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Victims of Circumstance:

The Execution of German Deserters by Surrendered German Troops Under Canadian Control in Amsterdam, May 1945

Chris Madsen

Introduction

On the morning of 13 May 1945, five days after the formal capitulation of Hitler's *Wehrmacht*, a German military court delivered death sentences on two German naval deserters, Bruno Dorfer and Rainer Beck. The trial occurred in an abandoned Ford assembly plant on the outskirts of Amsterdam, a site used by the Canadian army for the concentration of German naval personnel. Later that same day, a German firing squad, supplied with captured German rifles and a three-ton truck from the Seaforth Highlanders of Canada and escorted by Canadian Captain Robert K. Swinton, executed the two German prisoners of war a short distance outside the enclosure.¹ Dorfer and Beck were among the last victims of a military legal system distorted by the Nazi state. At the time no one, Canadian or German, questioned the justice of the event.

This tragic incident demonstrated a disturbing degree of cooperation between Canadian military units and the defeated German military. Why did German deserters like Dorfer and Beck continue to die after the end of the war? The executions were a matter of convenience. The Canadian military allowed the German military structure to function after the capitulation. Under this questionable arrangement, the German armed forces in Holland disarmed, concentrated, and evacuated themselves. To accomplish this gigantic task in an orderly and disciplined way, Canadian military authorities mistakenly relied on the vanquished German military leadership.

German commanders and military judges continued to apply an irregular military law against deserters; and Canadian restrictions on these actions remained limited and hesitant. In this situation, larger political and strategic considerations worked against deserters like Dorfer and Beck. Canadian reactions, during and twenty-one years after the execution, reflected a sad record of indifference and callousness for these unfortunate victims of latent Nazism.

Background

The strategic situation in North-West Europe became quite curious at the end of the Second World War. Canadian and British advances into the Netherlands and Germany effectively cut off German military forces in Western Holland.² The Twenty-Fifth German Army, under the command of *Generaloberst* Johannes von Blaskowitz, retreated into a fortified area between the Maas and Waal Rivers in the south and the Grebbe Line in the east. This "*Festung Holland*" contained approximately 150,000 German soldiers.³ A composite garrison of German army and naval formations awaited the final collapse of the German armed forces. The German military's threat to destroy Holland's extensive dyke systems and flood the fertile countryside prevented further advances of Canadian military units.⁴ Consequently, battle-lines in the Netherlands remained relatively constant. These conditions provided a basis for agreement between Canadian and German military leadership. On 28 April 1945, Lieutenant-



The surrender of German forces in the Netherlands, I Canadian Corps HQ, 5 May 1945.

(Photo: Alex M. Stirton, NAC PA 133321)

General Charles Foulkes, commander of I Canadian Corps, and Blaskowitz concluded a makeshift armistice for feeding the Dutch civilian population. Under Operation "Faust," Canadian truck convoys drove through German lines, merchant ships sailed for major Dutch ports, and Allied bombers dropped food rations.⁵ In this way, the First Canadian Army, under General Harry Crerar, began an enduring working relationship with the German military administration in Holland. On 5 May 1945, Field Marshal Bernard L. Montgomery, commander of the 21st British Army Group, accepted from *Generaladmiral* Hans Georg von Friedeburg "the surrender of all German forces in Holland, in northwest Germany including the Frisian Islands, and Heligoland and all other islands, in Schleswig-Holstein, and in Denmark."⁶ At the small town of Wageningen,

Crerar, through Foulkes, issued detailed instructions to Blaskowitz for implementation of this surrender in the Netherlands. The document made the German general responsible "for all GERMAN Armed Forces (including German Navy, Army, Air Forces), auxiliaries and civilians"⁷ within Blaskowitz's sphere of control. Meanwhile, the signing of the unconditional surrender by German plenipotentiaries at Rheims on 7 May 1945, to take effect the next day, formally ended the Third Reich.

By the time of the final capitulation, Canadian military forces were not yet inside German-occupied Holland. At 2300 hours on 7 May 1945, the Seaforth Highlanders of Canada, a regiment of the 1st Canadian Infantry Division, received orders to proceed forward:

"Instead of going to HAARLEM we are now to go to AMSTERDAM and will be the first unit to travel into the newly liberated area."⁸ During the next few days, Canadian military units slowly moved towards designated occupation zones within Holland. Enthusiastic Dutch crowds swamped Canadian columns at every crossroad along inward routes. Lieutenant-Colonel H.P. Bell-Irving, the commander of the Seaforth Highlanders, described the Canadian entry into Amsterdam:

The universal happiness amounted to an ecstasy which I have never seen even approached in any crowd before. Before this, few of our men could have given a clear reason why they came . . . But here in Amsterdam, in one day, all that was changed . . . Every life lost, every long day away from home, had been spent in a good and necessary endeavour.⁹

The Dutch population greeted Canadian soldiers as liberators; Holland was once again a free country. The arrival of Canadian military forces officially ended five long years of German rule.

Nevertheless, the German military remained a potent force within Holland. The Germans still controlled large sections of the Dutch administrative, communication, and transportation infrastructures. Many Dutch civilians "could not understand, during the first few days, a situation where armed Canadian soldiers were going up one side of the road and armed Germans going down the other side, neither interfering with the other."¹⁰ German military formations carried on with regular duties under the surrender agreement. Until further Canadian instructions, Blaskowitz's headquarters remained "responsible for the maintenance and discipline of all German troops in WESTERN HOLLAND."¹¹ At times, the vengeful activities of *Nederlandse Binnenlandse Strijdkrachten* (NBS), or Dutch Interior Forces, impinged on this practical arrangement. The Canadians found "a country whose friendly people and resistance forces are lusting to see the last of the Germans."¹² Anything German became a target; the NBS



Disarmed German soldiers move towards concentration areas.

(Photo: Alex M. Stirton/NAC PA 151928)

declared open season on German soldiers found alone on Amsterdam streets. Thus, the Germans gained safety in numbers, and retained weapons for protection: "There was some trouble in the 'D' Company sector of the town—some Dutch got into a boat and attempted to shoot up a German concentration area. The fire was returned by the Germans."¹³ Sporadic outbursts of violence erupted between the two heavily armed groups. The German military structure therefore represented an element of order in a potentially explosive and chaotic situation.

Concentration

A major priority of Canadian military units in Amsterdam was the disarming and concentration of German military personnel. On 11 May 1945, "D" Company of the Seaforth Highlanders "moved from the MONTESSORI School, MRE041205 to the Ford Factory at MRE013286 to control the concentration of German Marines."¹⁴ The Canadian company established an administrative headquarters at this large abandoned factory across from the town of Zaandam. The location was well suited for gathering extensive German naval forces in the area. However, Field Marshal Montgomery, in his memoirs, articulated the dilemma confronting many Canadian and British soldiers under his command: "I was a soldier and I had not been trained to handle anything of this nature."¹⁵ Canadian combat units, who had fought and killed German soldiers on battlefields only a week previously, now fulfilled a very different role. Men of the Seaforth Highlanders, veterans of the Italian campaign and the drive into the Netherlands, embarked on temporary wartime careers as prison camp wardens.¹⁶ The work was tedious and exceedingly unpopular. A Canadian officer commented on the enormity of the task: "Here they were, one Canadian battalion set down in the midst of thousands of Germans whom they had to locate, guard, escort, and disarm."¹⁷ Initially, the sheer scale of surrender appeared overwhelming. Canadian military units, handicapped by limited occupation experience and finite resources, coped with a complicated situation.

