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“Such Want of Gentlemanly Conduct”

The General Court Martial of Lieutenant John de Hertel

EAMONN O'KEEFFE

Abstract: Analysis of the newly discovered general court martial of Canadian Fencibles Lieutenant John de Hertel offers a remarkable glimpse into the workings of War of 1812-era military justice. After exploring the backgrounds of the principal actors, this article employs witness testimony to vividly reconstruct the fateful altercation between Lieutenants Peach and de Hertel on 22 May 1815 at Fort York in modern-day Toronto. Subsequent attempts at conciliation, the trial itself, and de Hertel's vitriolic defence are examined in detail, followed by concluding reflections on the insight gained through study of this affair and the potential of courts martial as historical sources on the Napoleonic British Army.

THE LIGHT of a late spring sunset was fading fast on 22 May 1815 at York, the capital of Upper Canada. A mile west of town at the Garrison, the men of the Canadian Regiment had returned to their barracks for the night. All was quiet, save for occasional murmurs from the guardhouse and the low whistle of incoming winds from Lake Ontario.

Although a “sad blow to speculators,” news of peace with the United States, breathlessly proclaimed by the *York Gazette* in a 15 February extra edition, was especially welcome in the capital, thrice threatened and twice occupied by American forces during the

thirty-two month War of 1812.¹ With the ratification of the Treaty of Ghent, the relieved denizens and defenders of York (now Toronto) faced descents of an altogether less military nature, like the overhead onslaught of “immense” flocks of passenger pigeons on 27 March 1815.² Spring’s early onset no doubt buoyed new-found feelings of optimism amongst the town’s 720 inhabitants, now freed from the burdens of militia service, but by May conversation had turned to alarming reports of Bonaparte’s return to Paris.³

Yet despite the coming of peace, the Garrison at York remained on a war footing and the fort’s rebuilding programme continued in earnest, in anticipation of renewed hostilities. By day, the Garrison echoed with the clatter of construction, as civilian and military artificers continued work on the stone powder magazine and ravine mess house.

More than thirty of the labourers assigned to these and other projects were soldiers of the Canadian Regiment of Fencible Infantry, which had arrived at York in February and March of 1815.⁴ Half of the rank and file in this corps were Francophone *Canadiens*, with the remainder a mixture of Britons, Americans and Anglophone Canadians alongside a polyglot minority of assorted ‘foreign’ soldiers, often hailing from the Baltic and German states. The regiment had come far since its catastrophic 1804 first raising in Glasgow, culminating in mutiny and disbandment, and its lacklustre early years in Canada.⁵ Even in 1809, Governor-General Sir James Craig

¹ Alexander Wood to Richard Hatt, 21 February 1815, in *The town of York, 1815-1834: a further collection of documents of early Toronto*, ed. Edith Firth (Toronto: Champlain, 1966), 36; 15 February 1815, *York Gazette*, Toronto Reference Library (TRL), Upper Canada Gazette microfilm 1793-1849, Record ID 990579.

² 15 April 1815, ‘Local Remarks’, *York Gazette*, TRL.

³ Ibid; 18 March 1815, Militia General Order, *York Gazette*, TRL.; 14 May 1815 entry, Diary of Ely Playter, Archives of Ontario (AO), F 556-0-0-10, Microfilm reel MS 87.

⁴ Masons, painters and carpenters from the Canadian Regiment also helped renovate Elmsley House (the Lieutenant Governor’s residence), worked in the York Batteaux Yard and repaired the town prison, the Episcopal Church (St James’ Cathedral) and various private houses that had been used for government purposes during the war; Commissariat Account Book, York, 1815, City of Toronto Museum Services, X.3019.2, and WO 12/10526, Canadian Regiment Pay Lists March-June 1815, UK National Archives (TNA); WO 17/298, 1815 Canadian Regiment Monthly Returns, TNA and 18 February 1815, *York Gazette*, TRL.

⁵ For an account of the 1804 mutiny of the Canadian Regiment, see John Prebble, *Mutiny: Highland Regiments in Revolt, 1743-1804* (London: Seeker and Warburg, 1975)



The Fort York Guard recreates the Canadian Regiment of Fencible Infantry as they appeared during their four month stay at York (now Toronto) in 1815. Managed by the Friends of Fort York, the Guard (pictured here in 2016) performs in daily music, musket and artillery demonstrations at Fort York throughout the summer months. [Sid Calzavara]

had decried the corps as “really disgraceful to the Service,” the men “awkward,” “dirty & in rags.”⁶ But six years later here at York, Lieutenant-General Sir George Murray reviewed the regiment and praised the now well-equipped battalion for its “steady discipline and soldier-like appearance.”⁷

The Canadian Fencibles had so far enjoyed a relatively routine stay in the capital, but tonight, on 22 May 1815, this apparent placidity will be broken in a flash of adolescent anger. Three young subalterns of the regiment, Lieutenants Peach, de Hertel and Ensign Taylor sit inside the fort’s single-story wooden Officers’ Quarters, a now seriously overcrowded structure hastily erected the previous year.⁸ Some nurse hot tea and even hotter animosities. Harsh words

⁶ 26 August 1809, WO 27/94, 1809 1st Half-Year Inspection Returns, TNA.

⁷ 1815 Clothing Returns, Captain Hall’s No. 8 Company Books, R7596-0-3-E, Library and Archives Canada (LAC); 29 April 1815, ‘Local Remarks’, *York Gazette*, TRL.

⁸ This building, now known as the Blue Barracks, apparently housed not just four captains and twelve subalterns in mid-1815 but also the officers’ mess room and kitchen. See ‘Government Buildings at York’, NMC 4440, LAC. The problem of overcrowding was remedied in 1815 with the completion of the Brick Officers’ Quarters and Mess Establishment.

lead to raised voices: de Hertel grabs Peach. Then, a crash—a chair topples, and Peach lies prone on the floor. This brief moment of violence will cast a long shadow over the regiment's officer corps, culminating in a court martial that will end de Hertel's career.

