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Crime and Punishment in the Royal Navy: Discipline on the Leeward Islands Station, 1784-1812 (England).

John D. Byrn Jr

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Crime and punishment in the Royal Navy: Discipline on the Leeward Islands station, 1784–1812

Byrn, John D., Jr., Ph.D.
The Louisiana State University and Agricultural and Mechanical Col., 1987

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CRIME AND PUNISHMENT IN THE ROYAL NAVY: DISCIPLINE ON THE LEEWARD ISLANDS STATION, 1784 - 1812

A Dissertation

Submitted to the Graduate Faculty of the Louisiana State University and Agricultural and Mechanical College in partial fulfillment of the requirements for the degree of Doctor of Philosophy in The Department of History

by

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May 1987
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<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADD MSS</td>
<td>British Library, Additional Manuscripts</td>
</tr>
<tr>
<td>ADM</td>
<td>Public Record Office, Admiralty</td>
</tr>
<tr>
<td>HCA</td>
<td>Public Record Office, High Court of the Admiralty</td>
</tr>
<tr>
<td>NMM</td>
<td>National Maritime Museum</td>
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ABSTRACT

This dissertation is based primarily on the manuscript sources pertaining to the Leeward Islands station between 1784 and 1812 found in the Public Record Office. Its thesis is quite simple: Discipline in the Royal Navy in the age of sail was maintained in much the same fashion that law and order was enforced in the localities of eighteenth-century England. In short, justice afloat was administered according to the principles and practices used in the system of criminal law ashore.
The sea has long enchanted men of letters. The placid beauty of a calm or the fury of a tempest has provided a backdrop to the stories of authors ranging from Shakespeare to Forester. Unfortunately, this very fascination has led to much misunderstanding of the history of maritime affairs. Since the latter part of the nineteenth century, romantic historians have embellished an already interesting topic by incorporating numerous legends into their work. In the field of the social history of the British navy, such practice has propagated the myth that the service's discipline in the age of sail was characterized by the almost inhuman brutality of the officer corps.

The leading advocate of this view was the poet, John Masefield. In a very influential book entitled *Sea Life in Nelson's Time*, Masefield challenged the smug complacency of the Edwardians by reminding his contemporaries that their high standard of living was not achieved without a tremendous cost in human suffering.
"There is no London merchant telling over gold in his counting-house," he wrote, "no man-of-war's man standing his watch at sea, who does not owe his gold or his rights to the men who lived wretched days long ago aboard old wooden battleships, under martinets."\(^1\) Thus, Masefield dwelt upon the horrific methods used to impose order afloat in the eighteenth century. In his opinion, barbarous punishments were inflicted with indiscriminate severity. Under the majority of captains, "the very slightest transgression was visited with flogging."\(^2\) Thirty-six, seventy-two, or even three hundred lashes were not uncommon. Moreover, those seamen fortunate enough to escape the horrors of the cat were still subject to the inhuman cruelties of running the gauntlet or being "started" with a rope's end. In short, British tars in the age of sail lived in constant dread of punishment. Pushed to the breaking point, they either deserted in droves or mutinied.\(^3\)


\(^2\)Ibid., p. 157

Masefield's grim picture of Georgian naval discipline was based almost entirely on the descriptions of corporal punishment given by Jack Nastyface in his memoirs, *Nautical Economy or Forecastle Recollections of Events during the Last War*, which appeared in 1836. Yet Nastyface, a deserter from H.M.S *Revenge* whose real name was William Robinson, was hardly an impartial observer. His reminiscences of life on the lower deck were written with a definite political purpose. Indeed, he stated his motive quite clearly in the preface:

> The order of the present day, on land, it seems is reform:—then why should the sea-service have its imperfections remain unattended to? To bring about, therefore, a reform in that all-important department of the state, it is, that without being considered an improper intruder, I may be suffered to offer for public consideration my mite of information; trusting it may be useful to obtain so desirable an object. . .

The reform of which Nastyface spoke was the abolition of the impress and the severe restriction, if not the complete prohibition, of corporal punishment. During the early nineteenth century, these goals were a favorite topic of numerous authors. The adherents of reform produced reams of propaganda promoting their

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adoption. Typically the abolitionists portrayed the British seaman as a noble patriot deprived of his rights and liberties as an Englishman by the abominable practice of impressment. Cast in bondage against his will, he was persecuted continuously by tyrannical petty officers armed with colt or rattan and subjected to the whims of sadistic captains like Hugh Pigot or Robert Corbet, who flogged him unmercifully. As one contemporary observed, "some shocking bad cases" were presented to the general public as daily occurrences aboard the king's ships. Representative is the following passage from a tract entitled An Inquiry into the Nature and Effects of Flogging:

6For example, see Lieut[enant] Thomas Hodgskin, An Essay on Naval Discipline. Shewing Part of its Evil Effects on the Minds of the Officers. on the Minds of the Men. and on the Community; with an Amended System, by which Pressing may be Immediately Abolished (London: C Squire, 1813); Robert Otway, On Naval Discipline, with Observations on the System of Impressment; pointing out the Practicability of raising Seamen for the Royal Navy, without Recourse to such a Measure (Plymouth Dock: Congdon and Hearle, 1823); and An Inquiry into the Nature and Effects of Flogging: The Manner of Inflicting it at Sea; and the Alleged Necessity for Allowing Seamen to be Flogged at Discretion, in the Royal Navy and the Merchant Service, 2nd ed. (London: Hunt & Clark, 1826).

7Hugh Pigot was murdered by the crew of the Hermione during a mutiny in 1797. Robert Corbet's tyrannical behavior drove the men of the Nereide to rise against him in 1808.

With such unrelenting severity has the lash been inflicted in the Royal Navy, that mutiny and murder have been resorted to in a spirit of retaliation! What was it which induced the crew of the Hermione to mutiny, to kill the captain, (Pigot), his officers, and the marines; and then to carry that ship into an enemy's port? Excessive flogging and starting, which were inflicted to an excess surpassing human endurance, and rendering the prospective terrors of the yard-arm a comparatively trifling risk, when weighed with the tremendous evils from which the crew of the Hermione conceived they were about to extricate themselves. We do no believe it to be possible that any man can reflect on the mutiny of the Hermione, and the murders and hangings which resulted there-from, without feeling convinced that the whole was an effect, of which the cruel and wanton abuse of power, on the part of Captain Pigot and his officers, was most assuredly the cause. It is this conviction which, to a certain extent, mitigates our abhorrence of the cool-blooded murders which were committed by the mutineers of the Hermione on that lamentable occasion.9

It is in the context of abolitionist polemics that Nautical Economy must be seen. Despite its autobiographical guise, Jack's narrative is most definitely in this genre. All of the caricatures of the propagandists appear in his pages—sadistic commanders, tyrannical boatswain's mates, brutalized seamen, lacerated flesh and the like. As he frequently reminds his audience, his "anxious desire is to live and witness the adoption of some other system resorted to, for manning the navy and showing obedience, than impressment and

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unnecessary cruel punishment." Consequently, he describes the principal naval penalties in the worst possible light. Given the nature of these punishments, this is not a difficult task, but his account accentuates the suffering and implies that they were administered wantonly. For example, when discussing flogging at the gangway, he fallaciously claims that the "general number" of lashes imposed for most crimes was "three dozen" and suggests that His Majesty's captains could inflict such beatings upon individuals whom they disliked "everyday" if they so desired.11

Yet Masefield either failed to recognize the polemical tinge of Nastyface's prose or simply chose to ignore it. As a result, his monograph elevated the political propaganda of the navy's harshest critics to the level of historical truth. Indeed, so thoroughly did he incorporate the reformers' position into his interpretation that it is difficult at times to distinguish him from their number. Thus, when cataloging the horrors of the lash, the author asserts that it was "not uncommon" for the captain wielding this terrible and unnecessary instrument of pain to be such a sadistic ogre that he "kept his crew in an agony of fear, hardly knowing

10Nastyface, Nautical Economy, pp. 20-21.

whether to kill themselves or their tyrant."\textsuperscript{12}

Nevertheless, Masefield's greatest disservice was not that he accused the navy of inhumanity and oppression, but that he defined the scope of the study of discipline on board His Majesty's vessels so narrowly. Since the publication of \textit{Sea Life in Nelson's Time}, those students of the British sailing fleet who have addressed the topic have been concerned largely with the question of cruelty. A few have used Masefield's general thesis to help to explain specific incidents in eighteenth-century naval history. G.E. Manwaring and Bonamy Dobrée, for example, have seen "the senseless brutality of many of \ldots [the king's] officers" as an essential precondition for the mutinies at Spithead and the Nore in 1797.\textsuperscript{13} Some, like G.J. Marcus, have sought to moderate Masefield's extreme judgement by noting that whippings were meted out to English criminals ashore during the reigns of the early

\begin{quote}
\textsuperscript{12}Masefield, \textit{Sea Life}, p. 158.
\end{quote}

\begin{quote}
\end{quote}
Others have challenged Masefield's interpretation through deductive reasoning. Thus, Dudley Pope has claimed that although the corporal penalties inflicted in the service were harsh, they were probably more tolerable to seamen than lesser forms of punishment because, when he was in school, pupils normally preferred the fleeting pain of a caning to the drudgery of copying passages from a book. And one scholar has attacked the basic assumptions upon which Masefield constructed his argument. According to Dr. N.A.M. Rodger, savagery was the bane -- not the boon -- of order afloat.

However, the preoccupation of modern historians with the issue of brutality has obscured the most elementary feature of British naval discipline in the age of sail.


Simply stated, the methods used to maintain harmony in the king's fleet were similar to those of the eighteenth-century English system of criminal justice. Indeed, within its own clearly defined jurisdiction, naval discipline was, in many ways, a microcosm of that system. As on land, a draconian penal code was administered moderately -- at times even humanely -- at both summary and curial levels. Like quarter sessions and assizes, courts martial enforced the law formally according to the accepted judicial principles and practices of the day. And captains, acting in much the same fashion as their magisterial counterparts ashore, implemented the spirit, if not always the letter, of the enactments regulating life in the Royal Navy. In short, the precepts of the unreformed system of criminal justice were applied at sea wherever feasible.  

17This view differs sharply from that of Dr. N.A.M. Rodger, the foremost authority on the social history of the British sailing fleet. In his opinion, "The eighteenth-century Navy experienced more problems in this [i.e. the suppression of crime] than it need have done because it largely lacked a developed legal code. The ordinary law of the land was almost never admitted to run on board men-of-war, but the Service had little that was effective to put in its place (Ibid., p. 218)."
criminal law, the following arrangement has been adopted: Chapter One reviews the navy's penal code and the disciplinary functions of the principal figures in the chain of command who enforced it. Chapter Two describes the theory and practice of naval courts martial. Chapter Three treats the punishments inflicted on board the king's ships. Chapter Four analyzes the methods of maritime management employed by captains in the summary adjudication of crimes. And Chapters Five and Six deal with the general treatment accorded the various offenses cognizable by justice at sea.

Before embarking on such a course, several observations need to be made. To begin with, the examples contained herein to support the general interpretation are drawn almost exclusively from the surviving evidence (logs, transcripts of courts martial and the like) generated on the Leeward Islands command between 1784 and 1812. One of two permanent British naval stations in the Caribbean basin during the eighteenth century, the Leeward Islands command was defined by an Admiralty order dated 1 May 1809 as the region extending "from Cape North on the coast of Guayana, in South America, in a north direction to the Tropic of Cancer, from thence westward in that parallel, to the 68th degree of W. Longitude then due south thro' the Mona Passage, from thence to run in a
direct line to Cape Blanco, near la Guayra."

The Leeward Islands command has been selected as the focus of the present study for a number of reasons. First, the Lesser Antilles were of such vital economic and strategic importance in the late eighteenth century that they were a major theater of naval operations. Second, as a foreign station which was approximately 3,500 nautical miles from London, the Leewards were free from excessive meddling by the Admiralty. Thus, if the rule of law was to prevail there, it had to be instituted by the officials on the spot rather than be imposed from above by a powerful regulatory agency. Third, it has been suggested occasionally that a certain lawlessness sometimes reigned in the fleet in the West Indies. Hence, the Leewards serve as something of a litmus test for the thesis to be argued.

A substantial portion of this thesis is based on the writings of contemporary defenders of the eighteenth-century system of naval discipline, for it is in their arguments that the rationale of the system is found. However, the point of view of the conservatives has not been accepted blindly. Whenever possible, their assertions have been tested against the statistical data

18ADM 2/156.

gathered during the preparation of the study at hand. Therefore, a good deal of what follows is quantitative.

This, of course, gives rise to the question of the accuracy of the statistics to be cited. Needless to say, the quantification of crime and punishment is a risky business, but it becomes even more so when dealing with summary adjudications aboard the king's ships in the age of sail.\textsuperscript{20} As one leading student of eighteenth-century criminal law has observed, Georgian Englishmen did not possess the same monomaniacal zeal for measuring their lives numerically that their descendants on both sides of the Atlantic have come to exhibit.\textsuperscript{21} Indeed, it is quite clear from the literary sources that minor forms of summary punishment were seldom, if ever, recorded in the logs. Moreover, it is equally clear from spot comparisons of captains' and masters' logbooks that not all clerks entered all instances of the infliction of major varieties of summary punishment in their journals.

Still, a reasonably accurate picture of the pattern of

\textsuperscript{20}Tallying figures for courts martial is a much simpler task. Here the only real danger is posed by lost transcripts. However, in checking the references to trials in admirals' journals and captains' logs against the Reports of Courts Martial, the present writer has been able to confirm only seven cases as missing, or less than two percent of the total number (369) heard in the Leewards during the period under examination.

the principal summary punishments can be obtained if proper precautions are taken. In selecting the ships to comprise the present sample, these criteria were established: Only those vessels sent to the Lesser Antilles between 1784 and 1812 for which a complete captain's or master's log exists for the entire cruise were considered for inclusion in the survey. Moreover, of this group, only those men-of-war whose complete book matches exactly the surviving portions of its other log actually have been included in the sample. Thus, while there were 417 British warships dispatched to the Leewards during the period under discussion, just seventy-three of them make up the testing sample (see Appendix A).

Most of the calculations made from this sample are simple frequencies or percentages. In the few cases in

22 The years 1784 and 1812 have been chosen so that periods of both war and peace would be encompassed by the survey. It also should be noted that since this is a study of the Leeward Islands station, all ships which did not spend at least seventy-five percent of their cruise in the Lesser Antilles have been excluded automatically. This percentage has been derived by dividing the number of months that a vessel was listed in ADM 8 as having remained in the West Indies by the total number of months that it was listed in Steel's Navy List as having been away from England.

23 There is one exception to this rule. If both complete captain's and master's logs have survived for the entire cruise of a particular ship, then I have counted the total number of different punishments listed in the two books and included that vessel in the sample.
which more sophisticated computations have been undertaken, explanations of the methodology employed have been provided in the apparatus. Because the human experience cannot be reduced to abstract numbers, no attempt has been made to derive a Benthamic "felicific calculus" to quantify such intangibles as the pain of a flogging, the impact that the spectacle of corporal punishment had upon those who witnessed it, or the like. With these points in mind, it is now time to turn to the system of naval justice.
The Articles of War of 1749, as amended by an Act passed in the nineteenth year of George III's reign, constituted the fundamental code by which discipline was maintained in the British navy during the age of Nelson. This code was eminently suited to the exigencies of maritime existence. It provided a flexible system of justice which lasted for well over a century. As the editor of the 1815 edition of Falconer's *Universal Dictionary of the Marine* put it: "In these Articles almost every possible offense that can be committed in the royal navy is set down in explicit terms, and the punishment thereof annexed."  

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1William Falconer, *A New Universal Dictionary of the Marine; being, a Copious Explanation of the Technical Terms and Phrases usually employed in the Construction, Equipment, Machinery, Movements, and Military, as well as Naval, Operations of Ships; with such Parts of Astronomy, and Navigation, as will be found useful to Practical Navigators. *"Modernized" and Enlarged by William Burney (London: T. Cadell and W. Davies, 1815), s.v. Articles of War.
The thirty-six naval ordinances applied the principles of eighteenth-century common law to military life at sea. "The Articles of War are an Act of Parliament," observed Vice-Admiral Sir C. V. Penrose in 1824, "made for the government of the King's subjects serving afloat in his navy, as the laws of the land are for his subjects on shore."\(^2\) Consequently, the Articles were in many respects a rationalized and simplified version of the Georgian penal code. With the exception of those clauses dealing strictly with nautical questions, the crimes they enumerated were analogous to those found in the Statutes of the Realm. Indeed, John McArthur devoted an entire chapter of his classic treatise on naval and military courts martial to the development of this analogy.\(^3\) In a convincing manner, he demonstrated that the prohibitions against unauthorized intercourse with an enemy or rebel, for example, were equivalent to the statutes against treason. Similarly the proscription of mutinous assemblies was comparable to the Riot Act. Even the regulation against wastage of naval stores had its counterpart in the common law.

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Like the common law, the Articles of War established the framework for "a system of selective terror" to enforce these ordinances. It was an axiom of the reigning penal theory of the day that criminals had to be dealt with severely to impress upon the rest of society the importance of obeying the law. "The terror of the example is the only thing proposed," declared Henry Fielding, "and one man is sacrificed to the preservation of thousands." Consistent with this belief, more than one hundred and fifty new capital statutes were enacted between 1688 and 1820. It has been estimated that the Waltham-Black Act alone enumerated more than two hundred offenses punishable by death. Thus if the Articles of war, in the words of David Hannay, did "bristle with the pain of death" they did so in conformity with the conventional wisdom of the age. Moreover, they assumed their sanguinary character for precisely the same reason that the penal laws did. According to Douglas Hay, the ferocity of the criminal code was designed to preserve the authority of the ruling classes who administered it by providing these men with legal devices of horror which

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could be used at the appropriate moments to intimidate the lower orders into accepting their dominion.\(^7\)

Correspondingly, the bloodthirstiness of the Articles were intended to maintain the power of admirals and captains to command obedience which, consonant with St. Vincent's famous dictum, was the essence of discipline. John Delafons, who had served as a deputy judge advocate at numerous trials, suggested as much in the preface to his study of naval courts martial:

> Much has been urged of the severity of martial laws, of which proofs will probably occur in the perusal of this treatise. Undoubtedly, men who are amenable to military jurisdiction, submit to many privations, perhaps hardships; but these privations and hardships are indispensably necessary to the welfare of the country, in whose defense they are engaged. Whenever, discipline shall become relaxed; whenever officers shall no longer be competent to assert the power with which they are invested, for the maintenance of subordination and diligence; then, and not till then, will the British Navy, which has hitherto enforced respect and awe on surrounding nations, instead of proudly constituting the bulwark and glory of these kingdoms, become baneful at home, and despicable abroad;—the scourge of their own country, and the derision of their enemies.\(^8\)

However, the "systems of selective terror" created by these codes did not leave those under their jurisdiction totally defenseless before them. Both systems implicitly


\(^8\)John Delafons, Treatise on Naval Courts Martial (London: P. Steel, 1805), pp. ix-x.
accorded defendants their rights as Englishmen by adopting judicial procedures that were accusational, public and conventionalized. Moreover, like the criminal law, the Articles of War were held to be the safeguard of the lives and property of the majority against the designs of the minority. Referring the naval ordinances, Delafons claimed: "These laws...certainly entitle the subjects of their power to all the consideration and protection that a liberal and opulent people can extend, to make their situation comfortable to themselves, and beneficial to the state."

Finally, both the common law and the Articles of War incorporated large bodies of precedent. In the former the body of precedent was derived from ancient usage and the judicial principle of stare decisis; in the latter it consisted of "the laws and customs of the sea." The origins of this corpus of maritime laws and customs are shrouded in medieval obscurity. The earliest known set of disciplinary regulations was promulgated in 1190 by Richard the Lionhearted. The proclamation of Richard's so-called Laws of Oleron began a tradition which was to survive for over four hundred and fifty years.

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9 Ibid., p. x.

Until the middle of the seventeenth century, it was customary for the commander of each expedition to establish a series of ordinances governing the conduct of his men. These rules applied only to the mariners directly under his command and had authority only for the length of his expedition. When the voyage terminated so did the jurisdiction of the regulations. Naturally, these codes were far from uniform. Indeed, they could be quite idiosyncratic. Not only did they reflect the preferences and experiences of the man who framed them they also manifested the goals of his expedition.¹¹ The by-product of this disorderly practice was the development of a considerable body of precedent. The thirty-sixth Article of War illustrated clearly the close relationship between this body of precedent and the naval ordinances. By that clause all crimes not referred to specifically in the preceding sections were to be dealt with "according to the laws and customs in such cases used at sea."¹²


¹²22 Geo. II c 33. It should also be noted that it was from this body of precedent that the commanding officer of a British naval vessel derived his authority to punish summarily.
The Articles of War defined four basic types of crime. First, several clauses proscribed contraventions against religion and morality. Officers were admonished to observe the Sabbath according to the rites of the Church of England. At the same time all members of the fleet were expected to maintain a high standard of decorum. Thus "profane oaths, cursings, execrations, drunkenness, uncleanness, or other scandalous actions, in derogation of God's honour, and corruption of good manners" were prohibited. Because these offenses were considered misdemeanors, the penalties attached to them were left to the discretion of the court. In fact, the only crime in this category deemed a felony was "the unnatural and detestable sin of buggery or sodomy with a man or beast." The horror with which the eighteenth century viewed this offense was reflected by the mandatory death sentence which accompanied it.

Second, there was the largest group of Articles which dealt with crimes against the king and his government. Because many of these crimes were of a much more serious nature than those in the first category, a far greater number of them were capital. All unauthorized communication with an enemy or rebel was punished with death. Any member of the fleet guilty of failing to
report intercourse with an enemy or rebel, spying, or aiding and abetting an enemy or rebel was liable to death or "such other punishment as the nature and degree of the offense" deserved. All persons convicted of mutiny, mutinous or seditious expressions, or striking a superior officer received a compulsory death sentence. Those who incited disturbances, disobeyed lawful orders, or concealed mutinous plots could be sentenced to death if the court so decided. Finally, members of the fleet who "unlawfully" destroyed naval property were punished automatically with death.

However, not all crimes against the state carried such severe penalties. There was no mention of capital punishment in those Articles concerning attempts to defraud the government (i.e., embezzlement, signing false musters, etc.) or needless expenditure of stores. In most of these cases the sentence was left to the discretion of the court.

A third category of offenses consisted of infringements of the rights of individuals. Like the clauses dealing with most economic crimes, these Articles gave the court wide discretionary powers. Only murder carried a mandatory death sentence. In cases of theft the court had the option of taking the offender's life or imposing on him a lesser penalty "upon consideration of circumstances." Similarly, the court was granted considerable latitude in determining the sentence for
quarrelling and fighting. According to the Twenty-third Article: "If any person in the fleet shall quarrel or fight with any other person in the fleet or use reproachful or provoking speeches or gestures, tending to make any quarrel or disturbance, he shall, upon being convicted thereof, suffer such punishment as the offense shall deserve, and a court-martial shall impose." And, persons guilty of plundering prisoners of war were subject to the will of the court.

Finally there were strictly naval infractions. While the sections punishing crimes against individuals were relatively mild, those of a purely naval character were not. Most of the clauses concerned with naval questions were aimed at the officer corps. Articles Ten through Fourteen enjoined officers to adopt an aggressive posture when engaging an enemy. Any admiral, captain, or commander who disregarded the signal to prepare for action, did not encourage his men to fight, disobeyed orders during an engagement, refused to join battle with an opponent, did not "do his utmost to take or destroy" an enemy, failed to give every possible assistance to a friendly vessel in peril, or did not pursue a retreating foe was liable to death or such lesser punishment as a court martial thought fit to impose. Moreover, persons convicted of surrendering to an enemy in a "treacherously or cowardly" manner received mandatory death sentences. In addition to assailing the enemy vigorously, officers
were expected to perform their duty efficiently and humanely. By Section Thirty-three, officers guilty of "behaving in a scandalous, infamous, cruel, oppressive, or fraudulent manner" were to be dismissed from the service.

Other paragraphs were framed to prevent specific abuses common among officers. Because some commanders used their vessels to transport items which they hoped to sell at a profit upon arrival at their destination, Article Eighteen prohibited the reception on board the king's ships of "any goods or merchandizes whatsoever, other than for the sole use of the ship or vessel, except gold, silver, or jewels, and except the goods and merchandizes belonging to any merchant, or other ship or vessel which may be shipwrecked, or in imminent danger of being shipwrecked, either on the high seas, or in any port, creek, or harbour, in order to the preserving [of] them for their proper owners. . . ." Similarly, because convoy duty was a very unpopular task which many officers either sought to avoid completely or performed half-heartedly at best, Article Seventeen stated that those who failed to protect adequately the merchant vessels under their charge were to make reparation to those traders who sustained losses by their negligence in addition to being subject to death or other such penalty as a court martial thought fit to impose. Finally, because the navy was constantly in need of men, especially in time of war, officers were prone to accept deserters
from other ships to fill out their complements without reporting them to their former captains. Thus Article Sixteen stipulated that any commander who succumbed to this temptation was to be cashiered.

Only five paragraphs in this category discuss crimes likely to be committed by enlisted men. Any member of the fleet who deserted or enticed others to do so was to be punished capitaly or by the will of the court if circumstances warranted a lesser sentence. At the same time, persons guilty of sleeping on watch, of neglect of duty or of leaving their station were to suffer death or "such other punishment" as a court decided to impose. Moreover, all mariners who "through willfulness, negligence or other defaults" were responsible for the destruction of their ships were condemned to death or the lesser sentence of a court martial. Lastly, all misdemeanors not specifically mentioned in the Articles were to be dealt with according to maritime "laws and customs."

The remaining clauses established the jurisdiction of the Articles of War. These paragraphs circumscribed the purview of the code. Only members of the fleet "in actual service and full pay of His Majesty's ships and vessels of
"war" and people accused of spying or attempting to subvert the king's navy were subject to its authority. However, British mariners were liable to naval discipline only if they committed offenses in places where the common law did not have ascendency or if they were charged with crimes of which that law did not take cognizance. Any offense perpetrated afloat or in foreign lands was within the province of the Articles. Conversely, all crimes, except "mutiny, desertion or disobedience to any lawful command," committed on shore in any part of the realm fell within the sphere of the criminal code. Thus, if a sailor was party to a robbery at Martinique or at sea, his case was heard before a naval court martial; but if he committed the same offense ashore at Antigua, he was tried by the local magistrates.

The jurisdiction of the Articles of War over soldiers embarked on men-of-war was not as clearly defined as the code's authority over seamen. The prickly question of the amenability of land forces to naval discipline remained in contention throughout the eighteenth century. Although the Act for Amending, Explaining and Reducing into One Act of Parliament, the Laws Relating to the Government of His Majesty's Ships, Vessels and Forces by Sea specifically exempted members of the army deployed in transport vessels from the sovereignty of naval tribunals, it said nothing about the accountability of land forces employed in
Because troops were substituted routinely for marines on board British warships, the silence of the statute on this matter was far from being a moot point. Naval commanders steadfastly maintained their right to punish soldiers stationed in their ships. However, enough doubt remained in the minds of many military officers to give rise to innumerable disputes.

The matter came to a head in 1795. In July of that year, Lieutenant Gerald Fitzgerald of the Eleventh Regiment of Foot, then serving on board the Diadem in the Mediterranean, was court martialed for contempt and "dismissed from His Majesty's service and...rendered incapable of ever serving His Majesty, his heirs and successors, in any military capacity." Protesting the legality of the trial, Fitzgerald petitioned the Duke of York, then commander in chief of the army, for redress. In direct response to the lieutenant's predicament, the Duke, anxious to avoid a recurrence of such a troublesome incident, issued a controversial set of regulations defining the relationship of members of the army to the Articles of War. These regulations stripped naval officers of virtually all power to discipline troops at sea. The second paragraph stated quite clearly the proposed restrictions:

1322 Geo. II c 19.

ADM 1/5333.
In case any officer or soldier of his Majesty's land forces...shall be guilty of any offenses against the laws and regulations established for the government and discipline of the ship on board of which he may have been received, the commanding officer of such ship is to cause him to be put under arrest or to confine him as a close prisoner, if circumstances and the naval articles shall require it, and if necessary to detain him in either of these situations as long as he shall remain on board, transmitting a report of the charges against him to his superior officer, or to the commander in chief of the land forces under whom he may be then placed in order that he may be proceeded against according to law, in case the offenses of which he may be accused are such as are cognizable by military courts martial.15

The Admiralty, as eager as His Royal Highness to prevent further disputes between the two services over the subject of discipline, was inclined to accept these restraints initially. The only marginal comment to the letter containing the regulations read simply: "13 October order accordingly."16 However, a large and influential segment of the upper echelons of the seniority list was not disposed to be as accommodating as their Lordships. Indeed, to many senior officers few things could have been more inflammatory. Banding together, these men protested vehemently against the adoption of the Duke's regulations. On 1 November eight admirals at Portsmouth sent the Lord's Commissioners a round-robin which concluded:

15ADM 1/4166.
16Ibid.
We are of opinion the proposed regulations militate against the principles of the naval service, inasmuch as they appear to us to be in direct contradiction to the statute for the government of His Majesty's ships, vessels and forces by sea and must, if endeavoured to be carried into execution, inevitably cause the total destruction of the navy of this country.\textsuperscript{17}

Faced with such strong opposition, the government decided to let the whole affair die of natural causes. Because the regulations had never been officially communicated to the junior officers in the army, the Admiralty maintained the fiction that they had never been promulgated. On 24 February 1796, Lord Spencer instructed Vice-Admiral Cornwallis, one of the most outspoken opponents of the measures, "to act as if no such regulation had been issued."\textsuperscript{18} In the end, the two services agreed to allow the officers involved in specific incidents concerning the liability of troops to naval discipline to determine the question of jurisdiction based on the merits of that particular case. However, during the latter stages of the Napoleonic Wars the army appeared

\textsuperscript{17}ADD MSS 34,933 ff 84.

to concede the point. By Section Twenty-three of the military Articles of 1812 officers and soldiers embarked on board naval vessels were expected to "conform themselves to the laws and regulations established for the government and discipline of the said ship, and...consider themselves...as under the command of the senior officer of that particular ship, as well as of the superior officer of the fleet (if any) to which such ship belongs."19

Every level of the naval hierarchy participated in the enforcement of the Articles of War. The paramount authority in this hierarchy was the Board of Admiralty. Executing the duties of the ancient office of Lord High Admiral, the Lords Commissioners wielded extensive power. As William Falconer put it: "They govern and direct the whole royal navy, with power decisive in all marine cases, civil, military and criminal, transacted upon or beyond sea, in harbors, on coasts, and upon all rivers below the first bridge seaward."20

1952 Geo. III c 22.

Thus it was the Admiralty that determined the general policy of naval discipline. The basic guidelines were laid down in the Regulations and Instructions Relating to His Majesty's Service at Sea. Their Lordships promulgated these Regulations and Instructions in book form "to support and improve the discipline and good economy of the navy." The original draft, appearing in 1731, went through thirteen impressions before being revised and expanded in 1806. Both editions provided sea officers with clear and concise reference manuals describing the responsibilities of every member of the fleet and the proper methods and procedures to be followed for virtually the whole gamut of naval activities.

The paragraphs specifying the "Rules of Discipline and good Government to be observed on board His Majesty's ships of war" were framed to supplement the Articles of War. In both editions many of the clauses simply reiterated various sections of the code. Captains were reminded of their duty to see that divine service was performed and their obligation to suppress "all profane cursing and swearing, all drunkenness, gaming, rioting and

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quarrelling, and in general everything which may tend to the disparagement of religion or the promoting of vice and immorality. In the revised volume they were also instructed to maintain a strict observance of the Article protecting prisoners of war.

Although the clauses in both editions had the same purpose, there was a significant difference between them. The wording of the Regulations and Instructions of 1806 was far less restrictive than that of the previous compilation. Whereas the earlier volume stipulated that no more than twelve lashes could be given except by the sentence of a court martial, the latter stated only that commanders were not to punish "with greater severity than the offense shall really deserve." Moreover, while the old collection prescribed specific punishments for swearing and drunkenness, the new rules simply enjoined the captain to do "the utmost of his power" to deter these petty crimes.

That the Regulations and Instructions of 1806 seemingly gave commanders much more latitude in matters of discipline did not mean that the Admiralty had decided to leave them to their own devices. Indeed, quite the

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23 Regulations and Instructions, 2nd ed., p. 163.
opposite was true. After 1806 the Board took several steps to restrict their powers. Four months after the revised manual was issued the Lords Commissioners abolished the penalty of running the gauntlet in which a culprit was scourged by the entire crew.24 In 1809, the practice of starting, or beating a man with a rope's end, was prohibited. And, after March 1811 captains were required to transmit quarterly to the Admiralty precise records of punishments. The punishment books were to include the name of the offender, his crime, the date it was committed, the length of his confinement, and the date and type of punishment he received.25

In addition to formulating the disciplinary policy of the Royal Navy, the Admiralty maintained a remarkably close scrutiny of the implementation of that policy. The Regulations and Instructions obliged the commanders of foreign stations to supply their Lordships with a wide variety of detailed information. Not only were they expected to forward such routine forms as ship's logs, vouchers, journals, and musters, they were to report any noteworthy occurrences on their station. The Board examined and acted upon this voluminous correspondence with extraordinary efficiency. Even the smallest matters

24ADM 2/151.

25ADM 2/1083.
did not escape its attention. When a review of the punishment books submitted by Sir Francis Laforey for the period ending 5 July 1812 revealed the general prevalence of "excessive flogging," for example, their Lordships directed the Rear Admiral to do everything in his power "to check a practice fraught with consequences so injurious to His Majesty's service."^26

The Admiralty was as equally diligent in investigating legitimate complaints. Allegations by merchants, seamen, civilians, and various governmental agencies were all taken seriously. Because the great distance between foreign stations and London made it impossible for the Lords Commissioners to conduct the inquiries themselves, the actual investigations were left routinely to the commanders in chief of the stations. In most cases the Board forwarded the accusations to the appropriate flag officer with a letter instructing him to look into the charges and inform their Lordships of his findings. The examination of Lieutenant Evelyn's conduct held at Carlisle Bay, Barbados in early 1811 typified the procedure. On 20 December 1810 the Admiralty received a petition from Richard Elam and Sarah Clift expressing

^26ADM 2/936
their horror at what Evelyn allegedly had done to their two sons. The following day the Board ordered Sir Francis Laforey, who had recently been given command of the Leewards, "to make a particular enquiry" into their claim that the lieutenant had impressed their children and several other boys out of the merchantman *Roxburgh Castle* and had taken the young men to Carlisle Bay where he and his two brothers had sold the youths as chattel.

Laforey's inquest took place on 16 February 1811; happily, it disclosed a far different story. It was with a sense of satisfaction that their Lordships read Laforey's report that instead of selling the boys into slavery, Evelyn had shown them great compassion by rescuing them at their own request from the ill treatment of the master of the *Roxburgh Castle* and by establishing them in apprenticeships in Barbados.

Because in this instance there was no evidence of wrongdoing, the Lords Commissioners did nothing more than express their approbation of Evelyn's conduct. However, when irregularities were exposed the Admiralty took appropriate steps to correct them. Serious crimes were turned over to courts martial. Lesser offenses were dealt

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27 ADM 1/4555.
28 ADM 2/936
29 ADM 1/332.
with more informally and usually resulted only in a reprimand from the Board. Thus, when Sir Alexander Cochrane's investigation of a complaint brought by several merchants against Lieutenant Stephen Briggs and Midshipman George Bayley of H.M. Brig Grenada revealed that Bayley had impressed the master's steward of the Lady Penryn improperly in April 1809, their Lordships informed Cochrane of their disapproval of the midshipman's behavior and directed him "to admonish the lieutenant to be more correct in his proceedings in such cases in [the] future."\(^{30}\)

Yet the Admiralty did not regulate discipline simply by formulating policy and supervising its enforcement. The Board's capacity to appoint and dismiss officers also allowed it to deal with men who had violated the spirit -- if not the letter -- of the law. In such instances the Lords Commissioners merely could refuse to post the culprit to another ship and thus effectively remove him from the service. Their Lordships exercised this power only in exceptional cases like that of Thomas Pitt, the second Baron Camelford. While never found guilty of any wrongdoing by a naval tribunal, Camelford was plagued by controversy throughout his brief career in the Royal Navy. The volatile young Lord sailed for the West Indies in June 1797. Several weeks after his arrival in the

\(^{30}\)ADM 2/936.
Leewards, he became involved in a misunderstanding with the commanding officer of the British fortress at Charlotte Town which culminated in the exchange of salvos between his ship and the shore batteries. In November his attempts to impress seamen in Carlisle Bay led to a melee with the inhabitants of Bridgetown that left one man dead and several others injured. Two months later he was "honorably acquitted" of the murder of Lieutenant Charles Peterson when the court ruled that the lieutenant had been engaged in an act of mutiny at the time Camelford shot him in cold blood. Finally in March 1798 he was indicted by the Court of King's Bench at St. John's, Antigua for assaulting the Naval Officer at English Harbour. Shortly after his indictment Rear Admiral Henry Harvey sent the violent peer back to England for his own protection. Upon his return to London, his brother-in-law, the influential Lord Grenville, managed with considerable difficulty to prevail upon the Admiralty to grant Camelford another commission. However, once again this enfante terrible became embroiled in controversy. In January 1799 he was convicted of attempting to travel in France illegally. Although pardoned by the King, Pitt's career was ruined; for his pardon was made conditional that he never be allowed to serve in the navy again.31

The Admiralty's regulatory functions were supplemented by its advisory role. The commanders in chief of the various stations freely solicited the Board's opinion on questions which defied clear-cut answers. Their Lordships dutifully responded to all such queries no matter how minute they were. For instance, on 27 October 1812 Secretary Barrow wrote to Sir Francis Laforey: "In reply to your letter no. 93 of the 30 August; I am commanded by my Lords Commissioners of the Admiralty to acquaint you that the next senior officer who may be present on the spot is eligible to assemble and preside at courts martial with the meaning of the 7th section in that head." 32

The Admiralty's highest ranking representative on foreign stations was the commander in chief. The admiral or senior captain who held this position bore many responsibilities. As the central administrative figure on the station, the commander in chief was accountable for everything that occurred in the vessels under his command. He was to see that all members of his fleet or squadron performed their duties according to the Regulations and Instructions, "never suffering neglect or inattention in anyone to pass unnoticed." 33 Towards this end, he was required to familiarize himself with the

32ADM 2/936.

qualities of the men and ships on his station as soon after taking charge as possible. And, he was to make personal inquiries into the health and discipline of the crews under him as often as circumstances allowed him to do so.  

At the same time the commander in chief was the agent through which the Admiralty conducted much of its business on foreign stations. Their Lordships' correspondence with the Admirals in command of the Leeward Islands between 1784 and 1812 reveals how dependent they were on these men for the implementation of their pleasure. Time and again this correspondence directed flag officers to investigate complaints, correct malpractices revealed in their reports or disseminate news of policy changes among their subordinates. For example, on 28 July 1797 the Board's secretary sent the following circular letter to Rear Admiral Henry Harvey:

I am commanded by my Lords commissioners of the Admiralty to send you herewith printed copies of an act which passed the last session of Parliament entitled "an Act for the more effectually preventing the administering or taking of unlawful oaths" and I am commanded by their Lordships to signify their direction to you to cause one of the said copies to be sent to the captains and commanders of his Majesty's ships and vessels under your orders, directing them to cause the same to be read to their respective crews warning them at the same time of the danger to which they will be exposed by failing to pay proper attention thereto.  

34ADM 2/117.  
35ADM 2/1079.
As time consuming as his administrative functions were, the most important role played by the commander in chief in matters of discipline was judicial. Although Section Seven of the Consolidation Act of 1749 prohibited him from presiding at naval tribunals when his squadron consisted of five or more vessels, the commanding officer was the only official on a foreign station who could convene courts martial legally. Moreover, the warrant empowering him to do so gave him the discretionary power to determine which cases were brought to trial and which were not. According to John McArthur, the commander in chief had the authority to dismiss all charges which were either frivolous or improperly drawn.\(^{36}\)

Once the commanding officer of the station had set the wheels of justice in motion, it was his duty to execute the sentence of the court. Because punishments were carried out by his warrant, the commander in chief, here too, possessed discretionary power. Usually he did little more than establish the time and place of the infliction of punishment. However, it was his prerogative -- if he chose to exercise it -- to mitigate the sentence either by remitting part of it or, with the exception of capital verdicts, by pardoning the offender completely. Thus,

after putting the ringleaders of the mutiny of the Excellent to death on 30 December 1802, Commodore Samuel Hood sent Captain John Nash the following memorandum:

Whereas I entertain a firm confidence the example made this day has been a sufficient one to deter others from the commission of acts of mutiny, for which those four unfortunate men have so justly suffered, and that the ends of public justice will be answered, and the good discipline of the navy, supported by a mark of clemency I do therefore grant a remission of the whole of the punishment awarded to Michael Farrel, Michael Brien, Michael Reily, John Cox, John Evans and Jonathan Saul, seamen belonging to his Majesty's ship Excellent by the sentence of a court martial held on board the Blenheim, on the 27, 28 and 29 days of December 1802 and their punishment is hereby remitted accordingly. 37

On a smaller scale, the captain of a man-of-war carried responsibilities similar to those of the commander in chief. Whereas the commander in chief was accountable for all incidents involving the Royal Navy that occurred on his station, the captain was liable for "the whole conduct and good government" of his vessel. The commander was the workhorse of naval administration. The Admiralty assigned him a wide variety of duties which touched upon virtually every aspect of life at sea. He was to see that his subordinates performed their tasks efficiently in conformity with accepted naval practice. He was to care for the health and well-being of his crew by making sure that his ship was clean and his men were given their full

37ADM 50/36.
allowances of provisions and clothing. He was to examine the ship's accounts and expenditures to prevent waste, fraud, and embezzlement. He was to inform the Lords Commissioners of the proceedings on board the vessel under his command by sending them logs and musters at specified intervals. In short, the captain was to do his utmost to see that his ship was managed in an orderly and economical manner conducive to the welfare of his men and the good of the service.

Though the Regulations and Instructions were quite specific about the captain's duties, they provided little detail in most cases about the methods by which he was to discharge his functions. The broad boundaries fixed by the Admiralty gave the commander considerable scope in the management of his vessel. As long as he stayed within these bounds he was free to run his ship by and large as he pleased. In few aspects of his command did he exercise more discretion than in his punitive capacity. Only a small number of the provisions in each edition of the Regulations and Instructions pertained directly to the captain's duty to maintain order on board the ship under his charge. His primary responsibility was to uphold the Articles of War by suppressing all acts "contrary to the rules of discipline and obedience."38 However, he was

38Regulations and Instructions, 1st ed., p. 45.
not to do so in an arbitrary or brutal manner. He was never to punish "without sufficient cause." Moreover, he was to supervise all punishments personally to ensure that they were "properly inflicted." Above all, he was not to permit "the inferior officers or men to be treated with cruelty or oppression by their superiors." For this reason, he, and he alone, was given competency to punish the members of his crew summarily.

The Regulations and Instructions placed only a limited number of restrictions on the commander's punitive authority. The most notable restraint was his inability to punish the commissioned or principal warrant officers serving on board his vessel for serious crimes. If one of these officers stood accused of a gross violation of the Articles of War the captain was to place him under arrest and petition the commander in chief to have him tried by court martial. The commander also was denied the power to levy the death penalty, for only a court martial could deprive a man of his life. His ability to punish was circumscribed still further by the limitations imposed by both editions of the Regulations and Instructions on the amount of corporal punishment he could inflict. Prior to 1806 he was not to dispense more than twelve lashes for each offense; after that date he was not to flog a culprit

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39 Regulations and Instructions, 2nd ed., p. 163.
"with greater severity" than the nature of his malfeasance merited. Thus, theoretically at least, he was to turn over all crimes which he thought deserved more serious punishment to a court martial. Lastly, the earlier compilation required him to apply certain penalties in cases involving several minor infractions. For example, if he found a seaman guilty of swearing, cursing, or blasphemy he was to force the unfortunate tar "to wear a wooden collar or some other shameful badge" for as long as he deemed appropriate. From officers culpable of the same misdemeanors he was to exact a fine according to the schedule of "a commission officer...one shilling for each offense, and a warrant or inferior officer six-pence." 40

Despite these limitations the commander of a naval vessel still possessed tremendous discretionary authority in disciplining the men under him. Neither edition of the Regulations and Instructions placed any qualification on the frequency with which he could punish. Thus the number of punishments he meted out depended entirely upon his disposition. Furthermore, neither collection of instructions specified the penalties to be inflicted for the vast majority of offenses beyond vague references to "the usage of the sea." Hence, it was the captain's prerogative to decide how to deal with most infractions.

40 Regulations and Instructions, 1st ed., p. 46
At his pleasure, a thief, for instance, could be given a
dozen lashes, be forced to run the gauntlet, or be brought
before a court martial. Moreover, both collections failed
to provide precise definitions for most of the
misdemeanors enumerated by the Articles of War. By
default, therefore, it was left to the captain to
establish the specific acts constituting these crimes. As
a result, what was criminal in one ship was tolerated in
another. "There are, to be sure, printed directions for
to be observed by all king's ships," recorded Robert
Wilson in his journal, "but then, generally speaking, most
officers have plans of their own which the crews over
which they command do follow; and it's a common saying,
'different ships, different rules,' for it must be
considered that every commanding officer of a vessel of
war is like unto a prince in his own state and his crew
may be considered as his subjects, for his word is
law."41

Following the lead of the commentators of the period,
modern historians have laid great emphasis on the
captain's ability to discipline his men. According to one
of the more recent students of the social history of the
navy, the commander "had more power over them than the

41Robert Mercer Wilson, "Remarks on board His
Majesty's Ship Unité of 40 Guns," in Five Naval Journals,
1789-1817, ed. H.G. Thursfield (London: Navy Records
king -- for the king could not order a man to be flogged." True his dominion was extensive, but it was not without parallel in eighteenth-century British civil administration. The jurisdiction of a captain in the Royal Navy bore a remarkable similarity to that of the Justice of the Peace. If the commander has been likened to a king, the local magistrate has been described as a law unto himself. Loosely supervised from above, the Justice wielded considerable powers of summary punishment which, like the captain, he exercised at his own discretion. According to Bertram Osborne, the JP's authority "was often summary jurisdiction in its most literal form. The accused would be taken to a Justice's house where the proceedings, if such a word can be used to describe the travesty of a trial conducted in secret in the Justice's parlour, might end in the imposition of a heavy fine or a sentence of imprisonment." In addition to possessing the disciplinary powers of a naval captain, the magistrate administered many of the same types of punishment that were at the commander's disposal. Like the commanding officer, the Justice could

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44 Ibid., p. 203.
condemn a person guilty of a misdemeanor to be whipped, fined, imprisoned, or required to wear some mark of dishonor. Moreover, in more serious cases, both officials could present suspects before criminal tribunals.

The captain's principal deputy in the maintenance of order afloat was the lieutenant. Possessing no ex-officio jurisdiction to punish offenders, the lieutenant functioned in a supervisory capacity similar to that of an eighteenth-century constable. His duty was to detect crimes and report them to the captain for adjudication. During his watch he was to remain continuously on deck to supervise the men in the performance of their tasks. He was to muster them frequently and provide the commander with the names of all who were absent from their stations. He was to be especially diligent in suppressing noise, confusion, and profanity among the ship's company.

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45 However the Regulations and Instructions of 1806 did grant the senior lieutenant limited authority to discipline in the absence of the captain: "He may put under arrest any officer whose conduct he shall think so reprehensible as to require it; and he may confine such men as he shall think deserving of punishment; but neither he, nor any other lieutenant who may become commanding officer, is to release an officer from his arrest, nor to release, nor punish, any man who has been confined, which is to be done by the captain only; unless he be absent from the ship with leave from the Admiralty, or from the commander in chief, in which case it is to be done only by the senior lieutenant commanding the ship in his absence (pp. 180-182)."
At night he was to see that the master at arms and the corporals kept peace below the hatches by patrolling the vessel at regular intervals.