However, the cooperation and organization of the German military greatly aided Canadian efforts. For the most part, German military formations remained intact and functional. At Julianadorp, the Germans "marched in fully armed, wheeled into the airfield along one road and halted."¹⁸ Canadian soldiers merely collected and stacked German weapons. German war material was sorted, stored, and guarded, pending final destruction or distribution to Allied military and civil sources.¹⁹ In many instances, German military formations disarmed themselves, and moved unescorted towards selected Canadian prison camps and concentration areas. Canadian military units and the NBS secured ammunition dumps and munitions storage areas left behind by German military forces in Amsterdam.²⁰ Thus, German assistance became indispensable in disarming and concentrating German troops. Canadian military authorities directly benefitted from the continuation of German military structures.

An unprecedented Allied alteration in the application of international law allowed this peculiar state of affairs. The Canadian military held surrendered German soldiers, not as prisoners of war, but as capitulated troops under the designation "Surrendered Enemy Personnel [SEP]":

in view of the very large numbers of GERMAN troops now surrendering ARMY COMMANDS are authorized to place such troops in the status of "Disarmed GERMAN Forces" as contemplated by paragraph 2"C" and other pertinent paragraphs of ECLIPSE memorandum No 17. Under provisions of the foregoing memorandum these GERMAN forces will NOT be characterized as "PRISONERS OF WAR". After disarmament these surrendered German units may be kept organizationally intact and to the extent deemed advisable and practicable by ALLIED COMMANDERS required to administer and maintain themselves.²¹

The First Canadian Army implemented Operation "Eclipse," a pre-arranged plan for the occupation of Germany and demobilization of the German armed forces. The scheme made the vanquished German military completely self-sufficient and reliant on existing German food stocks.²² Thus, the Western Allies withheld prisoner of war status because the enormous number of surrendered German soldiers exceeded Allied food and manpower resources.

Despite these practical justifications, the SEP classification possessed a very doubtful existence under international law. General Dwight D. Eisenhower, the Supreme Allied Commander in Europe, informed Canadian officials that "there should be no, repeat no, public declaration regarding status of German armed forces or of disarmed troops."²³ As Eisenhower knew, the SEP label stretched the bounds of international law pertaining to prisoners of war. Article 1 of the 1929 Geneva

from all or any of the personnel of the German armed forces the status of Prisoners of War."²⁶ Such arbitrary power on the part of a detaining power contradicted the entire humanitarian spirit and purpose behind the 1929 Geneva Convention. Moreover, the Allied claim that a legitimate German government no longer existed seemed equally tenuous. The Allies dissolved the acting government of *Grossadmiral* Karl Dönitz on 23 May 1945.²⁷ Germany, as a signatory to the 1929 Geneva



German and Canadian sentries guard the entrance to the IJmuiden Concentration area.

(NAC PA 134396)

Convention clearly conferred prisoner of war status on "all persons belonging to the armed forces of belligerent parties, captured by the enemy in the course of military operations."²⁴ Hence, the Allied distinction between the words "captured" and "surrendered" in application of the convention represented a very weak legal argument. Protection under the 1929 Geneva Convention was not limitable.²⁵ In the eyes of international law, surrendered German troops were prisoners of war. Nevertheless, the First Canadian Army in Holland maintained "unfettered discretion to impose on or withhold

Convention, still benefitted from the dictates of international law until at least this later date. Thus, Canadian military authorities assigned a questionable legal status to surrendered German troops in Holland.

Nonetheless, the arrangement between the Canadian army and the German armed forces worked exceedingly well. For the most part, the Canadians operated directly through the existing German military hierarchy. The First Canadian Corps established a control section within the compound of the Twenty-Fifth

German Army Headquarters “to act as the filter through which the German Army Commander passes his orders to his subordinate formations.”²⁸ The efficient staff work of the Germans impressed many Canadian observers. Additionally, Canadian military authorities left the German military in control of their own signals and communication network.²⁹ Direct telephone links kept various Canadian and German headquarters informed. The telephone allowed the quick and easy passage of orders; if needed, written orders were translated into both English and German. Periodically, the Canadians reminded the German military who was in charge:

GO 500 Restricted. From Lt. General Foulkes for Colonel-General Blaskowitz. Colonel-General BLASKOWITZ will not repeat not visit formation Headquarters or units of German army, air force or navy without permission of the General officer commanding 1 Canadian Corps. The request of Colonel-General Blaskowitz to visit formations 11 May is NOT repeat NOT granted all information.³⁰

Despite minor restrictions and limitations, the German military retained an amazing degree of authority for a defeated army. Each concentration area or camp possessed a German commander in contact with higher German authorities. At the factory occupied by the Seaforth Highlanders, *Fregattenkapitän* Alexander Stein, the German harbour commander in Amsterdam, managed incarcerated naval personnel.³¹ A parallel German leadership existed beside the Canadian military hierarchy. German troops in Holland maintained, with Canadian approval, allegiance to the larger German armed forces.

Canadian military units, however, frequently encountered a different kind of German soldier. Concentration sweeps discovered a growing number of deserters from the German armed forces. Sometime in the past, these men had rejected German uniforms and the cause of the Third Reich. The Western Allies were partly responsible for the German desertion problem. During the course of the war, a Psychological Warfare Division within SHAEF had actively sought the disintegration and collapse of the German armed forces.³² Special Allied propaganda teams undermined *Wehrmacht* morale through various means of

persuasion. A propaganda leaflet, dropped behind German lines by Allied planes in late 1944 and early 1945, bore the clever caption: “Attacked from the front. Cut off from behind. Written off by Hitler.”³³ Canada, Great Britain, and the United States promised safe conduct and good treatment to any potential German deserters. These Allied appeals openly incited desertion.

Nevertheless, the number of desertions from the German armed forces, although on a steady increase until the end of the war, remained relatively modest. For February 1944, the last month of accurate German military legal records, the German military tried only 2,098 German soldiers or approximately 19.6 soldiers per 100,000 men for desertion in the entire German armed forces.³⁴ Statistics reveal that German military institutions retained a cohesive character. Most German deserters left their units for a mixture of social and personal reasons.³⁵

Paradoxically, the Canadian army, which had promoted disintegration during the war, now took a dimmer view towards German deserters. The act of desertion suffered from a double-standard; armies actively sought desertion in enemy armed forces, but frowned upon desertion among troops under their own control.³⁶ Disciplined German military units now played an integral part in Canadian concentration and occupation activities within Holland. Thus, deserters threatened helpful and necessary cohesion.

On 12 May 1945, an NBS detachment issued a typed receipt for the transfer of six German deserters to Canadian military authorities.³⁷ Dutch administrators, militia forces, and police often found German deserters hiding within the large city of Amsterdam. However, a war diary entry from 1st Canadian Infantry Division disclosed the ultimate fate of these men and other deserters:

With the sanction of our Headquarters the Germans shot a half dozen of their deserters who had been tried by German Court Martial. 2 Canadian Infantry Brigade reported that NBS have picked up 12 more German deserters in the jails of Rotterdam. They were turned over to German Commander in the concentration area at IJmuiden.³⁸



Bruno Dorfer

(Der Spiegel)

Canadian military authorities, although clearly able to assign or withhold prisoner of war status for any German soldier, chose an easier course. Canadian military units repatriated deserters back to the German military. Punishment for repudiation of German military discipline awaited many unfortunate men.³⁹ Desertion remained a concern for German commanders; Canadian military authorities adopted a strict policy of non-interference in German affairs. This pattern decided the final destiny of Bruno Dorfer and Rainer Beck.