John de Hertel's family history is a microcosm of the eighteenth-century Canadian experience, as conquerors and the conquered made amends in the wake of New France's fall. His paternal grandfather, Joseph-Hippolyte, son of a *Canadien* seigneur, had fought as a French junior officer in the Seven Years' War, witnessing Braddock's defeat on the Monongahela in 1755.⁹ But he reconciled with British authorities after the Conquest, serving as an interpreter in the Indian Department and helping to quell Pontiac's Rebellion. Joseph-Hippolyte again rallied to his adopted flag to repel the American invasion of Canada in 1775, only to be captured at the fall of Fort St. Jean. Exchanged two years later, he died in 1781, leaving his ten-year old son Louis-Hippolyte "only waiting to be old enough to offer his services to his king," according to his pension-seeking widow.¹⁰ Sure enough, Louis-Hippolyte became a subaltern (junior officer) in the newly-formed Royal Canadian Volunteers, wedding Elizabeth Robertson in 1794.¹¹ The bride's father, Major Daniel Robertson of the 60th Royal Americans, was a prominent fur-trader, soldier and magistrate who himself had married into the French-Canadian aristocracy. A Scottish Highlander, Robertson had fought in the Seven Years' War as an ensign in the 42nd Regiment or the Black Watch, serving at the 1760 capture of Montreal.¹²

John de Hertel, christened Hippolyte-Jean, was born on 29 June 1795¹³ to Louis-Hippolyte and Elizabeth, the fruit of a post-Conquest union between British and French. However, his early years were by

⁹ Thomas-M. Charland, 'Joseph-Hippolyte Hertel de Saint-François' in *Dictionary of Canadian Biography* (DCB) vol. 4, University of Toronto/Université Laval, http://www.biographi.ca/en/bio/hertel_de_saint_francois_joseph_hippolyte_4E.html.

¹⁰ Ibid.

¹¹ Married 20 March 1794, Montreal, Basilique Notre-Dame: Baptism, Marriage and Burial record book, 1786-1795.

¹² David A. Armour, 'Daniel Robertson' in *Dictionary of Canadian Biography* (DCB) vol. 5, University of Toronto/Université Laval, http://www.biographi.ca/en/bio/robertson_daniel_5E.html.

¹³ Baptised 30 June 1795 (born 29 June), Montreal, Basilique Notre-Dame: Baptism, Marriage and Burial record book, 1786-1795.

no means devoid of turbulence. Louis-Hippolyte was tried by general court martial at Montreal in 1799 for “using Seditious language,” assault, plotting to desert and for “Advising others to Desert,” but was apparently granted a pardon.¹⁴ Yet he later abandoned his family, causing Elizabeth to marry again by 1806.¹⁵ If dismayed by his son-in-law's actions, Daniel Robertson was horrified by his daughter's bigamy; he bequeathed Elizabeth “one Spanish mill'd Dollar only, on account of her undutiful behaviour and imprudent conduct.”¹⁶

John de Hertel, thus born into an avowedly soldierly but dysfunctional family of the Lower Canadian gentry, seemed destined for a military career. Brevet-Major Charles-Michel de Salaberry, first cousin of John's father and future hero of the Chateauguay, petitioned for de Hertel's appointment to an ensigncy in the Canadian Fencibles in October 1811.¹⁷ The application met with immediate success; Lieutenant-General Prevost judged the seventeen-year-old “well qualified” for a commission.¹⁸ His appointment approved at Horse Guards, de Hertel joined the Canadian Regiment at Quebec in March 1812.¹⁹ War broke out with America in June of that year, though de Hertel himself saw limited action, participating only in raiding expeditions into upper New York State.²⁰

But the young ensign was restless in his new regiment, and in August 1813 sought de Salaberry's endorsement to recruit the requisite 16 men to qualify for a lieutenancy in the Canadian Voltigeurs, de Salaberry's French-Canadian provincial light infantry

¹⁴ WO 90/1, Judge Advocate General's Office: general courts martial registers, abroad, TNA.

¹⁵ Jean-Jacques Lefebvre, “Louise Réaume-Fournerie-Robertson (1742-1773) et son petit-fils le Colonel Daniel de Hertel (1797-1866)”, *Revue d'histoire de l'Amérique française*, vol. 12, no. 3, 1958, 331; and David A. Armour, ‘Daniel Robertson’, vol. 5, DCB. Elizabeth married American-born surveyor, merchant and future politician Theodore Davis. For his biography, see *Dictionnaire des parlementaires du Québec, 1792-1992*, (Sainte-Foy: Université Laval, 1993), 206.

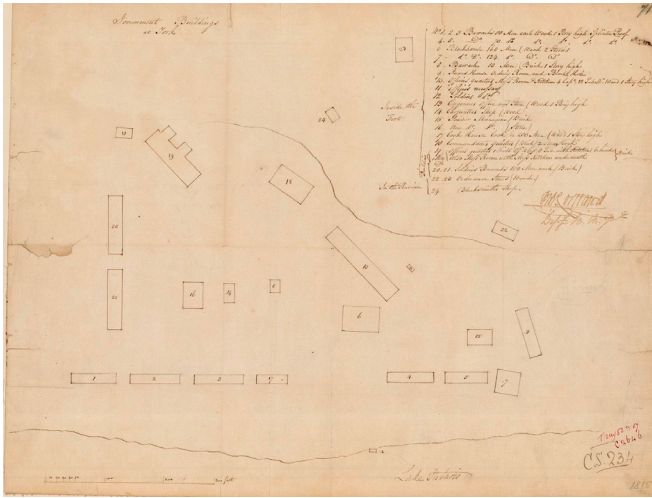
¹⁶ David A. Armour, ‘Daniel Robertson’, vol. 5, DCB.

¹⁷ 14 October 1811, RG 8 ‘C’ Series, vol. 1218, 27, LAC.

¹⁸ 15 October 1811, RG 8 ‘C’ Series, vol. 1218, 32, LAC.

¹⁹ Approved 21 December 1811. See 17 March 1812, Quebec General Order, RG 8 ‘C’ Series, vol. 1168, 109, LAC; WO 17/231, March and April 1812 Canadian Regiment Monthly Returns, TNA.

²⁰ WO 164/558, Platsburg [sic] (Lake Champlain) 1813 Prize Lists, WO 164/565, French Mills U.S.A. 1814 Prize Lists and WO 164/569, Malone, French Mills, Four Corners U. States 1814 Prize Lists, TNA.

6 ∴ *Such Want of Gentlemanly Conduct*

An 1815 plan of the Garrison at York (Fort York). The building now known as the Blue Barracks is No. 10 on the map, described as 'Officers quarters, Mess Room & Kitchen 4 Capn. 12 Subalt. Wood 1 Story High.' [Library and Archives Canada, NMC4440]

corps.²¹ In his subsequent letter of recommendation, de Salaberry noted that de Hertel had “never ceased” in pursuing his support for a Voltigeur appointment since the corps’ spring 1812 raising.²² At first, de Salaberry “constantly declined” to give his endorsement, but now relented, seeing as his second cousin was “so bent upon it.”²³ Why de Hertel was so keen on transferring is unclear—perhaps he was unhappy in the Canadian Fencibles, preferred the Voltigeurs for social reasons or simply sought an immediate promotion. Prevost had “no objection” to the application, but he noted that de Hertel could not also retain his rank in the army as the ensign had hoped.²⁴ This matter was of no small importance, for Voltigeur officers held militia commissions and were thus subordinate to all regular army officers

²¹ Martin F. Auger, “French Canadian Participation in the War of 1812: A Social Study of the Voltiguers Canadians”, *Canadian Military History*, vol. 10, issue 3, 2001, 26.; 8 August 1813, RG 8 ‘C’ Series, vol. 797, 144, LAC.

