anarchy, but a very considerable Force, and that Force empower'd to act. If that is done at once, with a determined Resolution to reduce them, Matters may still end without Bloodshed. But if you pursue another Conduct, and make a Shew only of Resistance, it is the Opinion of many you will draw them into Arms. Better therefore to do Nothing.[4]

Memory and the American Revolution (Boston, Mass.: Beacon Press, 1999); Peter David Garner Thomas, *Tea Party to Independence : The Third Phase of the American Revolution, 1773-1776* (Oxford; New York: Clarendon Press; Oxford University Press, 1991); Paul D. Brandes, *John Hancock's Life and Speeches : A Personalized Vision of the American Revolution, 1763-1793* (Lanham, Md.: Scarecrow Press, 1996); David Ramsay and Lester H. Cohen, *The History of the American Revolution* (Indianapolis: Liberty Classics, 1990); Mercy Otis Warren, *History of the Rise, Progress, and Termination of the American Revolution* (Boston: Printed by Manning and Loring, for E. Larkin, 1805).

[4]Thomas Gage to William Barrington, Jul. 6, 1770, in *The Correspondence of General Thomas Gage*, 2:547.

Based on the British army's occupation of Boston from October 1768 – March 1770, Gage came to believe that it was essential for "a very considerable Force, and that Force empower'd to act" to be sent to the city in order for saturation policing to effectively restore royal authority. George III accepted Gage's recommendations and used them as the baseline for parliamentary legislation. Parliament passed the Coercive Acts which closed the port of Boston until the city paid for the tea, altered Massachusetts's charter giving the Crown and governor appointment powers over most offices, permitted royal officials charged with murder to receive their trials in a jurisdiction other than Massachusetts, and enhanced the British army's ability to quarter troops by authorizing their placement in private homes.[5] Parliament designed the Coercive Acts to overcome the obstructionism that royal officials had previously encountered in the colony by revising Massachusetts's charter and establishing Gage as a governor-general with the ultimate civil and military authority concentrated in his hands. As a result, Parliament and the King believed that no constitutional constraints could prevent Gage from employing military force because if he needed to, he could use his gubernatorial authority to declare the colony in rebellion on his own initiative, and then execute any necessary military actions as the CINC.

Gage returned to Boston to assume his duties as the newly-commissioned Royal Governor of Massachusetts on May 13, 1774. Although his initial reception was a polite one, his orders to punish the colony coupled with an inadequate force to confront the opposition arrayed against him fanned the flames of revolution. Gage found that the colonists' disaffection was no longer limited to the Sons of Liberty and other malcontents within

[5]David Ammerman, *In the Common Cause: American Response to the Coercive Acts of 1774* (1974); Jerome R. Reich, *British Friends of the American Revolution* (Armonk, N.Y.: M.E. Sharpe, 1998); John Phillip Reid, *Constitutional History of the American Revolution* (Madison: University of Wisconsin Press, 1995).

Boston. It had spread throughout the province of Massachusetts and would soon become general throughout North America.[6] The resistance became ubiquitous following the news of the Massachusetts Government Act, ultimately gutting Gage's government and leaving a hollow shell in its place. At the behest of town Committees of Correspondence that met on August 26 – 27, 1774, the counties throughout Massachusetts began shutting down their courts to prevent enforcement of the laws.

All the royal officials with firsthand experience in the colony realized the significance of these actions. On September 2nd, Gage wrote to American Colonial Secretary William Legge, 2nd Lord Dartmouth, "Civil Government is near it's [sic] End . . . Nothing that is said at present can palliate, Conciliating, Moderation, Reasoning is over, Nothing can be done but by forceable Means."[7] Ten days later Gage explained to Dartmouth the effects of the Massachusetts Government Act writing,

> Had the Measures for regulating this Government been adopted seven Years ago, they would have been easier executed, but the Executive Parts of Government have gradually been growing weaker from about that Period, and the People more lawless and seditious; and 'till lately violent opposition was confined to the Town of Boston. The enfeebled State in which I found every Branch of Government astonished me, and my first Object was to give it Force, in which I hoped to have made some Progress, when the Arrival of the late Acts overset the whole, and the Flame blazed out in all Parts at once beyond the Conception of every Body.[8]

Gage clearly believed that the act ignited a political powder keg within the colony and that his 3,500 troops were ill-equipped to restore order in this increasingly volatile situation. Both former Governor Thomas Hutchinson and Chief Justice Peter Oliver of the

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[6]Robert A. Gross, *The Minutemen and Their World*, 25th anniversary ed. (New York: Hill and Wang, 2001)., 42-67; John E. Ferling, *A Leap in the Dark : The Struggle to Create the American Republic* (New York: Oxford University Press, 2003), 87-122.

[7]Thomas Gage to William Legge, Sept. 2, 1774, in *The Correspondence of General Thomas Gage*, 1:371.

[8]Thomas Gage to William Legge, Sept. 12, 1774, in ibid., 1:374.

Massachusetts Superior Court agreed with Gage's assessment. Hutchinson averred, "All legislative, as well as Executive power was gone, and the danger of revolt was daily increasing. The Governor retained the title of captain-general, but he had the title only."[9] Gage acknowledged the cessation of civil government by disbanding the Provincial Assembly in October 1774, but the delegates refused to disband and instead formed the Massachusetts Provincial Congress. Oliver also felt that closing the courts was a fatal blow, but he insisted that the Provincial Assembly's refusal to disband was the final straw: "Here ended the civil Government, both Form & Substance."[10]

Within five months of Gage's tenure as governor-general, not only had royal authority collapsed throughout Massachusetts, but the colonists began to arm themselves to defend their usurpation of political power. In 1770 Hutchinson had warned with trepidation that, "there cannot be a greater step towards independency than that of assuming the sole power of raising and directing all military force. This force is the *dernier ressort* [last resort] in all governments, under all forms; and wherever this, by the constitution, is solely vested, there, necessarily, is the supreme authority."[11] By the fall of 1774 Gage, Hutchinson, and Oliver saw evidence everywhere that the Patriots were arming for rebellion. Gage wrote to Dartmouth, "The Country People are exercising in Arms in this Province, Connecticut, and Rhode Island, and getting Magazines of Arms and Ammunition in the Country, and such Artillery, as they can . . . They threaten to attack the troops in Boston."[12] Hutchinson noted

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[9]Thomas Hutchinson, Lawrence Shaw Mayo, and John Hutchinson, *The History of the Colony and Province of Massachusetts-Bay* (Cambridge, Mass.,: Harvard University Press, 1936), 455.

[10]Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 115.

[11]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 285.

[12]Thomas Gage to William Legge, Sept. 12, 1774, in *The Correspondence of General Thomas Gage*, 1:374.

the colonists "were forming themselves into companies for military exercise, under officers of their own choosing; hinting the occasion there might soon be for employing their arms in defense of their liberties."[13] Oliver described the blatant nature of the colonists' military preparations writing, "A Person who was more than stark Blind might have seen through such pitiful Evasions [excuses for procuring weapons]."[14] Gage knew that he stood on the precipice of a rebellion, but he continued to seek ways to avert the storm while reconstituting royal authority.

Gage remained the governor-general of Massachusetts for another thirteen months, and during that time he implemented the traditional British army approaches towards insurrection such as confiscations of weapons and shows of force to undermine the colonists' means and will to commit open rebellion. On September 1, 1774, Gage tasked Lieutenant Colonel George Maddison and 260 soldiers of the 4th Regiment to seize a militia arsenal six miles from Boston in Somerville, Massachusetts. The raid successfully captured 250 barrels of gunpowder and returned to the garrison without any opposition. The following month King George III assisted Gage's disarmament efforts by prohibiting the export of gunpowder, weapons, and ammunition from Great Britain into Massachusetts.[15] On December 1, 1774, Gage decided to capture the colonial arsenal at Fort William and Mary in Portsmouth, New Hampshire. Colonial spies learned of the plan and warned Major John Sullivan's 400-strong militia force who stormed the fort in a preemptive strike. Sullivan and his men captured six British sentinels and one hundred barrels of powder. When Gage's troops appeared the

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[13]Hutchinson and Hutchinson, *The History of the Province of Massachusetts Bay: From 1749 to 1774*, 455.

[14]Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 116.

[15]William Legge to Thomas Gage, Oct. 19, 1774, in *The Correspondence of General Thomas Gage*, 2:176.

following day the fort was stripped bare and deserted. On February 26, 1775, Colonel Alexander Leslie led a detachment of the 64th Regiment to Salem, Massachusetts, searching for colonial cannons. After a brief parley, the angry crowd permitted Leslie to inspect the suspected arsenal building which was empty. The colonists considered Leslie's failure a victory, popularizing it in their propaganda as "Leslie's retreat." A little over a month later, on March 30th, Gage ordered Colonel Hugh Percy to march his brigade of 1,500 soldiers to Cambridge as a show of force. Other than removing planks from a bridge at Concord and placing a cannon at Watertown Bridge, the colonists did not molest the British troops.

Gage's continued caution was not the result of a character flaw, or a change of heart regarding the colonists, but rather a newfound appreciation for the delicate situation in which he found himself. Gage was already acutely aware of the military weakness of his 3,500-man army ensconced within Boston given the widespread and vehement opposition to the Crown.[16] The troops at his disposal were adequate to control the city of Boston but the thought of using such a small force to impose royal authority on the entire colony of Massachusetts had become laughable. As early as September 25, 1774, Gage noted that all thirteen colonies had taken the Coercive Acts (called the "Intolerable Acts" by the colonists) as a challenge. He went on to say that other traditional methods of suppressing insurrection and quelling rebellion, such as arresting the leading American radicals, might have helped at an earlier juncture, but would now only serve to commence open hostilities.[17] By November 2nd Gage recommended to Dartmouth that a force of 20,000 men would be necessary to assert

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[16]T. H. Breen, *American Insurgents, American Patriots : The Revolution of the People* (New York: Hill and Wang, 2010), 76-98.

[17]Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 219-220.

royal authority in North America.[18] Just over two weeks later, on November 18, 1774, Gage acknowledged that the northern colonies were supporting Massachusetts "beyond the Conception of most People, and foreseen by none. The disease was believed to have been confined to the Town of Boston . . . but now it's so universal there is no knowing where to apply to remedy."[19] Gage desperately wanted to prevent the troubles from escalating into the regional rebellion he could not win without massive reinforcement.

Contemptuous of Gage's reports, the ministry in London criticized him for his timidity and pushed measures designed to bring on the very conflict Gage was trying to avoid. On February 9, 1775, George III declared Massachusetts in rebellion removing the colony from his protection, and on March 30th he consented to the Massachusetts Restraining Act which restricted trade throughout the region to England and prohibited the use of the Newfoundland fisheries. Ministry officials in London, particularly William Legge, Earl of Dartmouth, who succeeded Hillsborough as the Secretary of State for the Colonies on August 27, 1772, initially prodded and then positively ordered Gage into action. Dartmouth drafted "Secret" instructions to Gage on January 27, 1775, but did not send them until a month later when negotiations with Benjamin Franklin broke down. The secret orders finally arrived in Boston on April 14th. In them Dartmouth maintained that Gage's correspondence "show a determination in the people to commit themselves at all events in open rebellion" and that "force should be repelled by force." Dartmouth therefore ordered Gage to arrest the provincial leaders, even though Gage had already informed him that such an action would

[18]Thomas Gage to William Legge, Oct. 30, 1774, in *The Correspondence of General Thomas Gage*, 1:383.

[19]Thomas Gage to William Legge, Sept. 25, 1774, in ibid., 1:377.

start the rebellion, because that was precisely what Dartmouth wanted. Dartmouth additionally wrote,

> a smaller Force now, if put to the Test, would be able to encounter them with greater probability of Success than might be expected from a greater Army, if the people would be suffered to form themselves upon a more regular plan, to acquire confidence from discipline, and to prepare those resources without which every thing must be put to the issue of a single Action.[20]

Dartmouth saw this plan as a win-win. Either Gage would succeed in decapitating the incipient rebellion, or the colonists would resist militarily enabling even Gage's small regular British force to achieve a decisive victory and end to all of these troubles.

On the night of April 18th, Gage reluctantly, but dutifully, deployed an elite force of 900 grenadiers and light infantrymen to seize the opposition's munitions stored at Concord some twenty miles outside of Boston. The anti-crown faction had advance knowledge of the raid, possibly tipped off by Gage's own American wife, and famously warned the countryside with dispatch riders such as Paul Revere and William Dawes. On the morning of April 19th British forces encountered Massachusetts militiamen on Lexington green under the command of Captain John Parker. British Marine Major John Pitcairn ordered the Americans to lay down their arms but before they could comply a shot rang out and both sides unleashed a volley of musket fire. Eight militiamen died, and ten were wounded while only one Redcoat received slight wounds. The British force, under the overall command of Lieutenant Colonel Francis Smith marched on to Concord and destroyed what limited numbers of supplies and munitions they could find. They sped up the process by burning some outbuildings with war materiel which prompted the militiamen to launch a counterattack and drive the British troops from Concord. The militiamen harried the

[20]William Legge to Thomas Gage, Jan. 27, 1775, in bid., 2:181.

exhausted British troops all the way back to Boston, and had Gage not sent Brigadier General Hugh Percy with reinforcements and artillery to rescue the Redcoat raiders, they would probably have all perished.[21] All told, 1,800 regulars, half of the troops stationed in Boston, participated in the battles, with the Redcoats suffering 272 casualties. The fortunate survivors soon found themselves besieged within Boston by the 15,000 colonial militia who flocked to the city in the wake of the battles. [22]

Even after the battles of Lexington and Concord Gage continued his disarmament policy by permitting rebel-sympathizers within Boston to leave the city once they turned over more than 1,800 muskets, pistols, and bayonets.[23] Despite his unified civil-military authorities that offered him unchecked power as the governor-general, Gage initially treaded

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[21]Fischer, *Paul Revere's Ride*, 96, 184-260.

[22]Richard Frothingham, *History of the Siege of Boston, and of the Battles of Lexington, Concord, and Bunker Hill. Also an Account of the Bunker Hill Monument. With Illustrative Documents* (1873); Arlene Phillips Kleeb, *Lexington and Concord : Rationale for Independence, an Exhibition Commemorating the 200th Anniversary of the Battle*, ed. L. Clements Library William, (Ann Arbor: William L. Clements Library, University of Michigan, 1975); Frank Warren Coburn, *The Battle of April 19, 1775 : In Lexington, Concord, Lincoln, Arlington, Cambridge, Somerville and Charlestown, Massachusetts* (Lexington, Mass., U.S.A.: The Author, 1912); Walter R. Borneman, *American Spring : Lexington, Concord, and the Road to Revolution* (New York, NY: Little, Brown and Company, 2014); Kevin Phillips, *1775 : A Good Year for Revolution* (New York: Viking, 2012); D. Michael Ryan, *Concord and the Dawn of Revolution : The Hidden Truths* (Charleston, SC: History Press, 2007); John R. Galvin, *The Minute Men : The First Fight : Myths and Realities of the American Revolution*, Potomac's the History of War Series (Washington D.C.: Potomac Books, 2006); Charles H. Bradford, *The Battle Road ; and, Charlestown Heights Lost and Won*, ed. Charles H. Bradford, Charlestown Heights Lost and Won. (Lexington, MA: Cotting Press, 2003); Victor Brooks, *The Boston Campaign [Electronic Resource] : April 1775-March 1776*, Great Campaigns (Conshohocken, PA: Combined Pub., 1999), In: Ebscohost via NCLive ebook collection (online collection); *The Shot Heard 'Round the World : The Beginnings of the American Revolution*, ed. Jeanne Munn Bracken, Perspectives on History Series (Lowell, Mass.: Discovery Enterprises, 1995); Brendan Morrissey, *Boston 1775 : The Shot Heard around the World*, Campaign Series ; 37 (London: Osprey, 1993); Thomas J. Fleming, *The First Stroke : Lexington, Concord, and the Beginning of the American Revolution*, ed. Louis S. Glanzman and Service United States. National Park, Nps ; 176 (Washington: Dept. of the Interior, National Park Service : for sale by the Supt. of Docs., U.S. Govt. Print. Off., 1978); Henry DeBerniere, *Gage's Instructions: Thomas Gage*, ed. Thomas Gage, Eyewitness Accounts of the American Revolution. Series Iii (1971); Jeannette Covert Nolan, *The Shot Heard Round the World; the Story of Lexington and Concord* (1963); Arthur Bernon Tourtellot, *William Diamond's Drum; the Beginning of the War of the American Revolution* (1960); Allen French, *General Gage's Informers; New Material Upon Lexington & Concord. Benjamin Thompson as Loyalist & the Treachery of Benjamin Church, Jr* (1932); Fischer, *Paul Revere's Ride*.

[23]Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 255.

lightly to prevent a shooting war with the colonists, and then sought to repair the breach following "the shot heard 'round the world."[24]

Repairing the breach without either concessions or the use of force was an unrealistic goal because every royal official knew that the Battles of Lexington and Concord constituted an open rebellion. Brigadier Hugh Percy succinctly wrote, "There can now surely be no doubt of their being in open Rebellion, for they fired first upon the King's Troops, as they were marching quietly along."[25] Nevertheless, Gage quixotically hoped that some diplomatic breakthrough might avert full blown war while he waited for reinforcements.[26] As a result, he did not immediately implement martial law and continued to negotiate with the Patriots. Those reinforcements - led by generals William Howe, John Burgoyne, and Henry Clinton - finally arrived on May 25th and brought the city's garrison up to 6,000 men.[27] Under pressure to act from the new triumvirate, Gage finally relented and declared martial law in Massachusetts on June 12th in preparation for military operations to fortify Dorchester Heights. Gage explained the timing of the declaration to Dartmouth thusly: "I see no Prospect of any Offers of Accommodation and have therefore issued a Proclamation for the Exercise of the Law Martial."[28]

Once Gage accepted the necessity of confronting the rebellion with military force, he applied the tried-and-true British army formula of decisive battle, coupled with judicial

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[24]Fischer, *Paul Revere's Ride*, 44-64.

[25]Hugh Percy to the Duke of Northumberland, Apr. 20, 1775, in H.P. Northumberland and C.K. Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776* (C.E. Goodspeed, 1902), 54-55.

[26]Shy, *A People Numerous and Armed : Reflections on the Military Struggle for American Independence*, 110.

[27]Alden, *General Gage in America: Being Principally a History of His Role in the American Revolution*, 260.

[28]Thomas Gage to William Legge, Jun. 12, 1775, in *The Correspondence of General Thomas Gage*, 1:405.

punishments and pardons. The declaration, most likely written by Burgoyne, stated the army's position that "WHEREAS the infatuated multitudes . . . have at length proceeded to avowed rebellion . . . it only remains for those who are entrusted with supreme rule, as well for the punishment of the guilty, as the protection of the well-affected, to prove they do not bear the sword in vain." The declaration explicitly pointed to the Battles of Lexington and Concord as the beginning of the rebellion while simultaneously laying the blame for the violence upon the colonists stating, "a number of armed persons, to the amount of many thousands assembled on the 19th of April last, and from behind walls, and lurking holes, attacked a detachment of the King's troops, who . . . made use of their arms only in their own defence."[29] Gage employed the traditional carrot-and-stick approach offering a pardon designed "to spare the effusion of blood . . . I do hereby offer in his Majesty's name . . . his most gracious pardon in all who shall forthwith lay down their arms, and return to the duties of peaceable subjects." The pardon was available to everyone except John Hancock and Samuel Adams because of their prominent role in the disturbances of the past decade. Those who continued in the "present unnatural rebellion" by taking arms against the king, providing material support to those who did, or holding "secret correspondence" with those in rebellion were deemed "to be rebels and traitors, and as such to be treated."[30] Namely, they should

[29]Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 118. Chief Justice Oliver believed that the argument over who fired first at Lexington was irrelevant because the dissolution of the civil government represented the true beginning of the rebellion. He wrote, "Much Stress hath been laid upon, who fired the first Gun [at Lexington]. This was immaterial, for as the civil Government had been resolved by the Suffolk Resolves, the military Power had a right to suppress all hostile Appearances."

[30]Thomas Gage, "By His Excellency the Hon. Thomas Gage, Esq; Governor, and Commander in Chief in and over His Majesty's Province of Massachusetts-Bay, and Vice Admiral of the Same. A Proclamation.," (Boston1775) in *The Norwich Packet and the Connecticut, Massachusetts, New-Hampshire, and Rhode-Island Weekly Advertiser*, Jun. 19, 1775, Issue 90, page [1].

expect no quarter on the battlefield, brutal imprisonment without the status of prisoners of war, the destruction or legal confiscation of their property, and judicial execution.