After 1806 the Admiralty officially sanctioned the lieutenant's role as superintendent of a division of the ship's complement. Developed in the middle of the eighteenth century, the divisional system was employed on board individual vessels in a variety of forms, all of which had the common purpose of providing the captain with greater control over his crew by organizing the men into small manageable groups under the supervision of lieutenants and petty officers. The scheme eventually adopted by their Lordships was set forth in the Regulations and Instructions of 1806:

He [i.e., the captain] is, with the assistance of the officers, to divide all the ship's company, exclusive of the marines, into as many divisions as there are lieutenants allowed to the ship; the divisions are to be equal in number to each other, and the men are to be taken equally from the different stations in which they are watched. A lieutenant is to command each division; he is to have under his orders as many master's mates and midshipmen as the number on board, being equally divided, will admit: he is to sub-divide his division into as many sub-divisions as there are mates and midshipmen fit to command them under his orders, and he is to give the command of a sub-division to each of them. The lieutenants are to be attended [sic] to, and to be responsible for, every thing relating to the conduct of the men of the divisions they command. They are to attend to all their exercises; to examine into the state of their clothes and bedding; to see that they keep themselves as clean as the duty of the ship will admit; to prevent swearing, drunkenness, and every other immorality: they are to see that the master's mates and midshipmen are attentive to
the exercising and superintending of their sub-divisions, and they are to report to the captain whatever men they find ignorant, idle, dirty or profligate, that they may be instructed, exercised or punished as circumstances may require.46

Like the lieutenant, the host of warrant and petty officers serving on board a naval vessel were expected to inform the captain of any wrongdoing that they discovered. In this way, they all played a direct part in the enforcement of discipline. However, only two of these officers, the boatswain and the master at arms, were assigned specific disciplinary functions by the Regulations and Instructions. With the aid of his mates, the boatswain was to make sure that the crew discharged their duties "with alacrity and without noise or confusion."47 The master at arms was charged with much more extensive responsibilities. Assisted by the ship's corporals he was to make the rounds of the ship twice an hour "to prevent, or put to an end, all improper drinking, all quarrelling, rioting or other disturbances."48 He was to be present whenever another vessel came alongside the ship to thwart desertion and smuggling. And, on ships

46 Regulations and Instructions, 2nd ed., pp. 143-144.


48 Ibid., p. 375
which did not carry marines, he was to train sentinels and post them in appropriate places.

In most ships, however, there were marines to serve as sentries. Usually the captain placed several of these red-jacketed sea soldiers outside of his cabin and at important points below deck like the spirit room and the magazine. Yet the marines did not act simply as guards. During the French Revolutionary and Napoleonic Wars they were used routinely to put down disturbances among seamen. In his essay, "Some Naval Mutinies," David Hannay relates a "traditional exchange" which colorfully illustrates this role of the marines:

"What is the use of you lobsters?" said the bluejacket to the marine. "You don't know nothing, and you ain't no good." "The use of us," said the marine with solemn brevity, "is to keep you from mutineying." 49

Time and again during the turbulent years around the turn of the century they were called upon to suppress shipboard rebellions. 50 And, on the whole, they performed this unpleasant duty admirably. The members of the court martial which tried the mutineers of the Excellent, for example, were so impressed with the conduct of the marines


during the mutiny that they sent the commander in chief
the following memorandum:

The court is highly sensible of the active
exertions of the officers of His Majesty's ship
Excellent in quelling the late mutiny on board
her, and also of the officers, non-commissioned
officers and private marines of his Majesty's
ship Excellent who by their firmness in resisting
the attempts to seduce them from their duty and
in opposing men in actual mutiny have proved
themselves to be well deserving of the late
distinguished mark of his Majesty's favor.51

Indeed, the great disciplinarian, Lord St. Vincent, was
such a firm believer in the marines' value in maintaining
order afloat that years after the wars had ended he
claimed: "I never knew an appeal made to them for honour,
courage, or loyalty, that they did not more than realize
my highest expectations. If ever the hour of real danger
should come to England, they will be found the country's
sheet anchor."52

Such was the structure of naval discipline in the late
eighteenth century. Like the English criminal code, the
Articles of War created the framework for a "selective
system of terror" which was administered at both summary
and curial levels. And it is to the theory and practice
of curial proceedings that the second chapter is devoted.

51ADM 1/324. In April of 1802 George III granted
the corp the title "Royal Marines."

52Quoted in Major General J.L. Moulton, The Royal
Few institutions of the eighteenth-century Royal Navy have received less attention from modern historians than the court martial. Indeed, the only scholarly monograph treating naval tribunals to appear since the turn of the century is David Hannay's *Naval Courts Martial* which was published in 1914. However, Hannay was less interested in examining these tribunals as instruments of law, than in culling from the transcripts of the trials information that would shed light on various aspects of life at sea during the age of sail. As a result, his study tends to create the impression that courts martial were composed of men unlettered in jurisprudence who, through a nebulous sense of fair play, somehow managed to render "justice" in the majority of cases.¹

Since its appearance, Hannay's view of courts martial has enjoyed general acceptance by students of the Royal Navy. It has been echoed most forcefully in one of the more recent social histories of the fleet. In *Life in Nelson's Navy*, Dudley Pope cites several disparaging comments by Captain Frederick Chamier, the paucity of regulations establishing trial procedure and a supposed lack of text books on naval law as proof of the primitive nature of naval tribunals. In his opinion, "the system by which a seaman or officer was court martialled had much in common with an errant man brought before the elders of his tribe, who dispensed justice not from written precedents but on the basis of how it seemed to them."

Yet to equate naval courts martial to gatherings of tribal elders is to misinterpret them completely. Far from being amateurish assemblies of officers with little -- if any -- knowledge of legal forms and proceedings, these tribunals manifested many of the characteristics of

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2The author claims that there were not "any useful books on court-martial law and precedent until 1813, when John McArthur, who had been secretary to Admiral Lord Hood, wrote two volumes called *Principle and Practice of Naval and Military Courts Martial* (p. 242.)." In point of fact, the first edition of McArthur's work appeared in June, 1792. By 1813, it had been revised and expanded four times. Moreover, Delafons' *Treatise* was published in 1805. Thus for much of the period there were reference materials available.

the eighteenth-century British criminal courts. Not only did they pay remarkably close attention to the established judicial procedures of the day, they administered the law in much the same fashion as it was enforced on shore. In short, the principles and practices of the common law were applied to justice at sea wherever possible.4

Eighteenth-century naval jurisprudence was rooted firmly in the traditions of the common law. Beyond adapting many of the forms of the English legal system, it observed most of that system's conventions. No man could be brought before a court martial unless he was charged with specific crimes. Trials were held in public before an impartial panel of jurists to allow the prisoner the chance to confront his accuser in open court. All evidence was given viva voce in the defendant's presence which enabled him to dispute the statements of the prosecution's witnesses. Only facts relevant to the particular allegations against the accused were accepted as valid evidence by the court. When all the testimony

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Table 1
General Types of Crime Adjudicated by Courts Martial

<table>
<thead>
<tr>
<th>Category of Crime</th>
<th>N</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence/Desertion</td>
<td>120</td>
<td>25.2</td>
</tr>
<tr>
<td>Alcohol</td>
<td>43</td>
<td>9.0</td>
</tr>
<tr>
<td>Conduct Unbecoming an Officer</td>
<td>17</td>
<td>3.6</td>
</tr>
<tr>
<td>Disobedience</td>
<td>38</td>
<td>8.0</td>
</tr>
<tr>
<td>Disturbances/Uncleanness</td>
<td>13</td>
<td>2.7</td>
</tr>
<tr>
<td>Immorality</td>
<td>6</td>
<td>1.3</td>
</tr>
<tr>
<td>Insolence/Contempt</td>
<td>28</td>
<td>5.9</td>
</tr>
<tr>
<td>Loss of Ship</td>
<td>32</td>
<td>6.7</td>
</tr>
<tr>
<td>Mutiny/Sedition</td>
<td>60</td>
<td>12.6</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>31</td>
<td>6.5</td>
</tr>
<tr>
<td>Neglect</td>
<td>24</td>
<td>5.0</td>
</tr>
<tr>
<td>Property</td>
<td>31</td>
<td>6.5</td>
</tr>
<tr>
<td>Tyranny and Oppression</td>
<td>11</td>
<td>2.3</td>
</tr>
<tr>
<td>Violence</td>
<td>23</td>
<td>4.8</td>
</tr>
<tr>
<td><strong>Total N</strong></td>
<td>477</td>
<td></td>
</tr>
</tbody>
</table>

Source: Sample

had been heard, a decision was rendered by majority vote solely on the basis of what had been presented during the trial. Finally all guilty verdicts theoretically were subject to appeal and royal review.  

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5According to Delafons, defendants could appeal unfavorable verdicts to the King and his privy council. However, this was done very infrequently. Delafons, Treatise, pp. 25-27.
Like the procedure in criminal cases, naval due process accorded the defendant considerable protection. He could not be forced to incriminate himself; he could not be tried twice for the same crime; and he could not be prosecuted for any offense that was committed more than three years prior to the request for the trial. Moreover, witnesses for the prosecution could not sit as his judges even though their rank and seniority might qualify them to do so. Furthermore, the presumption that he was innocent until proven guilty was implied by the axiom that a court equally divided on the verdict resulted in automatic acquittal.

Indeed the only major difference between the two legal systems was the absence of a true jury composed of the defendant's peers at naval courts martial. Under naval jurisprudence the functions of judge and jury were combined in the body of officers who constituted the tribunals. As a result seamen and petty officers were denied their theoretical right at common law to be tried by a group of their equals. The denial of this basic right was based on the assumption that juries made up of men of lesser rank than commander would be likely to render verdicts that would subvert discipline and justice. As one eighteenth-century student of criminal law in the navy put it:

If the inferior officer be admitted on the trial of an inferior officer, why not a seaman or soldier on the trial of his brother seamen or
soldiers? And it is obvious to every person, acquainted with the practical parts of a naval and military life, that this measure would defeat the ends of its formulation, and, by a confederacy between the parties, that the power of punishment would be annihilated, and, subordination, the very soul of discipline, be destroyed. We must recollect too, that a jury so framed, would be in direct opposition to the principle of impannelling [sic] juries in our courts of law, where impartiality and disunion of interest are the leading features.6

Because naval law was subordinate to the common law, courts martial had a very limited jurisdiction. Only the offenses presented by the Articles of War were cognizable by naval tribunals. Moreover, with the exception of the provisions for spies contained in Article Five, these crimes had to be committed by members of the fleet "in actual service and in full pay" to be amenable to naval justice.7 Hence, although he had behaved in an "insolent and overbearing manner" to Rear Admiral Sir Samuel Hood on the night of 18 October 1803, Lieutenant Edward Tobyn could not be brought to trial because at the time the incident occurred Tobyn was on the half pay list employed as the second mate of a Guineaman anchored in


722 Geo II c 33.
Yet if only members of the fleet "in actual service and in full pay" were liable to courts martial, they could be forced to stand trial only for those offenses listed in Article Thirty-four (mutiny, desertion, or disobedience of orders) which were not violations of the criminal code when committed on shore in His Majesty's dominions or for infractions of the Articles of War perpetrated in areas where the common law did not have jurisdiction. As defined by the Consolidation Act of 1749, there were but two areas where the common law did not have precedence. The first was "upon the main sea, or in great rivers only, beneath the bridges of the said rivers nigh to the sea, or in any haven, river or creek within the jurisdiction of the admiralty." The second in compliance with Article Thirty-five was all places which did not acknowledge the sovereignty of the British monarch. Thus Barachias Glascott, John Plane, John Townsend, and Joseph Holmes of H.M.S. Winchelsea were tried on 22 April 1794 for stealing several hundred gold coins from a house on Guadaloupe because that island was not formally a British

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8ADM 1/324. Half Pay was a remuneration paid to commissioned officers and masters and surgeons when they were not on active duty. In effect, it was a retainer.

922 Geo II c 33. In cases involving the crime of murder another distinction was made. If the victim received his wound and died in an area beyond the jurisdiction of the common law, his murderer was tried by a court martial. However, if he either received his wound
However the case against Lieutenant John Butler, who was accused of conduct unbecoming an officer and a gentleman by an inhabitant of Bridgetown, Barbados, was dismissed by a naval tribunal on 6 September 1805 on the grounds that since Butler had been "upon the shore, on leave.... in His Majesty's dominions" when his alleged misbehavior had taken place the court was not authorized by the statute regulating naval justice to proceed against him.11

Finally, the jurisdiction of courts martial was restricted by the temporal limitation imposed by Section Twenty-three of the Consolidation Act. By that clause no member of the fleet could be tried for any offense that was committed more than three years prior to the submission of the formal letter of complaint containing the allegation. "Hence we perceive the wisdom and humanity of the legislature," wrote John McArthur, "in guarding against acts of oppression and malice, by keeping charges against any offender in reserve for too long a period, and afterwards bringing them forward collectively,

in His Majesty's dominions and died at sea or received his wound at sea and died in His Majesty's dominions, his killer was tried by the criminal courts. McArthur, vol. 1, pp. 276-278.

10 ADM 1/5331.

11 ADM 1/326, Cochrane to Admiralty, 10 September 1805.
when he may be deprived of the means of exculpation."\(^{12}\)

Although the maximum time limit was three years, often charges were dismissed if it appeared that they had been harbored maliciously for much shorter periods. Indeed it seems that the general unwritten rule was that letters of complaint were to be drawn up and submitted at the earliest possible opportunity if they were to lead to courts martial. For example, on 15 August 1805, Peter Devese, the boatswain of H.M.S. L'Africaine, formally accused his captain, Thomas Manby, of having used "oppressive language" when speaking to him on several occasions. However Manby was not brought to trial as a result of these allegations because a committee appointed by Sir Alexander Cochrane to investigate them ruled that the incidents had occurred too far in the past to warrant the assemblage of a naval tribunal. In the opinion of the committee, Devese's "complaints against Capt[ain] Manby being so long since as April and July 1803 and May 1804 ought long before the present time to have been represented as the ship has been often in port where if the boatswain really had occasion to complain, he might have done so."\(^{13}\)

Commanders in chief frequently employed such courts of inquiry to determine the validity of complaints or to

\(^{12}\)McArthur, vol. 1, p. 263.

\(^{13}\)ADM 1/326.
resolve disputes between officers that did not entail violations of the Articles of War. Usually these courts were called to examine only particularly complex questions. Assembled by the authority of the commander of the station, they investigated cases and assessed the probable guilt or innocence of the parties involved. However, they could render no legally binding verdict based on their assessment nor could they inflict any punishment. All they could do was advise the commanding officer whether or not there were sufficient grounds for a cause to be brought before a naval tribunal. Thus they functioned in much the same capacity as a grand jury. As John Delafons put it: "Courts of inquiry may be described as in some degree similar to grand juries, who are convened in order to decide on the truth of a bill of indictment.”

Since none of the Acts regulating naval jurisprudence provided for them, courts of inquiry had no statutory basis. Nevertheless, it had long been customary to convene them and it was from this tradition that their legitimacy derived. Despite their questionable constitutional position, such courts were very popular with the commanders of foreign stations because they provided a convenient means to avoid many of the problems associated with naval tribunals. According to John

14 Delafons, pp. 57-58.
McArthur, "the original intent of them appears to have arisen from a lenient wish not to give unnecessary trouble, either to the person whose conduct is the subject of enquiry, or to the assemblage of members necessary to compose a court martial and which assemblage might sometimes cause delays, highly injurious and detrimental to the service."15

As extra-constitutional devices, courts of inquiry were much less formal than naval tribunals. Generally they were composed of from three to five officers depending on the complexity of the case under examination. Like the members of courts martial, these men heard the facts relevant to the cause presented orally in their presence. However they were not encumbered by the procedural guidelines adhered to at nautical trials. Witnesses did not give their testimony under oath. Moreover those with knowledge of the matter in question could not be forced to relate what they knew about the charge. So relaxed were the rules governing the conduct of courts of inquiry that Delafons claimed that it was well within the power of an inquest to deny the defendant the right to confront his accuser.16

When a court had gathered what it considered to be

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16Delafons, pp. 46-47.
enough evidence upon which to base a recommendation for or against a trial, it concluded its proceedings and reported its findings to the commanding officer of the station. The reports submitted by courts of inquiry varied greatly in both content and detail. Some offered painstakingly clear pictures of the evidence which led them to their conclusions. The memorandum exonerating Captain Edward Scobell of any criminal involvement in the death of a troublesome former French slave on board the Vimiera on 22 September 1809, for example, contained several letters from that sloop's doctor, the opinion of a committee of surgeons charged with determining the cause of the unfortunate freedman's demise, and Scobell's lengthy explanation of the events surrounding the incident. Others merely consisted of a terse statement of the inquest's judgment. The report of an inquiry into allegations against one of the lieutenants of a third rate ship of the line on 2 October 1804, for instance, declared simply:

The court, in pursuance of orders from Commodore Hood Commander in Chief etc, etc, etc to us directed, dated the 7th September 1804, proceeded to enquire into the conduct of Lieutenant Howard of His Majesty's Ship Centaur, on charges exhibited against him by John Baldwin, private marine of the said ship and having examined with attention the different witnesses are of opinion that the charge is

17 ADM 1/331. Because courts of inquiry were informal bodies, minutes of the testimony given before them were not required and seldom kept.
totally unfounded and that there is not the least ground for a court martial.18

While courts of inquiry could recommend that members of the fleet be brought to trial, they had no authority to convene naval tribunals. During his tenure of office, only the commander in chief had the jurisdiction to assemble courts martial on foreign stations. Moreover the standard warrant from the Admiralty commissioning him to do so granted him considerable discretionary power in calling them. Every license to hold naval tribunals issued to the various admirals who presided over the Leeward Islands station between 1784 and 1812 began with the following clause: "For the better maintaining a proper government and strict discipline in the squadron under your command, we do hereby authorize and empower you to call and assemble courts martial as often as you shall see occasion."19 Therefore, the commanding officer was free to accept or reject petitions for trials at his pleasure -- even if they were endorsed by the recommendations of courts of inquiry.

In the absence of the commander in chief, this tremendous authority was assumed temporarily by the senior officer remaining on the station. Section Seven of the Consolidation Act of 1749 specifically provided that

18ADM 1/5367.

19ADM 2/117.
in the event of his death, recall, or removal the officer upon whom the command devolved was to have "the same power to call and assemble courts martial as the first commander in chief of the said fleet or squadron was invested with." Thus, when Rear Admiral Sir Richard Hughes returned to England in June 1786, Horatio Nelson, as ranking member of the fleet in the Leewards though only a twenty-seven year old post captain at the time, exercised the jurisdiction to convene naval tribunals until Hughes' replacement arrived in the West Indies.

In addition to making allowance for the absence of the commander in chief from the station, the statute regulating naval jurisprudence stipulated several other special situations in which courts martial might be called by his subordinates. Should five or more ships happen to meet "in foreign parts," the ranking officer had the authority to convene tribunals for the duration of the rendezvous. Furthermore Section Eight of the Act enjoined the commanding officer of a foreign station who detached any part of his flotilla "to impower the chief commander of the squadron or detachment so ordered on such separate service (and in case of his death or removal, the officer to whom the command of such separate squadron or detachment [devolved]) to hold courts martial during the

20 Geo. II c 33.
time of such separate service."  

However, commanders in chief or those designated to act in their stead had no legal authority to determine the composition of the judicial bodies they convened. All naval tribunals were to consist of no more than thirteen or no less than five members. Within this range, the actual number of men who heard a given case was to be equal to the sum of flag officers and post captains who were "next in seniority" to the president of the court and who were at hand to be empaneled at the place where the trial was to be held.  

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21 Ibid.

22 Occasionally circumstances were such as to give rise to some confusion about conforming with the letter of these regulations. One instance occurred on the Leeward Islands station in 1794 while the reduction of Martinique was in progress: "At Fort Royal, during the siege of Fort Bourbon, several courts martial were assembled on board the Vengeance, Commodore Thompson; some on subjects of small moment, but others on crimes of a very serious nature: doubts arose about the legality of those courts; as none were summoned to sit, or did attend to take their seats, but the captains of such ships as were at Fort Royal; which were the Vengeance, the Irresistible, the Boyne, the Veteran, and the Asia; the commodore being president. But the objections were overruled: and, as little doubt was made that the strictest justice would attend the decisions of the court (though not composed strictly according to law), and as the exigencies of the service would not have made it very wise to call from their duties the captains of the different ships, who were detached from the flag, (though in sight at Cul de Sac, Cohe, and at Case Navire) the courts were holden without farther delay." A Naval Officer, "Journal of the Proceedings of a Squadron of his Majesty's ships, under the Command of Sir John Jervis, K.B. employed in conjunction with a Body of Troops, under the Command of Sir Charles Grey, K.B. to reduce the French colonies in the Leeward Islands, 1794 and 1795," Naval Chronicle 18 (1807): pp. 45-46.
possibility of a packed court still further, the thirteenth clause of the statute regulating naval discipline expressly declared: "That nothing herein contained shall extend, or be construed to extend, to authorize or impower the lord high admiral, or the commissioners for executing the office of lord high admiral, or any officer impowered to order or hold courts martial, to direct or ascertain the particular number of persons of which any court martial, to be held or appointed by virtue of this present act, shall consist."\(^{23}\) In short, no qualified officer could be denied his seat at a naval tribunal arbitrarily.\(^{24}\)

Nevertheless, there were legitimate instances when senior officers could be passed over in favor of their juniors. The most obvious of these was "in case of sickness or other extraordinary and indispensable

\(^{23}\)22 Geo. II c 33.

\(^{24}\)While no court martial convened on the Leeward Islands station between 1784 and 1812 was composed of less than five members, most did not exceed the requisite minimum number. A random survey of fifty tribunals reveals that forty of them consisted of five officers, four consisted of six officers, five consisted of seven officers, and one consisted of eleven officers. Moreover, it should be noted that the number of judges constituting a court was not a function of the seriousness of the case to be adjudicated. Whereas the trial of the mutineers of the Excellent was held before five captains on 27-29 December 1802 (ADM 1/5362), the fate of Peter Ross, a seaman belonging to H.M.S. Arethusa who was accused of desertion, was decided by eleven commanders on 14 April 1796 (ADM 1/5335).
occasion." Any potential member of a tribunal wishing to be released from his judicial duty was required to petition the president of the court for a dispensation prior to the commencement of the trial. And, in matters of infirmity, the invalid's reason for not attending and its verification by a naval doctor were to be included in the minutes of the proceedings of the court martial. Hence, prior to the examination of witnesses for the prosecution at the trial of three officers of H. M. Sloop Hawke on 18 July 1798, Robert Christie, surgeon of the Prince, was called to testify that his captain, Adrian Renou, had "Admiral Harvey's leave of absence to go into the country on account of bad health" and thus was unable to hear the case.

At the same time the defendant had a very circumscribed right to challenge prospective members of naval courts martial. According to both editions of the Regulations and Instructions a ranking officer was to be disqualified without exception from sitting on a tribunal if he had a vested interest in the case to be tried.27

"Here we again discover the wisdom and precaution of the

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2519 Geo. III c 17 sec. 2.

26ADM 1/5345.

27Regulations and Instructions, 1st ed., pp. 4-5; Regulations and Instructions, 2nd ed., p. 405.
common law closely adhered to;" observed McArthur, "it being an unalterable rule of law, that no man can sit as a judge in his own cause." Similarly, no officer who had served on a court of inquiry could adjudicate issues resulting from that particular court's findings. As Delafons pointed out, this was entirely consistent with the practice followed at criminal proceedings. Drawing the analogy, he remarked: "no indictor, or grand juror, can be put upon a petty jury, for the trial of the same cause, if challenged by the prisoner so indicted; nay, if one of the indictors be returned upon the petty jury, and does not challenge himself, he is liable to be fined." 

That the right of challenge was extremely restricted and very infrequently exercised in the eighteenth-century Royal Navy was due in large part to the limited number of qualified officers usually available at any given location to hear a case. Under such circumstances a liberal power to contest potential members could have resulted in a fatal paralysis of the whole system of justice. This was especially true on foreign stations, where, as it was, trials often were postponed for considerable periods for want of the minimum number of captains and commanders required to make a quorum. For example, Edward Davis, the

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29Delafons, p. 123.
master of H. M. Sloop *Scorpion*, spent nearly seven months in confinement before he was dismissed from the service on 4 August 1788 for neglect of duty, disrespect, drunkenness, and unofficer-like behavior.\(^{30}\) It was precisely to avoid a similar delay that Rear Admiral Cochrane ordered the trial of Captain Edmund Heywood, the officers and crew of H. M. S. *Astrea* for the loss of that vessel to convene in Carlisle Bay, Barbados on 11 June 1808 instead of returning these men to the Jamaica station to face a tribunal at Port Royal. "It was my intention to have sent the whole to Jamaica to be tried by a court martial there;" he explained to their Lordships, "but Captain Heywood having represented to me that there were seldom five ships assembled together at that Port, I thought it would be proper and more convenient for the service that he [sic] should be tried here."\(^{31}\)

\(^{30}\)ADM 51/873.

\(^{31}\)ADM 1/324. Section Fourteen of the Consolidation Act reduced the difficulty of convening courts martial on foreign stations to some extent; but it did little to eliminate the problem. By that clause the president of a court, held at a place where at least five post captains could not be assembled, was authorized to empanel a maximum of two commanders below the rank of post captain to make the requisite minimum — provided that the other three members of the tribunal were "of the degree and denomination of a post captain or of a superior rank." 22 Geo. II c 33. However, as long as the number of officers eligible to hear cases remained so narrowly restricted, postponement of trials was inevitable. As "Britanicus" remarked in a letter to the editor of the *Naval Chronicle* soon after the end of the Napoleonic Wars: "...it is quite obvious, that with such a reduced force as we at
It was not without good reason then that courts martial on the Leeward Islands station tended to be held in clusters. For the sake of convenience, cases awaiting trial usually were handled successively at roughly the same time. A survey of the surviving Reports of Courts Martial reveals that of the 362 individuals whose cases were adjudicated in the Leewards from 1784 to 1812, 240, or eighty-one percent were heard within forty-eight hours of someone else's. During a six-day period in June 1801 ten members of the fleet, who had been arrested separately, were brought to trial for a variety of offenses ranging from drunkenness to desertion. Moreover, in many instances men who stood accused of conspiring to commit the same crime were tried jointly. Thus the three seamen charged with participating in an attempted mutiny on board the Garland collectively met the tribunal called to deal with the affair on 25 November 1800.

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present have on foreign stations, it must be a matter of extreme difficulty very often to bring a sufficient number of captains together: on the Leeward Islands station, for instance, there are only seven; and how very seldom can five of these be expected to be at Barbados, Antigua, or any other rendezvous." Naval Chronicle 37 (1817): p. 302.

32ADM 1/5356.

33ADM 1/5354. Trial of Thomas Gallaspie, Matthew Morrison and Peter Hook.
Once convened, courts martial were governed by a very formal procedure. At the commencement of every trial the order for assembling the tribunal was read publicly by the officer appointed to serve as judge advocate. After reciting his warrant to act as such, he then administered the following oath individually to each member of the court:

I A. B. do swear, that I will duly administer justice, according to the articles and orders established by an act passed in the twenty-second year of the reign of his majesty King George the Second, for amending, explaining, and reducing into one act of parliament, the laws relating to the government of his Majesty's ships, vessels, and forces by sea, without partiality, favour, or affection; and if any case shall arise, which is not particularly mentioned in the said articles and orders, I will duly administer justice according to my conscience, the best of my understanding, and the custom of the navy in the like cases; and I do further swear, that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court martial, unless thereunto required by act of parliament.  

When he had sworn in the last member, the judge advocate, in turn, vowed not to "disclose or discover the vote or opinion of any particular member of this court martial, unless thereunto required by act of parliament."  

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34 22 Geo. II c 33 sec. 16.

35 Ibid.
During the course of a trial, the judge advocate performed many functions. In addition to administering oaths to both the members of the court and the witnesses called to testify, he was to take minutes of the proceedings in writing and "read the same to the court in his hearing" so that errors could be amended, "advise the court of the proper forms," render an opinion on any problems encountered during the trial, and direct the deliberations on the verdict and sentence. In a word, he coordinated the activities of the tribunal and ensured that they were conducted according to accepted legal practice. As McArthur so aptly described his role: "The judge advocate may be said to be the primum mobile of a court martial, as not only impelling it to action, but as being the person on whom, in great measure, depends that harmony of motion so necessary to constitute a regular court."36

Naturally the men who acted in this capacity were expected to be well versed in naval law -- particularly on foreign stations where courts frequently were composed of junior officers with little judicial experience. Usually those who performed the duties of a judge advocate were either the secretaries of the various commanders in chief.

or senior pursers with a reputation for being knowledgeable about the principles and practices of military tribunals.\textsuperscript{37} Often the man appointed to fulfill this office held the position for a considerable time. In the Leewards it was not uncommon for him to serve for several years. William Balhetchet, for example, remained the station's judge advocate for almost half a decade.\textsuperscript{38} Thus, although individual officers may have lacked extensive legal training, they were not bereft of counsel.

Having taken his oath, the judge advocate thereupon read the letter of complaint containing the charge or charges against the prisoner. This letter was analogous to an indictment at criminal proceedings.\textsuperscript{39} Hence it was to be drawn as precisely as possible to enable the person on trial to prepare his best defense. It was to state clearly the offense with which the prisoner was accused and the specific time and place at which the alleged infraction had occurred, "particularly so the defendant could claim an alibi."\textsuperscript{40}

\textsuperscript{37}Delafons, p. 155.

\textsuperscript{38}ADM 1/333.

\textsuperscript{39}McArthur, vol. 2, p. 6.

\textsuperscript{40}Regulations and Instructions, 1st ed., pp. 4-5; Regulations and Instructions, 2nd ed., p. 405; McArthur, vol. 2, pp. 7-8.
Vague or inaccurate charges routinely led to the dismissal of a case. Errors discovered in letters of complaint constituted an important grounds for acquittal at naval courts martial on the Leeward Islands station in the later eighteenth century. For example, because Captain William Roberts's petition against Lieutenant Michael Raven simply accused him of "sleeping on his watch," the tribunal assembled to try the cause on 9 June 1810 ruled:

that in consequence of the 2nd Article of the 2nd chapter, section 12 under the head of Courts Martial, in the General Printed Instructions, the court was not authorized to proceed to trial: as it is there directed that 'All representations or complaints intended as the foundation of a court martial are to be made in writing, setting forth the particular facts when and where, and in what manner the same were committed.'

Similarly, Daniel Brennan, the gunner of the Madrass, was acquitted of a charge brought against him by Captain John Dilkes of "having in breach of the 23rd Article of War violently struck Mr. George Dall" on the night of 25 August 1797, when it was established by the court that the incident in question had occurred ten days earlier than the date Dilkes claimed it had.

Of the sixty-eight men found innocent by tribunals in the Lesser Antilles during the period under discussion, six, or approximately nine percent, were exonerated because of inaccuracies in the indictment.

ADM 1/5406.
ADM 1/5343.
The only instance in which inaccuracies in the letter of complaint did not result in the dismissal of a case was that of misnomer. As at the common law, if either the christian or surname of the defendant or victim was given erroneously in the indictment, then a new warrant was to be drawn up on the same charge and the trial was to proceed *de novo*.

Of course, it goes without saying that this mistake was made very infrequently. In fact, there is but a single example of it to be found among the surviving courts martial records from the Leewards during the period under discussion. On 18 June 1806, Rear Admiral Cochrane ordered Captain John Harvey to assemble a tribunal to adjudicate the causes of two seamen accused of participating in the mutiny of the *Dominica* armed sloop. In this order he listed the men's names as William Proctor and William Manson. However during the first day of the trial, it was discovered that neither of the prisoners was called William. According to the *Dominica's* muster book Proctor's forename was Henry and Manson's was John. When informed of his error, Cochrane consulted the Attorney General of Barbados who advised him that consonant with criminal proceedings the defendants could still be brought to justice. Thereupon the Admiral amended the original warrant, the court reconvened, and Proctor and Manson

subsequently were convicted and sentenced to death.\footnote{ADM 1/5374.}

After the letter of complaint had been read, the tribunal began the examination of witnesses. The invariable practice at courts martial was to call all persons in support of the charge followed by all those against it. Every deponent testified individually under oath before the entire audience, so that witnesses' "exceptions... [could] be publicly stated, and openly and publicly allowed or disallowed by the court."\footnote{Delafons, p. 227.} If his testimony was to be given in favor of the accusation, the attestant was examined first by the prosecutor, if any, then by the court, and finally by the defendant. If he was summoned to discredit the allegations he was questioned in exactly the opposite order.\footnote{Both sides had the prerogative to muster as many attestants as they pleased. However, it was potentially dangerous for the prosecution to subpeona a large number of witnesses. As McArthur cautioned: "it would be to no good purpose to call too many to establish the same facts, as this could only tend unnecessarily to protract the trial, and perhaps ultimately to elude the justice of the case." McArthur, vol. 2, p. 107.}

Like the criminal courts, naval tribunals relied primarily on parole evidence. As a general rule oral testimony given openly in the presence of the prisoner was preferred to declarations taken privately in long hand and read at the trial. It was an axiom of both naval and

\footnote{ADM 1/5374.}

\footnote{Delafons, p. 227.}
common law that verbal disclosures were a much more effective means of attaining the facts of a case than were the written depositions used at continental proceedings. Not only was this method deemed a protection against false witness, but it was seen as a guarantee of the defendant's right to challenge his accuser. So firmly imbedded in naval jurisprudence was the practice of viva voce testimony that, except in the most unusual of circumstances, courts martial refused to accept the sworn affidavits of people unable to appear before the tribunal. For example, the assembly convened on 15 March 1804 to try Lieutenant James Edward Smith of His Majesty's Brig Express for the death of an inhabitant of Trinidad ruled that the "sundry depositions" recorded by the Alcalde of that island could not be introduced as evidence "as the persons of the deponents were not in court to attend the trial and of course could not be confronted with the prisoner, and which depositions would if admitted have deprived the prisoner of the right which every British subject has: that of interrogating each witness respectively."

During their examination witnesses were required to state only the facts relevant to the particular case under adjudication. Sworn to tell "the truth, the whole truth


49 ADM 1/5365.
and nothing but the truth," they were to be as precise in their testimony as possible. To the best of their knowledge, they were to describe in detail the actions perpetrated by the defendant and to quote the exact words he had spoken. "Whatever is given in evidence must be the very fact or point at issue, either on one side or the other, and no other evidence ought to be allowed;" observed Delafons, "nor should collateral matter be introduced, unless conducive or introductory to the main point."50 In short, attestants were expected to confine their remarks to the specific incident in question and to relate to the court all they knew about it regardless of whether this proved to be favorable or unfavorable to the cause of the party by which they had been summoned. Representative of this style of interrogation is the following exchange between the prosecutor and David Campbell during the trial of Commander William Ferris, who stood before a tribunal on 15 June 1803 accused of cruelty and oppression to the purser of the Drake:

Prosecutor - Do you recollect hearing Capt[ain] Ferris tell me, 'I was embezzling the king's money, and that he might as well trust it to the care of a thief?'

Answer - I recollect the former, but not the latter part of that speech.

Prosecutor - Do you recollect hearing, at the same time, Capt[ain] Ferris say,

50Delafons, p. 212.
that 'he would wring my nose!,' exclaiming, "If I had been Mr. Brown, I would have run you through," and ask Mr. Brown 'why he did not'?

Answer - I recollect hearing him say, "was it not for degrading the rank I hold," (or words similar) "I would wring your nose." I recollect hearing the words, 'run through' spoken by Capt[ain] Ferris, but do not recollect any thing further.51

To insure that they obtained the facts of a case, naval tribunals adopted the methods of inquiry followed at criminal trials. The interrogation of each witness was divided into two stages. In the initial phase, which was known as "the original examination" or "the examination in chief," the attestant was questioned by the party who had called him in its behalf. During this inquisition the examiner was not to pose leading questions which were phrased in such a manner as to indicate a desired response.52 Therefore, the prosecutor, for example could not ask someone testifying in support of the charge: "Did you not see the defendent do such and such?" or "Did you not hear the prisoner say this or that?" for, by including the word "not" in his query, he was prompting an affirmative reply. And, on the whole, courts were scrupulous in observing this convention. A random sample

51ADM 1/5363.
of the transcripts of fifty trials reveals that it was violated at only five tribunals.

When the person who had summoned the witness had received an answer to his last question, the interrogation entered its second phase which was termed "the cross-examination." In this stage the party not calling the attestant and the members of the court had the opportunity to probe the veracity of the statements made in the original examination. During the cross-questioning, the inquisitor was free to couch his queries in whatever grammatical construction he chose. "The prisoner in cross-examining the witnesses produced in support of the charge, the prosecutor in cross-examining those in behalf of the accused, and the members of the court in examining either," explained McArthur, "can with propriety frame their questions with the negative particle not, and even blend them with collateral circumstances connected with the fact under investigation, so as the answers extracted from the witness may go to the whole truth, with every extenuation or aggravation of the offense."

Hence, at his trial for contempt, disobedience and quarreling on 1 May 1796, defendant Henry Bayley was well within the bounds of acceptable practice in asking Samuel Whiteway: "Have you not said that

\[53\text{ibid., p. 42.}\]
Lt Pitman since this business has happened desired you to say to the court martial that you must say such and such things, which you then said you did not recollect.  

Any attestant daring to impede the discovery of the truth was liable to the judgment of the court. Consonant with the criminal code, the Consolidation Act of 1749 gave naval tribunals the authority to punish witnesses who lied during their testimony, refused to render their evidence, or willfully distorted it in an attempt to pervert the ends of justice. By Section Seventeen of that Act those guilty of the first two offenses were subject to up to three months imprisonment, while those perjuring themselves could "be prosecuted in his Majesty's court of King's Bench by indictment of information" under the various criminal statutes against false witness.

From the few instances found in the Reports of Courts Martial on the Leeward Islands station between 1784 and 1812, it appears that these crimes were treated with the utmost legal severity. In every one of the six cases the maximum sentence was applied. For example, Thomas Moss was condemned to ninety days confinement in the Marshalsea prison for refusing "to give his evidence" during the trial of a member of the Excellent's carpenter's crew for

54ADM 1/5336.

5522 Geo. II c 33 sec. 17.
mutinous expressions on 12 August 1802. Similarly, on 23 October 1800 Thomas Morris, William Brown and George Spence of H.M.S. Hydra, having equivocated "grossly" when called to testify on behalf of a seaman accused of striking his superior officer, each received three months incarceration.

Following the interrogation of the last witness in support of the allegation, the prisoner began his defense. To enable the accused to plead his cause as best he could, the revised Regulations and Instructions of 1806 stipulated that he was to be notified formally in writing of the charges against him "not less than twenty-four hours before the trial." Moreover, if this proved to be too short a time for him to prepare himself adequately, it was customary for the court to adjourn the proceedings upon his request. As a case in point, Captain William Combe was granted a three-hour adjournment on 6 November 1807 to organize the evidence on his behalf against accusations that he had not done his utmost during an engagement with a French corvette. In a word, the defendant was given every reasonable opportunity to exculpate himself.

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56 ADM 1/5362. Trial of John Barry.
57 ADM 1/5354. Trial of Thomas Gayner.
58 Regulations and Instructions, 2nd ed., p. 405.
59 ADM 1/5384.
Generally the rigour with which an individual defended himself depended primarily upon the specific circumstances of his case. If his guilt seemed manifestly obvious, normally he did not address the charge directly. Instead he introduced collateral material intended to mitigate the severity of his sentence; or he simply threw himself upon the mercy of the court. For instance, seaman Charles Coleman of H.M.S. Excellent, who was tried for quarrelling and fighting on 6 July 1802, informed the tribunal at the beginning of his defense that he would "not take up much of your time in attempting to do away what has come out in evidence" and simply reminded his judges of his advanced age and more than thirteen years of service in the Royal Navy before soliciting character references from several of his officers. However, if it appeared that the prisoner could vindicate himself by pleading his cause strongly or if he was on trial for a particularly heinous crime carrying with it an almost certain death penalty, then he routinely attempted to challenge the testimony brought forward by the prosecution. Thus, Captain Edward Woolcombe of the Hippomenes sloop, who was acquitted of "wasteful expenditure of His Majesty's stores" on 24 January 1807, presented a detailed

60ADM 1/5362. The solicitation of character references by defendants was a common practice at criminal trials as well. Beattie, Crime and the Courts, pp. 440-449.
explanation of his actions and the reasoning behind them and recalled several of the prosecutor's key witnesses for rather lengthy examinations.61

Yet if defenses varied according to the circumstances of the individual case, they did not correspond to the prisoner's rank or level of literacy. Several of the strongest rebuttals made at the trials held in the Leewards during the period under discussion were presented by illiterate seamen; some of the weakest were offered by commissioned officers. For example, Robert Joblin, who was acquitted of "uncleaness and making an unnatural attempt on the person of Joseph Saxby" on 12 August 1808, called eight witnesses on his behalf and had the judge advocate read a prepared statement for him -- even though his deposition was signed with "x his mark."62 Lieutenant Michael Mackey, on the other hand, went no further in defending himself against a charge of "drunkenness and ungentlemanly behavior" on 29 July 1799 than to express "most fervently" his hope that "one act of misconduct" would not ruin his otherwise unblemished career.63

That men of poor education or low rank were not handicapped in defending themselves was due in large part

61ADM 1/5377.
62ADM 1/5388.
63ADM 1/5350.
to the safeguards accorded the prisoner by naval jurisprudence. One of the most important of these protections was the custom of allowing the defendant to receive legal advise during his trial. "It is .... the practice at courts martial," McArthur observed, "to indulge the prisoner with counsel or at least amici curiae (or Friends of the Court), who may sit or stand near him, and instruct him what questions to ask the witnesses, with respect to matters of fact before the court..." It goes without saying that a skilled counselor could be of inestimable value to the party on trial. For instance, it was the good fortune of Charles Claridge of the Ariade to have his ship's doctor act as his advisor when his case came before a tribunal on 6 August 1796. According to a young officer familiar with the case, "the surgeon being a talented man, drew up the defence (sic), which proved an able one: and when the court heard all the charges against Claridge, who was only an Acting Master, they were astonished at such being made. The proceedings dropped to the ground..."

Moreover, if the accused elected to be solely responsible for his own defense, the court itself was

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obliged to supply him counsel. Delafons was quite adamant about this point. In his view, the president of the court was to advise the defendant whenever the occasion arose. "He it is" claimed the author, "who never omits to admonish him as to the propriety or impropriety of the questions he prefers; who interferes to prevent him from unnecessary self-crimination; who faithfully directs him both to with-hold or withdraw those precipitate discoveries, either by question or reply, which might contribute to his personal injury."\(^6^6\) And, apparently, presiding officers took these duties seriously. Thus the tribunal assembled in Fort Royal Bay, Martinique on 27 March 1797 to adjudicate the case of a young marine indicted for creating a violent disturbance on board the *Eurus* decided to delete the testimony of three witnesses he had called in his favor from the official transcript of the trial because "the narrative they had entered into respecting the charge against the prisoner tended rather to criminate than acquit him."\(^6^7\)

When all the evidence both for and against the charge had been heard, the court was cleared and the tribunal began its deliberation on a verdict. After the assembly had weighed carefully all the testimony presented at the

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\(^{6^6}\)Delafons, p. 167.

\(^{6^7}\)ADM 1/5338. Trial of Martin Keane.
trial, the judge advocate, progressing in ascending order from the junior most officer to the president of the court, asked each member the principal question: "Are you of the opinion that the charge against the prisoner is proved or not proved?" As at common law proceedings in which more than one justice sat, this issue was decided by a simple majority of voices. Hence, if more than half of those canvassed voted against the defendant's cause he was found guilty. Conversely, in the event that the greater number ruled in his favor, he was acquitted.

Having reached a verdict, the tribunal acted upon it accordingly. It goes without saying that all members of the fleet found innocent of the charges brought against them were acquitted automatically. In such instances, the court simply reopened and announced its decision. Because courts martial were held to be "courts of honor" as well as judicial bodies, it was customary to couch statements

68McArthur, vol. 2, p. 261. This question was posed to the junior members first to prevent their decisions from being influenced by those of their senior officers.


70However, if the court remained equally divided following a second poll, then a "favorable construction" was to be applied. Regulations and Instructions, 2nd ed., p. 409. As Delafons explained: "Since it requires a majority of voices to condemn, an equality should of course acquit; as it neutralizes the opinion of the judges, who can come to no decision." Delafons, p. 247.
exonerating officers (but not seamen) in the strongest possible language to preserve the defendant's good name and free him from the onus of any wrongdoing. As Delafons put it: "The word unanimous is frequently inserted in sentences of acquittal, in order to give greater energy and weight in restoring the officer to the good opinion of his country, and efface the stain, or tarnish, his reputation might have suffered from the accusation brought against him; from which he is honorably acquitted." 71

Moreover, in the event that the allegations proved totally unfounded, it was not uncommon for tribunals to express their disapprobation of the plaintiff's motives. In "most honorably and unanimously" absolving Captain Richard Matson of having committed "crimes highly scandalous and detestable," for example, the court on 18 July 1799 indignantly described the complaint against him as "malicious, malignant, groundless and vexatious in the fullest extent." 72

If, on the other hand, the defendant was judged to be guilty as charged, the court then considered the type of disciplinary action to be taken against him. In many cases this decision was predetermined by the law, for a substantial number of the offenses proscribed by the Articles of War carried mandatory penalties. For example,

71Ibid., p. 279.
72ADM I/5350.
a judicial body had no recourse but to condemn to death a man convicted of murder. Similarly, all officers deemed to have signed false musters were to "be cashiered and rendered incapable of further employment in his Majesty's naval service." In such instances, all that the court could do to ameliorate the sentence, if it so desired, was to indulge in a practice frowned upon by the Admiralty of including any mitigating circumstances in its report which in its opinion made the prisoner a fit object of mercy. Thus, although the tribunal that heard Lieutenant Michael Mackey's case on 29 July 1799 found him guilty of a breach of the thirty-third Article and therefore had no alternative but to dismiss him from the Royal Navy, it expressed its belief that in consequence of his long servitude and....many wounds" he be "allowed to enjoy Half Pay."73

However, not all of the Articles of War levied mandatory penalties. Indeed most of them left the variety and extent of the disciplinary action to be taken against a guilty party to the discretion of the tribunal. Therefore, in adjudicating cases in which the defendant was found to have violated one or more of these clauses, the court was obliged to resolve additional questions before it could pass sentence. Simply stated the issues

73ADM 1/5350.
to be decided were: "'Is the offence capital?' -- if not so, 'what is the quantum, nature, or degree of punishment, to be inflicted?'" Like the verdict, both points were determined by a majority of voices. Yet due to the silence of the laws regulating naval jurisprudence on this matter there appears to have been some confusion about who was to be allowed to vote on them. Delafons argued that only those opting to convict the prisoner were to establish the penalty. Taking the opposite view, McArthur claimed that all members -- regardless of their opinion of the principal question -- were entitled to participate in the decision. Unfortunately it is impossible to estimate with any accuracy which of the two methods enjoyed a wider acceptance because the transcripts of naval trials uniformly and intentionally concealed the deliberations of every tribunal from public knowledge.