²² 11 August 1813, RG 8 ‘C’ Series, vol. 797, 143, LAC.

²³ Ibid.

²⁴ 11 September 1813, RG 8 ‘C’ Series, vol. 1221, 54 and 8 August 1813, RG 8 ‘C’ Series, vol. 797, 144, LAC.

of equivalent rank.²⁵ The imperative of relinquishing his ensigncy apparently dampened de Hertel's enthusiasm as he did not pursue his application further.

Yet this was not de Hertel's last dalliance with the militia. He secured an appointment in April 1814 as Adjutant and Lieutenant in the Canadian Chasseurs, a newly-formed provincial light infantry corps, only to be nearly immediately superseded by Sergeant Major Henry Blondheim of De Meuron's Regiment.²⁶ But de Hertel had also been recommended for a lieutenancy in the Canadian Fencibles in November 1813; news of his promotion arrived from London the following summer.²⁷

Less is known about the backgrounds of Lieutenant John Carroll Peach and his father, Captain John Sidney Peach, both of whom served in the Canadian Fencibles. The senior Peach was certainly commissioned ensign in the 30th Foot in 1804, but as he claimed in an 1809 letter to have served for "nearly twelve years," he was likely also the John Peach gazetted ensign in the Leicester (or Prince of Wales's) Fencibles in 1798.²⁸ Having secured a lieutenancy in the 81st in 1805, the elder Peach served with the 1st Battalion in Sicily, where he landed in hot water four years later for punching, kicking and ordering under arrest a sickly sailor who could not give him the whereabouts of the transport *Emerald's* jolly boat.²⁹ As Adjutant-General Campbell observed, Peach's conduct was "violent and irregular" even by his own account, but the lieutenant's real

²⁵ Auger, "French Canadian Participation in the War of 1812", 25; and Michelle Guitard, *The Militia of the Battle of the Châteauguay: A Social History* (Ottawa: National Historic Parks and Sites Branch, Parks Canada, Environment Canada, 1983), 17.

²⁶ 11 April 1814 Montreal General Order, RG 8 'C' Series, vol. 1171, 234; and 11 April 1814 Quebec General Order, RG 8 'C' Series, vol. 1203 ½ K, 12, LAC.; L. Homfray Irving, *Officers of the British Forces in Canada during the War of 1812-15* (Welland: Welland Tribune Print, 1908), 133-5; and *Journals of the House of Assembly of Lower-Canada from the 15th January, to the 22nd March, 1817...* (Quebec: J. Neilson, 1817), 192-97.

²⁷ 6 November 1813, RG 8 'C' Series, vol. 797, 201; and 27 November 1813, RG 8 'C' Series, vol. 1221, 253, LAC; and WO 17/284, July 1814 Canadian Regiment Monthly Returns, TNA. De Hertel's promotion was dated 12 November 1813.

²⁸ 16 January 1804, Army Lists; WO 71/218, 9 August 1809, Lt Peach to Lt-Col Mackenzie, TNA; Gazetted 10 September. See 15 September 1798, *London Gazette*, Issue 15061, 875. A John Peach was also gazetted ensign in the Leicestershire Militia on 25 May 1800. See 17 November 1801, *London Gazette*, Issue 15428, 1388.

²⁹ 2 April 1805, Army Lists.

troubles began with a string of strident and presumptuous letters he sent to superiors, vainly seeking exoneration.³⁰ Peach's indignant correspondence caused such offense that he was convicted by general court martial for insubordination and suspended for three months without pay.³¹ This unhappy affair surely explains Peach's failure to attain promotion until April 1812, when he was awarded a captaincy in the Canadian Fencibles; his sixteen-year-old son John Carroll Peach secured an ensigncy in the same corps in September of that year.³² The Peaches took their time before leaving for Canada, joining the regiment in November 1813—an impressive eighteen months after the expiration of the elder Peach's army leave.³³

Like de Hertel, neither Peach saw much action in the War of 1812, barring their participation in bloodless raids into upstate New York.³⁴ The senior Peach found the weather to be a more menacing adversary: a storm-tossed batteaux brigade carrying provisions to York under his command ran aground near modern-day Bowmanville in December 1814. Captain Peach was summoned before a Board of Enquiry to account for the attendant loss of flour, only for Lieutenant-General Drummond to applaud his conduct in these trying circumstances as “deserving of every credit.”³⁵

This overview of the principal actors leads us back to the fateful confrontation at York on 22 May 1815. At the time of the incident, both the younger Peach, now lieutenant, and de Hertel were aged

³⁰ 7 August 1809, WO 71/218, Adjutant-General Campbell to Major-General Macfarlane, TNA; WO 71/218, Proceedings of a General Court Martial held at Milazza [Milazzo] on the 4 September 1809 for the Trial of Lieut. Peach of the 81st Regiment, TNA

³¹ WO 90/1, Judge Advocate General's Office: general courts martial registers, abroad, TNA.

³² 9 April 1812, Army Lists; WO 25/771/58, John Carroll Peach, Officers' Service Records, TNA; 3 September 1812, Army Lists.

³³ WO 17/269, October and November 1813 Canadian Regiment Monthly Returns, TNA.

³⁴ WO 164/565, French Mills U.S.A. 1814 Prize Lists and WO 164/569, Malone, French Mills, Four Corners U. States 1814 Prize Lists, TNA. Captain Peach was awarded prize money for both expeditions, while Ensign Peach was only awarded money for the 25 February raid on Four Corners.

³⁵ RG 8 'C' Series, vol. 118, 205-212, LAC. The brigade was beached at “Barbers” or Barbour's Creek, now Bowmanville Creek.

nineteen.³⁶ The night's events can be reconstructed from testimony given at trial ten weeks later.³⁷

That evening, twenty-year-old Ensign William Taylor dallied in the officers' mess longer than usual and "drank some more wine than what I had been accustomed;" his inebriation seriously clouded his recollection of subsequent events.³⁸ After leaving the mess, Taylor took a walk with de Hertel towards the town of York.³⁹ On their return, the pair entered Taylor's room in the fort's Officers' Quarters between eight and nine o'clock and asked a batman for tea. Two of these batmen, or officers' servants, witnessed all or part of the ensuing events: French-Canadian privates Pierre Poitras, Ensign Taylor's servant, and Michel Montigny, whose master was never specified.⁴⁰

On entering the room, de Hertel and Taylor either did or did not encounter Lieutenant Peach, on duty that night as Officer of the Main Guard. Curiously, the witnesses could not agree on who had entered the room first. Peach claimed that he was already "peaceably sitting" inside on de Hertel's arrival, and Poitras, whose testimony largely fell in Peach's favour, concurred, recalling that Peach was "sitting at the table" when the other officers entered.⁴¹ But Montigny, whose evidence was more sympathetic to de Hertel, begged to differ: Peach, accompanied by Ensign George Mitchell, came into the room a quarter-hour after Taylor and de Hertel.⁴² As for Taylor, his testimony was of little use: he was too tipsy to remember entering his room at all, let alone who arrived first.⁴³

³⁶ Peach was commissioned lieutenant on 25 August 1814, Army Lists; See de Hertel's baptism record. For Peach, see his officer's service records: WO 25/771/58 and WO 25/819

³⁷ See WO 71/243, The General Court Martial (GCM) of Lieut. John De Hertel of the Canadian Regiment, TNA.