Unfortunately for Gage, the superb rebel spy network once again got wind of his plans and preempted him by fortifying Bunker and Breed's Hills. The British officers, ever contemptuous of the "rabble" and the "mob," saw this as a golden opportunity to end the conflict with one blow. The Pyrrhic victory that Howe ultimately claimed during the Battle of Bunker Hill on June 17, 1775, was anything but decisive, and therefore failed to provide a military solution to the incipient American rebellion.[31] While the high casualties of over fifty

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[31]James L. Nelson, *With Fire & Sword : The Battle of Bunker Hill and the Beginning of the American Revolution*, With Fire and Sword (New York: Thomas Dunne Books/St. Martin's Press, 2011); George Edward Ellis, *History of the Battle of Bunker's (Breed's) Hill, on June 17, 1775, from Authentic Sources in Print and Manuscript*, Battle of Bunker Hill. (Boston: Lockwood, Brooks, 1875); David Pulsifer, *An Account of the Battle of Bunker Hill [Electronic Resource]* (Boston: A. Williams, 1872), In: Sabin Americana, 1500-1926 (online collection). Ebooks. OCLC Number: CTRG10141609-B; Richard Frothingham, *The Command in the Battle of Bunker Hill, with a Reply to "Remarks on Frothingham's History of the Battle, by S. Swett" [Electronic Resource]* (Boston: C.C. Little and J. Brown, 1850), In: Sabin Americana, 1500-1926 (online collection). Ebooks OCLC Number: CTRG10204075-B; *Battle of Bunker Hill. [Electronic Resource] : Composed by a British Officer, the Day after the Battle, June 17, 1775*, American Broadsides and Ephemera. Series 1 ; No. 4150. ([Boston]: Sold, wholesale and retail, by L. Deming, no. 62, Hanover Street, 2d door from Friend Street, Boston., 1832), In: American broadsides and ephemera (online collection). Series 1 OCLC Number: aas05004150; Alden Bradford, *Complete and Authentic History of the Battle of Bunker Hill, June 17, 1775 [Electronic Resource] : Derived from the Best Authorities* (Boston: J.N. Bradley & co., 1825), In: Sabin Americana, 1500-1926 (online collection). Ebooks OCLC Number: CTRG10155585-B; Henry Dearborn, *An Account of the Battle of Bunker Hill [Electronic Resource]*, ed. Henry DeBerniere (Philadelphia: Harrison Hall, 1818), In: Early American imprints, series 2: Shaw-Shoemaker (online collection) OCLC Number: aas04295654; John Robert Elting, *The Battle of Bunker's Hill*, Philip Freneau Press Bicentennial Series on the American Revolution (Monmouth Beach, N.J.: Philip Freneau Press, 1975); Israel Mauduit, *Three Letters to Lord Viscount Howe [Electronic Resource] : With Remarks on the Attack at Bunker's Hill* (London: Printed for G. Wilkie, 1781), In: Sabin Americana, 1500-1926 (online collection). Ebooks OCLC Number: CTRG192335-B; Thomas J. Fleming, *Now We Are Enemies : The Story of Bunker Hill* (New York: St. Martin's Press, 1960); Gregory T. Edgar, *Reluctant Break with Britain : From Stamp Act to Bunker Hill* (Bowie, Md.: Heritage Books, 1997); Richard M. Ketchum, *Decisive Day : The Battle for Bunker Hill* (New York: Henry Holt and Co., 1999); Paul Douglas Lockhart, *The Whites of Their Eyes : Bunker Hill, the First American Army, and the Emergence of George Washington* (New York: Harper, 2011); Nathaniel Philbrick, *Bunker Hill : A City, a Siege, a Revolution* (New York: Viking, 2013); *A Plan of the Battle, on Bunkers Hill. [Electronic Resource] : Fought on the 17th. Of June 1775. By an Officer on the Spot*, ed. John Burgoyne (London: printed for R. Sayer & J. Bennett no. 53 in Fleet street as the act directs 27 Novr., 1775), In: Eighteenth century collections online (online collection). Part 1 OCLC Number: ESTCN11757; John Clarke, *An Impartial and Authentic Narrative of the Battle Fought on the 17th of June, 1775, between His Britannic Majesty's Troops and the American Provincial Army, on Bunker's Hill, near Charles Town, in New-England. [Electronic Resource] : With a True and Faithful Account of the Officers Who Were Killed and Wounded in That Memorable Battle. To Which Are Added, Some Particular Remarks and Anecdotes Which Have Not yet Transpired. The Whole Being Collected and Written on the Spot. The Second Edition, with Extracts from Three Letters Lately Received from America; and All the*

percent were certainly cause for grave concern, something even more monumental happened on that very same June 17, 1775. Three hundred miles away in Philadelphia, George Washington accepted the Continental Congress's commission as CINC of the Continental Army. The Congress had adopted the Army of Observation outside of Boston and turned it into a national institution.[32] The American Revolution was no longer a regional rebellion, such as the Jacobite Rebellions of Scotland had been, rather it was now a civil war and the traditional military, legislative, and judicial approaches of quelling a rebellion would no longer work. Unfortunately, the British would not realize this until 1778, after they had already missed their best opportunity to decide the contest by force of arms.

Although the declaration of martial law coupled with the Battle of Bunker Hill in June can be interpreted as a transition from garrison government to active warfighting, the reality was both those events in and of themselves barely affected Gage's governance of Boston. Nor did General William Howe's assumption of command from Gage as CINC on October 10, 1775, lead to radical changes in occupation policy.[33] Howe continued Gage's focus on securing the city and providing for the army while looking for opportunities to defeat the rebels in a decisive battle. Instead, the siege of Boston after Lexington and

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Promotions in the Army and Marines, since the Said Battle. By John Clarke, First Lieutenant of Marines (London;: Printed for the author: and sold by J. Millan, 1775), In: Eighteenth century collections online (online collection). Part 2 OCLC Number: N29256; Alden Bradford, *A Particular Account of the Battle of Bunker or Breed's Hill on the 17th of June, 1775*, Battle of Bunker or Breed's Hill (Boston: Cummings, Hilliard & Co., 1825), In: Sabin Americana, 1500-1926 (online collection). Ebooks OCLC Number: TGPSM10-B725.

[32]Anderson, *Crucible of War : The Seven Years' War and the Fate of Empire in British North America, 1754-1766*, xxi.

[33]William Howe Viscount Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, ed. Benjamin Franklin Stevens, Kennikat American Bicentennial Series (1970), 107.

Concord created demographic changes, logistical difficulties, and discipline challenges that forced the British army to implement new policies.

The ongoing difficulties throughout Massachusetts caused a dramatic decrease in Boston's population while simultaneously increasing the remaining Bostonians' loyalty to the Crown. Prior to the imperial discord which led to the dissolution of civil government within Massachusetts in the autumn of 1774, Boston's population hovered around 15,520. When the British evacuated the city on March 17, 1776, only 1,100 Loyalists sailed with them for Halifax, showing how small Massachusetts's hardcore Loyalist population truly was.[34] The breakdown in governance – coupled with wartime conditions in the aftermath of the Battles of Lexington, Concord, and Bunker Hill - encouraged migrations to and from the city which dramatically altered both the number and composition of the people living there. Initially the city experienced an influx as Loyalists fled persecution in the countryside. Writing on September 12, 1774, Gage noted, "People are daily resorting to this Town for Protection, for there is no Security to any Person deemed a Friend to Government in any Part of the Country; even Places always esteemed well effected have caught the Infection."[35] Two weeks later Gage echoed the same sentiments to the Secretary at War, Lord Barrington, contending, "Every Man supposed averse to their [Patriots'] Measures so molest'd & oppressed, that if he can get out of the Country, which is not an Easy Matter, he takes Shelter in Boston."[36] However, the trickle of newly-arriving Loyalists was insufficient to

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[34]For the pre-hostilities population see J.H. Benton, *Early Census Making in Massachusetts, 1643-1765: With a Reproduction of the Lost Census of 1765 (Recently Found) and Documents Relating Thereto* (Charles E. Goodspeed, 1905), 74-75. For the evacuation of Boston see Piers Mackesy, *The War for America, 1775-1783* (Cambridge, MA: Harvard University Press, 1964), 80 and David G. McCullough, *1776*, Seventeen Seventy-Six (New York: Simon & Schuster, 2005), 97-105.

[35]Thomas Gage to William Legge, Sept. 12, 1775, in *The Correspondence of General Thomas Gage*, 1:374.

[36]Thomas Gage to William Barrington, Sept. 25, 1774, in ibid., 2:655.

counterbalance the flood of Patriots from Boston which also preceded the fighting and rapidly diminished the size of the population. At the end of October 1774 Gage wrote to Dartmouth,

> This [Massachusetts Provincial] Congress made an Effort to get all the Inhabitants of this Town to leave it and retire to the Country, but it was found to be an impracticable Measure; Many Individuals are gone, and others are going, thro' Fears, as they give out of being apprehended; So your Lordship will perceive some of the most Obnoxious are in the Number of those who move.[37]

As many as five thousand Bostonians left the city prior to the outbreak of hostilities, and the flight of "the most Obnoxious" Patriots as well as their sympathizers only accelerated once the shooting began. On April 29, 1775, ten days after the Battles of Lexington and Concord, Lieutenant Frederick Mackenzie of the Royal Welsh Fusiliers, confided to his diary, "Number of the Inhabitants having applied to the General for Permission to leave the Town, an Officer was ordered to attend at Charlestown ferry . . . to examine and receive the passes signed by the Town Major for those who have received the General's permission to go out."[38] Following the battle of Bunker Hill Boston looked like a ghost town to its long-term inhabitants. Justice Oliver observed that between 10,000 and 12,000 people had fled the city and that "The Operation of that Battle [Bunker Hill] occasioned so great an Evacuation, that the Town was reduced to a perfect Skeleton."[39] The result of these migrations was that the British army's task of governing the inhabitants became less arduous because it had a significantly smaller and substantially more loyal civilian population to police.

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[37]Thomas Gage to William Legge, Oct. 30, 1774, in ibid., 1:382.

[38]Frederick Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York.*, 2 vols. (Cambridge, Mass.: Harvard University Press, 1930), 1:31.

[39]Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 123-124.

While governing this new Loyalist constituency may have been easier, providing for its health and welfare in wartime circumstances certainly was not. The first major issue that the British army had to contend with was the outbreak of a deadly smallpox epidemic in July 1775. Most British soldiers in Boston had already had the disease, and were therefore immune, but the New Englanders in town were not. Due to the physical confines of the city, quarantine efforts proved inadequate, resulting in ten to thirty deaths per day that summer.[40] The second major challenge during the siege of Boston was keeping both the army and the inhabitants supplied with food. On August 15, 1775, Gage informed Barrington,

> As we are in want of every necessary here, and the Commanding Officers of the different Regiments have wrote to their Agents for what they want; If your Lordship thinks proper this Ship may Return with them, and the sooner the better, as no Winter necessarys [sic] are to be got here for the Soldiers."[41]

The Patriot encampments outside of Boston physically sealed it off from resupply by land. Major Stephen Kemble, Gage's deputy adjutant general and brother-in-law, described how "From this day [April 19th] the Rebels assembled in great numbers about Boston, 2,000 at least, prevented all supplies of Provision coming into Town, and used every Act of Hostility."[42] In addition to cutting the landward supply routes, Patriot privateers implemented a spotty, but effective, blockade on the high seas. Justice Oliver commented in the autumn of 1775 that "Many Vessells [sic], which were coming from *England* & *Ireland*, with Provisions & Stores for the Army & for the Inhabitants, were captured within a few Leagues of Boston."[43] Gage alleviated his provisioning difficulties by granting civilian

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[40]Fenn, *Pox Americana : The Great Smallpox Epidemic of 1775-82*, 44-51 Jacqueline Barbara Carr, *After the Siege : A Social History of Boston 1775-1800* (Boston: Northeastern University Press, 2005), 17.

[41]Thomas Gage to William Barrington, Aug. 15, 1775, in *The Correspondence of General Thomas Gage*, 2:695.

[42]Stephen Kemble, *The Kemble Papers*, 2 vols. (New York: New York Historical Society, 1884), 1:43.

[43]Oliver, *Origin & Progress of the American Rebellion : A Tory View*, 140.

fishing vessels permission to leave Boston Harbor, and using the transport vessels that came into port for foraging expeditions. Major Kemble commented on one such typical expedition on August 15, 1775, noting "Our Mutton fleet arrived this Evening with near two thousand Sheep and 103 Cattle taken from Gardiners, and Fishers Islands - without any sort of oposition [sic], not even one Shot fired."[44]

Gage's measures prevented starvation but never provided enough food to support a comfortable diet. As a result, Gage faced a chorus of criticism from his officers. Brigadier General James Grant was one of the most outspoken detractors who argued that Gage should violate the Prohibitory Act of 1775 to supply the city. He wrote,

> I had sayd that the General not only as Commander in Chief, but as Civil Governor of the Province had sufficient Powers to throw the Harbor open to all the World for suplies wanted for the Army _ that the Commissioners coud have no inspection where there was no Port & that they coud be considered as Gentln. for Safety_ That the Admiral must wave his Guardianship of the Laws of Parliament with Regard to Boston & of course yield to the Necessity of the Times and to the Powers & Authority of the Civil Governor which might be strengthened if necessary by the signed Opinions of the Commander in Chief & the three Major Generals. Every Body I talk to seems to think this right, but nothing is done.[45]

Grant believed that the implementation of martial law excluded Boston from the Prohibitory Act's trade restrictions, and he resented efforts by the Royal Navy and Customs Commissioners to enforce them. Grant logically argued, "They [Admiral Samuel Graves and Commissioners] cannot conceive that Law shoud give way to Necessity that in fact no Law can be in force where there is a civil War & that in cases of great Distress whatever is expedient must be right."[46] This ambiguity about the limits of martial law set the army at

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[44]Kemble, *The Kemble Papers*, 1:46, 55.

[45]James Grant to Edward Harvey, Aug. 10, 1775, James Grant of Ballindalloch Papers, DLAR

[46]James Grant to Chemier, Aug. 11, 1775, James Grant of Ballindalloch Papers, DLAR

odds with the navy and the few remaining civil officials in Boston in its effort to feed Bostonians and His Majesty's forces. Despite the urgency of the situation, Gage did not flout the Prohibitory Act, nor would Howe when he took command as the new CINC in October 1775. Instead, Howe followed Gage's precedent of helping the inhabitants provide for themselves while using any ships available for scavenging operations, but Howe reduced the troops' rations twice between November 26, 1775 and January 5, 1776.[47]

From April 19, 1775, until March 17, 1776, the Boston garrison found itself besieged, hungry, and the object of increasingly draconian punishments. The escalating rigor of military courts martial increased both the number of executions and lashes for infractions. The rationale behind the harsher punishments was twofold; first, the British officers needed to maintain the fighting ability of their soldiers during wartime by ensuring good order and discipline. Second, because the civil government had dissolved and the refugee population within Boston had become overwhelmingly Loyalist, the British army inherited the sole responsibility for both governing and protecting the population.

The most serious challenge to the fighting efficacy of the garrison was desertion. Fortunately for the British officers, desertion from Boston became more difficult after Lexington and Concord. First, the battles increased colonial antipathy towards the soldiers thereby reducing their willingness to harbor deserters as they had in the past. Secondly, the outbreak of hostilities required more robust physical security throughout the city. The rapidly increasing number of fortifications not only kept the Patriots out, but also kept British soldiers in. For soldiers still willing and able to desert, the General Courts Martial attempted

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[47]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 154, 191.

to dissuade them with ever more frequent death sentences. A General Court Martial only sentenced one soldier, Richard Eames, to death for desertion during the first six years of the Redcoats' occupation of Boston. During the garrison's last year and a half prior to the evacuation, General Courts Martial sentenced nine soldiers to death for desertion. Two were granted clemency, but the remaining seven were executed. The British captured nine other deserters and instead of sentencing them to death gave the deserters an average of nine hundred lashes each. Despite more than tripling the garrison in Boston, the desertion rate dramatically decreased from August 1774 until the British departure, suggesting the sterner discipline was successful.[48] Rampant drunkenness was the other major disciplinary issue within the garrison which took on a greater significance in the wake of open hostilities.

Widespread intoxication among the troops undermined combat readiness because it induced unruly behavior. On February 2, 1775, Lt. Mackenzie complained to his diary that despite the officers' strenuous efforts "to prevent Spirituous liquors from being sold to the Soldiers, Soldiers wives and others find means to dispose of the New England Rum to them in such quantities, and at so cheap a rate, that numbers of them are intoxicated daily." He insisted that "Spirits of so pernicious a quality" resulted in the deaths of two soldiers from alcohol poisoning. While greed was the prime motive behind such sales, Mackenzie also noted that the "towns people encourage this excessive drinking, as when the Soldiers are in a State of intoxication they are frequently induced to desert."[49]

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[48]Morgan and Sussex, *'A Clever Little Army': The British Garrison in Boston, 1768-1776*, 104-105, 111, 138-142, 211-212.

[49]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York*, 1:6.

In addition to increasing the punishments against soldiers for their disorderly conduct when drunk, most notably desertion and assaults, the officers also targeted the soldiers' civilian suppliers. On June 21, 1775, Howe decreed "If any Men or Women are detected selling or giving Rum to the Soldiers the former will be severely Punish'd, the Latter Dismissal with Infamy from Camp and the Soldiers found Intoxicated will have no further Allowance of Rum served out to them."[50] By July 23rd, the daily orders prohibited soldiers from being in civilians' huts past eight o'clock in the evening. Civilians violating this order would have their hut torn down and be thrown out of Boston.[51] This preventative measure seems to have failed because on October 14th, Howe issued additional restrictions preventing army sutlers from selling alcohol to the troops, and threatened to imprison "women belonging to the army," *i.e.* camp followers, in the provost until they could be shipped home from Boston.[52]

Despite the British officers' best efforts, they never curbed the prevalent binge drinking within the garrison. Brigadier General Hugh Percy admitted as much when he wrote to Swiss-born Major General Frederick Haldimand on December 12, 1775, "Our Discipline is exactly the same as when you left us [the day before the Battle of Bunker Hill], which we shall begin to perceive now the Troops have got into winter quarters."[53] Percy's prediction proved prescient because in the midst of preparing to evacuate the city on March

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[50]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 11.

[51]Ibid., 49-50.

[52]Ibid., 111.

[53]Hugh Percy to Frederick Haldimand, Dec. 14, 1775, in Northumberland and Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776*, 63.

8, 1776, Howe issued orders to destroy all of the rum in Boston not purchased by the commissary for the voyage to Halifax. He wrote, "the General flatters himself the Soldiers will not at this Time relax in their Discipline . . . to put a Stop to Drunkeness in the Garrison, which has been too prevalent of late."[54] The officers not only struggled to keep their men in fighting shape, they also wrestled with protecting the overwhelmingly Loyalist population in Boston from abuses by the troops.

On one hand, Gage's declaration of martial law on June 12, 1775, merely acknowledged the *de facto* dissolution of royal government within Massachusetts, but on the other hand it introduced very real problems for the inhabitants of Boston who could no longer appeal to civil government for wrongs committed against their property and persons by the army. Prior to the outbreak of hostilities General Hugh Percy had insisted,

> When the people come with complaints, I hear them with patience; and if they are just ones, I take care they shall be immediately redressed, assuring them that we are come to protect the peaceable inhabitants, not to injure them; and that as we are determined to enforce obedience to the laws in other people, we shall be ever ready and desirous to be the first to obey them ourselves.[55]

The days of Patriots fraudulently accusing soldiers of crimes as had occurred within the city between 1768 and 1770, had long passed. After Gage declared martial law, officers took accusations of crimes by their soldiers against the inhabitants and their property very seriously and did everything in their power to prevent it, albeit without much success.

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[54]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 229.

[55]Hugh Percy to the Worthy Independent Electors of Westminster, Aug. 10, 1774, in Northumberland and Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776*, 18.

In the aftermath of the Battles of Lexington and Concord Gage and Howe promulgated increasingly dire punishments for soldiers who stole or destroyed the inhabitants' property. On April 22nd Mackenzie reported "the General [Gage] expects on any future occasion, that they will behave with more discipline and in a more Soldierlike manner: and it is his most positive orders that no man quit his rank to plunder or pillage, or to enter a house unless ordered to do so, under pain of death." A week later Gage gave "strict orders that no property whatever shall be touched or damaged without orders for so doing."[56] The day after the Battle of Bunker Hill, Howe ordered "on pain of Death no Man to be Guilty of the Shamefull and Infamous practice of pillaging and pilfering in the Deserted Houses" in Charlestown.[57] On June 26, 1775, Howe stressed the importance of preserving the houses in Charlestown that had not been consumed by fire during the Battle of Bunker Hill threatening his troops that "any of the Soldiers Detected in future in attempting Shamefully to Purloin any part of these Buildings will assuredly be punish'd most severely, The Genl Considers such Instances of Devastation and Irregularity a Disgrace to Discipline."[58] By July 7th, Gage forbid any officers or soldiers from entering houses within Boston without the owner's permission.[59] On July 17th Howe forbid grave robbing because "Added to the meanness of such practice a pestilence from the Infection [smallpox] of the Putrify'd Bodys might reach

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[56]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York,* 1:30-31.

[57]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 3.

[58]Ibid., 19-20.

[59]Ibid., 36.

the Camp."[60] Howe's first orders following his replacement of Gage as the CINC on October 12, 1775, included, "Soldiers being found Guilty of pulling down Houses, or Fences may depend on being severely punished & all Gentries who may be detected in Conniving at or Suffering any Irregularities near their posts must not Expect Mercy for such neglect of Duty."[61] Despite these repeated warnings, the troops continued to demolish houses and fences for the firewood they needed to stay warm and cook their food. The frustration of such disobedience led Howe to resort to summary executions on December 5th by "direct[ing] the Provost to go his rounds attended by the Executioner, with orders to hang up upon the spot the first man he shall detect in the fact, without waiting for further proof by trial."[62] Even the specter of an instant death sentence did not curtail the soldiers' looting, prompting Howe to reissue the threat three days prior to evacuating the town: "The Commander in Chief finding notwithstanding the Orders that have been given to forbid Plundering Houses have been forced open & robbed, he is therefore under a Necessity of declaring to the Troops, that the first Soldier who is caught plundering, will be hanged on the Spot."[63] Although the CINCs never effectively suppressed their soldiers' crimes against the inhabitants' property, they did a better job of protecting Bostonians' persons.

Gage sought to protect Boston's inhabitants from physical violence through a combination of policy changes and strict discipline. Beginning on October 18, 1774, Gage sought to avoid tumults between his soldiers and the inhabitants by advising "Upon any Riotous Proceeding or quarrelling happening near a Centries [sic] post if he cannot put an

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[60]Ibid., 44.

[61]Ibid., 109.

[62]Ibid., 160.

[63]Ibid., 237.

