

## **“The Full Force of the Law”: Disciplining the Workforce of a French Naval Dockyard in the Eighteenth Century**

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The War of the Spanish Succession was not quite concluded in January 1713 when the French navy minister Pontchartrain received word that essential stores had been stolen by night from the base at Rochefort. He immediately dispatched a stern note to the dockyard’s civilian administrator, Beauharnais: “the King wishes the guilty parties to be put on trial.”<sup>1</sup> By the end of the month however only one person had been identified and prosecuted. Not only was the offender acquitted of all charges, but Beauharnais went on to provide the minister with a glowing endorsement of the man’s long service and good character.<sup>2</sup> This case study reminds us of the importance that the government of *ancien régime* France attached to safeguarding naval materiel, particularly during wartime. Historians have noted that those official preoccupations were reflected in the severe and often brutal punishments that the laws prescribed for convicted offenders. Yet the full force of those laws was often not applied. Such a divergence between intention and practice requires investigation: idiosyncratic decisions by individuals or systemic inefficiency are unsatisfactory and rather superficial explanations. This paper seeks in the first instance to argue that avoiding the full force of the law represented a consistent pattern of behavior by the men in

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<sup>1</sup> Archives du port de Rochefort, Service historique de la Défense [henceforth APR, SHD]: 1E 81, Dépêches de la Cour adressées à l’Intendant (5 Jan. 1713).

<sup>2</sup> APR, SHD: 1E 342, Correspondance de l’Intendant avec la Cour (30 Jan. 1713).

charge of France’s royal dockyards during the early-eighteenth century.<sup>3</sup> I then go on to suggest that the apparent anomaly between rigorous legal prescriptions and haphazard enforcement is best understood by examining the discretionary nature of naval justice in this period.

Naval dockyards were by far the largest, most complex and most populated workplaces in pre-industrial Europe. For those reasons they were also the most heavily policed. From Robert Davis’s research on the Venetian Arsenal and Malcolm Crook’s study of Toulon, to more recent work by Ken Lunn and Ann Day on British naval dockyards, these huge state-run enterprises have attracted extensive scholarly attention.<sup>4</sup> In southwestern France the naval base at Rochefort was constructed on the orders of Louis XIV in the mid-seventeenth century, and remained a major center of naval construction throughout the eighteenth century. René Mémain (in 1937) and Martine Acerra (in 1993) published definitive histories of Rochefort during the seventeenth and eighteenth centuries.<sup>5</sup> Both historians noted the recurrence of workplace disputes or insubordination, and referred in passing to official complaints about the incidence of thefts, usually involving timber or other stores. But neither scholar gave the impression that these were issues of great moment in the life of the naval dockyard and its workforce.<sup>6</sup>

This attitude is understandable because, like most of France’s naval bases, the archives at Rochefort have preserved almost no documentation about the administration of naval justice before about 1800.<sup>7</sup> Historians of the pre-revolutionary period are therefore forced to rely on the copious but incomplete records of official correspondence exchanged between the navy minister and the two leading authorities at each dockyard: the military commander (*chef d’escadre* or commandant) and the civilian administrator (intendant).<sup>8</sup> These documents highlight the chronic financial problems that led to recurrent delays in paying dockyard workers, which triggered periodic tensions during the eighteenth century. There were occasions when those tensions found expression in work stoppages or wrangles over the removal of naval materiel. Unfortunately the records offer almost no clues about workers’ motives for taking pieces of timber, iron, rope or other stores. On the other hand the surviving correspondence provides vivid insights into how the dockyard workforce was policed

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<sup>3</sup> British usage translates the French word *arsenal* as ‘dockyard’, which is equivalent to ‘navy yard’ in the US and serves to differentiate state-owned or managed organizations from commercial shipyards that built and refitted merchant vessels.

<sup>4</sup> Robert C. Davis, *Shipbuilders of the Venetian Arsenal: Workers and Workplace in the Preindustrial City* (Baltimore, 1991); Malcolm Crook, *Toulon in War and Revolution: From the Ancien Régime to the Restoration, 1750-1820* (Manchester and New York, 1991); Kenneth Lunn and Ann Day, eds, *History of Work and Labour Relations in the Royal Dockyards* (London, 1999). See also Roger Morriss, “Labour Relations in the Royal Dockyards, 1801-1805,” *The Mariner’s Mirror* 62 (1976): 337-46; Morriss, *The Royal Dockyards during the Revolutionary and Napoleonic Wars* (Leicester, 1983); Mary Hilson, “Labour Politics in a Naval Dockyard: The Case of Karlskrona, Sweden, c. 1880-1925,” *International Review of Social History* 46 (2001): 341-69.

<sup>5</sup> René Mémain, *La Marine de guerre sous Louis XIV: le matériel. Rochefort, arsenal modèle de Colbert* (Paris, 1937); Martine Acerra, *Rochefort et la construction navale française, 1660-1815*, 4 vols (Paris, 1993).

<sup>6</sup> For example Acerra, *Rochefort et la construction navale*, 1:132-33.

