

Excerpt from *Kilts & Courage, Vol. III, The Documentary History of the 42nd or Royal Highland Regiment in the American War for Independence, 1776-1783*
by Paul Pace © all right reserved



"A court martial,--or--a scene at the Horse Guards," 1782, by E. D'Achery

Picture Source: Prints, Drawings and Watercolors from the Anne S.K. Brown Military Collection. Brown Digital Repository. Brown University Library.

Appendix C: Other Official Army Records

Enclosure C-2: Courts Martial and Legal Actions

Introduction

The purpose of this enclosure is twofold. Firstly, it is provided to achieve the overall purpose of this volume, that being to restore and consolidate, to the extent possible, the documentary history of the 42nd or Royal Highland Regt. during the period of the American War for Independence. Secondly, to correct the overly enthusiastic claims of near perfect conduct of the Royal Highlanders by Col. David Stewart in his 1822 history of the regiment. Because this Stewart is so frequently quoted in histories of the Royal Highlanders, it is important to correct Stewart's statement that during the major portion of the war "Desertions from other Corps were, indeed, very frequent; but in this regiment it was otherwise; not a

*man deserted; and of more than 1000 men of whom the corps consisted, there was only one punished during the whole of these five years.”*¹

Available transcripts of courts martial, and other documents such as General and Battalion Orders referring to courts martial and approval of the sentences by the British Commanders-on-Chief are included. In addition a few other non-court martial legal actions are included.

Besides the disposition of the crimes charged in the courts martial and other legal proceedings, the testimony of the individual officers, non-commissioned officers and soldiers also provides some interesting insights to life in the regiment in the words of the participants themselves. One court martial is for a soldier from another regiment accused of stealing the watch of a sergeant in the 42nd Regt.

The full Summary of the Mutiny Court Martial of Pvts. Charles Williamson and Archibald McIver, 42nd Additional Co., at Edinburgh Castle, May 6, 1779 is provided in this Volume in Appendix J. *Mutiny of Drafted Highlanders, Leith, Scotland, April 1779*, and therefore not duplicated here.

As an officer, the court martial of Ens. David Sutherland has been previously provided in *Kilts & Courage*, Vol. II, *The Officers of the 42nd or Royal Highland Regiment in the American War for Independence, 1776 – 1783*, App. F: *Court Martial of Ens. David Sutherland*

No attempt has been made to compare the grievousness or frequency of the highlanders' crimes to that of the other regiments in America. No records exist of the regimental courts martial in the 42nd Regt. during the period of the American war. It has been recognized that regimental courts frequently retained jurisdiction of more serious crimes by reducing the charge. For example desertion, which would clearly fall under the cognizance of a general court martial, might be tried by a regimental court as absence without leave or neglect of duty.² A review of a French and Indian War era order book of the 42nd Regt. showed that during a period of garrison duty, nine regimental court-martials were held in one month.³

Notes to Introduction:

1. *Sketches of the Character, Manners, and Present State of the Highlanders of Scotland, with Details of the Military Service of the Highland Regiments*, Second Edition, Vol. I, Colonel David Stewart, Archibald Constable and Co., Edinburgh, 1822, p. 380
2. "Crimes and Courts" in *The British Soldier in America*, by Sylvia R. Frey, University of Texas Press, Austin, 1981, p. 82.
3. Order Book of Capt. James Stewart's Co., 42nd Regt., Mar. 8-Apr. 5, 1759, in *Extracts from the Order books of Capt. James Stewarts Company Royal Highland Regiment, 1759-61*, transcribed by William B. Wilson, from originals in The Black Watch Castle & Museum, Perth, Scotland, Dec. 23, 1947.

Documents



Detail of Portrait of Maj. Gen. David Stewart (Garth)

Picture Source: Wikimedia Commons, from Black Watch Castle & Museum

Col. David Stewart's Account of Desertions in the 42nd Regt., 1779-1783

These five campaigns [through 1779] embraced many movements, and, from, affinity of language, and from promises and allurements which the Americans held out, there were, of course, many inducements to desertion. Desertions from other Corps were, indeed, very frequent; but in this regiment it was otherwise; not a man deserted; and of more than 1000 men of whom the corps consisted, there was only one punished during the whole of these five years. This man had asked leave of absence stating that he had business of consequence to transact; but, as there was a general order against granting leave, Colonel Stirling was obliged to refuse him. However, the man was determined, and went away without leave, and having settled his business, returned to his regiment. This defiance of orders could not be passed over. He was tried and punished. But the unfortunate man endured a double punishment. The soldiers considered the honour and character of the corps implicated and tarnished when they saw one of their own number thus publicly brought to shame: and such was their horror of the castigation, and of the disgrace attached to it, that not a soldier in the regiment would mess with him. The second punishment was, in some respects, more severe than the first, and, in every way, more efficient in reserving correct principles and conduct...

When the regiment was quartered at Paulus Hook, the advanced post from New York leading to the Jerseys, some occurrences took place equally new and disgraceful. Several of the men deserted to the enemy. This unexpected and unprecedented dereliction of duty occasioned much surprise, and various causes were assigned for it: the prevailing opinion was, that the men who had been received from the 26th regiment, and who had been made prisoners at Saratoga, had been seduced while in the hands of the Americans, by promise of grants of lands, and other indulgences. Such was their infatuation, that when this happened it was quite well known that they would soon have their discharge, with a government grant of land to each man. One of the deserters, a man by the name of [William] Anderson, was soon afterwards taken, tried by court-martial, and shot.

Source: *Sketches of the Character, Manners, and Present State of the Highlanders of Scotland; with Details of the Military Service of the Highland Regiments*, Second edition, Vol. I, by Col. David Stewart, Archibald Constable and Co. Edinburgh, 1822, Google Books, pp. 393-394, 397. As evidenced by the documents below, Col. Stewart's claim of near perfect military discipline in the 42nd Regt. is not consistent with the facts.

**Excerpts from Deputy Judge Advocate Capt. Stephen Payne Adye's *Treatise on Courts Martial*,
London, 1786**

Of Power and Authority of Courts Martial as at present established...

It has been urged against trials by courts martial, as established in the British service, that the prisoner, if a private soldier, has not the privilege of being tried by his peers or equals, since it is enacted, that no member shall be under the degree of a commissioned officer...

Too many among the lower ranks of the soldiery are, I am sorry to say, of very exceptional characters, owing chiefly to the modern method of recruiting our armies, by enlisting every one who offers himself, provided he be of certain make, age and stature, without the least attention to his former character and way of life; and sometimes by even draining the public goals of the kingdom. What justice then can be expected from such wretches, who will scarcely punish others for crimes which, from being daily guilty of themselves, they do not appear to regard as such... As officers who are members of courts martial are liable to be tried by the same laws, and for the same crimes, their superior rank alone cannot be assigned as a reason for not regarding them as peers of a soldier...

COURTS martial cannot sit before eight o'clock in the morning, or after three in the afternoon, except in cases which require an immediate example; the attendance therefore does not exceed seven hours at a time, and they are at liberty to adjourn from day to day, till they have fully considered the matter before them, and when they come to give their opinions, they are not under the necessity of being unanimous, but the prisoner is condemned or acquitted by a majority of voices, except in cases of death, where nine out of thirteen, or two thirds, if there be more than thirteen present, in opinion.

No one is under any compulsion, but are all, not only free, but absolutely sworn to judge according to their conscience; and in order to prevent as far as possible, one member being biased by the opinion of another, as it seems more likely that the younger officers would adopt that of their superiors, than the elder acquiesce in that of a junior, the youngest member of a court martial...gives his opinion first...

IT may not be improper here to remark, that although a president and twelve members are sufficient to constitute a legal court, yet it is frequently judged necessary to assemble and swear in more, in order, as far as possible, to guard against accidents, arising from sickness or other causes of the nonattendance of them...

THE method of trial by twelve men is generally allowed to be very ancient, though writers differ concerning its origin, and first institution of it in England...

THE crimes that are cognizable by a court martial, as repugnant to military discipline, are pointed out by the mutiny act and articles of war, which every military man is or ought to be fully acquainted with, and therefore not necessary to be recited here; and as to other crimes which officers and soldiers being guilty of, are to be tried for by the ordinary course of law, in like manner with other subjects, it would be needless to trouble my military readers (for whose use and amusement this treatise is chiefly intended) with a detail of them....

Of Evidence and Witnesses

HAVING premised, that it is settled law, that in cases of life no evidence is to be given against a prisoner, but in his presence...

...How many witnesses are required in criminal cases...it seems to be the present practice in courts of law, as well as at courts martial, to procure two or more witnesses, if they can be had; but when more cannot be found, one positive evidence to facts, and indeed strong presumptive proof, has been often deemed sufficient to condemn a criminal, though he absolutely denies the fact; but then it must be very warily allowed, says Lord Chief Justice Hale; for it is better five guilty persons should escape unpunished, than one innocent person should die...

WITH regard to *hearsay* evidence, what a stranger has been heard to say, is, in strictness, no manner of evidence or against the prisoner, not only because it is not upon oath, but also because the

other side hath no opportunity of a cross examination...yet what a prisoner hath been heard to say at another time, may be given in evidence, in order either to invalidate or confirm the testimony which he gives in court.