Trial

Twenty-year old Dorfer and twenty-eight-year old Beck felt deceptively safe after the final German surrender. The welcome news ended long periods of concealment and fears of discovery. On 5 September 1944, *Maschinenmaat* Beck had deserted from a harbour defence unit at IJmuiden, and entered into hiding with his sister, Fredegund, in Amsterdam; similarly, *Funk-Gefreiter* Dorfer, sheltered by an aunt, Johanna Timmermanns,

had left the Ninth Mine-Sweeping Flotilla during the last days of the war.⁴⁰ Beck perhaps maintained the strongest reasons for rejecting German military institutions. From Hitler's ascendancy to power in 1933, the Nazi regime had persecuted his family. The reasons were obvious: Beck's mother was Jewish, and his father, Max Emil Beck, a decorated World War I veteran, was compromised by a position as Social Democratic police president of Gleiwitz during the Weimar Republic.⁴¹ When Beck was drafted into the *Kriegsmarine* in 1940, he already possessed an overt hostility and contempt for the National Socialist state. Upon meeting his fugitive sister in 1941, the young man despondently declared: "If I wear the German uniform I am a bastard. If I don't wear it, I am a bastard just the same."⁴² Strong anti-Nazi views dictated Beck's eventual departure from the German armed forces. The arrival of Canadian soldiers in Amsterdam seemingly promised a new beginning from a dreadful past. Beck and Dorfer, wearing civilian clothes, sought out nearby Canadian military units.

However, the pair met an unexpected reception. On 12 May 1945, the Dutch underground brought Dorfer and Beck to the Seaforth Highlanders' detention camp. Major Oliver Mace, acting commanding officer of the



Rainer Beck

(Der Spiegel)

Canadian regiment, ordered Major J. Dennis Pierce, the company commander in charge of the former factory, to place the two deserters inside the compound because "they were certainly Germans and we had no other place to put them."⁴³ Initially, Stein and the internal German military leadership refused acceptance of Dorfer and Beck. The Germans argued that the camp was no place for deserters and traitors. Pierce, after an argument with the German interpreter, a *Kapitänleutnant* and former E-boat officer named Hoslinger, "finally put the two youngsters in the office of the plant manager under guard of a German non-commissioned officer."⁴⁴ Canadian soldiers fed Dorfer and Beck, and periodically checked on the pair's safety during the night. Pierce's decision apparently offered a compromise solution to the impasse.

In the morning, *Fregattenkapitän* Stein proposed a very different settlement. At 1005 hours on 13 May 1945, Pierce informed 2 Canadian Infantry Brigade of the intended German course of action: "German Marine deserters being tried this morning. German Commander intends [to] shoot them."⁴⁵ The German camp leadership established a *Standgericht* or a court martial within the camp. This judicial body would determine guilt or innocence. Nevertheless, as mentioned in the above message, Pierce and the Canadian camp staff believed that Stein had already decided on a verdict before the trial began.

Consequently, the court martial adopted a mixture of exhibition and formality. The German camp leadership brought Dorfer and Beck before three officers, a team of military lawyers "whom Pierce himself had "put in the bag" in the streets of Amsterdam earlier in the week."⁴⁶ Stein regarded the proceedings as a show trial for his authority. At the insistence of the German naval commander, the entire camp population witnessed the event. A parade state, taken earlier that morning, counted 1,817 German marines inside the camp.⁴⁷ The two accused, represented by a German military lawyer, underwent rigorous cross-examination before this large staring crowd. *Marineoberstabsrichters der Reserve* Wilhelm Köhn, a presiding judge, questioned first Dorfer, and

then Beck, on conditions of service, on circumstances and events behind the desertions, and about any resistance activities since the initial offenses. *Oberleutnant Ingenieur* Frank Trmal, a young German officer present at the fifteen-minute trial, remembered Beck's defence:

For some reason Beck, who was older decided to defend himself and told the court that we (the Germans) all knew several weeks ago the war was all over for us and that it was a matter of time before we surrendered. He told the captain and the court that any further fighting by us against the Canadians would be senseless bloodshed. With this the captain jumped to his feet in a rage, screaming at Beck that he was calling all of us, his comrades, and his officers, murderers. It is something that I will never forget.⁴⁸

Any hopes of restraint and moderation faded as the mood of the court turned uglier. The defence lawyer's final plea of leniency fell on deaf ears. After a short discussion, the three military judges delivered death sentences on Dorfer and Beck.

The operation and outcome of this court martial was consistent with the development of German military law during the National Socialist years and the Second World War. The trial represented a "kangaroo court" only in the context that the entire German military legal system had evolved into a tyrannical instrument.⁴⁹ According to German historian Manfred Messerschmidt, German military judges, convinced by "stab in the back" illusions from World War I and influenced by Nazi ideology, turned away from accepted liberal concepts of law and justice. The idea of a *Volksgemeinschaft*, a unity of the German people under the Nazi state, increasingly took precedence over notions of personal guilt and individual responsibility.⁵⁰ As a result, German military law elevated offenses, previously considered infractions against military discipline, to the status of political crimes. Desertion and the unique charge of *Wehrkraftzersetzung* (attempting to subvert the will of the people to fight) became two major offenses in the *Wehrmacht*.⁵¹ German military judges, mimicking the *Führer*, stressed solidarity, fighting effectiveness, morale, and the common good of the German people.



German soldiers guarding food dump established to feed the Dutch population.

(Photo by Alex M. Stirton, NAC PA 134415)

The application of German military law against cases of desertion reflected this emphasis. The *Militärstrafgesetzbuch* (MStGB), a revised military criminal code introduced on 10 October 1940, established stronger punishments for desertion:

1. The punishment for desertion is imprisonment not less than six months.

2. If the offence is committed in the field or in an especially difficult case, the death penalty or lifetime imprisonment in a penitentiary is to be imposed.
3. If the offender continues his military service within four weeks - in the field within one week - after the fact, imprisonment under article 1 can be imposed; in the case of article 2, imprisonment not less than six months is to be imposed.⁵²

§ 70 Punishment for Desertion

These articles allowed harsher penalties, and gave capital punishment more consideration. The *Kriegssonderstrafrechts-verordnung* (KSSVO), a special code of procedure in force

during the war, further reinforced the latter. The greatest change, however, came with interpretation of the new regulations. German military judges, at the behest of superiors, consistently chose maximum penalties in decisions on desertion. During the last months of the war, most convictions for desertion and related offenses resulted in death sentences.⁵³ Death, viewed by the German military as a deterrent, clearly became the norm for desertion in the dying gasps of the Third Reich.

This trend was even more pronounced in the conduct of different service branches. *Kriegsmarine* judges and commanders enthusiastically surpassed *Luftwaffe* and *Heer* counterparts in distributing death sentences. On 27 April 1943, Dönitz, the new commander-in-chief of the *Kriegsmarine*, had forsworn any

pardons or remissions for naval desertion convictions, a policy previously endorsed by his predecessor, *Grossadmiral* Erich Raeder.⁵⁴ The German navy, perhaps the closest of the three armed services to the Nazi state, thereby demonstrated an institutional inclination towards enforcement of death penalties. Lenient verdicts were the exception in German naval courts. Seen in this perspective, the Dorfer and Beck judgement was almost inevitable. German military courts, based in a perversion of military law and legal practice, would certainly deliver death sentences on deserters if given the opportunity.

An indifferent and perhaps naive Canadian military provided the opportunities. Formal German military tribunals were unthinkable without Canadian sanction. The war was over,



Stacked German rifles.