End to it by his own Authority he is to call to the Guard, and Centries are to be particularly careful not to give any Molestation to the peaceable inhabitants of the Town."[64] While most sentries obediently obeyed this directive, Gage's officers were not so meek. On the night of January 20, 1775, a drunken gambling session resulted in "a quarrel between some Officers and the town Watch" which prompted Gage to conduct a "Court of Enquiry." The court's report led to "The General being much displeased with the Conduct of his officers." Gage scolded his officers "that the attacking of the Watch of any Town in all parts of the World, must be attended with bad consequences: for as they were appointed by Law, the Law will protect them." Therefore, Gage decided "to make the strictest enquirey into the conduct of all Officers concerned in quarrels or Riots with the Towns people, and try them if in fault."[65] The town watch was not the only violence inciting friction point within the garrisoned town. After Charlestown's ferrymen leveled accusations that officers and their men regularly assaulted and battered the ferrymen, Gage declared on August 17th "that Neither Officers nor Soldiers, shall for the future presume to Strike or otherwise ill treat the ferry men, or people employ'd in the Transport Boats, but are on all Occasions to apply to the Officer Commanding the Guard, who is placed there to see that due Order is kept."[66]

Gage's and Howe's harsh proclamations were implemented in more than name alone. Starting in July 1775 the General Courts Martial records demonstrate a dramatic increase in

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[64]Ibid., 115.

[65]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York,* 1:4-5.

[66]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 72.

the number of convictions as well as the severity of the penalties for soldiers who robbed or abused civilians. Prior to July 1775 there were no General Courts Martial for robbery whatsoever. Between July and December of that year the British army in Boston held the following trials for crimes against the inhabitants: twenty for robbery, two for receiving stolen goods, and one for assault on a civilian. Three of the robbers earned an acquittal. Of the remaining seventeen convicted robbers four received death sentences, one of which was pardoned, and the remaining thirteen received an average of six hundred lashes. The two soldiers convicted of receiving stolen property received 1,000 and 800 lashes respectively, while the soldier who assaulted a civilian earned 1,000 lashes as well.[67]

In addition to protecting the Loyalist population of Boston following the declaration of martial law, the British army took on a multitude of other civic responsibilities to fill the vacuum left by the defunct civil government. The army issued passes to facilitate trade, ordered the female camp followers to attend the sick at the hospital, required soldiers to sweep the streets, punished a female camp follower for slaughtering an army bull, issued rewards to recover the stolen seals of the province, regulated markets by requiring ship captains to obtain permits, created new graveyards when victims of battle injuries and smallpox inundated the existing ones, and established rules for cooperating with the inhabitants to fight fires.[68] To help oversee such disparate functions Captain Lieutenant James Urquhart was made the town major and Captain Stephen Payne Adye became the Deputy Judge Advocate for the soldiers and inhabitants in Boston.[69]

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[67]Morgan and Sussex, *'A Clever Little Army': The British Garrison in Boston, 1768-1776*, 204.

[68]Howe, *General Sir William Howe's Orderly Book at Charlestown, Boston and Halifax, June 17, 1775 to 1776, 26 May; to Which Is Added the Official Abridgment of General Howe's Correspondence with the English Government During the Siege of Boston, and Some Military Returns ... With an Historical Introd. By Edward Everett Hale*, 4, 23, 25, 97, 102, 117, 125, 127, 142.

While the British army's governance of Boston's inhabitants tended to be quotidian drudgery, one distinct advantage of providing security and a modicum of comfort for the civilian population was the willingness of the inhabitants to help secure and defend the garrison. On October 29, 1775, Howe formed the company of the Royal North British Volunteers. The company's officers were Captain James Anderson, 1st Lieutenant William Blair, 2nd Lieutenant P. Black, and 3rd Lieutenant J. Fleeming. Howe ordered the Royal North British Volunteers to enforce the city's curfew by "mount[ing] a Guard at Gun Fireing & Patrole the Streets within a certain District & will take into Custody all Suspicious & Disorderly Persons found in the Streets at improper Hours."[70] On November 17, 1775, Howe commissioned Timothy Ruggles as a brigadier general on the American establishment and placed him in charge of the Loyal American Associaters consisting of three companies of Bostonian Loyalists who had "Offered their service for the defence of the place."[71] Last but not least, on December 7, 1775, "Some Irish Merchants residing in Town, with their adherents, having offer'd their service for the defence of the place, the Commander in Chief has order'd them to be Arm'd, and directs their being form'd into a Comp^y to be call'd the Loyal Irish Volunteers" commanded by Mr. James Forrest who received a commission as a captain.[72] Throughout the war most British officials assumed that mobilizing the "friends of government" would be as simple as raising the King's standard as they had done in Boston. More astute observers who counted just how few Loyalists within the city joined the newly-

[69]Ibid.,41, 63.

[70]Ibid., 123.

[71]Ibid., 140.

[72]Ibid., 161.

created regiments should have concluded that more would need to be done. If they indeed had such thoughts at this early stage in the war, British officers pushed them out of their mind while they focused on the upcoming New York campaign that would decisively defeat the Continental Army and the rebellion.

In summary, although King George III and Parliament designed the Coercive Acts to substantially increase the royal prerogative in Massachusetts by removing all legal impediments to Governor-General Thomas Gage's implementation of garrison government, they fell short in two key areas. Many years after the American Revolution the Scottish antiquarian George Chalmers asked Gage if he had been "averse to taking the Government of the Massachusetts Bay. He [Gage referring to himself] desired at length that a much larger force than four weak regiments might be sent out, and the Town of Boston declared in rebellion, without which his hands would be tied up."[73] Predictably Gage's response sought to excuse his conduct as the Governor-General of Massachusetts, but it was not entirely without merit. On the first count, that he had insufficient troops for the task at hand, Gage was right, but only in retrospect. Prior to taking the governorship he believed, and indeed told the king, that four regiments would be enough. He would have been correct if Boston alone remained the problem, but since the Coercive Acts prompted the rebellion to spread to the rest of Massachusetts and throughout the other twelve colonies, his initial 3,500 troops were a mere pittance. On the second count, that the king needed to declare the colony in rebellion, Gage was incorrect because he himself held that authority as the governor-general. As David Hackett Fischer has noted, Gage was temperamentally ill-suited to the role of a

[73]Massachusetts Historical Society, *Collections of the Massachusetts Historical Society* (The Society, 1858), 371.

Cromwellian Lord Protector, but when he finally resolved himself to confronting the rebellion militarily on June 12, 1775, he employed all of the British army's standard procedures for suppressing rebellions.[74] Gage offered pardons to all Patriots except John Hancock and Samuel Adams, seeking a decisive battle at Bunker Hill, permitting the burning of Charlestown, and preparing for future judicial punishments.

Surprisingly, when the British army's role in Boston evolved from garrison government to martial law, the changes in the governance of the city resulted less from the removal of legal impediments than to the realities of living under siege. The mass exodus of Patriots and those concerned for their safety from the city in the wake of the fighting at Concord, Lexington, and Bunker Hill left fewer than three thousand people in the town. Not only was the smaller population more manageable, but it was significantly more law-abiding since Loyalist refugees came pouring in from the surrounding countryside seeking protection from Patriot persecution. To protect this overwhelmingly Loyalist population both Gage and his successor, William Howe, punished their soldiers with ever-increasing severity to prevent robberies and assaults against the inhabitants. The British army also discovered that in order to maintain its fighting effectiveness it had to fill the void left when the civil government dissolved. It therefore issued a series of haphazard edits to contend with such mundane issues as provisioning the city, regulating markets, and maintaining hygiene. While no great thought went into these efforts, the experience in Boston hinted at the value of protecting local inhabitants when Loyalists formed three separate military units to help guard the city. Unfortunately, most British officers considered the eleven-month-long siege they endured in Boston an anomaly. They assumed that the Loyalist majority in New York would rally to the

[74]Fischer, *Paul Revere's Ride*, 36-37.

royal standard as soon as the British army appeared, or shortly after the first major engagement provided King George III's arms with a decisive victory.

Chapter 6 "From the success that had attended the British army, very beneficial consequences were expected to result": The New York Campaign, 1776 – 1777[1]

"SUCH has been, and generally must be, the issue of wars prosecuted at a great distance, unless the first campaign gives you a decisive superiority; it follows of course, that the success of such enterprizes depends entirely on the vigour of your operations: if in the beginning they are not decisive, they never will be so hereafter."
Welsh Major General Henry Lloyd in *The History of the Late War in Germany* (1781)[2]

This chapter investigates Commander-in-Chief (CINC) William Howe's 1776 military campaign and the British army's subsequent occupation of New York City and shows their conformity to the well-established intellectual and practical precedents of rebellion suppression among the British army. General Howe, in conjunction with his brother Admiral Richard Lord Howe, implemented a strategy that alternated between diplomatic overtures and military action. The British army's initial counter-revolutionary efforts in New York during 1776 hoped to decisively defeat the Continental army and then fold in pardons and negotiations to erode support for the rebellion. After a seemingly decisive victory in the taking of the city, the British army implemented martial law in the territory they controlled and crafted occupation policies which promised to support military victory by minimizing civilian interference by civil officials. Even after losing New York City, however, the Continental army continued its resistance, and the British commanders' all-consuming focus on suppressing the rebellion militarily with another decisive victory

[1]C. Stedman, *The History of the Origin, Progress, and Termination of the American War*, 2 vols. (Dublin: Printed for P. Wogan, P. Byrne, J. Moore & W. Jones, 1794), 1:222.

[2]Lloyd, *The History of the Late War in Germany: Between the King of Prussia, and the Empress of Germany and Her Allies*, 2:114.

over the Continental army distracted them from the myriad, quotidian problems of a garrisoned city. They relied on a single commandant, Major General James Robertson, exercising martial law in New York City to maintain order within the town and provide the garrison with quarters because most army officers and British officials believed the war would be over by the end of 1776 or early 1777. Therefore, they reasoned, the quickest way to restore civil government would be to leave it dormant until Britain achieved military victory.

British officers believed that decisive battle was the most effective way to crush a rebellion militarily. Besieged Boston seemed unlikely to provide an opportunity to deliver such a blow. Therefore the British army cast about for a more promising theater of operations, which the whole body of officers ultimately agreed should be New York City and its environs. The prospect of receiving massive reinforcements and being able to maneuver them in an open country overwhelmingly occupied by Loyalists instilled great confidence in British officers. While still in Boston, as well as in the immediate wake of their arrival in New York harbor, officers consistently expressed their desire for a decisive engagement with the rebels. They wholeheartedly believed the redcoats' superiority to the Americans would make them invincible in battle and inevitably would lead to the suppression of the American rebellion.[3]

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[3]For British strategy during the 1776 campaign see Mackesy, *The War for America, 1775-1783*, 57-60, 80-93; Paul Hubert Smith, *Loyalists and Redcoats: A Study in British Revolutionary Policy* (Chapel Hill,: Published for the Institute of Early American History and Culture at Williamsburg, Va., 1964), 32-43; Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence*, 94-129; Maldwyn A. Jones, "Sir William Howe: Conventional Strategist," in *George Washington's Opponents: British Generals and Admirals in the American Revolution*, ed. George Athan Billias (New York,: Morrow, 1969), 39-72; Don Higginbotham, *The War of American Independence : Military Attitudes, Policies, and Practice, 1763-1789* (New York: Macmillan, 1971), 122-174; Gruber, *The Howe Brothers and the American Revolution*, 72-88; *"British Strategy: The Theory and Practice of Eighteenth-Century Warfare"*, ed. Don Higginbotham, vol. 14, *Reconsiderations on the Revolutionary War: Selected Essays*. Contributions in Military History (Westport, Conn.: Greenwood Press, 1978), 14-31; David Hackett Fischer, *Washington's Crossing*, Pivotal Moments in American History (New

Major General William Howe, who succeeded Lieutenant General Thomas Gage as the CINC of British forces in North America on October 10, 1775, was initially the foremost advocate of a decisive battle in New York that would inevitably crush the rebellion in 1776. In January 1776, Howe wrote to the American Colonial Secretary, William Legge, Earl of Dartmouth to complain about his instructions to dispatch some of the intended reinforcements to the Carolinas. Howe argued against dividing his troops "until the rebels should have been defeated on the side of New York, which event appears to me more clearly than ever of so much consequence that our utmost strength should be exerted to accomplish it."[4] Howe further averred: "the army, at the opening of the campaign being in force, would probably by rapid movements bring the rebels to an action upon equal terms before they could cover themselves with works [defensive fortifications] of any signification."[5] The major problem in Boston had been Howe's inability to maneuver against the American defensive positions which threatened to repeat the debacle of Bunker Hill. Howe and other British officers frequently used the phrase "equal terms" to indicate a stand-up fight in the open where British discipline and courage were sure to carry the day. Howe also assured Dartmouth that if Britain sent sufficient reinforcements to increase his army in New York to 12,000 men, "the present unfavourable appearance of things would probably wear a very

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York: Oxford University Press, 2004), 66-80; Edward G. Lengel, *General George Washington : A Military Life* (New York: Random House, 2005), 128-171; McCullough, *1776*, 140-154; Jeremy Black, "British Military Strategy," in *Strategy in the American War of Independence : A Global Approach*, ed. Kenneth J. Hagan, Michael T. McMaster, and Donald J. Stoker, Cass Military Studies (London Routledge, 2010), 58-72; Richard Middleton, *The War of American Independence, 1775-1783* (New York: Pearson, 20, 46-60; Robert Middlekauff, *Washington's Revolution : The Making of America's First Leader* (New York: Alfred A. Knopf, 2015), 114-139.

[4]William Howe to Earl of Dartmouth, Jan. 16, 1776, in Office Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, ed. K. G. Davies and Office Great Britain. Public Record, vol. 12 (1972), 45.

[5]William Howe to Earl of Dartmouth, Jan. 16, 1776, in ibid., 46.

different aspect before the end of the ensuing campaign."[6] Major General Hugh Percy echoed Howe's sentiments regarding the outcome of the New York campaign telling his brother, Reverend Thomas Percy, "I take it for granted the next Campaign will be so active & I hope so decisive a One that the Rebels will be glad to sue for Mercy."[7]

On March 17, 1776, Howe abruptly evacuated Boston due to Colonel Henry Knox's herculean accomplishment of placing the Continental army's newly-acquired cannons seized from Fort Ticonderoga on Dorchester Heights. Despite this embarrassing setback, Howe and his officers remained supremely confident that the Americans would get their comeuppance shortly. In May, General James Grant noted, "The Rebells have collected a considerable Force at New York and are preparing with great Assiduity to give us as warm a Reception as they can." He hoped they would "venture to keep Possession of the Town" instead of retreating because "tho' they may give trouble by an obstinate defence we shall ultimately take them." Grant went on to say in the same letter that although the rebellion appeared strong at the time, "I still flatter myself if reinforcements & Supplies come in time, & if we Act with vigour & success, that the Rebellion may be crushed, but it must be brought about by great Exertion & in the course of this Summer."[8] Howe was also eager to strike a knockout blow that summer.

During June Howe was busily preparing for the upcoming campaign and repeated many of the same opinions as Grant regarding the probability of success to Lord George

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[6]William Howe to Earl of Dartmouth, January 16, 1776, in ibid., 46. Howe wanted a total force of 20,000 men. Twelve thousand directly under his command, with 6,000 to garrison Rhode Island, and 2,000 to defend Halifax. It is interesting to note that the ministry lost faith in Gage and ultimately fired him for making the same request.

[7]Hugh Percy to Reverend Thomas Percy, Jan. 7, 1776, in Northumberland and Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776*, 64.

[8]James Grant to Richard Rigby, May 12, 1776, James Grant of Ballindalloch Papers, DLAR.

Germain, Dartmouth's replacement as the Secretary of State for the Colonies. Howe demonstrated his belief in the superiority of British regulars when he informed Germain that he intended to land his troops on Long Island despite the known rebel fortifications at Brooklyn. While he would "have the closest attention to the reinforcements daily expected and not hazard any disadvantageous attacks," he also insisted that "Should the enemy offer battle in the open field we must not decline it, and from the high order the troops are now in I have every reason to flatter myself with success." Such a military victory "would not fail to have the most intimidating effects upon the minds of those deluded people."[9]

Such optimism was not confined to the generals' ranks. While still at Halifax that month, Marine Captain John Bowater described the general optimism of the British army. He wrote, "The fleet and Army are Very healthy & in high Spirits. The great reinforcement which is Every day arriving, and the Scandelous retreat of the Rebels from Quebec has quite chang'd the fate of Affairs in this Country. . . no one doubt[s] the least of our finishing this Business before Christmas."[10]

William Howe arrived in New York harbor on June 25, 1776, four days before the fleet from Halifax which carried his 10,000 troops. He had sailed ahead in the frigate HMS *Greyhound* in order to consult with local Loyalists about the disposition of the Continental army. New York's royal governor, William Tryon, met with Howe the following day, provided intelligence on the enemy's fortifications, and in accordance with Howe's own ideas suggested an immediate attack upon Long Island.[11] It was at this point that Major

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[9]William Howe to George Germain, Jun. 7, 1776, Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, 12, 145-146.

[10]John Bowater to ?, June 8, 1776, in *The Lost War : Letters from British Officers During the American Revolution*, ed. Marion Balderston and David Syrett, Letters from British Officers During the American Revolution. (New York: Horizon Press, 1975), 85.

General James Robertson, the former Barrack-Master General in North America and recently appointed commander of the 5th Brigade, had his first significant influence on the conduct of the campaign. Robertson dissuaded Howe from attacking by arguing, "if you beat the rebels before the reinforcements arrive, you disgrace the ministry for sending them; if you are defeated, they will be of no use to you when they come. Land, therefore, on Staten Island."[12]

Howe accordingly chose to occupy Staten Island while he waited for his older brother, Admiral Richard Lord Howe, to arrive with the remainder of the fleet as well as 15,000 more soldiers.[13] General Howe explained his decision to defer the assault on Long Island to Germain thusly: "from the minutest description judging attack upon this post [Brooklyn] so strong by nature and so near to the front of the enemy's works too hazardous an attempt before the arrival of the troops . . . I declined the undertaking."[14]

In addition to sensibly avoiding defeat in detail, General Howe's postponement of the assault by landing on Staten Island offered him an opportunity to gauge the sentiments of the local inhabitants. He was pleasantly surprised with the enthusiastic reception the British army received on Staten Island. The reaction of Staten Island's population also encouraged Captain Bowater who insisted that "The Inhabitant's receiv'd our people with the Utmost Joy, having been long oppresse'd for their attachment to government."[15] Not only had the inhabitants of Staten Island welcomed the British as liberators, but four hundred local

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[11]Nelson, *William Tryon and the Course of Empire : A Life in British Imperial Service*, 142.

[12]Qtd. in Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence*, 99.

[13]McCullough, *1776*, 135.

[14]William Howe to George Germain, Jul. 7, 1776, in Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, 12, 157.

[15]John Bowater to ?, Jul. 7, 1776, in *The Lost War*, 88.

militiamen took the oath of allegiance promising to serve in conjunction with the royal forces.[16] Better yet, sixty militia volunteers arrived from New Jersey with assurances that five hundred more intended to come. Howe's appraisal of this groundswell of support was that "This disposition among the people makes me impatient for the arrival of Lord Howe, concluding the powers with which he is furnished will have the best effect at this critical time; but I am still of opinion that peace will not be restored in America until the rebel Army is defeated."[17]

Admiral Richard Lord Howe arrived in New York shortly thereafter on July 12th and dined with his brother the following evening aboard the flagship HMS *Eagle*. Lord Howe's personal secretary, Ambrose Serle, observed, "The Discourse chiefly turned upon military Affairs, upon the Country, and upon the Rebels. The Army seem to be actuated by one Spirit, and impatiently wait for the Arrival of the Hessians & other Troops."[18] Clearly Howe and the rest of the army officers were eager for the climactic battle with the Continental army that would eviscerate support for the rebellion, but Lord Howe's "powers," as noted above, included appointments for both himself and General Howe as Commissioners for Restoring Peace in North America.[19]

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[16]William Tryon to George Germain, Jul. 8, 1776, CO5/1107/372, DLAR

[17]William Howe to George Germain, Jul. 7, 1776, in Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, 12:158-159.

[18]Ambrose Serle, *The American Journal of Ambrose Serle, Secretary to Lord Howe, 1776-1778.*, ed. Edward Howland Tatum Jr., Huntington Library Publications (San Marino, CA: The Huntington Library, 1940), 31.

[19]Ira D. Gruber, "Lord Howe and Lord George Germain, British Politics and the Winning of American Independence," *The William and Mary Quarterly* 22, no. 2 (1965) and *The Howe Brothers and the American Revolution*, 3-88.

The British ministry's appointment of its two top military officers as the chief peace negotiators was an unconventional decision, but was in line with the well-established practice of using diplomacy and pardons to undercut support for rebellions. The Howe brothers' instructions forbade them from offering any concessions to the Americans until four conditions were met. First, all extralegal assemblies had to be dissolved. Second, the Continental army and state militias had to disband. Third, the Americans had to turn over all of their fortifications. Fourth, and finally, royal government had to be reconstituted with the meeting of either the General Assembly or the General Court. Once these requirements had been satisfied the peace commission gave the Howes the authority of "declaring any colony or province or any county, town, port, district, or place within any of the said colonies or provinces, to be at our peace; in consequence of which declaration the restraint imposed on the trade and intercourse of such places respectively will cease and be void."[20] Prior to a city or colony being declared at the King's Peace, the Howes could only offer pardons, but they would stretch the limits of their commission with a series of peace overtures.[21]

On June 20, 1776, two weeks before his fleet's arrival, Lord Howe sent out his opening diplomatic salvo. In his first initiative he informed the public of the Howe brothers' dual military and diplomatic commissions and assured them of his desire "for the speedy and effectual restoration of the public tranquility." He also emphasized the commissioners' power "for *granting his* [George III's] *free and general pardons*" as well as their ability to declare locations "to be at the Peace of His Majesty."[22] Disappointed to learn that Congress

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[20]George III to Richard and William Howe, May 6, 1776, William Eden (1st Baron Auckland) Papers, DLAR

[21]John E. Ferling, *Almost a Miracle : The American Victory in the War of Independence* (Oxford: Oxford University Press, 2007), 125.