THE comparison of hands is no evidence of a man's hand-writing, in any criminal case, whether capital or not, except the papers are found in the custody of the person...

Of Giving a verdict or Opinion, and Passing Sentence.

THE court having gone through the examination of the witness produced by the different parties, as well as the reply and rejoinder (if there be any) are now to perform the most serious part of their business, which is, giving their opinion whether the prisoner be *guilty* or not *guilty* of the crime he stands accused of; and if found *guilty*, passing sentence on him; previous to which it is necessary that all and every member shall be perfectly informed of the matter in question, and in order to obtain this information, it should be debated amongst themselves, and the judge-advocate should make it his business to elucidate and explain whatever may be doubtful or intricate...

BUT he who is guilty of a crime whatever, through his voluntary drunkenness shall be punished for it, as if he had been sober; for drunkenness is rather an aggravation, than an excuse for criminal behavior.

It never therefore can be any excuse for a prisoner at a court martial to plead ignorance of the martial law...

Of Regimental and Garrison Courts Martial.

REGIMENTAL and garrison courts martial are held by the same authority as general courts martial, but are not intrusted with such powers, their jurisdiction being confined to the cognizance of small offences only, for which they are empowered to inflict corporal and other inferior punishments; a power being invested in every commanding officer of a regiment or garrison to assemble them; and the number of members required to compose them being much less than at a general courts martial, they are more easily and less expensively formed, and are therefore much more frequently held.

WITH regard to general courts martial, the mutiny act and articles of war are very explicit, both at the number they shall consist of, and the rank of the officer who are to compose them, it being expressly directed, that no general court martial shall consist of less than thirteen members whereof none are to be under the degree of a commissioned officer; and that the president shall not be under the degree of a field officer, unless a field officer cannot be had, in which case the next in seniority to the commander, not being under the degree of a captain, shall preside; and that no field officer shall be tried by any persons under the degree of a captain; and it is a general custom not to put subaltern officers (Particularly those of but short standing in the army) on general courts martial, provided a sufficiency of field officers and captains can be conveniently assembled...

The general practice of the army, is to appoint a captain (when one is to be had) as president, and four subalterns (or two, if more cannot be conveniently assembled) as members of a regimental court martial, and a regular roster is kept by the adjutant for this, as for other regimental duties...

...they are deprived of the assistance of a judge advocate, a person judged so essential to a general court martial; it therefore behoves the president (who from his rank, may generally be supposed to be an officer of some experience) to direct and advise his members in their proceedings, so as to prevent their deviating from either the martial law, or fundamental laws of their country...

In the course of the debate in the house of commons, on the mutiny bill, in the year 1753, the late earl Egmont moved, that the members of regimental courts martial, as well as witnesses called before them should be sworn, but the motion was overruled; but as they are expected to act upon honour, they are equally bound to proceed with candour, and decide with justice...

The rules and instructions already laid down, and those which may hereafter be pointed out, for regulation of courts martial, are chiefly intended for general courts martial; but are applicable in most circumstances to regimental and garrison courts martial, with such distinctions and exceptions. As must be evident to every intelligent reader...

Source: *A Treatise on Courts Martial to Which is added an Essay on Military Punishments and Rewards*, Third Edition, by Stephen Payne Adye, Esq., Printed for J. Murray, London, 1786, Google Books, pp. 31, 42-46, 53, 55, 60-61, 87-97, 172, 178-180 and 203-206. Brevet-Maj. Adye was the Deputy Judge Advocate in America and the judge advocate at the general courts martial in this appendix.

Petition of Charles Wright, *et al.* Against Sgt. William Grant, Corporals Peter MacKenzie, and John MacLea and Pvt. Alexander Watson, 42nd Regt., for Physical Abuse, Grantown, Scotland, Oct. 6 – Nov. 6, 1775

The Petition of Charles Wright Sawmiller, et al, at Dulnan, Oct. 6, 1775

6th Octo^r 1775 Unto the Hon^{ble} The Justices of the peace for the County of Inverness. –

The Petition of Charles Wright Sawmiller at Dulnan
John Smith...and ...Finlay William Smith his Son & Donald Shaw in Ashnahoilt & David Cumming in Belleward Pros Fiscal of Court-

Humbly Showeth

That upon the thirteenth of September the Petitioners were in Grantown and also William Grant Serjeant, Peter M^cKenzie & John M^cLea Corporals & Alexander Watson & a Recruit of the 42^d Reg^t of Foot, the Petitioners in a house in one part of ...Town & the Serjeant & Corporals walking & talking together in the Street, That Charles Wright one of the Petitioners going out of the house met the Serjeant near the Door & ask^d him in a friendly manner to go with him, which he made no Objection to, That as he & the Serjeant were thus Speaking together he saw John M^cLea come up without saying a Single word or a word being said to him & in a most unesoputed [?] & Savage manner gave the said Charles Wright a most violent Stroke over the head with the hilt of his Sword which laid him down flat on the ground, upon which some well disposed person sent Notice to the other Petitioners, then in the house, to come and save the said Charles Wrights Life or he would be murdered by the Soldiers – Upon this they ran out & they were no sooner come out, than they were attacked by the said Serjeant & Corporals & their Assistants & were brussid & cut to the great Effusion of their blood & had not some of the people of Grantown & others come to ridd the fray & rescue the Petitioners it would in all probability have ended in the Death of one or more of the Petitioners –

That since that day the said John M^cLea & Peter M^cKenzie and their friends still threaten to do more Mischief & hurt to the Petitioners & have shown their Disposition hereto so far that the Petitioners think themselves in immediate danger of being Murdered in their Beds if they cannot get at them otherwise.

May it therefore please your honours to order the perssons above complained upon to appear before you & to allow the Petitioners a proof of the parts as above represented & upon the same being acknowledged or proved to pronounce such judgement or order ...shall prevent such abuses...coming & also to reward such damages and expenses as shall be judged reasonable to the Petitioners further loss they have sustained by being beat and bruised in manner forsaid & to inflict such ____ censure as the merits of the case require or otherwise to examine the Witnesses to be addressed by the petitioners upon Oath & transmit the whole to His majestys Advocate. According to Justice

David Cumine Charles Wright

F S

WS

DS

The Petition & Complaint of James Smith, Oct. 6, 1775

6th Octo^r 1775 Unto the Hon^{ble} The Justices of the Peace for the County of Inverness. –

The Petition & Complaint of James Smith Son to John Smith Tenant in Finlarig and David Cummine in Belleward Pros'r Fiscal of Court for his _____

Humbly Sheweth,

That in March last Peter M^cKenzie then Soldier as he called himself & now Corporal in the 42^d Regiment of Foot commanded by Lieu^t General Lord John Murray, alleged that he had inlisted the petitioner as a Soldier in the said Reg^t but the Pet^r having denied the Fact, the Matter was carried before two of his Majesty's Justices of Peace, who having inquired into the Affair, pronounced Judgement, finding that the Pet^r was not legally inlisted & therefore assoilzied [absolved] him.

That notwithstanding of the said Sentence of Absolvitor William Grant Serjeant, John M^cLea & Peter M^cKenzie Corporals and Alexander Watson Soldier of the 42^d Reg^t of Foot, under the immediate Command of Lieu^t John Grant of said Reg^t & a recruit of theirs along with them thought it proper, upon Saturday the Thirtyeth of September last past, to apprehend the Petitioner as a Deserter & carry him off from Charles Wright Sawmiller at Miln of Dulnan his Master. That upon your petitioner being apprehended as above, the said Charles Wright run immediately to Two of His majesty's Justices of the peace who happened to be then accidentally at Grantown & acquainted them with what had happen^d. Upon which they ordered the said Sergeant & party & your Pet^r to appear before them, which they accordingly did, and the said Justices having examined Parties & inquired into Facts found they had no _____ or right to Molest the Petitioner & and in regard of the former Sentence of Absolvitor dismissed the Pet^r & desired the Sergeant & party to give him no further trouble

Yet notwithstanding in a short time after having left the Justices in order to go home the said John M^cLea Corporal & others of said party with concurrence of the said Serjeant attacked the petitioner & beat & bruised him in a most cruel & barbarous Manner to the great Effusion of his Blood & danger of his Life And furthermore their hardened hearts & cruel Spirits not being yet satiate – The said John M^cLea & others of Said party or their Relations & Connections still threaten further vengeance against Petitioner's Person.

May It therefore please your honours to order the said Serjeant & party to be brought before you & to allow the petitioner a proof of the facts above stated supor the same being acknowledged or proved, to pronounce such an order as shall prevent the petitioner James Smith from being further troubled & molested & to find the Persons Complained upon acted illegally & improperly & to find habli [?] _____ damages & expenses, & to inflict such other censure as shall prevent such abuse in time coming or otherwise to take a regognition of _____ facts & report the same to his majestys Advocate,

According to Justice
David Cumine _____
James Smith

Source: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers) at GD 248/533/5/42.