³⁸ Taylor was commissioned on 15 November 1813. See, WO 25/776/38, William Taylor, Officers' Service Records, TNA; WO 71/243, De Hertel GCM, Taylor testimony, 11.

³⁹ Ibid, Taylor testimony, 10.

⁴⁰ Ibid; Poitras stated that Montigny and Taylor were present for the entire episode but could not remember if he personally was always in the room. Montigny claimed that he never left the room during the affair but alleged that Poitras was not present 'all the time'. See WO 71/243, De Hertel GCM, TNA; Montigny enlisted on 9 September 1807 while Poitras enlisted on 11 February 1812. See WO 12/10524, 10525, Canadian Regiment Pay Lists, TNA.

⁴¹ WO 71/243, De Hertel GCM, Peach testimony, 2, 4; Poitras testimony, 4.

⁴² Ibid, Montigny testimony, 6.

⁴³ Ibid, Taylor testimony, 9-11.

Sometime later, de Hertel asked Mitchell and Peach to leave as “he had something to say to Ensign Taylor.”⁴⁴ The former complied but Peach did not budge. The motive behind Peach’s silent obstinacy is unclear, but presumably stemmed from some enmity towards his fellow lieutenant. Yet de Hertel was also intractable, loudly and “very peremptorily” ordering Peach to exit, telling him “two or three times” to “go out of the room.”⁴⁵ But this room was Peach’s too, after all, for he was sharing lodgings with Taylor.⁴⁶ Why should he leave?

De Hertel, “a little tipsy,” became increasingly irritated by Peach’s defiance.⁴⁷ Continuing his conversation with Taylor, he queried, according to Peach: “Is it not a great bore that such a damned little Bugger as that” should disturb him while taking his tea?⁴⁸ Despite his stupor, Taylor also remembered de Hertel using “some improper language,” but did not provide specifics.⁴⁹ Poitras recalled the two lieutenants talking “with some warmth,” although he could not describe the substance of the conversation, probably due to his poor grasp of English.⁵⁰ Indeed, Poitras testified at the trial with the aid of an interpreter, bilingual Métis Lieutenant John McKenzie of the Canadian Regiment.⁵¹ But he could at least recollect that Peach had warned his aggressor: “You had better let me alone.”⁵²

Montigny, for his part, denied hearing any improper language and gave a different account of events.⁵³ He described Peach “laughing,” apparently at de Hertel, and “looking over his shoulder,” much to the latter’s irritation.⁵⁴ Matters quickly escalated. Peach alleged that de Hertel grabbed him “by the hair of the head” and “knocked” him to

⁴⁴ Ibid, Peach testimony, 3; and Montigny testimony, 6.

⁴⁵ Ibid, Taylor testimony, 11-12.

⁴⁶ Ibid, 13. The room in question is usually referred to as ‘Ensign Taylor’s room’ in the trial while Lt. Peach sometimes referred to it as ‘Lieutenant Fitzmaurice’s room’. All three officers (Fitzmaurice, Peach and Taylor) may have been sharing accommodation.

⁴⁷ Ibid, Montigny testimony, 6.

⁴⁸ Ibid, Peach testimony, 3.

⁴⁹ Ibid, Taylor testimony, 10.

⁵⁰ Ibid, Poitras testimony, 5.

⁵¹ Ibid, 4; John McKenzie (d. 1871). Commissioned ensign 31 December 1812 and lieutenant 8 September 1814, Army Lists. See Mary M. Allodi, Peter N. Moogk, Beate Stock, ed. Rosemarie L. Tovell, *Berczy*, (Ottawa: National Gallery of Canada, 1991), 236.

⁵² WO 71/243, De Hertel GCM, Poitras testimony, 5.

⁵³ Ibid, Montigny testimony, 7.

⁵⁴ Ibid, 6, 8.

the floor, while Poitras claimed that de Hertel took Peach “by the neck,” called him “a little Rascal and a little Bugger” and “threw him down.”⁵⁵ Taylor could not recall any violence, but admitted some may nonetheless have occurred, the drink “depriving me of all recollection for the time.”⁵⁶ Montigny, for his part, described a “vexed” de Hertel, who “put his hand on Lt. Peach’s neck.”⁵⁷ But this batman took a lighter view of events, surmising that de Hertel throttled Peach “for fun”, although Peach nevertheless “fell with the chair on the floor.”⁵⁸

Two versions of the aftermath were offered. According to Peach, the inebriated Ensign Taylor mused to de Hertel in a “joking” manner: “You had better get a pair of Pistols and fight it out,” to which de Hertel answered, “Do you think I would fight with such a Bugger as that?”⁵⁹ Taylor did not recollect such an exchange, but his memory, of course, does not count for much.⁶⁰ Montigny was more sympathetic to de Hertel, describing him helping Peach off the floor.⁶¹ But he also recalled Peach’s subsequent vow to report de Hertel’s conduct to their Commanding Officer, Major Peter William de Haren.⁶²

The following morning, Lieutenant Peach approached Canadian Regiment Captain George Ferguson, mentioning the “unpleasant business” of the previous evening.⁶³ News spread quickly; Peach had already been spoken to by several officers. The young subaltern wanted the matter “compromised” but sought Ferguson’s advice.⁶⁴ The towering Light Company officer enquired as to Captain Peach’s view: the young lieutenant reported that the elder Peach advised him not to make up “by any means,” before asking if he should disregard his father’s counsel.⁶⁵ Ferguson thought it unwise.

Yet as he later confided to Ensign Alexander Wilkinson, Lieutenant Peach still did not “see the use of going any further.”⁶⁶ Indeed, he was apparently willing to accept de Hertel’s offer of an

⁵⁵ Ibid, Charge, 2; Peach testimony, 3; and Poitras testimony, 4.

⁵⁶ Ibid, Taylor testimony, 11.

⁵⁷ Ibid, Montigny testimony, 6.

⁵⁸ Ibid, 6, 8.

⁵⁹ Ibid, Peach testimony, 3.

⁶⁰ Ibid, Taylor testimony, 12.

⁶¹ Ibid, Montigny testimony, 6.

⁶² Ibid, 6, 9.