(Photo: Alex M. Stirton/NAC PA 151196)

Nazi Germany was defeated, and the Canadians occupied Holland. Why then did German military courts exist and function after Germany's surrender? International law clearly prohibited these judicial proceedings. Article 44 of the 1929 Geneva Convention made prisoners of war "subject to the laws, regulations, and orders in force in the armies of the detaining Power."⁵⁵ Under this provision, German prisoners of war were no longer accountable to German military law, but rather responsible to Canadian military law. The field court martial of the Canadian army, comprised of not fewer than three officers, paralleled German courts in structure and organization.⁵⁶ However, Canadian courts were very different in approach. Canadian military law remained firmly entrenched in inherited English constitutional suppositions:

At the outset of their deliberations the court must remember that it is the principle of English law that the accused is presumed to be innocent until he is proved to be guilty, and that the burden of proof rests upon the prosecution. Unless, therefore, the guilt of the accused has been established beyond reasonable doubt, the accused must be acquitted.⁵⁷

In this regard, soldiers retained the rights and responsibilities of citizens. Moreover, the Canadian armed forces treated military offenses, with the exception of murder, as matters of discipline. Under Canadian military law, punishment for desertion usually comprised three-ten years imprisonment; the British and Canadian governments chose to abandon most military death penalties a decade before the outbreak of the Second World War.⁵⁸ Thus, the survival of German deserters hinged on the will of the Canadian military leadership to apply accepted Canadian military law. Foulkes, claiming ignorance of German military courts in Holland at the time, later quipped: "I personally was much more concerned then with the safety of Canadian soldiers and the welfare of Dutch civilians than with Germans."⁵⁹ The determination was simply not there.

The Canadian military belatedly attempted a remedy of the situation through legal means. On 15 May 1945, 1st Canadian Infantry Division informed 2 Canadian Infantry Brigade that "detailed instructions on discipline NOT yet

received from 21 Army Group but understood to be enroute."⁶⁰ Throughout this time, Canadian military units operated without clear guidance or instruction from above on the matter of German military courts. Finally, on 17 May 1945, the headquarters of the First Canadian Army issued Allied Military Standing Order No. 153 and a revised Twenty-First Army Group Administrative Instruction No. 97.⁶¹ The two directives established comprehensive guidelines for the maintenance of discipline and application of justice among surrendered German troops. Although steps in the right direction, both documents contained limitations. German field courts still maintained "internal discipline within their own forces under the supervision and control of the Allied Military Authorities."⁶² Thus, Order No. 153 and Instruction No. 97 did not suspend German military courts, but rather placed restrictions on these proceedings. Henceforth, German military judges and commanders required written permission from Canadian corps district commanders for any sentence over two years imprisonment. Additionally, German military courts possessed no jurisdiction, except with special authorization from the Canadian military government, "in respect of offences [sic] against the [German] Military Criminal Code committed in the course of military operations."⁶³ The Canadian military, interested in occupation and control, instead emphasized offenses committed after the German capitulation. Under article 27 of Instruction No. 97, the death penalty remained in place: "Sentences of death will be referred, through Military Government channels, to HQ 21 Army Group, for confirmation."⁶⁴ In the Canadian view, German military courts and military law still served useful purposes. The two Allied edicts, however restricted in scope, proved too late for Dorfer and Beck.

Execution

The final outcome of the factory court martial highlighted the vacuum of Canadian decision-making. Stein, upon the military court's closing verdict, immediately appealed to the Seaforth Highlanders for means to carry



Operation "Eclipse" in Action — German troops march back to Germany.

(Photo: Alex M. Stirton/NAC PA 134287)

out the prescribed death sentences. A flabbergasted Pierce telephoned higher authorities for direction. At 1030 hours on 13 May 1945, 2 Canadian Infantry Brigade forwarded information to 1st Canadian Infantry Division:

German marines in Amsterdam have picked up some of their own deserters. They have been tried by military law and sentenced to be shot. May they do this. Passed to XXX Corps. Chief of Staff German Corps will make decision - passed to 2 Canadian Infantry Brigade.⁶⁵

The question travelled no farther up the Canadian military hierarchy. Major-General Harry W. Foster, commanding officer of 1st Canadian Infantry Division, or a member of his staff declined responsibility for the entire affair.⁶⁶ Incredibly, Blaskowitz decided the

eventual fate of Dorfer and Beck from his German headquarters. At 1315 hours, the XXX German Army Corps responded directly to 1st Canadian Infantry Division:

Reference message about German MARINE deserters to be shot. We thank-you for advising us and Chief of Staff approves the sentence. We shall advise our Commander in Amsterdam accordingly. 2 [Canadian Infantry] Brigade Information.⁶⁷

The German military, encouraged by Canadian apathy, seized a chance to exercise its rapidly declining authority. After advising the Canadians, the German staff informed Stein of Blaskowitz's approval through the German communication network. The process demonstrated the smooth cooperation established between Germans and Canadians in Holland.

The actual execution of Dorfer and Beck followed a similar pattern. At 1335 hours on 13 May 1945, 2 Canadian Infantry Brigade advised Mace and Pierce of the German decision by telephone: "German deserters will be shot, approved by German Chief of Staff. Have FSS personnel showed up yet? Answer: No."⁶⁸ A written order from brigade headquarters later confirmed this verbal directive. The Germans and Canadians wanted the execution performed the same day of the trial although article 66 of the 1929 Geneva Convention insisted that all death sentences "shall not be executed before the expiration of a period of at least three months"⁹ after communication to the protecting Power. Pierce, ignorant of international law and blindly following faulty superior orders, arranged truck transport, and issued, from a

locked room, eight German rifles with sixteen rounds of ammunition for the German firing squad. In these actions, the Canadian officer disregarded the moral imperative of disobedience.⁷⁰ Distribution of weapons bestowed informal Canadian permission for the execution. German officers, detailed by Stein, would choose the execution spot, and implement the death sentences. Fearful of trouble with the NBS, Pierce sent Swinton, his second-in-command, and a Sergeant-Major named Webster "to make sure that the Germans got back safely."⁷¹ At 1740 hours, the German firing squad shot Dorfer and Beck on the wall of an air raid shelter near the factory. When Pierce asked how the Germans could kill these two men on a beautiful day after the end of the war, Hoslinger replied: "These boys have been

(Photo: Alex M. Stirton/NAC PA 183227)



deserters, and if they were allowed to go home and have children the minds of the children would be dirty, too.”⁷² Despite defeat, codes of loyalty and honour persisted in the German military. Canadian officer and German officer stubbornly clung to common standards of military discipline.

As stated previously, the execution of Dorfer and Beck was far from an exception. Later on 13 May 1945, 2 Canadian Infantry Brigade asked 1st Canadian Infantry Division for instructions on more German deserters:

NBS have 12 more deserters found in jails in Rotterdam. What does German Chief of Staff want done with them. Are they to be shot as were others this morning. ANSWER: put in concentration camp IJmuiden and turn over to camp commander General Huttner.⁷³

The Canadians promptly repatriated these men to the German military. This action brought almost certain death. Lieutenant-Colonel A. Powis, the commander of a temporary Canadian occupation formation, revealed the end for some deserters: “A German sea commander came down to ask for ten rifles. He had some men he wanted to shoot. (The rifles were supplied [to] him.)”⁷⁴ Unquestioning Canadian officers repeatedly acquiesced to German demands. Order and discipline overrode claims to justice.

Nevertheless, general Canadian policy towards German deserters soon changed. On 18 May 1945, 2 Canadian Infantry Brigade reported “a Russian deserter from the German Army who had then apparently joined the NBS . . . whom they were loathe to give up to the Germans.”⁷⁵ Canadian units increasingly questioned repatriation of deserters who had clearly worked actively for the Allied cause in conjunction with resistance forces. In the view of many Canadian soldiers, surrender of these men to a loathsome German military establishment hardly seemed fair. The late implementation of Standing Order No. 153 and Instruction No. 97 salved many Canadian consciences. Eventually, the Canadian military followed a graduated policy towards deserters:

All the Germans who deserted after the armistice, were turned over to their respective units for disciplining. Germans who deserted some time ago, but were picked up after the armistice, were sent to the Corps PW Cage and passed back through the usual channels. A German who had deserted many months ago, who had got into civilian clothes and had done good work for the Dutch Underground must still be treated as a PW.⁷⁶

Canadian military authorities, liberally granting prisoner of war status, assessed German deserters in terms of situation and usefulness to the Allies. The German military now received only a select number of deserters. On 22 May 1945, the Seaforth Highlanders, the same regiment which had participated in the execution of Dorfer and Beck, showed a much more humane and realistic approach:

During the morning, the NBS brought in another German deserter in civilian clothes and he was sent down to FSS to be dealt with through their channels. Nearly every day now for the last week we had been receiving and dispatching German deserters picked up in civilian clothes.⁷⁷

Thus, time and attitudes worked against Dorfer and Beck; ironically, only a few days later, the Seaforth Highlanders regularly spared deserters. The ongoing departure of the Germans partly accounted for this change.