Justices of Peace Order for Witnesses and Petitioners to Appear, Oct. 7, 1775

7 October 1775

By John Grant of Balliemere Cap^t Ludovich Grant and Ludovich Grant of Culouline Justices of Peace in the County of Inverness

The Justices Grant warrant to James Grant Constable to Intimate this Petition to the persons above Complained upon And Ordain them to appear personally at Grantown Tuesday next at Eleven O'clock forenoon And Grant Warrant to the said James Grant or any other Constable of Court to Cite such Witnesses as the petitioners or the persons Complained upon shall name See to Appear time and Place foresaid.

LudGrant J.P.
JohnGrant J.P.
LudGrant J.P.

Source: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers) at GD 248/533/5/41.

Justices of Peace Order for Sgt. William Grant, Corporals Peter MacKenzie and John MacLea and Pvt. Alexander Watson, 42nd Regt. to Appear, Oct. 7, 1775

7 October 1775

By John Grant of Balliemore Cap^t Ludovich Grant and Ludovich Grant of Culouline Justices of Peace in the County of Inverness

The Justices Grant warrant to James Grant Constable to Intimate this Petition to the persons above Complained upon by reading the same & ___ deliverance to them And Ordain them to appear personally at Grantown upon Tuesday next at Eleven O'clock in the forenoon And Grant warrant to the said James Grant or any other Constable of Court for Citing such witnesses as either the petitioners or persons complained upon shall Condesend upon All to appear time and place foresaid and in the meantime prohibit & Discharge the persons Complained upon from troubling or Mollesting the petitioner James Smith.

LudGrant J.P.
JohnGrant J.P.
LudGrant J.P.

Source: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers) at GD 248/533/5/42.

Justices of Peace Review of Request for Delay from Lt. John Grant, 42nd Regt. Oct. 10, 1775

Grantown 10th Oct^r 1775

There was produced a letter from Lieut. John Grant of the 42^d Reg^t, imparting that he would not conveniently attend this day And that before he had received Notice to attend he had order^d the Serjeant & party complained upon to Elgin upon Duty, But that he would attend, and order the party also to attend, at any other time the Justices should Appoint. –

In respect of the above Letter the Justices adjourned

LudGrant J.P. LudGrant J.P.

Adjourned the Court to the 24th instant in this place And Ordain Both parties & Witnesses then to attend and So Ends the term of law And Grant Warrant to Constables of Court to cite such other Witnesses as either shall name to appearsaid day & place & direct the Clerk to send a Copy of this Deliverance to Lieut. Grant

LudGrant J.P.
LudGrant J.P.

Case Presented to Justices of Peace, Oct. – Nov. 1775

Case

Febr^y 1775/ Peter M^cKenzie Soldier in the 42nd Regiment, upon a Sunday in February 1775, after filling James Smith in Finlarig in Strathspey drunk said he gave him money. – At this time the Soldier had no furlough, Beating Order or pass of any kind and he was not within twenty miles of any Officer belonging to the Regiment.

Lieu^t John Grant of the 42nd was at this time in the County of Nairne but whether M^cKenzie had any Recruiting Order from him or any other is uncertain, No Evidence of the fact has been yet seen; However next day the Soldier, in place of carrying Smith before a Justice of the Peace, of whom there were four within a Mile of them, was pleased to insist on his going to Lieu^t Grant at Nairne, which he refused alledging that he was not inlisted.

M^cKenzie left the County the day after the alledged inlisting, and in two or three days thereafter Smith consigned in the hands of a Justice of the Peace Twenty one Shillings Ster^l until the affair should be decided.

In Seven days after this M^cKenzie returned to Strathspey, and Some days thereafter he and Smith appeared before two Justices of Peace at which time the Soldier acknowledged he had no furlough or Recruiting Order. – Upon this and Examining into the particulars respecting the Inlisting, the Justices found that Smith was not legally Inlisted, And therefore Assoilzied [absolved] him. –

Some weeks after this the Soldier and other two men again apprehended Smith and insisted on his being legally Inlisted but Smith's friends interfeired, told them he was Assoilzied by the Justices, and therefore they would not allow Smith to be carried away ag^t his will.

April 1775) Lieu^t John Grant of the 42, under whose command its said M^cKenzie was returned to Strathspey in April 1775 and after inquiring into particulars was Satisfied he could not Claim Smith as a Soldier but said he had right to the Smith money. - Lieu^t Grant's Letter to one of the Justices who Assoilzied Smith, is in these words “ I am sorrie to be obliged to write anymore about that triffling affair of James Smiths; You remember I showed you [James Grant of] Clurie's Letter in Answer to mine, where he acknowledged to have received the Smart Money in time agreeable to Act of Parliament; I thought matters then were properly settled, But when I sent a Soldier for the Smart that was consigned he said he had given it to the man of whom he had it to be given to me at Grantown the Soldier went to the man who refused to pay it. I then wrote a card to Clurie to give the Bearer the Money, that I had no business to ask it of any person but him, The Soldier told me that Rampaged and said he had no business with it that he had already ordered it to be given me. – You certainly must think this ridiculous, for what business had he to give it to any person but me, or one from me Authorized to receive it. I think he used me very ill, I wish you would Speak to Clurie that he may give Peter M^cKenzie the money immediately; I would not chuse to be put to the disagreeable necessity of having a recourse upon Clurie another way; Very wisely Clurie told my Man, that I should bring Smith before Justice; He has himself put that out of my power by his Letter, which likewise binds him fore the money consigned; I should have no Objection should he put me on a plan to get Smith.”

When the Justices of Peace Absolved Smith they did not think the Smart money due as he was not legally Inlisted, and therefore Clurie who was one of the Justices, returned the Smart money to Smith.

20 Sept^r 1775 In place of bringing the Sentence of the Justices Absolving Smith under the Review of a Superior Court Lieu^t Grant, of this date, was pleased to give a Written Order to his Serjeant in these words “Serjeant Grant, You are in your return from Grantown affair to apprehend James Smith who Inlisted some time agoe with Corporal Peter M^cKenzie; If any of the Gentlemen Offers to Screen him

from Justice tell them from me that he is Decerned a Deserter from the Regm^t. You are accordingly to bring him Prisoner to Nairne.”

This Warrant is so far false, for certain it is that Smith was never brought before any Judge except those that Absolved him; However in obedience to the Order the Serjeant, Peter M^cKenzie/ now Corporal/ John M^cDonald Corporal & one Watson a Soldier, apprehended Smith in his Master’s house and carried him prisoner to Grantown in his way to Nairne, But his Master having come along with him and applied to the same Justices who formerly Absolved him and who happened to be accidently in Grantown, they thought it their duty not to permitt any of his Majestys Subjects to be carried away in so unlawful a manner, therefore they ordered him to be set at liberty, which the Serjeant and party accordingly did.

At this time there happened to be a kind of Market in Grantown where a Number of County people were conveened, And in above an hour or two after Smith was liberated a Quarrell arose between the Soldiers and Some of Smiths friends, which its said took it’s rise from Corporal M^cDonald who is a Countryman there and, for a long time before he went to the Army, was well known to be a remarkable turbulent man, and was frequently prosecuted and punished for his quarrells. – In this quarrell some blood was shed but luckily no lives were lost owing to the interposition of some Gentlemen who happened to be in the Town at the time.

Notwithstanding of what is above set further the party still threatened to apprehend and carry Smith away, and in this its said they are aided by Lieu^t Grant; Not only so but the friends of Corporals M^cKenzie and M^cDonald have again and again threatened Smith and his friends nay have gone so far as to say they will burn their houses and have run after them on the highway.

These threats & the above Riot have been productive of Complaints to the Justices of Peace, One of the instances of Smith praying in respect he was Absolved, that Lieu^t Grant and his party may be prohibited from Mollesting him, And another at the instance of Smiths friends and others who were beat & wounded by the Soldiers in the above Riot praying to have them punished for it.

On [possible missing pages]

Source and Note: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers), Financial and estate matters, many relating to sale of estate of Moy to Col. Hugh Grant at GD 248/52/1/97. “*Assoilzied*” meant to free, or to be absolved of guilt. Nairne is located about 23 miles north of Grantown.

Copy of Letter from Sir James Grant to Lt. Col. Robert Skene

Copy Letter to Colonel Robert Skene inclosing this Case Nov^r 6th 1775 –

The inclosed came to my hand Yesterday from Strathspey - I beg leave to recommend it to Your immediate & Serious Consideration as Riot & Bloodshed may ensue if an immediate Stop is not put to such proceedings

I remain with perfect Esteem & regard

Sir Your most Obedient &
most Humble Serv^t

Canongate Edin^h

Nov^r 6th 1775

Ja: Grant

On Smiths Complaint after Ordering it to be Served upon the party, the Justices prohibited and Discharged them from Mollesting or troubling his person, untill the matter was fully enquired into and decided; And on the private partys Complained the Serjeant and party were Summoned to appear upon a certain day before the Justices And notice of both Complaints by Letter, was sent to Lieut Grant who lives in a different County.