⁶³ Ibid, Ferguson testimony, 23.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid, Wilkinson testimony, 24.

apology and let the matter drop. But Captain Peach, if his 1809 letters are any indication of character, was not the compromising sort: according to de Hertel, the father demanded the “degrading alternative” of the “contingent resignation” of his commission.⁶⁷

Dismayed by these developments, the Canadian Regiment’s officer corps sought to keep the affair out of the clutches of military justice, lest this drunken altercation ruin a young officer’s career. The corps’ captains and subalterns held meetings amongst themselves at York. Within a week of the incident, they deputed representatives to intercede with Major de Haren, requesting a “stop to any further proceedings.”⁶⁸ The officers vouched for de Hertel’s honourable conduct towards the younger Peach since 22 May and advised that the matter was best settled privately by “proper atonement” to the injured party.⁶⁹

But their efforts proved fruitless. Although the regiment departed York for Fort George on the Niagara River in mid-June 1815, it could not put the affair behind them, presumably because of Captain Peach’s continued inflexibility.⁷⁰ A court of enquiry was held to investigate the incident, laying the groundwork for a formal court martial.⁷¹ But hopes of a private settlement sprang anew in mid-July, as an ongoing epidemic of cross-border desertion threatened to undermine the Canadian Regiment’s improved reputation.⁷² One day after dinner, the elder Peach told Captain Marshall that he had “no objections” to settling the matter without recourse to military justice, contingent on a “proper apology.”⁷³ Marshall relayed the good news to de Hertel through Ensign Benjamin Holmes, but Captain Peach’s change of heart came too late. Legal proceedings had already progressed too far to be stopped, for at nearly the same time at

⁶⁷ Ibid, 16. Contingent on what precisely is unclear.

⁶⁸ Ibid, Nolan and Marshall testimony, 24-5. De Haren was replaced as Commanding Officer on 30 May 1815 by Canadian Regiment Lieutenant Colonel George Robertson, who assumed command at York after his arrival from Lower Canada. The officers’ intercession must therefore have occurred before that date. See RG 8 ‘C’ Series, vol. 0, 124, LAC.

⁶⁹ WO 71/243, De Hertel GCM, Nolan testimony, 24.

⁷⁰ Canadian Fencibles Lt. Col. Robertson was paid for commanding at York until 13 June 1815 and at Fort George from 14 June. See RG 8 ‘C’ Series, vol. 0, 124, 156, LAC, and WO 17/298, 1815 Canadian Regiment Monthly Returns, TNA.

⁷¹ WO 71/243, De Hertel GCM, Taylor testimony, 22.

⁷² WO 25/2187, Canadian Regiment Casualty Returns and WO 17/298, 1815 Canadian Regiment Monthly Returns, TNA.

⁷³ WO 71/243, De Hertel GCM, Marshall testimony, 25.



A later (1840) interior view of Fort Mississauga, where de Hertel's general court martial was held. The tower (right) was still under construction in 1815. [Library and Archives Canada, Acc. No. 1983-47-118]

Kingston, on 15 July, Major-General Frederick Philipse Robinson issued a warrant for assembling a general court martial.⁷⁴ De Hertel was charged with “scandalous and infamous conduct” in assaulting Lieutenant Peach “without the slightest provocation whatever,” and for using the “most violent, scandalous, and infamous language.”⁷⁵

Lieutenant Colonel George Robertson of the Canadian Fencibles was appointed President of the jury (styled as the Court) assembled for de Hertel's trial, composed of fifteen other officers including four Canadian Regiment captains.⁷⁶ Not all of the jurors were themselves free from allegations of wrongdoing: Royal Artillery Brevet Major William Greenshields Power, recently arrived from distinguished service in the Peninsula, was accused in May 1815 of having “seduced” the stepdaughter of Upper Canadian parliamentarian Isaac Swayze.⁷⁷ Another member of the Court, Edward Cartwright, Captain of the Canadian Regiment's Grenadiers, could hardly have considered de Hertel's conduct without recalling the plight of his own son three years prior. A violent altercation between Edward Cartwright Jr. and

⁷⁴ Ibid, 1.

⁷⁵ Ibid, Charge, 2.

⁷⁶ Ibid, Members of the Court, 1.

⁷⁷ Upper Canada Sundries, RG 5, A 1, vol. 23, May-August 1815, 9819-21, LAC.

fellow 41st lieutenant John Winslow on 30 March 1812 in the officer's mess at Fort George prompted Major-General Brock to demand the resignation of both men; young Cartwright was only reinstated after much string-pulling on his father's part.⁷⁸

De Hertel's court martial—held at the half-built Fort Mississauga at the mouth of the Niagara River—began by hearing witnesses for the prosecution on 1 and 2 August. After Peach's testimony, Poitras, Montigny and Taylor each delivered brief statements recalling the events of 22 May before being cross-examined by the Prosecutor (Peach), the Prisoner (de Hertel), and members of the Court.

Granted a day's adjournment to finish preparing his defence, de Hertel began his opening statement at 10 o'clock on 4 August, launching into an address of astonishing vitriol. Decrying the stain made by the allegations on his character, he began a protracted evisceration of his adversary.⁷⁹

"Incapable of any of [his] Duties" since joining the regiment, de Hertel alleged, Lieutenant Peach had been "surreptitiously obtruded on the Army contrary to the King's regulations," no doubt through the nepotism of his scheming father.⁸⁰ Peach, a "very young man," though no younger than de Hertel himself, was supposedly "treated with contempt" by his brother officers and regarded as "a boy yet within the Trammels of pupillage."⁸¹ Indeed, on seeing this incompetent outcast—"without any qualities of a Military Man"—in uniform, "a Stranger and an Englishman would blush for the Service."⁸²

The defendant portrayed his own misconduct as a "trivial" transgression, unjustly pursued by a vengeful and interfering father.⁸³ The regiment's officers, de Hertel alleged, had often taken it upon themselves to personally punish Lieutenant Peach for his misdeeds. In fact, since their altercation on 22 May, his hapless nemesis had "submissively succumbed to indignities of a deeper cast" without recourse to courts martial.⁸⁴

⁷⁸ Robert Henderson, "Captains of the Canadian Fencibles in 1812", http://www.warof1812.ca/capt_cf.htm, accessed on 4 January 2016.

⁷⁹ WO 71/243, De Hertel GCM, Defence, 13-14.

⁸⁰ Ibid, 14.

⁸¹ WO 71/243, De Hertel GCM, 14.

⁸² Ibid, 19.

⁸³ Ibid, 16.

⁸⁴ Ibid, 15.