Under the timetable of Operation “Eclipse,” the evacuation of the German armed forces began in the latter half of May. At 0830 hours on 15 May 1945, “D” Company of the Seaforth Highlanders “started the movement of the 1800 odd Marines from their camp to IJMUIDEN.”⁷⁸ This local movement was preparatory for an even larger movement of the German armed forces from the Netherlands. On 19 May 1945, Blaskowitz, at the request of Foulkes, submitted a detailed order of march for this purpose which concluded with an admonition for all German troops: “I expect every man to set up a model of discipline on the march and strictly demand to keep roads and transit camps ruthlessly clean.”⁷⁹ Under the direction of Blaskowitz, the German military completely planned the march of German military formations out of Western Holland. Canadian military authorities, fulfilling the role of

overseer, merely rubber-stamped German proposals.⁸⁰ Not surprisingly, the tremendous German effort proved a model of efficiency and organization. The Germans moved "in five large groups from the five concentration areas, mainly by land and on foot up to DEN HELDER Z0089 from thence by LCTs, barges, etc, across the ZUIDER ZEE to 2 Canadian corps area."⁸¹ Advance parties prepared transit camps for large staggered marching groups. At the same time, Canadian military authorities approved retention of a four-man court martial for a German pioneer brigade kept in the Netherlands.⁸² This court continued to apply German military law, albeit limited by Canadian restrictions, among remaining German troops. Thus, the maintained German military structure and the unusual courts martial contributed to the larger goal of evacuation. The Canadians wanted the Germans out of the Netherlands as quickly as possible.

In this sense, Dorfer and Beck were expendable pawns for larger political and strategic concerns. Canadian and British military authorities intended "to place all capitulated troops in 2 Canadian Corps area . . . NORTH of the JADE-EMS canal which runs between WILHELMSHAVEN and EMDEN. Commencing 25 May, all capitulated troops in Holland will be moved into this area."⁸³

In this coastal region of North-West Germany, Blaskowitz's formations joined recently arrived German troops from Denmark and Norway. Why were the Canadians and British so anxious to collect surrendered German troops in this area? The answer was largely twofold. Firstly, Allied victory over Nazi Germany produced rising Canadian public pressure to bring the boys home. Canadian political and military leaders desired a speedy withdrawal of the First Canadian Army from Europe. Already at the end of May, small drafts from the Seaforth Highlanders began leaving for England, and then Canada.⁸⁴ Larger groups followed in the coming months. At the same time, Canadian troops increasingly wore out their welcome in the Netherlands. Some Dutch people looked forward to a time "when the Canadians have disappeared back to Canada."⁸⁵ A friendly liberation army still constituted an occupation army which prevented a return to

normal everyday lives. Thus, the rapid removal of German troops remained a necessary precursor for an equally rapid departure of the Canadian army.

Secondly, key British figures maintained secret plans for the enormous number of German prisoners of war. On 1 December 1954, Prime Minister Winston Churchill clarified, in the British House of Commons, the situation at the end of the war: "No trouble could in any case have arisen with the Soviets unless they had continued their advance to a point at which they forced the breaking out of a new war between Russia and her Western allies . . . we should certainly in that case rearm the German prisoners in our hands."⁸⁶ Churchill and other important officials in the British government remained distrustful of Soviet intentions; again and again, the Russians appeared to disregard the terms of the Yalta Agreement. Thus, in Churchill's view, surrendered German troops, kept in existing German military formations, represented a safe card for the British position. In the event of new hostilities, vanquished German units and British military forces would have combined against an offensive Red Army.⁸⁷ Thus, the two and half million German prisoners of war in Commonwealth hands represented a huge strategic reserve. Montgomery, directed by Churchill, gave "a "stand still" order regarding the destruction of German weapons and equipment, in case they might be needed by the Western Allies for any reason."⁸⁸ Canadian military formations, under the strategic command of Montgomery, shared in these arrangements. On 4 June 1945, the First Canadian Army directed Blaskowitz to reorganize and consolidate units within the Twenty-Fifth German Army.⁸⁹ Nevertheless, as fears of a Russian advance receded and the Western Allies settled with Stalin at Potsdam in July 1945, the days of the maintained German military were numbered. Beginning in 1946, the Control Commission for Germany, British Element (CCG, BE) gradually demobilized the German armed forces in the British occupation zone.⁹⁰ German soldiers returned to shattered homes and broken dreams in post-war Germany. However, two sailors, buried in shallow graves on the outskirts of Amsterdam, never returned home.

Postscript

The aftermath of the Dorfer/Beck execution persisted beyond 1945. During 1948-49, the Western Allies combined their three occupation zones into the Federal Republic of West Germany.⁹¹ The new country adopted a constitutional government based on democratic forms. Understandably, West German governments distanced themselves from the Nazi past. Yet, an amazing amount of continuity existed between the new *Bundesrepublik* and the Third Reich. Embarrassing public disclosures periodically plagued politicians, judges, civil servants, military officers and other public figures of successive West German governments.⁹² The West German press, reflecting contemporary German public opinion, zealously revealed former connections and involvement with the National Socialist regime.

In this way, the wartime execution of Dorfer and Beck became an object of public and legal controversy in West Germany. On 12 September 1966, the investigative Hamburg magazine *Der Spiegel* broke the story based on several interviews and cursory research.⁹³ Relatives of Dorfer and Beck finally discovered the cruel fate of their missing brethren. A short time later, Beck's surviving sister, Berthilde, launched a civil suit against Köhn, now a supreme court judge in Cologne, for the murder of her brother; Köhn, in his defence, blamed unnamed Canadian military officers for the execution.⁹⁴ The case, eventually unsuccessful for lack of witnesses, had months before attracted the notice of the European press and government officials. Richard Bower, the Canadian ambassador in Bonn, dismissed the entire controversy as a "tempest in a teacup."⁹⁵ Bower's cheeky comment, later retracted, reflected a poor beginning on the Canadian side.

The response of the Canadian government on the other side of the Atlantic was equally disappointing. On 23 September 1966, Edward McWhinney, then director of McGill University's Institute of Air and Space Law in contact with

Professor Ernst Friesenhahn in Heidelberg, brought the Dorfer/Beck execution to the attention of Paul Hellyer, Minister of National Defence in the Lester Pearson government.⁹⁶ The timing was important for Hellyer; the besieged minister was receiving considerable criticism over a recent scrapping of nine Canadian warships and Liberal plans for a unification of the Canadian military. The Conservative opposition, led by John Diefenbaker, quickly seized upon the Dorfer/Beck controversy as a chip in this larger political game. On 7 October 1966, Hellyer, in an explanatory speech to the House of Commons, concluded that "allegations contained in *Der Spiegel* are completely without foundation."⁹⁷ However, Hellyer's assurances remained short-lived.