[22]Proclamation, *The New York Gazette; and the Weekly Mercury*, July 29, 1776, Issue 1294, page [1].

had already approved the Declaration of Independence before his arrival, the Howes followed up the June 20th proclamation with Britain's first pardon offer on July 14th. This proclamation sought "to deliver all His [George III's] Subjects from the Calamities of War" with offers of amnesty as well as promises of restoring prosperity by negating the Prohibitory Act once the King's peace had been declared.[23] The very same day Lord Howe tried to send a letter to General George Washington to apprise him of the peace commission's powers, but because of a reluctance to refer to his official title, the Howes addressed the letter "To George Washington, Esq. &c. &c. &c.," which he refused to accept. Despite subsequent efforts to deliver the letter and verbal acknowledgement of "General" Washington and "His Excellency" the rapprochement failed. Following the letter fiasco, Ambrose Serle concluded, "They have uniformly blocked up every Avenue to Peace . . . There now seems no Alternative but War and Bloodshed." [24] Serle was right for the moment, but that did not mean the Howes would give up so easily on a negotiated settlement to the imperial dispute.

General Howe ultimately waited seven weeks, from July 2nd to August 21st, for all the reinforcements to arrive and recover from their transatlantic voyages before landing troops on Long Island to dislodge the American defenders. During this period he and his fellow army officers remained optimistic about their prospects in battle and the outcome of the campaign. Scottish Brigadier General James Grant wrote, "if a body of Troops can be landed on the Island of New York any where between King's bridge & the Town it would do the business, but will be found difficult. But if they are landed at a greater distance in my opinion

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[23]Division United States. Naval History, *Naval Documents of the American Revolution*, ed. William Bell Clark, et al., vol. 5 (Washington: Naval History Division, Dept. of the Navy : For sale by the Supt. of Docs., U.S. G.P.O., 1964), 1075-1076.

[24]Lengel, *General George Washington : A Military Life*, 138; Serle, *The American Journal of Ambrose Serle, Secretary to Lord Howe, 1776-1778*, 33.

it wont answer the End." In the same letter he went on to say, "America is lost if we do not contrive to give them one good Field Day [battle] that they must be forced to for they know it is their interest to avoid it."[25] Commenting upon the colonists' reception of Lord Howe's proclamation of June 20th Captain Bowater noted, "They [colonists] treated the declaration of the Commissioners with great contempt," but he confidently averred, "The Bayonet is the only thing to convince them and I think in the Course of this week a great Number will know the grand secret."[26] The events of the next week proved Bowater right regarding both the timing and outcome of the Battle of Long Island.

By the third week of August 1776 Britain had amassed the largest amphibious invasion in its history up to that time. Some 24,000 British and Hessian soldiers as well as an armada of thirty ships of the line, 400 transports, and 10,000 sailors were waiting in New York harbor. Britain had deployed sixty-six percent of the British army and forty-five percent of the Royal Navy to crush the Continental army which consisted of 19,000 mostly inexperienced troops in the region.[27] On August 22nd Howe landed in Gravesend Bay on Long Island with 15,000 Redcoats to attack the 9,000 rebels posted along the Gowanus and Brooklyn Heights.

Despite the British army's nearly two-to-one numerical superiority over the Continentals and the overwhelming fire support it could call upon from the Royal Navy, Howe did not rely on force alone. The day after his forces landed he issued another pardon.

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[25]James Grant to Richard Rigby, Aug. 6, 1776, James Grant of Ballindalloch Papers, DLAR

[26]John Bowater to ?, Aug. 15, 1776, in *The Lost War*, 96.

[27]Ira D. Gruber, *The Howe Brothers and the American Revolution* (Chapel Hill: The University of North Carolina Press, 1972), 101; O'Shaughnessy, *The Men Who Lost America : British Leadership, the American Revolution, and the Fate of the Empire*, 92.

In it he called upon the "Loyal Inhabitants" of Long Island who had been "compelled by the Leaders in the Rebellion to take up Arms against His Majesty's Government" to turn themselves in at his army's headquarters. Those who complied would be "received as faithful Subjects, have Permits to return Peaceably to their respective Dwellings, and meet with full Protection for their Persons and Property."[28] Whatever the inclination of Long Islanders might have been when William Howe made his offer, most chose to wait to see the outcome of the battle before submitting. They did not have to wait long.

After being reinforced with 4,300 Hessians under the command of General Leopold Philip von Heister, Howe adopted Major General Henry Clinton's plan to flank the American army with 10,000 troops by seizing the lightly guarded Jamaica Pass. On the evening of August 26th Howe, Clinton, and Percy successfully turned the Americans' left flank and forced them to retreat to Brooklyn Heights. In what was to become one of the greatest controversies of the war, Howe paused the advance and called the British and Hessian soldiers back to lay siege to the fortifications. Howe later explained his actions writing, "Had they been permitted to go on, it is my opinion these would have carried the redoubt, that as it was apparent the lines must have been ours and very cheap rate by regular approaches I would not risk the loss that might have been sustained in the assault and ordered them back."[29] The price for Howe's caution on this occasion was Washington's escape with his entire army across the East River to Manhattan on the night of August 29 – 30.

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[28]Proclamation by William Howe, Aug. 23, 1776, Hubbard Family Papers, Box 1, Folder 10, Brooklyn Historical Society.

[29]William Howe to George Germain, Sept. 3, 1776, in Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, 12:217.

While many historians have rightly posited that the ghosts of Bunker Hill weighed heavily upon Howe's decision to besiege Brooklyn Heights rather than storm the position, concern over British casualties was only one half of the equation.[30] The Howes' desire to prevent American casualties was equally important. Having captured Continental General John Sullivan during the battle, the Howes paroled him on an errand to Philadelphia with another peace overture. Sullivan conveyed Lord Howe's sentiments to Congress, "That he wished a compact might be settled at this time, when no decisive blow was struck, and neither party could say, that they were compelled to enter into such an agreement."[31] Considering William Howe's initial inclination to end the rebellion by destroying the Continental army, it is probable the influence of his older brother, coupled with his appointment as a peace commissioner, encouraged him to minimize the "effusion of blood" which explains his actions at Brooklyn Heights. Howe called his men back to save both British and American lives and to enhance Britain's negotiating positon. After all, 9,000 hostages are more effective bargaining chips than 9,000 corpses.

To realize this new objective of sparing American lives William Howe changed his strategy. Instead of decimating the Continental army in a risky and sanguine clash of arms, he would seek to outmaneuver and capture it. Even if Howe failed to capture the army, by placing the Continentals in an untenable situation he would force them to retreat. These perpetual "retrograde motions" would convince the Continental soldiers, state militiamen, and the population alike that the British army was invincible thus encouraging the rebel

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[30]See Mackesy, *The War for America, 1775-1783*, 88; Jones, "Sir William Howe: Conventional Strategist", 52-54; Fischer, *Washington's Crossing*, 99; McCullough, *1776*, 194-195; Ferling, *Almost a Miracle : The American Victory in the War of Independence*, 135.

[31]*The New York Gazette; and the Weekly Mercury*, Sept. 28, 1776, Issue 1302, page [1].

forces to disperse through continuous pressure.[32] Howe's new emphasis was also a recognition that Washington's escape from Brooklyn Heights made it unlikely the rebellion would end in 1776. Three days after the evacuation Howe requested a minor reinforcement from Germany, admitting that "there may probably be another Campaign before this Rebellion is Quelled."[33] Howe's new focus on dissipating rather than destroying the rebel army, coupled with his extended timeline to complete the task, convinced him of the need to wage a war of posts.

The war of posts was a conventional strategy of eighteenth-century linear warfare designed to seize the enemy's cities, supply magazines, and cut their lines of resupply and communication.[34] Maurice Comte de Saxe, Marshal-General of the Armies of France from 1747 to 1750, explained the strengths of a war of posts, or *guerre des postes*, as follows: "They [fortresses] serve to cover a country; they oblige an enemy to attack them, before they can penetrate further; they afford a safe retreat and cover to your own troops on all occasions; they contain magazines, and form a secure receptacle, in the winter-time, for artillery, ammunition, &c."[35] Captain Frederick Mackenzie of the 23rd Regiment, the Royal Welch Fusiliers, openly acknowledged the importance of New York City as a base of operations for

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[32]O'Shaughnessy, *The Men Who Lost America : British Leadership, the American Revolution, and the Fate of the Empire*, 97-98; Matthew H. Spring, *With Zeal and with Bayonets Only : The British Army on Campaign in North America, 1775-1783*, Campaigns and Commanders ; V. 19 (Norman: University of Oklahoma Press, 2008), 12; Dave R. Palmer, *George Washington's Military Genius* (Washington, D.C.: Regnery Pub., 2012), 144.

[33]William Howe to George Germain, Sept. 2, 1776, CO5/93/255, DLAR

[34]Ira D. Gruber, "British Strategy: The Theory and Practice of Eighteenth-Century Warfare", ed. Don Higginbotham, Reconsiderations on the Revolutionary War: Selected Essays. Contributions in Military History, vol. 14 (Westport, Conn.: Greenwood Press, 1978), 14.

[35]Maurice Saxe, comte de, *Reveries, or, Memoirs Concerning the Art of War*. (Edinburgh: Sands, Donaldson, Murray, and Cochran. For Alexander Donaldson, at Pope's Head, 1759), 133. Eighteenth-Century Collections Online [ECCO], ESTC Number: T097719.

this strategy and the danger posed by fire writing in early September 1776, "It is of very material consequence to prevent them [Rebels] from burning the town [New York], which will no doubt afford quarters to a considerable part of our Army during the ensuing winter, and be made the principal Depot of Stores, and harbour for our shipping."[36]

The British adopted this cautious strategy of posts because their experiences in Boston taught them that attrition management would be the key to their victory. British Major General John Burgoyne astutely noted in the summer of 1775 that the American strategy should be to lose a battle every week to decimate the British army, while Major General Lord Hugh Percy wrote "our army is so small that we cannot even afford victory."[37] A war of posts would permit the British to methodically reclaim rebel territory while husbanding their resources in anticipation of an opportunity to strike a decisive blow that would either capture or destroy the Continental army.

The Americans rapidly came to understand the virtues of this approach. General Washington decided to adhere to a similar policy less than two weeks after his embarrassing defeat at the Battle of Long Island. In September 1776 he wrote, "…on our Side the War should be defensive. It has even been called a War of Posts. That we should on all Occasions avoid a general Action, or put anything to the Risque, unless compelled by a necessity, into which we ought never to be drawn."[38] Washington, however, adopted the strategy for

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[36]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York*, 1:42.

[37]Qtd. in Piers Mackesy, *The War for America, 1775-1783* (Cambridge, MA: Harvard University Press, 1964), 85.

[38]George Washington, *The Papers of George Washington. Revolutionary War Series*, ed. Philander D. Chase, Revolutionary War Series, vol. 6 (Charlottesville: University Press of Virginia, 1985), 249.

significantly different reasons than the British. He sought to use fortifications to bolster the fighting morale and effectiveness of his predominantly raw recruits to nullify the advantages of the British regulars in open terrain. Nevertheless, both sides remained dedicated to a war of posts for the vast majority of their conventional forces throughout the entire conflict.[39]

The rest of the British army in New York was unaware of William Howe's changing sentiments regarding the benefits of a war of posts, and although many bitterly resented the missed opportunity to deliver the *coup de grâce* at Brooklyn Heights, they still believed the Battle of Long Island had been decisive and that the campaign would end in 1776. Adjutant General of the Hessian Forces, Major Carl Leopold Baurmeister, summed up the British army's accomplishment writing, "This day we took 1100 prisoners, and on the 28th picked up another 426. The total of their killed and wounded is not yet known, since they lie scattered in the woods . . . We captured two generals, Sterling and Sullivan, nine colonels, and some fifty officers."[40] Major General Hugh Percy ebulliently told his father, "They feel severely the Blow on the 27th & I think I may venture to assert, that they will never again stand before us in the Field. Every Thing seems to be over with Them, & I flatter myself now that this Campaign will put a total End to the War."[41] General James Grant proudly boasted to Lieutenant General Edward Harvey, "we have had the Field Day I talked of in my last Letter, if a good Bleeding can bring those Bible faced Yankees to their senses, The Fever of

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[39]The two notable exceptions to this trend were Sir William Howe's attempt to destroy the Continental army at the Battle of Brandywine on September 11, 1777 by threatening Philadelphia and Nathanael Greene's masterful southern campaign from 1780-1781 which was a combination of a war of maneuver and Fabian tactics that both physically exhausted and dwindled the British forces under Lieutenant General Lord Charles Cornwallis.

[40]Carl Leopold Baurmeister, *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces*, trans. Bernhard A. Uhlendorf (New Brunswick, N.J.: Rutgers University Press, 1957), 38-39.

[41]Hugh Percy to the Duke of Northumberland, Sept. 1, 1776, in Northumberland and Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776*, 69.

Independency should soon abate."[42] Captain Frederick McKenzie confided to his diary, "It appears by the most authentic accounts that the Rebel Army is much dispirited by their late defeat, and the abandonment of their lines of Brooklyn which had cost them so much time and pain."[43] Ambrose Serle observed, "From what I saw myself, nothing could exceed their [the British and Hessian soldiers'] Spirit & Intrepidity in attacking the Enemy" and he expressed the overriding opinion among the officers that, "This 'tis presumed will be their last, as 'tis their first Effort to fight us upon plain Ground, if a woody Country can be called so."[44] Captain William Evelyn, of the King's Own 4th Regiment, told his mother, "Since my last letter to you, we have had action with the rebels, in which we totally defeated them, with great loss to their parts and very little on ours, and drove them entirely off Long Island."[45] Nearly twenty years later Major Charles Stedman, who served under Percy at the battle, concluded, "Victory was certainly on the side of the English; but it was not so decisive at it might have been, owing to the restrictions imposed by the Commander in Chief."[46]

Despite Washington's escape the British knew they had seized the initiative and momentum from the rebels as a result of the Battle of Long Island. On September 2nd, from his headquarters in Newtown, Earl Percy informed Germain, "The rebels have severely felt

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[42]James Grant to Edward Harvey, Sept. 2, 1776, James Grant of Ballindalloch Papers, DLAR.

[43]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York*, 1:38-39.

[44]Serle, *The American Journal of Ambrose Serle, Secretary to Lord Howe, 1776-1778*, 79.

[45]William Evelyn to Mrs. Evelyn, Sept. 25, 1776, in William Glanville Evelyn, *Memoir and Letters of Captain W. Glanville Evelyn*, Applewood's American Revolutionary War Series (Bedford, MA: Applewood Books, 2009), 89.

[46]Stedman, *The History of the Origin, Progress, and Termination of the American War*, 196.

the blow, and I think I may venture to foretell that this business is pretty near over."[47] The behavior of the local inhabitants had a tremendous influence upon Percy's optimism. Now that the Continental army had been forced from Long Island, the inhabitants openly declared for the British. William Howe commented upon the salubrious effects of the recent victory coupled with his offer of pardon on August 23rd writing, "The inhabitants of this island, many of whom have been forced to rebellion, have all submitted and are ready take the oaths of allegiance."[48] What most officers did not realize, other than Major General Robertson, was that since the pardon promised to protect their persons and property, Long Islanders were just as likely to accept Howe's pardon out of fear as attachment. When troops from Robertson's 5th Brigade began plundering the inhabitants of Newtown, not only did he court martial the offenders, but he offered restitution from his personal funds, and issued a proclamation warning, "for the future the troops will abstain from crime which disgraces even victory, and defeats the King's intention to protect and reclaim his American subjects."[49] Robertson's pleas to William Howe that the loyal inhabitants needed to be protected resulted in more draconian punishments for the regulars. Captain MacKenzie observed, "The troops having committed great irregularities of late, the Commander in Chief has authorized the Provost Marshal to execute upon the spot any Soldier he finds guilty of

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[47]Hugh Percy to George Germain, Sept. 02, 1776, in Northumberland and Bolton, *Letters of Hugh, Earl Percy, from Boston and New York, 1774-1776*, 71.

[48]William Howe to George Germain, Sept. 3, 1776, in Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, 12:218.

[49]Milton M. Klein, "An Experiment That Failed: General James Robertson and Civil Government in British New York, 1779-1783," *New York History*, no. 61:3 (1980), 34.

Marauding, and to take up all Soldiers he shall find one mile from their posts."[50] Unfortunately for the civilians living on British-occupied Long Island these harsh penalties did little to dissuade the looters and the practice continued largely unabated.[51]

Although the British army's arrival was a mixed blessing for the Loyalist inhabitants of Long Island, the Howe brothers decided to send captured General John Sullivan to Philadelphia for talks with the Continental Congress on August 31st. While Sullivan's overtures on the peace commissioners' behalf offered a potential breakthrough, some of Howe's subordinates were dubious. When Sullivan returned to New York on September 9th Major Stephen Kemble, General Howe's Deputy Adjutant General, dismissed the idea of a negotiated settlement. Kemble believed there was "no prospect of a Reconcilliation [sic] taking place, nor could it be expected. Think the Rebels may derive great Advantage from our delays, and have erected Batteries from New York at every Landing to Hell Gate, and a large Body Encamped on the Heights behind it."[52] Although Kemble's critiques were militarily sound, Sullivan's efforts did produce the only face-to-face meetings between the belligerents until 1783. Congress sent a commission consisting of Benjamin Franklin, John Adams, and Edward Rutledge that met with Lord Howe on Staten Island on September 11th. The American delegates' insistence that Britain must recognize the United States' independence as a preliminary to any further negotiations caused the talks to founder after a

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[50]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York*, 1:40.

[51]Joseph S. Tiedemann, "Patriots by Default: Queens County, New York, and the British Army, 1776-1783," *The William and Mary Quarterly* 43, no. 1 (1986).

[52]Kemble, *The Kemble Papers*, 1:87.

mere three hours. Ambrose Serle pointedly wrote of the negotiation, "They met, they talked, they parted. And now, nothing remains but to fight it out."[53]

Despite the conference's failure, the Howes' attempt to negotiate in the aftermath of their victory on Long Island fit their general pattern of using political tools such as pardons and negotiation in conjunction with military action to undermine the rebellion.

Once the negotiations failed, fighting it out was exactly what William Howe had in mind and his subordinates knew it. The only questions were how and when. On September 9th Capt Mackenize wrote, "Everything indicates that we shall soon attempt something decisive against the Rebels, but considering the nature of the Shore at Hellgate, and rapidity of the tides and variety of the Eddies there, I do not suppose the landing will be made in that place." The well-known difficulty of navigating Hell's Gate certainly led Lord Howe to reject conducting the amphibious assault through those waters. This was unfortunate for Major General Clinton who devised a plan whereby the British would take Montresor's Island, pass through Hell's Gate and land in Morrisania to seize Kingsbridge and trap the Continental army on Manhattan (then known as York Island). Clinton insisted, "Had this been done without loss of time, while the rebel army lay broken in separate corps between New York and that place [Kingsbridge], it must have suddenly crossed the North [Hudson] River or each part of it fallen into our power one after the other."[54] Because of the Royal Navy's concerns, MacKenzie rightly deduced the British would land lower on York Island. He guessed, "It is supposed we shall land somewhere about Haerlem, and by taking a position across the Island, which is narrow in part, endeavor to cut off all that part of the

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[53]Serle, *The American Journal of Ambrose Serle, Secretary to Lord Howe, 1776-1778*, 101.

[54]Clinton, *The American Rebellion: Sir Henry Clinton's Narrative of His Campaigns, 1775-1782, with an Appendix of Original Documents*, 44-45.

rebel army between us and New York." He was a little off on the location, but correctly identified the plan of trapping the rebels on the island. More importantly, he expressed the British army's certainty that

> The destruction or Capture of a considerable part of the Rebel army in this manner, would be attended with numerous advantages, as it would impress the remainder with the dread of being surrounded and cut off in every place where they took post, would increase their discontent, and probably be the means of breaking up the whole of their army, and reducing the colonies to submission.[55]

MacKenzie not only believed the plan to capture York Island would produce an end to the war, but he was also convinced the British army and Royal Navy could execute it. He wrote, "The troops are all in the highest health and spirits, and one may venture to say that their behavior when they attack the enemy will fully answer the General's expectations." MacKenzie felt the British were invincible saying, "We have no doubt of success, as from the abilities of the General, and the bravery of the troops, seconded by the operations of the Ships of War, everything may be expected."[56] Serle conveyed similar bravado on the eve of the battle writing, "And if they could bring 100,000 men into the Field, which it is impossible for them to bring or to maintain, H. majesty's Troops need be in no great Concern about them."[57]

Many contemporaries criticized Howe for his apparent lethargy during the New York campaign, but his inaction following Washington's escape from Long Island was most likely caused by the diplomatic initiatives that culminated with the meeting on Staten Island.[58]

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[55]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York,* 1:41-42.

[56]Ibid., 1:45.

[57]Serle, *The American Journal of Ambrose Serle, Secretary to Lord Howe, 1776-1778*, 101.