Upon the day to which the party were Cited a Letter was produced to the Justices from Lieut Grant, importing, that he had knew of the Complaint which rendered it improbable for them to attend the

day appointed but that he and they would at one, The Justices discharged this Excuse and Assigned a new day for the party to appear, of which Notice by Letter was given to Lieu^t Grant; And here the rests at present

Such proceedings are very disagreeable and must be hurtfull to the Recruiting Service at a time when it is the duty of every good Subject to give a Recruiting party every reasonable Aid. The Justices have upon every occasion done all in their power to Aid and Assist the recruiting for His majestys Service and if they have erred it was in leaning too much to that side from a belief that the necessity of the State required it – But on the other hand they cannot shut their Eyes and permitt his Majestys Subjects to be treated in the manner above represented; The doing so would be attended with very fatall consequences, After the Civil Magestrate has Assoilzied any person if he has done wrong the law has pointed out a remedy but it was never yet heard of that an Officer of the Army had it in his power to grant his warrant for Countervailing what the Civil Magestrate has decreed.

At the same time the Justices are very unwilling to have further trouble in this matter And therefore have stated the case fairly that the Commander in Chief may give proper directions what ought to be done in this case so as to prevent any further trouble; And to accomplish this end and prevent any further Mobs they beg leave to Suggest as a proper measure that Lieu^t Grant and his party, at least Corporals M^cKenzie and M^cDonald may be removed from their present Station of Recruiting, and others ordered to do duty in their place. – The doing this cannot be hurtful to his majestys Service and in probability will bring peace in the Country. –

But if the Commander in Chief does not approve of this measure its inhealed that he may lay the case before the Kings Counsel that they may give directions to the Justices of Peace how to proceed in this matter; For they would not wish to be thought to do anything contrary to their duty as Judges and good Subjects; And as they Act without fee or reward they think themselves untitled in Military Affairs with which it cannot be supposed they are well acquainted, to the Advice & direction of the Commander in Chief of the Forces in this part of the United Kingdom, or any Acting under him in his Absence

Source: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers) at GD 248/52/1/98.

Quere Can a Soldier absent from his partie and inlist without a Beating Order or any ___ Off^r – or non Commissioned Off^r inlist on Sunday Can a Justice legally attest before 24 hours Can Smart money be Due after 4 days How warrantably ___ this s^d Off^r Acts

Coppie of L^t Gants Letter to James Grant of Mull [chard?] as far as concerns the written M[illeg.]

I am Sorrie to be obliged to write anymore about that triffling affair of James Smiths; You remember I Shewed you [James Grant of] Clurie's Letter in ans^r to mine, where he acknowledged to have received the Smart money in time agreeable to Act of Parl^t; I thought matters then were properly Settled, But when I sent a Soldier for the Smart that was consigned he said he had given it to the man of whom he had it to be given me at Grantown the Soldier went to the man who refused to pay it. I then wrote a card to Clurie to give the Bearer the Money, that I had no Business to ask it of any person but him, The Soldier told me that Rampaged & said he had no Business with it that he had already ordered it to be given me. – You certainly must think this ridiculous, for what Business had he to give it to any person but me, or one from me Authorized to receive it. I think he used me very ill, I wish you would Speak to Clurie that he may give Peter M^cKenzie the Money immediately; I would not chuse to be put to the disagreeable necessity of having a recourse upon Clurie another way; Very wisely Clurie told my Man, that I should bring Smith before Justice; He has himself put that out of my power by his Letter, which likewise binds him fore the money consigned; I should have no Objection should he put me on a plan to get Smith. I am Sir Your &c Signed John Grant -

Coppie of Lieu^t John Gants orders to his Serjeant –

Serjeant Grant, You are in your return from Grantown affair to apprehend James Smith who inlisted some time agoe with Corp^l Peter M^cKenzie If any of the Gentlemen offer to Screen him from Justice tell them

from me that he is Decerned a Deserter from the Reg^t. You are accordingly to bring him Prisoner to Nairne. Dated Nairne 20 Sep^r 1775 Signed John Grant Lieut 42 Reg^t

Nov^r 8th 1775

Memorial for Ja^s Smith

Peter M^cKenzie a Soldier of the 42 Reg^t inlisted James Smith in Finlarig Strathspey upon a Sunday in Feb^y last / after filling him Drunk While at the Distance of about 20 Miles from his Off^r Lieu^t John Grant who Recides near Nairn in a Different Country & County without any Beating order Pass or Furlough in force. –

That the next Day he threatned to break Smiths head for refusing to go along with him to his Off^r & did not ask him to go before a Justice of the Peace tho there was four within two miles of him be proven. – [Margin note: This would be passed over but for the loss of the Mon^y.]

The Soldier M^cKenzie left the country the next day after giving money to Smith upon which Smith within 3 or 4 Days thereafter Consigned 25 Shillings Sterg in a Justice of Peace's [Margin note: Clurie] hands till the affair would be Decided Seven Days Elapsed before M^cKenzie returned to the Country & as as many or more before he appeared before a Justice & there he was unprepared as above without any Beating order & I think summoned to his first Appearance by Smith who was absolute upon returning the the Inlisting money by two Justices. [Margin note: Clurie & Mull]

Some weeks after Smiths absolution M^cKenzie with a party of two or more Apprehended Smith & carried him off in order to Join s^d Lieu^t Grant & his Recruits (upon a Sunday) on their way South But was Liberate by his friends as the ___ would not produce a warrant. –

Upon Lieu^t Grants return in or about the month of April & Examining the Matter he was fully Satisfyed that he had a Claim agst Smith as being legally out of his power But would Claim the twenty one Shillings consigned or Lodged in the Justices hands [Margin note: Clurie] or Smart money. Via a Coppie of his letter [Margin note: Mull] in May last there entered to –

In Sep^r last Lieu^t Grant gave a written order to Serjeant Grant of s^d Reg^t for carrying Smith prisoner with him to Nairn in consequence of which order Grant the Serjeant Peter M^cKenzie (now Corporal) John M^cDonald Corp^l & _____ a Soldier Apprehended Smith and carried him prisoner the length of Grantown where he was again Sett at Liberty by the two Justices Clurie & Mull who absolvate him and & who happened to be at G^town [Grantown] at the time. –

Soon after Smiths last Liberation a dangerous Quarrell ensued on the Street of Grantown (which was luckily calmed by two Justices) [margin note: Gullock:[griban?] & Mull betwixt the Soldiers and the Smiths The rise of which as reported is laid to Corporall M^cDonald charge who before he left the Country was accounted a remarkable Disturber of the Peace he was at different times prosecuted & punished for Sabbath Quarrels He & M^cKenzie Still continue their threats agst Smith & if put in execution may prove of fatall consequence which the removing of them from the station might prevent and certainly would benefit the Service as such a Quarrelsome Disposition as M^cDonald most be Disagreeable to allwell Disposed persons.-

N.B. Smith affirms that he was not in knowledge of getting any money ___ - he was wanted along with P. M^cKenzie

Source: NRS, *Papers of the Ogilvy family, Earls of Seafield* (Seafield Papers), Financial and estate matters, many relating to sale of estate of Moy to Col. Hugh Grant at GD 248/52/1/99.

Response from Col. Robert Skene, Adj. Gen. for Scotland, to Sir James Grant, Nov. 6, 1775

Edin^h Nov^r 6th 1775

Sir

I am just now honored with your letter inclosing me a Case of the affair betwixt the Justices of the Peace in Strathspey & Lieu^t [John] Grant of the 42^d Regim^t which represents that affair in a very

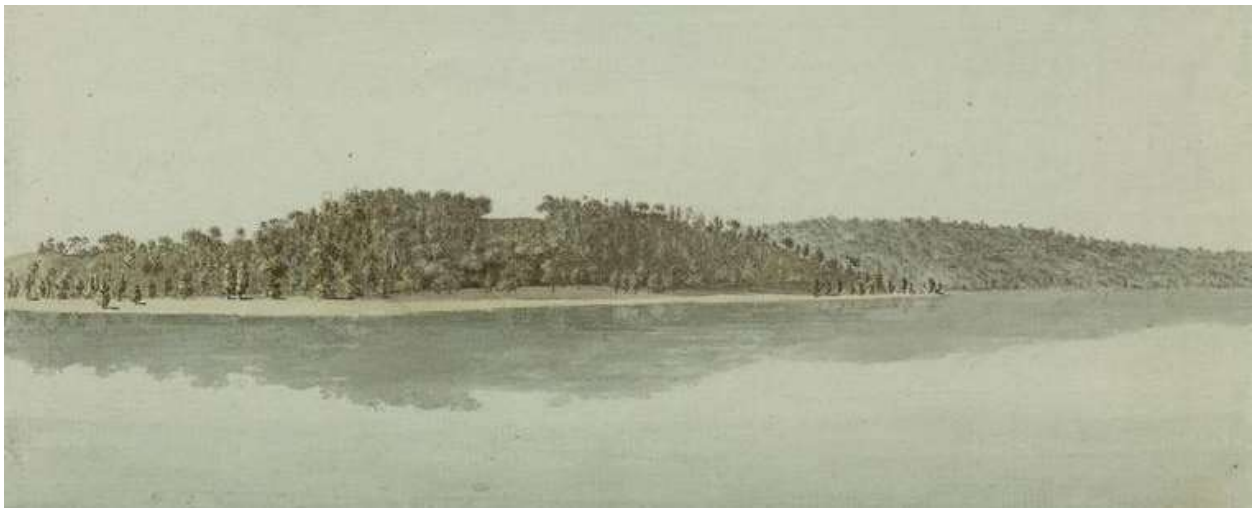
defficient light from that what Lieu^t Grant does; a complaint against the Justices in that affair was made to the Commander in Chief some days ago which he ordered to be laid before the King's Counsel.