Canadian newspapers, after interviews with former Canadian officers and other witnesses, presented strong evidence of active Canadian participation in the execution. Consequently, Brigadier William J. Lawson, then Judge Advocate General, appointed Group Captain J.H. Hollies to undertake a full departmental investigation.⁹⁸ This military legal officer searched relevant Canadian documents, and made a three-day whirlwind trip to West Germany. Based on Hollies' findings, an embarrassed Hellyer confirmed, in the House of Commons on 21 December 1966, Canadian involvement in the execution, but suggested "that in view of the fact it is now over 20 years since the war ended, nothing is to be gained by carrying this matter further."⁹⁹ With this final statement, Canadian officials closed the public file on Dorfer and Beck. Legal recommendations that the Canadian government accept at least partial responsibility for the execution and furnish all possible aid to West German prosecution efforts remained unfulfilled. In a letter to McWhinney on 21 December 1966, Hellyer dismissed the notion "that I or any member of the [Canadian] Government may, with propriety, suggest to another state what legal action it should take where no offence is alleged to have been committed against a Canadian national."¹⁰⁰ After several months of debate, the contentious execution fell from the public eye.

Conclusion

The execution of Bruno Dorfer and Rainer Beck by surrendered German troops in Canadian custody was a product of many factors. Under a dubious interpretation of international law, Canadian military authorities permitted a continuation of the German military structure after the demise of the Third Reich. German assistance was indispensable in the disarmament, concentration, and evacuation of the German armed forces within Holland. Unfortunately, disinterested Canadian military authorities also left the German military in control of order and discipline. German commanders and military judges applied a military law warped by National Socialism. The Canadian military, distracted by larger political and strategic concerns, tardily instituted restrictions on these proceedings. Dorfer and Beck, seeking safety and friends, instead found indifference and enemies. Were the deaths of Dorfer and Beck avoidable? Yes! Indeed, it is hard to understand why Canadian military authorities did not follow, from their first arrival in Amsterdam, the graduated policy eventually adopted towards German deserters. In the case of Dorfer and Beck, only one strong voice along the Canadian or German military hierarchies was needed to question the irony of the situation. Disappointingly, none was present.

Many of the original quotations in this article contain abbreviations and acronyms which have been spelled- out for this article.

The Editor

NOTES

1. Swinton died later in an accident in Germany. *Toronto Daily Star*, 24 October 1966, p.92. The Italian-Yugoslav film *Gott mit Uns* (released in Canada on 24 January 1974 as *The Firing Squad*) provides a dramatized and somewhat inaccurate portrayal of events. This movie, directed by Giuliano Montaldi, is available on video under the title *The Fifth Day of Peace*. Directorate of History, Department of National Defence (DHist) 112.3H1.003 (D31), Film Review: "The Firing Squad" by Philip Chaplin, 28 January 1974. *Gott mit Uns* debuted at the Cannes Film Festival between 2-16 May 1970. In April 1970, the Canadian government considered suppressing the

- film. DHist 81/669, Documents released to the author under the Canadian Access to Information Act. 2. W.A.B. Douglas and Brereton Greenhous, *Out of the Shadows: Canada in the Second World War*, Oxford University Press, 1977, p.216. Jeffery Williams, *The Long Left Flank: The Hard Fought Way to the Reich, 1944-1945*, Leo Cooper, 1988, p.281. C.P. Stacey, *The Canadian Army 1939-1945*, Edmond Cloutier, King's Printer, 1948, p.269.
3. Erich Maschke, eds., *Zur Geschichte der deutschen Kriegsgefangenen des Zweiten Weltkrieges*, Verlag Ernst und Werner Giesecke, 1974, XI/1: Hermann Wolff, *Die deutschen Kriegsgefangenen in britischer Hand*, s.79.
4. Milton Shulman, *Defeat in the West*, Ballantine Books, 1968 (1947), p.379.
5. C.P. Stacey, *The Victory Campaign*, Volume III, *Official History of the Canadian Army in the Second World War*, Queen's Printer, 1960, p.608. Terry Copp and Robert Vogel, *Maple Leaf Route: Victory*, Maple Leaf Route, 1988, p.120. Norman Phillips and J. Nikerk, *Holland and the Canadians*, Contact Publishing Co., [n.d.], p.16.
6. Bernard Law Montgomery, *The Memoirs of Field-Marshal the Viscount Montgomery of Alamein*, K.G., Collins, 1958, p.339. John North, *North-West Europe 1944-5*, HMSO, 1953, pp.237-239. Richard S. Malone, *Missing from the Record*, Collins, 1946, p.123.
7. National Archives of Canada (NAC), RG24, Vol. 10799, File 225C2.012 (D4), Directive, General Crerar to Blaskowitz, 6 May 1945. Fred Whitcombe and Blair Gilmour, *The Pictorial History of Canada's Army Overseas, 1939-1945*, Whitcombe, Gilmour and Co., 1947, pp.260-262.
8. NAC, RG24, Vol. 15258, War Diary (WD), Seaforth Highlanders of Canada, 7 May 1945.
9. Reginald H. Roy, *The Seaforth Highlanders of Canada 1919-1965*, Evergreen Press, 1969, p.439.
10. NAC, RG24, Vol. 10895, File 235C1.011 (D2), "The Concentration, Disarming, and Evacuation of Germans in Western Holland, As Seen at Divisional Level," Interview with Lt.-Col. W.S. Murdoch, 7 June 1945. David Kaufman and Michiel Horn, *A Liberation Album: Canadians in the Netherlands 1944-45*, McGraw-Hill Ryerson, Ltd., 1980, p.92.
11. NAC, RG24, Vol. 10799, File 225C2.012 (D4), 1 Canadian Corps Surrender Order No. 2, Lt.-Gen. Foulkes to Blaskowitz, 6 May 1945.
12. NAC, RG24, Vol. 10896, File 235C1.013 (D4), "Report 1st Canadian Infantry Division for Week Ending 12 May 1945," Capt. T.J. Allan, 13 May 1945. Michiel Horn, "More than Cigarettes, Sex and Chocolate: The Canadian Army in the Netherlands, 1944-1945," *Journal of Canadian Studies* 16 (Fall-Winter 1981): p.159.
13. DHist 112.3H1.003 (D31), Extract, WD 4th Reconnaissance Regiment (4 PLDG), 10 May 1945.
14. NAC, RG24, Vol. 15258, WD, Seaforth Highlanders, 11 May 1945. The Third Troop of the Fourth Reconnaissance Regiment assisted "D" Company at the Ford factory. DHist 112.3H1.003 (D31), Extract, WD, 4th Reconnaissance Regiment (4 PLDG), 11 May 1945.