<sup>7</sup> Alain Berbouche, *Marine et justice: la justice criminelle de la Marine française sous l’Ancien Régime* (Rennes, 2010), 7 and n.2. See also Dick Lemoine, *Répertoire numérique des archives maritimes de Rochefort: sous-série 3O, Institutions de répression* (Paris, 1929), 10.

<sup>8</sup> APR, SHD: Sous-série 1A, *Fonds du Commandant de la Marine; Sous-série 1E, Fonds du Principal administrateur du port (Intendant de la Marine)*. See also Marc Fardet, “Les archives de l’arrondissement maritime de Rochefort,” *Chronique d’histoire maritime* 13 (1986): 15-32.

and disciplined. The incidence of workplace disorder and appropriations in a naval dockyard has implications for a range of important issues – employment conditions of the workforce, procedures for remuneration and the organization of production within the dockyard. Acerra in particular has highlighted key features of these themes as they related to life at Rochefort.<sup>9</sup> My aim is to supplement Acerra’s study by focusing on an area that did not get much attention in her otherwise comprehensive work: how the dockyard authorities policed their workforce and enforced the laws.

According to the legislation that governed the navy and naval dockyards of *ancien régime* France for much of the eighteenth century – the *Ordonnance de marine* of 1689 – the range of possible offenses and offenders was vast, judicial proceedings could be concluded with great rapidity and the prescribed penalties were harsh.<sup>10</sup> In the absence of seventeenth-century sources about Rochefort’s workforce, Mémain relied on the provisions of that period’s legislation – a *règlement* from 1674 and the 1689 *Ordonnance* – in order to explore working conditions in the dockyard. His descriptions thus highlighted both the rigorous work schedule and the onerous punishments for those who broke the rules. For instance depositing “ordures” in the dockyard at a place other than the designated latrines (“garderobes ou retraits”) could result in a fine of one *écu*, which amounted to three days’ wages for some workers and a week’s pay for most.<sup>11</sup> In a similar vein Alain Berbouche’s recent book *Marine et justice* gives prominence to some spectacular cases, among them a “matelot journalier” and his wife who were summarily convicted of stealing iron from the anchor forge at Brest in 1731: the sailor was subjected to judicial torture and then hanged.<sup>12</sup> The 1765 provisions for conducting a court martial (*conseil de guerre*) were no less forbidding – although as Berbouche pointed out this was the same period in which the British admiral Byng was shot by firing squad for not doing enough to defend Minorca.<sup>13</sup> Maintaining naval discipline was a high priority for the rulers of eighteenth-century Europe.

Berbouche works in the history of law however, so (like Mémain’s chapter on workers) his research draws heavily on prescriptive statements such as royal ordinances and other normative sources. Perhaps as a consequence Berbouche’s book tends to paint an intimidating picture of inflexible naval justice in eighteenth-century France. This image is questioned by the evidence I found, especially in relation to policing and disciplining the dockyard’s workforce. The laws and regulations of French naval justice were harsh, and the formal rhetoric about their application was usually uncompromising. Thefts of materiel or buying naval stores from sailors, marines or dockyard workers could result in corporal punishment, and serious cases might lead to even more severe penalties. Those who abandoned their work were considered to be deserters and could be sentenced to life in the galleys.<sup>14</sup> This official discourse found physical expression in the dockyard’s architecture, as illustrated for instance by the impressive gates of Rochefort’s main entrance, the *Porte du Soleil*.

<sup>9</sup> For example Acerra, *Rochefort et la construction navale*, 1:126-31; 3:540-51.

<sup>10</sup> *Ordonnance de Louis XIV pour les armées navales et arcenaux [sic] de marine* (Paris, 1689), Livre IVe, Titre Ier “De la justice de guerre,” 76-82; Titre II “Des peines,” 82-93.

<sup>11</sup> Mémain, *Marine de guerre*, 549-55, esp. 550-51; *Ordonnance de marine* (1689), Livre XIe, Titre Ier, Article XVI, 219.

<sup>12</sup> Berbouche, *Marine et justice*, 96-98.

<sup>13</sup> Berbouche, *Marine et justice*, 98-102, 105-06.

<sup>14</sup> *Ordonnance de marine* (1689), Livre XIe, Titre Ier, Articles XVII and XVIII, 219-20; Livre IV, Titre II, Articles I and II, 82.

But implementation of these regulations and the imposition of prescribed punishments were in practice frequently moderated or even ignored.