When the Americans firmly rejected Lord Howe's outstretched olive branch, General Howe put his forces into motion for an attack on Manhattan on September 13th. Howe chose the thirteenth to commemorate James Wolfe's capture of Quebec in 1759, as well as his own critical contribution to that victory by leading his light infantry up the cliffs to the Plains of Abraham. Major Baurmeister recorded "the watchword was "Quebec" and the countersign "Wolfe." However, the frigates were too dilatory for this attack."[59] Because of the Royal Navy's failure to support General Howe in a timely fashion the attack had to be postponed to September 15th. On the day of the attack Clinton led the first wave of 4,000 British troops ashore at Kip's Bay. Under William Howe's orders to await the landing of the 9,000 men in the second wave before advancing further west than Murray Hill, the British failed to trap the 3,500 Continental soldiers in New York City who made a hasty retreat along the shoreline of the Hudson River.[60]

A string of British victories followed the Battle of Long Island, but the stout American resistance at the Battle of Harlem Heights on September 16, 1776 gave William Howe pause about the remainder of the 1776 campaign. Howe maintained that "the duration of the Campaign must be short" and despite rumors that Major General John Burgoyne had captured Albany which "will be attended with favourable Consequences" Howe insisted upon caution because he believed that "a Check at this Time would be of infinite Detriment to us."[61] Nevertheless, Howe asserted his confidence in victory the following spring writing

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[58]Lengel, *General George Washington : A Military Life*, 152.

[59]Baurmeister, *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces*, 48.

[60]Lengel, *General George Washington : A Military Life*, 154-155.

[61]William Howe to George Germain, Sept. 25, 1776, CO5/93/283, DLAR.

that the Rebel "army is much dispirited from the late Success of His Majesty's Arms; yet have I not the smallest prospect of finishing the Contest this Campaign, nor until the Rebels see preparations in the Spring that may preclude all thoughts of further Resistance."[62] Grant came to believe "if nothing favorable casts up [during the winter], possibly they may be induced to trial in the Spring, if they do not Come into Terms then I do not see how or when an End can be put to this Cursed Business, for they have been beat and drove as much as they can be."[63] Although the British army did not destroy the Continental army in the fall and winter of 1776, British officers could indulge in a degree of professional pride and optimism that their forces manhandled the enemy, and they would achieve a military decision in the spring. With hopes still high for the swift defeat of the rebels, and an enthusiastic reception by the Loyalist inhabitants, British officers believed that martial law would merely be a temporary burden that the inhabitants would cheerfully bear.[64]

British civil officials, especially Governor William Tryon, were no less sanguine than their military counterparts that the campaign of 1776, followed by mopping up actions in 1777, would result in the utter destruction of the "unnatural rebellion."[65] With the capture of

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[62]William Howe to George Germain, Sept. 25, 1776, CO5/93/283, DLAR.

[63]James Grant to Richard Rigby, Nov. 22, 1776, James Grant of Ballindalloch Papers, DLAR.

[64]For the reaction of Loyalists to the British army's capture of New York City see Alexander Clarence Flick, *Loyalism in New York During the American Revolution*, Studies in History, Economics and Public Law ; V. 14, No. 1 (1901), 95-98; Wallace Brown, *The Good Americans; the Loyalists in the American Revolution* (New York,: Morrow, 1969), 59; Robert M. Calhoon, *The Loyalists in Revolutionary America, 1760-1781*. 1st ed. (New York: Harcourt Brace Jovanovich, 1973), 372; Christopher Moore, *The Loyalists : Revolution, Exile, Settlement* (Toronto, Canada: Macmillan of Canada, 1984), 95-96; Judith L. Van Buskirk, *Generous Enemies : Patriots and Loyalists in Revolutionary New York* (Philadelphia: University of Pennsylvania Press, 2002), 21-22; Phillip Papas, *That Ever Loyal Island : Staten Island and the American Revolution* (New York: New York University Press, 2007), 63-79; Joseph S. Tiedemann, Eugene R. Fingerhut, and Robert W. Venables, *The Other Loyalists : Ordinary People, Royalism, and the Revolution in the Middle Colonies, 1763-1787* (Albany: State University of New York Press, 2009), 87-88; Ruma Chopra, *Unnatural Rebellion : Loyalists in New York City During the Revolution*(Charlottesville: University of Virginia Press, 2011), 51-79.

[65]Ruma Chopra, *Unnatural Rebellion: Loyalists in New York City During the Revolution*, 3.

New York City, Tryon joyfully proclaimed, "The Spirit and Ardor of His Majesty's Troops both British and Hessian, promise every desireable Success, I flatter myself, they will this Campaign, have the honor of restoring Legal Government to this Province."[66] Tryon's belief that the establishment of peace and the restoration of civil government would be the inevitable outcomes of the campaign induced him to "postpone any executive Acts of Government till the Province is more liberated from the Controul of the Rebels. I therefore have kept the Executive Powers of Civil Government Dormant, leaving every thing to the direction of the Military."[67] For the time being Tryon would not insist on the restoration of civil government and would use his influence with the population, rather than his dormant position as governor, to help the military restore order within the British occupied areas.

The inhabitants of New York City were equally overjoyed with the liberation of the city. In his diary, Moravian Minister Ewald Shewkirk described the arrival of the British army as follows: "Some of the king's officers from the ships came on shore, and were joyfully received by some of the inhabitants. The king's flag was put up again in the fort, and the Rebels' taken down. And thus the city was now delivered from those Usurpers who had oppressed it so long."[68] Despite the inconveniences of living in a garrisoned town, Shewkirk remained optimistic in December 1776. Commenting on Admiral Lord Richard and General Sir William Howe's second proclamation to grant pardons in their role as peace commissioners he noted that "it has had a great effect; numbers are come in, have signed the

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[66]William Tryon to George Germain, Sept. 24, 1776 CO5/1107/396, DLAR.

[67]William Tryon to George Germain, Sept. 24, 1776 CO5/1107/396, DLAR.

[68]Ewald Gustav Schaukirk, "Occupation of New York City by the British," *The Pennsylvania Magazine of History and Biography* 10, no. 4 (1887), 252.

prescribed declaration, availed themselves of the benefit of the proclamation, and returned to the peaceable enjoyment of their property."[69]

Even the ministry in London began to display symptoms of victory disease.[70] On November 6, 1776, Lord George Germain, the Secretary of State for the Colonies, complimented William Howe on his tremendous success writing,

> The advantages which you have hitherto gained over the Rebels have been rapid, and are extremely important; and I am confident you will, in reflecting upon them, derive a sincere Satisfaction from the Consideration that the Troops under your Command have been able to give such signal Proofs of their Bravery, and render such essential Services to their King and Country, without suffering any material Injury from the Enemy.[71]

Germain, based on the reports he received from Howe, exuded confidence that the British army was unstoppable and would crush the rebellion in short order because not only were they winning the vast majority of the battles, but they were doing so without taking any substantial casualties. Meanwhile, both Governor Tryon and Minister Shewkirk who witnessed the military operations in and around New York City firsthand professed the belief that the war would soon be over as a result of the British army's military successes and the favorable reception of the civilian population. This perception of near-term victory was

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[69]Ibid., 260.

[70]Timothy Karcher, "Understanding the "Victory Disease," from the Little Bighorn to Mogadishu and Beyond," ed. United States Army, Global War on Terrorism Occasional Paper 3 (Fort Leavenworth, KS: Combat Studies Institute Press, 2003), 2. Major Karcher explains victory disease thusly: "Arrogance, the primary symptom of the victory disease, shows up in the military mind-set in several ways. First, the military force suffering from arrogance views itself as nearly invincible, which comes from a high level of demonstrated military prowess and allows military leaders and planners to believe their forces can defeat any foe. This sense of invincibility also seeps into the national psyche and causes national leaders and ordinary citizens to expect overwhelming military victories in any future conflict. Underestimating one's potential enemies comes with arrogance since the overconfident party views his own forces as unbeatable and the opponent as hardly worth consideration. Arrogance quickly leads to a sense of complacency."

[71]George Germain to William Howe, Nov. 6, 1776, CO5/93/286-287, DLAR.

ubiquitous amongst all participants – politicians, military members, and Loyalists – in the British war effort during 1776 and early 1777.

This belief in imminent victory, held equally by both military officials and civilians, was one practical justification for the establishment of martial law in New York City following the landing of British troops on September 15, 1776. The other major reason was the officers' abhorrence of the impediments civil law could impose on active military campaigns. General Grant succinctly had encapsulated the British army's thinking about martial law while besieged in Boston the previous year following the Battle of Bunker Hill. He wrote, "Law shoud give way to Necessity & we have been told from great Authority that [civil] Law subsides in a Country where civil War subsists."[72] General Sir Henry Clinton demonstrated that this attitude among line officers had not changed toward the end of his tenure as Commander-in-Chief in 1782 writing,

> Experience has proved in all countries where operations of war existed, the martial law has always been found to be better adapted to the exigencies of such a state...After weighing the disappointments it [civil law] might throw in the way of our military proceedings, I have never to this instant seen a moment proper for its renewal.[73]

Officers believed martial law was better adapted to the exigencies of war because it prevented civil authorities from hampering military operations by bringing lawsuits against quarter masters and commissaries who requisitioned supplies from the local population, or against barrack masters who quartered troops in private homes after all the public houses had been filled to capacity. Civil authorities could also incarcerate unruly soldiers who would then be unavailable for combat duty. Given the demands of waging a war 3,000 miles from

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[72]James Grant to Edward Harvey, Aug. 10, 1775, James Grant of Ballindalloch Papers, DLAR.

[73]William A. Polf, *Garrison Town: The British Occupation of New York City 1776-1783*, 25-28.

home with a large number of mercenary forces, Sir William Howe refused to exacerbate his difficulties by leaving himself legally open to the complaints of Britain's litigious subjects. Besides, he believed the conflict would soon be over and there would then be plenty of time to address the colonists' property concerns.

Equally important, however, was the military command's interpretation of the Prohibitory Act of 1775. Passed by Parliament in November with an effective date of November 1, 1776, the Act clearly prohibited trade to or from the rebellious colonies. The Prohibitory Act itself did not mention civil government, as former New York Supreme Court Justice Thomas Jones pointed out in his near contemporary history.[74] Nevertheless, as Jones remembered it, the consensus among the British officers and civilian administrators upon the conquest of New York City was that "New York was a garrison, and that no law could exist in a garrison but military and martial law."[75] With very few exceptions, of course, royal government had already ceased functioning within New York.[76] Governor Tryon wrote to Lord George Germain, the American Secretary, in August to tell him that all "vestiges of Royalty" were gone in New York City. Tryon informed Germain about the Declaration of Independence and told him that "The persons of the Mayors of the Cities of [New] York and Albany, Judges, Counsellors, Magistrates, and principal Gentlemen of the Country" who

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[74]Thomas Jones, *History of New York During the Revolutionary War*, ed. Edward F. De Lancey, 2 vols., Eyewitness Accounts of the American Revolution (New York: The New York Times & Arno Press, Inc. , 1968), 2:427.

[75]Thomas Jones, *History of New York during the Revolutionary War*, ed. Edward F. De Lancey, 2 vols., Eyewitness Accounts of the American Revolution (New York: The New York Times & Arno Press, Inc. , 1968, 2:134.

[76]The Continental army permitted municipal government to continue operating during their occupation of New York City. After the British occupation the Loan Office Act and the Ministry Act continued in effect. See Thomas Jones, *History of New York during the Revolutionary War*, 2:129.

remained loyal had all been imprisoned.[77] The British army's interpretation of the Prohibitory Act did not suspend royal government in New York since the American revolutionaries had already accomplished that. Instead, the British army officers refused to reinstate civil government due to their belief that the Prohibitory Act forbade them from doing so and over concerns it would interfere with military operations. As a result, public officials in the city kept their titles along with a small salary, but had no authority during this first phase of the occupation—the martial law phase. This interpretation, however, flew in the face of the Howes' peace commission which empowered them to declare "any colony or province or any county, town, port, district, or place within any of the said colonies or provinces, to be at our peace."[78]

The British decision to keep civil government suspended placed them in a dilemma. While it ensured that civil officials would not interfere with their operations to decisively defeat the Continental army, it undermined their strategy of posts which required well-supplied strongholds that could be used to launch operations and serve as winter quarters. The reason for this double-edged sword was simple; the dormant civil government could not interfere with military personnel or operations, but it also could not bring order to a wartime city. Instead, the military found itself tasked to provide law and order, and it did so in an uneven and ad hoc fashion.

To rectify this problem Sir William Howe appointed a commandant to ensure both the security of, and order within, New York City. In lieu of a civilian governor, the British appointed a military commandant to run the town. They offered the position to Governor

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[77]William Tryon to George Germain Aug. 14, 1776, CO5/1107/385, DLAR.

[78]George III to Richard and William Howe, May 6, 1776, William Eden (1st Baron Auckland) Papers, DLAR

Tryon, but he refused the position because he "could not see the propriety of the civil government of the Colony and the military command of its capital being vested in the same person." Tryon believed that plurality of office holding, especially military and civilian offices, led to a confused constitutional situation which ultimately undermined authority. Furthermore, given the Americans' traditional fear of standing armies, he felt it was unwise to put a military officer in charge of the general population.[79] The Howe brothers then turned to Major General James Robertson to fill the post of commandant.

Major General James Robertson was an excellent choice for a commandant whose primary duties were to provide the army with quarters and supplies. He was the barrackmaster-general for the British army and served on General Thomas Gage's headquarters staff in New York prior to the war and in Boston at the start of the American War of Independence. The Scotsman had over twenty years of experience in America, first arriving with the 62nd (Royal Americans) Regiment of Foot in 1755 during the French and Indian War.[80] With this professional background, an intimate knowledge of the city, and an established network of business contacts within the community, Robertson was undoubtedly the best man for the delicate task of governing New York City in the wake of its occupation by British forces. Later in the war even George Washington simultaneously complimented and dismissed Robertson by saying "he [Robertson] is a man of great knowledge of the world

[79]Qtd. in Paul David Nelson, *William Tryon and the Course of Empire: A Life in Imperial Service* (Chapel Hill: University of North Carolina, 1990), 144.

[80]James Robertson, *The Twilight of British Rule in Revolutionary America : The New York Letter Book of General James Robertson, 1780-1783*, ed. Ronald W. Howard and Milton M. Klein (Cooperstown, N.Y.: New York State Historical Association, 1983),17, 30. (the 62nd was renumbered the 60th in 1757).

and of mankind, but that he [Lafayette] need not be apprehensive of his Military abilities."[81] Newly-promoted British Major Frederick Mackenzie, adjutant-general under Sir Henry Clinton, agreed with Washington's assessment writing, "A just description, for tho' a man of shrewd sense, he is certainly a very indifferent General. He wants not only the health requisite for a General commanding a Corps, but firmness and decision."[82] While Robertson may have lacked both the physical prowess and temperament to excel as a combat officer, he would prove to have the diplomatic tact that was a necessary prerequisite for governance under trying wartime conditions.

In September of 1776 New York City posed endless difficulties for the conquering British forces. First and foremost among these difficulties was the ability to quarter British and Hessian troops in the town while simultaneously finding enough prison space for all of the rebels captured on Long Island and in subsequent battles. On the eve of the American War of Independence New York City had a population of approximately 25,000. Various panics after the start of fighting in 1775 had caused mass exoduses. Roughly 8,000 inhabitants fled in 1775 fearing a British assault, and over 10,000 more evacuated in 1776 as the British conquest loomed. When the British actually landed, there were probably only 5,000 souls in the city.[83] The good news for Commandant Robertson was that he did not need to find accommodations for the entire British army of 24,000 since many of them were

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[81]Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York*, 1:537.

[82]Ibid., 1:537.

[83]For New York's total population before the war and at the start of the occupation see Jr. Barck, Oscar Theodore, *New York City During the War for Independence: With Special Reference to the Period of British Occupation*, Studies in History, Economics, and Public Law ; No. 357 (New York: Columbia University Press, 1931), 74-75. For the waves of emigration see Chopra, 46.

still in the field on active campaign and the remainder could be dispersed to cantonments in Staten Island and Long Island. Therefore, Robertson initially only needed to find space for the roughly 5,600 soldiers in New York City proper. Of this significant total, only 600 soldiers from the 54th and 5th Regiments were directly under Robertson's command and responsible for securing the city.[84]

Unfortunately for Robertson, the relative ease of finding quarters for the initial garrison evaporated on the night of September 21, 1776, when the Great Fire consumed at least 493 of the 4,000 inhabitable buildings within the city.[85] Adjutant General of the Hessian Forces, Major Carl Leopold Baurmeister, summed up the British army's transformation of New York City into a garrison in 1776 thusly:

> General Howe appointed a town major, an adjutant, a quartermaster, and a barrack master to serve under General Robertson. All the quarters were listed; the existing barracks were enlarged, and new ones built in the fire-ravaged northern part of the city. Wood and coal magazines were also erected, and forage brought in. The flour brought from Ireland was out into storehouses to dry. In short, the entire town was prepared to serve as a place d' armes and winter quarters for six thousand men. All the captured guns, ammunition, provisions, and flags in the army were carefully listed, and the list turned over to the Commandant of New York, General Robertson.[86]

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[84]Baurmeister, *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces*, 50.

[85]Thomas Jefferson Wertenbaker, *Father Knickerbocker Rebels: New York City During the Revolution* (New York, C. Scribner's Sons, 1948., 1948), 101. See also Benjamin L. Carp, "The Night the Yankees Burned Broadway: The New York City Fire of 1776," *Early American Studies: An Interdisciplinary Journal* 4, no. 2 (2006), 471 -511.

[86]Baurmeister, *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces*, 56.

The later return of former New York City Loyalists, along with the influx of persecuted Loyalists from surrounding areas, more than doubled the civilian population to 11,000 by February 1777, exacerbating Robertson's housing difficulties.[87]

As residents flowed back in to the city, the housing situation became increasingly complicated. It should come as no surprise that during the period of martial law the military and its camp followers obtained reasonably comfortable quarters, while the city's civilian inhabitants often endured great hardships. British soldiers, with the assistance of Loyalist informants, marked all of the houses belonging to Americans who had joined the rebellion with the initials G.R., George Rex, to indicate their confiscation and availability for government use. Pastor Shewkirk noted the problems with the confiscations when he wrote, "Many [forfeited houses] indeed were marked by persons who had no order to do so, and did it perhaps to one or the other from some personal resentment."[88] Historian Thomas Jefferson Wertenbacker detailed the residents along Queen Street as an example of the housing situation in the city during occupation: Hessian officers resided in Isaac Sear's house; Colonel Clark's servants lived in Widow Thorne's domicile; soldiers' wives filled Aldolphus Grove's abode as well as four other homes; number 84 became a guard shack; and troops filled the properties at 86, 138, 146, and 150 Queen Street.[89] While the British army and its entourage frequently cohabited with the inhabitants, Loyalists who had fled the city prior to its occupation found themselves homeless when they returned if their property had been occupied by government officials. Many of them became residents of the infamous Canvass

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[87]Wertenbaker, *Father Knickerbocker Rebels: New York City During the Revolution*, 103.

[88]Barnet Schecter, *The Battle for New York : The City at the Heart of the American Revolution* (New York: Walker & Co., 2002), 275; Schaukirk, "Occupation of New York City by the British", 252.

[89]Wertenbaker, *Father Knickerbocker Rebels: New York City During the Revolution*, 105.

Town which sprouted up in the gutted structures left by the great fire. Dunlap wrote, "The ruins on the southeast side of the town were converted into dwelling places, by using the chimneys and parts of walls which were firm, and adding pieces of spars with old canvas from the ships, forming hovels part hut and part tent." Canvass Town became a purgatorial sanctuary for "the vilest of the army and Tory refugees."[90] The residents of Canvass Town suffered from exposure to the elements, victimization by the large criminal element in the area, and collective moral repugnance at the rampant prostitution in the area.

Despite these trials and tribulations, there was another group of inhabitants in the city with a worse fate: American prisoners. According to Major Carl Baurmeister, royal forces captured 1100 prisoners during the Battle of Long Island and an additional 426 during the following day.[91] These prisoners immediately strained Commandant Robertson's ability to bed down British forces and secure the prisoners. The question of what do with prisoners of war (POWs) became more urgent as their numbers multiplied. By November of 1776 the British held 4,429 POWs in New York.[92] Pastor Shewkirk commented on the desperate housing situation this caused, writing:

In November new troubles began on account of the quartering of the soldiers,

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[90]B.J. Lossing, *The Pictorial Field-Book of the Revolution: Or, Illustrations, by Pen and Pencil, of the History, Biography, Scenery, Relics, and Traditions of the War for Independence* (Harper & brothers, 1860), 613.

[91]Baurmeister, *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces*, 38-39.

[92]Edwin G. Burrows, *Forgotten Patriots: The Untold Story of American Prisoners During the Revolutionary War*, 277. The trials and tribulations of American POWs during the War for Independence, of course, is not an untold story. See also Larry G. Bowman, *Captive Americans : Prisoners During the American Revolution* (Athens: Ohio University Press, 1976); Carl P. Borick, *Relieve Us of This Burthen : American Prisoners of War in the Revolutionary South, 1780-1782* (Columbia: University of South Carolina Press, 2012); Clive L. Lloyd, *A History of Napoleonic and American Prisoners of War, 1756-1816 : Hulk, Depot and Parole* (Woodbridge, UK: Antique Collectors' Club, 2007); Francis D. Cogliano, *American Maritime Prisoners in the Revolutionary War : The Captivity of William Russell* (Annapolis, Md.: Naval Institute Press, 2001); and Paul J. Springer, *America's Captives : Treatment of Pows from the Revolutionary War to the War on Terror*, Modern War Studies (Lawrence, Kan.: University Press of Kansas, 2010).