In the mean time I shall order L^t Grant to do nothing more in that affair till it is determined, & on no account to permit any of his party to molest Smith until the affair is settled, & shall lay the case as sent to you before the Commander in Chief immediately.

I am with much esteem & Regard Sir
Your most obedient & most humble Servant
Rob^t Skene

Sir Ja^s Grant Bar.

Source and Notes: NRS, Papers of the Ogilvy family, Earls of Seafield (Seafield Papers), Financial and estate matters, many relating to sale of estate of Moy to Col. Hugh Grant, GD 248/52/1/96. Lt. John Grant was an effective recruiter and was assigned to one of the two additional (or recruit) companies authorized in June 1775. He later commanded one of the additional companies when it was sent to reinforce St. Johns, Newfoundland from 1778 to 1781.



Detail from "Staten Island/ Cap" Bellew Del^t. 1777," by Patrick Bellew

Picture Source: *King George III's Personal Coloured Views Collection*, British Lib., London

**General Court Martial of Pvt. John Hunter, 42nd Regt. for Desertion,
Dykers Ferry, Staten Island, Aug. 1-11, 1776**

General Court Martial Aug. 1, 1776

The Court Adjourned 'till next morning at 9 o'clock.

Thursday August the 1st 1776

The Court being met pursuant to adjournment.

John Hunter private Soldier in His Majesty's 42^d (or Royal Highland Regiment) of Foot was brought Prisoner before the Court and accused of having deserted from the said regiment.

Capt. Archibald Erskine of the 42^d Reg^t of Foot being duly sworn deposed that the Prisoner William Hunter as inlisted into the 42nd Reg^t upon its' late augmentation, and on the Deponent joining the regiment last Spring, from the recruiting Service, the Prisoner was serving in his Company as a private Soldier; that on the arrival of the regiment on Staten island, he deserted from his Company about the 5th or

6th of July and was brought back as a Prisoner by a party of the 46th Reg^t on Sunday the 28th Instant that he deserted in his regimental Cloathing, but returned without them,

Q. Does he know him to have received pay as a soldier?

A. He does.

Corporal James Young of the 42^d Reg^t of Foot being duly sworn deposes that he knows the prisoner to have received pay and to have been duly inlisted as a Soldier in the 42^d Reg^t of Foot, and that he deserted from the said regiment between the hours of twelve and two on the 5th or 6th Instant; and that he was brought back about a week ago by a Party of the 46th Reg^t.

The Prisoner being put upon his defence, had nothing to offer in alleviation of his crime, but that when he had been some time away, he wish'd to return to his regiment, but the fear of punishment deterred him from it; that whilst he was away, he worked with several different Countrymen, and now submits himself to the mercy of the Court.

The Court upon due consideration of the evidence against the prisoner John Hunter, together with what he had to offer in his Defence, is of the **opinion** that he is **guilty** of the crime laid to his charge, in breach of the first Article of War of the sixth section, and doth therefore adjudge him to suffer Death.

H^y Calder

L^t Col^l, 49th Reg^t

President

Step. P. Adye

Deputy Judge Advocate

approved W. Howe

Source and Note: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, Oct. 1775 - Nov, 1776* at WO 71/82, ff. 402-404. Capt. Erskine likely made an error in his testimony. Although Private Hunter likely sailed to America with Erskine in the transport Bowman, he was assigned to Capt. John Smith's company as shown in the muster for Capt. Smith's company dated at Piscataway, New Jersey, in Apt. 1777. The dates of Corp. Young's testimony are not consistent with normal practice. He said on Aug. 1 that Pvt. Hunter deserted "...between the hours of twelve and two on the 5th or 6th Instant." This indicated he deserted on the 5th or 6th of the current month which is not possible for testimony on the 1st. Headquarters for Gen. Sir William Howe was located at Dykers Ferry on Staten Island.

General Orders Implementing the Court Martial Sentence of Death for
Pvt. John Hunter, 42nd Regt., Aug. 2-11, 1776

Head Q^{rs} Dykersferry Staten Island, 2^d Aug^t 76..

John Hunter, private Soldier of his Majesty's 42^d Reg^t try'd by the Gen^l Court Martial of which L^t Co^l Sir Henry Calder [49th Regt.] is Presid^t for desertion The Court is of Opinion that the prisoner is guilty of the Crime laid to his charge & therefore adjudge him to suffer death.

The Com^f in Chief is pleas'd to approve of the Sentence, and to order the Court Martial to be dissolved –

Gen^l Orders 8th Aug^t 1776...

The prisoner John Hunter of the 42^d Reg^t is to suffer death on Monday the 12th inst^t in consequence of the sentence of a Gen^l Court Martial of which L^t Col Sir Harry Calder was President. –

Dykers ferry 11th Aug^t 1776 –

G: O:) The Picquets of the 1st & 3^d Brigade Under the Command of a Field Officer to parade tomorrow Morning at 10 O'Clock at Dykers Ferry to attend the Execution of John Hunter soldier in the 42^d Reg^t condemned to suffer death for desertion by sentence of Gen^l Court Martial. L^t Col. [William] Butler [38th Regt.] for this duty.

Source and Note: NRS, Orderly Book 4th Battalion Grenadiers, in “13 notebooks containing the journal of Lt. [latterly Capt.] John Peebles of the 42nd or Royal Highland Regiment, during the American War of Independence,” *Papers of the Cuninghame Family of Thorntoun, 1776-1782* at GD 21/492/2. Pvt. Hunter is listed as a casualty in the muster report for Capt. John Smith’s Company for the period Dec. 25, 1775 to Dec. 24, 1776. Capt. John Smith’s company which was captured by a rebel brig while sailing for America. Hunter was one of the few members of the company who sailed on another transport and avoided capture.



Recreated 42nd Grenadier Company from “*Muskets of the Crown*”
Photo courtesy of Susan R. Gable

4th British Grenadier Battalion Orders for Establishing a Court Martial for Privates Samuel Williamson and Donald M^cLachland, 42nd Grenadier Company, Long Island, Sept. 13, 1776

General After Orders 13 Sept^r 1776 ½ past four O’Clock...

Morn^g [4th British Grenadier] Bⁿ O) A Court Martial to sit at 10 O’Clock to try the Prisoners Sam^l Williamson & Don^d M^cLachland Soldiers in Cap^t [Charles] Grahams Comp^y [42nd Regt.] – Cap^t Graham president, L^t [Patrick] Cumming [71st Regt.] and L^t Ja^s Fraser [71st Regt.] members – The Prisoners at be acquainted & Evidence to attend –

Source and Note: NRS, 4th British Grenadier Battalion Order Book in “13 notebooks containing the journal of Lt. [latterly Capt.] John Peebles of the 42nd or Royal Highland Regiment, during the American War of Independence,” *Papers of the Cuninghame Family of Thorntoun, 1776-1782* at GD 21/492/. The results of this court-martial have not been located.

4th British Grenadier Battalion Orders for Establishing a Court Martial for Sgt. Evan M^cPherson, 42nd Grenadier Company, New York, Oct. 4, 1776

Morn^g B:O: 4th Oct^r 1776

A Court Martial to Sit at 10 O’Clock for the tryal of Serj^t Evan M^cPherson 42^d Reg^t
Cap^t [Francis] Skelly [71st Regt.]

Lt. [George] Stewart [71 st Regt.]	}		{ Lt. Ja ^s Fraser [71 st Regt]
	}	Members	{
L ^t [Dougal] Campbell [71 st Regt.]	}		{ L ^t Tho ^s Fraser [71 st Regt.]

The Prisoner to be Acquainted & Evidences to Attend

William Thompson, Grenadier in the 28th Reg^t of Foot being duly sworn, deposed that he saw the Prisoners M^cBride and Henderson at Horne's House, and he heard M^cBride ask Horne to give him some Potatoes which he did but he did not see them take any thing else, he afterwards saw Henderson in the yard, & he then had some flour in a haversack on his Shoulder.

Mary Horne, Wife of the former Witness & one of the People called Quakers, affirmed that she does not remember to have seen any of the Prisoners, except Henderson, & this was not at the time the house was plundered, but upon his coming there a day or two after, she was told by George Davis who worked at her House, that he had taken away flour.

Geo. Davis, Tanner, being duly sworn, deposed that he saw the prisoner Henderson at John Horne's house, with, some others that he does not know; that Henderson desired the others to come away from the House, but they damned him, and said that they did not belong to them.