One explanation is provided by James Pritchard’s study of the French navy in the mid-eighteenth century. Pritchard outlined the wide-ranging judicial powers available to senior naval officials in that period, but went on to detail a host of examples from various royal dockyards that demonstrated the persistence of indiscipline among the workforce, whether thefts, dereliction or insubordination.<sup>15</sup> Like Berbouche, Pritchard highlighted some startling examples of punishment and retribution that were not only severe but also arbitrary and extra-judicial. Yet he concluded that “discipline in the arsenals posed several thorny problems that were never resolved [during the eighteenth century] ... because no clear disciplinary system was in place.”<sup>16</sup>

This paper offers an alternative view. Drawing on the correspondence exchanged between ministers and the authorities in Rochefort, I indicate some of the evidence about official responses to thefts and workplace disorder committed by dockyard personnel, and relate them to the problems of policing, jurisdiction and enforcement in this period. Most of my sources come from the first half of the eighteenth century, and all predate the first delivery of convict labor to Rochefort in 1767.<sup>17</sup> I then provide an explanation for inconsistencies in applying the law in France’s royal dockyards. The discretionary nature of naval justice in this period served more than one purpose: it could offer salutary examples of judicial punishment that aimed to act as a deterrent, while also offering opportunities for the naval authorities to dispense clemency and moderation. Yet its less obvious purpose was to enhance the flow of information between the dockyard and the capital, by fostering an atmosphere in which the workers and officials were encouraged to inform on each other. In all these ways the discretionary exercise of naval justice inculcated an *esprit de corps* while reinforcing a measure of obedience and conformity among naval personnel.

Rochefort was purpose-built as a naval dockyard, which meant the base was heavily fortified. Acerra observed that the initial priority in the 1670s was to minimize the threat of an attack by sea, which resulted in the construction of downriver and coastal fortifications such as Fort Boyard.<sup>18</sup> To defend against a land-based assault Rochefort was enclosed by substantial ramparts, some of which are still visible today. But two major problems persisted. Firstly the walls enclosed both the dockyard and the town, which necessitated the erection of a barrier between the two: hence the imposing Porte du Soleil. Then like all dockyards Rochefort had to be open to the water, in this case the River Charente. Issues of external security understandably loomed large in the official correspondence.<sup>19</sup> Perhaps of even greater concern however were the problems of securing the dockyard’s internal spaces. Within such a vast complex, where many hundreds of workers, artisans, sailors, soldiers, entrepreneurs and dockyard officials moved to and fro on a daily basis, there were

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<sup>15</sup> James Pritchard, *Louis XV’s Navy, 1748-1772: A Study of Organization and Administration* (Kingston and Montréal, 1999), 38-39, 117-23.

<sup>16</sup> Pritchard, *Louis XV’s Navy*, 118.

<sup>17</sup> Pritchard, *Louis XV’s Navy*, 108.

<sup>18</sup> Acerra, *Rochefort et la construction navale*, 1:64-68.

<sup>19</sup> For example APR, SHD: 1E 56, Dépêches de la Cour adressées à l’Intendant (23 June 1706); 1E 88, Dépêches de la Cour adressées à l’Intendant (21 Sept. 1716); 1E 345, Correspondance de l’Intendant avec la Cour (8 Oct. 1716).

obvious concerns to regulate the movement of people, materiel and even animals.<sup>20</sup> Despite a sizable contingent of watchmen, gatekeepers and military personnel, the sheer extent of the arsenal and its varied population offered innumerable opportunities for theft, absenteeism, agitation and negligence. Like the foremost preoccupation among provisions for dockyard security announced in the *Ordonnance* of 1689, ministers were perpetually anxious about the dangers of fire – a potentially catastrophic threat in a workplace dominated by stockpiles of wood, tar, rope, canvas and (above all) gunpowder.<sup>21</sup> According to the ministers' correspondence, dockyard fires were almost always presumed to result from the deliberate work of "ill-intentioned" individuals.<sup>22</sup>

Suspected arsonists invariably proved to be elusive, however, although dockyard thieves and trouble-makers were certainly apprehended at Rochefort, and a few cases resulted in judicial penalties. In 1708, for example, several thefts of lead, ropes and other materiel were judged summarily by the intendant Bégon, which led to one man being sentenced to the galleys.<sup>23</sup> Yet the perpetrators were not always laborers. Many of the larceny cases that were identified by dockyard officials were attributed to soldiers, especially those on night duty.<sup>24</sup> In 1718 the Regency's Conseil de Marine demanded information about the punishment to be meted out to a soldier who was caught in the dockyard's enclosure (*parc*) cutting a length of construction timber into smaller pieces. They also wanted the intendant to ensure that disciplinary action was taken against the sentry who had failed to stop this offense.<sup>25</sup>

Policing the removal of naval stores was complicated in the early modern period by the widespread assumption among shipwrights and carpenters that they were entitled to supplement their wages with fuel in the form of unserviceable timber off-cuts and trimmings, often called "chips" in England and *copeaux* in France. Dockyard authorities repeatedly inveighed against this practice, as Davis observed from the records of the Venetian Arsenal, and similar problems confronted Britain's Royal Navy, where chips were abolished only in the late-eighteenth century.<sup>26</sup> There are clear indications during the first half of the eighteenth century that the removal of chips was permitted at Rochefort, although the official correspondence offers no direct evidence that the workforce actually claimed such an entitlement.<sup>27</sup>

<sup>20</sup> For example APR, SHD: 1E 88, Dépêches de la Cour adressées à l'Intendant (26 Aug. 1716); 1E 90, Dépêches de la Cour adressées à l'Intendant (2 Feb. 1718); 1E 94, Dépêches de la Cour adressées à l'Intendant (11 Mar. 1720). On the problems caused by animals moving around the dockyard see APR, SHD: 1E 404, Correspondance de l'Intendant avec la Cour (18 July 1743).