> of whom more and more come in; as also many of their women and children. Many of the public buildings were already filled with Prisoners, or sick, &c.; especially all the Dutch and Presbyterian churches, as also the French church, the Baptists, and new Quaker meeting ; and we were not without apprehension, that something of that nature might come upon us.[93]

Although Commandant Robertson interceded to prevent the placement of four hundred captured American officers in Shewkirk's meetinghouse so that the Moravian services could proceed, most American POWs did not receive such high-level consideration. Many found themselves confined in the city's sugar refineries such as Van Cortlandt's Sugar House on the northwest corner of the Trinity Church courtyard, Rhinelander's Sugar House on the corner of William and Duane Streets, or the Liberty Street Sugar House contained in number 34 and 36 on Liberty Street.[94] When the British ran out of space in the city – after they had turned every public facility including King's College, the hospital, and a number of dissenting churches into jails – they resorted to prison ships. The HMS *Whitby*, a large transport, was the first prison ship to appear in Wallabout Bay on October 20, 1776. Other prison ships such as the infamous *Jersey*, which prisoners accurately called Hell, *Hope*, *Falmouth*, *Hunter*, and *Stromboli* soon followed.[95] The noxious odors of unbathed, excrement-covered, and even dead bodies produced an exquisite torment below deck onboard the overcrowded prison ships. The lack of provisions for the POWs exacerbated these unsanitary conditions which added fever and typhus to the already ubiquitous dysentery.[96]

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[93]Schaukirk, "Occupation of New York City by the British", 255.

[94]*Encyclopedia of the American Revolution : Library of Military History*, 2:937-938.

[95]James Grant Wilson, *The Memorial History of the City of New York: From Its First Settlement to the Year 1892*. Vol. 4. (New York, New York History Company, 1893), 8-9.

[96]Schecter, *The Battle for New York : The City at the Heart of the American Revolution*, 274.

Living in New York City during the campaign of 1776 Commandant James Robertson was intimately aware of the numerous difficulties martial law placed on everyone – soldiers, civilians, and prisoners. However, he, along with the rest of the British army, believed that the quickest way to end the suffering was to militarily defeat the rebellion and reestablish civil government. While this faith remained intact at the beginning of the 1777 campaign, Sir William Howe became convinced that a military commandant alone could not establish order within the city. Robertson needed help.

Chapter 7 "And it is most devoutly to be wished that the Continent may follow the Example of this City": The Evolution of British Occupation Policy in New York City, 1777 - 1780[1]

"as there are no Civil Officers of any denomination under the Kings Authority, now in the Country [South Carolina], some Establishment will be absolutely necessary to prevent that Anarchy and confusion which will otherwise infallibly arise . . . The more simple it is the more likely is it in my apprehension to succeed in calming the minds and conciliating the Affections of the People who from the necessity of the case and the impossibility to apply an immediate remedy will it is hoped, remain patient under some inconveniences that are unavoidable, until that Government can be restored, which indiscriminately insures to all Persons, Peace Harmony, Security and Liberty."
Letter from Major General Alexander Leslie to Andrew Elliot, [1780][2]

This chapter examines the British occupation of New York City during the American War of Independence. As the most securely and longest continually-held American city, New York offers fascinating insights into the evolution of occupation policy as the war became a quagmire and Britain had to respond to changing strategic realities. As discussed in the previous chapter, the British army's initial counter-revolutionary efforts in New York between 1776 and 1777 relied upon decisively defeating the Continental Army. The Howe brothers' desire to reach a reconciliation with the colonists shaped the Howes' approach so that they alternated between offering negotiations and pardons with seeking decisive battles when many of the colonists rebuffed the diplomatic overtures. The British army initially implemented martial law in the territory they controlled and crafted occupation policies which promised to support military victory by minimizing civilian interference. After the French openly joined the war in 1778, the British radically altered their strategy. Instead of

[1]*The New York Gazette; and the Weekly Mercury*, Oct. 21, 1776, Issue 1304, page [3].

[2]Alexander Leslie to Andrew Elliot, General Leslie Letter Book, #15677, DLAR

militarily defeating the Americans and then reestablishing government, the British sought to defeat the rebels by normalizing local government first. Their purpose was twofold: first, they sought a propaganda victory by ameliorating the civilians' hardships and demonstrating the benefits of imperial rule. Second, empowering the civilian population would improve cooperation and therefore increase the British army's ability to mobilize resources for the war effort. In short, this strategy was the cheaper one in the face of a newly world-wide war. The garrison commandant, the British officer responsible for maintaining order within the city, played the lead role in this pacification effort. The British army's experience in New York City provided a rude awakening to royal officials who expected inhabitants in conquered areas to flock to the royal standard and reestablish prewar patterns of urban living. Instead, the British army and colonial officials learned a series of dearly-bought lessons which influenced the evolution of British occupation policy. Although wartime exigencies prevented the full restoration of civil government, successive commandants and their appointees created hybrid civil-military courts, regulated the economy, and provided for both the poor and refugees. Persuaded that these practices were working, the British army then employed the lessons learned regarding occupation in New York City to all of their subsequent conquests. Major General Alexander Leslie, Charleston's Commandant, implemented all of the lessons learned from the occupation of New York City immediately upon his arrival. His tenure showed the tremendous potential that normalization of governance had for restoring subjects to the Crown. Had it not been for the defeats at King's Mountain and Cowpens which fundamentally undermined the security situation in South Carolina, the colony would likely have remained a bastion of royalism.

British occupation policy had progressed through three distinct phases during the American War of Independence in response to their experiences in colonial cities, such as Boston and more notably New York City, as well as changing strategic situations. During phase one, beginning with Governor of Massachusetts and British army Commander-in-Chief (CINC) Thomas Gage's declaration of martial law in Boston on June 12, 1775 and continuing through the New York campaign of 1776, British commanders' all-consuming focus on suppressing the rebellion militarily with a decisive victory over the Continental army distracted them from the myriad, quotidian problems of a garrisoned city. In phase one they relied on a single commandant exercising martial law to maintain order within the town and provide the garrison with quarters because most army officers and British officials believed the war would be over by the end of 1776 or early 1777. Therefore, the quickest way to restore civil government would be to leave it dormant until Britain achieved military victory. Phase two was clearly marked by more hybrid civil-military organizations designed to maintain order, protect property, and revive trade. It was these hybrid garrison governments which British officials repeated in all subsequent occupations. Phase two began on May 1, 1777, when Sir William Howe created a Court of Police and a Superintendent of Imports and Exports for the port of New York with Andrew Elliot, a local civilian and the colonial-era collector of the port, as the superintendent of both organizations. On May 4, 1778, Commandant Daniel Jones expanded Elliot's powers to include those of an ordinary police.[3] Phase three saw civilian appointees, in conjunction with the military commandants, develop a comprehensive military occupation policy for New York City. This new policy

[3]Orders and Regulations of the Superintendent General of the Police of the City of New York and Its Dependencies Authorized by Major Genl. Jones Commanding the Forces by Proclamation, May 4, 1778, James Pattison Papers, DLAR.

later provided the foundation for the "southern strategy" to mobilize Loyalist support by pacifying areas that "by Conquest or Submission . . . [came] under His Majesty's Protection."[4] When the British took possession of Charleston it was the first time that they had a systematic, proven occupation policy which was ready for immediate implementation. The British hoped to capitalize on the initial goodwill of the local Loyalists because they had learned the hard way that governance mistakes during wartime could quickly become irreversible. Before learning these dearly-bought lessons, however, the British army remained committed to its cultural paradigm of rebellion suppression through decisive battle.

In 1777 the British continued to adhere to the same one-two punch strategy of defensive fortifications and climactic battles, now with plans to capture Philadelphia, Fort Ticonderoga, and Albany. Lieutenant General Sir William Howe believed that threatening Philadelphia would force Washington to commit the Continental army to the capital's defense, but that even if he refused battle, Britain's occupation of the city would tear the heart out of the rebellion and encourage Loyalists to rise up in support of Britain. Recently promoted Lieutenant General John Burgoyne's mission, on the other hand, was to cut rebellious New England off from the colonies to the south by seizing the key fortifications along the Hudson River. Originally the two armies were supposed to act in conjunction with one another. However, neither Howe nor Burgoyne felt that such cooperation was necessary until Burgoyne found himself surrounded at Saratoga. As a matter of fact, Burgoyne received Howe's letter of July 17th on August 5th informing him that Howe's army was heading for Philadelphia and could not render Burgoyne any assistance nearly six weeks prior to the Battle of Freeman's Farm on September 19th. Nevertheless, Burgoyne

[4]Andrew Elliot to Charles Cornwallis, ND [Dec. 22, 1779], Charles Cornwallis Papers, PRO 30/11/1.

confidently informed Howe that he planned to move to Saratoga "where the enemy is at present posted but making disposition to retreat" and that he expected to be in possession of Albany by August 22nd or 23rd at the latest due to his logistical difficulties.[5] Howe, of course, was having difficulties of his own.

William Howe had 19,000 soldiers available at the beginning of 1777 campaign and he planned to use 10,000 of them to seize Philadelphia. Of the remaining 9,000 soldiers, 2,000 would hold Rhode Island, another 3,000 would operate on the lower Hudson River in conjunction with Burgoyne's army once it arrived in Albany, and Henry Clinton would command the remaining 4,000 troops to secure New York City.[6] Given the numerous difficulties that Howe had in curtailing disorder within New York at the height of the army's power there – mostly due to the plundering and lawlessness of British and Hessian soldiers – Howe decided to mobilize Loyalist support to help govern the city as the main British army prepared for the upcoming campaign.[7]

While some officials realized that fewer troops in the area might actually improve order within the town, they also recognized that the suspension of civil government left a power vacuum which might best be filled by prominent Loyalist citizens.[8] William Howe determined to protect property and restore trade as part of returning the city to a stable and

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[5]John Burgoyne to William Howe, Aug. 6, 1777, Office Great Britain. Colonial, *Documents of the American Revolution, 1770-1783; (Colonial Office Series)*, ed. K. G. Davies and Office Great Britain. Public Record, vol. 14 (1972), 156-157.

[6]Stephen R. Taffe, *The Philadelphia Campaign*, 1777-1778, 29-30.

[7]Tiedemann, "Patriots by Default: Queens County, New York, and the British Army, 1776-1783."

[8]Ibid., Calhoon, *The Loyalists in Revolutionary America, 1760-1781*, 370-381; Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence*, 297, footnote 8; Spring, *With Zeal and with Bayonets Only : The British Army on Campaign in North America, 1775-1783*, 109.

governable state. Therefore, on May 1, 1777, Howe issued a proclamation establishing two hybrid civil-military organizations which the British army later replicated in every urban area it occupied: the Court of Police and the Superintendent of Imports and Exports. The proclamation set another precedent in that it appointed the same man as the Superintendent of both organizations. Andrew Elliot, New York's Collector of the Port from 1763 to 1775, served as the dual-hatted superintendent in New York. Joseph Galloway led both organizations in Philadelphia after the British captured that city on September 26, 1777.[9]

Military leaders instituted the Court of Police as a balance between military necessity and civil justice. On May 1, 1777, William Howe established the first Court of Police in Manhattan. It consisted of a three-member panel of judges made up of prominent Loyalists: Superintendent Andrew Elliot, Deputy Superintendent David Matthew, and Assistant Magistrate Peter Dubois. The court had jurisdiction over all cases worth up to £10.[10] The intended purpose of the Court of Police was that it substitute for the defunct Mayor's Court which heard civil cases and the Court of General Quarter Sessions which had jurisdiction over criminal cases.[11] James Robertson later established three more Courts of Police in 1780 upon his appointment as the Royal Governor. These courts never completely placated the civilians who demanded the restoration of full civil government, but their usefulness was clearly evident as the British government replicated them when they occupied Philadelphia and Charleston.[12]

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[9]Eugene Devereux, Elias Boudinot, and Go Washington, "Andrew Elliot, Lieutenant-Governor of the Province of New York," *The Pennsylvania Magazine of History and Biography* 11, no. 2 (1887), 132.

[10]Thomas Jones, *History of New York During the Revolutionary War*, 2: 413-414.

[11]G.W. Edwards, *New York as an Eighteenth Century Municipality, 1731-1776* (Columbia University, 1917), 32.

[12]McCowen, *The British Occupation of Charleston, 1780-82*,13-42.

Protecting property rights within the city was important, but commerce and trade were the lifeblood of New York's economy. While the Prohibitory Act of 1775 permitted the colonies in rebellion to import goods from England, it prevented them from exporting to any ports within the empire. This effectively brought commerce to a standstill because without the revenues generated from the export business New York merchants did not have the capital or credit necessary to purchase imports. British military leaders in New York realized that reviving the local economy would play a critical role in supporting Britain's war effort. Not only was it a military necessity to keep the troops and inhabitants of the city provisioned, but according to New York City Loyalists, fostering trade was the most effective way for British officials to demonstrate the benevolence and benefits of remaining within the empire.[13]

The most significant military concern, of course, was to prevent the newly restored trade from supplying the rebels. In an effort to restart trade while curtailing smuggling, on July 17, 1777, William Howe used his authority as a peace commissioner to grant permission to select New York merchants to carry on trade, although under strict regulations. Ship captains had to declare all cargo upon entering the port, provide certified manifests to local officials, and impound liquor, sugar, molasses, and salt at their own expense until the goods could be inspected. Any undeclared items were subject to seizure.[14] Andrew Elliot, as the Superintendent of Imports and Exports, was responsible for overseeing these restrictions

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[13]Chopra, *Unnatural Rebellion : Loyalists in New York City During the Revolution*, 65-66.

[14]Oscar Theodore Barck, Jr., *New York City During the War for Independence: with Special Reference to the Period of British Occupation* (New York: Columbia University Press, 1931), 123.

upon trade and for implementing any other necessary regulations to meet William Howe's intent.

With these regulations and institutions in place, New York's trade with the empire rebounded rapidly. In 1777 a Hessian soldier stationed in New York, Johann Conrad Döhla, wrote "Their most important trade, however, is with England, to whom they send furs, naval supplies, and copper and receive in exchange all sorts of European wares."[15] Encouraged by these promising initial results, the Carlisle Peace Commission suspended the Prohibitory Act for New York City in 1778. At first the Carlisle Commission limited trade to foodstuffs such as flour, wheat, and fish "for the Relief and better support of the Inhabitants of this City and the Parts adjacent within His Majesty's authority," but ultimately permitted the resumption of full trade with the British Empire.[16] This led to an explosive growth in trade and restored prosperity to New York's loyal merchants. By May 1779 Major Baurmeister noted, "The amount of merchandise, the number of rich warehouses, the uninterrupted trade, and the coming and going of ships cannot be described vividly enough."[17]

Although conditions improved in New York as a result of the resumption of trade and the modest protections the Court of Police provided regarding property rights, by 1778 British Major General Daniel Jones realized that neither act had done much to restore order within a city whose population at the time consisted of 30,000 souls - 9,000 British and Hessian soldiers as well as 21,000 civilians.[18] Maj. Gen. Jones took command of the city on

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[15]Johann Conrad Döhla, *A Hessian Diary of the American Revolution*, trans. Bruce E. Burgoyne (Norman: University of Oklahoma Press, 1990), 28.

[16]Carlisle Commission to Andrew Elliot, Aug. 25, 1778, William Eden Papers, DLAR.

[17]Baurmeister, *Revolution in America*, 268.

[18]Barck, Jr., *New York City During the War for Independence*, 75.

May 2, 1778 as Sir Henry Clinton planned his departure for Philadelphia. Clinton had succeeded William Howe as Commander-in-Chief of British forces in North America and left Jones in charge of New York while he left for Philadelphia to accomplish the distasteful task of evacuating the rebel capital now that France had entered the war.

On his third day in command, General Jones issued a proclamation to provide the much-needed, and long sought after assistance that Commandant James Robertson required to keep the peace in a wartime city of 30,000 people. The irony, however, was that on the very same day, Jones relieved Robertson of his duties as commandant and replaced him with Major General Valentine Jones. The proclamation created an ordinary, municipal police force which consisted of night watchmen by appointing Andrew Elliot as Superintendent General of the Police and Mayor David Matthews as his deputy, along with six other magistrates.[19] The police's new responsibilities and powers included

> authorities to issue such orders and Regulations from time to time, as may effectually tend to the Suppression of Vice and Licentiousness, the Support of the Poor, the Direction of the Nightly Watch, the Regulation of Markets and Ferries, and all others matters in which the Oeconomy, Peace, and good Order of the City of New York and its Environs are concerned.[20]

Maj. Gen. Daniel Jones's addition of enforcement powers to the quasi-judicial authority that Elliot and Matthews already held as the justices of the Court of Police was an attempt to restore order within the city by filling the power vacuum left by the collapse of civil government which the military had heretofore largely ignored under martial law.

As the sole source of British authority in North America the exigencies of war forced the British army to perform the governance duties hitherto provided by the defunct provincial

[19]Pattison, *Official Letters of James Pattison*, 244.

[20]Proclamation by Major General Daniel Jones, May 4, 1778, James Pattison Papers, DLAR.

government. Before the occupation, New York's colonial provincial government had consisted of a governor, lieutenant governor, 10-man governor's council, and, of course, an assembly, supplemented by assorted courts. The British military had not been completely negligent in replicating some of the functions of royal government, for the Commander-in-Chief fulfilled the role of governor when he was present, and in his absence the commandant served as the de facto governor of the civilian population even though he did not have an independent command and was not in charge of the entire post. When the CINC was present, the commandant was reduced to something like a military mayor rather than a colonial governor. Due to the CINC's high level of involvement with the civilian population as well as the pervasive policy guidance that he issued, the CINC quite naturally functioned as a governor-general during wartime. The military also replicated aspects of the governor's council by seeking assistance and guidance from prominent Loyalists within the city.

Basic municipal administration, however, proved to be a dramatic blind spot until Maj. Gen. Jones came to power on May 2, 1778. New York City's peacetime government consisted of a mayor, deputy mayor, common council, fourteen aldermen from the city's seven wards, a recorder, a town clerk, a sheriff, and a coroner.[21] Surprisingly, while most of these officials remained in the city, or returned following the British conquest, they ceased to carry out their duties because of the joint decision by the Howe brothers and Governor William Tryon to leave civil government dormant until the military situation warranted a declaration of the king's peace within the colony.[22] Maj. Gen. Daniel Jones not only sought

[21]Edwards, *New York as an Eighteenth Century Municipality, 1731-1776*, 22-39.

[22]Paul David Nelson, *William Tryon and the Course of Empire: A Life in British Imperial Service* (Chapel Hill: The University of North Carolina Press, 1990), 144.

to restore order within the city, but also a sense of normalcy. Little did he know that his efforts to assist the commandant would directly benefit himself, for although Clinton returned to New York in July and resumed command, the acting commandant, Maj. Gen. Valentine Jones, became ill and returned to England on September 27, 1778 along with James Robertson. Lacking other experienced officers with sufficient rank to command the respect of the troops and civilians within the city, Clinton appointed Daniel Jones as the new commandant. Jones's tenure as commandant lasted until July 3, 1779 when he pleaded ill health so that he could return to England in order to avoid becoming Clinton's successor.[23]

Maj. Gen. Daniel Jones's campaign to restore effective governance to New York City between May 2, 1778 and July 3, 1779, focused on three main areas: law and order, economy, and safety. To this end, he and the police - represented by its Superintendent General Andrew Elliot, his deputy David Matthews who was the former mayor of New York City, and Magistrate Peter Dubois who was a Loyalist exile from New Jersey - issued substantial regulatory guidance concerning security, housing, disorderly conduct, crime prevention, and economic transactions. The first order of business was to reinvigorate the city watch. Andrew Elliot informed Jeronimus Alstine, Captain of the City Watch, on July 24, 1778, that anyone who shirked their watch assignment either would be placed in the main guard jail for twenty-four hours or fined one dollar and still have to serve the following night. The reason that Commandant Jones and the Board of Police were so concerned was that "The great Increase of strangers lately prevents his [Maj. Gen. Jones] regulating the Wards as he intended but this makes the Nightly Watch of the Citizens more necessary than ever for the

[23]Willcox, *Portrait of a General: Sir Henry Clinton in the War of Independence*, 263.

Security of the City."[24] Commandant Jones intuitively knew that the three-member Board of Police was insufficient to control the city by themselves and would require extensive augmentation from the local inhabitants. By May of 1779 the Board of Police tripled its size to provide enforcement capabilities. Elliot appointed John Amory to assist Jeronimus Alstine as co-director of the city watch to help cover the city's numerous wards.[25] The revival of the nightly watch, which British military units had conducted since the occupation of the city, was another example of the British military harnessing prewar structures to provide governance within the occupied city. Once again the British military was demonstrating its two-handed policy of alternating between decisive military victory with acts of reconciliation, even though these pacification efforts by hybrid civil-military organizations remained partial and haphazard.

As had been true during Commandant James Robertson's tenure as commandant from September 16, 1776 to February 16, 1777 and September 25, 1777 to May 3, 1778 (discussed in the previous chapter), housing remained the most pressing issue that affected order within the city and so garnered much of the attention from the commandant and the board of police. Commandant Jones agreed with Robertson's approach to issuing quarters, but felt compelled to issue further guidance to bring some order to the process. On May 11th Jones ordered all inhabitants of vestry homes, those abandoned by rebel owners whose rent went to support the city's poor, to pay any back rent. By June 24th he issued eviction instructions to the police. British soldiers provided the police with the brawn to evict all renters who were past due, and

[24]Proclamation by Major General Daniel Jones, July 24, 1778, James Pattison Papers, DLAR.

[25]Proclamation by Board of Police, May 21, 1779, James Pattison Papers, DLAR.

if any renters physically resisted they would be sent to the provost marshal for confinement.[26] Such rigorous enforcement provided the vestry with much-needed funds and ensured a smooth transition between the dispossessed inhabitants and the new renters.[27]

Commandant Jones and the police paid particular attention to disorderly persons and the conditions that contributed to their inappropriate outbursts. In order to control the deluge of alcohol that flowed through the city, they required all taverns to have liquor licenses, which civil law required before the war, but Jones now limited the licenses to a paltry two hundred for a civilian population of 30,000 as well as the garrison.[28] Proprietors who failed to comply could be either imprisoned for one month or fined £5. The fine would go to the city funds and pay for the poor.[29] Disorderly Inhabitants were subject to the jurisdiction of the magistrates of police except when corporal punishment was called for; in that instance the accused would go before a court martial. Even if found guilty, however General Jones preferred banishment, and relied upon the magistrates' knowledge of the perpetrators' character to determine the appropriate punishment.[30] Of course, if the ne'er-do-well was an able-bodied man, either white or black, then Jones directed that those individuals be impressed for service with the Royal Navy.[31]

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[26]Proclamation by Major General Daniel Jones, Jun. 24, 1779, James Pattison Papers, DLAR.