Whatever method they used to fix the sentence, naval courts martial were to be certain that the punishment fit the crime. The Articles of War were very emphatic about this point. Time and again they contain clauses cautioning tribunals to impose only such penalties "as the nature and degree of the offense" warranted. As a

74Delafons, p. 270.
75Ibid.
77See Chapter One, pp. 7-11.
result, the sentences given to commissioned officers were usually very different from those meted out to members of the lower deck. Delafons explained the dissimilarity in the following manner:

Considerable distinction should obtain in the mode of inflicting punishments of an inferior kind, on officers and seamen: what may be regarded as a slight penalty inflicted on the one, would be considered as of great magnitude to the other. Habits and education create essential differences in the minds and manners of men. To dismiss an officer from his Majesty's service, would be esteemed a heavy punishment; whereas a common sailor would look upon it, in many cases, as a favor conferred upon him. Corporal punishment, which seldom operates on the feelings of a common seaman or soldier, must affect a petty officer (such as a midshipman), so sensibly, if he has the sentiments of a gentleman, as to render his future life a burden to him.78

Once the verdict had been reached and the sentence fixed accordingly, the decision was drawn up in writing and signed by each of the justices in conformity with the Regulations and Instructions. The court then reopened and the audience and the defendant were readmitted to hear the pronouncement read publicly by the judge advocate. Thereupon the proceedings concluded and the tribunal was dissolved. Prisoners found innocent were freed immediately. Those found guilty were placed in the custody of the provost marshall until the time set by the commander in chief for their punishment.

78Delafons, pp. 271-272.
At the conclusion of the trial the judge advocate was "to send the original sentence, and an attested, copy of the minutes of the evidence and proceedings of the court, to the Secretary of the Admiralty, by the first opportunity." These documents were collected and stored in Whitehall where they could be consulted by their Lordships at a later date if the need arose. Because of the tremendous bearing the judgment of a naval tribunal had on an officer's career, the Board was particularly attentive in noting the decisions rendered at the courts martial of men who walked the quarter deck. The names of all convicted warrant and commissioned officers, their crimes and the sentences they received were entered in a compendium known as "the Black List." Arranged chronologically by rank, this list was intended to provide an easily accessible reference guide for the Navy's subsequent dealings with those on it.

Despite their Lordships' diligence in gathering and preserving the records of tribunals, some transcripts inadvertently were lost. Either through the negligence of judge advocates, maritime disaster, or clerical oversight,

80See ADM 1/323, Duckworth to Admiralty, 10 November 1801.
81ADM 12/27.
minutes occasionally failed to find their way into the repository at the Admiralty building in London. While such losses had little, if any, effect on the lives of average seamen, they could have a devastating influence on the fortunes of officers. In a doleful letter to Captain Robert McDouall dated 2 December 1796, for example, Lieutenant Francis Sergeant, who was dismissed from his ship for neglect of duty on 14 October 1795, recounted the problems which he had experienced as a result of the disappearance of the report of his court martial:

On my arrival in England (now more than twelve months) I applied at the Admiralty for employment, but was rejected on the ground of those minutes not having come to hand; I almost daily repeated my applications, and also wrote to [First Secretary,] Mr. Nepean, on the hardship of my situation, but was still informed nothing could be done till those documents arrived. My arrears of pay too were fore [sic] the same reason withheld, nor can my agent, even get me put on the Half Pay List, till the matter has regularly transmitted to their Lordships. Thus cut off from those pecuniary supplies so necessary to my subsistence, I am daily encountering the severest distress.82

As well as exhibiting many of the characteristic forms and practices of the common law, British naval tribunals applied the Articles of War in much the same manner that the penal code was enforced by the English

82ADM 1/2131.
courts. In a seminal article on the administration of criminal justice in eighteenth-century England, Douglas Hay argues that the law was an ideological system based on "the lessons of Justice, Terror and Mercy" which was formulated to secure the authority of the aristocracy without resort to a domestic constabulary or a large standing army. By dexterously manipulating these lessons with the appropriate selectivity, the country's governors were able to maintain the fabric of society which was so essential to their own position. In a word, "the ideology of the law was crucial in sustaining the hegemony of the English ruling class."  

Because this ideology was held to be so effective in preserving the squirearchy's hegemony, it is not surprising that every aspect of it was incorporated into British naval jurisprudence to uphold the authority of the officer caste. Like criminal proceedings, trials at sea were staged as much, if not more, for the benefit of their audiences as for the parties involved. The judicial system of the Royal Navy was contrived to convey the majesty and strength of the state to the various segments of the maritime community through a measured combination of solemnity and ritual. The underlying theory was that simple mariners, having witnessed these spectacles, would

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83Hay, "Property, Authority and the Criminal Law" in Albion's Fatal Tree, p. 56.
be left trembling at the prospect that such tremendous force -- the power of life and death -- one day could be used against them in the event that they violated the law. Indeed, Delafons described the essential "respectability" of courts martial as: "that awe and dread which such a tribunal is calculated to impress on the minds of seamen, and by which they will continue to be influenced, so long as men are brought to trial on solid and assured grounds; the punishment inflicted becoming a beacon to warn and deter others from pursuing the same course, and getting aground on the shoals of disobedience."\(^{84}\)

Therefore the sense of terror which naval courts martial deliberately attempted to instill in the impressionable men of the lower deck was intended to act as a strong deterrent to those members of the fleet with criminal tendencies. According to the dominant penal theory of the age, the few were to serve as horrifying examples for the many. Captain Henry Mitford expressed this conviction very clearly on 19 December 1797 in his petition to Admiral Harvey for the trial of four sailors who had run from the vessel under his charge. "The numbers which have deserted from His Majesty's ship *Matilda* during the time of my command amount to such an alarming evil,"

\(^{84}\)Delafons, pp. 179–180.
he wrote, "that I feel myself bound in duty to take this harsh step to endeavor in some measure to put a stop to it."  

The element of terror found in naval jurisprudence was achieved by a combination of majesty and the ever-present threat of horrible retribution. Majesty was the product of solemnity and ritual. Courts martial were weighty affairs. Lest that fact be lost on those in attendance, everything possible was done to accentuate the gravity of the situation. On the morning of a trial a gun was fired and a Union Jack was flown from the top of the mainmast to assemble the tribunal. During the trial, the stern and somber judges, in full dress uniform, sat at a long table on either side of the presiding officer in descending order of seniority. Throughout the examination of witnesses, the provost martial, with sword drawn, stood along side the defendant. And, at the culmination of the proceedings it was customary for the members of the court to cover their heads as their decision was read by the judge advocate. 

At times the intensity of the situation could be tremendous. At his trial for desertion on 26 June 1810, 

85 ADM 1/5342, Trial of James Morgan, et al., 21 December 1797. 


87 Pope, Life, p. 243.
Samuel Morgan, a seaman belonging to H.M.S. Caesar, "almost fainted when the sentence was pronounced." In a similar vein, Horatio Nelson, who as the young captain of the Boreas served as the president of several tribunals on the Leeward Islands station, complained to his wife on 23 April 1786:

This must be a very short and very dull letter for I have a violent headache. Having been sitting day after day for near a week at courts martial we are now trying L[ieutenan]t Johnson for the loss of the storeship but I hope it will be finished tomorrow or Tuesday at farthest.89

The intense atmosphere created by the majesty of courts martial underscored the power at their disposal. Virtually all of the penal clauses of the Articles of War gave tribunals the authority to terminate life or inflict some other terrible penalty. Hence, the peril of death or ruination hung over naval proceedings like an ominous cloud. The dread inspired by this peril was so great that sometimes it caused commanders to hesitate to bring charges against villains who were unmistakably guilty of despicable acts. In requesting the trial of a petty officer of the Vengeance who had robbed the chest of a


deceased shipmate, Captain T. M. Russell confided to Admiral Harvey on 19 June 1797: "A variety of circumstances, together with a wish to reduce Edmund Nowland to justice and retribution without trying him (for his life perhaps) prevented me from sending you the enclosed letter [containing the allegations] from Mr. Jones, First Lieutenant of this ship, sooner..."\textsuperscript{90}

However, as counter productive as the sense of dread might have been on occasion, those administering the law deliberately cultivated it. Every precaution was taken to prevent the terror of tribunals from becoming commonplace. Only men alleged to have committed extremely serious crimes were brought before judicial bodies at sea. Of the 477 crimes tried in the Leewards during the period under consideration, 270, or roughly fifty-seven percent, were either desertion or some form of challenge to authority like mutiny, disobedience or contempt (see Table 1). Moreover, due to such extraconstitutional expedients as courts of inquiry, normally only cases in which there were sufficient grounds for prosecution came to trial. As a perceptive student of naval jurisprudence, McArthur clearly understood the logic of this selectivity. "It is a subject of regret," he observed, "that courts martial being frequently assembled for trivial offenses, and the charges at times unsupported by

\textsuperscript{90}ADM 1/5340.
proof, are thereby rendered too familiar to the minds of officers and men, and consequently lose that solemnity and efficacy intended by the legislature."

Terror was just one aspect of English criminal judicature in the eighteenth century. "Justice" was another. But, justice in that era did not have the strict "egalitarian" character that it was to assume in a later age. According to Hay, the ill-defined term meant something approaching "equality before the law" in all case save those involving property. Nevertheless the theoretical ramifications of this doctrine were still wide-ranging. The causes of all men were to receive due process. Magistrates were to conduct themselves in a dispassionate and knowledgeable manner, paying close attention to the established judicial procedures of the day. At the same time no Englishman was above the law. Villains from every strata of society were liable to its jurisdiction. Finally, the penal code was to protect the basic inalienable rights shared by all social classes.

Like quarter sessions and assizes, courts martial paid more than mere lip service to these precepts. On the whole, the naval judiciary was remarkably scrupulous in its observance of them. Tribunals were far from kangaroo courts. At the vast majority of trials great care was

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taken to see that due process was maintained. Indeed so great were the lengths to which most tribunals went to insure a prisoner fair treatment that it was not unknown for them to suspend proceedings to consider his objections. Hence, when John Davis, the Boatswain of the Busy, challenged the prosecution's attempt to call Thomas Reid as a witness at his trial on 17 November 1801 for "mutinous, insolent and contemptuous conduct," the "court [was] cleared" before Reid "was called in and the evidence was admitted."93

In addition to protecting the constitutional liberties of the accused, justice at sea adhered to the principle that no man was above the law. Admirals and landsmen alike were subject to the jurisdiction of the Articles of War. In fact, thirty-five percent of the royal mariners tried on the Leeward Islands station between 1784 and 1812 were either warrant or commissioned officers.94 And of this group, a little more than three quarters were convicted, with some of these men receiving harsh sentences.95 Lieutenant Thomas Connell for instance, was condemned to death (albeit with a

93ADM 1/5359.

94Of the 362 men indicted, 126 walked the quarter-deck.

95Of the 126 warrant and commissioned officers brought before tribunals, ninety-six were found guilty.
recommendation for mercy) on 29 April 1807 for contempt and dueling. Although Connell was pardoned, not all officers were so fortunate. If the penal ordinances occasionally claimed a Lord Ferrers or a Reverend Dr. Dodd, the naval code produced with a similar frequency a Lieutenant Berry or a Lieutenant Gamage.

That no man was above the law implied that all men were protected by it. True to this maxim, naval justice provided legal recourse for common seamen as well as officers. However infrequently, prosecutions were undertaken on behalf of the men of the lower deck. Generally, these cases arose from incidents of cruelty. Lieutenant William Richards, for example, was dismissed from His Majesty's service on 20 July 1809 for illegally punishing a supernumerary on board the sloop under his command.

"The grand object of the legislature, when establishing laws for the regulation and discipline of the naval forces of this realm," claimed Delafons, "was not to impart to any individual however eminent, an extensive coercive

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96 ADM 1/5380.

97 Lawrence Shirley, Lord Ferrers, was executed in 1760 for murdering his steward. The Reverend Dr. William Dodd, the tutor of Lord Chesterfield, was hanged in 1777 for forgery. Lieutenant William Berry was shot on board the Hazard in 1807 for "a breach of the 2d and 29th Articles of War." And Lieutenant Richard Stewart Gamage went before a firing squad on 23 November 1812 "for stabbing a sergeant of marines, which caused his death." McArthur, vol. 2, pp. 448, 451.

98 ADM 1/5397.
authority, that had not the general welfare for its sole and legitimate basis." As a result, the king's sailors enjoyed many of the legal rights and protections at sea that their civilian counterparts did on shore.

In guaranteeing the legal rights and protections of all members of the fleet, naval jurisprudence mollified the severity of the Articles of War. Indeed the observance of these rights and protections produced a rate of acquittal at naval tribunals which approximated that at criminal proceedings on shore. Whereas Sir Leon Radzinowicz calculates that roughly one in four of those indicted in England and Wales between 1805 and 1810 were found innocent, a survey of the surviving reports of courts martial from the Leeward Islands station during the period under discussion reveals a slightly lower ratio of about one in five.100

An even more powerful leaven to the ferocity of each collection of penal ordinances than due process was the third tenet of the eighteenth-century ideology of the law -- the principle of mercy. According to this ideology mercy was needed to temper terror. Not only would clemency earn the rulers the lasting gratitude of the ruled, but it would prevent the horror of the example from

99 Delafons, p. xi.

100 Radzinowicz, A History of English Criminal Law, vol. 1, p. 93. Of the 362 men tried in the Lesser Antilles, sixty-eight were fully exonerated.
becoming too timeworn to have a strong influence on the minds of men. Most importantly, it would have the happy effect of enabling judges to take into account aspects of particular cases ignored by the rigidity of statutes. Asserted Archdeacon William Paley, a leading defender of the unreformed system:

the mitigation of punishment, the exercise of lenity, may, without danger, be intrusted to the executive magistrate, whose discretion will operate upon those numerous, unforeseen, mutable and indefinite circumstances, both of the crime and the criminal, which constitute or qualify the malignity of each offense. Without the power of relaxation lodged in a living authority, either some offenders would escape capital punishment, whom the public safety required to suffer; or some would undergo this punishment, where it was neither deserved nor necessary.101

Often mercy came in the form of a royal pardon. As at common law, the pardons given to naval convicts were either free or conditional. A free pardon granted the prisoner a complete remission of his punishment. A conditional pardon commuted the sentence to some lesser penalty. Of the two, full pardons were far more prevalent in the system of justice at sea than they were in criminal judicature on shore where banishment was the general substitute for execution.102

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102 Beattie, pp. 431-432.
fourteen bestowed on men serving on the Leeward Islands station between 1784 and 1812 were of the former variety. Only Matthew Keagan, "a Boy belonging to the Statira," received anything less than "His Majesty's most gracious and free pardon;" his sentence being abridged from hanging "into transportation for life."\textsuperscript{103}

Pardons were granted to naval felons with the same frequency and for many of the same reasons that they were given on shore. Hay estimates that approximately fifty percent, of those sentenced to death by the English criminal courts in the eighteenth century escaped execution through royal mercy.\textsuperscript{104} The surviving records from the Leewards for the period under examination demonstrate a similar rate of clemency in the Royal Navy. Of the twenty-six seamen condemned to suffer the ultimate penalty on the station, fourteen, or fifty-four percent, were spared their lives by the crown. As in cases at common law, these men were shown amnesty because of their youth and inexperience, their good conduct, or some other mitigating factor peculiar to their cause.\textsuperscript{105} For example, Thomas Ray, who was adjudged "to be hanged by the neck...at the fore yard arm of His Majesty's ship the Unicorn" on 18 August 1784 for deserting twice was

\textsuperscript{103}ADM 2/936.
\textsuperscript{104}Hay, p. 43.
\textsuperscript{105}Beattie, pp. 430-449.
recommended as a fit object of lenity "in consideration of his gallant services during the [American] War, and his good behavior upon many occasions, and the exceeding good character which he [bore] from officers under whom he served."

Consonant with the practice of the criminal law, the right to pardon felons condemned to death was the sole possession of the monarch. Under the naval constitution, tribunals could recommend mercy but commanders in chief could do nothing more than grant a prisoner a reprieve until such time as the sovereign's decision on the court's recommendation became known. Although the crown invariably acted favorably upon the advice of its justices, it guarded its prerogative jealously. All attempted usurpations of the king's authority were dealt with in a stern and forceful manner by the Admiralty. For instance, when the Lords Commissioners received Sir John Laforey's letter of 15 March 1792 informing them that he had "thought it expedient to pardon" James MacDonald, they directed the First Secretary:

observes to him that although the commanders in chief of His Majesty's ships on foreign stations may suspend the execution of sentences of death until they receive superior orders no right of pardoning in matters of a capital nature are vested in them; that their Lordships will therefore lay the minutes and sentence of the court martial before His Majesty, and if it shall
be his most gracious pleasure to pardon the culprit, a warrant for the same shall be sent to him by the first opportunity afterwards.\textsuperscript{107}

While the crown enjoyed exclusive control of the prerogative to pardon those under sentence of death, commanders of foreign stations exercised the right to remit corporal punishments in part or completely. Normally commanding officers used this authority when they thought the desired effect of the sentence of a court martial had been achieved. Thus, Admiral Henry Parker gave Robert Manley only one hundred of the four hundred lashes prescribed by a court on 22 February 1798 because he "conceived the punishment already inflicted on him had served as a sufficient example and would prevent him from being guilty of similar or other crimes in future."\textsuperscript{108} Correspondingly, Commodore Stopford recorded in his journal on 20 August 1802: "In consequence of the good behavior of the Excellent and Emerald's ships companies remitted the remainder of the punishment of John Barry of the Excellent and William Renburd of the Emerald."\textsuperscript{109}

Beyond pardons and remissions of sentences, there was a third, more subtle way in which mercy entered into naval jurisprudence. Courts martial exhibited a marked

\textsuperscript{107}ADM 1/315. MacDonald was given "His Majesty's most gracious and free pardon" on 14 June 1792. ADM 2/1117.

\textsuperscript{108}ADM 1/321, Parker to Admiralty, 10 March 1798.

\textsuperscript{109}ADM 50/33.
hesitancy to impose the death penalty. Only twenty-six of the 232 men convicted of capital offenses in the Leewards during the period under discussion were given death sentences. Almost any mitigating circumstance was seized upon as reason enough not to inflict the ultimate retribution. Though found guilty of riotous and mutinous behavior and striking his superior officer on 27 March 1797, Martin Keene, a marine private belonging to H.M.S. Eurus was adjudged to receive but fifty lashes because the tribunal took "into consideration the youth and inexperience of the prisoner and the good character given him by his captain and likewise by Lieutenant Parsons, commanding the party of marines on board the Eurus, and...[found] that he...[was] often afflicted to almost a degree of madness by a very small quantity of liquor."110 Similarly, Dr. William Tullidge, who was "severely reprimanded...mulcted of six months pay...and...placed at the bottom of the list of surgeons" for disobedience of orders and contempt on 14 April 1806, avoided a date with the hangman "in consideration of the short time he...[had] served in the navy and his previous character being very good."111

Hence courts martial were far from gatherings of tribal elders. Occasionally, individual tribunals might

110 ADM 1/5338.

111 ADM 1/5373.
have failed to comprehend one legal maxim or another. But, on the whole, naval judicial bodies applied the law -- as a standard phrase used in the reports of their proceedings put it -- "maturely and deliberately." Not only did they follow the principles of the common law, they administered the Articles of War in much the same fashion that the criminal courts enforced the penal statutes. Like the civilian bench, courts martial implemented a harsh code moderately -- even humanely. And it is to the penalties sanctioned by that code that the next chapter is devoted.
When treating the methods of punishment used in the Royal Navy during the age of sail, social historians of the fleet have concentrated almost exclusively on physical retribution. Taking the lead of the harshest critics of these methods during the early nineteenth century, modern students have done little more than catalogue the major forms of corporal penalties and emphasize the pain and suffering resulting from them. Quoting liberally from the memoirs of Jack Nastyface, G. J. Marcus, for example, describes such horrors as flogging, running the gauntlet, and gagging, among others and observes that, although scourging was a fairly common practice on shore during the eighteenth century, "there was a marked increase in severity throughout the Service as the century advanced: particularly after the outbreak, in 1793, of the Revolutionary War."¹ In a similar vein, Christopher

¹G. J. Marcus, *Heart of Oak*, p. 117.
Lloyd restricts the focus of his discussion to the issue of brutality and argues that, while naval punishments must be placed in the context of their times, they were nevertheless "savage."\(^2\)

Certainly, from the vantage point of the twentieth century, a large number of the punishments administered on board the king's ships were extremely brutal if not truly barbaric. To say anything less is to deny the evidence. Even the most fervent advocates of corporal retribution of the Regency era more or less conceded the point.\(^3\)

However, the various types of physical correction inflicted in the Royal Navy were not manifestations of an institutional sadism. Rather they were sanguinary indications of the draconian nature of the dominant penal theory of the eighteenth century. Nowhere is this more evident than in the arguments marshalled in support of their continued existence, for most of these contentions were identical to those used by the defenders of the unreformed criminal code.


Consistent with conservative penology of the day, the champions of corporal punishment maintained that evil-minded men could be discouraged from indulging their appetites only by the dread of painful correction.\(^4\) Hence it was imperative to establish and keep inviolate a system of terror to prevent the excesses of the wicked from destroying the communal order and infringing upon the rights of law-abiding subjects — especially in a society like that of the navy where a considerable segment of the population was drawn from the prisons of Newgate and Bridewell. As Admiral Philip Patton put it: "by a very mistaken policy, the most abandoned and daring miscreants have been released from their confinement, and sent to serve in His Majesty's ships, where, though the pernicious effects of their contaminating example could not be prevented, they have been kept within the bounds of good order by the fear of detection, and the certainty of a dozen lashes upon the bare back."\(^5\) Therefore, the whole system was intended to cow the scoundrel, not terrify the respectable tar. "In fact, good men on board ship stand as little in awe of the whip," claimed the Earl of Dundonald, "as the good people on shore of the rope in


\(^5\)Philip Patton, *Strictures on Naval Discipline and the Conduct of a Ship of War*, p. 84.
Table 2

Punishments Inflicted in the Leewards

<table>
<thead>
<tr>
<th>Punishment</th>
<th>Courts Martial</th>
<th>Summary Actions in Sample</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>% of Courts Martial</td>
<td>N</td>
</tr>
<tr>
<td>Death</td>
<td>26</td>
<td>7.9</td>
<td>0</td>
</tr>
<tr>
<td>Flogging Round the Fleet</td>
<td>134</td>
<td>40.9</td>
<td>0</td>
</tr>
<tr>
<td>Flogging at the Gangway</td>
<td>22</td>
<td>6.7</td>
<td>6,776</td>
</tr>
<tr>
<td>Running the Gauntlet</td>
<td>0</td>
<td>0.0</td>
<td>48</td>
</tr>
<tr>
<td>Dismissal</td>
<td>34</td>
<td>10.4</td>
<td>0</td>
</tr>
<tr>
<td>Removal</td>
<td>18</td>
<td>5.5</td>
<td>0</td>
</tr>
<tr>
<td>Demotion</td>
<td>39</td>
<td>11.9</td>
<td>25</td>
</tr>
<tr>
<td>Fines</td>
<td>17</td>
<td>5.2</td>
<td>0</td>
</tr>
<tr>
<td>Imprisonment/Confinement</td>
<td>9</td>
<td>2.7</td>
<td>14</td>
</tr>
<tr>
<td>Censure</td>
<td>29</td>
<td>8.8</td>
<td>2</td>
</tr>
<tr>
<td>Stoppage of Grog</td>
<td>0</td>
<td>0.0</td>
<td>6</td>
</tr>
<tr>
<td>Not State</td>
<td>0</td>
<td>0.0</td>
<td>558</td>
</tr>
</tbody>
</table>

TOTAL 328 100.0 7,429 100.00 7,757 100.00

Source: Sample
which malefactors are hanged."\textsuperscript{6}

However, to instill that awe in mariners disposed to crime, horrible examples were to be made of those caught violating the Articles of War, and this could be achieved only through severe corporal punishments. Thus the agony wreaked by physical retribution was meant to impress upon potential lawbreakers the likely consequences of their misbehavior. "It should...be recollected," Delafons proclaimed, "that all punishment is inflicted more as an example and warning, to deter others from the commission of crimes, than from any desire to punish or take revenge on the party, for his offence."\textsuperscript{7} Moreover because its deterrent value was held to be so great, flogging could almost be seen as a humanitarian gesture. According to Delafons, "a few examples of severity, well timed, might in effect be a merciful act...."\textsuperscript{8}

But the advocates of the ancient usage were well aware that the effect of its example easily could be lost by overexposure. As a result, they did not favor its wanton application. Indeed, their position was quite the contrary. In their opinion, physical punishment was to be applied judiciously. Some of them even went so far as to

\textsuperscript{6}The Earl of Dundonald, Observations on Naval Affairs (London: James Ridgway, 1847), p. 23.
\textsuperscript{7}Delafons, pp. 265-266
\textsuperscript{8}Ibid., p. 265.
suggest alternative methods of correction. "Denying permission to the crew to go ashore, by a general order, divests the captain of a great check on them;" wrote an anonymous correspondent to the Naval Chronicle in 1808, "as sometimes a man might be added to the list of those who are not to have such leave, instead of assigning him to corporal constigation, which, I cannot repeat too often, should be as much as possible reserved in terrorem, and for urgent cases only."9

The most severe corporal punishment inflicted in the Royal Navy was death. Capital sentences could be adjudged only by courts martial and carried out on the authority of a warrant of the Admiralty or the commander of a foreign station. Although high ranking officers were brought before a firing squad, the standard method of execution for seamen was hanging from a yard-arm. All executions were held publicly "as a dreadful spectacle and an example" to provide those who observed them with a grim lesson about the fatal consequences that could accompany serious violations of the Articles of War.10 For this reason, hangings were staged with great ceremony.

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On the appointed day, a yellow flag — "the signal of death" — was flown from the masthead of the ship on which the execution was to take place. A party under armed guard from each vessel in the squadron was dispatched to attend the punishment. Meanwhile, the rest of the ships' companies were turned out on deck in formation to witness the spectacle. Once assembled, their commanding officers read the Articles of War to them and explained the crime for which the prisoner was to forfeit his life. Upon completion of these rituals the crews stood in silence as the condemned man was made ready to meet his demise. When the fatal moment had arrived, a gun was fired and the unfortunate mariner was run up a yard-arm. As was the practice at hangings on shore, the corpse remained suspended for several hours as a macabre warning to others of the fate which could befall those disposed to commit comparable offenses.  

The impact that this chilling spectacle had on the men who witnessed it must have been tremendous. Despite the high incidence of infant mortality, the lower strata of English society in the eighteenth century did not take death lightly. The seriousness with which artisans and laborers

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Save for the actual execution, this whole ceremony also was played out in cases involving men who were to be pardoned. Hence, Captain John Harvey recorded in the log of the Amphitrite on 11 June 1801: "at 6 [a.m.] made the sign[na]l for punishment, at 6:30 read the Articles of War and led the prisoner, Mr. John Davidson Acting Boats[wa]in of this ship, to the scaffold, at 7 fired the gun & delivered the prisoner from death by reading his reprieve [sic] (ADM 51/1375)."
viewed the passage of life is reflected by the whole litany of rituals and superstitions surrounding public hangings on shore. Among the more prevalent popular notions were "the widespread belief in the therapeutic powers of the malefactor's corpse, the view that the spirit of the dead could return to the living, and the treatment of a hanging as a wedding." To these must be added the almost mystic element found in naval executions. As the victim was launched into eternity the deafening roar of cannon and a cloud of smoke signaled his departure. Tersely describing the eerie scene, Samuel Leech wrote: "Two guns were fired and when the smoke cleared away, two men were seen dangling from the fore-yard arm."

Mercifully, such scenes were rare on the Leeward Islands station between 1784 and 1812. Death sentences constituted slightly less than eight percent of the punishments adjudged by courts martial during this period (see Table 2). Moreover, of the twenty-six mariners condemned to suffer the ultimate penalty, only twelve actually were deprived of their lives. All of these victims were members of the lower deck and all had

12Peter Linebaugh, "The Tyburn Riot Against the Surgeons," in Albion's Fatal Tree, p. 115.

13Samuel Leech, Thirty Years From Home; or, A Voice from the Main Deck (London: J.S. Pratt, 1845), p. 50.
committed heinous crimes. Nine were found guilty of mutiny, two were convicted of buggery and one had shot and seriously wounded his superior officer.\textsuperscript{14}

Far more frequently inflicted than the death penalty was the punishment known as flogging round the fleet. In fact, flogging round the fleet often was used by courts martial as a substitute for execution. By this form of retribution a man who was sentenced by a naval tribunal to receive a substantial number of lashes was given a portion of the scourging alongside each ship in the squadron. The number of strokes the prisoner was to endure at any individual vessel was determined by the commander in chief of the station. Normally he divided the total number of lashes stipulated in the judgement of the court by the number of men-of-war expected to be present when the punishment was administered to derive the precise figure. Following this formula on 27 November 1800, Rear Admiral John Thomas Duckworth distributed ordinary seaman Edward Herrick's sentence of five hundred lashes among six different ships anchored in Fort Royal Bay, Martinique, eighty-five alongside the prisoner's own vessel and eighty-three at each of the other five.\textsuperscript{15}

\textsuperscript{14}By contrast, more than eighty-four percent of those hung on shore had been convicted of property offenses (Beattie, p. 430).

\textsuperscript{15}NMM, Duckworth Papers, Duc/33.
Like executions, floggings round the fleet were conducted publicly according to a solemn, formalized ritual designed to make horrible examples of the victims and leave lasting impressions on those who witnessed them. On the morning of the day of the punishment, a yellow flag was unfurled from the foremast of the commanding officer's ship. In response to this signal, each vessel in the squadron sent a boat manned by a party of seamen and a detachment of armed mariners under the direction of a lieutenant to participate in the proceedings. Then the prisoner, accompanied by the provost marshal and a surgeon, was placed in a launch, stripped above the waist, and bound to a triangular grating specially constructed for the occasion. After all was made ready, the little flotilla formed a line and, as a fifer and drummer struck up the Rogue's March, proceeded to the first man-of-war at which punishment was scheduled to take place. In the vanguard of the procession was a dispatch boat heralding the culprit's impending arrival.

When the launch had reached its destination, the sentence of the court martial was read in a loud voice to the ship's company and two boatswain's mates were sent on board to inflict the designated number of lashes. Standing near the delinquent with sword drawn, the provost marshal counted the blows. Upon the completion of this grisly task, the surgeon examined the criminal. If he was deemed fit to undergo additional stripes a blanket was
thrown over his wounds and the procession moved on to the next ship, where the entire ceremony was repeated. And so it continued from vessel to vessel until either the punishment was completed or the unfortunate mariner was unable to endure further suffering. As one observer noted the whole ordeal could drag on "sometimes to several hours."\textsuperscript{16}

Needless to say, the bodily suffering caused by this ordeal was, as one opponent of the practice described it, "barbarous."\textsuperscript{17} But how well a man withstood the experience depended totally on his physical stamina. Some mariners were able to endure an enormous number of strokes at a single infliction. Thomas Gaynor, for example, "received the whole of his punishment" of two hundred and fifty lashes on 24 October 1800.\textsuperscript{18} Others could bear but a portion of their sentences at one time. William Wilson, for instance, "fainted" alongside the \textit{Boreas} on 12 July 1784, after being given seventy-two of the five

\textsuperscript{16}A Surgeon's-Mate of 1803, "Sketch of the Naval Punishments to which Common Seamen and Marines are Liable in the Royal Navy," Colburn's United Service Magazine and Naval and Military Journal, part 2, 49 (1844), p. 526.

\textsuperscript{17}W.X.Y.Z., "Flogging Round the Fleet," The United Service Journal and Naval and Military Magazine, part 2 (1830), p. 705.

\textsuperscript{18}ADM, 50/35.
hundred blows with a Cat of Nine Tails adjudged him by a court martial.¹⁹

In the event that a man was unable to undergo his entire punishment on the appointed day, the surgeon in attendance called a halt to the proceedings and the prisoner was sent to sick quarters. When the unfortunate mariner had recovered sufficiently to suffer more of his sentence, he was sent through the fleet a second time. If he collapsed again prior to being given the total number of blows designated by the court this process was repeated anew. In extreme cases, the whole ordeal could take several months to complete. One hapless seaman belonging to the Bonetta was flogged on three separate occasions between July and October 1790, before he received the last of the five hundred lashes adjudged him by a tribunal in English Harbour, Antigua.²⁰

Between 1784 and 1812, almost forty-one percent of

¹⁹ADM 51/125; ADM 51/8; ADM 1/5324. Occasionally, floggings round the fleet resulted in the deaths of the men undergoing them. An anonymous contributor to a nineteenth-century military journal related one fatal instance which occurred on the Leeward Islands Station in 1805. After enduring a considerable number of the three hundred lashes he was to receive for desertion, the young victim's "back became so badly lacerated, that the flesh quivered under every stroke of the whip -- the head of the sufferer fell senseless upon his bosom -- the punishment was suspended -- the criminal removed to the hospital, where the heat of a tropical climate produced gangrene, and in two days afterwards he expired! (W.X.Y.Z., "Flogging Round the Fleet," p. 708.)"

²⁰ADM 51/958.
the members of the fleet convicted at courts martial in the Lesser Antilles were sentenced to endure this excruciating ordeal (see Table 2). Each of these unfortunate mariners was either a petty officer, a seaman or a marine. Moreover, all of them had perpetrated serious crimes. Approximately sixty-six percent had deserted, an additional twenty percent were found guilty of some form of challenge to authority like mutiny, treason or assaulting a superior, another eleven percent had committed acts of thievery and the remaining three percent had committed infractions ranging from buggery to drunkenness and rioting while on duty ashore.21

Of shorter duration but equally as brutal was the practice of flogging at the gangway. Unlike floggings round the fleet, this punishment could be ordered solely at the discretion of the commander of a naval vessel. In a manner prescribed by custom, a criminal was stripped naked to the waist and whipped across his bare back with a device named the Cat of Nine Tails. "The Cat," as most mariners simply called it, was "composed of nine pieces of line or cord, about half a yard long, fixed upon a piece

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21The number of lashes adjudged by tribunals in the Leewards varied from one hundred to six hundred. As noted in Chapter One, commanders in chief were empowered to remit all or part of these sentences. However, due to the patchiness of the surviving Admirals' journals, it is impossible to assess the frequency with which they exercised this authority.
of thick rope for a handle, and having three knots on each at small intervals, nearest one end." Because each of its strokes left nine separate lacerations, the agony it caused was horrific. One observer likened the wounds resulting from its infliction to "roasted meat burnt nearly black before a scorching fire." Like most other forms of naval retribution, this sanguinary punishment was conducted ritualistically in public to heighten the terror of the victim's example. The ceremony started with the boatswain and his mates solemnly ordering the ship's company to muster by watches on either side of the main deck. The marines were turned up in formation with bayonets unsheathed and the officers assembled at the vessel's stern "in their cocked-hats and side arms." At this point the prisoner, escorted by the master at arms or the ship's corporal, appeared before the captain to plead his case. After the man had been given an opportunity to defend himself the commander rendered a verdict and explained it to the crew. If the


23Samuel Leech, Thirty Years from Home, p. 38.

24It was not a foregone conclusion that the accused would be adjudged to endure the lash. Indeed, Robert Wilson likened these exchanges to "a Court of Judicature ("Robert Wilson's Journal" in Five Naval Journals, p. 256)." Hence there was more than a grain of truth to be found in a humorous poem appearing in the Naval Chronicle (8, p. 498) in 1802:
defendant was found guilty and sentenced to be flogged, he was stripped to the waist and bound by his legs and wrists to two specially constructed wooden gratings situated at the gangway. Once he had been secured, the relevant Article of War was read aloud, the officers uncovered their heads, and the captain directed a boatswain's mate to begin to administer the blows. As all eyes fell upon the delinquent, lash after lash was inflicted relentlessly and methodically -- a new Jack Ketch assuming the gruesome task every twelfth stroke if the thrashing exceeded a dozen. When the scourging was completed, the wretched mariner was cut lose and led below to recuperate.25

The Captain of one of the British Frigates, a man of undaunted bravery, had a natural Antipathy to a Cat. A Sailor, on Account of his misconduct, had been ordered a Flogging, from which he saved himself by presenting to his Captain the following Petition.

By your honour's command,
A culprit I stand,
An example to all the ship's crew,
I am pinion'd and stript,
And condemned to be whipt,
And if I am Flogg'd 'tis my due.

A cat I am told,
In abhorrence you hold,
Your Honour's aversion is mine;
If a cat with one tail,
Can so make your heart Fail,
O save me from one that has nine!

One of the few chroniclers from the lower deck to record the emotions he experienced as he saw the gory exhibition unfold before him was Samuel Leech. "Sad and sorrowful were my feelings on witnessing it;" he declared, "thoughts of the friendly warnings of my old acquaintance filled my mind, and I inwardly wished myself once more under the friendly roof of my father, at Bladen." 26 Only the most hardened of men must have failed to share similar sentiments. No doubt all but particularly knavish criminals were viewed with some degree of compassion by their shipmates. Articulating that sense of pity, seaman Robert Wilson confided in his journal: "When a poor fellow is being punished, his agonizing cries pierce you to the soul." 27

Despite their sympathy for individual victims of the lash, it appears that most seamen accepted their superiors' claim that there was no alternative to whipping serious offenders at sea. Significantly, the mutineers at Spithead and the Nore did not include the abolition of the Cat among their list of grievances. Nor did they show much aversion to resorting to it. Giving expression to the general attitude of British mariners, Archibald Sinclair wrote:

A certain indefinite amount of flogging was considered a necessary evil, without which the

26Leech, p. 39.
machinery would go all wrong; - like the eels, the sailors had got [sic] used to it, and did not think about it. When the punishment was over, the debt was paid: as the stripes healed, the recollection upon their minds faded away, and no blot was considered to have been left upon the escutcheon of the man, always provided the offence for which he had suffered was not such as thieving, skulking, or considered by themselves in any way disgraceful or unbecoming a man. A deviation from sobriety, in which state the culprit may have given some superior officer a little more of his mind than was thought compatible with strict discipline, was thought nothing of. It would be said, 'serve them both right. It was quite true of the officer, but Jack ought to have kept his opinion to himself.'

While the majority of the members of the lower deck seem to have recognized the necessity of at least some corporal punishment, not all those condemned to receive "a red checked shirt at the gangway" chose to submit to their fates without incident. A few mariners tried to play upon what they presumed to be the credulity of their officers. While being flogged on board H.M. sloop Rattler on 7 April 1784, for his part in a conspiracy to pilfer wine, boatswain's mate Jeremiah Wood "supposed to pretend to faint away," after only four lashes. Others followed a much more aggressive course of resistance. David Laughton, another member of the Rattler's crew, was given twelve additional strokes for "behaving with so much

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28Sinclair, Reminiscences, pp. 15-16.
29ADM 51/762.
sedition after he was punished and released" on 26 August 1785. An even greater outrage was perpetrated by Joseph Carney on 1 June 1790. Just as he was about to be scourged for a theft on the Bonetta sloop, he "publicly declared" that the lieutenant who had reported him "had attempted to commit on him an unnatural crime" the previous January.

Notwithstanding occasional acts of defiance, flogging at the gangway seems to have been a powerful deterrent to crime -- at least for the individuals who had been subjected to it. This conclusion is suggested strongly by the low rate of recidivism found among the men serving on board the seventy-three men-of-war surveyed for the present study. Of the mariners punished on these vessels, only about twenty-one percent committed additional offences during the remainder of the time they spent on their respective ships. Thus George Watson, who was flogged for fighting with the captain of the maintop of the Eagle, probably captured the attitude of most of the victims of the lash in a passage of his memoirs describing the experience. "I felt them so keenly, being the first

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30 ADM 51/770.

31 ADM 1/5328. Trial of Joseph Carney, 10 July 1790.

32 Of the 5,538 men who ran afoul of the law, 1,178 were punished more than once. Of this number, 775 were corrected twice, 238 were corrected three times, eighty-nine were corrected four times and seventy-six were corrected five times.
and the last time they scratched my back," he wrote, "that I thought I would rather let the rogue that caused what I endured kick me overboard another time, than have those unnatural devil cats at my shoulders."\(^{33}\)

Floggings at the gangway were ordered by both courts martial and captains acting summarily. Such floggings constituted just under seven percent of the penalties imposed by naval tribunals (see Table 2). All of the men adjudged by the courts to suffer this punishment were either seamen, marines or petty officers. Like the culprits sentenced to be flogged round the fleet, most of these mariners had been found guilty of desertion or some challenge to authority.\(^{34}\) In about seventy-three percent of the cases, however, circumstances were such that a more severe scourging was unwarranted. For example, Benjamin Williams, who was convicted of running from the Solebay on 9 April 1787, received only fifty lashes in consideration of his "long and faithful servitude to His Majesty and his exceeding good character."\(^{35}\) In the remaining twenty-seven percent of the instances, the whipping formed but part of the


\(^{34}\)Of the twenty-two men so punished, eighteen were guilty of these crimes. The number of lashes inflicted ranged from twelve to sixty.

\(^{35}\)ADM 1/5325.
retribution. Thus, Edward Wilkes of the Hermione, who was condemned for abusiveness, drunkenness and rioting by a judicial body assembled at Carlisle Bay on 13 March 1784, was "degraded from his office of master at arms" as well as being given fifty strokes.\(^3^6\)

While court-ordered floggings at the gangway were rare, those meted out solely at the behest of captains were not. In fact, there were well over six-thousand of them inflicted on board the ships in the survey (see Table 2). Such beatings were administered for the whole gamut of offenses committed by seamen or petty officers. Generally lashes were laid on in multiples of six.\(^3^7\) Although the number of strokes imposed upon the culprits in the sample ranged from one to ninety-six, almost sixty percent of the scourgings consisted of twelve blows or less.\(^3^8\)

\(^3^6\)ADM 1/5323.

\(^3^7\)The raw numbers are:

<table>
<thead>
<tr>
<th>1 to 5</th>
<th>49</th>
<th>30</th>
<th>51</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>314</td>
<td>31 to 35</td>
<td>9</td>
</tr>
<tr>
<td>7 to 11</td>
<td>141</td>
<td>36</td>
<td>448</td>
</tr>
<tr>
<td>12</td>
<td>3,552</td>
<td>37 to 41</td>
<td>5</td>
</tr>
<tr>
<td>13 to 17</td>
<td>52</td>
<td>42</td>
<td>7</td>
</tr>
<tr>
<td>18</td>
<td>201</td>
<td>43 to 47</td>
<td>5</td>
</tr>
<tr>
<td>19 to 23</td>
<td>33</td>
<td>48</td>
<td>147</td>
</tr>
<tr>
<td>24</td>
<td>1,661</td>
<td>Over 48</td>
<td>80</td>
</tr>
<tr>
<td>25 to 29</td>
<td>18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^3^8\)As noted in Chapter One, prior to 1806 the Regulations and Instructions enjoined captains to give no more than twelve strokes at a single infliction. While this restriction was not observed universally, it did have
Summary flogging at the gangway was a penalty reserved largely for members of the lower deck. Of the 5,823 victims of the lash on board the vessels in the survey whose ranks have been discovered, 5,813, or more than ninety-nine percent, were either petty officers, seamen or marines. Moreover, contrary to the assertions of the advocates of the abolition of corporal punishment and several modern historians, at least fifty-five percent of the men who suffered this brutal correction were volunteers.\(^{39}\) At the same time, over ninety percent of the beatings were inflicted on subjects of the crown.\(^{40}\) Finally, approximately seventy percent of such whippings a moderating influence on the general severity of floggings. Whereas 1,487 of the 4,520 scourgings in the sample administered before 1806, or thirty-three percent, were of more than a dozen blows, 1,189 of the 2,253 meted out after 1806, or fifty-three percent, were of like proportions.

\(^{39}\) See preface, n. 13. While it is impossible to determine the original means of entry for "turned over" men, the raw totals are:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volunteers</td>
<td>2,924</td>
</tr>
<tr>
<td>Prest</td>
<td>507</td>
</tr>
<tr>
<td>Quota</td>
<td>45</td>
</tr>
<tr>
<td>Turned Over</td>
<td>1,664</td>
</tr>
<tr>
<td>Substitute</td>
<td>34</td>
</tr>
</tbody>
</table>

The raw numbers are:

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>England</td>
<td>-2,267</td>
</tr>
<tr>
<td>Scotland</td>
<td>-355</td>
</tr>
<tr>
<td>Ireland</td>
<td>-1,226</td>
</tr>
<tr>
<td>Wales</td>
<td>-91</td>
</tr>
<tr>
<td>Isle of Man</td>
<td>-11</td>
</tr>
<tr>
<td>Channel Islands</td>
<td>-5</td>
</tr>
<tr>
<td>The Empire</td>
<td>-99</td>
</tr>
</tbody>
</table>

\(^{40}\) The raw numbers are:
were meted out to mariners under the age of thirty. 41

Although flogging at the gangway was the most common form of corporal punishment inflicted summarily upon seamen and petty officers serving aboard the king's ships, it was not the only variety of physical retribution at the disposal of commanders in the Royal Navy. Until it was abolished by an Admiralty order on 28 April 1806, the practice of running the gauntlet was made use of by some captains. However, because this agonizing ritual customarily was held in reserve for crimes deemed to be particularly odious to the sensibilities of the members of the lower deck, it was seldom performed (see Table 2). In fact, the log books consulted in the preparation of the essay at hand contain only forty-eight references to it, all but four of which were the consequence of some act of thievery. 42 Landsman William Lindsey of H.M.S. Saturn, for instance, endured its painful effects on 22 February 1802, for "robbing the chest of a dead man." 43

41 The range of ages was from eleven to sixty-six. The raw totals are:

<table>
<thead>
<tr>
<th>Age Range</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>118</td>
</tr>
<tr>
<td>20 to 29</td>
<td>3,007</td>
</tr>
<tr>
<td>30 to 39</td>
<td>1,006</td>
</tr>
<tr>
<td>40 to 49</td>
<td>294</td>
</tr>
<tr>
<td>Over 50</td>
<td>39</td>
</tr>
<tr>
<td>Not Stated</td>
<td>2,957</td>
</tr>
</tbody>
</table>

42 Of the four other cases, two were for cruelty and two were for buggery.

43 ADM 51/4497.
In the manner of most of the other corporal punishments used in the Royal Navy, running the gauntlet was conducted publicly according to a solemn conventional rite designed to enhance the terror of the victim's example. Before the ceremony began, the entire crew was arranged in two columns facing each other around the perimeter of the main deck. Once the men were in formation, the prisoner was brought to the fore and ordered to remove his shirt. At this point, a drummer, the master at arms and a surgeon's mate formed a small cortege to escort the culprit through the lane outlined by the ship's company. When all was ready, the Rogue's March was struck up and the procession began its slow, tortuous step. Every man along the delinquent's route flailed him with a short piece of rope punctuated by several knots, known as a "knittle." To compound his agony, he was "sometimes tripped up and very severely handled while incapable of proceeding."

After the victim had completed three journeys down this frenzied path, the ordeal traditionally ended and he was sent below to recover from the severe wounds he had sustained to his upper torso.

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44A New Universal Dictionary of the Marine, 1815 ed., s.v Gantlope.

45For descriptions of running the gauntlet see: Ibid.; Nastyface, pp. 143-145; and A Surgeon of 1803, part II, p. 59.
Another punishment highly injurious to the upper body was starting. In this form of summary correction, a boatswain's mate, at the order of the commanding officer, beat a recalcitrant seaman with a colt, rattan or rope's end. Although these beatings were not entered in the ships' logs, it appears that men were started only for apparent laziness or neglect. According to William Burney, it was "frequently resorted to for want of alacrity in hoisting the top-sails to the mast-head; and to quicken...efforts in getting boats in and out, also in hoisting in beer and water, and in performing such like duties."\textsuperscript{46} As part of the effort to ameliorate the condition of seamen, the practice was abolished by an Admiralty directive in 1809.