<sup>21</sup> *Ordonnance de marine* (1689), Livre XIe, Titre Ier, Articles Ier-XI, 214-18. Rochefort experienced two serious fires only a few months apart in 1756; arson was widely suspected but no perpetrators were ever identified: Pritchard, *Louis XV's Navy*, 120.

<sup>22</sup> APR, SHD: 1E 56, Dépêches de la Cour adressées à l'Intendant (24 Jan. 1706); 1E 63, Dépêches de la Cour adressées à l'Intendant (27 June 1708).

<sup>23</sup> APR, SHD: 1E 63, Dépêches de la Cour adressées à l'Intendant (18 Apr. 1708).

<sup>24</sup> For example APR, SHD: 1E 88, Dépêches de la Cour adressées à l'Intendant (21 Sept. 1716). See also 1E 81, Dépêches de la Cour adressées à l'Intendant (5 Jan. 1713); 1E 86, Dépêches de la Cour adressées à l'Intendant (27 Mar. 1715); 1E 151, Dépêches de la Cour adressées à l'Intendant (28 Jan. 1753, 25 Feb. 1753).

<sup>25</sup> APR, SHD: 1E 90, Dépêches de la Cour adressées à l'Intendant (2 Feb. 1718).

<sup>26</sup> Davis, *Shipbuilders of the Venetian Arsenal*, 119-20. Compare R. J. B. Knight, "Pilfering and Theft from the Dockyards at the Time of the American War of Independence," *The Mariner's Mirror* 61 (1975): 215-25; Peter Linebaugh, "Ships and Chips: Technological Repression and the Origin of the Wage," in *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London, 1991), 371-401.

<sup>27</sup> Pritchard's survey of work practices in several French dockyards around the mid-eighteenth century observed that "very little is known about working-class customs": Pritchard, *Louis XV's Navy*, 121.

Increasingly, however, the French naval authorities were keen to limit this practice, especially by regulating the timing (chips were to be available once a fortnight rather than weekly) and by inspecting all materiel to ensure that no nails or other ironwork remained in wood that was removed from the dockyard. These stipulations were comprehensively set out in a directive from the Conseil in 1716, and the intendant was instructed to remind his workforce about the strict injunctions against theft in the 1689 *Ordonnance*.<sup>28</sup>

Policing the movement of people in and out of the dockyard gates was bound to give rise to complaints, dissent and (occasionally) conflict. In an obviously serious case in 1739 a gatekeeper assaulted the wife of a dockyard worker who had come to deliver her husband’s lunch. According to the intendant the same guard had previously been involved in violent encounters with workers who were removing chips at the permitted times. He had also demonstrated a disinclination to obey orders from the base’s civilian officers. The correspondence prompted by this case incidentally reveals that twenty-three years after the Conseil’s 1716 directive, the permitted times for workers to remove chips had reverted to “traditional” practice: chips were being taken on Saturdays rather than Sundays, and weekly rather than fortnightly.<sup>29</sup> Within a few weeks moreover the minister Maurepas went on to endorse the role of Rochefort’s intendant in overseeing the workers’ removal of wood chips from the dockyard.<sup>30</sup> At least in the first half of the eighteenth century such matters were clearly considered to be questions of “police” – in the *ancien régime* sense of both regulation (*règlement*) and the maintenance of good order – rather than justice.<sup>31</sup>

One recurrent theme in the letters, instructions and admonitions of various ministers was the assumption that the persistence of thefts must involve the incompetence – perhaps even the connivance – of dockyard authorities. When two Rochefort employees were arrested carrying off a piece of naval timber in 1706, Pontchartrain claimed that the thieves had received encouragement and protection from dockyard officials, and went on to insist that the intendant Bégon was not doing enough to identify those involved and sanctioned them.<sup>32</sup> The previous year a master caulker had been convicted of theft in the dockyard, leading Pontchartrain to berate Bégon about lax standards at Rochefort: “They hope to get away with it, or [if apprehended and convicted] to be given only a light punishment,” the minister wrote. “[That is what] makes these men bold and lacking in loyalty.”<sup>33</sup> When accusations of theft were leveled at senior officers, moreover, the suspicions of successive ministers seemed to be confirmed. In 1720 the Capitaine d’armes at Rochefort was accused of stealing iron and ropes aboard a naval vessel: the Conseil announced they were “scandalized” at the complacency of the dockyard’s authorities.<sup>34</sup>

Yet several alleged thefts that were investigated at Rochefort did not seem to result in convictions. In July 1752 eight soldiers were charged with stealing cast-iron weights from the royal ropeworks (*corderie*). When their case was concluded seven months later, seven of the men were acquitted and the only one found guilty was

<sup>28</sup> APR, SHD: 1E 88, Dépêches de la Cour adressées à l’Intendant (21 Sept. 1716). Comparable efforts were made in the 1750s by the navy’s intendants at Brest and Dunkirk: Pritchard, *Louis XV’s Navy*, 121.