[27]During the colonial period New York City had both civil as well as various ecclesiastical vestries. A law from 1693 provided for a board of vestrymen along with the city wardens to disperse the funds generated by the poor rate. Although ecclesiastical vestries such as Trinity Church's also conducted charity work, they were elected by their respective church's congregation and primarily responsible for assisting churchwardens with managing administrative tasks. See Edwards, *New York as an Eighteenth Century Municipality, 1731-1776*., 97.

[28]For the civilian population of New York City, including refugees, see Wilbur Cortez Abbott, *New York in the American Revolution* (New York: C. Scribner's Sons, 1929), 248.

[29]Proclamation by Elliot and Matthews, Dec. 1, 1778, James Pattison Papers, DLAR.

[30]Proclamation by Major General Daniel Jones, Dec. 11, 1778, James Pattison Papers, DLAR.

[31]Proclamation by Major General Daniel Jones, Dec. 16, 1778, James Pattison Papers, DLAR.

In addition to targeting street crime and bawdy behavior, the Board of Police went after white collar law breakers. One of the greatest difficulties an occupying army faced was false accusations by the populace that the army had improperly requisitioned cattle and horses. Commandant Jones warned all persons who swore an oath against the army for theft that they would be imprisoned and court martialed if the defendant could demonstrate that their accusers perjured themselves.[32] By protecting British officials the police inculcated respect for authority, and contributed to the stability of life within New York City.

The other vacuum that the commandant and Board of Police filled was regulation of the local economy. While William Howe had re-opened the harbor, there were myriad practices throughout the city and at the wharves which required oversight to keep the city functioning. One of the first abuses that Maj. Gen. Daniel Jones sought to rectify as commandant was exorbitant charges for carting. The Board of Police set maximums for both the types of cargo carried as well as the distance travelled. He required all cartmen to obtain a license to conduct business in the city, and to paint their license number on the side of their cart in red paint. Any cartmen caught without a license or not properly displaying it were subject to a forty shilling fine. To enhance the effectiveness of the enforcement, private citizens who turned in unscrupulous cartmen received half of the fine as their reward while the other twenty shillings went to the city's alms house.[33]

Considering New York City's archipelago-like geography, ensuring ferry service from Manhattan to Brooklyn, Staten Island, and New Jersey was vital to the economy, despite wartime demands for security. Commandant Jones authorized a total of nine boats –

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[32]Proclamation by Major General Daniel Jones, Jan. 6, 1779, James Pattison Papers, DLAR.

[33]Proclamation by Board of Police, Dec. 7, 1778, James Pattison Papers, DLAR.

four large boats for horses and five smaller boats for passengers – to operate out of Brooklyn. The order prohibited other boats from carrying "Passengers, Horses, Carriages, or Goods of any kind, except such as are appointed by Authority for the Use of the Army or Navy, ships Boats for carrying their own stores or Crews and Butcher's Boats for the Purpose of attending the Marketts."[34] Ferrymen paid a flat fee of £7 10s per month for their license. Licensed ferrymen who violated the posted rates suffered the same fine as the cartmen: forty shillings, of which half went to the informer and half went to the alms house. Ferry rates varied from a high of £12 New York currency to transport a coach to a low of once pence for a dozen eggs.[35] Ferrymen who conducted business without a license had their vessel and all of their supplies confiscated and sold for the benefit of the poor. To ensure safety large boats were to have a crew of three, and small boats had to be manned by at least two crewmen. One of the crewmen had to be the license holder to prevent fraud. The regulations also set the expectation for service requiring that whenever one man with a horse paid his fare large boats were to leave without waiting for additional cargo, and small boats had to sail as soon as two passengers were ready to depart.

Once goods had been transported to town they needed to be sold in licensed markets or auction houses. The requirements to become a vendue master were rather stringent in the hope of diminishing the illegal trade that occurred during the war and preventing price gouging. Vendue masters had to post a bond of £5,000 and take an oath "not to be concerned in any collusive Sales in order to raise the Price of any Article of Trade or Provisions."[36]

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[34]Proclamation by Major General Daniel Jones, Jan. 1, 1779, James Pattison Papers, DLAR.

[35]Proclamation by Board of Police, Jan. 13, 1779, James Pattison Papers, DLAR.

[36]Proclamation by Board of Police, Jan. 12, 1779, James Pattison Papers, DLAR.

Vendue masters had to keep track of all transactions. If British officials demanded to see the paperwork to prove the origin of a sale and the vendue master could not provide it, he would lose his license and forfeit his security bond. Officials in New York City further tried to regulate internal trade by prohibiting hucksters from selling their wares at markets or other places of legitimate commerce under threat of imprisonment. The commandant and Board of Police also used price ceilings to prevent dramatic inflation. Among other things, they targeted ship's bread, or biscuit, consumed in large quantities not only by the Royal Navy and merchant seaman, but by the city's populace as well. In February of 1779, the Board of Police placed a maximum price of four pounds fifteen shillings per hundred weight of first-rate ship's bread. Anyone caught selling above this price would be fined £5 above whatever amount they made from the illegal transaction, and that amount of bread would go to the city's poor.[37]

The final major effort that Commandant Daniel Jones and the Board of Police made to regulate New York's wartime economy was to patrol the docks. While in his role as Superintendent of Imports and Exports, Andrew Elliot oversaw trade from an imperial perspective, as the Superintendent General of Police he and his men were responsible for ensuring that the city's entrepôt lifeline remained functional and well-ordered. Similar to the difficulties with appropriating refugee rebels' properties for housing, Commandant Jones was concerned with the confiscation of their wharves. He insisted that the police thoroughly examine all of the wharf certificates to discover the true owners of the property. The Board of Police also sought to end the perennial congestion on the wharves by having all old and disabled ships removed from their slips on the East River and placed on a beach on the

[37]Proclamation by Board of Police, Feb. 10, 1779, James Pattison Papers, DLAR.

Hudson River. Those owners who refused to remove their unseaworthy vessels within one week would have to pay the Board of Police for doing it for them. The regulation pointed out that such ships were "a public nuisance, obstruct the loading and unloading of others, prevent Boats with Wood, Forage, and Provisions from discharging in Commodious Places, and prevent the Design for which these ships were intended."[38] The problem of congestion on the wharves paled in comparison to the overall congestion of the city which prompted serious concerns about the outbreak of another fire that might destroy the city.

Maj. Gen. Daniel Jones witnessed two events that made him especially alert to the dangers posed by fire in an urban environment. The first was the Second Great Fire in New York City which occurred on August 9, 1778. During that conflagration 300 houses on the city's east side burned down. The second event, which occurred the following day, was the explosion of the gunpowder-laden supply ship *Morning Star*. Lightning struck the vessel and ignited the gunpowder. While the blast miraculously only killed the one adolescent crewman aboard, it blew out windows and demolished the roofs of houses near its mooring in the East River.[39] The commandant's and Board of Police's vigilant, albeit delayed, attention to fire safety can be seen from a series of proclamations. In November 1778 the Board of Police appointed local residents John Norris and David Henry Mallows in charge of chimney sweeps, and any homeowner whose chimney caught fire through neglect would suffer a £5 fine.[40] Commandant Jones stressed the chimney sweeps' importance in January 1779 when he threatened to imprison any ship captain or privateer who knowingly pressed a chimney

[38]Proclamation by Board of Police, Jun. 1, 1779, James Pattison Papers, DLAR.

[39]Mary Louise Booth, *History of the City of New York: From Its Earliest Settlement to the Present*, 553.

[40]Proclamation by Board of Police, Nov. 12, 1778, James Pattison Papers, DLAR.

sweep.[41] On March 4, 1779, the city experienced another fire. Although it was relatively minor compared to earlier fires, the performance of the firefighters left a great deal to be desired because they could not get adequate buckets to battle the blaze. Commandant Jones immediately issued guidance that all fires were to be investigated the following morning and that "the Parties offending whether from Carelessness or otherwise, may be punished as they may deserve." Jones also directed that all households should have two buckets available for firefighting as was customary prior to the war.[42] Finally, in June 1779 the Board of Police prohibited the storage of gunpowder in the city and mandated that it be kept on board ships clearly marked with a red flag atop their masts at the entrance of Buttermilk Channel. As usual, they sought the public's help by promising that tipsters who helped them seize illegally stored gunpowder would be awarded the illicit booty, and violators of the ordinance would be fined £10 per hundred weight of gunpowder. Besides governing the local populace, the commandant always had to ensure the safety and security of his garrison. Therefore, the only threat to New York City greater than the Continental army was the ever-present danger of fire which Jones went to great lengths to minimize.

The creation of hybrid civil-military organizations such as the Court of Police, Board of Police, and Superintendent of Imports and Exports was a tacit acknowledgement by British officials in New York City that they possessed neither the knowledge, manpower, nor willpower under martial law to successfully govern a civilian population nearly as large as the main British army. While conditions within wartime New York City certainly deteriorated compared to life under civil government before the war, the implementation of

[41]Proclamation by Major General Daniel Jones, Jan. 15, 1779, James Pattison Papers, DLAR.

[42]Proclamation by Major General Daniel Jones, Mar. 5, 1779, James Pattison Papers, DLAR.

hybrid civil-military organizations was an improvement over simple martial law where British officers and soldiers acted as judge and jury in all matters involving the populace. Based on the enhancements to security and order that civil-military structures brought to the New York City garrison, as well as these organizations' ability to mobilize the Loyalists' actions towards the war effort, the British army sought to replicate them in their successive occupations.

During the winter of 1779, as Lord Charles Cornwallis prepared to head south for the reconquest of Georgia and South Carolina, he received a detailed plan for governance within the soon-to-be-occupied territories from Andrew Elliot entitled "Heads of Civil Regulations for the Securing Peace and Good Order in any Town or Place in America now in Rebellion, that in future by Conquest or Submission may come under His Majesty's Protection."[43] Elliot's three years of wartime service in New York City had convinced him that upon the initial arrival of the king's troops there was a period of goodwill that existed among the population. However, if the population's expectations regarding the benefits of royal rule – peace, order, and economic prosperity – were not addressed in a timely fashion, that goodwill dissipated and apathy ensued. The Charleston expedition represented the first time the British army laid out a comprehensive plan for governing the civilian population in advance. Charleston provided the British with a blank slate to apply all of the lessons they learned in New York. They hoped that by avoiding the mistakes they made in New York City with respect to governing the civilian population would lead to different results in Charleston. Elliot wrote, "Sir William Howe's prospects of suddenly finishing the Military operations, and then leaving the Civil to act, prevented proper Steps from being taken, till matters were

[43]Andrew Elliot to Charles Cornwallis, Dec. 27, 1779, Charles Cornwallis Papers, DLAR.

far gone at New York."[44] The British would not make the same mistake in Charleston; they would mobilize local Loyalists to assist with governing the civilian population in Charleston from the minute British troops took possession of the city.

The opening gambit in Lord George Germain's southern strategy was the successful capture of Savannah, Georgia on December 29, 1778, and he ordered Sir Henry Clinton to exploit this victory by attacking Charleston, South Carolina. Clinton belatedly responded with a formal siege of the city between March 29th and May 12th, 1780, when the British army inflicted the greatest defeat of the war upon the Americans by capturing the city's 4,370 Continental and militia defenders.[45] In the wake of this victory there was nothing standing in the British army's way to prevent mobilizing the South Carolinian colonists for his Majesty's cause.

As in New York, Elliot's plan for South Carolina insisted that the British official primarily responsible for governing the civilian population would be the commandant. Elliot recommended that the commandant appoint a three-man council of civilians to provide redress for disputes between the military and civilians. Elliot insisted that criminal matters be handled via court-martial, and that the penalties should include fines, imprisonment, and turning offenders out of the lines. Whenever possible, Elliot suggested that British officials should maintain a separate jail for civilians. In line with Howe's original proclamation for the Court of Police in New York Elliot maintained that the council should only have jurisdiction over matters since the conquest.

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[44]Andrew Elliot to Charles Cornwallis, Dec. 27, 1779, Charles Cornwallis Papers, DLAR.

[45]Middleton, *The War of American Independence, 1775-1783*, 175.

The wisdom of Elliot's plan was reflected in its acknowledgment that most disorder in New York was the result of both understaffing and lack of familiarity with the city when British officials did try to govern the civilians. Elliot sought to redress this oversight with a more robust civilian bureaucracy under the commandant's purview. In addition to the three council members, Elliot advocated for three deputies who would attend to the Commissary General, Quartermaster General, and Barrackmaster-General respectively. He also insisted on the appointment of a port master and deputy. These civil officials were responsible for meeting the British army's needs in the least intrusive manner. To give the civil appointees' opinions weight, the commandant had to approve all requisitions of property or billets as well as publish the rates of reimbursement. Elliot believed "As the whole appears to lean so much to the Civil no complaints can be made of Military oppression."[46]

While Elliot's plan admirably sought to meet the needs of the military without placing unreasonable demands on the civilian populace it went further than simply protecting the civilians from military abuse. Much as Commandant Daniel Jones had sought to recreate local government to help him maintain order within New York in 1778, Elliot's plan reestablished municipal government by appointing a mayor and an appropriate number of alderman based on the size of the city. The civilians had the authority to impose all fines and collect all rents, ferriages, and revenues formerly collected by the city. These funds were to be used for almshouses, sanitation, and street lighting. The mayor and two aldermen could appoint a treasurer to account for the city's income and only the commandant had the authority to imprison someone before going to the council, mayor, or aldermen.

[46]Andrew Elliot to Charles Cornwallis, Dec. 27, 1779, Charles Cornwallis Papers, DLAR.

The plan's broad outlines were designed to rectify the majority of problems the civilian population in New York City experienced during the British army's control. Moreover, the British had committed certain errors in regards to the civilian population that Elliot thought were so detrimental that he created specific provisions to prevent their recurrence. The first concerned the property rights of homeowners and businessmen who had been absent at the time of the conquest. Elliot believed that the failure to honor William Howe's second proclamation in 1776, which assured that all subjects who returned to their allegiance within sixty days would receive their property, did immeasurable harm. Elliot commented upon the plight of property owners who took Howe's pardon only to find their homes occupied, and were thus forced to leave the city, writing, "one returning, prevented hundreds from coming."[47] The failure of British officials to protect its citizens' property rights in the occupied territories was a gross violation of British notions of proper governance, and provided the rebels with a major source of propaganda. For example, on July 25, 1776, Virginia's House of Burgesses declared that King George III had sought to place the colonists in a "destestable and insupportable tyranny" by "inciting insurrections of our fellow subjects, with the allurements of forfeiture, and confiscation."[48] To counteract this propaganda, Sir William Howe issued a proclamation on March 15, 1777, insisting that desperate men were keeping the rebellion alive by forcing others into arms. Therefore he offered a pardon permitting Continental soldiers to turn themselves in and promising that "their Estates and Effects be secured from Seizure, Forfeiture, or Confiscation."[49]

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[47]Andrew Elliot to Charles Cornwallis, Dec. 27, 1779, Charles Cornwallis Papers, DLAR.

[48]*The New York Journal; or, The General Advertiser*, Jul. 25, 1776, 1.

[49]*The New York Gazette, and the Weekly Mercury*, Mar. 31, 1777, 1.

Money was another emphasis item for Elliot. He saw no surer way of harnessing self-interest to the public weal than by controlling Americans' money supply. He observed, "As in this Rebellion, interested views has done more than Principle."[50] Elliot fervently believed that the British army's use of specie to pay for their needs permitted Americans to remain aloof from their proper allegiance. On the other hand, if British officials had issued bills of credit their creditors would have a vested interest in the Crown's success. Contrary to other British officials who bemoaned the colonists' lack of disinterested loyalty to the Crown, Elliot sought to exploit both Loyalists, and rebels' self-interest to mobilize support for the war.[51]

Elliot devised this elaborate hybrid civil-military occupation system because he did not think conditions would be amenable for the restoration of civil government in New York City during the foreseeable future. He pithily summed up the *sine qua non* conditions for such a decision writing:

> As soon as any alteration in the affairs of the Province at Large, may extend to Royal Authority, secure the necessary supplys of Fuel and Forage for the Army, and admit of the calling of an Assembly that can be composed of the requisite members, the immediate revival of the Civil Authority would then become an Object of the Greatest Consequence.[52]

While Elliot optimistically looked towards the future of what his plan of occupation might accomplish in Charleston prior to that city's conquest and restoration of civil government, Major General James Pattison, who became New York City's fifth commandant in July

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[50]Andrew Elliot to Charles Cornwallis, Dec. 27, 1779, Charles Cornwallis Papers, DLAR.

[51]Chopra, *Unnatural Rebellion : Loyalists in New York City During the Revolution*, 113.

[52]Robertson, *The Twilight of British Rule in Revolutionary America : The New York Letter Book of General James Robertson, 1780-1783*, 178.

1779, had the task of implementing Elliot's system in New York without the benefit of a clean slate.

Despite New York City's economic rebound, its tenuous position at the end of a 3,000 mile supply line, coupled with the plodding transportation across the Atlantic, led to times of severe shortages. Pattison wrote to Lieutenant General George Townshend, 4th Viscount Townshend and Master-General of the Ordnance from 1772 to 1782, about the arrival of a provisions fleet to New York City in January 1779, stating, "They came in two Days ago, and nothing could be more opportune, as there has not been a Barrel of Flour in the publick Store for some Weeks past, and the Oatmeal, which has been substituted in lieu of it for the Ammunition Bread, reduced to a trifling Quantity."[53] Although this might sound alarmist, Pattison's assessment of the food shortage has been verified by the calculations of historian R. Arthur Bowler who estimated that New York City's ration supply was so severely depleted in January 1779 that the British had less than one week of reserves. Throughout the entire war there was only one other instance, during November 1780, when New York City's storehouses were similarly barren.[54]

Commandant Pattison served as both enforcer and policymaker in the economic realm. Clearly the larger decisions about the Prohibitory Act were made above his level; however, his decisions to either enforce or flout them had substantial consequences for the local economy. This was especially true regarding the regulations on smuggling. Despite Commandant Pattison's official prohibitions against smuggling and strict enforcement of his

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[53]Pattison, *Official Letters of James Pattison,* 1.

[54]R. Arthur Bowler, *Logistics and the Failure of the British Army in America, 1775-1783* (Princeton, N.J.: Princeton University Press, 1975), 265-267.

regulations to prevent the sale of gunpowder or weapons to the rebels, he permitted an illegal trade of salt to secure cattle and sheep for the city.[55] This so-called "London Trade" secured food for the city while providing Americans outside of British lines with a scarce vital preservative. Even Pattison's most vociferous civilian critics approved of this action. Judge Thomas Jones supported the smuggling, arguing that as long as no military supplies were sent to the rebels the trade actually hurt them by draining their specie reserves while securing an abundance of fresh provisions for the city.[56]

Commandant Pattison's supremacy over New York City's economy was undeniable. He regulated every form of commercial transaction. He fixed prices for house rents, firewood, flour, wagon rentals, ferry fares, dock charges, and myriad other goods and services. He did this in an effort to curtail runaway inflation caused by wartime scarcity, hoarders, and a thriving black market. Pattison also used economic regulations to keep order in the town. The commandants regularly revoked these licenses from curators whose business practices were harmful to the good order and discipline of the garrison.

The final way in which Pattison profoundly influenced the quality of life within the city was to revive the civil vestry to provide relief to the poor. Commandant Robertson instituted this policy during his tenure by creating a vestry of nineteen men, representing all of the wards of the city, charged with disbursing public funds. With no civil government to levy taxes, Robertson was left to secure other funding sources. He used the rent paid by Loyalists living in Patriot homes in addition to the licensing fees for ferries, markets, and liquor. He also created a lottery to support the program, and later commandants funneled all

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[55]Pattison, *Official Letters of James Pattison*, 323.

[56]Jones, *History of New York During the Revolutionary War*, 2:13-14.

fines paid to the Court of Police into the program.[57] The vestry and its many funding programs proved to be tremendously successful and provided £65,000 of aid from 1778 through 1780. In many instances the commandants also allowed Loyalist refugees to live in abandoned rebel property for free. Later in the war when Governor Robertson decided to confiscate rebel property, he and the commandant sent the proceeds to the city funds. The vestry was then responsible for dividing it up among impoverished refugees within the city with the approval of the governor or commandant. These confiscations all occurred under martial law.

Pattison's effectiveness at governing the city and regulating its economy provided tangible military and political benefits just as Carlisle and Eden predicted they would in the southern colonies. As commandant, Pattison was responsible for defending New York City and the "posts depending" – including Long Island, Staten Island, and Paulus Hook – which presented an even greater challenge. These locations encompassed an area of 1,671 square miles, some 400 square miles larger than the entire colony of Rhode Island. Even more daunting, commandants only had a minuscule portion of the army detailed to them for garrison duty, theoretically leaving the rest available for operations outside the city. For example, in November 1779 Pattison only had direct command over four Hessian grenadier battalions, the 42nd Scottish Regiment, the 54th Regiment, Skinner's 2nd Battalion, and the heavy artillery. This amounted to approximately 4,000 of the 18,500 British and Hessian troops in and around New York City.[58] Considering their extensive geographical

[57]Robertson, *Twilight of British Rule,* 151, n6.

[58]Baurmeister, *Revolution in America*, 318-320; Ewald, *Diary of the American War,* 182-183.

responsibilities and paltry assigned forces, commandants needed to carefully coordinate the British forces to secure New York City.