It goes without saying that being started was a very painful experience. In many cases, it resulted in bruises to the man's head and arms as well as to his back and shoulders. One victim graphically described the sensation in the following manner:

\begin{quote}
It was on one occasion [sic] of these beloved and beprized amusements of the boatswain's mates, that I, as with the rushing herd I mounted the deck, received one of the blows across my shoulders, which sent the blood at once whizzing and boiling back upon my heart; for the blow seemed to fall through my bones into my breast, so ponderous was the stroke. I reeled, and became sick and faint; this gave him opportunity for repeating the blow, and it was too delicious a pleasure to be lost; my limbs bowed under me
\end{quote}

\textsuperscript{46}A New Universal Dictionary of the Marine, 1815 ed., s.v. Starting.
as if they were rushes, and I sank down on deck, senseless; and I felt, then, nothing of the kick with which he sent my body out of the way of those who were following, and I know not who, or how many, trampled on me. But I do remember that an hour after I recovered, there was a dismal drumming in my ears, my brain seemed compressed within hard bandages, and a hoop of iron was welded round my brow, and I stood in stupor gazing down towards the deck, trying to look at something which was not there.47

However pernicious its infliction may have been for the person upon whom it fell, starting seems to have acted as a strong inducement to others to perform their duty quickly and efficiently. This happy result is evinced quite clearly by an incident recorded in Sir William Dillon's Narrative of his life at sea. As a junior lieutenant of H.M.S. Cresent, Dillon was required to make his vessel ready for a voyage to the West Indies in September 1799. Anxious to avoid delay, the young officer ordered the surgeon to examine those on the sick list for malingerers. When the physician's examination revealed a marine fit for service, he had the man started with several blows. In Dillon's opinion the punishment had a very beneficial influence on the rest of the crew. As he put it:

This starting of the marine had its effect upon the Ship's Company, as they became aware that skulking would not be tolerated by me. Consequently, they worked with spirit and

alacrity, by which means the ship was very soon prepared for sea.48

Whereas starting was intended to hasten a mariner's behavior, gagging was designed to subdue it. While instances of gagging were not recorded in the logs, it seems that this corrective measure was employed only "under the most aggravating circumstances."49 Usually it was inflicted on members of the lower deck who became riotous or insolent while in confinement.50 In such cases, a metal or wooden rod of varying thickness was inserted in the delinquent's mouth and fastened securely by ropes drawn tight around the back of his head. There it remained like the bit on a bridle until the captain ordered it removed or until the rowdy sailor was "nearly exhausted."51 Since most men subjected to the punishment did not submit to it peaceably, there was tremendous potential for severe damage to the victim's jaws and teeth.52 Indeed, occasionally its application even resulted in death.


50Ibid.

51Nastyface, p. 149.

52A Surgeon of 1803, part II, pp. 60-61.
One fatal instance took place on the Leeward Islands Station in 1808 and led to the dismissal from the service of the officer who had ordered the correction. Shortly before noon on 27 November, John Robinson, a supernumerary on board H.M. sloop Dart who was prone to drunkenness, was discovered "intoxicated upon deck making a riotous noise;" for which crimes he was taken below and confined. A few hours later, while still in irons, Robinson "began cursing and swearing and blaspheming -- damning the navy and all the officers in it." Hearing the commotion, Lieutenant William Richards, upon whom command had devolved during the captain's absence on shore, ordered the prisoner gagged. When this failed to silence him, a new, thicker restraint was placed between his jaws. Yet Robinson continued to disrupt the peace of the ship. Finally, about eight o'clock that night Richards himself muzzled the vexatious mariner with a bolt almost three inches in diameter. Within less than an hour Robinson went into convulsions and died moments after being released from his bonds. According to one eyewitness, "his lips were very black and the froth ran out of his mouth -- the corners of his mouth was much cut." Although Richards was acquitted of the murder of the deceased, the ensuing court martial found the lieutenant's conduct "oppressive and cruel in making use of so large a gag" and cashiered him.53

53ADM 1/5397, 20 July 1809.
Not all of the corporal punishments administered in the Royal Navy were as sanguinary as the ones discussed so far in this chapter. Indeed some were quite tame by comparison. Though seldom (if ever) registered in the captains' or masters' journals, ordinarily the milder forms of physical retribution were inflicted summarily upon members of the lower deck for petty offences like swearing and slovenliness.\textsuperscript{54} Among the more common of them appear to have been practices such as ducking, the spread eagle, the wooden collar, and carrying the capstan bar. Ducking entailed putting a culprit on a small batten with his feet weighted down by shot and hoisting him rapidly up one of the yard arms only to drop him suddenly into the sea. The spread eagle consisted of tying a man by his outstretched hands and feet to the standing rigging of the mizenmast and leaving him in that position during the captain's pleasure. The wooden collar, as its name suggests, called for a delinquent to wear a cumbersome lumber yoke laden with approximately sixty pounds of cannonballs for a few hours in a conspicuous part of the vessel. And, carrying the capstan bar required the malfeasant "to carry a heavy beam of wood, and walk fore and aft upon the weather gangway, for a period of a watch, or about four hours."\textsuperscript{55}

\textsuperscript{54}A Surgeon of 1803, part II, p. 61.
\textsuperscript{55}Ibid.
Several minor summary punishments (again unrecorded in the logs) were inflicted for petty offenses primarily on one class of mariner, the midshipmen. Since the young gentlemen were often mere boys, these forms of correction had almost a juvenile quality about them but were anything but mild. Kissing the gunner's daughter, for instance, was analagous to strapping. According to this usage, the youthful offenders had "their breeches or trowsers put down" and were tied to the carriage of a gun and "punished on their breech by the infliction of a half dozen or dozen with a cat-of-nine-tails."  

Similarly, mastheading was the naval equivalent to standing in the corner. By this practice, a precocious lad was ordered to climb up to one of the platforms mounted on the masts and remain there for a designated period of time.

In addition to a wide variety of corporal punishments, the navy administered an array of nonphysical penalties. The stiffest of these was dismissal from the service. Only warrant and commissioned officers could be


57See, for example, Jeffery Baron de Raigersfeld, The Life of a Sea Officer with introduction and notes by L.G. Carr Laughton (printed privately, 1830; London: Cassell and Company, 1929), pp. 34-35.
cashiered, and then exclusively by the authority of a court martial. Dishonorable discharges constituted a little more than ten percent of the sentences imposed by naval tribunals in the Lesser Antilles between 1784 and 1812 (see Table 2). Usually commissioned officers received them for acts deemed to be particularly scandalous. Lieutenant Thomas Walsh of H.M.S. Arethusa, for example, was expelled on 9 January 1797, "for having neglected his duty by falling asleep on his watch on the night of the 2nd inst. when the ship was in a critical situation expecting to fall in with the land and also for behaving in a riotous and mutinous manner while under arrest." Warrant officers, on the other hand, generally were dismissed for habitual improprieties. The master of the Terror bomb vessel, for instance, was drummed out of the fleet on 17 October 1796, because he was found guilty of frequent intoxication.

A second form of non-corporal punishment inflicted on warrant and commissioned officers by courts martial was the removal of the offender from one ship to another.

58 Not all men adjudged to suffer this punishment were banned permanently from further employment as officers in the Royal Navy. For example, Captain Robert Tucker of the Surinam sloop, who was deemed "guilty in part of unofficer-like conduct at Curacoa" by a tribunal on 21 March 1804, simply was "rendered incapable of serving again during the present war. (ADM 1/5365)."

59 ADM 1/5338.

60 ADM 1/5337.
Comprising less than six percent of the total number of sentences rendered at naval tribunals in the Leewards during the period under discussion (see Table 2), removal usually was imposed for indiscretions caused ultimately by personality clashes. Thus Richard Coates, who was convicted of behaving in a disrespectful and contemptuous manner to his captain on 14 March 1809, was "dismissed from his situation as lieutenant of H.M.S. Surinam." In ten of the eighteen cases examined for the present study, court-ordered relocation was accompanied by some other minor penalty like the forfeiture of all or part of the seniority the culprit had accumulated on the navy list compiled for his rank. To cite but one instance, Master Peter Inskipp of the Castor, who was found guilty of "contempt to his officers, neglect of duty...using threatening language to his captain and drunkenness" by a tribunal on 9 March 1810, lost "three years rank" as well as his post on board that vessel.

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61 Fifteen of the eighteen men receiving this punishment were convicted of disobedience, contempt or unofficer-like conduct.

62 ADM 1/5394.

63 An officer was entered on these lists chronologically by the date he had achieved the rank. Because seniority played a large part in promotion, a reduction on the roll could cause a considerable delay in professional advancement.

64 ADM 1/5403.
While removal normally entailed some diminution of the culprit's status in the navy, it was much less drastic than the degradation imposed by actual demotion. In general, demotion was administered as a consequence of disobedience, drunkenness, negligence, contempt, sedition, riotousness or absence without leave. Like so many other naval punishments it could be prescribed for warrant and commissioned officers only by the judgement of a tribunal. Demotions accounted for almost twelve percent of the penalties inflicted by courts martial on the Leeward Islands station between 1784 and 1812 (see Table 2). Each of the twenty-three warrant officers stripped of his rank was forced to serve before the mast. For example, John Davis of H.M. Brig Busy, who was tried in Fort Royal Bay, Martinique on 17 November 1801, "for mutinous, insolent and contemptuous conduct," was sentenced "to be broke from his employment of boatswain and serve as able seaman on board such one of His Majesty's ships or vessels as Rear Admiral Sir John Thomas Duckworth K.B. Commander in Chief...[thought] fit to direct." Correspondingly, every one of the six

65The thirty-nine men receiving this penalty were convicted of fifty-two crimes, forty-eight of which were the offenses just noted.

66ADM 1/5359.
commissioned officers was reduced to a petty officer. Thus Lieutenant Charles Thackeray of the Thorn was disrated to midshipman on 15 January 1789, as a result of being found guilty of disrespect to his captain and neglect of duty. In particularly serious cases, the delinquent often was banned from the quarter deck either for a specified number of years or for life. In addition to being turned in the rank by a court martial on 27 November 1800, the carpenter of the Severn was "rendered incapable of serving as an officer in the naval service of His Majesty, his heirs or successors."

Though the captains of the king's vessels could not degrade warrant and commissioned officers, they could demote the petty officers under their command. The Regulations and Instructions of 1806 expanded this classification to include "the master at arms, sailmaker, caulker, rope maker, armourer, armourer's mate and ship's cook" as well as midshipmen, coxwains, yeomen of the powder room and the like. Summary demotions constituted less than one percent of the punishments recorded in the logs of the seventy-three vessels in the present survey (see Table 2). In twenty-one of the

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67 Ten petty officers also were demoted by naval tribunals. Eight of these men were given floggings or jail terms as well.

68 ADM 1/5327.

69 ADM 1/5354. Trial of John Darton.

70 Regulations and Instructions, 2nd ed., p. 121.
twenty-five instances, the culprits were flogged before they were disrated. For example, the master of H.M.S. Latona made the following entry in his journal on 1 August 1785: "Punished William Shilton with two dozen lashes for insolence and disobedience of orders and Charles Allen with one dozen for quarrelling, both having been quarter masters were turned off the quarter deck." Thus, shipboard degradations often were intended to add insult to the injury sustained by corporal retribution. Richard Bickerton, the commander of the Sybil, suggested as much when he recorded the punishment of a marine in the frigate's log on 5 September 1789. "Punished Michael Murphy, corporal, with twelve lashes for neglect of duty," he wrote, "and disgraced him by breaking him." Not only was demotion damaging to the delinquent's esteem within the naval community, it was detrimental to his financial status as well. Because a British mariner's wages were related directly to his rank, degradation could have substantial economic consequences. The income of a disrated warrant officer belonging to a third rate ship of the line was reduced by approximately sixty percent per mensem. By the same token, a petty officer serving on board one of the larger vessels stood to lose at least

71ADM 52/2369.
72ADM 51/873.
twenty percent of his monthly earnings. Needless to say, on long voyages the accumulated losses could be considerable. Oliver Lloyd, who was demoted from ship's corporal of the Majestic to able seaman fourteen months before that man-of-war returned to England in June 1786, was deprived of more than £4. Correspondingly, Thomas Taylor, a boatswain's mate on the Scourge stripped of his office for mutinous expressions and neglect of duty on 22 August 1797, lost £3 16s over the next three years. 

Amercement could cause an even greater financial hardship to the royal mariners than demotion. Amounting to less than six percent of the penalties imposed by courts martial in the Lesser Antilles (see Table 2), fines were a subsidiary punishment. In each of the seventeen instances, they were levied along with a flogging, a demotion, a reprimand, or a jail term for such crimes as contempt or desertion. Nevertheless they could be staggering. Master George Passmore of H.M.S. Woolwich who was convicted of disobedience of orders and contemptuous behavior to his captain by a tribunal on 10 March 1794, was broken and "mulcted of all pay due to him from the

\[73\text{ADM 51/1122. A corporal of a third rate ship of the line was paid £1 10s a month. An able seaman received £1 4s during the same period. Regulations and Instructions, 1st ed., pp. 146-149.}\]

\[74\text{ADM 51/1259. A boatswain's mate on a sloop earned £1 6s per mensem. An able seaman's monthly wage was £1 4s. Regulations and Instructions, 1st ed., pp. 146-149.}\]
said ship."  

Similarly, three mariners who had run from the Intrepid in early 1808 forfeited all the wages they had earned aboard the vessel in addition to receiving large numbers of lashes.  

As equally uncommon as amercement was court-ordered imprisonment. Indeed, only nine of the officers and men tried in the Leewards between 1784 and 1812 received this punishment (see Table 2). Accompanied by other penalties in all but one instance, sentences of incarceration were rendered for offenses deemed particularly heinous. Having been found guilty of an unnatural crime by a tribunal held at the Saintes on 9 July 1810, the ship's corporal of the Castor, for example, was condemned to three hundred lashes, the forfeiture of all wages and emoluments, and the maximum period of detention. All prisoners convicted on foreign stations were returned to England and

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75ADM 1/5331.

76ADM 1/5386. Trial of Alexander Murdock, John Berry and John Warren. 4 April 1808. As noted in Chapter One, the Regulations and Instructions enjoined commanders to assess fines for misdemeanors like swearing. Unfortunately, no record of these summary impositions has survived. Hence it is impossible to compute the frequency with which they were exacted.

77ADM 1/5407. Trial of Soloman Nathan. Nathan was the only man on the Leeward Islands station to be sent to prison for two years. The remaining eight were given terms ranging from three to eighteen months. Another six mariners, who have not been included in the survey, were incarcerated for prevaricating during their testimony at various trials.
interned in the Marshalsea Prison, a sparsely populated, ancient jail for debtors and pirates located in Southwark. There they remained in the custody of the Marshal of England until their term, which could not exceed two years, was completed or commuted to time served.

A much shorter form of incarceration than court-ordered imprisonment was summary confinement. Rarely imposed as a complete punishment (see Table 2), shipboard confinement was reserved for warrant and commissioned officers. In all but one of the fourteen

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79 There is no evidence pertaining to the nine men in the sample which suggests that any of them were granted remissions. Indeed, Charles Concanen's plea for a reduction of his sentence on 14 November 1810 was flatly denied by their Lordships (ADM 1/4427).

80 Ordinarily members of the lower deck were placed in close confinement preparatory to a summary flogging or other such punishment. According to this practice, they were put in irons in a public place in the ship. For example, John Butson was shackled "by the after hatchway" of the Whitby prior to being scourged for theft in April 1784 (ADM 1/5324. Trial of William Simpson, 14 June 1785). The length of time a prisoner was fettered was entirely dependent upon his commander's discretion. As a result, some men wallowed in bondage for weeks; while others were manacled for just a few days. Whereas several deserters from the Forester remained in captivity for a fortnight before experiencing the lash on 16 February 1811 (ADM 51/2371), two members of the Opossum's crew who were guilty of the same offense spent only four days in chains prior to receiving their punishments little more than one month later (ADM 51/2616). Unfortunately, these confinements were seldom recorded in the logs. Hence it is impossible to quantify them.
cases in the sample, it was inflicted for indiscretions like drunkenness, disobedience, neglect or contempt. The boatswain of the *Forester*, for instance, was put under arrest on 18 June 1811, "for letting go the anchor without orders."\(^{81}\) Usually the delinquent was required to remain in one specific place in the vessel. For example, Lieutenant Edwards of the *Alligator*, who was taken into custody for intoxication and disrespect on 2 July 1806, was detained first in the loft and later in his cabin.\(^{82}\) How long an officer was kept under restraint varied with the circumstances of his case, but as a rule it seems that incarceration did not last more than a day or two.\(^{83}\) Normally the culprit was released as soon as he had apologized for his imprudence and given his

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In a similar vein, culprits of all ranks were confined to await trial by court martial. Here again, the length of confinement varied with the circumstances of each case. As noted in Chapter Two, the difficulty of assembling the minimum requisite number of judges on foreign stations caused some men to remain under arrest for months. Others were spared lengthy delays and brought to the bar within days of committing their alleged infractions. However, a random sample of twenty trials yields no clear cut pattern of incarceration. Whereas eleven of the defendants spent less than thirty days in captivity, nine were in custody for more than a month. The periods of detention for these men ranged from three days to seven months.

\(^{81}\)ADM 51/2371.

\(^{82}\)ADM 51/1571.

\(^{83}\)In four of the six cases in which the period of detention is ascertainable, the prisoner was released within forty-eight hours.
assurance that his subsequent deportment would be more decorous. Thus Arthur Briarey, the purser of the Mermaid, spent less than forty-eight hours in captivity for neglect and disobedience before being freed by his captain "on promise of being more circumspect in [the] future" on 26 April 1795.84

A even milder sort of punishment than confinement was censure by a tribunal.85 Depending on the degree of disapprobation which his behavior warranted, a culprit was either severely reprimanded, reprimanded or simply admonished to be more circumspect in his succeeding affairs. This gentle measure of correction was seldom adjudged (see Table 2), and then only to miscreants who walked the quarter-deck. In eighteen of the twenty-nine cases on the Leeward Islands station, it was applied to actions that were ill-considered but not necessarily illegal. For example, the court assembled at Carlisle Bay on 22 February 1808 to try Lieutenant Thomas Muir of H.M.S. Curieux "for not doing his utmost after his commander's death to take or destroy a French privateer" merely reproached him for not having hove to to repair the damages sustained by the Curieux during the engagement

84ADM 51/4474.

85Two members of the quarter-deck from the ships in the sample also were reprimanded summarily by their commanding officers.
when it became obvious that the ship was in no condition to overtake the enemy. 86 In the remaining eleven instances, it was administered because mitigating circumstances seemed to suggest that greater stringency was unnecessary. 87 Thus, though found guilty on 8 June 1797, of contempt to Lieutenant Crosbie, Francis Wemyss was adjudged "to be only reprimanded" because "a reconciliation had taken place between Lieutenant George Vandeput Crosbie and the prisoner subsequent to the time the offense was committed." 88

Finally, there were a host of minor, non-corporal punishments which were inflicted upon seamen and petty officers for venial offenses. Although these penalties normally were not recorded in the logs, their number was limited only by the breadth of the imaginations of the members of the quarter-deck. As a rule they either denied the culprit one of the few simple pleasures of maritime life or caused him to suffer great humiliation in front of his peers. Of the former, the most popular seems to have been watering a man's grog or stopping it completely. 89

Captain G. B. Westcott of H.M.S. Majestic, for instance,

86ADM 1/5385.

87In six of these cases, additional minor penalties were imposed. William Tullidge, for instance, also was "mulated six months pay [and]... placed at the bottom of the list of surgeons (ADM 1/5373, 14 April 1806)."

88ADM 1/5339.

deprived five seamen of their rum rations for crimes ranging from neglect of duty to riotous behavior in late October and early November 1794. Of the latter, a practice frequently resorted to was burdening the delinquent with demeaning additional tasks. Lord Collingwood, for example, was master of this usage. According to the editor of his correspondence, he employed one technique which his crews especially feared:

It was the ordering any offender to be excluded from his mess, and be employed in every sort of extra duty; so that he was every moment liable to be called upon deck for the meanest service, amid the laughter and jeers of the men and boys. Such an effect had this upon the sailors, that they have often declared that they would much prefer having three dozen lashes: and, to avoid the recurrence of this punishment, the worst characters never failed to become attentive and orderly.

These, then, were the major corporal and non-corporal punishments administered in the Royal Navy during the age of sail. Consistent with the reigning penal theory of the eighteenth century, their object was to make horrible examples of their victims in order to terrify potential

90 ADM 51/1122.
criminals into obeying the law. Hence they were either extremely brutal or terribly humiliating. As such, they provided the men who governed His Majesty's ships with powerful weapons for maintaining order afloat. And how the commanders of the king's vessels used some of these weapons summarily to preserve that order is the subject of the next chapter.
"Bligh stamped up and down the quarter-deck, his face distorted with passion, shaking his fists and shouting at us as though we were at the other end of the ship."¹ In this brief passage from the timeless sea story by Charles Nordoff and James Norman Hall, the haunting portrait of a sadistic commander of the *Bounty* erupts with all its demonic fury. Indeed, thanks in large part to the classic screen adaptation of their novel about the infamous mutiny, featuring such cinematic giants as Charles Laughton and Clark Gable, the legendary captain's name has become synonymous with the relentless enforcement of a draconian code of conduct. But was the representation of Bligh in the motion picture of 1936 characteristic of British naval officers in the eighteenth century? Was he the brutal rule for his profession rather than the tormented exception?

Modern scholarship — if somewhat tentatively — has begun to rehabilitate the image of His Majesty's captains during the age of sail. Reacting to the assertions of rampant brutality made by romantic historians like John Masefield, more recent students such as Michael Lewis, G. J. Marcus and Dudley Pope have suggested that inhumane treatment aboard British men-of-war was far less common than was supposed previously. Yet their remarkable contributions to the social history of the Royal Navy still imply that many of the commanders of the Crown's vessels practiced a certain unbending absolutism similar to that of the lord of Nordoff and Hall's Bounty. While arguing that the majority of officers entered the service to further the causes of King and country and their own social advancement, Lewis, for example, claims that others were induced to enlist by the "despotic power" at the disposal of the members of the quarter-deck. Pope goes even further. In his opinion, the solitude and autonomy of nautical governance made the men who exercised it particularly vulnerable to monomaniacal behavior. "The loneliness of command was something that a good leader accepted;" he writes, "but with an inadequate man it led to

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2Even Bligh's reputation has been improved slightly. In one recent study he has been portrayed as "a man of exceptionally strong will and of uncertain temperament." Richard Hough, Captain Bligh and Mr. Christian: The Men and the Mutiny (New York: E. P. Dutton and Co., 1973), p. 3.

3Lewis, A Social History of the Navy, p. 291.
drinking or brooding and introversion; a healthy attitude towards the church could become a religious mania; a normal strictness could warp itself into sadism. Obsessions seemed to be lying around waiting to be claimed ...⁴

Undoubtedly there were obsessional characters to be found among the officers of the eighteenth-century British Navy. The wide-ranging powers bestowed upon the commanders of the king's ships by both editions of the Regulations and Instructions created a tremendous potential for the abuse of authority, to say nothing of the manifestation of personal eccentricities. However, religious fanatics and brooding drunkards were probably no more prevalent than sadists and tartars. Although captains had great scope to establish whatever systems of order they thought fit for their vessels, there were strong social and legal pressures influencing them to conform to the age's conventional methods of maritime management. And these methods were grounded firmly in the ideal of "an officer and a gentleman."

In the Royal Navy, the term "an officer and a gentleman" had virtually the same connotation that the notion of masculine gentility had for the members of the rural ruling classes on shore. Like the upper echelons of landed society, captains were expected to distinguish themselves from the masses they governed by their education.

⁴Pope, Life, p. 63.
and civility. In doing so, they were to set dignified examples which the lower orders of the maritime community would respect and emulate. Moreover, they were to manifest a genuine sense of *noblesse oblige* and so display a fatherly concern for the health and well-being of their charges. Finally, they were to administer their responsibilities to their floating dominions honestly and fairly for the public good, particularly rendering impartial justice which was firm yet merciful. In short, naval commanders had to provide their crews with the same type of leadership expected of squires in the British countryside.5

Naturally, individual captains, like the members of the rural gentry, approximated the ideal with greater or lesser success depending on their personal inclinations and temperaments. Although some blatantly ignored it, on the whole most seemed to have recognized its importance. As one contemporary observed:

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There is ... an ingredient in the composition of a good officer, without which all others are comparatively useless. He must be a gentleman. If he has low, mean, or vulgar ideas or habits, he will be obeyed, but will never command respect.6

And it would appear from the surviving evidence that the majority of commanders at least paid lip service to the ideal if they actually did not strive earnestly to achieve it.

Nor should this be particularly surprising. A substantial number of the members of the quarter-deck were drawn from the landed classes. According to Professor Lewis's estimates, almost forty percent of His Majesty's officers were the sons of aristocrats or squires.7 Moreover, naval commanders enjoyed more or less the same administrative independence that the gentry exercised in the localities as justices of the peace. Whereas the lords of the countryside, thanks to their economic position and distance from London, were free from the meddling of the metropolis, the men entrusted with the management of the king's ships, due to the closed nature of the individual communities they ruled, generally enjoyed a comparable license. It stands to reason, then, that the captains of the Royal Navy, occupying a similar place and fulfilling many of the functions in maritime society that the

7Lewis, Social History, p. 31.
squirearchy did on shore, would adopt many of the methods of rural government.

The laws regulating the authority of the men commanding the king's ships gave them considerable latitude in the management of their vessels. As a result it was incumbent upon all captains to devise their own "system," as it was known in the usage of the day, for the governance of the seamen under their jurisdiction. It goes without saying that each system reflected the preferences and professional experiences of the individual who promulgated it. Some were quite rigorous, others relatively relaxed. While Captain Charles Ogle of H.M.S. Unité, for example, drilled his charges until they were "often exhausted," his successor, Captain Patrick Campbell, reduced the number of exercises to two a week and "did away with the formality of touching ... hats at quarters." But the common object of all systems was to avoid misunderstanding and error by providing the crews laboring under them with a clear, consistent code of conduct which would enable every member of the ship's company to know exactly what was expected of him. As Captain William Price Cumby instructed his immediate subordinates on the Hyperion: "The system of

discipline established in the ship must be always scrupulously attended to, and the mode of carrying on the duty adopted by the First Lieutenant be followed by all the others: as variety of method in the officer necessarily tends to irregularity and confusion amongst the men."

Most contemporary theorists of naval captaincy waxed exuberantly about the harmonious effects of well conceived systems. In the opinion of some, such schemes were analagous to finely tuned mechanisms. In 1807, the anonymous author of a work entitled Observations and Instructions for Officers of the Royal Navy drew the analogy in the following terms:

Let him [i.e. the captain] fancy the movements of his ship to be those of a great machine whose vigour, expertness, utility, and effect, are dependent on discipline, and discipline on himself. Let discipline then be considered as the great wheel, which sets in motion numberless small ones; the great cause of every success; the vital spring of subordination; the commanding invigorating principle of every action; the power which rewards and protects; whose advantages include all that is derived from the laws, authority and obedience, created with, and expiring only with, his command. ... A system clear and methodical; the execution of it precise and regular.10

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9William Pryce Cumby, "Orders and Regulations for the Government and Discipline of His Majesty's Ship Hyperion" in Five Naval Journals, p. 344.

10A Captain in the Royal Navy, Observations and Instructions for the Use of the Commissioned, the Junior and other Officers of the Royal Navy, on All the Material Points of Professional Duty (London: P. Steel, 1804), p. 36. Apparently some officers took the analogy literally. According to Samuel Leech, "The difficulty with naval officers is that they do not treat with a sailor as a man.
Yet, ironically, the very systems which were intended to create this mechanical harmony among individual communities afloat spawned tremendous disorder within the fleet as a whole. Because each captain's methods of managing his crew inevitably differed from the next, what was tolerated on one vessel could be criminal on another. As one critic of the unreformed Admiralty laws expressed it: "the internal regulation of every ship in the navy depends upon the 'captain's pleasure,' (as it is termed), and what is in one ship forbidden, is in another encouraged; what in one is applauded, in another punished; thus a naval life becomes a continued series of different educations."

These "different educations" could cause considerable problems for the seamen subjected to them. Although grossly exaggerating his case, Jack Nastyface seems to have been correct when he asserted that it was not uncommon for veteran seamen to run afoul of the systems promulgated by succeeding commanding officers through sheer ignorance of their methods rather than through criminal intent. A

They know what is fitting between each other as officers but they treat their crews on another principle; they are apt to look at them as pieces of living mechanism, born to serve, to obey their orders, and administer to their wishes without complaint." Leech, Thirty Years from Home, p. 123.


Nastyface, Nautical Economy, p. 149.
survey of the mariners turned over from one ship to another reveals that almost forty-seven percent of those who were punished suffered their initial correction within half a year of their entry onboard their new vessels. Moreover approximately seventy-four percent of the men flogged within the first six months of the arrival of a fresh captain had no previous history of disciplinary problems on their ships.

In an attempt to remedy the lack of uniformity in the management of the king's ships and its accompanying problems, the Lords Commissioners of the Admiralty on 12 July 1785 resolved to direct all commanders in chief "to transmit hither [i.e. London] a copy of the most approved regulations for the government, discipline and care of the officers and men which ... subsisted in the ships of the squadron under their respective commands for their Lordships information." However, nothing seems to have

13In computing this statistic, only men who entered a ship on or after the date at which examination of that vessel's log books commenced were tallied. Because it is impossible to determine whether or not seamen who entered before that date were ever punished (no less with what frequency), these men have been excluded from the calculation. Thus, 303 of the 651 turned over men who were punished suffered their first correction within six months of their arrival on board their new ships.

14In the calculation of this percentage, all commanders with less than half a year's service were not included. As a result, the number of officers in this survey is sixteen. Of the 423 men punished by these captains during the first six months of their commands, 312 had no previous records of criminal activity.

15ADM 3/100.
come of the plan. The reason for the failure of this attempt was probably quite simple. As Admiral Philip Patton observed several years later:

The fluctuating state of the supreme naval power, and the contradictory ideas formed at the Admiralty by the different sea-officers who have sat at that Board, are the true causes why nothing really advantageous to discipline is likely to emanate from thence. The different Admirals who have suggested improvements in their squadrons, have sometimes been successful in proposing what has obtained approbation from the captain: but it has always been more owing to this approbation, than to authority, that these improvements have been adopted.  

A certain amount of detail about the differences between various systems has been preserved in the few extant order books from the late eighteenth century. These books were compendia of the directives given by individual captains for the governance of their charges. Some provided the officers and men with general outlines of what was expected of them in ordinary naval situations. Captain William Pryce Cumby's collection, for example, methodically described the basic responsibilities of his immediate subordinates and the functions they were to perform when the vessel was at sea and in harbor.  

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17 Cumby, "Orders and Regulations" in Five Naval Journals, pp. 330-349.
instructions dealing with specific activities which were issued as the need for them arose. Thus, the order book of Prince William Henry, which was promulgated piece-meal during the course of a one and a half year cruise by His Royal Highness as commander of H.M.S. *Pegasus*, was comprised primarily of rules treating such disparate topics as swimming alongside the ship while in port and the mannerisms of barge men when rowing the longboat ashore.\(^{18}\)

Regardless of whether the rules contained in order books were specific or general it was expected that they would be obeyed by those for whom they were prescribed. It was axiomatic in the eighteenth-century Royal Navy that obedience was the fulcrum of order afloat. "Obedience to the orders given by the captain is an article so essential," claimed Admiral Patton, "that it may truly be considered as the foundation upon which the whole system of discipline must be built."\(^{19}\) And the seriousness with which this observation was taken by most of His Majesty's commissioned officers is reflected by the relatively high incidence of summary punishments for failure to comply with instructions. Of the 8,610 crimes entered in the logs of the seventy-three men-of-war examined during the


\(^{19}\)Patton, *Strictures*, p. 75.
preparation of the present study, 913, or a little more than one tenth, were defined as disobedience.20

However, it was recognized that coercive measures alone had but a negligible effect on the majority of royal mariners. Such measures, it was believed, could be used only to compel bad men to follow orders, and then only grudgingly. As Patton put it: "obedience cannot be obtained by any mode or degree of punishment, without a previously favourable disposition among those who are to obey."21 To inspire a ship's company to perform its duties willfully, even happily, demanded something more than brute force. Not only did it call for that indefinable quality of leadership, but it required His Majesty's captains to set virtuous examples for their crews to emulate.

Of the former, few generalizations can be made. So much depended on the talents of the individual commander. Men with remarkably different personalities could be blessed with an equal measure of what has become known to posterity as "the Nelson Touch." For instance, Captain Henry Inman, who — in the opinion of Peter Cullen — was "of greater firmness and enterprise than his predecessor,"

20The number of punishments for disobedience of orders was exceeded only by the figures for drunkenness and neglect of duty. See Table of Crimes in Chapter Five.

Manly Dixon, was as equally well liked by the crew of the Espion as Dixon had been.22 "There was, then, no pattern," Dudley Pope has argued. "One captain commanded his ship with a joke on his lips and a gentle hand on the reign; another rarely spoke and even more rarely smiled. Yet each commanded successfully."23

Certainly, a modicum of innate leadership ability helped to make a captain's task much easier, but by eighteenth-century lights it alone could not insure a felicific command. According to the conventional wisdom of the day a commander also was obliged to provide his men with an example which would encourage them to follow him willingly and elevate their personal decorum. Numerous commentators on the duties of commissioned officers extolled the happy effects of a good example. "I have always observed, that precept and example is as much studied and attended to on board ship as in any part of society," testified one anonymous author, "and where the captain is particular in his own conduct, and vigilant over that of his officers, the people are more orderly and punishment is the less necessary."24 Indeed, so prevalent were these notions that they were

22"Memoirs of Peter Cullen, Esq." in Five Naval Journals, p. 90.

23Pope, Life, p. 64.

24A Captain, Observations and Instructions, p. 6.
institutionalized by both editions of the Regulations and Instructions. The volume originally promulgated in 1731, for instance, stated: "the commanders of His Majesty's ships are strictly required to shew in themselves a good example of honour and virtue to their officers and men ..."25

The example to be set was styled after that of the ideal of a country squire. 26 Hence Captain O'Brien cautioned young lieutenants about to assume command of their first vessels: "The gentleman and the officer should never be separated."27 Like the members of the gentry, His Majesty's commanders were expected to conform to the accepted standards of decency and gentility of the day. They were to be honorable men who carried themselves with dignity and propriety, distinguishing themselves from the lower orders of maritime society by their education and

25 Regulations and Instructions, 1st ed., p. 45.


refinement. The Regulations and Instructions of 1806 specifically enjoined them to be paragons of "morality, regularity and good order." Only in this manner could they enjoy the respect and allegiance of their crews that were considered so essential to the good government of the king's ships.

Needless to say, the world of the quarter-deck was far from that of the ideal polite society. Even a cursory

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While few members of the quarter-deck received the education in the classics offered at Eton, Harrow, Charterhouse or Westminster, commissioned officers did undergo fairly rigorous training in practical seamanship. In theory at least, no one aspiring to become a naval officer could apply for a lieutenant's commission until he had served a minimum of six years as a midshipman and had reached the age of twenty. At the end of this apprenticeship each candidate was examined on a variety of nautical subjects by a committee of captains appointed by either the Navy Board or the commanders in chief of foreign stations. The social importance of such an education is well illustrated by the following passage from Cullen's memoirs: "The common seaman knows his officer to be a well-instructed man, competent to work in a ship, or maneuver a fleet, which he himself is incapable of doing, he therefore, as it were from instinct, obeys him at once, without hesitation, as a superior being, more intelligent than himself. A seaman looks up to his officer, as a son to his father, whom he knows to be more wise, more experienced, and more skillful than he possibly can be, because scientifically taught. A seaman knows himself to be but a handicraftsman, and his officer a master who must direct him. For a thoroughbred commander of a ship, whether commercial or naval, must of necessity be a man of science. Mathematics, Astronomy, Navigation, Gunnery, etc. are sciences which the officer must know or he learns not. This then is the grand basis of Naval Discipline, and navies cannot exist without it. To the landsman this appears slavery, but it is not; it is ignorance submitting to knowledge, and it is true wisdom, and discretion." ("Memoirs of Peter Cullen," p. 105).

Regulations and Instructions 2nd ed., p. 3.
reading of the reminiscences of life at sea during the eighteenth century betray some incredibly debauched characters. Such an officer was Lieutenant Byam who entered H.M.S. Tromp at Martinique on 4 January 1801. According to the frigate's gunner, William Richardson, Byam "was a complete rough knot, and said once that he would not give a damn for a fellow that did not like grog; he seldom went to bed sober, and sometimes when he had been on shore and came off in the evening he staggered so that the quarter-deck was hardly large enough to hold him, and sometimes would tumble down on the cabin floor when he reached it, and lie there." Similarly, William Dillon described James Waddy, who was the master of the Aimable when Dillon joined her on 13 August 1796 at Fort Royal Bay, as "an officer nearly worn out. He sang a capital song, but also liked his glass."


However, there is one remarkable document which suggests that the Byams and Waddys were the exceptions rather than the rule for British naval officers in the age of sail. In his memoirs, James Anthony Gardner offers a unique glimpse of the men who walked the quarter-decks of the king's ships in the late eighteenth century. A veteran of almost thirty years service, Gardner records his general impression of the personalities of three hundred of the warrant and commissioned officers with whom he was acquainted. He characterizes fifty-one percent of these mariners as either "gentlemen," "good officers," or "worthy fellows." Conversely he describes only eleven percent as heavy drinkers or coarse mannered.

That Gardner found the overall deportment of so few of His Majesty's officers objectionable is not particularly astonishing. From the surviving evidence it is clear that there were strong communal and institutional pressures working upon the members of the quarter-deck to comply with the prescribed modes of genteel behavior. Failure to do so


34Gardner describes the remaining third in terms which do not indicate a level of gentility. For example, his assessment of James Moore, the gunner of the Hind, reads simply: "A very good sailor (p. 202)." Similarly, his only comment about Midshipman O'Connor of the Barfleur is: "I hated him (p. 119)."
could lead to social ostracism or -- even worse -- the censure of a court martial. The fate of an unfortunate officer serving on the Leeward Islands station in the later 1780s illustrates how deep-seated the notions of gentlemanly propriety were among members of the quarter-deck. In December 1787 several mariners who were impressed during an Armament entrusted part of the wage they had earned on board a merchant vessel to Lieutenant James Collins of H.M.S. Jupiter. After the threat of war had subsided early in the next year, the men were discharged from the navy and returned to collect the money they had left with Collins. However, to their dismay they discovered that the lieutenant had squandered their resources at a gambling den on Barbados and was unable to repay them with hard currency. Instead he issued them bills of exchange which they had much difficulty cashing at face value. When the "Wardroom Gentlemen" of the Jupiter became aware of what Collins had done, they were outraged. Expressing their disapprobation, they banished him from their mess in February 1788 and refused to show him any further "countenance." For months Collins languished as an outcast. Finally, in August, Commodore Parker, the commander in chief of the squadron, took pity on the hapless lieutenant and sent him home to be reassigned to another station. In explaining the reasoning behind his action, Parker informed the Admiralty that in his opinion
"it ought not follow for such an error a young man should be held out as infamous all his life after."\(^{35}\)

But it was not only an officer's peers who expected him to adhere to the standards of gentility. The seaman did as well. This is evinced quite clearly in an incident related by Peter Cullen in his memoirs. During the insurrection at the Nore in the Spring of 1797, the mutineers aboard his ship showed the captain and several of the other officers the greatest courtesy. At one point they even apologized for the inconvenience they had caused. However, two of the members of the quarter-deck they would not suffer to remain in their presence. According to Cullen:

The reasons that these men gave for their hostility to those officers were curious enough. The First Lieutenant, they said, was a blackguard and no gentleman, and by no means fit for being an officer. That the Master was like him; both of them a disgrace to His Majesty's service. And we all had proofs enough of the correctness of their observations in that respect.\(^{36}\)

As painful or embarrassing as these pressures could be, an even greater inducement for officers to behave in a

\(^{35}\)ADM 1/315. Unfortunately for Collins, the Admiralty did not share the Commodore's sentiments. In the margin of Parker's letter of 30 September 1788 to the Lords Commissioners concerning the affair is written: "Their Lordships do not think there was sufficient reason to permit Lieutenant Collins to quit the Jupiter." Therefore, upon his return to England he was ordered back to the Leewards to serve in his former capacity on the Jupiter. See Parker's letter of 14 July 1789 acknowledging Collins's return (ADM 1/315).

\(^{36}\)"Memoirs of Peter Cullen," p. 84.
decorous manner was the potential danger of condemnation by a court martial run by men who did not carry themselves respectfully. The possibility of having to answer to a naval tribunal for one's personal deportment was far from remote. Of the 110 warrant and commissioned officers tried on the Leeward Islands Station between 1784 and 1812, almost three quarters were charged with ungentlemanly acts. Moreover the gravity with which these offenses were viewed is demonstrated by the sentences meted out to those found guilty of them. Fifty-four percent of the members of the quarter-deck convicted of unofficer-like conduct in the Lesser Antilles during the period under discussion either were dismissed from the Royal Navy or broke of their rank and forced to serve before the mast. 37

Such was the fate of Lieutenant Michael Mackey who was stripped of his commission by a tribunal in Fort Royal Bay, Martinique on 29 July 1799 for "drunkenness and ungentlemanly behavior." A few days earlier Mackey had sat down to supper in the wardroom of the Invincible "without coat or waistcoat or handkerchief round his neck." Seeing him in this state of dishabille, several of his messmates rebuked him for his "improper" appearance. Mackey defended

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37 Of the 110 officers tried, eighty-one were accused of ungentlemanly acts. Of the sixty-seven convicted, thirty-six received the maximum sentence.
himself by claiming that "he had seen gentlemen sit at the table with only their dressing gowns on." However, his reply failed to satisfy his dining companions. After one of them removed himself from the table in protest, Mackey arose to return to his quarters. As he was departing, he "struck his backside twice." A Lieutenant Morris responded to the gesture by saying that "he would kick it." At this point, Mackey left the room and entered his cabin. Five minutes later, he threw open his door brandishing a sword. When Morris approached Mackey, Mackey — excited by liquor — swung at him twice with the cutlass, the second time piercing his cheek. Shortly thereafter, Mackey was arrested and confined to await his trial. Within less than a week, his professional career was in ruins.  

That the code of gentility was enforced with considerable stringency is not surprising. In addition to providing the lower orders of the naval population with a virtuous example to emulate, it was the principal means, other than rank itself, by which the members of the quarter-deck distinguished themselves from the maritime masses they governed. Through their manners and dress, naval officers, like the landed gentry, set themselves apart from the rest of society and embellished their

38ADM 1/5350.
status. By virtue of this distance, they could maintain that detached aloofness so characteristic of eighteenth-century rural squires who sequestered themselves from the commonality behind the high walls and fences surrounding their estates.

Thus, like the landed classes, the members of the quarter-deck attempted to surround themselves with the aura of distance. To widen the gulf between officers and men created by the code of gentility still further, all intercourse between the two groups normally was conducted with rigid formality. As Charles Pemberton delightfully put it:

An English officer will respect his station though he be locked up in a cupboard, six feet by four, for a month with a private: he is cautious against the levelling of distinctions at all times and in all places. He would be irremediably contaminated if he kneeled on the same hassock, at prayer, in a church, with a man in the ranks. Launch him in a jolly boat with a pair of mizentopmen, on the wide waste of the Atlantic, discipline, decorum, and distance will be uppermost in his thoughts, the rules and guides of his steering and sail-trimming, and biscuit-cracking.

39 Standard uniforms for commissioned officers and midshipmen were introduced in 1748. However, the regulations concerning them do not appear to have been enforced strictly until the later part of the eighteenth century. See Marcus, Heart of Oak, pp. 73-75.


Indeed the boundaries between the nautical castes were held to be so inviable that it was considered an offense within the jurisdiction of a court martial to transgress them. Surgeon Richard Graham of H.M.S. Heroine, for example, was tried on 1 July 1793 at Carlisle Bay, Barbados for, among other things, "familiarizing with the people and servants." Similarly, Lieutenant Roger Woolcombe was reprimanded by a tribunal at Portsmouth on 7 December 1805 "for having acted unbecoming the character of an officer and a gentleman in messing at the top of the [Diamond] Rock with part of the ship's company" of the sloop Diamond Rock.

Because of the cramped conditions on board the king's ships resulting from the fact that relatively large numbers of human beings lived in very small spaces, numerous ceremonies were employed to remind the inhabitants of naval vessels of the wide social chasm that existed between officers and men. Some established the etiquette to be observed on various occasions. During the captain's promenades on the quarter-deck, for instance, it was ritual for the officers in attendance to be careful to follow their commander's lead, walking at his pace and turning when he turned. Others were intended to be physical

42ADM 1/5330.

43ADM 1/5371.
manifestations of the deference which seamen owed to their superiors. Thus when a mariner wished to address one of his officers he was to touch his hat or remove it completely as a sign of respect. "These ceremonials, which in one point of view, appear frivolous," wrote the Rev. Edward Mangin, "are in another, of the utmost importance to the well-being of naval society; ... where even a momentary dereliction of forms might prove fatal to the general interest." 44

However, distance did not imply an abdication of social responsibility by the ruling elite. Like the rural gentry, naval officers exhibited a marked paternal concern for the lower orders of their respective communities. Indeed, for them to have done anything less would have been seen by most members of the fleet in the age of sail as a breach of their obligations to society. In the late eighteenth and early nineteenth centuries, few essayists addressing the duties of His Majesty's captains failed to draw the analogy of the parental relationship that existed between commanders and their crews. "The captain," asserted one observer, "may properly be called the father of his ship's company." 45 In a similar vein, Admiral Patton argued:

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Whatever ... shall occur which may demonstrate to
the seamen, that it is the study of the captain to
promote the general happiness, in those duties a
skillful officer will always be assiduously
employed. By such attention it will soon appear
that he looks upon the whole company as his
friends or his children ... 46

Paternalism manifested itself at sea in different ways
than it did on shore. Whereas the charitable acts of the
landed gentry usually took the form of alms for the poor,
reduced rents, free housing for aged tenants and the like,
those of captains did not. 47 Since food, clothing and
shelter were provided by the service, there was little need
for philanthropic contributions of this kind. In the navy,
paternal concern was reflected primarily by the interest of
commanders in the health and well-being of their crews.
Many officers went to considerable lengths to insure that
the mariners on their vessels lived as pleasantly as
possible. The documents from the Leeward Islands station
during the period under discussion contain numerous
references to attempts to provide the seamen with wholesome
provisions, protection from the elements and other such
comforts. Representative is the following entry in the
master's log of the Excellent, dated Christmas Day, 1802:
"Received 1028 lbs. of fresh beef." 48

46 Patton, Strictures, p. 49.
47 See Mingay, The Gentry, pp. 143-146.
48 ADM 52/2992.
In addition to supplying these amenities, many captains demonstrated a genuine concern for the morale of their men. Almost all commanders tolerated the traditional maritime celebration known as "Crossing the Line." Some, like James Carthew of H.M.S. Glorie and the Duke of

49Although there were several variations, this festive occasion normally was celebrated as it was described by Henry Walsh: "according to ancient custom among the sailors the[y] shave all those that never was across the line [i.e. the Tropic of Cancer] before. The manner that the[y] perform this ceremony is as follows: The[y] dress one of the sailors in the habit [sic] of Neptune, god of the weaves [sic] and provides a coach and six horses to draw him. He has a trident in his hand and a crown on his head with a great number of sea nymphs which is all painted with various colours and masks with music of different kinds all playing. As he rides along he goes into the head and with a trumpet hails the ship and the captain answers. They have a long discourse but Neptune comes on board and rides along to the quarter deck and acquaints the captain that he is [sic] come on board to shave all his children at their arrival in that country. Neptune and the captain continues in conversation for a considerable length of time and then Neptune presents some of his food to the captain which is a fish on the point of his trident, which present the captain receives with many thanks to Neptune. After having a full account of the number of officers and men that is to be shaved, he proceeds to the place or shop where all his barbers is [sic] waiting to execute his commands. The[y] have a large sail of very thick canvas which will hold water and the[y] have it filled so that it will hold seven or eight tons of water and then fill it with the same. And then the barbers their chairs placed close to it and being well provided with ladder for shaving, which is composed of tar and dirty grace [sic] and filth of every kind that the[y] can find, the barbers being prepared at the same time with an iron hoop for a razor, which is notched in the edge to make it more disagreeable and rough. This being prepared, with every necessary to complete their designs, the[y] then by Neptune's order begin the operation. The constable with his gang bring the first and places him on the chair, and the barber begins to ladder [sic] him discoursing him at the same time and asking him many questions, intending if
Clarence, granted their companies regular leave when in port. Others, if they did not allow the seamen to venture from the ship in harbor, frequently permitted visitors from shore. Jeffrey Raigersfeld, who served as a midshipman under Cuthbert Collingwood on board the Mediator in the West Indies between 1783 and 1786, for example, relates in his autobiography that blacks from the several islands continually were given license to enter the vessel to barter their wares and entertain the crew with indigenous performances. Still others promoted various forms of amusements. According to James Wallis, Lord Nelson, when captain of the Boreas in the Lesser Antilles, "encouraged music, dancing, and cudgeling etc. and the officers and young gentlemen acted plays which kept up their spirits and kept their mind [sic] employed, which ...

he would answer to run the dirty brush into his mouth, but when the[y] have shaved him the[y] instantly tumbles him into the water and there roll him about until he is half drowned, and so on until he is shaved. Of those who never crossed the line before there is none excepted, even the officers themselves must experience the same without favour or exception or bestow valuable presents of liquor to ransome [sic] their liberty. This operation being over, the[y] generally gets a present of liquor from the captain and officers which makes them spend the day in pleasure." "An Irish Countryman in the British Navy, 1809-1815: The Memoirs of Henry Walsh," ed. T. W. Moody, The Irish Sword 4 (Winter, 1960): pp. 234-235.