<sup>29</sup> APR, SHD: 1E 368, Correspondance de l’Intendant avec la Cour (11 Apr. 1739).

<sup>30</sup> APR, SHD: 1E 129, Dépêches de la Cour adressées à l’Intendant (26 Apr. 1739).

<sup>31</sup> The ARTFL Project: Dictionnaires d’autrefois, “Police,” *Dictionnaire de l’Académie française*, 1<sup>st</sup> edn (Paris, 1964), artflsrv02.uchicago.edu/cgi-bin/dicos/pubdico1look.pl?strippedhw=police.

<sup>32</sup> APR, SHD: 1E 56, Dépêches de la Cour adressées à l’Intendant (6 June 1706).

<sup>33</sup> APR, SHD: 1E 54, Dépêches de la Cour adressées à l’Intendant (15 July 1705).

<sup>34</sup> APR, SHD: 1E 94, Dépêches de la Cour adressées à l’Intendant (8 Jan. 1720).

convicted in absentia. A public notification (*affiche*) of the judgment was nonetheless to be posted around the dockyard.<sup>35</sup>

This high-level correspondence conveys the distinct impression, in fact, that prosecuting dockyard crimes and subjecting those convicted to judicial punishments were not the highest priority. In 1704 Pontchartrain offered Bégon advice on how to deal with misappropriations (*malversations*) committed by dockyard personnel, especially when eye-witnesses and other first-hand evidence might not be easy to come by: the intendant was instructed to act quickly by dismissing or transferring the alleged offender(s), without insisting on “judicial” proof of wrong-doing.<sup>36</sup> Half a century later little had changed: in 1754 the intendant Lenormant reported on the case of a master carpenter named Louis Gassin, who had been apprehended trying to steal naval timber by means of falsified paperwork. The minister Rouillé endorsed Lenormant’s decision to keep Gassin in prison for a month, and then banish him permanently from the dockyard as an example.<sup>37</sup>

In large part these informal procedures were adopted because of the difficulties in processing criminal prosecutions. There were certainly problems of finance and personnel. In 1715 some soldiers were accused of stealing ironwork from the dockyard; three months later they continued to languish in prison at His Majesty’s expense, while the intendant pleaded his office’s inability to find the 200 *livres* necessary to send the provost-marshal (*prévôt*) to La Rochelle to sort out questions of judicial competence.<sup>38</sup> And in 1717 the Conseil was warned that prosecuting dockyard thefts was made more time-consuming and less effective because there was only one court official (*huissier*) at Rochefort to serve writs and arrest warrants.<sup>39</sup> The fact that naval personnel could be called upon to serve at sea also caused delays.<sup>40</sup>

Yet beyond these considerations there seemed to be a pervasive reluctance to apply the full force of the law to any but the most blatant or hapless cases, whether thefts or other offenses. In 1721 the intendant Beauharnais reported that seventeen carpenters and caulkers had walked off the job. He compiled a list of the missing men’s names so that the military police (*prévôté*) could round them up and return them to Rochefort for punishment. Beauharnais then sought procedural advice from the Conseil on how to apply the *Ordonnance* of 1689, which stated that all those who abandoned their work should be treated as deserters. A subsequent ordinance of January 1717 prescribed the death penalty in such cases, Beauharnais noted, but he went on to point out that comparable matters involving carpenters and caulkers at Rochefort had previously resulted only in prison terms.<sup>41</sup> Louis de Bourbon replied on behalf of the Conseil to announce that they did not want the men tried by either procedure, since (as Bourbon claimed) there was “no ordinance that could serve

<sup>35</sup> APR, SHD: 1E 150, Dépêches de la Cour adressées à l’Intendant (28 July 1752); 1E 151, Dépêches de la Cour adressées à l’Intendant (28 Jan. 1753, 25 Feb. 1753).

<sup>36</sup> APR, SHD: 1E 51, Dépêches de la Cour adressées à l’Intendant (13 Sep. 1704).

<sup>37</sup> APR, SHD: 1E 382, Correspondance de l’Intendant avec la Cour (10 Apr. 1754); 1E 152, Dépêches de la Cour adressées à l’Intendant (21 Apr. 1754, 4 May 1754). In the spelling of Lenormant’s name I have followed the lead of Marc Perrichet, “Autour d’un intendant de Rochefort: Sébastien-François-Ange Lenormant de Mézi,” in *Rochefort et la mer: conférences à l’Université francophone d’été Saintonge-Québec, Tome 1, Technique et politique maritimes aux XVIIe et XVIIIe siècles*, CERMA (Jonzac, 1985), 79-84.

<sup>38</sup> APR, SHD: 1E 86, Dépêches de la Cour adressées à l’Intendant (27 Mar. 1715, 8 May 1715)

<sup>39</sup> APR, SHD: 1A 3, Dépêches de la Cour adressées au Commandant (22 Nov. 1717).