15. Montgomery, p.345.
16. DHist 322.009 (D137), "Historical Summary, Seaforth Highlanders, Canadian Army 1939-45," 8 September 1945.
17. DHist 145.2H1011 (D1), "Aspects Infantry Battalion's Activities in Western Holland First Weeks of "Eclipse,"" Interview with Lt.-Col. G.E.B. Renison, 2 June 1945.
18. DHist 142.5M2011 (D1), "Concentration and Evacuation of Germans at Den Helder," 8 May-10 June 1945, Major J.G. Osler, 12 June 1945.
19. NAC, RG24, Vol. 10610, File 215C1.009 (D20), DDOS First Canadian Army Eclipse Instruction No. 10, Brig. D.G.J. Farquhrson, 17 May 1945. Canadian military authorities allowed German officers and military police to retain personal weapons. DHist 142.1109 (D2), Message 071520, 1st Canadian Infantry Division to All Units, 7 May 1945.
20. NAC, RG24, Vol. 10611, File 215C1.009 (23), "List and Description of Enemy War Material Dumps in 2nd Canadian Infantry Brigade Area," 15 May 1945. This job was sometimes hazardous. On 20 May 1945, an accidental explosion of 250 tons of German ammunition on the island of Dutton killed seven Canadian soldiers. DHist 142.31011 (D1), "CRA Group in Surrender Operation, 8 May - 8 June 1945," Interview with Capt. J.M. Church.
21. NAC, RG24, Vol. 10611, File 215C1.009 (D33), Memo. EXFOR Rear to Administrative HQ First Canadian Army, 9 May 1945.
22. NAC, RG24, Vol. 10963, File 260C2.009 (D32), "Quarterly Report 1st Canadian Infantry Division 1 April/ 30 June 1945," ADMS 1st Canadian Infantry Division, p.17. DHist 145.2N1009 (D2), "1st Canadian Army and 21st Army Group Instructions Operation "Eclipse,"" April 1945. Alan Moorehead, *Eclipse*, Hamish Hamilton, 1945, p.230.
23. NAC, RG24, Reel C-5342, Memo. Secretary of State Dominion Affairs to Secretary of State External Affairs, 2 May 1945. James Bacque, *Other Losses*, Stoddart, 1989, p.28. The author does not agree with many of Bacque's conclusions. Unfortunately, few books deal directly with the Allied use of "Surrendered Enemy Personnel" and "Disarmed Enemy Personnel" labels for German prisoners of war in North-West Europe after the Second World War.
24. Howard S. Levie, eds., *Documents on Prisoners of War*, Volume 60, International Law Studies, Naval War College Press, 1979, p.178. Eleanor C. Flynn, "The Geneva Convention on Treatment of Prisoners of War," *George Washington Law Review* 11(1942-43): p.508.
25. Canadian Red Cross Archives, Box ICRC-History-WWII-POW- Medical Commission, René-Jean Wilhelm, "Can the Status of Prisoners of War be Altered?" International Committee of the Red Cross, 1953, pp.5-8. R.C. Hingorani, *Prisoners of War*, Oceana Publications, 1982, p.34.
26. NAC, RG24, Vol. 10799, File 225C2.012 (D4), Memo. Major-Gen. IC Administration 21st Army Group to GOC C. First Canadian Army, 8 March 1945.
27. Peter Padfield, *Dönitz: The Last Führer*, Victor Gollancz Ltd., 1984, p.433. Walter Lüdde-Neurath, *Regierung: die Letzten Tage des Dritten Reiches*, Druffel-Verlag, 1980, s.161. Marlis G. Steinert, "The Allied Decision to Arrest the Dönitz Government," *The Historical Journal* 31(1988): p.661.
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30. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, Message 3706, I Canadian Corps to 1st Canadian Infantry Division, 1000 hours, 11 May 1945.
31. Walter Lohmann and Hans H. Hildebrand, *Die Deutsche Kriegsmarine 1939-1945*, Band II, Podzun-Verlag, 1956-1964, 132, s.9.
32. M.I. Gurfein and Morris Janowitz, "Trends in Wehrmacht Morale," *Public Opinion Quarterly* 10(1946), p.78. Edward A. Shils and Morris Janowitz, "Cohesion and Disintegration in the Wehrmacht in World War II," *Public Opinion Quarterly* 12(1948): pp.312-313.
33. Johannes Steinhoff, Peter Pechel, and Dennis Showalter, *Voices from the Third Reich: An Oral History*, Regnery Gateway, 1989, p.254. James M. Erdmann, *Leaflet Operations in the Second World War*, Denver Instant Printing, 1969.
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35. NAC, RG24, Vol. 10717, File 215C1.98 (405), Lt.-Col. H.V. Dicks, "THE GERMAN DESERTER: A Psychological Study," Director Army Psychological Department Memo., 9 March 1945.
36. Clifton D. Bryant, *Khaki-Collar Crime: Deviant Behaviour in the Military Context*, Collier, 1979, p.163.
37. DHist 142.1109 (D2), Receipt 1st Canadian AGRA H.Q., 15 May 1945.
38. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, 13 May 1945. An altered version of this extract is reproduced in Tony Foster, *Meeting of Generals*, Methuen, 1986, p.445.
39. L.B. Schapiro, "Repatriation of Deserters," *British Yearbook of International Law* 29(1952), p.311. Hingorani, pp.31-32.
40. "Kriegsgerichte: Menschlich bedrückend, 2.bonn" *Der Spiegel* 38(12 September 1966): s.58-61. In February 1935, Fredegund Beck, an active member of the German Resistance Movement, and her fiancé, Dr. Carl Richartz, had fled from the Gestapo in Berlin. DHist 81/669, Memo, J.H. Hollies to Parliamentary Returns, 16 June 1967.