Q. Did he not tell Mary Horne, that Henderson had carried away the flour?

A. He told her that he had been informed so, by one of the Apprentice Boys.

Q. by desire of the Prisoner [Bartholomew] Judge) Did he not give him (Judge) some flour?

A. No, he did not.

The Prisoners being put upon their defence, [Bartholomew] Judge said that so far from plundering, that he was doing what he could to prevent it; that there was no hindering the men from taking the flour, & the Man of the house gave to him & several others – [Francis] Boyce declares that he never was at Horne's House, nor does he know where the House is – [John] Noland also denied taking any thing away or having been at the House – [Daniel] M^cBride said that he took nothing but Potatoes, which the Man of the House gave him – [Corp. Henry] Smith said that not being able to get a sufficiency of Potatoes at the first house they went to, Corporal Judge and four Men were ordered by the Sergeant of the Party to go to the next house; that there were several Soldiers there, asking for flour, & he put in his haversack amongst the rest, but Lieut. [Christopher] Lister made him throw the flour out, – that he went out with the Non Commissioned Officer & party, and return'd with them, without ever getting them – [John] Henderson said that when he went to the House, the Men, belonging to it was standing at the door, & he desired him to give him some Potatoes, which he did, but some other Soldiers then coming in, & there being a great disturbance in the house, he was unwilling to carry away the Potatoes, & threw them out; that he then went away, and did not take any flour.

Thomas Wills Serg^t in the Grenadier Company of the 63^d Reg^t of Foot, being duly Sworn, was examined.

Q. Did he order Corporal Judge & four men to go to the next house, in search of potatoes?

A. He ordered them to go to a barn, which belonged to the house, they first went to.

Lieut. Christopher Lister of the 63^d Reg^t of Foot being duly Sworn was examined.

Q. Does he recollect seeing Boyce at the first House, before the Corporal's party returned from the second house?

A. He does not particularly recollect to have seen him, he knows that there were four men detached with the Corporal.

Q. Does he recollect to have seen Nowland?

A. He does, he was the first person he spoke to.

The Court having considered the evidence for and against the prisoners, together with what they had to offer in their defence is **of Opinion**, that Bartholomew Judge, Henry Smith, Francis Boyce and John Henderson are severally guilty of the Crime laid to their charge, in breach of the 21st Article of War of the 14th Section, and doth therefore adjudge them the following punishments viz^t Bartholomew Judge

to be reduced from the Station of Corporal to that of a private Soldier, and to receive one thousand lashes, Henry Smith and Francis Boyce, five hundred lashes each, and John Henderson one thousand lashes, on their bare backs with cats of nine tails.

The Court is further of Opinion that Daniel M^cBride & John Nowland are not guilty of the crime laid to their charge & doth therefore **acquit** them.

H. Monckton L^t Colo. President

Step. P. Adye

D. Judge Advocate

Confirmed

W. Howe

Source: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, Nov. 1777 - Mar. 1778* at WO 71/85, ff.192-195.

General Order Approving Results of Court Martial of Pvt. John Henderson,
42nd Regt., for Plundering, Philadelphia, Dec. 27, 1777

Head Quarters Sweeds Meeting House Dec^r 27th 77...

Gen^l. Court Martial which L^t Colo [Hon. Henry] Monckton is president... Bartholomew Judge Corp^l. Henry Smith. Dan^l M^cBriant Francis Boyce & Jn^o Knowland Private Soldiers in the Grenadier Comp^y of 63rd Reg^t. & Jn^o Henderson private Soldier in the 42nd Reg^t. try'd by the Above Court Martial for Plundering the Court is of Opinion that Barth^w Judge Henry Smith, Fracis Boyce & Jn^o Henderson are Severarly Guilty of the Crime laid to their Charge & dose therefore Adjudge them the Following Punishments, Viz^t. Barth^w Judge to be Reduced from the Station of Corp^l to that of Private Soldier & to Receive One thousand Lashes, H^y. Smith & Francis Boyce 500 Lashes Each & Jn^o Henderson One thousand Lashes, the Court is further of Opinion that Dan^l. M^cBraient & Jn^o. Knowland are Not Guilty of the Crime Laid to their Charge & do therefore Acquit them The Commander in Chief Confirms the Above Sentences, the Prisoners Acquitted, are to be Release'd the Soldiers Under Sentence, are to receive their Punishment at the Head of their Respective Corps, & the followers of the Army Under Sentence are to receive their Punishment by the Provost Marshalls Executioner...

Source: *William Howe orderly book*, Great Britain. Army, 1776-1778, William L. Clements Library, Univ. of Mich.



Detail showing Edge Hill on right of Hessian Map “*Plan des befestigten Lagers der Amerikaner bey Whitemarsh,*” by Johann Martin Will,

Map Source: *Zehn Karten und Ansichten den Schlachtfelden des amerikanischen Unabhängigkeitskreiges in den Staaten Pennsylvanien und New York*, Library of Congress, Geography and Map Div.

Court Martial of Pvt. Murdock MacLeod, 42nd Regt., for Plundering, Philadelphia, Dec. 1777

Murdock M^cLeod, private soldier in the 42^d Reg^t of Foot, was brought before the Court, accused of Plundering.

Major of Brigade William Brown, being duly sworn, deposed that on the march from edge Hill, he heard a noise of People screaming and crying out in a house, near the Rising Sun; that on riding towards the House, he met a Soldier, whom he believes from his size and make to be the Prisoner, but as it was then dark he cannot speak positively to his face; that upon coming up to him, and asking him if he had not been in that House, or Words to that Effect, he drop’d several things, which Captain Hamerton, who was with the Witness, showing, & mentioning, he then endeavored to make his Escape, but the Witness came up with him and delivered him into the custody of the Sergeant Major of the 4th Reg^t; that he ask’d him his name and he answered that it was Murdoth M^cLeod.

Q. Is he certain that the man he delivered into the Custody of the Serg^t Major of the 4th Reg^t was the man he saw drop the things?

A. Yes, he is.

Captain Michael Hamerton of the 55th Reg^t of Foot, being duly Sworn, deposes that on the 8th of Dec^r on the March from Edgehill in the Evening there was an outcry from a house on the road; a party was sent there & about the time the party arrived, he heard some person cry out, stop him; that he turn’d off the road with an intention to do so, and perceived a man coming through the field, apparently from the House, from whence the cries had been heard; that Major Brown, who was with him, rode up to the Man & stopt him and he appear’d from his Uniform, to be of the 42^d Reg^t that immediately on his being stopt, he dropt some things, which the Witness alighted from his Horse, to examine, & found them to consist of Shifts and other Articles which appeared to be the dress of a Girl, about 12 years old; that whilst he was examining them the Man attempted to make his escape from Major Brown, & dropt some more things, which he (the Witness) likewise saw, & which consisted of some Articles of the same kind, & a new Blanket, which he believes to be the prisoner’s own; that Major Brown afterwards informed him that he had delivered the Man to Captain [James] Grant’s Company of the 49th Reg^t.

Q. Does he know the Prisoner to be the Man?

A. He cannot pretend to say that he is, as it was then dark.

Q. Should he know the things again, were he to see them?

A. He thinks that he should know the shift in particular.

The different Articles being shown to Captain Hamerton he deposed that he was as positive to the Shift & short Jacket, as a man could be in such a case.

Peter Houghton, Sergeant Major of the 4th Reg^t of Foot, being duly sworn, deposes that about 7 o’clock in the evening of the 8th Instant, as the Army was on the March, there was a great outcry from a house; that a party of Dragoons was immediately sent thither, & soon after came down Major Brown & Capt. Hamerton, with the Prisoner and a parcel of things in a Blanket; that they desired him to examine the things & he found them to consist of two Children’s frocks, a pair of old breeches & a Shirt or Shift; that he delivered up the prisoner to Capt. Grant of the 49th Reg^t & the things to a Corp^l of the same Reg^t; that the prisoner (who he is certain was the person) pretended not to understand English, but asked for the Blanket which he said was his own.

The Several Articles being shown to the Witness he deposed that he was certain that some of them, were the things he saw that Night.

The Prisoner being then put upon his defence (Sergeant Hector Maclean of the 42^d Reg^t being sworn to interpret from the Erse [Gaelic] to the English language) he declared that having been lately wounded & been on a flanking party all that day he sat down in a field adjoining to the road, finding that he could not rest himself in the highway, on Account of the troops passing by; that whilst he was sitting there he heard the outcry & got up in order to go towards the House when he met two Hessian Soldiers, coming from it, who called out to him Shot-man, meaning Scotch-man & as they passed him they threw those things to him, he not knowing what they consisted of, when Major Brown came up to him.

The Court having considered the evidence against the prisoner Murdock M^cLeod, together with what he had to offer in his Defence, is of the opinion that he is **Not Guilty** of the Crime laid to his Charge, and doth therefor acquit him.

H^y Calder
L^t Col^l, 49th Reg^t
President

Step. P. Adye
Deputy Judge Advocate

Confirmed
W. Howe

Source: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, Nov. 1777 - Mar. 1778* at WO 71/85, ff. 151-154. This event occurred as Maj. William Murray's Co. in the 1st Bn., 42nd Regt. was returning from the Battle of Whitemarsh, Pennsylvania Dec. 6-8, 1777.