<sup>40</sup> APR, SHD: 1E 94, Dépêches de la Cour adressées à l’Intendant (8 Jan. 1720, 21 Feb. 1720, 31 May 1720).

<sup>41</sup> APR, SHD: 1E 350, Correspondance de l’Intendant avec la Cour (23 Nov. 1721).

precisely” to regulate this kind of case. Instead Beauharnais was instructed to bring them back by whatever means necessary. He should then put the “most mutinous ones” in prison for as long as he thought necessary, but not to withhold their pay “because their families might suffer.”<sup>42</sup>

Official attitudes of this kind abounded because the naval dockyard was a high priority, and its workforce was not easy to recruit, maintain and control. Both the central government and the dockyard authorities (the intendant and commandant) persisted in talking tough, but were apparently willing to pursue only the most egregious offenders. For perpetrators of what seemed to be the most common offenses – creating mayhem in the workplace or stealing small amounts of materiel – there was little enthusiasm to go through formal procedures of prosecution when keeping some of them in prison, and then banishing a few as examples would be both cost-effective and timely. Particularly in wartime the skills of dockyard artisans and workers were valuable. Policing Rochefort’s workers and enforcing the law during the first half of the eighteenth century thus appear to have been handled in a manner that was essentially paternalistic.<sup>43</sup> The approach adopted by both the navy minister and the dockyard authorities, the intendant and commandant, relied fundamentally on the exercise of discretion.

This point was observed by Berbouche, although he discussed it largely in the context of jurisdictional disagreements between the navy’s military and civilian officials, and between dockyard authorities and the ministers.<sup>44</sup> However a broader view would allow us to consider the overall effects of discretionary justice on the management and operations of the naval dockyard and its workforce. My thinking on this has been influenced by Douglas Hay’s path-breaking essay about the eighteenth-century criminal law.<sup>45</sup> Hay argued that discretionary justice was so long-lived in England because it served the “ideological” interests of those rich and powerful men who dominated the country’s political and judicial institutions. It did this by successfully balancing “terror” – the occasional but selective examples of severe judicial punishments enacted in public for the purpose of deterrence – with the exercise of “circumspection” and “delicacy” through the equally selective granting of commutations, reprieves and pardons.<sup>46</sup> Hay’s arguments were subjected to robust criticism at the time and subsequently. John H. Langbein and Peter King were among those who insisted that “discretion” in England was not confined to the rich and powerful of the eighteenth century, with the result that people from a wide range of social backgrounds could exercise some measure of agency at different stages of the criminal justice process. Decision-making about who was prosecuted, the charges they faced, their guilt or innocence and what kind of sentence they received was no doubt selective and – in such a hierarchical society – probably unegalitarian; but it was not arbitrary.<sup>47</sup>

Naval justice in eighteenth-century France demonstrated both similarities and differences with the issues raised by Hay and his critics. For a start this was not an

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<sup>42</sup> APR, SHD: 1E 97, Dépêches de la Cour adressées à l’Intendant (10 Dec. 1721).

<sup>43</sup> Compare Crook, *Toulon in War and Revolution*, 46, 72.

<sup>44</sup> Alain Berbouche, “La justice criminelle de la Marine royale sous le règne de Louis XVI,” *Revue historique de droit français et étranger* 75 (1997): 229; Berbouche, *Marine et justice*, 139-50.

<sup>45</sup> Douglas Hay, “Property, Authority and the Criminal Law,” in *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (London, 1975), 17-63.

<sup>46</sup> Hay, “Property, Authority and the Criminal Law”, 24-26, 49-56.

<sup>47</sup> John H. Langbein, “Albion’s Fatal Flaws,” *Past and Present* 98 (1983): 96-120; Peter King, “Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800,” *Historical Journal* 27 (1984): 27-58; King, *Crime, Justice and Discretion in England, 1740-1820* (Oxford, 2000).



accusatorial system like England's, in which decision-making by the victims of crime held great sway, particularly at the pre-trial stages. Instead decisions about prosecution, verdicts and punishments in the French navy lay in the hands of the powerful: especially when vessels were at sea, their commanding officers were the natural source of all legitimate authority.<sup>48</sup> In the naval dockyards that authority was vested in the intendants, commandants and other senior officers – as envisaged by the *Ordonnance* – but above all in the king's ministers.<sup>49</sup> Unfortunately we do not have enough evidence to identify a set of criteria by which these men made their judicial decisions about punishments and pardons. Yet it is clear that naval authorities routinely made choices of these kinds, some of which were matters of life and death.