51Baron de Raigersfeld, The Life of a Sea Officer, p. 14-35.
[was] of the utmost utility in preserving health in these climates. Finally, a few even indulged the men in their pleasures. Thus, soon after assuming command of the *Aimable*, Captain William Granville Lobb authorized, "one mess to have, daily, an extra portion of spirits, to enjoy themselves without being called upon to attend to any duty, when no particular exertion was required."

The tendency on the part of certain captains to grant their crews such indulgences suggests another trait of some of the members of the quarter-deck. Like a number of rural squires, these officers had a strong desire to be loved by the classes beneath them in the social hierarchy. In a few cases this desire could be so great that it inclined the commander to overlook clear contraventions of the Articles of War. For example, in November 1799 Sir William Dillon, then First Lieutenant of the *Crescent*, found his vessel populated with mariners who were "lazy and fond of drink." However, his representations to his captain of the

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misconduct of these men fell on deaf ears. As Dillon described it: "When I made a complaint to him, he would frequently not listen to it, but replied, 'You must become popular with the ship's company.'."\(^55\)

Other commanders shunned this type of popularity, attempting instead to elevate the morals of their men through religious instruction. One such officer was Lord Barham. In an undated memorandum, he asserted: "As soon as I became a captain I began reading prayers myself to the ship's company of a Sunday [sic] and also a sermon."\(^56\)

While most members of the quarter-deck probably did not share Barham's evangelical fervor, it does appear that a considerable number of them attempted in some degree to minister to the spiritual needs of their seamen. Some form of divine service was performed regularly on almost forty percent of the ships included in the present survey.\(^57\) Moreover, eighteen percent of these vessels were supplied with Scriptures donated by the Naval and Military Bible Society.\(^58\)

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\(^{55}\)Dillon, vol. 1, p. 370.


\(^{57}\)Twenty-nine of the seventy-three ships.

\(^{58}\)Thirteen of the seventy-three vessels. The Naval and Military Bible Society was founded in 1780 "for the sole purpose of distributing Bibles among the sailors and
While acts of naval paternalism could assume many different faces, the fatherly concern a captain exhibited toward his men theoretically had one over-riding objective: to render the inhabitants of the lower deck their just deserts. Assessing the obligations of both parties in the paternal relationship, Patton concluded: "The child owes the parent obedience, gratitude, affectionate attention and respect. The parent, in a word, owes the child justice."\(^{59}\) This conviction was echoed by several other contemporaries who committed their thoughts to paper. In 1809, an anonymous correspondent to the *Naval Chronicle*, for instance, expressed the connection in the following terms: "A ship's company should look up for paternal care and strict justice to their commander."\(^{60}\)

In the naval lexicon, "strict justice" meant equity as much as it did penal retribution. Hence, the *Regulations and Instructions* of 1806 stated explicitly: "The captain is to see that on all occasions strict justice is done to all the officers and men under his command; that they have

\[\text{soldiers of the British Navy and Army.}^{59}\text{ It supplied Scriptures free of charge to all ships whose commanding officers or chaplains solicited them (}\text{An Account of the Naval and Military Bible Society, from its Institution in}\text{1780 to Lady-Day 1804 (London, 1804), pp. 3, 11).}\]

\(^{59}\text{Patton, pp. 21-22.}\)

their proper allowances of provisions; and that no improper charge is made against their wages."\(^{61}\) And, from the evidence pertaining to the fleet in the Lesser Antilles during the period under examination at least, it seems that His Majesty's commanders attempted to give the men their due by rigidly observing these entitlements and occasionally even offering rewards for meritorious service. Thus, after discovering he had purchased undrinkable rum in March 1785, Captain Wilfred Collingwood suspended his crew's grog rations for forty-eight hours; but when the tainted liquor had been replaced he "ordered their allowance to be increased one third till they had the two days allowance that was stopped."\(^{62}\) Similarly, Captain Jemmett Mainwaring, immediately upon anchoring at English Harbour, Antigua in December 1796, praised the company of the Aimable for their attentiveness to duty and distributed some prize money among the seamen before granting them "a holiday."\(^{63}\)

If justice involved providing for the worthy, it also entailed the unpleasant task of chastening the infamous. Here too the notion of fairness was to be applied. It was a maxim of eighteenth-century naval penal theory that each

\(^{61}\)Regulations and Instructions 2nd ed., p. 163.

\(^{62}\)ADM 51/770.

offense to be judged impartially in its own light and treated with the sternness or lenity that it really deserved. In other words, the punishment was to fit the crime. Therefore, it was not to be unduly severe. Hence Captain O'Brien cautioned young commanders: "to punish with the utmost rigour is brutality, not justice."  

That many captains honestly sought to abide by this theory of justice is suggested by the fact that only about seven percent of those surveyed invariably administered the same type of correction in equal amounts for all instances of a particular violation.  

Between December 1799 and May 1802, Captain John Nash punished thirty-two seamen and marines on board the Hornet sloop for neglect of duty with sentences that ranged from six to thirty-six lashes. Moreover, in many cases commanders tried to distinguish degrees of guilt among mariners involved in petty conspiracies. In roughly forty-five percent of the instances in which three or more tars were punished for the same multiple offenses on the same day, the delinquents did

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64 O'Brien, p. 216.

65 In calculating this statistic, the punishment records of seventy-four commanders who served continuously for six months or longer on one of the seventy-three ships were examined. Of these officers only five, or 6.68 percent habitually administered equal amounts of correction for all instances of the same crime.

66 ADM 51/1322, 1364, 1417.
not receive identical penalties.67 Thus on 1 June 1808 Captain William Maude flogged two of the three men belonging to H.M.S. Belleisle who had been deemed guilty of negligence and intoxication with twenty-four lashes, and the other with twelve.68

One technique employed on the king's ships to ensure justice was the practice of delaying the adjudication and correction of offenses for some time after their discovery to allow whatever anger they had aroused within a commander to subside, therefore enabling him to consider the issue dispassionately and avoid unwarranted severity. Because no systematic records were kept of the intervals between the detection of crimes and their punishment, it is impossible to assess the frequency with which this technique was used. Nevertheless, from the few surviving instances recorded in the log books of the vessels on the Leeward Islands station between 1784 and 1812 it is evident that the minimum period was approximately twenty-four hours. Thus the day after the captain of the Syren caught Charles Neily and William Thomas swimming from the frigate on 21 July 1799, he brought them to the gangway and gave them two dozen lashes each.69 In some cases though, the interim

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67In thirty-four of the seventy-six cases the delinquents involved received different penalties.

68ADM 51/1920.

69ADM 52/3480.
could be much longer. Captain Henry Newcome, for example, did not flog Private John Champion for desertion until a fortnight after the unfortunate marine had been captured and returned to the Maidstone on 16 November 1787.  

The attempts of captains to administer justice fairly and dispassionately did not go unnoticed by the men of the lower deck. In fact British tars seem to have appreciated these efforts greatly. According to Pemberton, Captain Murray Maxwell, who saw extensive duty in the Leewards during the Napoleonic Wars before distinguishing himself in the East Indies, was served zealously by the seamen under his command "because they found he wished to be, would be, just; they put forth their strength, skill, and cheerful alacrity because he was merciful and considerate in his discipline: he never tasked them with impossibilities; he never irritated them by caprice ..."  

An even more revealing episode is found in Cullen's narrative. During the mutiny at the Nore, the Second Lieutenant [of the Espion] ... was surprised at their tender mercy to him, above the rest, turned round to one of the delegates, and said, 'how do you spare me? Did I not get you flogged the other day?' His answer was -- 'You did Sir, but I deserved it. You are a gentleman, and a good officer. You never punished men but when they were in fault and you did it as an officer ought to do.'  

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70 ADM 51/578; ADM 36/10740.

71 Pemberton, p. 225.

72 Cullen, pp. 84-85.
Influenced as they were by the leavening principles of gentility, paternalism and detached justice, His Majesty's captains as a group seem to have exercised the awesome disciplinary powers at their disposal with moderation and restraint. Only about nine percent of the seamen and marines entered in the muster books of the seventy-three vessels included in the present survey ever endured the lash or the knittle. Thus it would appear that the defenders of corporal punishment were correct when they claimed that the majority of British mariners had nothing to fear from the cat of nine tails. If nine percent of the inhabitants of the lower decks of king's ships were flogged, ninety-one percent were not.73

Yet was nine percent a high or low figure in relation to other sailing navies? Unfortunately, this is a question which defies easy answer. For the most part, quantitative analysis of naval criminology in the age of sail remains to be undertaken. In fact the only comparable statistics to be found are those presented by James E. Valle in his study of American naval discipline in the Antebellum period.74

73The raw numbers used in the calculation of this percentage were: 5,538 men punished divided by 59,525 total men on board the ships in the survey.

Although Valle's numbers tally punishments rather than men punished and therefore do not lend themselves to the computation of accurate percentages, they still provide some perspective on the statistic just cited of nine percent lashed. By calculating ratios of floggings to total populations of seamen for both the American and British samples, it is discovered that the British rate is much lower. Whereas punishments were inflicted in the United States Navy at a ratio of one to every four seamen between 1846 and 1847, the proportion on board the seventy-three ships included in this survey was roughly one to eight. Placed in this context then, the figure of nine percent computed for the vessels in the Leewards does not seem to be particularly high. Indeed, it may be and seems to be considerably lower than the comparable percentage for the American fleet.

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75Citing figures from a Congressional report, Valle states that there were 5,936 floggings in the American Navy in 1846 and 1847. In his second table he lists the population of the U.S. fleet at 11,298 in 1846 and 13,025 in 1847. By adding these two numbers and dividing the total by the incidents of flogging a ratio of about 1 to 4 is derived. Since Valle's statistics do not make allowance for recitivites, the British rate is calculated by using the total number of punishments (7,421), instead of the total number of men punished (5,538). By dividing the total number of men who served on the ships of the survey (59,525) by the total number of punishments a rate of 1 to 8.02 is computed.

76In fact, the American ratio is probably somewhat higher than it should be. Unlike the British, it is not adjusted for the number of seamen carried over from one year to the next. As a result it is based on a population which is inflated artificially by counting some men twice.
While statistical analysis suggests that His Majesty's captains as a group probably administered correction with greater lenity than their American counterparts, it also indicates that British commanders collectively followed few general patterns in doing so. There is no correlation between the frequency of punishment and the place of its infliction. About half of the floggings meted out on board the ships in the survey occurred at sea, with the remainder taking place in port or within three days of leaving harbor.\footnote{The category of "within three days of leaving harbor" was devised in an effort to distinguish crimes which were committed in port but punished at sea. The raw totals are:

<table>
<thead>
<tr>
<th>Location</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Sea</td>
<td>3,581</td>
</tr>
<tr>
<td>In Port</td>
<td>2,954</td>
</tr>
<tr>
<td>Within Three Days</td>
<td>762</td>
</tr>
<tr>
<td>Missing</td>
<td>124</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Month</th>
<th>Punishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>588</td>
</tr>
<tr>
<td>February</td>
<td>638</td>
</tr>
<tr>
<td>March</td>
<td>757</td>
</tr>
<tr>
<td>April</td>
<td>711</td>
</tr>
<tr>
<td>May</td>
<td>641</td>
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<tr>
<td>June</td>
<td>656</td>
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<tr>
<td>July</td>
<td>522</td>
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<tr>
<td>August</td>
<td>625</td>
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<tr>
<td>September</td>
<td>562</td>
</tr>
<tr>
<td>October</td>
<td>572</td>
</tr>
<tr>
<td>November</td>
<td>488</td>
</tr>
<tr>
<td>December</td>
<td>660</td>
</tr>
</tbody>
</table>

Similarly there is no relationship between the seasons of the year and the number of punishments; most months witnessed around 600 apiece.\footnote{The monthly frequencies of punishments are:}

Moreover, there appears to be no strong measure of association between the size of a vessel and the quota of its crew punished. Whereas about five percent of the seamen on board the Bellona, which was a third rate ship of the line, endured the lash, an equal proportion is found on H.M. Sloop
Barbados. 79 Finally, there seems to have been no appreciable correlation between the length of time a commander had held a commission and the sternness with which he managed his crew. 80 Although James Stevenson had been a commander for only four months when he was posted to the Charon in September 1797, he flogged about the same percentage of his men as did John Hutt who had more than twelve years of experience at or above the same rank on the day he set foot on the Queen in March 1793. 81

79Seventy-four of the 1419 men on board the Bellona between 1 October 1794 and 30 September 1797 were punished (ADM 51/1128, 1181, 1194, 1223; ADM 36/11592). Thirty of the 847 mariners belonging to the Barbados between 7 March 1804 and 30 September 1805 suffered correction (ADM 51/1636, 1483; ADM 36/15787).

80To establish what — if any — relationship existed between a captain's length of service and his propensity to punish, a data set of captains with at least six months continuous service on board one of the seventy-three ships examined was created which included the lengths of time in months each of these officers had spent as a lieutenant, a commander and a captain prior to the date he assumed control of his vessel and the percentage of his crew that he punished. The length of service numbers were calculated from the commission dates for each of these officers listed in The Commissioned Sea Officers of the Royal Navy, 1660-1815, 3 vols. (London, 1954). SPPSx procedure "Crosstabs" was run on the data to determine the correlation. Because the "significance" numbers produced by the initial run greatly exceeded those suggesting a strong measure of association, several successive recodes were undertaken and the program run again. However these later tests yielded equally high results.

81Stevenson punished thirteen of 811 men, or about one and a half percent of his crew (ADM 51 1184, 2751; ADM 36/11835; ADM 36/13 419). Hutt corrected twenty-four of 1161 mariners, or two percent of his company (ADM 51/753; ADM 36/11364).
Nevertheless there is one highly interesting pattern that does emerge. For ninety percent of the captains in the sample who governed a naval vessel continuously for one year or longer, punishments tended to be inflicted in cyclical clusters of varying temporal lengths which succeeded each other at irregular intervals.\textsuperscript{82} Almost invariably, the initial cluster reached its peak sometime between the second and the seventh month of an officer's command. Thereafter followed a period of diminished correctional activity. This period in turn gave way to a new cluster which, like the first, peaked and subsided. And so the pattern continued to wax and wain until either the cruise ended or the commander was replaced.

The initial clusters probably reflect the periods in which captains established their systems for the government of their ships. A random sample of twenty-five of these groupings reveals that almost sixty percent of the punishments constituting them were meted out for crimes such as neglect of duty, disobedience of orders, uncleanness, drunkenness and the like -- i.e., for crimes which indicate either an inability or a refusal to comply with a particular method of management.\textsuperscript{83} For example,

\textsuperscript{82}See Appendix C for a representative selection of charts.

\textsuperscript{83}The raw numbers are: 379 divided by 638.
eighteen of the first twenty-six floggings inflicted by Robert Murray on board H.M.S. Blanche in 1789 were for disobedience and negligence alone. Similarly, fifty-six percent of the members of the crew of the Camilla corrected by John Bowen during the three months inaugurating his command of that vessel were guilty of inebriation or carelessness.

Unfortunately, the succeeding groupings cannot be accounted for as readily. A random survey of fifty later clusters suggests several explanations for their occurrence. The most common reason seems to have been that once captains had established their systems they tended to relax their enforcement only to have to reassert their authority again at a later date. In sixty percent of the cases studied more than half of the punishments meted out were for crimes of neglect, disobedience, uncleanness, drunkenness and the like, that is for the same crimes which were so prevalent in the initial clusters. For example, twenty of the twenty-five seamen of the Stork flogged by George Le Geyt between March and May 1809 were adjudged to have committed one or more of these offenses. At the

84ADM 51/95.

85ADM 51/1667. From 1 April to 30 June 1870, fourteen of the twenty-five men punished by Bowen had committed these offenses.

86ADM 52/4338. This was Le Geyt's third cluster of punishments.
same time, twelve percent of the subsequent periods of correctional activity appear to have been due primarily to restlessness among the crews. In each of these instances at least two-thirds of the tars subjected to the lash were charged with disrespect, mutiny, sedition or fighting. Thus, eight of the ten men punished by William Truscott on H.M.S. Ganges during August and September 1795 were deemed guilty of some act of insubordination or riotousness.  

Another six percent of the clusters are attributable largely to the detection of petty conspiracies. Hence, while Nelson flogged sixteen members of the company of the Boreas in April and May 1786, eleven of the victims had been involved jointly in a scheme to smuggle liquor aboard ship. The remaining twenty-two percent of the later groupings indicate either various combinations of the three factors just noted or relatively high incidences of crimes like theft or desertion. Between August and October 1791, M. C. Squire, for example, punished three mariners of the Solebay for drunkenness, two for negligence, two for insolence, two for quarrelling, two for "riotous behaviour," one for disobedience and one for mutiny.  

87ADM 51/1162. This was Truscott's fourth and final cluster of correctional activity.  

88ADM 51/120.  

89ADM 51/874. This was Squire's third cluster of punishments.
Despite the general pattern of clusters in the infliction of punishment, individual captains employed a variety of different correctional techniques which from the nature of the sources are impossible to quantify. Some commanders tried to maximize the impact that the example of punishment had on their crews by restricting the number of occasions on which 'floggings' were administered. According to an advocate of this practice, it made for "a more solemn sort of day of trial or jail delivery ..."  

One proponent of such a policy who served in the Lesser Antilles during the period under examination was Thomas Manby. While commander of the *Africaine* in 1805, Manby punished the majority of criminals in groups at intervals ranging from six or seven days to a month.  

Likewise, Charles Ekins dealt with most of the offenses committed on H.M.S. *Beaulieu* between 1 June 1804 and 24 March 1806 collectively on the average of once or twice a month in the periods in which he inflicted punishment.  

Other captains attempted to increase the weight of the example of punishment by addressing their crews at each infliction. In these speeches, they described the

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91 ADM 51/1521.  
92 ADM 51/1518; 1543.
criminal's transgressions and explained the reasons which led them to bring the culprit to the gangway. During his command of the *Unité*, Patrick Campbell regularly lectured the ship's company after floggings and on one occasion took the time to read a letter of complaint cataloging the offender's misconduct. Some commanders even went so far as to read the Articles of War prior to every chastisement. Although only required by law to do so once a month, Captain William Henry Byam almost never failed to recite publicly the thirty-six clauses regulating naval discipline before administering correction on board the *Opossum* between 1 October 1809 and 12 December 1810. Thus a typical entry in his logbook dated 17 January 1810 notes: "Articles of War was [sic] read for punishment William Thompson, Quarter Master, received three dozen for neglect of duty."

In effect, still other commanders husbanded punishment's example by extending mercy to selected criminals. Several analysts of the punitive jurisdiction of captains extolled the beneficial results of summary pardons. "[T]here are few cases for which corporal punishment should be inflicted for a first fault;" argued Admiral Sir Charles Vinicombe Penrose, "For there are men

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94 ADM 51/2616.
who will strive long to avoid the shame, as well as the pain, of a public exposition and flogging, who, when that shame and pain has been once surmounted, care much less for a repetition."\textsuperscript{95} One subscriber to this philosophy was Alexander Kennedy who, as commander of the \textit{Forester}, on 21 April 1812 "turned the hands up and brought Andrew Pringle, Malachy Culligan, Alexander Watson and William Fothergill to the gangway for desertion and pardoned them."\textsuperscript{96}

Some captains, though, were not as tolerant as Kennedy and those like him. These officers exhibited a low threshold of patience for acts of delinquency which they considered exceptionally heinous. Rather than suffer the perpetrators of such acts to remain among their crews, they removed them from their vessels. Thus on 1 September 1797, Captain William Fahie of H.M.S. \textit{Pedrix} "punished William Lockwood with thirty-three lashes for a breach of the second Article of War and drummed him out of the ship."\textsuperscript{97} However, not all commanders took it upon themselves to dismiss individuals whom they found particularly aggravating. Because the practice was prohibited by the \textit{Regulations and Instructions}, a few

\textsuperscript{95}Penrose, \textit{Observations}, p. 11.

\textsuperscript{96}ADM 51/2371.

\textsuperscript{97}ADM 51/1264.
attempted to legitimize their actions by seeking the approval of their commanders in chief. On 30 May 1808 Isaac Wooley had a drunkard named James Warley belonging to the Captain discharged to "H.M.S. Camilla per order the Hble. Sir. A. Cochrane."

In addition to employing different correctional techniques, individual captains could possess remarkably dissimilar styles of applying punishment. Some rendered what they considered to be justice with a much heavier hand than others did. For instance, George Losack rarely inflicted less than twenty-four lashes for most types of crime committed on board the Prince George from 1 December 1806 to 26 September 1807. By contrast Edward King routinely punished offenses perpetrated aboard the Andromeda between 5 June and 11 November 1801 with no more than a dozen strokes of the cat of nine tails and often with many fewer.

Similarly, some commanders who adjudged multiple infractions worthy of compounded penalties preferred to administer these sentences in their entirety at one time;

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98 Regulations and Instructions 1st ed., p. 192-193; Regulations and Instructions 2nd ed., p. 120.

99 ADM 36/896.

100 ADM 51/1693.

101 ADM 51/1364 pt 1.
others chose to impose them in smaller doses over a period of days. Thus on 23 November 1808, Robert Barton had seaman Richard Morris receive all thirty-six of the lashes he had awarded Morris for "drunkenness, neglect of duty and mutinous expression" on board the York. Conversely, Charles Sandys ordered David Henderson to suffer his punishment of three dozen blows for "insolence and threatening to strike his officer" in two inflictions on H.M.S. Latona in November 1785.

Finally, individual captains enforced discipline on their vessels with varying levels of strictness. Some were much sterner with their crews than many of their brother officers. Indeed a few of them drastically exceeded the nine percent mean for all the commanders of the men-of-war examined for the present study. Edward Galway, for example, punished eighteen percent of the seamen of the Plover during his tenure as that sloop's governor between 1 April 1801 and 19 July 1802. On the other hand a number of captains fell far below the average. In the twenty months during 1796 and 1797 that he commanded the

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102ADM 51/2989.

103ADM 51/1428.

104ADM 51/1430. Galway flogged forty-two of the 237 men he commanded.
Beaver, Richard Brown flogged only one percent of the mariners in his charge.  

Paternal justice did not preclude strictness. Some of the sternest disciplinarians in the Royal Navy were also noted for their fatherly concern for their men. Although instituting a harsh policy known as "the New Discipline" in the Mediterranean, John Jervis "appealed also to men's regard by intelligent and constant thought for the wants and comfort of those under him ..." Similarly, Nelson, who, as noted, was mindful of his crew's morale, punished over twenty-five percent of the company of the Boreas as her commander. However, as William Burney

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105ADM 52/2750. Brown punished twenty-two of the 247 mariners. Of the seventy-four captains with six months or more continuous service on one of the vessels in the sample, thirty-five exceeded the nine percent average, two punished exactly nine percent of his crew and thirty-seven fell below the mean. The percentages ranged from one to thirty-one.


107ADM 51/125, 120. Eighty-six of the 334 mariners on board the Boreas between 1 May 1784 and 31 July 1787 suffered correction at Nelson's hand.
put it: "The great difficulty is ... in drawing the line between strict discipline and tyranny."\textsuperscript{108}

Inevitably, there were a few officers who crossed this line. Indeed, there were some terribly brutal fiends to be found among the men who walked the quarter-decks of the king's ships in the eighteenth century. Hugh Pigot's savagery sparked the bloodiest mutiny in the history of the British navy on 22 September 1797, while Warwick Lake's cruelty, to which we shall turn shortly, became a cause célébre in England in 1810. "Yet the Pigots and Lakes were rare ..." as Dudley Pope so rightly has observed.\textsuperscript{109} In fact, between 1784 and 1812 only three officers were convicted of tyrannical behavior on the Leeward Islands station.

Although one or two tyrants may have gone undetected, and therefore unpunished, this figure is probably an accurate reflection of the incidence of brutality on board His Majesty's vessels during the age of sail. In Gardner's opinion, only five percent of the officers who he knew were overly severe with their men.\textsuperscript{110} Moreover, British

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\textsuperscript{108}A New Universal Dictionary of the Marine, 1815 ed., s. v. Disciplinarian.

\textsuperscript{109}Pope, p. 223.

\textsuperscript{110}Recollections of James Anthony Gardner. Gardner describes fifteen of the three hundred officers in these terms, seven of whom were his shipmates on board H.M.S. Salisbury in 1784 and 1785 (see pp. 41-55).
mariners were not defenseless against acts of oppression. A letter of complaint containing bonafide allegations of cruelty normally led to an investigation by a court of inquiry and — if the court's examination uncovered sufficient grounds for a trial — to a naval tribunal. Hence, while only three officers were adjudged to be guilty of brutishness, eight other members of the quarter-deck were tried and acquitted of the same charge in the Lesser Antilles during the period under discussion.

But what constituted an act of cruelty in the eighteenth-century Royal Navy? Judging from the surviving evidence from the Leewards, it seems that brutality was defined as either unwarranted severity in punishment or unprovoked harsh usage. Thus Lieutenant William Smith was dismissed from H.M. Sloop Julia and put at the bottom of the lieutenant's list on 11 June 1811 for having "caused two men ... to be started with ropes ends in a severe manner, contrary to the orders of his captain."\textsuperscript{111} Similarly Captain William Roberts lost command of the Statira in 16 July 1810 for having treated Lieutenant Michael Raven "with unnecessary severity and frequently made use of improper language to several of the officers of His Majesty's ship Castor."\textsuperscript{112}

\textsuperscript{111}ADM 1/5416.
\textsuperscript{112}ADM 1/5407.
One instance of brutality that merits close attention is the case of Captain Warwick Lake. Not only is it an interesting story in its own right, but it illustrates the Admiralty's diligence in prosecuting sadists. Moreover it provides some indication of Regency England's interest in naval scandals. Furthermore it suggests that the Government's opponents in Parliament attempted to use such unpleasant episodes to gain political sparing points by holding the cabinet responsible for them. Finally it indicates in an ancillary manner just how vexatious some members of the fleet could be under certain circumstances and still avoid the wrath of the lords of the service.

The story begins in 1807. In November of that year Captain Warwick Lake found seaman Robert Jeffery to be guilty of several acts of petty thievery on board H.M.S. Recruit. At first Lake seems to have indulged the young mariner. However, his mood soon changed. While cruising off a barren rock called the Isle of Sombrero on 13 December, Lake decided to maroon Jeffery, concealing this act by listing the man as a deserter in the Recruit's muster book. For eight days the hapless sailor remained on this island without food or water. Nearing exhaustion, he was rescued by an American merchant vessel and taken to Boston where he became a prosperous blacksmith.

And there the matter remained for two years. Indeed the whole affair would have been lost in the sands of time save for Charles Morgan Thomas. A drifter with no visible
means of support, Thomas enlisted in the navy at Barbados in February 1806 and shortly thereafter was rated the acting purser of the *Heureux*.\(^{113}\) During his entire career in the service, he did nothing but bombard Sir Alexander Cochrane, the commander in chief in the Leewards at the time, with letters about the alleged incompetence of the captains on the station. In exasperation, Cochrane attempted to discharge Thomas in early 1809, confiding to their Lordships that he found the contentious purser "unfit for an officer in the navy."\(^{114}\) Unhappily for both parties Thomas's discharge and departure for England were delayed for several weeks. Suspecting a conspiracy to deprive him of his freedom, Thomas, who had heard rumors of Jeffery's marooning, wrote to his member of Parliament on 24 March 1809 exposing the scandal.\(^{115}\)

\(^{113}\)ADM 1/5402.

\(^{114}\)ADM 1/330.

\(^{115}\)ADM 1/5402. Although Thomas's accusations served as the formal basis for the trial of Lake, he could not be located and brought to Portsmouth to testify at the court martial. After his discharge from the naval hospital at Plymouth on 8 December 1809, he apparently went immediately to Bristol. From there he began petitioning the Admiralty for his arrears in March 1810 (ADM 1/5402). Sometime during the following summer he wrote to their Lordships "stating various circumstances which induce[d] him to believe that Sir A. Cochrane ... [was] in the pay of the French Government and a traitor to his country (ADM 12/145)." This letter was turned over to Cochrane's brother, Basil, who planned to take legal action on his behalf against Thomas for libel (ADM 1/4428). However there is no record of any such proceeding.
Upon being informed of this irregular episode, the Admiralty took the appropriate action. In July 1809, the Lord Commissioners directed Cochrane "to make a strict investigation into the case." When the inquiry, dated 1 November 1809, revealed sufficient grounds for a court martial, Lake was ordered to stand trial. On 6 February 1810 the sadistic captain was "dismissed from His Majesty's service" by a tribunal assembled on H.M.S. Gladiator in Portsmouth harbor. Moreover, since Jeffery's fate still was unknown in Britain, their Lordships instituted a global search for him, even sending a description of the former seaman to British ambassadors around the world. On 11 April 1810 they drafted a circular to all commanders in chief soliciting information about the young mariner, and at the same time they began taking depositions from sailors who had been Jeffery's shipmates in the Recruit.

By then, however, it was too late. Scenting a scandal, the print media had closed in on the Admiralty. Soon after Lake's trial the papers began sensationalizing the story. "Where's Jeffery?" became the cry as Britain followed this

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116 ADM 1/5402.
117 Ibid.
118 Ibid.
Robinson Crusoesque melodrama. From Edinburgh to Portsmouth, journalists scrutinized the affair. Typical was a piece appearing in *The National Register* on 29 April 1810 entitled "The Unfortunate Jeffery" which began:

A report has been in circulation for several days past, that a letter to the mother of the unfortunate Jeffery has been received from an American captain, addressed to her at Fowey, stating his being taken off the island, after a lapse of twelve days, and that he had eaten flesh off his shoulders. We have taken pains to ascertain what credit is due to the report, and find it entirely void of truth.

So infamous did this atrocity become that seaman Jeffery's fate was debated twice in the House of Commons, where the Perceval ministry's opponents had a field day with the case. On 15 February 1810 Sir Francis Burdett rose to demand:

Whether the government of the country meant to stop here with such a fact in proof before them, or, whether they meant to take any further steps upon a subject so disgraceful to the service, so materially interesting to the life and security of every seaman in his Majesty's fleet; a circumstance which if so slightly passed over, might have the most serious effects in the naval service. As no further steps were taken nor seemed to be intended by government he felt it his duty, in his place as a member of Parliament, to call the attention of the House to the subject.

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119 Among the papers carrying the story were: *The Times*, *The Hampshire Courier*, *The Hampshire Telegraph* and *Sussex Chronicle*, *The Edinburgh Evening Courant* and *The National Register*.

120 *The National Register*, 29 April 1810, p. 261.
He hoped, however, that government would not allow it to pass over without taking some further steps; for if such wanton and tyrannical occurrences were once suffered to obtain with impunity, there would be an end to all order and good government in our fleets.\textsuperscript{121}

It was under such pressure that the Admiralty conducted its search for the missing martyr. Eventually the British pro consul in Boston located Jeffery and, with great difficulty, convinced him to return to England. As he informed their Lordships on 14 July 1810: "I am the more anxious to effect this, finding that he, [Jeffery] is living in this country under the patronage of those whose politics and principles are inimical to Great Britain and I consider the honour of my country engaged to accomplish it by the first favourable opportunity."\textsuperscript{122}

"The first favourable opportunity" occurred in 19 October 1810. Stepping off H.M. Schooner Thistle, Jeffery found himself to be a national celebrity. Soon sentimental accounts of his reunion with his mother began cropping up in the newspapers. One enterprising promoter even attempted to parlay Jeffery's fame into fortune by asking him to tour the kingdom in the manner of a circus performer.\textsuperscript{123} The erstwhile petty thief who had been

\textsuperscript{121}Hansard Parliamentary Debates, 1st ser., vol. 15 (1810) col. 425.

\textsuperscript{122}ADM 1/3845.

\textsuperscript{123}The Naval Chronicle, 24 (1810): p. 390.
punished so ruthlessly for his crimes was now at the center of the country's attention.

To diffuse this embarrassing situation, the Admiralty ordered the celebrated seaman to London. There he was reminded by their Lordships that despite his newly acquired popularity he was still officially a member of the Royal Navy and thus subject to reassignment abroad. However, in light of his terrible ordeal the Lords Commissioners would be more than willing to remove his name from the desertion lists and pay him his arrears, provided he disappeared from the public view. Being no fool, Jeffery accepted the money and returned to his native village of Polpero.\textsuperscript{124} But his fame died hard. Several years later \textit{The Times} reported:

Jefferyes [sic] the seaman - It may not be uninteresting to know that this man, who, it has not been forgotten, was left by Captain Lake on the Sombrero Rock, has lately enlisted in the North Devon Militia and is now serving in that corps at Gosport.\textsuperscript{125}

Mercifully incidents like this were rare. The vast majority of British naval captains were of a far different ilk than Warwick Lake. The surviving manuscripts and printed sources, both directly and indirectly, suggest that the notions of gentility and social obligation were important strains in the collective mentality of the

\textsuperscript{124}Ibid.

\textsuperscript{125}\textit{The Times} (London), 29 March 1814, p. 3.
members of the quarter-deck in the age of sail. Not only was there a marked element of paternalism in maritime leadership, but there was a heavy emphasis on respectable deportment. Needless to say, some of His Majesty's commanders internalized these values to a greater degree than others. But most seem to have tried to abide by their conceptions of them. In doing so, the men vested with the government of the king's floating dominions truly can be considered the nautical gentry.
"A vessel of war," observed one chronicler of maritime life in the age of sail, "contains a little community of human beings, isolated, for the time being, from the rest of mankind."\(^1\) Although frequently separated by broad expanses of water from the remainder of the king's dominions, this "little community" was by no means free of the problems which plagued eighteenth-century British society at large. In criminal matters, naval authorities encountered many of the same felonies and misdemeanors at sea that judges confronted on shore. Like the magistrates of England, His Majesty's captains were forced to deal with a wide variety of illicit activities, ranging from the grievous offenses of homicide, robbery and sodomy to the relatively minor infractions of drunkenness, profanity and disturbing the peace.

\(^1\)Leech, *Thirty Years from Home*, p. 28.
In its basic outline and operation, the system of adjudicating social offenses in the fleet paralleled that employed in the localities of England. As at English criminal law, proceedings could be undertaken at the curial or summary level in the navy. Moreover, within each system of judicature there were no fixed rules establishing the forum of judgement for most types of infractions. Under both arrangements, authorities exercised the discretion to determine causes brought before them singly on their own prerogative or to commit them to trial. For example, cases of assault could be heard by justices of the peace and commanders of the king's ships as well as by assizes and courts martial. Finally, the decisions rendered at the corresponding levels of the two systems were the product of common judicial procedures. Criminal and naval tribunals applied identical legal standards in reaching their verdicts. At the same time, captains and magistrates dispensed justice on a less formal basis according to the spirit -- if not always the letter -- of the law.

Despite the similarities in the structures and practices of the naval and criminal systems, there were noticable differences in the manner in which these two branches of English law dealt with societal problems. Justice at sea probably relied much more heavily on the summary adjudication of the graver varieties of social delinquency than did its counterpart on shore, although
just how much more heavily is impossible to assess since the surviving evidence concerning the judicial activities of eighteenth-century magistrates is extremely patchy. This conclusion is suggested strongly by the Royal Navy's prosecution of property offenses and physical violence. Whereas 1123 such crimes were punished unilaterally by the commanders of the vessels in the sample alone (see Table 3), only fifty-four infractions of a corresponding nature were tried by courts martial on the entire Leeward Islands station during the period under discussion.

The preponderance of summary adjudications of civil transgressions at naval law was largely a product of expedience. Certainly thieves and ruffians were no more welcome on board the king's ships than they were in other parts of the crown's dominions, but they did not pose the threat to the service that mutineers and deserters did. And since courts martial were intended to be solemn affairs held in reserve for particularly serious infractions, very few of these miscreants were brought to

\[2\text{At present, there is no clear consensus in the scholarly community about the percentage of criminal activity adjudicated in the courts on the English mainland and that which was dealt with summarily by magistrates. J. M. Beattie, for example, contends that virtually all indictable cases of theft were handled by assizes or quarter sessions. Crime and the Courts, p.18. However, this view has been criticised strongly by J. A. Sharpe. See "Enforcing the Law in the Seventeenth-century English Village," in V. A. C. Gatrell, Bruce Lenman and Geoffry Parker, eds., Crime and the Law: The Social History of Crime in Western Europe since 1500 (London: Europa Publications Ltd, 1980), pp.97-119.} \]
trial. In fact, only twenty-five percent of the mariners tried in the Lesser Antilles between 1784 and 1812 stood accused primarily of social offenses. Furthermore the men so charged generally were indicted for one of two reasons. About sixty-four percent were alleged to have committed acts like homicide, robbery or buggery which were patently abominable. The remaining thirty-six percent, the vast majority of whom were officers, were denounced for indiscretions such as drunkenness or disturbing the peace which, given the status of the offender, were thought to set bad examples for the rest of the maritime community.

A similar pattern of prosecution was manifest in the summary punishments inflicted by His Majesty's captains. As the statistics presented in Table 3 indicate, civil transgressions accounted for less than half of the transgressions accused of civil crimes. In calculating this statistic, some allowance had to be made for defendants charged with both social and military offenses. Thus, the following guideline was adopted: If the majority of transgressions listed in the indictment were of a civil nature, then the accused was counted as a social offender. Conversely, if the majority of infractions were of a military nature, then the person was counted as a military offender. Hence, Edward Pooley was placed in the latter category because he stood trial on 4 October 1787 for "disobedience of orders, contempt and drunkenness (ADM 1/5326)."

Of the ninety mariners tried for these offenses, fifty-eight were accused of crimes in the former category. Thirty-two members of the fleet, twenty-seven of whom were warrant or commissioned officers, were charged with crimes in the latter category.
correctional activity recorded in the logs of the ships in the sample. Moreover, the vast majority of the social contraventions penalized without benefit of trial were of the same basic types as those adjudicated by courts martial. Almost twenty-nine percent involved property or violence, that is, acts offensive to the sensibilities of eighteenth-century society. And slightly more than seventy percent were misdemeanors like drunkenness or disturbing the peace, that is, indiscretions which impeded the service's ability to function effectively. Significantly, less than one percent were violations of morality such as blasphemy or gambling. Hence, captains as well as naval tribunals exhibited a pronounced tendency to enforce only the sections of the Articles of War which proscribed crimes that were regarded widely as outrages or infractions that were injurious to the well-being of the fleet.

In the Royal Navy, these misdeeds normally were punished corporally. Although physical penalties for such crimes were not unknown on shore, His Majesty's captains seem to have inflicted them with greater frequency than English magistrates did.\(^5\) Whereas commanders routinely

Table 3
General Types of Crime Punished Summarily

<table>
<thead>
<tr>
<th>Category of Crime</th>
<th>N</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence/Desertion</td>
<td>489</td>
<td>05.6</td>
</tr>
<tr>
<td>Alcohol</td>
<td>2,356</td>
<td>27.3</td>
</tr>
<tr>
<td>Disobedience</td>
<td>913</td>
<td>10.6</td>
</tr>
<tr>
<td>Disturbances/Uncleanness</td>
<td>392</td>
<td>04.5</td>
</tr>
<tr>
<td>Immorality</td>
<td>37</td>
<td>00.4</td>
</tr>
<tr>
<td>Insolence/Contempt</td>
<td>966</td>
<td>11.2</td>
</tr>
<tr>
<td>Mutiny/Sedition</td>
<td>220</td>
<td>02.5</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>117</td>
<td>01.3</td>
</tr>
<tr>
<td>Neglect of Duty</td>
<td>1,997</td>
<td>23.2</td>
</tr>
<tr>
<td>Property</td>
<td>597</td>
<td>06.7</td>
</tr>
<tr>
<td>Violence</td>
<td>544</td>
<td>06.3</td>
</tr>
<tr>
<td><strong>Total N</strong></td>
<td><strong>8,610</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Sample

flogged the perpetrators of social offenses, justices of the peace usually chastened people found guilty of assault, petty theft and the like with a fine or a short term of imprisonment.⁶ But here again the navy's

deviation from the practice of crown law was the result of expedience. On such a labor intensive machine as a man-of-war, where the work force was paid at irregular intervals, amercement or incarceration for extended periods was impractical. Years after substitutes for corporal punishment had become more widespread in the service, Captain Francis Liardet still insisted:

If a man were to be extremely mutinous, sending him to be confined in prison would not have the same effect, as an example to the ship's company, that a well considered and justly inflicted flogging would have. There are many situations in which a ship may be placed, in which confinement to prison would only be a release from hard labour and privations (more especially at sea). Even under these circumstances, examples must sometimes be made; but that of confinement cannot be considered a good one at such a time, as it will take from the number of working hands, and do very little good as an immediate example to the ship's company.7

The most chronic social problem confronting naval authorities in the age of sail was drunkenness. On board the vessels in the sample insobriety was the leading reason for correctional activity. More punishments were inflicted for this vice than for any other infraction (see

Table 3). Henry Walsh claims to have seen thirty-seven seamen belonging to the *Alfred* flogged for intoxication on one day alone at Martinique in January 1810.\(^8\) Indeed the British tar's reputation for excessive consumption was so great that a Dutch privateer once told William Dillon with complete seriousness that he "was quite certain that if he fell in with one of our ships of war on a Saturday night he would capture her, under the conviction that the whole crew, being in a perfect state of inebriety, would not be able to defend themselves."\(^9\)

Although the Dutchman's confidence was somewhat misguided, there is no question that drunkenness was endemic in the Royal Navy. Seamen revelled in overindulgence and extolled its virtues. "To be drunk is considered by almost every sailor as the acme of sensual bliss," observed Samuel Leech, "while many fancy that swearing and drunkenness are necessary accomplishments in a genuine man-of-war's man. Hence it almost universally prevails."\(^10\) Moreover, as Leech's comments suggest, there were strong communal pressures within nautical

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\(^10\)Leech, p. 51.
society encouraging the individual to consume excessive amounts of alcohol. In some quarters a member of the fleet was not regarded as a true mariner until he had been intoxicated at least once. Thus soon after his rather unpleasant introduction to grog and his first encounter with the enemy during his maiden voyage on board the Salsette frigate in 1809, Midshipman Frederick Chamier's captain turned to him and said: "There... you are fairly a sailor now; been drunk, been aloft and been in action."\(^{11}\)

Several modern students have attributed the affinity of royal mariners toward strong waters to the deplorable living conditions on His Majesty's vessels in the eighteenth century. Three of the principal advocates of this view are Christopher Lloyd, Jack L. S. Coulter and John Keevil. "Constantly exposed to cold and wet," they contend, "often miserable because of a tyrannical bo's'un or 'taut' officer, subsisting largely on salt provisions which must have been conducive to thirst the poor wretches who were unwillingly pressed into their country's service may be excused their addiction to drink by later and

happier generations."¹² No doubt there is a grain of truth in this argument. Damp, malodorous, overcrowded, cold in northern climes and usually vermin-infested in the tropics, the king's ships were far from comfortable. And some mariners probably did use their cups to escape these surroundings.

But the grim picture painted by Lloyd, Coulter and Keevil of conscription and oppression driving men to drown their sorrows in liquor is less than satisfactory as a general explanation of the prevalence of drunkenness in the Royal Navy. Such an interpretation is based more on literary fancy than historical fact. Very few of the seamen punished for intoxication had been prest. On the ships surveyed for the present study approximately eighty-five percent of the mariners found guilty of this vice were entered in the muster books as volunteers.¹³


¹³Of the 1059 mariners punished exclusively for drunkenness, 903 were volunteers, 102 were prest and fifty-four were substitutes, quota men and the like. Turned-over men have been excluded from the calculation because their original means of entry in the navy cannot be determined.
Moreover, commanders who hardly could be described as "taut" or tyrannical seem to have had just as much trouble with insobriety among their companies as other officers did. Although Captain Patrick Campbell governed H.M.S. Unité with relative informality, he repeatedly scolded his crew for their love of overindulgence. On one occasion, he told them "that he was really tired and annoyed by continually flogging of [sic] men, only for that beastly habit of drunkenness, so ill becoming an Englishman."  

Far from being a consequence of impressment or tyranny, the widespread drunkenness in the fleet was in all likelihood an indication of the inability or refusal of many of the king's mariners to conform to the mechanical regularity expected of them in the performance of their duty. The "systems" established by naval commanders for the governance of their ships were intended to instill an order and uniformity among their crews that was analagous to the regimentation inherent in the work ethic demanded of the early industrial proletariat. And one manifestation of the disregard for the rigours imposed by these arrangements common to both seamen and laborers

was overindulgence. "The common tinners continue to be very refractory and insolent: many of them refuse to work, and have not gone underground for three weeks past," lamented a mine operator from Cornwall in 1793, "They have no just cause for it; for their wages have been rather too high lately than otherwise; the consequence has been too much brandy drinking, and other bad practices." In a similar vein, Charles Pemberton, commenting on the behavior of tars in port, observed: "though the toil is greater and more constant in refitting, victualling, &c, in harbour, the usual severity of discipline is relaxed; the eye of authority cannot be fixed on every individual of the scattered labours, and the opportunities for getting drunk, are as surely seized as they are found."

Whatever the reasons inclining men to drink -- peer pressure, poor living conditions, personal indiscipline -- they could not have done so without access to alcohol.

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15This is not to imply that farm workers and artisans did not drink to excess. Indeed, "alcohol consumption was high" among all classes and walks of life in the eighteenth century (Porter, English Society in the Eighteenth Century, p. 235). Rather, it is to suggest that the internal discipline demanded of those in the navy and industry ran counter to the customary patterns of labor. For the irregular rhythms of labor in the eighteenth century, see E. P. Thompson, "Time, Work-Discipline, and Industrial Capitalism," Past and Present 38 (December, 1967), pp. 56-97.


17Pemberton, p. 218.
And alcohol was readily available on board the king's ships. The most obvious source of strong waters was the navy itself. Throughout the period under discussion, each member of the fleet was entitled to a daily ration of spirits consisting either of one gallon of beer, a half pint of rum, a pint of wine, or an equivalent measure of brandy or arrack.\(^\text{18}\) Because beer had a tendency to spoil quickly in tropical climates and wine was not a product indigenous to the Caribbean basin, the allowance usually was given in the form of rum on the Leeward Islands station.

According to the naval routine, the allowance was divided in half and served on two separate occasions during the day from a scuttled butt, one portion being issued in the forenoon, the other in the afternoon or evening. By the late eighteenth century, the standard practice was to dilute the rum by mixing it with water. Normally, the formula followed was three parts water to one part spirits, although on some ships the ratio was four to one.\(^\text{19}\) Often lime juice and sugar were added to the drink as antiscorbutics. This concoction was called grog by the seamen -- a term which was derived from the
nickname of its inventor, Admiral Edward Vernon.  