As the garrison commander Pattison maintained the city's defenses by strictly observing the chain of command and establishing a good rapport with as many of the other military commanders in the region. This was particularly important because he was junior to many of them. Pattison's nominal subordinates for the purpose of defending the city, prior to the departure of the Charleston expedition, included Major General Edward Matthew on Manhattan, Lieutenant General Lord Charles Cornwallis on Long Island, and Loyalist Brigadier General Cortlandt Skinner on Staten Island.[59] The presence of the Commander-in-Chief and his headquarters staff within the city complicated the chain of command. In most other occupied cities, the commandant was the senior ranking officer with all military forces assigned beneath him. When the commandant in New York wanted to use forces other than those assigned to him, he had to request them from the Commander-in-Chief.[60] This was true even when the commandant outranked the unit's commander. The commandants could, however, rely on personal relationships to get the support that they needed. In an impressive display of Army-Navy cooperation in the winter of 1780, Pattison persuaded Royal Navy Captain Tryingham Howe to detach 330 seamen from the fleet in New York harbor to serve in Manhattan's redoubts.[61]

The "Posts depending" for which the commandants were responsible posed more practical challenges of command and control because of communication difficulties. The

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[59]Ritchie, "A New York Diary of the Revolutionary War," 446; Ewald, *Diary of the American War,* 182-183.

[60]Pattison, *Official Letters of James Pattison,* 272, 353.

[61]Pattison, *Official Letters of Major General James Pattison, Commandant of Artillery,* 262.

Patriots' raid on Paulus Hook on August 19, 1779, was an excellent example. This post, located on the west bank of the Hudson River, was vital to protecting the harbor. Lieutenant Mackenzie explained, "The possession of this post [Paulus Hook] secures the principal anchorage in the North [Hudson] River, and renders the communication with the North part of the town, by water, safe."[62] American Lieutenant Colonel "Light Horse" Henry Lee led a daring early morning assault on the position, and although he failed to destroy it, he eliminated the garrison by capturing 150 prisoners.[63] The surprise action caught the rest of the city's defenders off-guard which prevented them from sending timely assistance. In the wake of this debacle, Commandant Pattison established early warning signals for all of the city's outlying posts which consisted of anywhere from one to six cannon shots for the posts in northern Manhattan, and three vertical lights for Paulus Hook.[64] Although the rebels raided New York innumerable times after their victory at Paulus Hook, they were unable to equal its success.

Just as Pattison rectified his difficulties with coordination between the forces needed for defense through local-level initiatives, the office of commandant also provided him the authority to implement policies to alleviate his manpower shortfalls. Pattison did this by raising militia units from the city's inhabitants. New York's Royal Governor William Tryon set the precedent when he raised the first Loyalist volunteer company in October 1776, and

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[62]Frederick Mackenzie, *Diary of Frederick Mackenzie, Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island and New York.*, 2 vols. (Cambridge, Mass.: Harvard University Press, 1930), 1:62.

[63]Ritchie, "A New York Diary of the Revolutionary War," 433.

[64]Pattison, *Official Letters of James Pattison*, 230, 346-349.

by November 22, 1777 twenty such units existed.[65] During the winter of 1780 when the rivers surrounding New York City froze, eliminating its natural moat, Pattison mobilized the militia with both the carrot and the stick. He decided to test the inhabitants' proclamation from the previous November that stated, "we freely offer ourselves to be formed in such military array as shall be thought proper" by asking for volunteers while simultaneously conscripting all men between the ages of seventeen and sixty. [66] The only exemptions that he granted were to men already in the Provincial militias, 260 firefighters, and 140 Quakers because of their pacifist religious convictions.[67] This raised 2,662 militiamen which augmented the 3,135 men in the volunteer companies and seamen for a grand total of 5,797.[68] The commandant paid special attention to the rules and regulations he developed for the militias to maximize participation and combat effectiveness. He empowered the militia captains to judge excuses of members who failed to report for duty. Those suspected of shirking their duty during an alarm were jailed in the "Main Guard" which was the prison on the lower floor of City Hall. Delinquents who failed to attend the minimum biweekly practice drills were fined, first for two dollars, and then two additional dollars for each repeat offense. The fines went into the city funds and were used to pay for weapons for indigent militiamen and other services for the poor.[69] Pattison insisted to Germain the following

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[65]Barck, Jr., *New York City During the War for Independence,* 196. Manhattan was divided into twenty wards, and each ward was required to establish a militia company. These militia units were only for city defense and should not be confused with the Loyalist Provincial militias or Associated Loyalists who conducted many independent offensive actions and also served alongside the British Army in the field as auxiliaries.

[66]*New-York Gazette*, Nov. 22, 1779, 3.

[67]Robertson, *Twilight of British Rule,* 151.

[68]Robertson, *Twilight of British Rule,* 106.

[69]Robertson, *Twilight of British Rule,* 150-151.

February, "We already learn that the recent Display of Loyalty here [New York City], with the great Acquisition of Force it produced, has had its Effects upon the Friends of Government without the Lines, as well as upon the Enemy." [70] Good governance of the civilian population permitted Pattison to mobilize its military potential, and the demonstration of that potential had strategic effects on the willingness of Loyalists and rebels alike in the surrounding area to support or resist the British war effort.

Contrary to Clinton's claims that the militia only mobilized in the winter of 1779/1780 because of the imminent threat of invasion, the militia continued to grow in size and skill throughout Pattison's tenure. One month prior to Pattison's departure in September of 1780, and long after winter ice had made Manhattan temporarily vulnerable to a land assault, Hessian Lieutenant John Charles Philip von Krafft commented, "The militia of the city was daily increased and well divided into several regiments and equipments."[71] Major Baurmeister was equally impressed with Pattison's martial abilities observing, "We were not only in the best defensive position but benefited from the fact that the inhabitants of this city are faithful royalists. Within a week's time, as the enclosed list [missing] will show, they armed and uniformed over five thousand men."[72] Clinton may have been correct that the threat of invasion was the proximate cause that created the militia, but continued expansion of the system in the absence of immediate danger is indicative of Pattison's leadership and the military benefits of wise occupation policies.

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[70]James Pattison, *Official Letters of Major General James Pattison, Commandant of Artillery* (New York: New-York Historical Society, 1876), 156.

[71]Johann Carl Philipp von Krafft, *Journal of Lt. John Charles Philip Von Krafft, 1776-1784*, ed. Thomas H. Edsall and William Freeman Goldbeck, New-York Historical Society. Collections. The John Watts De Peyster Publications Fund Series ; V. 15 (New York: The Society, 1883), 118.

[72]Baurmeister, *Revolution in America*, 339.

Despite the numerous hardships endured by the inhabitants of New York during James Pattison's from July 5, 1779 to August 13, 1780 tenure as commandant, they overwhelmingly approved of his conduct. When the city volunteered to form the militia companies they noted Pattison's "wise and prudent regulations you have been pleased to establish for our welfare and security; and to assure you, that we consider them a certain earnest of your steady, just, honourable and happy administration" and were confident that he appreciated their "predicament, as citizens, to their necessary private duties and employment" and would therefore not abuse the militiamen by calling them out too regularly.[73] Pattison's tenure as commandant represented the high-water mark of civil-military cooperation in New York City. He demonstrated both the military and political benefits that flowed from sagacious occupation policies which fairly governed the city's inhabitants under trying circumstances.

To sum up, during the American War of Independence British occupation policy in New York City evolved through three distinct phases. During Phase I, from June 12, 1775 – April 30, 1777, the British government sought to crush the American rebellion through military might. They believed that once they defeated the Continental Army on the battlefield support for the rebellion would fade, and royal government could then be reestablished. The British army's confidence in their inevitable military victory during Phase I caused them to uncritically leave governance of the civilian population to martial law.

Sir William Howe initiated Phase II of the occupation policy, through hybrid civil-military organizations, on May 1, 1777, with the creation of the Court of Police and the post of Superintendent of Imports and Exports in New York City, headed by Andrew Elliot and

[73]*New-York Gazette*, Nov. 22, 1779, 2.

staffed by other prominent Loyalists. The purpose of these organizations was to restore order within the city by filling the void created by the British army's decision to leave civil government dormant. The Court of Police had jurisdiction over both civil and criminal cases involving civilians in an effort to bolster law and order. The Superintendent of Imports and Exports, meanwhile, sought to enforce the trade restrictions promulgated by the Prohibitory Act of 1775 while keeping the army well-supplied. Despite the setbacks at Trenton and Princeton the previous winter, British officers still believed in imminent military victory over the rebels during Phase II. Howe's purpose for creating the hybrid civil-military organizations was to bring order to the city so that it could fulfill its role as a secure base of operations in Howe's war of posts strategy.

Andrew Elliot used this insight and his three years of experience in occupied New York to transition the British army's occupation policy from a set of ad hoc solutions to a codified system which represented Phase III of the evolutionary process. He provided Lord Charles Cornwallis with his plan so it could be implemented immediately upon the conquest of Charlestown, and Commandant James Pattison relied upon Elliot to help him carry out the new policies in New York City. Pattison's tenure as commandant from July 5, 1779 – August 13, 1780 demonstrated the relationship between effective governance and the ability to mobilize military strength when he raised 5,797 militiamen to defend the city during the winter of 1779/1780.

From 1779 until the end of the American War of Independence the British inverted their approach to destroying the rebellion. Instead of militarily defeating the rebels, and then reinstating government, the army sought to use effective governance of the territories it

controlled to mobilize military support from the inhabitants and demonstrate the benefits of royal rule to friends and foes alike outside the lines.

Conclusion

The seventeenth- and eighteenth-century Military Enlightenment had a profound impact upon British officers' treatment of local inhabitants during both times of peace and war. The pan-European military treatises most popular with the British officers who fought in the American War of Independence forged a "strategic culture" which emphasized employing a carrot-and-stick approach to pacifying the populace in garrisoned towns.[1] The treatises recognized the need for brutality in certain circumstances, most notably during sieges, but encouraged *ancien rég*ime officers to win over the population through kindness. These treatises also expounded at length on the governing bureaucracy in garrisoned towns, as well as the chain of command for the officials who occupied these posts. The most significant contribution the treatises made to the British army's governance of occupied cities was to firmly establish the position of commandant. Commandants were the third highest ranking officials within British garrison towns, and served as a liaison between the army and the civil governor. Commandants were responsible for the security of their town, and therefore held positional authority that could not be overridden when senior ranking military officers entered the garrison.

Furthermore, the pan-European military treatises provided a cognitive framework for officers to understand the different levels of civil disturbance as well as the most appropriate responses to them. The treatises recognized a spectrum of conflict that ranged from simple

[1]Isabel V. Hull, *Absolute Destruction : Military Culture and the Practices of War in Imperial Germany* (Ithaca, N.Y.: Cornell University Press, 2005), 2. Hull writes that "These habitual practices [military practices and the basic assumptions behind them], default programs, hidden assumptions, and unreflected cognitive frames I understand in an anthropological and organizational-cultural sense as military culture."

riot at the lowest level, followed by insurrection, then progressing to rebellion or revolt, and culminating in civil war. The treatises cautioned restraint for officers in dealing with riots and insurrections. British officers enthusiastically embraced the treatises' guidance in these matters due to their disdain for shedding peasants' blood, as well as the legal and financial penalties imposed upon overly zealous officers who attacked riotous mobs without authorization from the civil magistrates. The officers viewed insurrections as a more dangerous phenomenon because they believed "men of quality" were directing the mob's violence. While officers would happily arrest such manipulators, they would only do so under the guidance of the civil authorities. When the disturbances crossed the threshold and became rebellions or revolts the officers felt freed to act. The only distinguishing feature between these two events was that rebellions were armed violence perpetrated by subjects who owed fealty to the established political order, and revolts were generally carried out by conquered peoples who did not. As such, rebels and revolters were criminals who could be dealt with in the most severe ways both on the battlefield and by the legal system. British officers generally sought to act at this stage to prevent the violence from escalating into the worst possible scenario: civil war. Civil wars were particularly dangerous because they undermined the regime's legitimacy and like rebellions they invited external intervention which could overthrow the constituted government.

The pan-European treatises had a foundational influence upon the British officers' outlook on military force and governance, and the British army's firsthand experiences with civil disturbances during the eighteenth century reified these beliefs prior to the American Revolution. Starting with the Jacobite Rebellion of 1715 and concluding with Governor William Tryon's defeat of the Regulator Movement in North Carolina in 1771, British

officers consistently demonstrated a tremendous amount of restraint until the violence escalated into open rebellion. At that point, the British army implemented a tried-and-true strategy of decisive battle coupled with pardons for tepid supporters of the rebellion, and a scorched-earth policy for the die-hard rebels. The Jacobite Rebellion of 1715 went out with a whimper after the battles of Sheriffmuir and Preston as well as the capture of Inverness. Likewise, the ’45 collapsed after the Duke of Cumberland gave the Jacobites a decisive drubbing at Culloden. These battles did not in and of themselves terminate the rebellions, but they did shift the momentum to the Hanoverian side and permitted the legal and judicial instruments of power to operate in rebel-held territory while the British army conducted mopping up operations.

While the Jacobite Rebellions in Great Britain saw the British army take an active role in their suppression, the colonial disturbances leading up to the American War of Independence witnessed a much more reticent response. Commander-in-Chief (CINC) Thomas Gage’s reaction to the Stamp Act Riots and the Quit Rent Rebellion in New York, as well as Governor William Tryon’s handling of the Regulator Movement in North Carolina demonstrated just how punctilious British army officers were about the ideological and constitutional limits upon their use of force against civil disturbances. Gage viewed the protests against the Stamp Act as an insurrection, and although he recalled troops from the frontier to the eastern seaboard as a precautionary measure, he never employed them. Gage’s caution on this count proved crucial because had he been more aggressive against the mobs in New York City they very likely would have stormed Fort George for the stamps and then

captured the arsenals in the city provoking the "shot heard 'round the world" a decade earlier.[2]

On the other hand, Gage and Tryon did aggressively confront the Quit Rent Rebellion in the Hudson Valley and the Regulator Movement in North Carolina. Gage received permission from Governor Colden and the Council to send troops against the rent mobs after they fired upon local magistrates. Major Brown conducted a scorched-earth campaign against the holdouts, but Gage ultimately withdrew the troops when he realized that New York and New England were using him as a pawn in their dispute over Vermont. Although Tryon, a British officer serving as North Carolina's governor, did not request any redcoats, he did implement the standard approach of decisive battle at Alamance, coupled with the destruction of rebels' property, and trials for the ringleaders. These earlier colonial successes demonstrated the efficacy of judiciously applied force coupled with judicial and legislative acts to assuage or eliminate rebels, but the British ministry and most of the army focused exclusively on the military component of the solutions.

Between 1768 and 1770 the British ministry and army attempted to apply a military solution to the atrophied state of royal authority in Boston. The ministry and army's fallacious belief that saturation policing in the city would awe the local populace into submission and restore Britain's authority in Boston soon became apparent to all involved. Despite deepening unrest, through 1770 the British army's role in the governance of Massachusetts remained one of providing aid to the civil power within constitutional boundaries. Governor Francis Bernard and General Thomas Gage both refused to assume responsibility for transforming Massachusetts into a garrison government, thus eliminating

[2]Robert Middlekauff, *The Glorious Cause : The American Revolution, 1763-1789* (New York: Oxford University Press, 1982), 130.

any prospect of compelling the colonists to give due obedience to the Townshend Acts since the legislative and judicial instruments in the colony were already ineffectual at enforcing royal authority. Contrary to Richard Archer's claim that the actions of the British army in Boston marked the beginning of the American War of Independence, this study has shown that it was the army's inaction which fueled the revolutionary movement by creating grievances among the population while simultaneously instilling contempt for British arms.

Parliament's passage of the Coercive Acts coupled with Thomas Gage's new powers sought to finally implement garrison government in Massachusetts. Not only did Parliament substantially increase the royal prerogative in the colony by altering its charter, but King George III removed all legal impediments against using force by appointing CINC Thomas Gage as Massachusetts' new Governor-General. With all civil and military authority lodged within his hands the only restraint upon Gage was his own probity, something that may have proved to be one of his greatest handicaps. Gage's humane disposition and respect for the law made him the wrong man for the job of ruthlessly stamping out resistance to royal authority. Furthermore, even if he had been willing to employ his 3,500 men in shoving Parliament's authority down the colonists' throats, the Coercive Acts spread the rebellion far beyond Boston, throughout Massachusetts, and ultimately to all of the other colonies. Parliament's heavy-handed approach of implanting garrison government transformed an urban rebellion into a continental civil war.

Considering all of the anti-crown faction's propaganda against the tyranny of a peacetime standing army and the abuses of a garrison government, modern readers will probably be surprised that martial law itself was responsible for relatively few of the changes experienced in wartime Boston. Instead, the changes in the governance of the city resulted

largely from the realities of living under siege rather than the removal of legal impediments to military action. The mass exodus of Patriots and those concerned for their safety from the city in the wake of the fighting at Concord, Lexington, and Bunker Hill left fewer than three thousand people in the town. Not only was the smaller population more manageable, but it was significantly more law-abiding since Loyalist refugees came pouring in from the surrounding countryside seeking protection from Patriot persecution. To protect this overwhelmingly Loyalist population both Gage and his successor, William Howe, punished their soldiers with ever-increasing severity to prevent robberies and assaults against the inhabitants. The British army also discovered that in order to maintain its fighting effectiveness it had to fill parts of the void left when the civil government dissolved. Nevertheless, officers merely treated the inhabitants as if they were camp followers on a large scale, rather than a body politic requiring governance during a particularly trying time.

The British army officers' belief in their imminent victory during and immediately after the 1776 New York campaign encouraged them to leave the civil government dormant. Since the contest would be decided with a decisive battle by the end of the year, or in early 1777 at the latest, the British officers overwhelmingly argued that martial law was necessary to prevent any distractions, such as lawsuits regarding property or the imprisonment of their soldiers for crimes against the inhabitants, that would interfere with a rapid military victory. The officers also mistakenly thought the Prohibitory Act of 1775 prevented them from reconstituting the civil government. This interpretation stood in stark contrast to Admiral Richard Lord Howe and General William Howe's authorities as peace commissioners which

granted them the power to declare "any colony or province or any county, town, port, district, or place within any of the said colonies or provinces, to be at our peace."[3]

William Howe's 1776 New York campaign not only closely adhered to the precedents for dealing with rebellion found in the pan-European military treatises most commonly read by the British officers engaged in the conflict, but it also followed the guidance regarding commandants and the treatment of the local populace. Major General James Robertson became the Commandant of New York City and was thus responsible for both the security of the location and the well-being of its inhabitants. Robertson actively employed the carrot as a way to win over the population. He had punished his soldiers just days before in Newton, Long Island when they pilfered the local subjects. Robertson's actions during the Great Fire on the night of September 21, 1776, likely prevented the destruction of the entire city during the conflagration. Robertson also permitted the city's vestry to collect charitable donations for the poor and homeless Loyalist refugees who flocked to the city.

Despite Major General Robertson's best efforts, one man could not address the myriad, mundane issues requisite to keep a wartime city running smoothly. Sir William Howe recognized this and began an experiment with hybrid civil-military organizations to govern New York City. On May 1, 1777, Howe created the Court of Police and the post of Superintendent of Imports and Exports in New York City headed by Andrew Elliot and staffed by other prominent Loyalists. The purpose of these organizations was to restore order within the city by filling the void created by the British army's decision to leave civil government dormant. The Court of Police had jurisdiction over both civil and criminal cases

[3]George III to Richard and William Howe, May 6, 1776, William Eden (1st Baron Auckland) Papers, DLAR

involving civilians in an effort to bolster law and order. The Superintendent of Imports and Exports, meanwhile, sought to enforce the trade restrictions promulgated by the Prohibitory Act of 1775 while keeping the army well-supplied.

Andrew Elliot used the insights he gained from three years of experience in occupied New York to transition the British army's occupation policy from a set of ad hoc solutions to a codified system which represented the final phase of the evolutionary process. Elliot provided Lord Charles Cornwallis with his plan so it could be implemented immediately upon the conquest of Charlestown, and Elliot relied upon Commandant James Pattison in New York to carry out the new policies there.

The lessons the British army learned about governance of the civilian population during the American Revolution had profound implications for the future of the British Empire. Maya Jasanoff has cogently argued the American Revolution developed a "spirit of 1783" within Britain. A fundamental assumption of that "spirit," was that "the thirteen colonies had been given too much liberty, not too little, and [British officials] tightened the reins of administration accordingly" thus leading to an "enhanced taste for centralized, hierarchical government."[4]

It should come as no surprise that none other than Charles Cornwallis best exemplified the "spirit of 1783" given his experiences during the American Rebellion. Having served in besieged Boston, witnessed both the heights and nadirs of British fortunes in the middle colonies between 1776 and 1779, and conducted the most vigorous campaigns of the war throughout the entire southern theater from 1780 – 1781, Cornwallis had learned the intimate relationship between military force and governance. When William Pitt the

[4]Maya Jasanoff, *Liberty's Exiles : American Loyalists in the Revolutionary World* (New York: Alfred A. Knopf, 2011), 12-13.

Younger offered him the Governor-Generalship of India in 1784 he refused. After two years of wrangling with the ministry over terms, Cornwallis finally agreed to take the post on February 23, 1786. His two demands were that he must be made both Governor-General and Commander-in-Chief of all forces within India, and he must have the power to override his council.[5] There can be little doubt that Governor Francis Bernard and General Thomas Gage's difficulties in Boston from 1768 – 1775 prompted these particular demands.

[5]Franklin Wickwire, *Cornwallis, the Imperial Years*, ed. Mary Wickwire (Chapel Hill: University of North Carolina Press, 1980), 12-18.

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