**General Order Approving Results of Court Martial of Pvt. Murdock MacLeod,
42nd Regt., for Plundering, Philadelphia, Jan. 4, 1778**

Head Quarters Philadelphia Jan^{ry} 4th 1778

...Gen^l. Court Martial of Which L^t Colonel Harry Caulder was President...

Murdo M^cCloud private Soldier in the 42nd Reg^t of Foot Tryd by the Above Court martial for Plundering is found Not Guilty of the Crime Laid to his Charge & therefore Acquitte'd

The Com^d. In Chief Approves of the Above Sentence & orders the prisoner to be releis'd ...

Sources: *William Howe orderly book*, Great Britain. Army, 1776-1778, William L. Clements Library, Univ. of Mich.



Detail from "Gaol in Walnut Street, Philadelphia", 1799, by William Birch and Son

Picture Source: Wikimedia Commons from "The city of Philadelphia: in the state of Pennsylvania, North America; as it appeared in the year 1800, consisting of twenty eight plates."

General Court Martial of Lance-Corp. Orange Grant, 42nd Regt., Philadelphia, May 5-10, 1778

General Court Martial, May 5, 1778

Tuesday the 5th May, 1778

The Court being met pursuant to Adjournment.

Corp^l Oringe Grant of the 42^d Reg^t of Foot was brought before the Court & accused of permitting George Wright a major in the Rebel service & prisoner in the Goal, to make his escape from thence, whilst he (Grant) was on duty there, & the following witnesses were examined in Support of the Accusation.

Capt. Twisleton Griffith Redsdale of the 44th Reg^t of Foot, being duly sworn, deposed that on Friday the 1st Ins^t he was on duty at the New Goal, & as is Customary, call'd over the Roll of the Rebel Officers & found all present, previous to his taking Charge of them, that between five and Six in the Evening he was informed (he thinks) by the Provost Martial that Major Wright had been detected in attempting to pass the Lines; that he immediately went up Stairs, & on calling the Roll, observed that not only Major Wright but a Lieut. Kendall was also absent; that he then came down, & in the Course of his enquiries into the Matter, there appeared to him such strong Reasons to believe that the Prisoner Corp^l Grant had Connived at the escape of Major Wright that he thought proper to Confine him, & upon his reporting the Circumstances at Head Quarters, he was Ordered before this Court.

Q. What were the reasons that induced him to suspect the Prisoner of having Connived at the escape of Major Wright?

A. John Jones, who is servant to Serjeant Knot that has the care of the Rebel Prisoners, told him, that on Friday Morning, (the day on which he was on duty) Major Wright had asked for a Gill of Rum and Water & upon his (Jones's) handing it to him thro' the bars of the Grate, that leads from the Tap room to the prison he observed the Prisoner to be in Conversation with him, & on Major Wright pulling out a quarter of a dollar to pay for the Liquor, the Corporal insisted on treating him, & gave Jones a small piece of silver, which at first seemed to him, to have been a button, from its' having been so plug'd; this Circumstance he said induced him to look at the Corporal so particularly that he was positive he did not mistake his person, that Jones mentioned another Circumstance to the Witness, which he (Jones) said surprized him at the time, for that Major Wright spoke Dutch and the prisoner Erse, yet they seemed to understand one another; further that Serjeant Knot told him (the Witness) that about 4 o'clock the Prisoner Grant came to him, & said that a person had just come out of Goal, who called himself a Doctor, but he doubted his being so, that he (Knot) had immediately ran to the Door, and was there informed by the Soldiers that the Man in question had passed out a quarter of an hour before.

Q. On what particular duty was the Corporal on this day?

A. There is a Corporal and a Sentry always posted at the Grate & he thinks that the prisoner was the first Corporal on that duty which was from 9 o'clock till Eleven.

Q. What are the Orders given to the Corporal who is posted there?

A. The Witness gave Orders to the Serjeant of the Guard that no person should be suffered to pass in or out without his (the Witness's) knowledge, but what particular exceptions the Prisoner may have received Orders with, from the Corporal of the Old Guard whom he relieved at that post, he cannot pretend to say.

Q. Was the Prisoner on this duty at the time he gave Serjeant Knot the information of a suspected person having gone out as a Doctor?

A. He thinks that he must have been so, as it was a little after three o'clock, & from his having been the first on that duty in the Morning, it was come to his turn again, about that time.

John Jones being duly sworn that on the 1st Ins^t between twelve and one o'clock, as nearly as he can recollect, Major Wright called for a Gill of Rum & Water, which the Witness handed to him through the Grate; that the Prisoner was then on the inside of the Grate in Conversation with Major Wright; the Major speaking in a Language he (the Witness) took to be Dutch, and the Prisoner in one that appeared to him to be Erse, but they seemed to understand one another; that he also heard the prisoner ask Major Wright in English, how far he lived from Town, and he answered that he lived between German Town and White Marsh, that after they had drunk together, Major Wright pulled out a quarter of a Dollar in Order to pay for the Liquor, but the prisoner insisted on treating him, and gave the Witness an eleven penny piece for that purpose; that not being able at the time to give him the Change of this piece, he desired him to Call for it when he came off duty, but upon his not doing so, the Witness went into the Guard room and offered the Change (which consisted of three half pence) to the Prisoner, whom he very well knew to be the person he had received the piece of money from, but the prisoner said it was not him, & bid him to go to the Gate to look for the person, but he was positive that it was not him, & as he was going away some one said that he might keep the Change.

Q. How was Major Wright dressed at the time that he was talking with the Prisoner?

A. He had on a brown Coat faced with yellow, such as he commonly wore in prison.

Q. Did he ever see Major Wright in any other dress?

A. He has seen him in a light blue Coat.

Q. Was the Grate which opens into Serjeant's Knot's room, open that day?

A. No, it was locked and the Officer of the Guard had the Key.

Q. At the time of the Conversation between Major Wright & the prisoner, did the prisoner appear to be perfectly sober?

A. He appeared to him to be sober.

Q. (by the Prisoner) can he be Certain as to the hour that he heard the Conversation between the Prisoner and Major Wright?

A. He cannot be further Certain than he has already given in Evidence, which was that he believes it was between 12 and 1 o'clock.

Serj^t Rob^t Knot, keeper of the new Goal, being duly sworn, deposed that between 12 and 1 o'clock on Friday last, Major Wright knocked at the Grate, and desired to have some rum & Water, which he ordered the boy to give to him, & a little time after the Boy brought him a piece of money, out of which he was to pay for the liquor & get some Change, but upon his being unable to give the Change, the Boy said it was for the Corporal of the Guard, that he (the Witness) reprimanded him for carrying liquor to any of the Guard, & the boy answered that Major Wright had call'd for the liquor, but that the Corporal had insisted on paying for it, that he (the Witness) did not see Major Wright or the Prisoner at the time, nor hear any Conversation at the time between them.

Q. Did he see Major Wright at any time during that day, & how was he dressed?

A. He saw him several times that day, and he was then dressed in a brown Coat Lapelled with yellow, which he usually wore.

Q. Did not the prisoner come to him about 4 o'clock in the Afternoon & tell him that a person who called himself a Doctor had gone out & that he had doubted him?

A. About 3 or ½ past three, the Deputy Commissary of Prisoners went into the Goal upon some business, & upon coming out he asked the Witness if it was usual for Doctors to come there at that time of day, upon his answering that it was not, unless by permission of the Captain, the Commissary replied that a Corporal had informed him, that a man who called himself a Doctor, had just gone out; that he (the Witness) immediately went to the prisoner who was then on Duty at the Gate, & asked him how he came to let anybody out without the captain's Leave, the prisoner answered that he had said that he was a Doctor; that upon his (the Witness's) asking which way he went, & expressing a desire to follow him some one who was standing there (he can't say who it was) said that it was unnecessary for that he has been gone a quarter of an hour.

Q. Are there any Orders given to the Corporal at the Gate, to let no Doctors in or out without leave from the Captain of the Guard or the Witness himself?

A. Such orders have been given, but have been occasionally broke through, upon the Doctors being known.

Q. Did any of the Corporals of the Guard that day bring any of the Doctors to him; to know whether they were so?

A. Yes, one of the Corporals did, about 11 or 12 o'clock.

Corporal James McDonald of the 42^d Reg^t of Foot, being duly sworn, deposed that when he relieved the Prisoner at the Gate at 11 o'clock, he gave him Orders not to let any Person go in or out without leave from the Captain of the Guard and upon the Prisoner relieving him at 1 o'clock he (the Witness) repeated to him the same Orders.

Q. Did any person pass in or out of the Goal at the time he (the Witness) was posted at the Gate?

A. None but the Captain of the Guard.

Q. (by desire of the Prisoner) Did he see or hear any Conversation between Major Wright & the Prisoner whilst he was at the Gate?

A. No.

Corporal John Stewart, of the 42^d Reg^t of Foot, being duly sworn, deposed that he relieved the Prisoner at the Gate about 4 o'clock in the Afternoon, & he then gave him Orders to let nobody pass, except by permission of the officer of the Guard or the Keeper of the Goal.