While the daily ration was the steadiest source of intoxicants for royal mariners, it was not the only way in which they could obtain alcoholic beverages. Some tars pilfered liquor from the ship's stores. Marine Privates William Farmer and William Wells, for example, were given a dozen lashes each on 24 May 1785 aboard the Rattler sloop for "taking wine out of a cask on the main deck." Others attempted to bring spirits into their vessels clandestinely. For instance, Landsmen John Conner, Peter Crews and John Mahars were detected smuggling strong waters on board the Camilla and punished for the offense on 25 June 1808. Still others seized the opportunities provided by time spent on land. Thus Ship's Corporal Chambers of the Opossum received twenty-four strokes on 29 May 1813 for "getting drunk when

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20During the War of Jenkin's Ear, Vernon earned the sobriquet "Old Grogram" because of the water-repellent grogram coat he invariably wore.

21ADM 51/770.

22ADM 51/1906. In these covert operations, a variety of methods were employed. Some mariners attempted to smuggle liquor on board when their superiors were distracted. According to Leech, a number of the Macedonian's men "who belonged to the boat's crew provided themselves with bladders; if left ashore by their officers a few moments they would slip into the first grocery, fill their bladders and return with the spoil. Once by the ship's side the favourable moment was seized to pass the interdicted bladders into the portholes, to some watchful shipmate, by whom it was carefully secreted to be drunk at
sent on duty ashore." Finally, a few acquired inebriants through commercial transaction. One such enterprising seaman was Michael Ryan, a Boy Second Class belonging to the Forester, who was given twelve blows at the gangway on 25 June 1812 for "selling his cloathes [sic] for grog."24

Needless to say the seamen's proclivity toward insobriety was fraught with danger both for themselves and the service. According to Lloyd, Coulter and Keevil, alcohol-induced falls were the leading cause of head injuries suffered by mariners.25 Occasionally, they concealed their illicit beverages in objects which could be brought into their vessels easily and without suspicion. Peter Kemp claims that during the War of American Independence it was common for the members of the lower deck in the West Indies to indulge in the practice of having coconuts drained of their milk, filled with rum and carried on board their ships by local slave women (Peter Kemp, The British Sailor: A Social History of the Lower Deck (London: J. M. Dent & Sons, 1970), p. 145). Finally, some sailors favored the simpler technique of hiding the contraband in their clothes before re-entering their ship. Dillon relates the following incident involving the coxwain of the Amaible's launch, whom the officers thought to be the frigate's leading trafficer in rum: "One day, when he returned from the shore with a large pea-jacket hanging over his arm, he was desired to open it out that it might be searched for liquor. 'Oh, very well,' he said. 'Here it is. You will not find anything in it now (Dillon, vol. 1, p. 241)."

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23ADM 51/2616.
24ADM 51/2371.
resulted in death. For example, on a Sunday evening in 1801 at Martinique, Samuel Hayley, a marine private serving on H.M.S. Tromp, fell overboard in a drunken stupor and was devoured by a shark.\textsuperscript{26} Moreover, intoxication was frequently a contributing factor in other crimes. About thirty-five percent of the men punished for inebriation on the ships surveyed for the present study simultaneously were deemed guilty of one or more additional offenses.\textsuperscript{27} Boatswain's Mate David Roach of the Trusty, for instance, received three dozen lashes on 1 August 1791 for "drunkenness, contempt and fighting."\textsuperscript{28} Furthermore, biblious indiscretions by mariners could imperil the lives of the remainder of the crew and the safety of the vessel. Thus Oliver Lloyd, the ship's corporal of H.M.S. Majestic, was demoted and given twelve strokes on 3 May 1795 "for drunkenness and running into the magazine with a lighted candle."\textsuperscript{29}

However, the problem of drunkenness was not confined exclusively to the lower deck. The lure of alcohol transcended rank and status. Warrant and commissioned officers also could be addicted to strong waters. The

\textsuperscript{26}Richardson, A Mariner of England, p. 184.

\textsuperscript{27}Seven hundred and ninety-eight of the 2,356 men punished for drunkenness were charged with additional crimes.

\textsuperscript{28}ADM 51/985

\textsuperscript{29}ADM 51/1122
carpenter of the *Nautilus* sloop, Thomas Cunningham, was such a chronic alcoholic that he was found intoxicated in his cabin several hours after being warned by his captain on 22 January 1794 that if he was discovered in such a state again he would be brought before a court martial. Fortunately for the service, men like Cunningham were rare. According to James Anthony Gardner's assessment, only about six percent of the officers that he knew were heavy drinkers.

If the number of members of the quarter-deck prone to overindulgence was small, the hazards created by these men were not. In naval society, where leadership by example was emphasized strongly, the influence of a drunken officer on the mariners under his command was held to be particularly corruptive. As Admiral Patton put it: "Emulation is miserably perverted, when it is made to serve the wretched purpose of increasing drunkenness; and an officer who reflects a moment, must lament when the least encouragement is given to inebriety by those to whom rank and experience ought to have served as a guide." At the same time, judgement clouded by alcohol could lead to accidents jeopardizing the safety of the crew of a

30ADM 1/5330. 27 January 1794.

31Gardner described nineteen of three-hundred officers in this manner.

man-of-war. While in charge of a captured French privateer in Woodbridge Bay, Dominica on the evening of 24 February 1800, Lieutenant Thomas Flemming was so drunk that he failed to heed a signal from H.M.S. Daphne to order the prize's helm put to port and the two vessels collided as a result.33

Given the tremendous dangers inherent in the drunkenness of both officers and men, several modern historians have taken the Admiralty to task for its policy regarding alcohol. The harshest of these critics was the late Professor Lewis. In his opinion, the dispensation of the daily allowance amounted to nothing short of an attempt to anesthetize the inhabitants of the king's ships to the hardships of their surroundings. In A Social History of the Navy, Lewis argued:

It is indeed almost impossible to avoid the conclusion that the bad conditions and the potent spirits were direct links in one chain of cause and effect: that Authority was actually sanctioning over-drinking as a means of doping the men into enduring the conditions. It is a shocking thought. Such a remedy for such conditions argues an amorality in high places which is hard to credit. Nor, indeed is it necessary to believe that the remedy was being consciously applied: it was rather the result of an ageless policy of drift, and refusal to look facts in the face.34

33ADM 1/5354. Flemming was tried by a court martial at Fort Royal Bay on 25 November 1800.

34Lewis, pp. 398-399. See also Neale, The Cutlass and the Lash, pp. 119-122 and Laffin, Jack Tar, p. 93.
Yet these comments suggest that it was Lewis, not the Admiralty, who refused "to look facts in the face." The rum ration was not "the result of an ageless policy of drift." On the contrary, it was a time-honored nautical custom. In tolerating a certain amount of drinking on board His Majesty's ships, the naval ruling classes — like many of their civilian counterparts — deferred to what was perceived as a traditional right of the commonality. Expressing this deference, Sir Gilbert Blane remarked in 1789:

It has been custom, as far back as we know to allow seamen the use of some sort of fermented liquor. We need hardly inquire if this is salutary or not; for it would be impossible at any rate to withhold it, since it is an article of luxury, and gratification which the men would claim as their right.

In a similar vein, Admiral Lord Keith concluded a letter written on 1 September 1812 decrying the hazards of drunkenness afloat with a note of caution. "It is at all times a delicate point to interfere with what is called an allowance or right," he observed, "and the present may not be the moment for reforming even so great an evil; but in the event of peace I am satisfied that not a more


essential service could be rendered the nation than to reduce the quantity of spirits now used in the navy..."\(^{37}\)

At the same time the Admiralty's reluctance to meddle with the traditional rights of the seamen should not be taken to imply that the Lords Commissioners condoned overindulgence. To deter drunkenness in the fleet, their Lordships adopted a two-fold policy of prevention and retribution. After 1756, the *Regulations and Instructions* enjoined commanders never "to suffer the seamen to drink in drams [i.e. undiluted] the allowance made to them of any kind of spirituous liquor in lieu of beer."\(^{38}\) Moreover both editions of the manual directed every captain to combat smuggling by giving "strict charge to all his officers, to be very careful in their respective watches to prevent spiritous liquors of any kind being conveyed on board the ship" under his command.\(^{39}\) Furthermore, the Articles of War empowered the governors of the king's floating dominions to punish those members of the service found guilty of intoxication.\(^{40}\)

Drunkenness, of course, was a relative term and as such it was subject to the interpretation of individual

\(^{37}\)Quoted in Lewis, p. 400.


\(^{39}\)Ibid; *Regulations and Instructions*, 2nd. ed., p. 302.

\(^{40}\)22 Geo II c. 33.
captains. But the general rule of thumb seems to have been that a mariner was not considered intoxicated unless he was so incapacitated by drink that he was unable to execute the nautical functions comprising his job. Thus, when called to testify for the prosecution at Daniel Harris' trial for inebriation on 31 December 1802, Lieutenant Henderson Basin was asked by the tribunal: "If the prisoner had been ordered to perform any duty at that time [five days earlier] was he in a fit state to do it?" 41 Correspondingly, the master of H.M.S. Mermaid recorded in his journal on 8 March 1796: "At 8 p.m. found James Smith and David Stintin drunk and incapable of duty by rum issued by Mr. Briarey contrary to the captain's orders." 42

As was the practice at crown law, the vast majority of men accused of being in this condition were dealt with summarily. Whereas more than two thousand seamen were chastised for intoxication on board the vessels in the sample conducted (see Table 3), only forty-three mariners were tried by courts martial for the same offense on the entire Leeward Islands station during the period under discussion. However, the penalties inflicted by His Majesty's captains differed sharply from those imposed by

41ADM 1/5362.
42ADM 52/3216.
Justices of the Peace. On shore summary convictions for inebriation usually resulted in a fine or several hours in the stocks. At sea, they almost invariably led to a scourging at the gangway. Over ninety-nine percent of the punishments meted out exclusively for drunkenness on the ships surveyed were recorded in the logs as floggings. These punishments, though, were not excessively harsh by naval standards. While approximately sixty percent of all whippings in the Lesser Antilles were of a dozen lashes or less, fifty-eight percent of those administered solely for insobriety were levied in like proportions.

All but two of the men punished summarily for drunkenness were seamen or petty officers. By contrast, only four of the forty-three men brought before naval tribunals for insobriety were below the rank of a warrant officer. Yet if courts martial normally were reserved for members of the quarter-deck, they were not convened

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44 One thousand, three hundred and twenty-eight of 1,333 were recorded as floggings.

45 Four thousand and fifty-six of 6,776 floggings were of a dozen lashes or less. Seven hundred and sixty-six of the 1,328 scourgings for drunkenness were at or below twelve strokes. The fewest number of stripes inflicted in a single punishment was three; the greatest was seventy-two.

46 Each of the seamen indicted for drunkenness was also charged with additional crimes.
to try the cases of officers merely accused of consuming one glass too many on a single occasion. Sixty-nine percent of the men indicted for inebriation were alleged to have compounded their indiscretions by committing one or more additional crimes. The remaining thirty-one percent were accused of habitual overindulgence.\footnote{Thirty of the forty-three men were indicted for multiple offenses. Thirteen members of the fleet were charged exclusively with drunkenness.} The gravity with which drunkenness among the nautical elite was viewed by judicial bodies at sea was reflected in the stiff sentences generally adjudged those found guilty of the offense. Of the thirteen warrant and commissioned officers convicted solely of the charge of intoxication, three were dismissed from the service, one was cashiered and imprisoned, and five were turned before the mast.\footnote{Three of the other four were dismissed from their ships and one was reprimanded.}

iii

Although drunkenness, especially among officers, was considered a serious infraction by naval authorities, it was not regarded with the gravity that property crime was. Few things were more revered in eighteenth-century England than the sanctity of material possessions, a reverence clearly in evidence in the system of criminal
justice afloat. Its most obvious manifestation was found in several types of corporal punishment customarily reserved for property offenders. If adjudged to receive a scourging at the gangway, a larcenist was liable to be flogged with an instrument called the "Thieve's Cat." According to William Burney, the Thieve's Cat was "a cat o' nine tails, having larger and harder knots upon it than those generally employed, and...[was] only used for the punishment of theft." Similarly, the penalty of running the gauntlet normally was saved for acts of stealing.

Consistent with the practice at crown law, property offenses in the navy were adjudicated both summarily and by courts martial. As on land, there were no iron-clad rules determining the jurisdiction of such cases at sea. In each system of justice, captains or magistrates exercised considerable discretionary power to decide whether causes were to be heard with or without benefit of trial. Given the paucity of the surviving evidence, it is impossible to assess the relative frequency with which commissioners of the peace selected either method. However, the records pertaining to justice afloat clearly


50As noted in Chapter Three, forty of the forty-four instances in which it was inflicted on the ships in the sample were the consequence of transgressions against material goods.
indicate that His Majesty's commanders preferred to judge the vast majority of property cases singly on their own authority. On board the vessels surveyed, over five hundred mariners were punished summarily for crimes against property (see Table 3). Conversely there were but thirty-one officers and men tried by naval tribunals for similar infractions on the entire station between 1784 and 1812.

Unfortunately, few observations can be made about the property offenses punished summarily. Most of these crimes were noted in the ship's logs in very general terms. Representative of the standard form used to record such infractions is the following entry in the captain's journal of the Queen dated 19 August 1793: "Punished William Horridge with 24 lashes for theft." Moreover the term "theft" cannot be taken to imply a specific type of larceny. From the small number of cases in which the item pilfered is mentioned, it is evident that the word was used as often to refer to the embezzlement of naval stores as it was to betoken the theft of personal possessions. As a result, in all but a handful of the

51ADM 51/753

While Christopher Leman and Joseph Thompson were flogged on board the Glorie on 15 December 1809 for "attempting to steal the ship's liquor (ADM 51/1996)," Edward Saunders suffered the same correction on H.M.S. Perdrix on 5 April 1799 for "embezzlement of liquor (ADM 51/1275)."
cases in the sample, it is impossible to discover what articles were stolen, their economic value or from whom they were taken.

Despite their sketchiness about the crimes, the logs do suggest something of the way in which property offenses were dealt with summarily in the navy. All of the thieves punished without benefit of trial on the vessels surveyed were petty officers or enlisted men. Moreover, every one of them was penalized corporally. Furthermore, the punishments they received tended to be harsher than those given to men guilty of other infractions. Whereas sixty percent of the mariners punished physically on the seventy-three men-of-war in the survey were flogged with twelve strokes or less, fifty-five percent of those chastised for theft either endured more than a dozen lashes or were forced to run the gauntlet. Still, without reference to the objects stolen, it is not possible to determine if this increased severity normally was held in reserve for a specific type of larceny or

53 Although fine or imprisonment were the customary penalties imposed on shore, Justices of the Peace occasionally ordered both male and female thieves to be whipped. See Crittal, ed., The Justicing Notebook of William Hunt.

54 One hundred and eighty-eight punishments exclusively for theft were of twelve lashes or less. One hundred and ninety were of more than a dozen strokes. Forty men ran the gauntlet. The number of blows inflicted ranged from four to eighty-six.
if it was applied in equal measure to the embezzlement of naval stores and the pilfering of personal possessions.

Happily, the transcripts of courts martial for property offenses are more precise than the records contained in the logs. Not only do they provide a clear picture of the items illegally obtained and the methods used to procure them, but they indicate the rationale behind the courts' decisions. Therefore, distinctions can be drawn between crimes committed against individual possessions and those perpetrated against the king's property. At the same time, it is possible to get some idea of the criteria employed both in bringing cases to trial and in rendering verdicts.

Of the thirty-one mariners tried by courts martial for property offenses, nineteen, or sixty-one percent, were accused of stealing personal possessions. But these men, none of whom was above the rank of a petty officer, were not accused of simple pilfering. All of them were alleged to have committed their crimes in a manner which cast the infractions in a particularly heinous light. For example, Samuel Lloyd was brought to the bar for having taken the watch of a Frenchman at Grosse Morne who had invited him into his house for dinner. An even greater outrage was perpetrated by several tars belonging to H.M.S.

55ADM 1/5331, Trial of Samuel Lloyd, 12 March 1794.
Vengeance who were tried jointly in Fort Royal Bay on 11 and 12 March 1794. A few nights earlier, these seamen, acting in the fashion of a marauding gang, had forced their way into a hut on Martinique and threatened to kill its owner before tying him up and making off with some handkerchiefs and money. In short they had committed an exceedingly chilling type of theft in the eyes of Georgian Englishmen.

In dealing with such infractions, naval tribunals were empowered to inflict stiff penalties upon those they found guilty. Like the criminal courts, judicial bodies at sea could sentence a thief to death, or to be publicly whipped or imprisoned. However, courts martial exercised the same restraint shown by their civilian counterparts on shore in adjudicating thefts of private property. Of the nineteen seamen indicted for this form of larceny, six were fully acquitted. Moreover none of the thirteen mariners

56ADM 1/5331. Trial of John Bell, John Rodney, Stephen Murphy, John Long and David Connolly.

57As Professor J.M. Beattie has observed: "For most of the eighteenth century...the offense that caused the greatest anxiety was robbery, which always involved the direct confrontation of victim and offender and which all too often in fact led to serious physical violence (Beattie, p. 148)."

58A similar rate of acquittal was found on shore. According to Professor Beattie's calculations 37.2 percent of those tried for robbery at Surrey Assizes were found completely innocent. The percentage for burglary was 36.9. Crime and the Courts, p. 428.
convicted was given the maximum punishment. Twelve of the malfactors were condemned instead to pass through the fleet receiving a number of lashes ranging from thirty-six to three hundred and one was returned to England to be incarcerated in the Marshalsea prison for a year. In these cases the legal device normally used to spare the villain's life was to render a partial verdict, whereby the defendant was deemed culpable of a lesser offense and punished accordingly.59

Two cases illustrate the general tenor of the navy's prosecution of those accused of stealing personal possessions. The first was tried in Fort Royal Bay on 15 July 1797. On that day, Edmund Nowland, the master at arms of H.M.S. Vengeance, stood before a naval tribunal indicted for "having robbed the chest and birth of the deceased William Bruce late cok [sic] of the said ship of a certain number of Guineas, Joes [i.e. coins] and other articles..." During the course of the trial, several witnessess testified that they had seen Nowland help himself to Bruce's effects. A few claimed that when the defendant's locker was searched, some of the items found there had belonged to the departed cook. However, only one attestant was willing to swear that he had seen Nowland actually take money from Bruce's chest. As a result, the court ruled that the charge was "proved except

59The same device was common on shore. Ibid.
with respect to the money" and sentenced the master at arms to be broken of his rank and given 150 lashes through the fleet.60

The second case was heard before a tribunal assembled on board H.M.S. Dannemark on 7 and 8 March 1810 off the island of Guadaloupe. George Phillips, the former clerk of the Achates, was on trial for having rifled £45 from a midshipman's desk twelve months earlier while the sloop was anchored at Spithead. Fortunately for Phillips, the prosecution's allegations rested almost entirely on the evidence presented by one George Neville whose testimony was far from unimpeachable. Neville claimed that he had conspired to commit the burglary with Phillips but being overcome with remorse had decided later to confess his part in the crime. Yet Neville had not made his confession until he was in irons for deserting at Barbados, a circumstance which led the court to question his motives. Moreover, he himself had been the leading suspect at the time the theft had been perpetrated, a nail having been discovered in his coat that was approximately the size of the instrument used to prise open the lock on the desk. Furthermore, he was forced to admit under cross-examination that he had not seen the clerk take the money. In short, his account was tenuous at best.

60ADM 1/5340
Needless to say, Phillips was acquitted.  

Courts martial for embezzlement of the king's stores differed significantly in at least two respects from the curial proceedings involving offenses against personal property. In the first place, the great majority of defendants at such tribunals were warrant or commissioned officers rather than petty officers or seamen. Of the eleven mariners tried for stealing naval property in the Lesser Antilles between 1784 and 1812, all but one were members of the quarter-deck. Secondly, although the penalties meted out to the men found guilty of defrauding the government were not inconsistent with those imposed upon people convicted of the same crime at assizes or quarter sessions, they tended to be relatively more severe than the punishments inflicted by judicial bodies for robbery or burglary. Four of the six men condemned in the Leewards during the period under discussion were given stiff sentences. All were officers: two were stripped of their ranks permanently and forced to serve before the mast, one was dismissed from the navy and rendered incapable of ever receiving another warrant, and one was

61ADM 1/5403

62On shore the usual punishments were banishment, fine or imprisonment. William Blackstone, Commentaries, vol. 4, p. 121.
cashiered and imprisoned in the Marshalsea for a year.\footnote{63}{The two other men convicted were Seaman William Renburd and Lieutenant William Simpson. Renburd was found guilty of pilfering liquor on 12 August 1802 and given three hundred lashes through the fleet (ADM 1/5362). Simpson was "reprimanded and mulcted of six months personal pay" on 14 June 1785 for embezzling a small quantity of paint (ADM 1/5324; ADM 3/101).}

Yet the harshness of these punishments should not be taken as an indication that courts martial proceeded wantonly in cases of embezzlement of the king's stores.\footnote{64}{Throughout the eighteenth century, the Admiralty placed great emphasis on economy. All commanders in chief going to the Leewards, for instance, were instructed "to take all possible care that his Majesty's stores, as well ordnance as others, be expended with the utmost frugality, and to give the strictest orders to the captains and other officers concerned that every degree of attention be had to the due care and expenditure of them (ADM 2/117)."}

Indeed, quite the opposite was true. Almost half of the mariners indicted on this charge on the Leeward Islands station between 1784 and 1812 were acquitted.\footnote{65}{Of the eleven tried, five were found completely innocent.}

Moreover, naval tribunals applied the same legal standards in reaching their verdicts that were used in similar cases on shore. As at criminal trials, the defendant's guilt or innocence was determined by two central criteria: his intentions and the ownership of the articles taken.\footnote{66}{See Burn, The Justice of the Peace, vol. 3, pp. 226-232.} If the accused was deemed to have misappropriated naval property willfully for his own gain,
he was convicted. If he was judged not to have acted maliciously or if the items in question could not be shown to belong to the service, he was exonerated.67

Two cases will suffice as examples. The first came to trial on 4 May 1810 in Carlisle Bay, Barbados. The defendant, Purser Charles Concanen of the Star, was accused of "fraudulent practices in the execution of his duty." From the evidence presented by the prosecution, it was clear that the purser had altered several bills for the purchase of fresh beef so that the weight of the food listed on the certificates was almost twice the amount actually received on board the sloop. He then took the receipts to the agent of a local contractor at St. Thomas who paid him in cash "the exact contract price" for the portion of the meat which had not been supplied and sent the vouchers on to the Victualling Board. In his defense, Concanen did not deny that he had developed this scheme. Instead, he claimed that he had resorted to it from "no intention of defrauding Government, but from a false idea that the deficiency of fresh beef might be made up by my credit on other accounts." However, Concanen's explanation had a hollow ring to it in light of the fact

67To prevent peculation, items likely to be stolen were given distinctive markings. For example, all sail canvas dispensed by the Navy Board had woven into it specially colored "King's Yarn."
that he, like all pursers, was essentially an entrepreneur who -- though regulated and supported by the Admiralty -- was given a monopoly to make his profit or sustain his loss at his own risk. Hence, he was convicted, cashiered and sent to the Marshalsea Prison.

The second trial took place on 29 February 1808 on board H.M.S. York in Carlisle Bay. The tribunal was assembled to hear the case of Thomas Ward, the acting carpenter of the Port D'Espagne, who was accused of embezzling the ship's copper and "having converted other articles being also part of the king's stores, committed to his charge, to his own private use." Happily for Ward, the prosecution presented a very weak case against him. All but one of the witnesses called to substantiate the allegations admitted during their examinations that they had not known the carpenter to misappropriate any of the items in question or attempt to remove any of the crown's property from the sloop. Moreover, Ward was able to produce documents showing that he had not been supplied with copper. Given the paucity of the evidence against him, the court acquitted the carpenter, noting in regard to the copper that the prosecutor had failed "to prove that it belonged to His Majesty."

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68For eighteenth-century pursers, see Lewis, A Social History, pp. 246-248.

69ADM 1/5405

70ADM 1/5385
Like property offenses, violent crimes were handled in the navy in much the same fashion that they were on shore. Naval justice dealt with two basic types of violence. The most serious was homicide which was the only maritime social problem invariably adjudicated by tribunal. According to David Hannay, the treatment given such cases by the crown's judicial bodies at sea was less than creditable. In his opinion, nautical jurisprudence betrayed a general ignorance of the rudimentary legal distinction between murder and manslaughter. "Naval courts martial of the eighteenth century appear, as far as I can discover," he wrote, "rarely to have understood that killing which falls short of murder may yet be manslaughter, and deserving of punishment. They at least acted as if they had no choice between condemning for murder and acquitting." 71

No doubt there were a few garbled cases in which the statutory classifications of homicide were missed by individual tribunals. Indeed there is one to be found among the records from the Lesser Antilles. On 28 February 1799, seaman John Farrant of H.M.S. Santa Margarita was tried in Fort Royal Bay "for having on the

71 Hannay, Naval Courts Martial, p. 146.
night of the 6th October last given a blow to Daniel Morrison, seaman also belonging to that ship, in a scuffle which occasioned his death." The fight apparently had started when Morrison refused to share some grog with Farrant. After the two had exchanged several blows, Morrison "laid down on the chest [in his berth] upon his belly and said 'Lord have mercy upon us' and there was a deal of water came out of his mouth and within a few moments he died." At the trial, the medical examiner, who had performed a cursory autopsy on the body of the deceased, testified that he had discovered "no external marks of violence" on the corpse. It was primarily upon this evidence that the court rendered a verdict favorable to Farrant. In doing so, however, they acquitted him not of manslaughter (which was technically the crime of which he was accused), but "of all murder or intention of murder."72

Yet Farrant's case was the exception not the rule. From the ten other homicide trials on the Leeward Islands station between 1784 and 1812 for which transcripts are extant, it is clear that courts martial adopted the same legal distinctions employed on shore in the adjudication of such crimes.73 As at criminal proceedings, a

72ADM 1/5348

73The transcript to the trial of William Albanie, who was acquitted of killing John Spooner on 14 April 1806, is not included in the bound volumes of minutes to courts martial (ADM 1/5373).
killer's degree of culpability was determined by the intentions which lay behind his deed. Like assize juries, naval tribunals delineated three basic classifications of killing: murder, manslaughter and justifiable homicide.\(^{74}\) If the death resulted from malicious intent, it was considered murder. If it was wrought by what Blackstone called "the sudden heat of the passions," it was deemed manslaughter.\(^{75}\) And, if it occurred in the line of duty or in self-defense, it was held to be justifiable homicide.\(^{76}\)

Of the ten other men tried for killing a fellow human being on the Leeward Islands station between 1784 and 1812, one was found guilty of slaying a man in a duel, two

\(^{74}\)Closely akin to the category of justifiable homicide was excusable homicide, whereby the killer bore some culpability for the victim's demise but not enough to warrant a penalty for the killing itself. Although this distinction was applied onshore in a variety of cases arising from accidents, for the present purposes the most important was in instances in which the death was a consequence of a legal punishment. At criminal law, if, for example, a father used excessive force in correcting his child and the child died as a result, then he was liable to be convicted of murder or manslaughter (Beattie, p. 86). At naval law a somewhat different standard was employed, due in large part to the injunction against cruelty contained in the Thirty-third Article of War. If a captain used immoderate force in fatally punishing a seaman, he normally was acquitted of murder or manslaughter and convicted of cruelty instead. For the only case of this nature in the Leewards, see above Chapter Three, p. 122.

\(^{75}\)Blackstone, vol. 4, p. 190.

\(^{76}\)Ibid., pp. 182-188.
were convicted of manslaughter and seven were acquitted by reason of justifiable or excusable homicide. The ability of naval tribunals to distinguish between murder and manslaughter was plainly in evidence at the trial of Acting Lieutenant William Cumpston of H.M. Sloop Drake. On 3 October 1804, Cumpston stood before a court martial assembled in English Harbour accused of mortally wounding John McLaughlin. Several months earlier, the lieutenant had gone on board the guiniaman Thames at Paramaribo, Surinam to dine with her captain. As he departed the Drake he instructed the master's mate that he would signal for the launch when he was ready to return. Just after the grog had been served at four o'clock that fateful afternoon, Cumpston hoisted the merchant ship's ensign and discharged a musket in the direction of the sloop. Although recognizing the lieutenant's signal, the master's mate elected to put off sending the boat until the bargemen had had time to finish their ration. Impatient with the delay, Cumpston fired a second shot towards the Drake, which struck the ship's corporal, John McLaughlin, in the head and killed him. At his trial, Cumpston did not deny slaying McLaughlin. Significantly, he

77 The person convicted of dueling, Lieutenant Thomas Connell of the Chichester, was sentenced to death by a tribunal assembled at sea near Martinique on 9 April 1807. However, because it appeared to the court that his opponent had instigated this unpleasant episode, he was deemed a fit object of mercy and subsequently pardoned (ADM 1/5380).
concentrated his efforts instead on proving that he bore the deceased no ill will. His only question to each of the prosecution's witnesses was: "Do you think that I had any spite or malice against John McLaughlin that I could have picked that man out in particular[?]" Fortunately for the lieutenant all attestants answered this query negatively. As a result he was convicted of the lesser charge of manslaughter and dismissed from the service.  

Like manslaughter rulings, verdicts of justifiable homicide were reached in accordance with the standards established by the criminal law. The decision rendered at the trial of Lieutenant James Edward Smith on 15 March 1804 on board the Centaur off Martinique may be cited as a case in point. One night during the previous summer, while commanding the Express off the island of Trinidad, Smith had gone on shore with the launch to collect the members of the brig's crew who were returning from leave. As William Scott and Stephen Price, two seamen belonging to the Express, made their way down to the boat from a punch house called Mr. Duffy's, they were followed by one of the tavern's other patrons. When they arrived at the rendezvous, Lieutenant Smith ordered Scott and Price to impress the man. However, Smith promised to release his new recruit if the man would show him where more mariners could be found. Agreeing to do so, the fellow led Smith,
Scott and Price to "a house kept by Mother Kitt." Scott related to the court the events that followed:

As soon as we reached the house Stephen Price and the man alluded to, staid at the door of the yard or outside, and Lieutenant Smith called me, and ordered me to go with him. I followed Lieutenant Smith into the yard at the back of the house. As soon as he got in, Lieutenant Smith stayed at one door and told me to run into a room to fetch out the candle. I went in directly and took hold of the candle, then two women who were in the room got up, and took hold of my collar one on each side. I dragged them to the door, and Lieutenant Smith put his dirk into the doorstop in order to separate the women from me and desired them to let me go; which they did and I got into the yard, with the candle in my hand. There was a man whom I knew to be the man of the house, who knocked me down with the candle in my hand. Lieutenant Smith came up to me, and asked if the man had knocked me down, and directly the man called out 'fetch me a light that I may find my sword.' A man was looking out of a window of the same house above stairs and called Lieutenant Smith 'Blackguard, Rascal and scoundrel.' When Lieutenant Smith replied 'certainly you would not come down and tell me so.' 'Sir' said the man 'I will.' and he shut the window directly. He came down with another man - a tall man, and by his speech, he appeared to be a Scotchman, he had a plaid jacket on. Then the man who had replied to Lieutenant Smith, laid hold of the Lieutenant by the collar, by each collar of his coat. Lieutenant Smith said, 'certainly you cannot be in your senses to hold me in this manner.' The man replied 'I am' and struck Lieutenant Smith with his fist on his breast. 'Certainly,' said the Lieutenant, 'you cannot be in your senses.' 'I am' replied the man and repeated his blows by striking on the side of Lieutenant Smith's head, after which Lieutenant Smith wounded him with his dirk. The man had hold of the Lieutenant at the time but instantly fell in consequence of the wound. As soon as he fell Lieutenant Smith went out of the yard, and one Mr. Hogg looked out of his window and begun to abuse Lieutenant Smith, who walked away without making any reply.

Smith's assailant, John Redford, died soon after the scuffle. At his court martial, the lieutenant defended
himself by claiming that he had killed Redford during an attempt to ward off an unprovoked attack while on His Majesty's impress service. And from the evidence presented by the witnesses it was clear that this was indeed what had taken place. Thus, the tribunal "was of opinion that Lieutenant James Edward Smith did cause the death of John Redford by inflicting a wound to the brain of the deceased but that the same happened in his own defence, the court therefore acquitted Lieutenant James Edward Smith."79

The second type of violence dealt with by naval authorities manifested itself in the form of fights among the men or assaults on officers. As was the case in the adjudication of so many other varieties of crime at sea, the method of prosecuting incidents of battery was left to the discretion of the commanders of His Majesty's ships. Nevertheless, most physical conflicts that did not result in death were arbitrated summarily. While there were over five hundred mariners flogged at the gangways of the vessels surveyed for violent confrontations, there were but twelve members of the fleet brought before naval tribunals on similar charges in the Leewards during the period under discussion.

Only sailors who had committed especially serious acts of non-fatal violence were brought before courts martial.

79ADM 1/5365.
Of the twelve men who stood trial in the Lesser Antilles between 1784 and 1812, eight were seamen or marines. Five of the tars were charged with striking a superior officer and three were tried for incidents resulting in grievous bodily damage upon another human being. The remaining four defendants were warrant or commissioned officers. Three of them allegedly attacked a fellow member of the quarter-deck and the fourth was indicted for assaulting a soldier on board a prison ship.

The mariners tried for striking a superior officer were not guilty of some lamentable, momentary indiscretion. Each had compounded his offense by behaving in a particularly outrageuous or conspicuous manner. Representative of the crimes prosecuted by courts martial is the case of William Connor, a seaman belonging to H.M. Sloop Gaieté. On 23 October 1799, Connor faced a tribunal at Fort Royal Bay, charged with delivering a blow to Midshipman James King. Several weeks earlier, he had complained about the vessel's provisions and begun to abuse the purser's steward. Hearing the noise in his cabin, a Lieutenant Douker called out to Connor, ordering him to return to his berth. Still heated, the seaman made his way toward Douker's quarters, stopping at the door. Thereupon Surgeon George Butt, "thinking from his furious look his intentions were to lay violent hands on Lieutenant Douker," rushed Connor. When Connor shoved Butt aside, the surgeon hit him and the two men started to
struggle with each other. "Mr. Fitzgerald, the 1st Lieutenant, then came out of the Gunroom and said 'You vagabond Connor what do you mean?' or words to that purpose. Connor immediately went a few yards further forward and turning about said he would not be imposed upon." At this point James King attempted to push the seaman out of the room. However, Connor "collared Mr. King and dragged him opposite the Midshipman's berth, where he struck him." Finally Connor was subdued by the master's mate and led away. 80

Like Connor, two of the three mariners found guilty by naval tribunals of wounding another member of the fleet had committed heinous crimes. 81 One stabbed a marine with a knife. 82 The other, Private Richard Cole, maimed a shipmate and was tried in English Harbour on 16 June 1812. One afternoon several weeks earlier, Cole had been performing guard duty as a sentry on board the Amaranthe sloop. While patrolling the waist of the ship, he stopped in front of Humphry Clinker, a black sailor who was sitting quietly on the fore gun slide mending his pants.

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80 ADM 1/5350.

81 The third, seaman Charles Coleman of the Excellent, was tried on 6 July 1802 because his antagonist died shortly after the altercation (ADM 52/2992). While a coroner's inquest did not find sufficient evidence to indict him for homicide (ADM 51/1404), he was court martialed for fighting primarily to serve as an example to others (ADM 1/5362).

82 ADM 1/5382. Trial of Charles Lamb, 6 June 1807.
Cole began to abuse Clinker verbally, calling him "a black bugger" and "a black quartermaster." Clinker asked Cole to leave him alone. Cole departed only to return and accost Clinker anew. Again Clinker asked him to go about his business. According to one witness, "the sentry then walked aft and immediately came forward again and said you black bugger how dare you talk to a white man, and ran his ramrod into his [Clinker's] eye." The wound deprived the unfortunate victim of sight in that eye.

While none of the four officers indicted for battery was accused of deeds as grisly as the one perpetrated by Private Cole, their alleged crimes still were regarded as reprehensible. The offenses with which these men were charged were viewed in an unfavorable light not so much for the injuries they caused but for the bad examples they set for the members of the lower deck. This was clearly in evidence at the proceedings against Thomas Newnham, the gunner of H.M.S Excellent. Newnham was tried in Carlisle Bay on 31 December 1802 for striking the vessel's carpenter. The incident itself, arising from a dispute over mess accounts, was relatively minor since only one punch was thrown. Nevertheless, its gravity was reflected in several of the tribunal's questions to one of the witnesses, Midshipman Nathaniel Ratsey. "Are you of opinion," the court asked, "that a blow given from one

83ADM 1/5427.
officer to another in a ship, in a passion is likely to create a disturbance?" And again, "Do you consider it as the duty of the Gunner to keep peace and good order in the Gunroom?" 84

Despite the seriousness of these cases, naval tribunals did not act arbitrarily. Courts martial adjudicated indictments for battery in much the fashion that they were dealt with on shore. As at criminal proceedings, the central issue determining the verdict was the intention behind the blow. If the defendant deliberately used force to inflict pain, he was deemed guilty. If he hit the victim accidentally or in jest, he was found innocent. 85 Hence courts went to considerable lengths to establish the accused's motives. For example, during the examination of Andrew Pitts at Martin Keane's trial on 27 March 1797 "for riotous and mutinous behavior and striking his superior officers," the following exchange took place:

Court - Do you think he meant to strike the sergeant with the bayonet or any other person?
Answer - The point of the bayonet was towards me.
Court - Did there appear any wicked or malicious design in making use of the bayonet?
Answer - Yes, I thought so. 86

84ADM 1/5362.
85Blackstone, vol 3, p. 120.
86ADM 1/5338.
At the same time, the sentences given to mariners convicted of battery conformed to the general pattern of those rendered on shore. Like assizes, tribunals normally penalized men who assaulted their social betters more harshly than people who attacked their peers or inferiors. Of the five seamen found guilty of striking their superiors, two were adjudged to be hanged by the neck until dead and the other three received a number of lashes through the fleet ranging from fifty to four hundred. Conversely, the three convicted of wounding another member of the lower deck were punished with floggings of thirty-six, sixty and one hundred and fifty strokes. Similarly, of the two officers convicted of assailing men of lesser rank, one was reprimanded and the other was reprimanded and dismissed from his ship. And the one officer who struck his equal was broken and dismissed from the service.

Unfortunately, the incidents of battery punished summarily do not lend themselves to analysis as readily as those adjudicated by courts martial. Once again, discussion is hamstrung by the brevity of the logs. Violent offenses were recorded in the journals in very general terms. Normally they were listed simply as "fighting" or "striking an officer." In the vast majority

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87See Beattie, p. 458.
of the cases reported on the ships surveyed no further information about the crime was provided. Moreover, in the few instances in which some detail was included, it only amounted to the identity of the victim of the attack. For this reason, it is impossible to determine such things as why the violence occurred, how it started, or how vicious the conflicts really were.

Nevertheless, several observations still can be made concerning the violent offenses punished summarily in the navy. Statistically, these crimes amounted to but a small portion of the total number of infractions penalized on His Majesty's vessels, accounting for only about six percent of the infractions recorded in the logs of the ships in the sample (see Table 3). Most acts involving the use of illegal force were entered in the journals as fights rather than assaults. Of the 544 cases in the survey, eighty-three percent were described as the former, while the remaining seventeen percent were listed as the latter. At the same time, the great majority of such deeds were perpetrated by members of the lower deck. Ninety-one percent of the belligerents were registered in the muster books of the seventy-three men-of-war as able

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88 Of the 544 cases, 521 were recorded in this manner.
89 Of the 544 cases, 444 were recorded as fighting.
seamen, ordinary seamen, landsmen or marine privates.  

Most of the affrays involving members of the lower deck appear to have been conflicts between mariners of comparable rank. In 130 of the 143 instances in the sample in which two or more men were punished for fighting on the same day, the combatants held similar ratings. Moreover, the majority of these altercations seem to have taken place between members of the same branch of the service. In only twelve percent of the cases just noted was at least one of the miscreants a seaman and one a marine. Furthermore, a fair number of the scuffles seem to have been alcohol induced. Approximately fifteen percent of the sailors punished for fighting also were charged with drunkenness. Finally, only a small portion of the incidents of violence seem to have been full-fledged brawls. On about eight percent of the days in which punishment was inflicted for fighting were more than two men called to the gangway for this offense.

Although most of the violence occurring on the king's vessels seems to have been directed by mariners at other

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90 Three hundred and eighty-one of the 419 men held these ratings.

91 Seventeen of the 143 instances witnessed members of the different branches of the service punished together.

92 Sixty-five of the 444 belligerents were found guilty of drunkenness.

93 On twenty-one of 255 punishment days, three or more men were corrected.
mariners, a fair proportion of it was aimed at officers. Almost sixteen percent of the offenses involving the use of illegal force were entered in the logs of the ships surveyed as assaults on officers.\textsuperscript{94} However, from the few instances in which the officer assailed was recorded in the journals, it would appear that those usually attacked belonged to the lower echelons of the quarter-deck. Of the twenty officers identified, eight were boatswain's mates, three were marine sergeants, two were boatswains, two were carpenter's mates, one was a cook, one was a midshipman, one was a master at arms, one was a captain of the mizen mast, and one was a marine corporal. Significantly, none of these men held a commission. All were either petty or warrant officers. Moreover, with the exception of the cook, all were men who enforced policy at the ground level. This suggests that the physical manifestations of the lower deck's hostility to authority took place along the seam in the fabric of naval society uniting rulers and ruled.

In dealing summarily with violent crime, His Majesty's captains invariable resorted to the cat. Yet commanders appear to have been somewhat less severe in their punishment of these offenses than they were in their treatment of other infractions. Whereas about sixty percent of all the floggings administered on board the

\textsuperscript{94}Eighty-four of the 544 instances were described as attacks on superiors.
ships in the survey were of twelve lashes or less, sixty-seven percent of those meted out for battery were inflicted in like proportions. Nonetheless captains exhibited the same general tendency shown by courts martial in adjudicating such cases. On the whole, attacks on officers were penalized with greater harshness than fights between members of the lower deck. While approximately half of the mariners flogged for striking a superior officer received more than a dozen strokes with a cat of nine tails, a little more than seventy percent of the seamen punished for exchanging blows with their peers were given twelve strokes or less. 95

In addition to the serious social problems of drunkenness, theft and physical violence, naval authorities confronted a host of crimes against "morality and good order." The number of moral offenses punished in the Royal Navy appears to have been much smaller than the number corrected on shore. 96 On board the ships in the

95For the former the numbers are: thirty-two of twelve lashes or less and thirty-three of more than a dozen. Of the latter, 226 were twelve lashes or less and ninety-three were of more than a dozen.

96See Landau, The Justices of the Peace, Chapter Six, passim. As noted in Chapter Three, it is impossible to determine the frequency with which fines were levied for misdemeanors like swearing. However, there is an
survey, punishment of infractions like gambling, swearing, lying and buggery amounted to less than one percent of the total correctional activity recorded in the logbooks.\textsuperscript{97} Moreover, only six of the 362 mariners tried by courts martial on the Leeward Islands station between 1784 and 1812 were charged with contraventions of the accepted standards of decency and five of these men were accused of sodomy. At the same time, the penalties inflicted for the majority of such crimes were, by naval usage, relatively mild. For example, nine of the twelve floggings administered exclusively for profanity were of no more than a dozen lashes. And the lone warrant officer convicted by a tribunal of using bad language received just a reprimand.\textsuperscript{98}

The one exception to the general leniency toward moral

\footnotesize{incident related in William Richardson's memoirs that provides some indication of the general attitude of both officers and men toward the punishment of such petty transgressions. According to Richardson, when the young captain of the \textit{Minerva} began flogging his crew for profanity in 1793, "it displeased the men very much." Indeed, it displeased them so much that one evening they staged a minor protest demonstration. "By-and-by the gunner's wads began to fly about in all directions, the lights were extinguished, the lanthorns knocked to pieces, and a wad rolled into the admiral's cabin as he walked there." Seeing this discontent, the admiral instructed the captain "not to use the cat on such light occasions (Richardson pp. 105-106)."

\footnotesize{\textsuperscript{97}Fifty-one of the 8,610 offenses were described as such.

\textsuperscript{98}ADM 1/5382. Trial of Walter Sands, held on 10 July 1807.
offenses shown by the navy was the adjudication of crimes against nature. Buggery normally was penalized by naval authorities much more severely than other transgressions of morality. Of the five men punished summarily for sodomy on the vessels in the sample, two were forced to run the gauntlet and the other three were flogged with a number of lashes ranging from thirty-six to seventy-two. Furthermore, two of the three men convicted of anal intercourse by courts martial in the Lesser Antilles during the period under discussion were sentenced to death and executed and the third was given three hundred lashes through the fleet, two years solitary confinement and a stiff fine.

In an attempt to explain the severity with which homosexual offenses were punished in the eighteenth-century British fleet, Arthur N. Gilbert has suggested that "sodomy brought into sharp focus the relationship between anality and death." According to Gilbert, the rectum, its fecal product and, by association, the act of buggery served as physical symbols of the ultimate reality. In the hostile naval environment, where the elements, disease and battle made life precarious at best, these symbols were particularly horrifying. "Sodomy was an unbearably vivid reminder, a

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courting and embodiment, of the death that accompanied the warships of the navy wherever they went. As such, sodomy had to be exorcised as ruthlessly as devils: the sodomite had to be killed for reminding men of their mortality. 100

However, not all sodomites were killed. Indeed not even the majority of them were killed in the Royal Navy. Gilbert's interpretation rests entirely on the transcripts of courts martial. And although homosexuals found guilty by naval tribunals frequently were sentenced to death, most crimes against nature were not adjudicated in the courts. Whereas six mariners suffered summary correction on board the ships in the sample alone, only five men on the whole station were brought before judicial bodies on the same charge. Moreover, if the conviction rate for the vessels in the survey is projected for all of the men-of-war sent to the Lesser Antilles between 1784 and 1812, that would mean that for each sodomite tried by a court martial, six were punished summarily by their commanding officers. 101

And the punishments inflicted by individual captains, though harsh, hardly can be characterized as ruthless exorcisms. In every case from the Leewards, equal

100 Ibid., pp. 89-90.

101 There were 417 ships sent to the Leewards between 1784 and 1812.
penalties were administered for other offenses. While William Bayly, for example, received seventy-two lashes on board the Perdrix on 28 June 1796 for a "breach of the 29th Article;" twenty more men on the ships in the sample were given the same number of strokes for crimes ranging from desertion to neglect of duty. Moreover there is even one case to be found among the surviving records from the Leewards in which a sodomite made several homosexual assaults on his shipmates without facing the wrath of a court martial. Landsman Francis Frontain was flogged by two different captains on two separate occasions for buggery on H.M.S. Nyaden between September 1810 and May 1811. Finally, a few commanders simply turned sodomites out of their ships. Thus, after confining Thomas Brooks for about a month, Captain Samuel Osborn discharged him from the Centurion on 27 May 1793 "for attempting an unnatural crime."

All of this suggests that sodomites were treated no more harshly in the navy than they were on shore. While there is no complete statistical data on the incidence of the adjudication of buggery in eighteenth-century England or the frequency with which various types of punishment

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102 ADM 51/1264.
103 ADM 51/2606.
104 ADM 51/155; ADM 36/13833.
were inflicted for it by the criminal courts, there is enough evidence in the secondary literature to suggest that the penalties meted out at assizes and quarter sessions were similar to those imposed in the service. Both on land and at sea many homosexuals found guilty of unnatural acts were condemned to death with little if any chance of a pardon. However, in the British Isles the practices of flogging and running the gauntlet were not used to punish sexual deviants. Instead, miscreants were subjected to another form of corporal punishment, the pillory. Normally accompanied by a fine and imprisonment, the pillory actually could be a worse fate for sodomites than the lash or knittle. According to one scholar, the crowds which gathered on these occasions were at times "quite violent to such men, and at least one was killed." Hence, it seems that if naval authorities were casting out symbols of death in chastising homosexuals, they were doing so with no more ruthlessness than their counterparts on shore did.