The importance that Hay attached to deterrence is well illustrated in a host of letters by navy ministers to the dockyard officials at Rochefort, demanding that arrests, imprisonment, corporal punishments and public humiliations be carried out to make an "example". When Pontchartrain heard about a riot (*émeute*) among workers at Rochefort in 1706 he ordered the intendant Bégon to act immediately by throwing the "most mutinous" men in prison "as an example" to the rest.<sup>50</sup> In 1723 Beauharnais reported that he had punished with a brief period of imprisonment some rebellious carpenters and two men who stole planking of little value. The newly-appointed Maurepas retorted that "we need [to make] an example in order to stamp out this sort of pillaging," and went on to demand that the intendant have the offenders publicly displayed in the dockyard pillory (*carcan*).<sup>51</sup> Deterrence was also to be demonstrated by reminding dockyard workers of the sentences imposed on previous offenders. When thefts of lead, rigging and other materiel led to several convictions in 1708, including one man who was sent to the galleys, the minister instructed Bégon to ensure that his judicial decisions were printed on a poster (*affiche*) and publicized to the workforce, not only at Rochefort but other naval bases as well.<sup>52</sup> Finally the navy's enthusiasm for deterrence did not stop at the dockyard gates. In 1716 the Conseil de Marine insisted that Beauharnais could do more to safeguard dockyard stores by conducting unannounced searches of workers' homes in the town of Rochefort. This would be less disruptive to the dockyard's operations, the Conseil added, if it were done outside working hours.<sup>53</sup> Official searches of workers' residences seem to have been conducted quite often at Rochefort, and the pursuit of potential dockyard pilferers even extended to the routine policing of local markets and fairs.<sup>54</sup> As Acerra remarked, "relations between the naval intendant and the

<sup>48</sup> *Ordonnance de marine* (1689), Livre Ier, Titre VII, 10-20; Livre IVe, Titre Ier, 66-72.

<sup>49</sup> *Ordonnance de marine* (1689), Livre Ier, Titres I-V, 1-10.

<sup>50</sup> APR, SHD: 1E 57, Dépêches de la Cour adressées à l'Intendant (20 Oct. 1706). See also 1E 86, Dépêches de la Cour adressées à l'Intendant (27 Mar. 1715).

<sup>51</sup> APR, SHD: 1E 352, Correspondance de l'Intendant avec la Cour (23 Oct. 1723; 16 Nov. 1723); 1E 102, Dépêches de la Cour adressées à l'Intendant (7 Nov. 1723). Disagreements were not uncommon over judicial punishments that the minister regarded as insufficiently severe. For one well-documented example see APR, SHD: 1E 355, Correspondance de l'Intendant avec la Cour (4 May 1726 and 25 May 1726); 1E 107, Dépêches de la Cour adressées à l'Intendant (12 May 1726 and 2 June 1726); 1A 9, Dépêches de la Cour adressées au Commandant (12 May 1726, 2 June 1726 and 23 June 1726). Beyond the details offered by this correspondence however it is not always clear how such matters turned out.

<sup>52</sup> APR, SHD: 1E 63, Dépêches de la Cour adressées à l'Intendant (18 Apr. 1708).

<sup>53</sup> APR, SHD: 1E 88, Dépêches de la Cour adressées à l'Intendant (21 Sept. 1716).

<sup>54</sup> For examples of house searches see APR, SHD: 1E 57, Dépêches de la Cour adressées à l'Intendant (6 Oct. 1706); 1E 345, Correspondance de l'Intendant avec la Cour (4 Oct. 1716). On policing fairs and markets see APR, SHD: 1E 404, Correspondance de l'Intendant avec la Cour (16 July 1743).

municipality [of Rochefort] were always touchy on questions of policing.”<sup>55</sup> The overall effect of these actions was to remind both the dockyard workforce and the wider urban population that the naval authorities were in charge, and no contraventions would be tolerated.

Yet these same naval authorities issued repeated recommendations for moderation and clemency. After insisting in July 1705 that the king wanted the shipwrights who led a riot (*émeute*) aboard the *Africain* prosecuted with “the full force of the law,” a month later Pontchartrain had taken a less alarmist view of the disturbance and was counseling the intendant to be lenient: “do not continue the trial of those who took part in the unrest (*émotion*) six weeks ago... since things in this port are now in a state of calm and tranquility.”<sup>56</sup> As a case of mutiny that should have led inexorably to the imposition of severe punishments, this example reinforces the evidence of official leniency presented by similar examples cited in this paper.

In trying to reconcile this seeming contradiction it is worthwhile to consider how the naval authorities became aware of thefts, disorder and other forms of indiscipline. Berbouche suggested that while the prescriptive legislation presumed that most offenders would be caught in the act, in fact this was not common. Far more frequently dockyard offenses came to official attention by two main lines of communication: formal complaints (*plaintes*) lodged with the intendant or commandant, either personally or via another officer especially the provost-marshal; or by denunciation, usually anonymous.<sup>57</sup>

The Rochefort correspondence includes many examples that highlight precisely these two forms of procedure. But because the surviving documents are much more heavily weighted towards the ministers’ correspondence, it is the denunciations that loom largest. Usually the minister indicated that he had received a petition (*placet*), commonly anonymous, alleging offenses in the naval dockyard.<sup>58</sup> The intendant was then expected to respond appropriately. In the ministers’ vocabulary “appropriately” conveyed a need to apply the “full force of the law”, and on occasion it looks as if this is precisely what the intendants did. Yet there were several instances in which the intendants took a contrary view, and either exercised their personal discretion or used their authority over dockyard officers to resolve matters in a manner that suited local personnel, knowledge and circumstances. That is what may have been going on in the 1713 case with which this paper began: the accused was a corporal with a fifteen-year unblemished career, while the only eye-witness to his alleged theft was a young (seventeen or eighteen year-old) soldier who had been punished with extra guard duty about three months earlier after the corporal found him asleep at his post.<sup>59</sup>