De Hertel pulled no punches: he recalled that Peach had been “thrown out of a Window” by an officer at York “for his Boyish indiscretions.”⁸⁵ But young Peach took “no notice” of this affront and his father had actually “sanctioned such treatment.”⁸⁶

De Hertel further claimed that Lieutenant Peach had once tried to bayonet him for “no other cause than complying with his Father’s desire.”⁸⁷ As punishment for this act of violence, Captain Peach apparently “chastised” his son with “his hands and a broomstick,” but his fellow officers excused such “shameful conduct” as the immature subaltern’s just desserts.⁸⁸

Yet de Hertel was not finished, recounting how Captain Peach had once reprimanded his son for an unspecified “flagrant breach of Military duty” in autumn 1814, calling him a “Damn’d Lousy shitten Blackguard!”⁸⁹

With all these examples, de Hertel implicitly decried an apparent unfairness: why was he being prosecuted for his conduct towards young Peach when so much rough justice towards this seemingly scorned subaltern had been disregarded? To de Hertel, his longstanding annoyance at Peach’s alleged immaturity, combined with a “moment of irritation,” surely constituted a “strong palliation” if not an “exculpation” of his actions on 22 May.⁹⁰

The defendant also obliquely hinted at talk of a duel, crediting himself for having “resisted another mode of redress”—one that unspecified “others” may have suggested to Peach.⁹¹ De Hertel further claimed he felt “much peace of mind from the reflection that I am guiltless of [Peach’s] Blood.”⁹²

But the indignant lieutenant continued to mock his adversary, lamenting the “palpable” ignorance of Peach Junior, who had once apparently embarrassed himself by “not knowing that January was the first month of the year.”⁹³ For this, as with all his sensational

⁸⁵ Ibid, 16-17.

⁸⁶ Ibid, 17.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ WO 71/243, De Hertel GCM, 15.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid, 17-18.

allegations, de Hertel insisted he could call on witnesses to corroborate his claims.

The defendant also branded Peach's testimony "contradictory," casting the young lieutenant—"too weak of intellect" to tell the same story twice—as a dimwitted puppet of his domineering father.⁹⁴

De Hertel further assailed the "most confused evidence" of francophone Poitras, a "Canadian who does not understand the import of words," but praised the more favourable testimony of Montigny and Taylor.⁹⁵ He contended that the accusations against him were "not proved" and demanded acquittal, but never directly denied having assaulted Peach.⁹⁶

De Hertel ended his defence with recourse to legal technicalities, arguing that the wording of the charge was "vague and insufficient."⁹⁷ Some of this was desperate grousing, but perhaps he had better grounds for questioning whether the epithet "bugger" was truly "scandalous and infamous."⁹⁸ If still "reprehensible amongst Gentlemen," he admitted, the term had been "neutralized" by "habit," no longer carrying immediate connotations of "infamy."⁹⁹

De Hertel's tirade, now concluded, had deeply shocked the Court, who vainly urged him to alter its "general tenor," and especially to remove the "violent and indecent language" throughout.¹⁰⁰ Witnesses were called for the defence but none spoke to de Hertel's sensational allegations against his fellow lieutenant.¹⁰¹

The Court, wary of collusion, questioned the three independent witnesses to the affair—Taylor and the two batmen—as to whether they had discussed their versions of events with anyone else before testifying in court. Concerns over influence, gossip and graft at trial were well-founded, and the resort to underhanded tactics by interested parties by no means surprising considering that careers and reputations hung in the balance. For instance, the case against Canadian Regiment Captain Thomas Hay for drunken misconduct

⁹⁴ Ibid, 18-19.

⁹⁵ Ibid, 18

⁹⁶ Ibid, 19-20.

⁹⁷ Ibid, 20.

⁹⁸ Ibid, 21.

⁹⁹ Ibid.

¹⁰⁰ Ibid, Opinion and Sentence, 29.

¹⁰¹ Ensign Taylor and Private Poitras were recalled for further questioning while Captain Ferguson, Captain Marshall, Lieutenant Nolan and Ensign Wilkinson were summoned by de Hertel to shed light on efforts to resolve the dispute before the trial.

in 1810 collapsed amidst allegations that both his accuser Sergeant Donald Fraser and Hay himself had bribed witnesses to support their sides of the story.¹⁰²

Five years later at Fort Mississauga, Taylor, Montigny and Poitras all denied having been influenced by others. Taylor, however, did recall overhearing a conversation between his servant and Lieutenant Peach concerning the events of 22 May.¹⁰³ While Poitras denied any recollection of such an exchange, this allegation nonetheless called the credibility of his testimony into question.¹⁰⁴

The following morning on 5 August 1815, de Hertel delivered his closing statement. He decried the unspecified “adventitious” circumstances that had deprived him of the promised testimony on Peach’s character, expressing hope that this evidence might be heard on a “future day.”¹⁰⁵ The Court may simply have refused to call his witnesses, deeming defenestration irrelevant to the matter at hand. But de Hertel nevertheless insisted he could prove his claims and defiantly refused to withdraw any part of his remarks, wishing “the whole” to appear on the record.¹⁰⁶

The defence having ended, the Court deliberated in private and reached its verdict by majority vote. De Hertel was found guilty of nearly all parts of the charge, though he was acquitted of behaving in a “scandalous and infamous manner” towards Peach, there not having been in the Court’s opinion sufficient evidence for such a strong appellation.¹⁰⁷ The defendant was sentenced to a severe public reprimand and a six-month suspension from rank and pay. But before closing the proceedings, the Court felt duty-bound to place on the record their “strong recommendation” that de Hertel modify his defence and deplored his “obstinacy” in ignoring their advice.¹⁰⁸

The case closed, the court martial proceedings were transmitted to Major-General Robinson, who forwarded them to Lieutenant-General Drummond at Quebec. In an accompanying letter, Robinson

¹⁰² WO 71/221, Captain Hay GCM, TNA.

¹⁰³ WO 71/243, De Hertel GCM, 9, 12, 22-23. According to Taylor, the substance of their discussion apparently agreed with Peach’s version of events.

¹⁰⁴ Ibid, 22-3. De Hertel did not fail to exploit this revelation in his closing statement, proclaiming that ‘Private Poitras’s evidence is now gone’, 26.

¹⁰⁵ Ibid, Defence closing statement, 26.

¹⁰⁶ Ibid, 26.

¹⁰⁷ Ibid, Opinion and Sentence, 28.

¹⁰⁸ Ibid, 29.



Officers at a regimental court martial, circa 1835. [Canadian Military History Gateway]

lamented that the trial exposed “such want of gentlemanly conduct on the part of several officers” of the Canadian Regiment.¹⁰⁹ He blamed the corps’ field officers and captains for being too preoccupied with obtaining leave for “urgent private affairs” to pay much attention to encouraging good behaviour amongst the subalterns.

As for de Hertel, Robinson saw his defence as “a new Offence in him,” setting all “Decency and Respect at Defiance.” Indeed, even if de Hertel’s characterization was accurate, Peach’s “youth and inexperience” demanded “different treatment” than violence. If de Hertel felt aggrieved with Peach, he should have exercised “forbearance at the moment” and made proper representation to his Commanding Officer after the fact.¹¹⁰

Having considered the proceedings, Drummond echoed Robinson’s sentiments.¹¹¹ He deemed the proposed sentence too lenient—“inadequate to the ends of justice and the circumstances of the case”—especially in light of de Hertel’s blistering defence. Drummond therefore withheld his approval of the judgement and

¹⁰⁹ 16 August 1815, RG 8 ‘C’ Series, vol. 167, 118, LAC.