One offense which occasionally has been mistaken as a euphemism for sodomy is uncleanness. Yet comparison of the entries in both the captain's and master's logs for

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105 See Beattie, pp. 433-434.


the same crime yields sufficient evidence to conclude that the term was used in the journals to describe acts of filthiness. In many of the extant cases from the ships in the sample, it referred to the performance of bodily functions in unauthorized areas. Seaman John Guttrick of H.M.S. Queen, for example, received a dozen lashes on 19 August 1793 "for pissing from the main top upon deck." In some, it denoted untidiness. Thus Robert Collins, a marine private belonging to the Excellent, was given eighteen blows on 8 January 1803 for "leaving dirty, stinking cloaths [sic] below." In others, it meant befoulment. John Frazer, for instance, was punished with six strokes on board the Rattler sloop on 19 September 1785 for "throwing dirt out of the port and dirting [sic] the ship's side."

As the prevalence of such practices as swabbing the decks and "holystoning" evinces, the importance of cleanliness was recognized widely by eighteenth-century British naval officers. According to Patton, it was

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108 ADM 51/753; ADM, 52/3196.
109 ADM 51/1404; ADM 52/2992.
110 ADM 51/770.
111 "A holystone was a block of Portland stone the size of a large pillow, flat on one side and usually rounded on the other. An eyebolt was fitted on the rounded side and two lengths of rope were spliced to it. With the deck wet, sand was sprinkled over it, and men holding the ropes pulled the holystone back and forth, the stone, sand and water scouring the planking." Pope, Life, p. 167.
"necessary to the health and comfort of the whole company" of a man-of-war. Yet, despite the concern for hygiene afloat, immundity amounted to little more than one percent of the infractions recorded in the logs of the ships surveyed. At the same time, only two mariners on the Leeward Islands station between 1784 and 1812 were indicted at courts martial for uncleanness, and both of these individuals were charged also with buggery. Moreover, the penalties normally imposed for filthiness were not excessive. Sixty-eight percent of the seamen punished summarily for it alone on board the vessels in the sample were flogged with a dozen lashes or less.

Uncleanness was but one of the two general forms of disorder in naval society. Disturbances of the peace were the other. Like filthiness, disturbances of the peace constituted only a small proportion of the total number of offenses adjudicated in the Royal Navy. On board the vessels in the sample, they amounted to slightly more than three percent of all the infractions recorded in the

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112Patton, Strictures, p. 47.

113One hundred and fourteen of the 8610 crimes were listed as uncleanness.

114Fifty-eight of the eighty-five floggings were of twelve strokes or less. The number of lashes inflicted ranged from three to sixty.
logs.\textsuperscript{115} In addition, just eleven of the 362 mariners tried by courts martial were indicted on similar charges. The crimes in this category generally were defined as riots or quarrels. However, the term "riot" did not mean full blown uprisings. Rather, it was used to describe commotions which disrupted the quiet of a ship.\textsuperscript{116} Not surprisingly, many of these incidents were fueled by liquor. Twenty-three percent of the men punished summarily for tumultuous behavior also were accused of drunkenness.\textsuperscript{117}

In dealing with disturbances of the peace, naval authorities followed the same general pattern that they did in their adjudication of so many other social crimes. Very few mariners were brought before courts martial for such offenses and all but one of these men were charged additionally with drunkenness, contempt or mutiny.\textsuperscript{118}

\textsuperscript{115}Two hundred and seventy-eight of the 8610 crimes were listed as disturbances of the peace.

\textsuperscript{116}For example, four days after engaging in a drunken songfest in the gunroom of the \textit{Hawke} on 14 July 1798, John Wools, William Lucas and John Wilson were tried by a court martial in Fort Royal Bay for "having . . . been much intoxicated and behaved in a very riotous manner (ADM 1/5345)."

\textsuperscript{117}Of the 278 punished for disturbing the peace, sixty-three were charged also with intoxication.

\textsuperscript{118}The one exception was Lieutenant Cornelius Lascelles of H.M. Sloop \textit{Cynet} who was reprimanded on 29 July 1809 for "having used reproachful and provocative speeches and gestures tending to cause a quarrel to [sic] Lieutenant William Picking (ADM 1/5397)."
The majority of tumults or squabbles were punished summarily. Although flogging was the standard penalty inflicted, the sentences imposed in most cases were moderate. In seventy percent of the instances found on the ships in the sample in which seamen were scourged solely for quarrelling or riot, the number of lashes administered did not exceed a dozen.119

These, then, were the communal problems confronted by the floating society. In adjudicating them, naval authorities adopted the same practices and standards employed by the judicial system in England. Nevertheless, justice at sea differed in two respects from its counterpart on shore. Not only did it rely more heavily on summary jurisdiction, but it resorted to corporal punishment much more frequently. Yet such variations were more a matter of style than substance. Indeed the major difference between the two legal systems was not in the methods of judgement or the penalties inflicted, but in several types of crime dealt with exclusively by the navy. And it is to service related offenses that the last chapter is devoted.

119Seventy-five of the 107 men punished for disturbances received twelve lashes of less. The number of lashes inflicted ranged from six to forty-eight.
William Falconer, the great nautical lexicographer, defined the word "navy" as a "fleet of vessels of war, that belong to a kingdom or state, to be employed either in assaulting and destroying its enemies, or protecting its commerce, and defending its coasts against hostilities or invasions."¹ In fulfilling these functions, His Majesty's service at sea encountered many of the basic problems that plagued most European military organizations of the eighteenth century. Like other fighting forces, the Royal Navy was beset with substantial losses through desertion. At the same time, it was faced with a number of challenges to the authority of its officer corps which ranged in gravity from mutiny to contempt to disobedience of orders. Finally, it confronted occasional difficulties arising from incompetent seamanship or failure to pursue an aggressive course of action in battle.

Service-related infractions were dealt with in much

the same manner that social transgressions were. Like communal offenses, military crimes were prosecuted both summarily and by courts martial. Moreover, in most cases, the method of adjudication was left to the discretion of the commanders of His Majesty's ships. For instance, whereas there were fifty-eight mariners tried for mutiny or mutinous expressions by judicial bodies 'convened in the Lesser Antilles between 1784 and 1812, there were 220 seamen punished at the gangways of the vessels in the survey for comparable misdeeds. Furthermore, the decisions rendered at the two levels of jurisdiction were reached on the basis of discernable legal abstractions. On the one hand, tribunals administered justice according to a relatively strict interpretation of these standards; on the other, captains acting singly upon their own authority followed the spirit, if not always the letter, of the law. For example, commanders as well as courts founded their judgements on the intentions of the defendant in proceedings against unauthorized absence from a ship.

While naval and social offenses were adjudicated by means of common judicial procedures, there was one notable difference in the way in which the two varieties of crime were prosecuted. Because service-related infractions generally posed a much more serious threat to the well-being of the Royal Navy, they led to a far greater number of courts martial then did civil transgressions.
On the Leeward Islands station during the period under discussion, approximately seventy-five percent of the members of the fleet made to feel the full weight of the law by being subjected to a tribunal stood accused of mutiny, contempt, desertion, disobedience and the like.²

The service-related offense causing the greatest trouble for naval authorities was desertion. Throughout the eighteenth century, mariners absconded from the king's ships in substantial numbers. On board the vessels in the survey, tars ran at a rate which approached seven percent of the aggregate population.³ But statistics alone do not reflect the extent of the problem. Not only did British captains have to find replacements for those who escaped, but the almost constant threat of men taking flight forced the members of the quarter-deck to go to considerable lengths to prevent them from doing so.

In the Royal Navy, desertion was largely, though not exclusively, a problem of the lower deck. Less than one percent of the mariners listed as "run" in the muster

²Two hundred and seventy-two of the 362 men tried in the Lesser Antilles were charged with military crimes.

³Of the 59,525 men who entered the seventy-three ships, 3,913 deserted.
books of the vessels in the sample held a warrant or a commission. Moreover, desertion was generally a phenomenon engaged in by the young. Over eighty-two percent of the sailors who absconded from the ships in the survey were under thirty years of age. Finally, it was not an activity confined exclusively to subjects of the crown. More than fourteen percent of the fugitives from the men-of-war examined for the present study were foreigners.

Traditionally, historians have seen desertion primarily as a consequence of impressment and brutality. In this view, the inhabitants of the lower deck, forcibly

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4Eighteen of the 3,913 fugitives walked the quarter-deck.

5The youngest mariner to flee was twelve. The oldest was sixty-five. The raw totals are:

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>283</td>
</tr>
<tr>
<td>20 to 29</td>
<td>2,499</td>
</tr>
<tr>
<td>30 to 39</td>
<td>482</td>
</tr>
<tr>
<td>40 to 49</td>
<td>110</td>
</tr>
<tr>
<td>Over 50</td>
<td>19</td>
</tr>
<tr>
<td>Not Stated</td>
<td>518</td>
</tr>
</tbody>
</table>

6The numerical distribution of the birth places of deserters is:

<table>
<thead>
<tr>
<th>Place</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>England</td>
<td>1,620</td>
</tr>
<tr>
<td>Scotland</td>
<td>375</td>
</tr>
<tr>
<td>Ireland</td>
<td>618</td>
</tr>
<tr>
<td>Wales</td>
<td>409</td>
</tr>
<tr>
<td>Isle of Man</td>
<td>16</td>
</tr>
<tr>
<td>Channel Islands</td>
<td>17</td>
</tr>
<tr>
<td>The Empire</td>
<td>149</td>
</tr>
<tr>
<td>USA</td>
<td>227</td>
</tr>
<tr>
<td>Europe</td>
<td>248</td>
</tr>
<tr>
<td>Asia</td>
<td>3</td>
</tr>
<tr>
<td>Africa</td>
<td>7</td>
</tr>
<tr>
<td>South America</td>
<td>3</td>
</tr>
<tr>
<td>Not Stated</td>
<td>518</td>
</tr>
</tbody>
</table>
enslaved by the odious press, ran from the navy to escape the tyranny and oppression of His Majesty's officers. Such an interpretation is not completely without foundation. Some men certainly did take flight for these reasons. In 1793, William Richardson, for example, found the experience of being dragooned into the service so "shocking" that he resolved to slip away from his ship as soon as the opportunity presented itself. And according to Samuel Leech, Captain Waldgrave's sadistic delight in inflicting punishment for even the most "trifling" infractions led to "frequent desertions" among the crew of the Macedonian during his command.

Nevertheless, impressment and brutality could not have induced many seamen to abscond. At least forty-eight percent of the mariners who ran from the ships examined for the present study were volunteers. Moreover, only about six percent of the fugitives in the sample ever


9Leech, Thirty Years from Home, pp. 70-71.

10Given the nature of the musters, it is impossible to discover the original means of entry for "turned-over" men. The raw numbers are:
experienced the lash or the knittle prior to flight. Furthermore, there was no strong measure of association between chastisement and desertion. Only about half of the captains in the survey with a greater than average rate of punishment suffered a greater than average rate of desertion. Conversely, only about half of those with a lower than average rate of punishment enjoyed a lower than average rate of desertion. Even more telling, a canvass of one hundred and fifty periods of intense correctional activity aboard the men-of-war in the Leewards reveals that less than twenty-five percent of them coincided with, or were followed the next month by, a noticable increase in that vessel's desertion rate.

| Volunteers | - 1665 | Cartel       | - 56 |
| Prest      | - 684  | Returned Deserter | - 33 |
| Quota      | - 18   | Warrant       | - 18 |
| Turned-over | - 1005 | Not Stated    | - 402 |
| Prison     | - 29   |              |     |

11 Of the 3,913 fugitives, 254 had been punished for some offense prior to their departures.

12 Of the twenty five captains with at least one year of continuous service aboard one of the ships in the sample who punished more than nine percent of the members of their companies, thirteen lost more than seven percent of their men through desertion. Of the fifteen commanders in the same group who corrected less than nine percent of the individuals comprising their crews, eight lost less than seven percent of their tars through desertion.

13 Thirty-seven of these periods were followed by noticable increases in the rate of desertion. See Appendix C.
Indeed, as Dr. N. A. M. Rodger has shown recently, tars ran for a variety of reasons that had nothing to do with impressment or brutality. One factor which no doubt weighed heavily was economics. During most of the period under discussion the financial rewards to be had in commercial shipping greatly exceeded the wages paid in the Royal Navy. This was especially true on the Caribbean stations where European sailors were always at a premium. In 1809, for example, experienced mariners commanded as much as £6 per month plying the West India trade — or more than treble the amount earned in the same span by the highest naval rating. That many fugitives may have succumbed to the temptation to enrich themselves aboard a

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15Privateers also attracted runaways who were motivated by economics. Here, of course, the lure was prize money. Sir Alexander Cochrane, for example, was so convinced of the pernicious influence of these men that he complained to the Admiralty on 8 August 1809: "they encourage desertion to a very great extent from the ships at English Harbour; and are otherwise such pests in their petty mode of warfare, that I again beg to call their Lordships attention to the subject of not allowing commissions to be issued to vessels of so small a class (ADM 1/330)."

merchantman is suggested strongly by the fact that seventy-three percent of those who fled the vessels in the sample were able or ordinary seamen, that is, members of the lower deck whose practical knowledge of sailing made them valuable additions to any crew.\(^\text{17}\) A further indication of the allure of the merchant marine is provided by the seasonal pattern of desertion found on the ships in the survey. Slightly over a third of the losses were sustained in the three months prior to 1 August, the date by which trading packets were required to depart the Lesser Antilles to avoid the increased insurance rates charged during the hurricane season.\(^\text{18}\)

Yet desertion was no more a function of economics than it was of impressment or brutality. A number of fugitives simply may have been unable to adjust to the unfamiliar environs of a new ship, a difficulty compounded perhaps by

\[17\text{Of the 3,893 deserters whose ranks were listed in the musters of the seventy-three ships, 2,823 were able or ordinary seamen.}\]

\[18\text{Pope, Life, p. 237. The monthly distribution of desertions in the sample is:}\]

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<tr>
<th>Month</th>
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<td>January</td>
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<td>November</td>
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<td>December</td>
<td>290</td>
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the likely prospect that they would remain in such surroundings for an indefinite period of time. For example, Charles Pemberton's disgust for the "coarse and ignorant" sailors of the Friendship and his "dread that . . . [his] lot was cast irrevocably" with them led him to contemplate running soon after he had volunteered for service aboard the tender. Significantly, fifty-three percent of the deserters in the sample absconded within six months of entering their vessels.

Still others took flight for purely personal reasons. One such mariner was John Swan, a member of the crew of H.M.S. Unité. Together with several other men, Swan slipped away from a watering party which had been sent ashore at Barbados on the afternoon of 8 October 1800. Apprehended the next day, he was returned to the frigate and brought before a tribunal for desertion the following December. At his trial, he did not deny that he had

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19 There was no fixed term of enlistment in the Royal Navy in the eighteenth century. Once a mariner joined the service, he remained in it until either he was paid off, died or deserted.


21 Two thousand and sixty of 3,880 fugitives ran within half a year of their enlistment. Seventy-one cases are missing. This percentage is roughly the same as that found by N.A.M. Rodger in his study of desertion during the Seven Years War. See Rodger, "Stragglers and Deserters from the Royal Navy During the Seven Years War," p. 67.
attempted to run. Rather, he told the court that he had done so because he had a wife and six children in Bremen, Germany who were dependent solely upon him for their support and "knowing them to be in distress his mind lead [sic] him to the help he should by returning give to them."22

Finally, a few mariners deserted at the suggestion of their officers. Instead of suffering extremely unruly or troublesome tars to remain part of their crews, some members of the quarter-deck subtly encouraged these men to depart. Albeit from a slightly later period than that under discussion, one instance of this practice is found in the memoirs of Captain John Harvey Boteler. While the Ringdove was fitting out in the Thames River for a voyage to the West Indies in 1822, Boteler discovered two "scamps" among the ship's company whom he deemed particularly unsuited for the rigours of naval life. Shortly before the brig sailed, he confronted the malefactors. As he put it: "I told them they might do in harbour, and significantly added they would find it

22ADM 1/5355. Swan came to trial on 3 December 1800. He was convicted of desertion, but, "in consideration of the strong and peculiar circumstances of the case," was not punished.
very different when we get to sea. They took the hint and ran."  

Whatever the reasons predisposing tars to take flight, obviously they could not have absconded unless given the opportunity to do so. And opportunities for seamen to desert were readily available in the age of sail. Life aboard a British man-of-war in the eighteenth century was far from the existence that Doctor Johnson likened to "being in jail with a chance of being drowned."  

In fact, quite the opposite was true. Royal mariners had considerable access to shore. Not only were their ships often at anchor, but while in port they frequently were allowed on land in a variety of situations, all of which provided potential avenues of escape.

The avenue taken by the majority of fugitives was furnished by duty. Approximately fifty-nine percent of the deserters in the sample whose circumstances of

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25 The ships in the survey spent a total of 54,310 days in the Leewards, 30,436 of which were at anchor.
departure were recorded in the muster books absconded from watering places, dockyards, launches, or the like.\textsuperscript{26} Nor should this high percentage be surprising. In all probability, duty offered disgruntled tars the best opportunity to flee successfully. Because of the lack of storage space on board naval vessels and the impracticality of undertaking more than minor repairs to hulls, masts, rigging and sails at sea, it was the most common situation in which seamen found themselves ashore. Moreover, it was also a time when officers and marines were likely to be distracted. The bustle and confusion which characterized many tasks provided almost the perfect cover for sailors to slip away undetected.

Rather than absconding while on duty, another seventeen percent of the mariners whose general exit routes were recorded in the musters ran from the hospitals established on land by the service in the Lesser Antilles.\textsuperscript{27} These facilities seem to have placed no great obstacles in the paths of tars bent on fleeing them. Indeed Sir Alexander Cochrane was so convinced of their inability to prevent desertions that he suggested to

\textsuperscript{26} Of the 887 fugitives in this category, 525 ran from duty.

\textsuperscript{27} One hundred and forty-seven of the 887 fugitives departed from infirmaries ashore.
the Admiralty on 4 June 1805 that "an old line of battle ship . . . stationed in Carlisle Bay" be used in their stead. However, very few potential fugitives were able to take advantage of this convenient opportunity to escape. To have been in a position to do so, such men first had to be deemed sufficiently ill to be sent to sick quarters ashore and second, they had to have enough strength to slip away after arriving there. Hence, only a relatively small number of tars took flight from naval infirmaries.

An additional sixteen percent of the men in the group under discussion ran while on leave. Leave, of course, offered an excellent opportunity to flee. But here again, it was a question of how many potential fugitives were able to take advantage of this chance. Each of the mariners absconding from holiday belonged to one of twenty-six ships, or roughly a third of the vessels examined for the present study. Moreover,

28ADM 1/326.

29Most of the men who went to these facilities did not desert. Of the 19,215 mariners listed in the surviving hospital musters from the Lesser Antilles, 785, or slightly more than four percent, absconded.

30One hundred and forty of the 887 fugitives took flight while on leave.

31Seventy-three ships were examined for the present study.
seventy-three percent of these desertions occurred under eight captains, all but one of whom appear to have allowed members of their crews ashore rather indiscriminately. For example, James Fitzgerald slipped away from the Maidstone during liberty granted to him at Barbados by Captain Henry Newcombe on 19 July 1789 — a scant three and a half months after he had been returned to the frigate following an earlier escape. Similarly, two Americans took flight from H.M.S. Galatea at Buck Island when given furlough on 17 November 1807 by George Sayer a mere four weeks after being prest at sea.

The remaining eight percent of the tars in the sample absconded directly from His Majesty's ships. That so few seamen deserted in this fashion reflects the tremendous difficulties involved in such attempts. In addition to having to slip past the sentries routinely stationed on the main deck, mariners had to make their own way to safe haven. Because men-of-war normally anchored at considerable distances from the shore, fugitives could reach land only by swimming, making off with the ship's

32ADM 36/10740.

33ADM 37/446. The names of these men were Isaac Smith and Thomas Jones.

34Of the 887 fugitives, seventy-four deserted directly from their ships.
boats or hiding themselves aboard privately owned service tenders which had come alongside their vessels. Swimmers, of course, ran the risk of drowning.\textsuperscript{35} Those disposed to fleeing in a launch were likely to find it without masts, sails or oars and thus bereft of power.\textsuperscript{36} And members of the fleet hiding themselves in visiting harbor craft remained in jeopardy of being discovered until the ship departed.\textsuperscript{37}

Needless to say, the members of the quarter-deck did not stand by idly as sailors absconded. In addition to placing sentinels over their men, commanders resorted to a variety of other devices. Some captains, like William Fahie of the \textit{Perdrix}, simply anchored their ships farther from shore after desertions.\textsuperscript{38} Others, such as George Losack of the \textit{Prince George}, went so far as to order guard boats to circle their vessels in harbor.\textsuperscript{39} A few even

\begin{footnotes}
\item[35]For example, on 10 April 1796 the master of the \textit{Hebe} recorded in his log: "at midnight William Reynolds, Quarter Gunner, was drowned in attempting to swim from the ship (ADM 52/3092)."
\item[36]These items normally were removed from the boats when they were not in use.
\item[37]See, for instance, Richardson, \textit{A Mariner of England}, pp. 98-99.
\item[38]ADM 51/1264.
\item[39]ADM 51/1693.
\end{footnotes}
assigned chaperons to tars who had been granted leave. For example, when John Reynolds, a mariner belonging to the Swaggerer was given liberty to visit the Tigre in February 1810, he was escorted by an officer from the brig whose duty was "to prevent . . . [him] from running away."⁴⁰

Occasionally, efforts to keep men from fleeing could result in tragedy. One such incident occurred aboard the Arachne at Trinidad on the night of 18 January 1812. Between seven and eight o'clock, seaman Thomas Miller was discovered swimming away from the sloop. Under strict instructions to fire upon anyone found in the water attempting to desert, the master of the Arachne, Peter Inskip, hailed Miller and discharged a blank cartridge in his direction. As Miller made his way back to the vessel, Inskip reloaded the musquet with live ammunition. At this point, Lieutenant John Middleton, who from his position on the quarter-deck could not see that the fugitive was returning, ordered Inskip to "shoot him, shoot him dead." Obeying the command immediately, Inskip wounded Miller in the shoulder. Bleeding profusely, the stricken mariner was brought on board and died forty minutes later.⁴¹

⁴⁰ADM 1/5413. Reynolds was tried for desertion on 20 February 1811 and sentenced to death.

⁴¹ADM 1/5425. Inskip was convicted of manslaughter by a tribunal assembled on 13 April 1812.
As well as attempting to prevent desertions, His Majesty's captains pursued members of the fleet who had managed to escape successfully. Thus, upon discovering that Antonio Pye, Duncan Ranker, John Dumot and William Brooks had absconded from the *Glorie's* launch on 3 April 1809, James Carthew dispatched "an officer and a party of marines" ashore to apprehend them.\(^{42}\) Moreover, authorities belonging to one ship occasionally acted in tandem with those of another in conducting these manhunts. For example, on 3 March 1810, S.E. Watts recorded in the log of the *Forester*: "sent the lieut. & 2 mids. received from H.M.S. *Dannemark* with our cutter to Point Peter to look for deserters from the above vessel."\(^{43}\) In a similar vein, some commanders instituted searches for fugitives from other men-of-war without requests for assistance. Even though the *Excellent* had lost but a single mariner through desertion in two months, John Nash ordered her boats' crews to undertake such a quest in Carlisle Bay on 23 January 1803.\(^{44}\)

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\(^{42}\)ADM 52/1996.

\(^{43}\)ADM 51/2371.

\(^{44}\)ADM 51/1404; ADM 36/15238.
The work of arresting fugitives performed by naval officers was augmented by the efforts of people in the localities. Because the service paid a cash reward for every member of the fleet who was captured and returned to his vessel, runaways were viewed in some quarters as prized commodities. For instance, the day after Robert Waldron, Henry George and Thomas Connolly absconded from the Inspector at Prince Rupert Bay, Dominica on 7 January 1795, they were taken up by the local militia and brought back to the ship, at which time Captain John Cook paid the soldiers "forty shillings sterling for each man."\(^{45}\) Correspondingly, when Andrew Pringle, Malacy Calligan and John Hendrick swam from the Forester on 1 April 1812 at St. Vincent, they were "apprehended by the negroes of Prerbrook Estate."\(^{46}\)

If some people assisted members of the quarter-deck in tracking down fugitives, others did everything in their power to thwart such efforts. The masters of merchant vessels were notorious for aiding and abetting runaways. For example, when Lieutenant Henry Pine of H.M.S. Statira boarded the Tiger west indiaman in June 1810 at Carlisle Bay, he discovered almost a dozen royal mariners concealed

\(^{45}\)ADM 51/1145.

\(^{46}\)ADM 51/2371.
in various parts of the freighter's hold, some of whom had been in hiding for so long that they "looked as if they were ready to faint." Privateers also offered assistance to those who had fled from the king's ships. For instance, the crew of the Promote was able to recover a deserter named Eagle in 1798 only after a heated encounter with a group of these quasi-servants of the crown on the Island of New Providence. At the same time, the inhabitants of coastal towns often were willing to grant sanctuary to men-of-war's men at large. In his memoirs, John Nicol recalled meeting a tar who had taken flight from a British warship at Barbados, married an enterprising black publican and inherited her fortune before returning to England. Finally, friends or relatives occasionally became party to schemes designed to prevent the recovery of escapees from the navy. Thus, following his arrest for desertion from the Northumberland in 1806, Henry Edwards spent eighteen months in a jail on Barbados "for a fictitious debt" brought against him by his wife "for the purpose of getting [him] clear of

47HCA 1/61. Trial of William Porter, 28 November 1811.

48Richardson, p. 153.

His Majesty's service.\textsuperscript{50}

Given such circumstances, what then was the probability that a mariner could take flight successfully? Statistically the chances were very good. Less than eight percent of the tars who fled from the men-of-war in the survey were ever apprehended.\textsuperscript{51} Moreover, those who were caught were arrested either in the act of or soon after departing their ships. Slightly under thirteen percent of the seamen in the sample punished for desertion had an "R" placed next to their names in the muster books, which was the symbol used therein to designate those whose unexcused absence had led them to miss at least three successive roll calls.\textsuperscript{52} Hence, the overwhelming majority of British sailors who chose to abscond not only were able to slip away from their vessels but, having done so, faced little danger of being retaken.

Indeed some mariners who absconded were so sure of the navy's inability to recapture them that they actually

\textsuperscript{50}ADM 1/327. Edwards was brought to trial on 3 March 1808. He was convicted and sentenced to eighteen months in the Marshalsea.

\textsuperscript{51}Of the 4,209 mariners who either deserted or attempted to desert, 319 were caught.

\textsuperscript{52}Of the 302 men punished, thirty-nine had an "R" next to their names prior to their punishment.
deserted one ship only to re-enlist in another to exploit
the system of cash bonuses employed by the king’s
government to attract volunteers. One such seaman was
John Jacobs. In September 1796, Jacobs had entered H.M.S.
Eurus and collected a gratuity of £ 2.10.0. The following
December, while on shore at Portsmouth Yard on duty, he
slipped away from the frigate’s work party and vanished.
Soon after his disappearance, he enlisted on board the
Royal William under the name John Francis, this time
receiving a bounty of £ 5.19.0. In all likelihood his
fraudulent scheme would have gone undetected had it not
been for one ironic twist of fate. Shortly before the
Eurus was to sail for the Lesser Antilles, her master was
sent aboard the Royal William to take custody of a draft
of a half dozen men to complete her complement. By an
incredible stroke of bad luck, Jacobs was one of the six.
Recognized immediately, he was returned to his former
vessel and confined to await trial in the Leewards.53

53ADM 1/5338. Jacobs was court martialed on 27
March 1797. Found guilty, he was sentenced to three
hundred lashes and “to be mulcted of five pounds nineteen
shillings of his pay, to reimburse the Parish of Portsea,
of which parish he fraudulently received that sum as part
of a gratuity for entering into His Majesty’s service
although belonging at the time to His Majesty’s ship
Eurus.”
In what amounted to a tacit admission of the navy's inability to curb losses from desertion, the monarchy endeavored to coax fugitives back into the service by offering them clemency. During the period under discussion, the crown issued a series of widely circulated proclamations which granted a full and free pardon and complete restitution of forfeited earnings to each runaway surrendering himself to naval authorities by a specified date.\(^{54}\) And these decrees were not completely without effect. "I went to the West Indies and entered our H.M. Ship \textit{Sappho}, in the year 1812 to serve my country," wrote one escapee from a man-of-war, "having heard there was a proclamation given that all who had deserted in the service returned again [sic], should be forgiven and receive his wages and prize money which was due to him."\(^{55}\)

Paradoxically, an even stronger indication of the impotency of His Majesty's captains in dealing with the problem of desertion is provided by the treatment accorded the few fugitives who were apprehended. As a rule, these


\(^{55}\)Thomas Blackey quoted in Baynham, \textit{From the Lower Deck}, p. 102.
culprits were made to serve as horrible examples for the remainder of the fleet. A far greater number of mariners were brought before courts martial -- the navy's most terrifying legal engine -- for running from the king's ships than for any other single offense. Between 1784 and 1812 almost one third of the men indicted on the Leeward Islands station were so charged. Furthermore, ninety percent of the tars who faced naval tribunals were found guilty and given relatively stiff sentences. Of the ninety-eight sailors convicted, five were adjudged to suffer the death penalty, ninety-two received a number of lashes through the fleet ranging from fifty to five hundred, and one was imprisoned in the Marshalsea for eighteen months.

Although treating captured deserters severely, courts martial did not act wantonly in such cases. In reaching their verdicts, tribunals employed one simple yardstick to determine a defendant's guilt or innocence. If the accused was deemed to have left his ship for the specific purpose of absconding, he was convicted. However, if he was taken up under circumstances which suggested that his departure was not motivated by a desire to flee his

56One hundred and twelve of the 362 individuals tried on the station stood accused of desertion.

57Ninety-eight of the 109 men for whom verdicts and sentences survive were convicted. Three cases are missing.
vessel, he was acquitted. Hence, seamen James Gouding and William Maven of H.M.S. Dragon were each sentenced to three hundred lashes by a court assembled at English Harbour on 15 June 1812 for "absenting...[themselves] with intent to desert." Conversely, Abraham Madison, who was tried for swimming from the Matilda by a judicial body convened on 21 December 1792 at Fort Royal Bay, was exonerated because it appeared to his judges that there was "much probability of his having fallen overboard by accident."59

A similar pattern of prosecution was followed in the summary adjudication of the crime of desertion. Like courts martial, captains distinguished between tars who intended to flee permanently and mariners whose debarkations were due to less sinister motives. While 315 men were punished for absconding or attempting to abscond from the vessels in the survey, another 174 were chastised for staying on shore beyond leave, swimming alongside the ship, and so forth. At the same time, those found guilty exclusively of running generally received much harsher sentences than those convicted solely of unauthorized absences. Whereas eight-four percent of the culprits in the former category endured more than a dozen lashes,

58ADM 1/15427
59ADM 1/5342
eighty-eight percent of the miscreants in the latter group were given twelve strokes or less.\textsuperscript{60}

\textbf{iii}

As grievous an offense as desertion was, it paled in comparison to challenges to authority. Such challenges struck at the very heart of service discipline -- obedience. Indeed the principle of submission was held to be so inviolate that it was raised to the level of a religious tenet. Drawing the analogy between compliance with orders and the Fifth Commandment, Josiah Woodward preached:

...Honour is not to be restrained to your natural parents alone; for all interpreters are agreed, that we are...obliged not only to honour them, but also the King, and all that are put in authority under him, by 'submitting ourselves,' to all our governors, spiritual pastors and masters; and by ordering ourselves lowly and reverently to all our betters;' and as the Providence of God has placed most of you in the situation of common sailors, I beseech you to consider, and seriously attend to the advice

\textsuperscript{60}Two hundred and twenty-four of the 266 floggings for desertion were of more than twelve strokes. The number of lashes ranged from one to ninety-six. One hundred and fifteen of the 131 scourgings for absence without leave were of a dozen blows or less. The number of stripes ranged from two to twenty-four.
given by St. Peter I Peter ii 18, 19, 20.
'Servants be subjected to your masters with all fear, not only to the good and gentile, but also to the froward...61

The most serious challenge to authority was mutiny. Between 1784 and 1812 there were three major shipboard rebellions in the Lesser Antilles. The first took place among the company of the Castor on 13 December 1801. During the evening, the hands were called to the gangway to witness the punishment of several of their shipmates for neglect of duty. Immediately upon being beaten to quarters, about forty or fifty members of the crew began to cheer in the bay of the frigate, demanding to speak with the lieutenant assigned to supervise the correction. Hearing the commotion below, Captain Robert Fanshaw ordered the marines to charge the rioters. The ensuing tumult lasted but a short time. When it was over, four men had been incarcerated to await trial for their lives.62


The second mutiny occurred little more than a year after the stillborn rebellion aboard the Castor. Flushed by the news of the Peace of Amiens and thoughts of home, the crew of the Excellent assembled themselves in a group towards the rear of the vessel on Christmas Day, 1802. When their officers instructed them "to go to their duty[,] they dispersed[,] but with evident marks of discontent." The next morning, Able Seaman Matthew Loyal approached Commodore Stopford on the quarter-deck, informing him of the men's desire to return to England to "see if it was a war or not." Stopford told Loyal that the "troublesome" state of international affairs precluded the possibility of the ship departing the Leewards for at least several months. Word of the Commodore's reply spread quickly among the company with tragic results. At 2:30 that afternoon, the seamen gave three cheers on the lower deck and began to chant "home, home." The marines were armed immediately and ordered into the breach below. Following a brief struggle, the insurrection collapsed. The principal mutineers were arrested and sent on board H.M.S. Blenheim to be tried by a court.

63ADM 51/1404
64ADM 1/5362. Trial of John Lovell Crabb, Matthew Loyal, et al. on 27 to 29 December 1802.
The third and only successful mutiny in the Lesser Antilles happened aboard the Dominica on the night of 21 May 1806 at Rosseau, Dominica. During the captain's absence on shore, one of the crew appeared on the quarter-deck and struck Midshipman Richard Osborn, the acting commander, with a cutlass. When Osborn asked the sailor what was meant by the blow, he was told that the hands were "all resolved for death or liberty." At this point, the midshipman and those remaining loyal to him were taken below and confined. The mutineers then weighed anchor and sailed the sloop from the harbor. The next morning the vessel arrived at Basse Terre, Guadaloupe, where the rebels surrendered themselves, the ship and their prisoners to the French authorities on the island. Wasting little time, the French manned their new-found prize and sent it out to prey upon the English merchantmen in the area. However, on its maiden voyage under the tri-color the Dominica, with two of the traitors on board, was captured by a British packet.

65ADM 50/33.


67The Barbados Mercury and Bridgetown Gazette, 10 June 1806.
All of the men apprehended for allegedly having participated in these rebellions were tried by courts martial. In adjudicating their cases, naval tribunals did not proceed indiscriminately. On the contrary, judicial bodies made every effort to determine whether or not the accused had been an active party to insurrection. Hence courts went to lengths to establish the motives behind the defendant's behavior. Typical of the line of questioning pursued in these litigations was the following exchange during the testimony of Edmund Riley at the trial of one of the ringleaders of the mutiny of the Excellent:

Prosecutor - Do you know the prisoner Stafford[?]

Answer - Yes

Prosecutor - Relate to the court the conversation he had with you on the 25th instant.

Answer - Between four and five bells in the afternoon watch as near as I can guess, I was near the sick bay on the starboard side of the main deck smoking my pipe. I saw Stafford come along the starboard side of the main deck ordering the people down below. He came to me and asked me if I was not going down below. I asked him for what. He said go down either on the starboard or the larboard side of the bay. They are settling some business there...4 or 5 minutes after they gave three cheers.
Court - Did you observe any of the people go down in consequence of his ordering them?

Answer - I saw several of the men go down as he passed along deck.68

Given the circumspection of naval tribunals, fourteen of the thirty-two mariners accused of being involved in the mutinies aboard the Castor, the Excellent and the Dominica, or forty-four percent, were exonerated completely, which was a rate of acquittal almost twice that for all cases heard in the Leewards between 1784 and 1812.69 Yet, if the courts proceeded with caution in reaching the verdicts, they also imposed very stiff penalties upon those whom they found guilty of taking an active part in these insurrections. Of the eighteen petty officers and seamen belonging to the three ships who were convicted, eight were adjudged to be hung and ten were given a number of lashes through the fleet ranging from two hundred to eight hundred.70

68ADM 1/5362. Trial of John Lovell Crabb, Matthew Loyal et al. on 27 to 29 December 1802.

69See Chapter Two, p. 89.

70Two mutineers from the Hermione also were tried on the Leeward Islands station during the period under discussion. One of these men was sentenced to death and executed; the other was acquitted. ADM 1/5344. Trial of Thomas Leach and William Mason on 1 May 1798.
But, as David Hannay has observed, "mutiny was an elastic word." A mariner need not have engaged in a full-blown insurrection to have been charged with this crime. As was the case in the adjudication of so many other infractions, the method of prosecuting individual acts of rebellion was left to the discretion of His Majesty's commanders. However, the majority of these incidents were dealt with summarily. Whereas 214 men were brought to the gangway for mutinous behavior on the ships in the survey alone, only twenty-six tars were tried by naval tribunals for the same offense in the Leeward Islands between 1784 and 1812.

Of the twenty-six mariners indicted for individual acts of mutiny, seventeen were seamen or petty officers, five were warrant officers, and three were commissioned officers. Twenty-two of these men, or approximately eight-five percent, were found guilty. Three were given death sentences, thirteen were adjudged to receive a number of lashes through the fleet ranging from fifty to six hundred, one was broken of his rank and condemned to fifty blows with a cat of nine tails, three were dismissed from the service and one was reprimanded severely and "put at the bottom of the Navy list." Yet the high rate of

71Hannay, Naval Courts Martial, p. 23.
convictions and the relatively harsh punishments imposed should not be taken to indicate that tribunals adjudicated such cases arbitrarily. The four acquittals alone suggest otherwise.

Two cases provide ample illustration of the pattern of curial prosecutions for singular acts of rebellion. The first was heard by a court assembled aboard the Ramilles in Carlisle Bay on 30 May 1808. On that day, a Turkish sailor named William Riley was tried "for having conducted himself on the 2nd November 1807 in a most outrageous and mutinous manner to several of the officers on duty on the quarter-deck" of the Camilla. About three o'clock in the afternoon, Riley was found screaming and throwing objects about the forecastle. Upon being arrested and placed in irons, the seaman began to abuse the First Lieutenant, calling him a "bloody murdering bugger" and "threatening what he would do to him." Although repeatedly ordered to be silent, the prisoner continued in a rage until he was gagged. During his trial, he offered nothing further in his own defense than to claim that he was so intoxicated at the time of the incident that he could not remember it and that he had been beaten and ill used. For his crime, Riley was sentenced to three hundred lashes through the fleet.72

72ADM 1/5387
The second trial took place on 23 December 1801 aboard the Tamer in Fort Royal Bay. The defendant, seaman John Driscoll of H. M. Brig Gauchelin, was charged with "riot and mutiny." A few nights earlier, Driscoll allegedly had behaved in a mutinous manner to Boatswain Brown, when Brown had refused to give him a light to search for his possessions. However, during the presentation of the evidence, it became clear that both of the prosecution's chief witnesses had been intoxicated at the time that the incident had occurred. Moreover, several attestants called on the prisoner's behalf established that after Driscoll had been denied the candle he had done little more than reiterate his plea for illumination -- even though he had been beaten and kicked by the Boatswain. Given such testimony, the court fully acquitted him. 73

Unfortunately, the acts of mutiny dealt with summarily by His Majesty's commanders do not lend themselves to analysis as readily as those adjudicated by naval tribunals. Once again, discussion is hamstrung by the silence of the sources. Virtually every instance of rebellion corrected at the gangways of the vessels in the sample was recorded in the journals simply as mutiny,

73 ADM 1/5359
mutinous behavior, mutinous expressions or sedition. Representative of this practice is the following entry in the captain's log of the *Jupiter*, dated 16 August 1787: "Punished Thomas Crookdeck with twelve lashes for mutiny." Hence, it is impossible to determine what actually constituted these deeds or how disruptive and threatening they really were.

Nevertheless, several observations still can be made about the summary adjudication of mutiny. In the first place, every one of the mariners who suffered correction for this crime on the ships in the survey was either a petty officer, a seaman or a marine private. Secondly, each of these tars was brought to the gangway and whipped with a cat of nine tails. Thirdly, the punishments that they received tended to be somewhat more severe than those given to the perpetrators of most other offenses. Whereas sixty percent of all scourgings on the vessels in the sample were of a dozen blows or less, forty-eight percent of the floggings administered exclusively for mutinous conduct were of more than twelve strokes.

74ADM 51/481

75Of the 125 floggings for mutiny, sixty were of more than a dozen blows. The number of lashes inflicted ranged from five to seventy-two.
While rebelliousness was the most serious challenge to authority, it was far from being the only affront to the sovereignty of the ruling elite. Another was an offense variously described as contempt, insolence or disrespect. Cases of abusiveness to superiors were dealt with both summarily and by courts martial. However, in selecting the method of prosecution, naval officers exhibited a marked class consciousness. As a rule, judicial bodies were reserved for warrant and commissioned officers. The few members of the lower deck who were brought before tribunals were all deemed to have committed particularly grievous acts of defiance. The overwhelming majority of seamen and marines were corrected unilaterally by their captains. Whereas approximately eighty percent of the defendants tried for insubordination in the Lesser Antilles between 1784 and 1812 walked the quarter-deck, ninety-nine percent of those punished for the same crime on board the ships in the survey were enlisted men.  

Analysis of the treatment that most naval tribunals accorded instances of contemptuous behavior to superiors is complicated by the fact that over three-quarters of the

76Of the twenty-eight men brought before courts martial, twenty-two were warrant or commissioned officers. Of the 966 members of the fleet dealt with summarily aboard the ships in the sample, 957 were seamen, marines or petty officers.
members of the fleet indicted for this offense in the Leewards during the period under discussion were charged simultaneously with additional crimes such as drunkenness, disobedience or mutiny. Still, some idea of the way in which courts martial dealt with insubordination is provided by the cases of the six mariners accused exclusively of the infraction. Although all of these men were found guilty, the sentences imposed upon them clearly indicate that judicial bodies distinguished between degrees of culpability. Of the five officers convicted, one was cashiered, two were dismissed from their ships, one was broken of his rank and one was admonished to be more circumspect in the future. The lone seaman was given three hundred lashes through the fleet.

Two cases well illustrate the general line of reasoning employed in curial proceedings against those charged with defiance. The first was heard by a tribunal assembled aboard H.M.S. Statira in Freeman's Bay, Antigua on 23 June 1812. The defendant, seaman Edward Newland of the Statira, was on trial "for having behaved himself in a most contemptuous and insolent manner" to several officers of the ship. More than a year earlier, Newland had been beaten with a rope's end for want of alacrity in furling

77Of the twenty-eight men indicted, all but six were accused simultaneously of additional offenses.
the main top gallant sail. As the punishment was inflicted, he was "very irritable," telling the lieutenant who had ordered it "that he wished to be reported to Captain Stacpoole, that he would not be started and flogged both, and that he would see further into this matter." Upon being called to the quarter-deck to account for his actions, he conducted himself flippantly, refusing to remove his hat in the captain's presence and answering the questions put to him curtly. Two days later, while awaiting correction for his impudence, he again showed great disrespect to his commander. When Stacpoole threatened to bring him before a court martial, Newland, "with a shake of the head," dared him to do so. During his defense, he offered nothing more than a rather lame assertion that he had not meant to act so disdainfully. Rejecting his claim, the court convicted him and sentenced him to pass through the fleet.  

The second case was tried by a court martial convened at Choc Bay, St. Lucia on board H.M.S. Vengeance on 23 May 1796. The defendant, Captain John Williamson of the Grampus, stood accused of "having replied in very disrespectful and contemptuous terms to an order" from Rear Admiral Sir Hugh Cloberry Christian. Two days

78ADM 1/5427.
earlier, Williamson had received a directive from
Christian instructing him to be "cautiously attentive" in
keeping several men on the Grampus until further notice.
When the Captain questioned the Admiral's use of the words
"cautiously attentive," Sir Hugh took umbrage and filed
charges against him. However, during the course of the
trial, Williamson was able to prove that he had spoken
frequently of the Admiral "with the greatest respect and
esteem." Under the circumstances, the tribunal found it
expedient to do nothing more than reprimand the
commander. 79

Sadly, the incidents of disdainful behavior
adjudicated summarily cannot be examined in much detail.
Here again, discussion is hampered by the brevity of the
ships' books. As was the practice in recording so many
other crimes, insubordination was noted in the journals
simply as contempt, insolence or disrespect. Typical of
this style is the following entry in the captain's log of
the Galatea, dated 12 April 1804: "Punished James

79ADM 1/5336. It should be noted that a number of
petty disputes of this nature between officers were
resolved in a much more informal manner. For example,
when Captain Horatio Nelson took offense at several
"disrespectful" letters that he had received from Surgeon
William Lewis of the Rattler sloop in 1786, he complained
about them to the Admiralty. Their Lordships settled the
matter simply by forcing Lewis to apologize to the young
commander of the Boreas. (ADM 1/2223. Cover letter dated
4 February 1787).
Cochrane with 12 lashes for insolence." In all but a handful of instances, no further information was provided. For this reason, it is impossible to determine such things as the events comprising the offenses or how serious these episodes really were.

Despite the terseness of the logs, several observations still can be made about the crimes punished summarily. Many of these incidents appear to have been fueled by alcohol. Almost seventeen percent of the mariners punished for insubordination on board the ships in the sample were charged concurrently with drunkenness. Moreover, a considerable number of the offenses may have been protests against what the culprits perceived to be unfair treatment. Approximately twenty-one percent of those deemed guilty of contemptuous behavior were corrected at the same time for disobedience or neglect. Finally, much of the abusiveness seems to have been directed at immediate superiors. In eleven of the sixteen cases in which the rank of both the perpetrator and the officer were recorded, the object of disdain was almost directly above the delinquent in the

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80ADM 1/1540.

81Of the 648 men corrected for insubordination, 110 were charged at the same time with drunkenness.

82One hundred and thirty-six of the 648 men deemed insubordinate were found guilty of disobedience or neglect at the same time.
chain of command.\textsuperscript{83}

Though the logs reveal very little about the crimes, they do provide a clear picture of the way in which insubordination was punished. Over ninety-nine percent of the mariners corrected exclusively for this offense on board the ships in the sample were flogged with a cat of nine tails.\textsuperscript{84} At the same time, captains, like courts martial, distinguished between degrees of culpability, the number of lashes administered on the vessels in the survey ranging from three to sixty. However, most instances of contempt were not chastised with pronounced severity. Whereas sixty percent of all floggings inflicted aboard the men-of-war examined for the present study were of twelve lashes or less, sixty-seven percent of those given solely for contemptuous behavior were of like proportions.\textsuperscript{85}

A much more passive challenge to authority than

\textsuperscript{83}For example, Marine Private Henry Grange was given twenty-four lashes aboard H.M.S. \textit{Invincible} on 9 December 1797 "for insolence to his corporal (ADM 52/3182)." Similarly Armourer James Black received two dozen strokes on board the \textit{Trusty} on 13 July 1790 "for insolence to the Gunner (51/985)."

\textsuperscript{84}Of the 512 men punished, 507 were scourged. Four of the five men who did not endure the lash were members of the quarter-deck. Three lieutenants were arrested and one boatswain was suspended. The lone seaman had his grog stopped.

\textsuperscript{85}Three hundred and forty of the 507 mariners flogged for insubordination received a dozen blows or less.
insubordination was disobedience of orders. Like insolence, contempt and disrespect, disobedience was prosecuted with a definite class bias. Whereas officers tended to be brought before naval tribunals, enlisted men normally were dealt with unilaterally by their commanders. Approximately eighty-seven percent of the defendants indicted for recalcitrance at courts martial in the Lesser Antilles were warrant and commissioned officers. Conversely ninety-eight percent of those punished summarily aboard the ships in the survey were members of the lower deck.