41. A sympathetic Gestapo officer, who had served under the elder Beck as a young policeman, prevented Elsa Beck's shipment to Auschwitz by delaying an official summons. DHist 81/669, Memo, J.H. Hollies to Parliamentary Returns, 16 June 1967.
42. DHist 81/669, Memo, J.H. Hollies to Parliamentary Returns, 16 June 1967.
43. *Toronto Daily Star*, 22 October 1966, p.9.
44. *Toronto Daily Star*, 25 October 1966, p.7.
45. DHist 112.3H1.009 (D182), "Notes on questions by German magazine DER SPIEGEL from Military Attaché Bonn," 30 August 1966.
46. *Toronto Daily Star*, 25 October 1966, p.7.
47. NAC, RG24, Vol. 15258, WD, Seaforth Highlanders, 13 May 1945.
48. *The Globe and Mail*, 28 October 1966, p.29. In 1967, an unremorseful Stein defended his actions: "Beck would never have been a credit to Germany anyway. Deserters only turn into criminals in civil life too." DHist 81/669, Memo, J.H. Hollies to Parliamentary Returns, 16 June 1967.
49. Leslie C. Green, *Essays on the Modern Law of War*, Transnational Publishers, 1985, p.266. "Der Kerl gehärt gehängt!" *Der Spiegel* 28(10 July 1978): s.36-49. "Ein Menschenleben gilt für nix," *Der Spiegel* 43(19 October 1987): s.112-128. Ironically, the German armed forces always considered itself a very law-abiding institution. Geoffrey Best, "World War II and the law of war," *Review of International Studies* 7(1981): p.73.
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51. Messerschmidt and Wüllner, s.90. Messerschmidt, "German Military Law," p.325. Otto Peter Schweling, *Die deutsche Militärjustiz in der Zeit des Nationalsozialismus*, N.G. Elwert Verlag Marburg, 1977, s.129.
52. Translation by the author. Franz W. Seidler, "Die Fahnenflucht in der deutschen Wehrmacht während des Zweiten Weltkrieges," *Militärgeschichtliche Mitteilungen* 2(1977): s.24. Schweling, s.28.
53. Otto Hennicke, "Über den Justizterror in der deutschen Wehrmacht am Ende des Zweiten Weltkrieges," *Zeitschrift Für Militärgeschichte* 4(1965): s.720. Joachim Philipp, "Der Gerichtsherr in der deutschen Militärgerichtsbarkeit bis 1945," *Militärgeschichte* 27(1988): s.546. Heinz Hürten, "Im Umbruch der Normen: Dokumente über die deutsche Militärjustiz nach der Kapitulation der Wehrmacht," *Militärgeschichtliche Mitteilungen* 2(1980): s.137-156 provides a good collection of documents on the operation of German military courts in Norway after the capitulation.
54. Lothar Gruchmann, "Ausgewählte Dokumente zur deutschen Marinejustiz im Zweiten Weltkrieg," *Vierteljahrshefte für Zeitgeschichte* 26(1978): s.469. Seidler, s.33. "So etwas unterschreibt man nicht einfach," *Der Spiegel* 43(3 November 1965): s.69-79. Anthony K. Martienssen, *Hitler and His Admirals*, E.P. Dutton and Co., 1949, pp.156-159. Raeder and Dönitz, shaken by their experiences at Nuremberg and Spandau, characteristically ignored the subject in post-war memoirs. Erich Raeder, *My Life*, United States Naval Institute, 1960. Karl Dönitz, *Memoirs: Ten years and Twenty days*, Weidenfeld and Nicolson, 1959.
55. Levie, *Documents*, p.187. A.J. Barker, "Number, Rank and Name!" *Military Review* 55(1975): p.46. Howard S. Levie, *Prisoners of War in International Armed Conflict*, Volume 59, International Law Studies, 1978, p.336ff. W.J. Fenrick, "The Prosecution of War Criminals in Canada," *Dalhousie Law Journal* 12(1989): p.286.
56. Burrell M. Singer and R.J.S. Langford, *Handbook of Canadian Military Law*, The Copp Clark Co. Ltd., 1941, p.76. DHist 1B, Lt.-Col. T.M. Hunter, "Report No.91: Some Aspects of Disciplinary Policy in the Canadian Services, 1914-1946," 15 July 1960, pp.72-73.
57. Great Britain, *Extracts from Manual of Military Law 1929: reprinted for use in the Canadian Army*, Edmond Cloutier, King's Printer, 1943, p.58. DHist 89/446, Brooke Claxton, *Notes on Military Law and Discipline for Canadian Soldiers*, 6 November 1939. Bernard Starkman, "Canadian Military Law: The Citizen as Soldier," *Canadian Bar Review* 43(1965): p.414.
58. Clarence Richard Young, *Notes on Elementary Military Law for Canadian Officers*, University of Toronto Press, 1939, p.56. NAC, RG24, Vol. 10825, File 229.C1 (D4), "Discipline, Canadian-Desertion," Lt.-Gen. Foulkes, 4 April 1945. DHist 81/166, Digest Opinions and Rulings, Ottawa, 31 March 1944-compiled records Office Judge Advocate-General DND HQ. William Moore, *The Thin Yellow Line*, Leo Cooper Ltd., 1974, p.225. C.P. Stacey, *Arms, Men and Governments: The War Policies of Canada, 1939-1945*, Queen's Printer, 1970, p.251.
59. *Toronto Daily Star*, 22 October 1966, p.9.
60. NAC, RG24, Vol. 13743, WD, AQ Branch 1st Canadian Infantry Division, 15 May 1945.
61. NAC, RG24, Vol. 10611, File 215.C1009 (D33), "Discipline Disarmed Wehrmacht (excl.PW)," Administrative HQ First Canadian Army, 17 May 1945.
62. NAC, RG24, Vol. 10611, File 215.C1.009 (D33), 21st Army Group Administrative Instruction No.97, 17 May 1945.
63. NAC, RG24, Vol. 10611, File 215C1.009 (D33), "Standing Orders Breaches of Discipline," Administrative HQ First Canadian Army, 25 May 1945.
64. NAC, RG24, Vol. 10611, File 215.C1009 (D33), 21st Army Group Administrative Instruction No.97, 17 May 1945.
65. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, Message 3873, 2 Canadian Infantry Brigade to 1st Canadian Infantry Division, 1030 hours, 13 May 1945. Stein also sent a staff officer to Mace and Bell-Irving with a formal request for rifles. Bell-Irving, leaving for England that morning, answered: "No - Don't be a damn fool - The war is over! Please convey those sentiments to your Commander." Letter, H.P. Bell-Irving to author, 26 June 1992.

66. DHist 000.9 (D143), "List Commanders and Commanding Officers Canadian Army Units Liberation of Netherlands, October 1944 to May 1945."
67. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, Message 3890, German XXX Corps to 1st Canadian Infantry Division, 1315 hours, 13 May 1945. Blaskowitz, one of Hitler's fanatic defence generals, held a consistent dislike for deserters. On 5 March 1945, during the retreat from the Western Allies, an unsympathetic Blaskowitz ordered death for all stragglers: "As from midday 10 March, all soldiers in all branches of the Wehrmacht who may be encountered away from their units on roads or in villages, in supply columns or among groups of civilian refugees, or in dressing-stations when not wounded, and who announce that they are stragglers looking for their units, will be summarily tried and shot." Shulman, pp.349-350.
68. DHist 112.3H1.009 (D182), "Notes on questions by German magazine DER SPIEGEL from Military Attaché, Bonn, through DGI/FLO," 30 August 1966.
69. Levie, *Documents*, p.191.
70. Leslie C. Green, *International Law: A Canadian Perspective*, Carswell, 1984, pp.279-280. The Nuremberg War Crimes Tribunal dismissed the defence of superior orders: "A soldier is a reasoning agent. He does not respond, and is not expected to respond like a piece of machinery ... To plead superior orders one must show an excusable ignorance of their illegality." George F.G. Stanley, "Obedience To Whom? To What?" Edgar Denton III, eds., *Limits of Loyalty*, Wilfrid Laurier University Press, 1980, p.10. David Hughes-Morgan, "Disobedience to a Lawful Military Command," *Military Review* 57(1977): p.74.
71. *Toronto Daily Star*, 25 October 1966, p.7. Webster was "said to have been sick at his stomach from having seen the execution take place." DHist 81/669, Memo, J.H. Hollies to Brig. W.J. Lawson, 26 October 1966.
72. DHist 112.3H1.003 (D31), Interview with Dennis Pierce by Group Captain J.H. Hollies, 9 October 1966. Jay Baird, *To Die for Germany: Heroes in the Nazi Pantheon*, Indiana University Press, 1990, p.228. Geoffrey Best, *Honour Among Men and Nations*, University of Toronto Press, 1981, p.65. In 1966, an apologetic Pierce also justified the event: "We tried to stop it, believe me, but there was nothing we could do ... they were soldiers - we all were." *The Vancouver Sun*, 22 October 1966, pp.1-2.
73. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, Message 3943, 2 Canadian Infantry Brigade to 1st Canadian Infantry Division, 2355 hours, 13 May 1945.
74. DHist 142.5M2011 (D1), "Commander "Powis Force" first month of "Eclipse,"" Interview with Lt.-Col. A. Powis, 12 June 1945. A war diary entry described similar actions in the Eleventh Armoured Regiment (The Ontario Regiment): "Several German deserters showed up at 1400 hours. All deserters from the German Army are handled by the Germans themselves." DHist 81/669, Memo, S.F. Wise to J.H. Hollies, 16 November 1966.
75. NAC, RG24, Vol. 13732, WD, 1st Canadian Infantry Division, 18 May 1945. Canadian military authorities later refrained from despatching this deserter, a person named Urmanow, back to Germany. NAC, RG24, Vol. 10967, File 260C3.009 (D6), Memo., Major J.M. Gray, 9 June 1945.
76. NAC, RG24, Vol. 10895, File 235C1.011 (D1), "Surrender Arrangements, 5 May-8 June 1945, Divisional Point of View," Interview with Capt. D.G.E. Molnar, 8 June 1945. Feldwebel Arthur Bessel, a German deserter originally from the Sudetenland, fell into the second category. DHist 142.11009 (D2), Memo., 1st Canadian AGRA, 17 May 1945.
77. NAC, RG24, Vol. 15258, WD, Seaforth Highlanders, 22 May 1945.
78. NAC, RG24, Vol. 15258, WD, Seaforth Highlanders, 15 May 1945.
79. NAC, RG24, Vol. 10611, File 215C1.009 (D44), "Approval Order of March," Lt.-Gen. Foulkes to Blaskowitz, 21 May 1945.
80. Sir Francis De Guingand, *Operation Victory*, Hodder and Stoughton, 1963, p.367. Stacey, *Victory Campaign*, p.615.
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