¹¹⁰ Ibid.

¹¹¹ 26 August 1815, WO 71/243, Drummond’s Letter to the Judge Advocate General, TNA.



The Blue Barracks, the scene of the 22 May 1815 altercation between Peach and de Hertel, pictured here at Fort York in downtown Toronto. [Alex Avdichuk, City of Toronto Historic Sites]

forwarded the proceedings to England on the HMS *Dictator* for review by the Prince Regent.¹¹²

The papers reached the Judge Advocate General in Downing Street a month later and the Prince Regent subsequently confirmed the verdict, but further deemed de Hertel “an unfit person to remain in the army.”¹¹³ The offending lieutenant was to be dismissed from His Majesty’s Service. Yet the onset of winter left the suspended de Hertel in limbo at Fort George, awaiting news of his fate. Word only arrived with the spring ships in early 1816; Major de Haren reported that de Hertel had been informed of his dismissal on 24 March.¹¹⁴

Thus ended the unhappy affair, ten months after the initial altercation at York. Disgraced, de Hertel died in 1822 at Montreal, aged 26.¹¹⁵ The Canadian Regiment’s days were also numbered; a victim of post-war austerity, it was disbanded in the summer of 1816, relegating its officers to half-pay. Privates Montigny and Poitras were

¹¹² 26 August 1815, WO 71/243, Drummond’s Letter to the Commander in Chief, TNA.

¹¹³ 30 September 1815, RG 8 ‘C’ Series, vol. 167, 205, LAC; WO 91/10, Judge Advocate General’s Office: general courts martial reports, confirmed at home, 115, TNA.

¹¹⁴ 27 March 1816, RG 8 ‘C’ Series, vol. 168, 23, LAC.

¹¹⁵ Buried 16 February 1822 (died 12 February), Montreal, Basilique Notre-Dame: Baptism, Marriage and Burial record book, 1820-22.

both discharged on 10 August at Montreal.¹¹⁶ The latter took up 100 acres in the Perth Military Settlement as a reward for his service but evidently found clearing land tougher work than blacking boots and forfeited his grant.¹¹⁷ While Captain John Sidney Peach never returned to service, commuting his half-pay in return for a lump sum in 1826, John Carroll Peach joined the Royal African Corps as a lieutenant in 1818.¹¹⁸ His appointment in this inauspicious penal unit in Sierra Leone may indicate that he was indeed an unpromising (or penniless) officer, but in any case his service was short-lived. The younger Peach returned to half-pay after the corps' reduction the following year. He married the widowed Jane Vandeleur in 1822 and had one daughter. Although nominally based in Roscommon, Ireland, Peach spent much of his later life in France and Florence, where he died on 12 December 1862.¹¹⁹

As for the scene of the altercation, one-half of the original Blue Barracks, the location of Ensign Taylor's room, still stands at Fort York in Toronto, now a museum in the shadow of the skyscrapers of Canada's largest city.¹²⁰

Two centuries on, the trustworthiness of de Hertel's defence, undoubtedly the product of bitter animus, remains difficult to gauge. No other known documents discuss young Peach's alleged transgressions, though the informal retributive abuse allegedly dealt to him by the regiment's officers does not by its nature leave paper trails. That said, this author remains eternally vigilant for any 1815 receipts for window repairs at York.

¹¹⁶ WO 12/10526, Canadian Regiment Pay Lists, TNA.

¹¹⁷ MG 9, D8-27, Vol. 1, Perth Military Settlement Fonds, LAC. Granted land in Beckwith in 1817, Poitras exchanged his lot for one in Drummond Township the following year, but does not appear in subsequent censuses and assessment lists. The author is grateful to Ron W. Shaw for his assistance in tracking Poitras.

¹¹⁸ 25 October 1826, 'From the London Gazette', *The Morning Post*; 25 April 1818, WO 25/771/58, TNA.

¹¹⁹ A member of the sprawling Anglo-Irish Vandeleur clan, Jane was the eldest daughter of Colonel Boyle Vandeleur of Ralahine in Co. Clare. See 21 May 1847, 'Marriages', *Freeman's Journal and Daily Commercial Advertiser* (Dublin); See Peach's service records, WO 25/771/58 and WO 25/819, TNA. For his obituary, see Sylvanus Urban, *The Gentleman's Magazine*, vol. 214 (London: John Henry and James Parker, 1863), 256.

¹²⁰ The eastern half of the Blue Barracks was torn down in 1838. The western half was dismantled due to its deteriorated state in 1932 but was reconstructed using substantially original materials and still stands today.

In a limited sense, the de Hertel case was a sorry little saga on the edge of empire, one amongst many hundreds of general courts martial of the age. Yet its study provides remarkable if fleeting insight into the Canadian Regiment, and more broadly, the British Army, illuminating both the workings of military justice as well as contemporary views towards honour and misconduct.

While de Hertel's misdeed demanded "proper atonement" in the eyes of his brother officers, they deemed an apology sufficient recompense; one transgression need not ruin a young subaltern's career. But virtually everyone up to and including the Prince Regent himself deplored de Hertel's savaging of Peach's character, regarding his unwarranted assault on a fellow subaltern's honour, irrespective of its actual merit, as an offence unto itself.

While the entire affair may seem frivolous and inconsequential to modern readers—and certainly undeserving of royal attention—officers' feuds had potentially grave ramifications for military discipline. Whether the de Hertel saga sowed wider divisions in the officers' mess of the Canadian Regiment remains unclear, although two other officers of the corps were arrested for unknown reasons in May 1816.¹²¹

Yet numerous other examples illustrate how personal animosities could jeopardize the morale and military effectiveness of British Napoleonic-era battalions. For instance, as Andrew Bamford outlined, a vendetta between two officers of the 55th Foot, culminating in a violent public beating in the streets of Windsor in 1813, repeatedly disrupted the regiment's cohesion.¹²² Sometimes, drastic measures were required to resolve the havoc wrought by such quarrels. Following a brief and lacklustre spell of Peninsular service, the mess room of the 85th descended into exceptionally bitter infighting, coming to a head with a spate of general courts martial based on mostly groundless charges filed by the regiment's officers against each other out of spite. The Commander in Chief of the British Army, the Duke of York, lamented how the rancour within the 85th had "sapped the foundation of discipline and subordination among the Officers" and

¹²¹ The officers were Captain Josias Tayler and Ensign Flavien Dufresne. See WO 17/312, 25 May 1816 Canadian Regiment Monthly Return, TNA.