All but three of the thirty-eight officers and seamen tried for disobedience in the Leewards between 1784 and 1812 were charged simultaneously with additional offenses. Though this fact clouds the treatment which judicial bodies at sea accorded cases of recalcitrance, it does not obscure the method used to prosecute them. In rendering verdicts in such cases, tribunals applied one simple rule of thumb. If the defendant willfully and intentionally had refused to comply with a directive, he was convicted. However, if circumstances prevented him

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86Of the thirty-eight men tried for this offense, thirty-three were members of the quarter-deck.

87Seven hundred and forty-four of the 757 men dealt with unilaterally by the commanders of the vessels in the survey were seamen, marines or petty officers. There were 156 missing cases.
from obeying the commands of his superior, he was acquitted. Thus while Purser Charles Crandon of H.M. Sloop *Drake* was court martialed on 13 and 14 June 1803 for, among other crimes, violating the Fortieth Standing Order of the squadron by sleeping out of his ship on two occasions, he was found guilty of only one infraction because "in the first instance . . . it appeared that Mr. Crandon had permission to remain on shore till 8 o'clock of [sic] the evening of the 22nd December in Falmouth Bay, and having repeatedly been in quest of a boat, and none having been sent from the *Drake* that evening it was not practicable for him to get on board." 88

In applying this standard, naval tribunals convicted almost ninety percent of those indicted for recalcitrance on the Leeward Islands station during the period. 89 Yet such a high rate does not imply that courts adjudicated these cases in an unbending manner. As the sentences imposed upon the mariners condemned exclusively for disobedience suggest, judicial bodies made every effort to distinguish shades of blameworthiness. Of the five officers found guilty solely of the offense, three were dismissed from their ships, one was disrated and one was not punished at all. The single seaman among this group

88ADM 1/5363.

89Only four of the thirty-eight men indicted on this charge were found innocent.
received just twelve lashes.

Because the incidents of disobedience treated summarily were recorded in the logs only in the most general terms, it is virtually impossible to establish what acts specifically constituted the offenses. Yet even without reference to the details of the crimes, something still can be said of the pattern of their prosecution aboard the king's floating dominions. Approximately forty-three percent of the mariners punished for noncompliance on the ships in the survey were charged simultaneously with one or more additional infractions ranging from drunkenness to neglect. At the same time, all but four of the 913 culprits dealt with unilaterally by the captains of these vessels were chastened corporally. However, the penalties imposed were not excessive by naval standards. Whereas sixty percent of the floggings administered on the men-of-war in the sample were of twelve lashes or less, seventy-seven percent of those inflicted exclusively for recalcitrance were of like proportions.

90 Of the 913 mariners punished for disobedience, 395 were found guilty of more than one offense.

91 A gunner was confined. A purser was arrested. A boatswain was reprimanded. And a lieutenant was suspended from duty.

92 Three hundred and ninety-eight of the 518 mariners flogged exclusively for disobedience received twelve lashes or less. The number of lashes inflicted ranged from three to forty-eight.
A crime not far removed from disobedience of orders was neglect of duty. Inattentiveness was prosecuted both summarily and by courts martial. However, the method of adjudication was largely a function of rank. While all of the members of the fleet brought before naval tribunals for negligence in the Lesser Antilles during the period under discussion were warrant or commissioned officers, over ninety-nine percent of those punished for the same offense unilaterally by the commanders of the vessels in the survey were seamen, marines or petty officers.\(^93\)

Of the twenty-four members of the quarter-deck indicted at courts martial for neglect of duty, nineteen were found guilty of the charge and five were acquitted fully. In rendering verdicts in these cases, tribunals employed much the same standard that was used in the arbitration of allegations of disobedience of orders. If the defendant was deemed to have performed his functions with inattention or carelessness, he was convicted. If, however, the situation was such that it prevented him from successfully carrying out his task, he was exonerated completely.

This line of reasoning was clearly in evidence in the

\(^{93}\)Of the 1,997 corrected for neglect on the ships in the sample, 1,987 were members of the lower deck.
proceedings against the lone officer on the Leeward Islands station who was indicted exclusively for negligence. The trial took place board H.M.S. York on 1 March 1808. The defendant, Lieutenant William Stevenson of the Defence, was brought before the court "for having about 2 of [sic] o'clock in the morning of the 23rd instant [i.e. February], by neglect of duty and great misconduct, in endeavouring to pass windward of the Ramillies when it was his duty to have borne away under her lee to get into her wake, and for neglecting to consult or inform his captain of the damages that was [sic] likely to happen by the relative position of the ship, by which neglect of duty and misconduct the two ships were run foul of each other and the Defence thereby considerably damaged." Because Stevenson was able to demonstrate to the tribunal's satisfaction that he had obeyed all the signals to tack and had done everything possible to remain astern of the Ramilles, he was acquitted of the principal charge. But, since he had failed to keep his commander completely abreast of the evolutions of the two vessels prior to the accident, he was found guilty "in part" of the later accusation and "reprimanded . . . to be more cautious and attentive in future."\footnote{ADM 1/5386.}

Needless to say, the incidents of negligence dealt
with summarily were hardly as catastrophic as that leading to Stevenson's court martial. From the few instances recorded in the logs in any detail, it appears that these crimes were of a more mundane nature. Some were simply the result of inattentiveness. Marine Private John Felcher, for example, was given a dozen lashes aboard the Stork on 10 April 1809 "for not having his musquet clean." Others were the product of carelessness. Seaman John Conolly of the Rattler sloop, received twelve strokes on 23 October 1785 "for negligently losing his shirt." Still others were the upshot of attempts to avoid work. Thus, Landsman John Jones suffered twenty-four blows at the gangway of the Forester on 4 May 1812 "for sculking below when all hands was [sic] ordered on deck." Finally, a number were the consequence of failure to abide by the naval routine. A case in point was William Nugent, a Boy Third Class, who endured twelve stripes on the Galatea on 1 August 1807 "for missing . . . muster and drunkenness."

In dealing summarily with these infractions, His Majesty's captains almost invariably resorted to the cat

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95 ADM 52/4338; ADM 51/1980.

96 ADM 51/770.

97 ADM 51/2371.

98 ADM 52/3762, sections 8 and 9.
of nine tails. Of the more than nineteen hundred mariners corrected for neglect of duty aboard the ships examined for the present study, all but three were flogged at the gangway.\textsuperscript{99} Although the number of lashes inflicted upon the culprits deemed guilty solely of this offense ranged from two to seventy-two, commanders exercised relative moderation in the punishment of negligence on the whole. Whereas sixty percent of all scourgings administered on the vessels in the sample were of a dozen lashes or less, seventy-three percent of those meted out exclusively for laxness were of the same proportions.\textsuperscript{100}

The worst possible consequence of dereliction of duty was the loss of a ship. Not only did such a catastrophe imperil the lives of many men, but it meant an added financial burden on the Navy Board and the Treasury. Between 1784 and 1812, thirty-four British naval vessels were taken or destroyed in the Leeward Islands -- or over eight percent of the entire number of those officially listed as having been sent to the station in this

\textsuperscript{99}Two tars had their grog stopped and a lieutenant was reprimanded.

\textsuperscript{100}Nine hundred and sixty-one of the 1,309 floggings were of no more than twelve strokes.
A little more than half of these were wrecked as a result of maritime accidents. With one exception, the remainder were captured by the enemy.

Each of the cases arising from both types of calamity was adjudicated by a court martial. While the normal practice was to indict all of the surviving officers and crew of the stricken vessel, these proceedings were primarily inquiries into the actions of the governors of the ship in question at the time of the disaster. Thus, of the twelve men convicted at such prosecutions on the Leeward Islands station during the period under discussion, one was a captain, six were post commanders, one was a lieutenant and four were masters. Two of those found guilty were cashiered, two were broken of their rank, four were reprimanded, two were admonished to be more careful in the future, one was placed at the bottom of the lieutenant's list and barred from obtaining command of a man-of-war for five years and one was imprisoned in the Marshalsea for a calendar year and rendered incapable

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101There were 417 ships in the Lesser Antilles between 1784 and 1812.
102Eighteen of the thirty-four ships foundered or sank.
103Fifteen of the thirty-four ships were taken by the enemy and one, the Dominica, was seized by mutineers.
104In four of the thirty-four indictments, only the commander of the lost vessel was charged.
of walking the quarter-deck for the space of half a decade.

In reaching decisions in the trials resulting from shipwrecks, naval tribunals applied one simple standard. If the defendants had taken proper precautions to avoid the accident and had done everything in their power to prevent the vessel from foundering once the disaster had occurred, then they were acquitted. Hence, the court assembled at Fort Royal Bay on 27 February 1796 to try Lieutenant Christopher Pawle for the loss of the St. Pierre exonerated him completely because he had made repeated efforts to haul the sloop away from some rocks off Pidgeon Island before it was driven aground on them by the current. Conversely, if the calamity had resulted from the negligence of the defendants or they had not done their utmost to save their ship as soon as it had become imperiled, they were convicted. Thus, Lieutenant Henry Witby was reprimanded and Luke Winter was "broke of his situation as Master" by a judicial body convened at Martinique on 7 November 1801 for running the Proselyte on a shoal off St. Martins despite warnings from Admiral Duckworth of the existence and location of the shallows.

105ADM 1/5335.

106ADM 1/5359.
As the following two cases suggest, much the same criteria were employed to assess the guilt or innocence of members of the quarter-deck whose ships had been taken from them by hostile forces. The first was heard on 12 June 1809 at English Harbour. On this occasion, a tribunal was assembled "to enquire into the conduct of Mr. Joseph Dyason[,] Master[,] [and] the other surviving officers and crew on board the Maria at the time she struck to the enemy." The previous September, the Maria had given chase to a strange sail off Point Antigua, Guadaloupe. Drawing near to their quarry, the brig's company discovered the vessel to be a French National frigate of twenty-eight guns. Although at a marked disadvantage in fire-power, Lieutenant James Bennett, the Maria's commander, ordered his tars mustered at quarters and the decks cleared for action. Midshipman John Tennant described the ensuing struggle to the court:

At a quarter before seven [A.M.] we came up with her, showed our colours and fired a gun. We keeping close to the land to cut her off, a flaw from the land took us back and it instantly fell calm; from the position we were in the enemy had an opportunity of raking us, which he did twice; Lieutenant Bennett and all the officers and crew using their utmost exertion in getting sweeps out to get the broadside to bear; after our broadside bore we kept up a constant fire, our ensign being shot away, an officer from the French ship asked had we struck? Lieutenant Bennett answered no: Lieutenant Bennett then came to the waist[,] elevated the gun and repeatedly fired it himself; he asked Mr. Dyason the Master who was then on the forecastle, how do you think we get on Dyason? Mr. Dyason's answer was, she is rather heavy sir but I am in hopes of a breeze.
Lieutenant Bennett immediately went aft, when standing on the hen coops received three grape shot in the body; for some minutes afterwards I did not know the death of Lieutenant Bennett until Mr. Joseph Dyason said to me our poor commander is gone; I cannot ascertain the time we fought her after the Lieutenant was killed but kept up the same discipline as when he was alive; finding the vessel in a sinking state the officers in the presence of the crew consulted and thought it most prudent to strike, finding it impossible to save His Majesty's Brig Maria; during the action the seamen behaved in a most gallant manner; had there been a breeze even in the early part of the action it would have been impossible for us to have escaped from the rigging being so much damaged.

Given Tennant's glowing account of the bravery of these men in the face of a superior foe and the battered condition of the Maria, the judges exonerated the entire complement. 107

The second case came before a tribunal assembled aboard H.M.S. Galatea in English Harbour on 4 October 1804. Acting Lieutenant Benjamin Westcott, the officers and crew of the Fort Diamond were on trial for allowing their vessel "to be captured in Roseau Bay, St. Lucia by two of the enemy's boats." Several months earlier, the Fort Diamond had been sent to Roseau Bay to collect wood and water for the naval outpost on Diamond Rock. On the sloop's third night in the inlet, Westcott was fishing at the taffrail while most of the company was below. At 7:30 that evening, he noticed a launch approaching his ship.

107ADM 1/5397.
Upon demanding that the craft identify itself, he received no answer. Undaunted, he hailed her again. From the darkness came a volley of French musquet fire. After calling for the cutlasses to be dispensed, Westcott went down into the hold. There, according to one witness, "he stood by the hatchway a while and then turned about and said: 'It was no use. It was too late.'" By this time the attackers had boarded the Fort Diamond and secured control of the main deck. Conceding defeat, the lieutenant advised his men to offer no resistance. During the proceedings, Westcott attempted to defend himself by claiming that circumstances had thwarted his subsequent plans to retake the vessel. However, he was unable to produce any evidence in support of his assertion. For his crime, he was cashiered and rendered incapable of obtaining another commission in the Royal Navy.  

Encounters with the enemy also gave rise to several prosecutions against commissioned officers for failure to pursue an aggressive course of action in battle. Because charges of this nature impinged so heavily on both the accused's reputation and the future of his

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108ADM 1/5357.

109Only one case of this nature was handled summarily on board the ships in the survey. On 17 August 1804, John Pollett of the Galatea was given sixty lashes for cowardice (ADM 51/1540).
professional career, courts martial were extremely scrupulous in distinguishing degrees of culpability. From the few cases tried in the Lesser Antilles, it seems that every mitigating circumstance was taken into consideration. Only men who were deemed guilty of blatant incompetency, negligence or cowardice felt the full weight of the law. Hence, of the three members of the quarter-deck indicted for this offense in the Leewards, two merely were reprimanded and one was "honourably acquitted."

Once again, two examples provide sufficient representation of the line of reasoning used in the adjudication of the cases. The first trial took place on 5 and 6 November 1807 aboard H.M.S. Ethalion off the Island of St. Thomas. The defendant, Captain William Combe of the Hart sloop, had requested the proceedings himself to clear his name of aspersions that he had failed to do his utmost during the capture of a French corvette several weeks earlier. The disparaging remarks circulating about Combe stemmed from the fact that he had not boarded the enemy vessel until the conflict was over, even though he had been alongside the craft in one of the Hart's boats throughout the engagement. However from the testimony of the witnesses for both the prosecution and the defense alike, it was apparent that there were good
reasons for his absence from the fracas. Combe, an amputee with a wooden leg, had been shot in the thigh as the sloop's launch neared its prey; and, after receiving the wound, he had had the misfortune to be pinned beneath a dead man who had collapsed on top of him. As a result, he was in no position to do much more than what he actually did, which was to encourage his men by cheering them on. In view of the evidence, the court acquitted Combe, noting in its decision that not only were the insinuations against him "unfounded" but that he had acted with "the utmost zeal and gallantry."

The case of Captain Alexander Nesbitt of the *Epervier* brig, which was heard by a tribunal assembled aboard H.M.S. *Pompee* in Fort Royal Bay on 10 and 11 January 1809, was hardly as clear-cut as that of Combe. Captain Nesbitt stood before the court "for a breach of the 12th Article of War when in action with the enemy on the 13th day of December 1808." The crux of the charge lay in the fact that Nesbitt had not drawn the *Epervier* closer to a French vessel sweeping along the shore during a British descent upon some hostile batteries situated on a beach on the Island of Martinique. In the course of the trial it

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110 Because Coombe had requested his own court martial, the prosecutor in this case was Master's Mate John Green, one of the captain's leading accusers.

111 ADM 1/5384.
became evident that the young commander had made several mistakes. Although there was very little wind at the time of the engagement, he had failed to order the sky sails set to increase the brig's speed. Moreover, he had continued to expend his shot despite being directed by the captain of the Amaranthe to refrain from firing until his ship was within "pistol shot" of its targets. Nevertheless, in the opinion of his men, he had conducted himself with "every appearance of personal bravery and coolness." Thus, while his judges found him guilty in part of neglect of duty, they did not "conceive that it proceeded either from cowardice or disaffection and that the negligence proceeded more from extreme inexperience than any other cause." They, therefore, sentenced him only "to be severely reprimanded and rendered incapable of attaining the rank of post captain for three years."

Yet, if the officers of the fleet were expected to maintain an aggressive posture towards the king's enemies, they were not to be rash in their dealings with his foes. Mercifully, incidents of overzealousness were extremely rare on the Leeward Islands station between 1784 and 1812. Indeed, the only member of the quarter-deck in the Lesser Antilles charged with such an offense was Lieutenant William Purvis of H.M.S. Belleisle, who was

112 ADM 1/5391.
brought before a tribunal assembled on the York at Barbados from 5 to 10 May 1808. Two days earlier, Lieutenant Purvis had boarded the French schooner La Fine under a flag of cartel in Carlisle Bay. Rather imperiously, Purvis ordered the vessel's captain to send his officers to their cabins. When the commander refused to comply with his directive, he collared the man and tried unsuccessfully to have him taken aboard the launch. Through the intervention of a British mediator tempers quickly cooled and Purvis departed the ship. However, he soon returned, demanding to see some papers. At this point, unfortunately, a Monsieur Fraboulette renewed the hostilities by drawing a sword and pointing it toward the lieutenant. In the ensuing scuffle, Purvis and his men drove the French down into the hold. There, sporadic fighting continued until Lieutenant Treeve of the York was able to restore order by separating the combatants. Finding his conduct during the affair "violent, unofficerlike and very offensive to communication by cartel in which high character the officers and crew of La Fine were entitled to the most unreserved respectful attention and behavior," the court cashiered Purvis. 113

A crime almost as unheard of in the Lesser Antilles as the ill usage of enemies was traitorousness. Whereas

113ADM 1/5387.
there were no summary punishments administered for this offense on board the ships in the survey, there were only three members of the service tried by naval tribunals for disloyalty on the Leeward Islands station during the entire period. Each of the mariners indicted at these proceedings belonged to the lower deck. In adjudicating their cases, the courts exhibited marked restraint. While all of the defendants were convicted, none was given the death penalty. Two were sentenced to five hundred lashes through the fleet and one to six hundred strokes.

The cases of James Brady and James Sullivan of the Surinam, who were tried jointly on H.M.S. Diana in Fort Royal Bay on 15 June 1801, give clear illustration of the treatment that naval tribunals accorded those accused of disloyalty. The previous October, Brady, Sullivan, Master's Mate George Evelyn and two Portuguese blacks had been assigned the duty of taking a Swedish prize to St. Christophers for condemnation. As the schooner approached the island, her captain overpowered Mr. Evelyn and regained control of the ship. During the brief struggle, Brady and Sullivan not only refused to come to the assistance of their officer, but complied immediately with the orders of the commander of the merchantman, who earlier in the day had spoken to them about the possibility of joining the employ of the "states." Further proof of their traitorous designs was provided by the fact that after the vessel had anchored at St.
Bartholomews they quickly entered a small Swedish ship bound for Guadeloupe and were prevented from deserting only by the efforts of the colonial governor. Found guilty in part, they were sentenced to five hundred lashes apiece.  

Such were the service related offenses encountered on the Leeward Islands station between 1784 and 1812. In adjudicating them, naval authorities followed the same basic principles and practices employed in the prosecution of social crimes. Like civil transgressions, naval infractions were dealt with both summarily and by court martial. Moreover, the theatre of judgement was left to the discretion of His Majesty's commanders. Finally abstract legal standards were used to determine guilt or innocence in these cases. In short, the precepts governing the treatment of military problems within the wooden walls were grounded firmly in the traditions of the criminal law.

114 ADM 1/5356.
CONCLUSION.

In the preceding pages an attempt has been made to show that the system used to maintain order aboard His Majesty's sailing ships was a branch of eighteenth-century British criminal law. Within its own narrowly restricted domain, naval discipline applied the principles and practices of the criminal law in adjudicating offenses committed at sea, wherever feasible. As on shore, a sanguinary penal code was administered with relative moderation at both the summary and curial levels. Like quarter sessions and assizes, courts martial rendered verdicts in conformity with the accepted procedural guidelines and legal abstractions of the day. And captains, behaving in much the same manner as their magisterial counterparts in England, carried out the spirit, if not always the letter, of the regulations governing life aboard the king's vessels. Indeed, with the exception of the absence of a true jury system at naval law, the differences between the civilian and nautical divisions of criminal jurisprudence were more style than substance. In short, justice afloat was
founded on the Georgian conception of the rule of law.

If this analysis is correct, what are its implications for the administration of the criminal law in Hanoverian England? In a very influential essay published in 1975, Douglas Hay argued that the eighteenth-century penal code was "one of ... [the] chief ideological instruments" used by the ruling class to maintain its hegemony over the rest of British society. By conspiring to manipulate the "lessons of justice, terror and mercy", the kingdom's governors were able to consolidate and legitimize their authority and enforce a grossly unequal distribution of property.1 Although several scholars have offered cogent modifications of Hay's interpretation, his basic contention that the unreformed law was an important and effective tool in the maintenance of the power-structure of the status quo remained unchallenged until the appearance of John Langbein's critique of his thesis.2 Reacting to the Marxist excesses inherent in Hay's view, Langbein has insisted that "The criminal law is simply the wrong place to look for the active hand of the ruling

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1Hay "Property, Authority and the Criminal Law," pp. 56-63.

classes." In his opinion, it "and its procedures existed to serve and protect the interests of the people who suffered as victims of crime, people who were overwhelmingly non-elite."  

The study of naval discipline in the age of sail suggests something of a middle ground between these two positions. While the law at sea was used by the nautical gentry to bolster and legitimize their authority, it was not abused in such a callous and calculating conspiratorial manner as to become little more than a vehicle for the unbridled self-interests of the elite. As the theorists of order afloat clearly understood, the brute force at the disposal of His Majesty's officers could cow potential criminals, but it alone could not serve as a secure foundation for maritime government. To achieve stability, that government had to be just, and to be just it had to based on the rule of law. In striving to abide by this notion, the rulers of the king's fleet, as N.A.M Rodger has shown them to be in other connections, were no more, yet certainly no less, than the products of their time.

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4 Ibid., p. 97.
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# APPENDIX A

## SHIPS IN THE SURVEY

<table>
<thead>
<tr>
<th>Ship</th>
<th>Guns</th>
<th>Dates Examined</th>
<th>Complement</th>
<th>No. of Men Punished (Percent)</th>
<th>No. of Men Deserted (Percent)</th>
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<td>ADAMANT</td>
<td>50</td>
<td>1 November 1783 - 15 September 1786</td>
<td>763</td>
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<td>112 (15%)</td>
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<td></td>
<td></td>
<td>1 September 1794 - 31 December 1795</td>
<td>806</td>
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<td>AFRICAINE</td>
<td>44</td>
<td>1 February 1805 - 31 December 1805</td>
<td>538</td>
<td>58 (11%)</td>
<td>17 (3%)</td>
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<td>ANDROMACHE</td>
<td>32</td>
<td>1 May 1795 - 31 March 1796</td>
<td>435</td>
<td>11 (3%)</td>
<td>8 (2%)</td>
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<td>ANDROMEDA</td>
<td>32</td>
<td>15 November 1800 - 5 October 1802</td>
<td>546</td>
<td>75 (14%)</td>
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<td>471</td>
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<td>38</td>
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<td>406</td>
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<td>LA BABET</td>
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<td>1 November 1795 - 31 July 1798</td>
<td>394</td>
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<td>68 (17%)</td>
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<td>BARBADOS</td>
<td>18</td>
<td>7 March 1804 - 30 September 1805</td>
<td>847</td>
<td>30 (4%)</td>
<td>72 (9%)</td>
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<td>BEAULIEU</td>
<td>38</td>
<td>1 June 1804 - 14 March 1806</td>
<td>563</td>
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<td>BEAVER</td>
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<td>323</td>
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<td>61 (19%)</td>
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<td>1 January 1807 - 31 May 1809</td>
<td>1446</td>
<td>233 (16%)</td>
<td>114 (8%)</td>
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<td>74</td>
<td>1 October 1794 - 30 September 1797</td>
<td>1419</td>
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<td>96 (7%)</td>
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<td>1 October 1802 - 30 September 1804</td>
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<td>BOREAS</td>
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<td>1 May 1784 - 31 July 1787</td>
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<td>BOYNE</td>
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<td>1 November 1793 - 28 February 1795</td>
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<td>CAMILLA</td>
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<td>346</td>
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<td>CAPTAIN</td>
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<td>1 November 1807 - 1459</td>
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<td>CARYSFORT</td>
<td>28</td>
<td>1 March 1804 - 510</td>
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<td>48</td>
<td>48</td>
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<td>CENTAUR</td>
<td>74</td>
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<td>331 (20%)</td>
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<td>1642</td>
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<td>CENTURION</td>
<td>50</td>
<td>6 December 1792 - 683</td>
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<td>683</td>
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<td>CHARON</td>
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<td>CULLODEN</td>
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<td>70 (12%)</td>
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<td>32</td>
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<td>431</td>
<td>83 (19%)</td>
<td>34 (8%)</td>
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<td>419</td>
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<td>71 (17%)</td>
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<td>MERMAID</td>
<td>32</td>
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<td>753</td>
<td>66 (9%)</td>
<td>49 (7%)</td>
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<td>44 (14%)</td>
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<td>36</td>
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<td>74 (15%)</td>
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<td>ORION</td>
<td>74</td>
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<td>945</td>
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<td>6 (1%)</td>
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<td>24</td>
<td>22 December 1795 - 13 August 1799</td>
<td>567</td>
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<td>99 (17%)</td>
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### APPENDIX A CONTINUED

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<td>243</td>
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<td>QUEEN</td>
<td>90</td>
<td>1 Mar 1793 - 31 Oct 1793</td>
<td>1161</td>
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<td>41 (4%)</td>
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## APPENDIX A CONTINUED

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<td>RAMILLIES</td>
<td>74</td>
<td>1 October 1794 - 30 November 1795</td>
<td>673</td>
<td>106 (16%)</td>
<td>14 (2%)</td>
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<td>219</td>
<td>67 (31%)</td>
<td>39 (18%)</td>
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<td>74</td>
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<td>755</td>
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<td>1 January 1788 - 25 June 1790</td>
<td>177</td>
<td>27 (15%)</td>
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<td>61 (15%)</td>
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<td>32</td>
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<td>451</td>
<td>55 (12%)</td>
<td>26 (6%)</td>
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<td>16</td>
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<td>10 (1%)</td>
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<td>28</td>
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<td>450</td>
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<td>TAMER</td>
<td>38</td>
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<td>1224</td>
<td>141 (12%)</td>
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<td>TRUSTY</td>
<td>50</td>
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<td>942</td>
<td>112 (12%)</td>
<td>52 (6%)</td>
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<td>YORK</td>
<td>74</td>
<td>1 November 1807 - 31 July 1809</td>
<td>3885</td>
<td>137 (4%)</td>
<td>61 (2%)</td>
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### APPENDIX B

**CAPTAINS SURVEY**

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<th>Time on Board</th>
<th>Months Since Lt. Comm.</th>
<th>Months Since Capt. Comm.</th>
<th>Total Crew</th>
<th>No. of Men Punished</th>
<th>No. of Men Deserted</th>
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<td>ROBERT BARTON</td>
<td>York</td>
<td>1 November 1807- 365</td>
<td>163</td>
<td>3885</td>
<td>137</td>
<td>61</td>
<td>(4%) (2%)</td>
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<td></td>
<td></td>
<td>31 July 1809</td>
<td></td>
<td></td>
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<tr>
<td>PAGET BAYLY</td>
<td>Scorpion</td>
<td>1 January 1788- 143</td>
<td>0</td>
<td>173</td>
<td>27</td>
<td>10</td>
<td>(16%) (6%)</td>
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<td>11 March 1790</td>
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<td>SIR RICHARD BICKERTON</td>
<td>Ramillies</td>
<td>1 October 1794- 202</td>
<td>164</td>
<td>673</td>
<td>106</td>
<td>14</td>
<td>(16%) (2%)</td>
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<td>30 November 1795</td>
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<td>THOMAS BOSTON</td>
<td>Latona</td>
<td>1 November 1783- 257</td>
<td>27</td>
<td>260</td>
<td>10</td>
<td>37</td>
<td>(4%) (14%)</td>
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<td>13 June 1784</td>
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<td>JOHN BOWEN</td>
<td>Camilla</td>
<td>1 April 1807- 60</td>
<td>15</td>
<td>346</td>
<td>79</td>
<td>37</td>
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<td>31 August 1808</td>
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<td>JAMES BRADBY</td>
<td>Andromeda</td>
<td>15 November 1800- 45</td>
<td>45</td>
<td>318</td>
<td>12</td>
<td>21</td>
<td>(4%) (7%)</td>
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<td>Captain</td>
<td>Ship</td>
<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
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<td>1 December 1801-20 July 1802</td>
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<td>09</td>
<td>755</td>
<td>48 (6%)</td>
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<td>RICHARD BROWN</td>
<td>Beaver</td>
<td>1 February 1796-22 September 1797</td>
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<td>46 (19%)</td>
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<td>Opossum</td>
<td>1 October 1809-12 December 1810</td>
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<td>110</td>
<td>15 (14%)</td>
<td>21 (19%)</td>
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<td>JAMES CARTHEW</td>
<td>Glorie</td>
<td>1 November 1808-27 June 1812</td>
<td>216</td>
<td>88</td>
<td>903</td>
<td>195 (22%)</td>
<td>90 (10%)</td>
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<td>2942</td>
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<td>CUTHBERT</td>
<td>Mediator</td>
<td>1 October 1783-3 August 1786</td>
<td>99</td>
<td>42</td>
<td>419</td>
<td>49 (12%)</td>
<td>71 (17%)</td>
</tr>
<tr>
<td>Captain</td>
<td>Ship</td>
<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished</td>
<td>No. of Men Deserted</td>
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</tr>
<tr>
<td>WILFRED COLLINGWOOD</td>
<td>Rattler</td>
<td>1 January 1784-21 April 1787</td>
<td>68</td>
<td>0</td>
<td>207</td>
<td>65</td>
<td>(31%)</td>
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<tr>
<td>JOHN COLPOYS</td>
<td>Hannibal</td>
<td>1 March 1793-31 October 1793</td>
<td>364</td>
<td>233</td>
<td>670</td>
<td>45</td>
<td>(7%)</td>
</tr>
<tr>
<td>JOHN COOK</td>
<td>Inspetor</td>
<td>5 May 1794-25 June 1795</td>
<td>156</td>
<td>0</td>
<td>211</td>
<td>40</td>
<td>(19%)</td>
</tr>
<tr>
<td>FREDERICK COTTERELL</td>
<td>Nyaden</td>
<td>1 January 1810-19 April 1811</td>
<td>108</td>
<td>77</td>
<td>775</td>
<td>90</td>
<td>(12%)</td>
</tr>
<tr>
<td>H.D.E. DARBY</td>
<td>Adamant</td>
<td>27 September 1794-20 December 1795</td>
<td>128</td>
<td>806</td>
<td>15</td>
<td>14</td>
<td>(2%)</td>
</tr>
<tr>
<td>CHARLES SIDNEY DAVERS</td>
<td>L'Aimable</td>
<td>26 June 1795-26 April 1796</td>
<td>56</td>
<td>0</td>
<td>461</td>
<td>16</td>
<td>(3%)</td>
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### APPENDIX B CONTINUED

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<th>Months Since Lt. Comm.</th>
<th>Months Since Capt. Comm.</th>
<th>Total Crew</th>
<th>No. of Men Punished (Percent)</th>
<th>No. of Men Deserted (Percent)</th>
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<tbody>
<tr>
<td>JOHN DREW</td>
<td>Trusty</td>
<td>1 March 1790-10 August 1793</td>
<td>149</td>
<td>85</td>
<td>942</td>
<td>112 (12%)</td>
<td>52 (6%)</td>
</tr>
<tr>
<td>JOHN THOMAS DUCKWORTH</td>
<td>Orion</td>
<td>1 March 1793-31 October 1793</td>
<td>268</td>
<td>154</td>
<td>945</td>
<td>41 (4%)</td>
<td>6 (16%)</td>
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<tr>
<td>CHARLES EKINS</td>
<td>Beaulieu</td>
<td>1 June 1804-14 March 1806</td>
<td>165</td>
<td>90</td>
<td>563</td>
<td>76 (14%)</td>
<td>52 (9%)</td>
</tr>
<tr>
<td>GEORGE EYRE</td>
<td>Prompte</td>
<td>1 March 1796-31 July 1797</td>
<td>64</td>
<td>1</td>
<td>586</td>
<td>20 (3%)</td>
<td>31 (5%)</td>
</tr>
<tr>
<td>WILLIAM FAHIE</td>
<td>Perdrix</td>
<td>22 December 1795-13 August 1799</td>
<td>0</td>
<td>567</td>
<td>53</td>
<td>99 (9%)</td>
<td>99 (17%)</td>
</tr>
<tr>
<td>EDWARD FLIN</td>
<td>Merope</td>
<td>29 May 1810-31 January 1811</td>
<td>66</td>
<td>0</td>
<td>139</td>
<td>14 (10%)</td>
<td>17 (12%)</td>
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## APPENDIX B CONTINUED

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<th>Months Since Lt. Capt.</th>
<th>Months Since Capt. Comm.</th>
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<th>No. of Men Punished (Percent)</th>
<th>No. of Men Deserted (Percent)</th>
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<tbody>
<tr>
<td>EDWARD GALWAY</td>
<td>Plover</td>
<td>1 April 1801-14 September 1802</td>
<td>94</td>
<td>X</td>
<td>237</td>
<td>42 (18%)</td>
<td>8 (3%)</td>
</tr>
<tr>
<td>ALAN H. GARDINER</td>
<td>Heroine</td>
<td>1 March 1793-31 October 1793</td>
<td>X</td>
<td>27</td>
<td>272</td>
<td>12 (4%)</td>
<td>7 (3%)</td>
</tr>
<tr>
<td>GEORGE GREY</td>
<td>Boyne</td>
<td>1 November 1793-28 February 1795</td>
<td>154</td>
<td>0</td>
<td>1523</td>
<td>32 (2%)</td>
<td>35 (2%)</td>
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<tr>
<td>WILLIAM HARGOOD</td>
<td>Bellisle</td>
<td>1 January 1807-14 July 1807</td>
<td>324</td>
<td>193</td>
<td>616</td>
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<td>17 (3%)</td>
</tr>
<tr>
<td>THOMAS HARVEY</td>
<td>Lapwing</td>
<td>1 November 1797-12 July 1800</td>
<td>37</td>
<td>7</td>
<td>725</td>
<td>133 (18%)</td>
<td>30 (4%)</td>
</tr>
<tr>
<td>HENRY HEATHCOTE</td>
<td>Galatea</td>
<td>1 January 1804-20 April 1805</td>
<td>99</td>
<td>71</td>
<td>469</td>
<td>38 (8%)</td>
<td>60 (13%)</td>
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<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
</tr>
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<tr>
<td>PETER HUNT</td>
<td>Hornet</td>
<td>5 July 1802- 3 October 1803</td>
<td>93</td>
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<td>322</td>
<td>16 (5%)</td>
<td>20 (6%)</td>
</tr>
<tr>
<td>JOHN HUTT</td>
<td>Queen</td>
<td>1 March 1793- 31 October 1793</td>
<td>239</td>
<td>122</td>
<td>1161</td>
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<td>41 (4%)</td>
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<td>W.H. KELLEY</td>
<td>Adamant</td>
<td>22 November 1783- 30 September 1786</td>
<td>91</td>
<td>3</td>
<td>763</td>
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<td>112 (15%)</td>
</tr>
<tr>
<td>SIR FRANCES LAFOREY</td>
<td>Hydra</td>
<td>1 December 1798- 31 January 1801</td>
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<td>54</td>
<td>583</td>
<td>70 (12%)</td>
<td>40 (7%)</td>
</tr>
<tr>
<td>GEORGE LE GEYT</td>
<td>Stork</td>
<td>1 June 1808- 31 October 1810</td>
<td>136</td>
<td>0</td>
<td>741</td>
<td>79 (11%)</td>
<td>10 (1%)</td>
</tr>
<tr>
<td>B.R. LITTLEHALES</td>
<td>Centaur</td>
<td>1 November 1802- 25 June 1803</td>
<td>145</td>
<td>31</td>
<td>658</td>
<td>44 (7%)</td>
<td>10 (2%)</td>
</tr>
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<td>Ship</td>
<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
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<tr>
<td>ROBERT LLOYD</td>
<td>Hussar</td>
<td>1 December 1807- 1 June 1809</td>
<td>205</td>
<td>96</td>
<td>951</td>
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<td>21 (2%)</td>
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<tr>
<td>WILLIAM GRANVILLE LOBB</td>
<td>La Babet</td>
<td>1 November 1795- 1 February 1797</td>
<td>202</td>
<td>2</td>
<td>307</td>
<td>56 (18%)</td>
<td>30 (10%)</td>
</tr>
<tr>
<td>GEORGE LOSACK</td>
<td>Prince George</td>
<td>1 December 1806- 25 September 1807</td>
<td>344</td>
<td>192</td>
<td>1042</td>
<td>168 (16%)</td>
<td>37 (4%)</td>
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<tr>
<td>R. MCDOUALL</td>
<td>Ganges</td>
<td>2 April 1796- 31 October 1796</td>
<td>440</td>
<td>176</td>
<td>554</td>
<td>10 (3%)</td>
<td>8 (1%)</td>
</tr>
<tr>
<td>K. MACKINZIE</td>
<td>Carysfort</td>
<td>1 March 1804- 30 August 1806</td>
<td>68</td>
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<td>510</td>
<td>50 (10%)</td>
<td>48 (9%)</td>
</tr>
<tr>
<td>JEMMETT MAINWARING</td>
<td>La Babet</td>
<td>1 February 1797- 31 July 1798</td>
<td>90</td>
<td>19</td>
<td>256</td>
<td>25 (10%)</td>
<td>38 (15%)</td>
</tr>
<tr>
<td>Captain</td>
<td>Ship</td>
<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
</tr>
<tr>
<td>--------------------</td>
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</tr>
<tr>
<td>THOMAS MANBY</td>
<td>Africaine</td>
<td>1 February 1805-31 December 1805</td>
<td>111</td>
<td>72</td>
<td>538</td>
<td>58 (11%)</td>
<td>17 (3%)</td>
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<tr>
<td>CHARLES JOHN</td>
<td>Andromache</td>
<td>1 May 1795-31 March 1796</td>
<td>186</td>
<td>8</td>
<td>435</td>
<td>11 (3%)</td>
<td>8 (2%)</td>
</tr>
<tr>
<td>MOORE MASEFIELD</td>
<td>Beaver</td>
<td>22 September 1797-25 May 1798</td>
<td>36</td>
<td>0</td>
<td>291</td>
<td>2 (8%)</td>
<td>15 (5%)</td>
</tr>
<tr>
<td>RICHARD MATTSON</td>
<td>Bellisle</td>
<td>1 November 1807-31 July 1808</td>
<td>85</td>
<td>1</td>
<td>646</td>
<td>43 (7%)</td>
<td>37 (6%)</td>
</tr>
<tr>
<td>WILLIAM MAUDE</td>
<td>Centaur</td>
<td>25 June 1803-12 August 1804</td>
<td>80</td>
<td>0</td>
<td>769</td>
<td>198 (26%)</td>
<td>132 (17%)</td>
</tr>
<tr>
<td>MURRAY MAXWELL</td>
<td>Hector</td>
<td>1 March 1793-31 October 1793</td>
<td>266</td>
<td>227</td>
<td>816</td>
<td>36 (4%)</td>
<td>17 (2%)</td>
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</table>
# APPENDIX B CONTINUED

<table>
<thead>
<tr>
<th>Captain</th>
<th>Ship</th>
<th>Time on Board</th>
<th>Months Since Lt. Comm.</th>
<th>Months Since Capt. Comm.</th>
<th>Total Crew</th>
<th>No. of Men Punished</th>
<th>No. of Men Deserted</th>
</tr>
</thead>
<tbody>
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<td>ROBERT MURRAY</td>
<td>Blanche</td>
<td>1 May 1789-16 June 1792</td>
<td>100</td>
<td>77</td>
<td>399</td>
<td>91 (23%)</td>
<td>55 (14%)</td>
</tr>
<tr>
<td>JOHN NASH</td>
<td>Hornet</td>
<td>1 December 1799-19 June 1802</td>
<td>75</td>
<td>0</td>
<td>424</td>
<td>85 (20%)</td>
<td>34 (8%)</td>
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<tr>
<td>HORATIO NELSON</td>
<td>Boreas</td>
<td>1 May 1784-31 July 1787</td>
<td>85</td>
<td>59</td>
<td>334</td>
<td>86 (26%)</td>
<td>21 (6%)</td>
</tr>
<tr>
<td>HENRY NEWCOME</td>
<td>Maidstone</td>
<td>1 December 1786-28 June 1790</td>
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<td>431</td>
<td>83 (19%)</td>
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<tr>
<td>JOSEPH NOURSE</td>
<td>Barbados</td>
<td>7 March 1804-30 September 1805</td>
<td>40</td>
<td>0</td>
<td>847</td>
<td>30 (4%)</td>
<td>72 (9%)</td>
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<tr>
<td>SAMUEL OSBORN</td>
<td>Centurion</td>
<td>6 December 1792-31 August 1793</td>
<td>X</td>
<td>129</td>
<td>683</td>
<td>40 (6%)</td>
<td>46 (7%)</td>
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<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
</tr>
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<tr>
<td>ROBERT W. OTWAY</td>
<td>Mermaid</td>
<td>19 November 1795-28</td>
<td>24 April 1797</td>
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<td>298</td>
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<td>1 March 1787-224</td>
<td>24 June 1790</td>
<td>114</td>
<td>703</td>
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<td>Culloden</td>
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<td>31 October 1793</td>
<td>265</td>
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<td>18 March 1805</td>
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<td>728</td>
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<td>JOSIAS ROGER</td>
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<td>1 November 1793-180</td>
<td>6 May 1795</td>
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<td>698</td>
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<td>JAMES ROSS</td>
<td>Eurus</td>
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<td>3 September 1798</td>
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<td>425</td>
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<td>58 (14%)</td>
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<td>Time on Board</td>
<td>Months Since</td>
<td>Months Since</td>
<td>No. of Men Punished</td>
<td>No. of Men Deserted</td>
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<td>1 March 1790-23 May 1792</td>
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<td>60</td>
<td>0</td>
<td>811</td>
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<tr>
<td>WILLIAM TRUSCOTT</td>
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<td>188</td>
<td>602</td>
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<td>14 (2%)</td>
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<td>10 (1%)</td>
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<td>Time on Board</td>
<td>Months Since Lt. Comm.</td>
<td>Months Since Capt. Comm.</td>
<td>Total Crew</td>
<td>No. of Men Punished (Percent)</td>
<td>No. of Men Deserted (Percent)</td>
</tr>
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<td>Scourge</td>
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<td>61</td>
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<td></td>
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<td>11 September 1800</td>
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<td>(15%)</td>
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<td>G.B. WESTCOTT</td>
<td>Majestic</td>
<td>1 October 1794– 206</td>
<td>48</td>
<td>2169</td>
<td>60</td>
<td>71</td>
<td>(3%)</td>
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<td></td>
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<td>30 June 1796</td>
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<td>(3%)</td>
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<tr>
<td>THOMAS WESTERN</td>
<td>Tamer</td>
<td>1 June 1799– 224</td>
<td>43</td>
<td>1224</td>
<td>141</td>
<td>125</td>
<td>(12%)</td>
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<td>16 August 1802</td>
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<td>(10%)</td>
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<tr>
<td>GEORGE WILSON</td>
<td>Bellona</td>
<td>1 October 1794– 225</td>
<td>177</td>
<td>1419</td>
<td>74</td>
<td>96</td>
<td>(5%)</td>
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<td></td>
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<td>30 September 1797</td>
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<td></td>
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<td></td>
<td>(7%)</td>
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<tr>
<td>ISSAC WOOLEY</td>
<td>Captain</td>
<td>1 November 1807– 168</td>
<td>122</td>
<td>1209</td>
<td>161</td>
<td>16</td>
<td>(13%)</td>
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<td></td>
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<td>17 November 1808</td>
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<td></td>
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<td></td>
<td>(1%)</td>
</tr>
<tr>
<td>THOMAS WOLLEY</td>
<td>Arethusa</td>
<td>10 February 1796– 25</td>
<td>471</td>
<td></td>
<td>8</td>
<td>45</td>
<td>(2%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>194</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(10%)</td>
</tr>
</tbody>
</table>
### APPENDIX B CONTINUED

<table>
<thead>
<tr>
<th>Captain</th>
<th>Ship</th>
<th>Time on Board</th>
<th>Months Since Lt. Capt.</th>
<th>Months Since Comm.</th>
<th>No. of Men Punished</th>
<th>No. of Men Deserted</th>
</tr>
</thead>
<tbody>
<tr>
<td>THOMAS WOLRIGE</td>
<td>Opossum</td>
<td>13 December 1810- 105</td>
<td>0</td>
<td>400</td>
<td>55</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td></td>
<td>31 October 1813</td>
<td></td>
<td></td>
<td>(14%)</td>
<td>(13%)</td>
</tr>
<tr>
<td>JAMES ATHOL WOOD</td>
<td>Captain</td>
<td>18 November 1808- 361</td>
<td>140</td>
<td>1275</td>
<td>124</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>25 July 1809</td>
<td></td>
<td></td>
<td>(10%)</td>
<td>(1%)</td>
</tr>
</tbody>
</table>

**ABBREVIATIONS:** Capt. - Captain, Comm. - Commission, Lt. - Lieutenant, X - Missing.
APPENDIX C

REPRESENTATIVE SAMPLE OF PUNISHMENT PATTERNS

KEY:

- Punishments

* - Desertions
APPENDIX C

Captain: THOMAS HARVEY
Ship: Lapwing
Dates of Command:
1 November 1792 - 12 July 1800
APPENDIX C

Captain: GEORGE LE GEYT
Ship: Stork
Dates of Command:
1 June 1808 - 31 October 1810
APPENDIX C

Captain: JOHN BOWEN
Ship: Camilla
Dates of Command: 1 April 1807 - 31 August 1808
APPENDIX C

Captain: ROBERT MURRAY  
Ship: Blanche  
Dates of Command:  
1 May 1789 - 16 June 1792
APPENDIX C

Captain: JOHN NASH  
Ship: Hornet  
Dates of Command:  
1 December 1799 - 19 June 1802
APPENDIX C

Captain: CHARLES EKINS
Ship: Beaulieu
Dates of Command:
1 June 1804 - 14 March 1806
APPENDIX C

Captain: WILLIAM PARKER
Ship: Jupiter
Dates of Command:
1 March 1787 - 24 June 1790
APPENDIX C

Captain: G. B. WESTCOTT
Ship: Majestic
Dates of Command:
1 October 1794 - 30 June 1796
APPENDIX C

Captain: THOMAS WESTERN
Ship: Tamer
Dates of Command:
1 June 1799 - 16 August 1802
APPENDIX C

Captain: GEORGE WILSON
Ship: Bellona
Dates of Command:
1 October 1794 - 30 September 1797
VITA

John D. Byrn, Jr. was born in Baltimore, Maryland on 1 March 1952. He was raised in Milford, Connecticut. In 1974, he received his B.A. in history from Stetson University in DeLand, Florida. In 1977, he was awarded an M.A. in European history from the University of Connecticut. He has had the great honor to be inducted into such societies as Omicron Delta Kappa and Who's Who Among Students in American Colleges and Universities. He has travelled widely in Brazil, Britain, Europe and North America.
DOCTORAL EXAMINATION AND DISSERTATION REPORT

Candidate: John D. Byrn, Jr.

Major Field: History

Title of Dissertation: Crime and Punishment in the Royal Navy: Discipline on the Leeward Islands Station, 1784-1812

Approved:

[Signatures]

Major Professor and Chairman
Dean of the Graduate School

EXAMINING COMMITTEE:

[Signatures]

Roy Barro
Karl A. Reid
Jerome B. Becker
Paul E. Hoffman

Date of Examination:

January 15, 1986