In this instance the minister indicated that the issue had been reported to him by the Controller (*contrôleur*) at Rochefort, an officer named Pajot, and it is clear that the intendant Beauharnais was absent from the dockyard at the time: so it was understandable that one of his subordinates went over his head and informed the

<sup>55</sup> Acerra, *Rochefort et la construction navale*, 1:115.

<sup>56</sup> APR, SHD: 1E 54, Dépêches de la Cour adressées à l’Intendant (15 July 1705 and 19 Aug. 1705).

<sup>57</sup> Berbouche, “La justice criminelle”, 224.

<sup>58</sup> Among obvious examples see APR, SHD: 1E 51, Dépêches de la Cour adressées à l’Intendant (16 July 1704); 1E 63, Dépêches de la Cour adressées à l’Intendant (11 Jan. 1708); 1E 72, Dépêches de la Cour adressées à l’Intendant (17 Dec. 1710); 1E 101, Dépêches de la Cour adressées à l’Intendant (17 Mar. 1723); 1E 107, Dépêches de la Cour adressées à l’Intendant (24 Feb. 1726); 1E 138, Dépêches de la Cour adressées à l’Intendant (23 June 1744).

<sup>59</sup> APR, SHD: 1E 138, Dépêches de la Cour adressées à l’Intendant (5 Jan. 1713); 1E 342, Correspondance de l’Intendant avec la Cour (30 Jan. 1713).

minister directly.<sup>60</sup> In several other cases however such considerations are much less apparent, and it is easy to feel that a secretly informed minister took some delight in ambushing an intendant with news of wrong-doing in his own dockyard. In August 1719, for example, the Conseil de Marine wrote to Beauharnais to advise him that they had heard how workers who were building the frigate *Sphère* had walked off the job in protest over delays in receiving their pay, and were leaving the dockyard. The Conseil expressed his alarm that the intendant had not seen fit to report this matter himself, and Beauharnais was told to investigate and inform the Conseil at once.<sup>61</sup> Ten days later Beauharnais responded, acknowledging that a delegation of workers had come to him one Sunday morning to ask about their pay, and he had assured them that it would be forthcoming as soon as it was released by the dockyard's treasurer (*trésorier*). He then stated that the next day he made a personal tour of the dockyard and found everyone working happily (as they continued to do), and that he had them paid as soon as the funds came through. Beauharnais may have been caught off-guard by the Conseil's announcement of inside knowledge about events in the dockyard at Rochefort. But the intendant managed to defend both the workers and himself, insisting that he had not felt any need to report to the Conseil on what they were told was a walk-out, but which – as Beauharnais insisted – was in fact nothing more than an approach by some of the workforce with the “most respectful representations of their needs.”<sup>62</sup>

Policing and disciplining workers in a huge, diverse and complex environment like a pre-industrial naval dockyard thus relied to a large extent on the twin principles identified by Hay: “terror” in the form of exemplary punishments meted out on selected occasions to selected offenders, balanced by “delicacy” and “circumspection” in the form of discretionary decisions in favor of moderation and leniency. This system was able to flourish during the first half of the eighteenth century (and probably longer) because French ministers always had access to informal sources of information about alleged goings-on within the dockyards. The workforce – whether laborers, artisans, soldiers and sailors, or naval officers – were encouraged to by-pass the “proper channels” of official communication and report directly to the minister. A minister and his staff relied on informants to keep them up-to-date with developments in the various dockyards, and this knowledge served not only to augment the ministers' authority but also to generate a sense of cohesion among naval personnel. Equally it was in a minister's interests to demonstrate his responsiveness to the complaints he received from dockyard employees or officials. It served to keep intendants and commandants on their toes, and indeed encouraged them to develop their own networks of informants within the dockyard. In these ways this superficially haphazard system for the administration of naval justice had the effect of fostering an atmosphere of compliance and conformity. In the context of France's royal dockyards the exercise of discretionary justice pursued the twin goals of “coercion” and “benevolence,” and in doing so helped to inculcate notions of order and obedience in a manner that Hay would recognize.<sup>63</sup>

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<sup>60</sup> A Controller's responsibilities were rather like those of a chief finance officer: *Ordonnance de marine* (1689), Livre XIIe, Titre IV, 219-24.

<sup>61</sup> APR, SHD: 1E 93, Dépêches de la Cour adressées à l'Intendant (16 Aug. 1719).

<sup>62</sup> APR, SHD: 1E 348, Correspondance de l'Intendant avec la Cour (26 Aug. 1719).

<sup>63</sup> Hay, “Property, Authority and the Criminal Law”, 62-63.