¹²² Andrew Bamford, "'Dastardly and Atrocious': Lieutenant Blake, Captain Clune and the recall of the 55th Foot from the Netherlands, 1814', *Journal of the Society of Army Historical Research*, Vol.92, (2014), 210-222.



A satirical depiction, attributed to James Gillray, of the 1782 court martial of Lieutenant-General James Murray at Horse Guards. [Courtesy of the John Carter Brown Library at Brown University.]

“destroyed their respectability, generally speaking, in the eyes of the men,” rendering “the services of the regiment, in a great measure, lost to the country.”¹²³ Convinced that only wholesale reorganization could eradicate the “deep-rooted evil” of factionalism within the regiment, the Prince Regent ordered the complete replacement of the 85th’s officer corps in 1813 from the lieutenant-colonel down to the assistant surgeon, dismissing some and exchanging the remainder into other units.¹²⁴ Discipline was restored with the influx of new blood and the regiment served with distinction both in the Peninsula and in the War of 1812’s Chesapeake and New Orleans campaigns. The experience of the 85th, though exceptional, serves as an extreme demonstration of the toxic effects of officers’ disputes on the order and efficiency of the early nineteenth-century British regimental system.

But when the cancer of quarrelling was more contained, officer corps had the capacity to self-regulate by settling conflicts amongst individuals through collective action. The de Hertel case provides

¹²³ Charles James, *A Collection of the Charges, Opinions, and Sentences of General Courts Martial* (London: Egerton, 1820), 475.

¹²⁴ Ibid, 476. See also Andrew Bamford, *Sickness, Suffering, and the Sword: The British Regiment on Campaign, 1808-1815* (Norman: University of Oklahoma Press, 2013), 62. One officer, Captain George Brown, was spared from the cull as he had been absent at the Royal Staff College since he exchanged into the 85th.

particularly candid insight into one such attempt to negotiate an amicable settlement. These communal efforts were by no means uncommon; Arthur N. Gilbert has documented for the mid-eighteenth-century British Army how an officer corps could serve as an “informal mediating body” for dispute resolution, employing peer pressure and especially the threat of ostracism to encourage reconciliation.¹²⁵

But for the intransigence of Captain Peach, this affair also would likely have been settled out of court and thus condemned to historical oblivion. With its coverage of collective conciliatory efforts and allegations of corrective rough justice meted out towards a wayward subaltern, the de Hertel case serves as a reminder of the unquantifiable though certainly very great number of officers' misdeeds and quarrels remedied without recourse to courts martial. Such feuds and transgressions were instead resolved through assorted extralegal means, ranging from private apologies and illicit duels to, as in the case of Cartwright and Winslow, resignation to escape the ignominy of trial. Analogous to the “dark figure” of unreported crime familiar to historians of civil justice, these affairs are largely absent from the historical record, barring mention in memoirs and correspondence.

Yet some cases did go to trial, despite or in the absence of alternate methods of resolution, and many of the proceedings, transmitted to Horse Guards for royal approval, survive in full at The National Archives in London. The minutes of these general courts martial afford astonishing insight into manifold aspects of early nineteenth-century military life, from guard mounting and parades to relations with civilians and behaviour on the battlefield. The first-hand testimony they record often permits the vivid reconstruction of discrete moments in time, from the tense standoff between 41st Lieutenant Small and a truculent Upper Canadian farmer over the requisitioning of his horses to the anxious hours within Fort Erie before Major Buck's capitulation on 3 July 1814.

Although most provide forensic dissections of the mess disputes, personal vendettas and inebriated antics of the officer class, some trials detail the misadventures of ordinary soldiers. The proceedings of general courts martial give voice to otherwise inaudible common

¹²⁵ Arthur N. Gilbert, ‘Law and Honour among Eighteenth-Century British Army Officers’, *The Historical Journal*, Vol. 19, No. 1 (March 1976), 83.

men, like broken-hearted 49th deserter Hugh Kelly, “wild, dissipated” 100th Private Thomas Quinn and Canadian Regiment malcontent James Wilson. It is not hard to imagine, based on his deposition, the shock of Royal Scots sentry Richard Young on seeing his officers clobber each other with a spyglass on the quarterdeck of the transport *Harford* en route to Quebec in 1812. But beyond such entertaining and even salacious accounts of outrageous behaviour lie telling and otherwise unrecoverable insights into soldiers’ daily lives. For instance, testimony given at trial illuminates the linguistic divide between Francophone and Anglophone rankers of the Canadian Fencibles, partially if inadequately bridged through the adoption of an *ad hoc* Franglais argot.¹²⁶

Yet despite their promise as historical sources, the proceedings of Napoleonic-era general courts martial, in contrast to those of the eighteenth-century British Army, have been almost wholly ignored by scholars.¹²⁷ Amongst the scores of North American trials, including that of Lieutenant de Hertel, only the cases of Major-General Henry Procter and 41st Lieutenant Benoit Bender have received any attention from historians. This author intends to rectify this oversight in the coming years through intensive study of the surviving corpus of general courts martial. Considered together, they promise to constitute by far the finest untapped body of primary sources on the Napoleonic and War of 1812-era British Army. To channel Emmanuel Le Roy Ladurie, a veritable military Montaigne awaits.

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ABOUT THE AUTHOR

Eamonn O’Keeffe is entering his third year of undergraduate studies in Modern History at Merton College, Oxford and recently completed his term as President of the Oxford University History Society. He currently serves as Drum-Major of the Fort York Guard, leading the recreated fife and drum

¹²⁶ WO 71/221, Captain Hay GCM, TNA.

¹²⁷ For an exception, see Carole Divall, *Inside the Regiment: the Officers and Men of the 30th Regiment during the Revolutionary and Napoleonic Wars* (Barnsley: Pen and Sword, 2011), an excellent book which summarizes several 30th Regiment general and regimental courts martial. Ben Hughes also drew on the printed proceedings of the general court martial of Lieutenant-General John Whitelock for his book, *The British Invasion of the River Plate 1806-1807: How the Redcoats Were Humbled and a Nation Was Born* (Barnsley: Pen and Sword, 2013).

corps of the Canadian Regiment of Fencible Infantry in music and artillery demonstrations each summer at Fort York, Canada's best-preserved War of 1812 historic site, in downtown Toronto. His interests primarily lie in the study of the Napoleonic British Army, its practices, and the lives of its members, with some emphasis on its experiences in North America. Besides researching courts martial, Eamonn is pursuing a dissertation on early nineteenth century military music and is also working on a project, *Voices from the Ranks*, to identify and publish previously unknown British common soldiers' memoirs of the War of 1812. Some of his past work can be found on his website, 1812 and all that (www.1812andallthat.wordpress.com).

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26 ∴ *Such Want of Gentlemanly Conduct*

28 ∴ *Such Want of Gentlemanly Conduct*

30 ∴ *Such Want of Gentlemanly Conduct*