John Jones, already sworn was again examined.

Q. As the prisoner was only a Lance Corporal and had no Epaulett, what reason had he to think that he was a Corporal?

A. He guessed that he was so, because he was in the inside, & had no Arms.

Francis Cann Surgeon to the Rebel Prisoners, being duly sworn, deposed that on the 1st of May last upon his coming out of the Goal, where he had been to visit the Prisoners between 12 & 1 o'clock, and was stopped by Corporal McDonald, who carried him to the Goal Keeper, before he would permit him to pass.

Q. Is it usual for the Corporals or Sentries to observe this ceremony?

A. He never was stopped before - the Surgeons generally go into the Goalers Room before they go inside the Goal, & after they come out, in order to give the Sentries an opportunity of seeing them.

The Prisoner being put upon his Defence said that when he was first posted at the gate, the Orders he received from a Corp^l of the 10th Reg^t whom he relieved, were, that he should let nobody pass except Commissaries, Sweepers, & (according to the best of his knowledge) Doctors, & not to let out above two Sweepers at a time; that upon posted at the gate from 1 to 3 o'clock; a little after two, Major Wright came to the gate & bid the Sentry open it; that he (the Prisoner) thereupon asked him who he was, & he answered that he was a Doctor, & being dressed in a Scarlet Coat & Cockt hat such as Doctors wear, he (the prisoner) had no doubt but he was one, & therefore let him pass, thinking it impertinent to Stop him, he thinks he desired him to go into the Surgeon's Room, & from his not doing so, but going off, he supposed that he had not heard what he said, & having no suspicion of him he did not call him back; but observing that he had a long beard, he began after he was gone to have some little Suspicion of him, and therefore desired the Sentry to watch which way he went, whilst he went to inform the Goaler of his having gone out; that he never did drink with Major Wright or have any Conversation with him in his Life, nor did he even know him by Sight.

Major George Wright of the 4th Battalion of Pennsylvania Militia being duly sworn, deposed that upon his coming down stairs he saw a Soldier at the gate, and bid him open it, that he was dressed in a Scarlet Coat & plain Cockt up Hat, and upon the Soldier asking him who he was he answered that he

was a Doctor, upon which the Soldiers opened the Gate and let him out; that he had not any previous Conversation or ever drank with the prisoner in his Life, nor should he have known him again, if he had not been told that he was the Man; that he does not remember ever drinking rum and water that Morning, or at any other time with any British Soldiers.

Q. Had he not some rum and Water that day?

A. Yes

Q. (by desire of the Prisoner) had he a Cockade in his hat at the time?

A. Yes.

William M^cGowan, private Soldier in the 42^d Reg^t of Foot, being duly sworn, deposed that he was sentry within the Goal from 11 to 1 o'clock, that he stood so near the grate that looks into the tap room, that it was impossible for any persons to stand there & converse without his seeing and hearing them, & that he did not see Major Wright or the Prisoner there during the two hours he was Sentry; on the Contrary he saw the Prisoner walking at this time on the Outside of the Goal.

Aye M^cKay Private Soldier in the 42^d Reg^t of Foot, being duly sworn (Serjeant John M^cPherson being sworn to interpret his Evidence from the Erse into the English Language), deposed that he was Sentry in the lower gallery of the Goal from 11 to 1 o'clock, & that he did not see the Prisoner there during that time.

Q. Did he see any Soldiers of the 42^d Reg^t drinking with the Rebel Prisoners in the gallery?

A. He did not.

Lieut: Colonel Thomas Sterling of the 42^d Reg^t of Foot being called upon by the prisoner and duly sworn, deposed that the Prisoner was his Servant for two years, during which he always had the Charge of the keys of his trunks, in which were kept not only his Cloaths, but his own Money, and that of the Company, & he had never the least reason to suspect his honesty; that as a Soldier he has behaved so well, as to be appointed a Lance Corporal, and is not in the least addicted to Liquor.

The Court having considered the Evidence for against the Prisoner Corp^l Oringe Grant, together with what he had to offer in his Defence, is of Opinion that he is **Guilty**, of the crime laid to his Charge, and thereby of a neglect of Duty, in breach of the 3^d Article of War of the 20th Section; the Court doth therefore adjudge him the said Oringe Grant to receive five hundred Lashes on his bare back with cats of nine tails; but this Neglect of Duty appearing to have proceeded from an Error in Judgement rather than to have been Willful the Court in Consideration of this Circumstance, added to those of his general good Character, his youth and Inexperience, is induced to recommend him for Mercy.

E.Markham
L^t Col^o 46th Reg^t

Step. P. Adye

D. Judge Advocate

Confirmed

W. Howe

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, Mar.-Sept. 1778* at WO 71/86, ff. 115-124. In this court martial Pvt. Orange Grant is noted to be a "Lance Corporal."

Military writer Bennett Cuthbertson in his 1768 book *A System for the Complete Interior Management and Economy of a Battalion of Infantry* describes the role of a Lance Corporal writing "...if a Serjeant, or Corporal is engaged in the Recruiting-service, or on any duty which may require his absence for some time, or in a case of sickness, the private Man who is appointed to act as Lance-Corporal, must have the inspection and care of his Squad, with all the power and authority over it, as if he was a full one." Grant's status in the regiment was not harmed by this court martial as evidenced by his promotion to full corporal six months later on Nov. 19, 1778.

General Orders Implementing the Sentence of the Court Martial of Lance-Corp. Orange Grant, 42nd Regt., Philadelphia, May 10, 1778

Head Quarters Philadelphia 10th May 1778.

Corporal Orange Grant, of the 42^d Regiment of Foot, tried by the General Court Martial of which Lieut- Col. Markham is President, for permitting George Wright, a Major in the Rebel Service, and Prisoner in the Gaol, to make his Escape from thence whilst he (Grant) was on Duty there; the Court is of opinion that he is guilty of the Crime laid to his charge, and thereby of neglect of duty, and doth therefore adjudge him to receive 500 Lashes; but this neglect of Duty appearing to have proceeded from an Error in judgment rather than to have been willful, the Court, in consideration of this circumstance, added to those of his general good character, his Youth and inexperience, is induced to recommend him for Mercy. The Commander in Chief confirms the above Sentence and Pardons the Prisoner...

Source: "The Kemble Papers," Vol. I, 1773-1789 in *Collections of the New-York Historical Society for the Year 1883*, Publication Fund Series, Printed for the Society, New York, 1884, Google Books.



Detail of Area of Front to Second Street from "A plan of the city of Philadelphia, the capital of Pennsylvania, from an actual survey," 1776 by Benjamin Easburn, Peter André and Andrew Dury.

Map Source: *Library of Congress Geography and Map Div.*

General Court Martial of Pvt. Benjamin Williams, 55th Regt. for Stealing the Watch of Sgt. William Struthers, 42nd Regt., Philadelphia, May 6, 1778

Wednesday the 6th May 1778

The Court being met pursuant to Adjournment.

Benjⁿ Williams, Private Soldier in the 55th Reg^t of Foot, was brought Prisoner before the Court & accused of stealing a Watch the property of Serj^t Struthers of the 42^d Reg^t on the night of the 29th April Last.

Serjeant William Struthers of the 42^d Reg^t of Foot, being duly Sworn, deposed that between the hours of 7 & 8 o'Clock on the night of the 29th last Month, as he was passing thro' a Lane that leads from Front to Second Street, he was stopped by three Men, who demanded his watch, & one of them struck him on the side of the head, upon which he told them, that if they would not treat him ill, that he would give them what he had about him, when they put their hands into his Pockets & took from him his watch together with a Pocket Book & Black Leather Pencase & a Handkerchief; that upon getting clear of them, he went up into Second Street, & the Prisoner followed him the other two remaining about twenty yards

behind, & when he got opposite to the Lamp, he laid hold of him & found the buttons of his Coat to be marked 55; & also took particular notice of his Visage, but he did not chuse to stop him that night as the others were so near, but on seeing him pass by in the Morning he followed him and named him with having his Watch, & having treated him ill the night before, but told him that if he would bring him the Watch he would give him twenty shillings, & say no more to him about it, and the Prisoner then promised to bring it to him in ten Minutes, that upon the Witness saying it was a Villainous action to treat him thus who was also a soldier, & the Prisoner then said that it was that which would keep the Watch from him; that after he was carried to the Barrack Guard, he again declared before Witnesses that if the Witness would give him twenty shillings he would bring the Watch in twenty Minutes.

Q. Is he certain that the Prisoner was one of the three who first stopt him?

A. He must have been one of them as there was nobody else in the Lane, & it was not a minute before he followed him when he /the Witness/ just held him long enough to mark his countenance & his buttons & then ran off for fear of the other two coming up.

Arthur Thompson Private Soldier in the 42^d Reg^t of Foot, being duly Sworn, deposed that being in the Guard House of the 42^d Reg^t when the prisoner was brought there, he heard him tell Serjeant Struthers that if he would give him twenty Shillings he would bring him his Watch in twenty minutes, but upon the Serjeant pulling out a Guinea the prisoner refused to take it.

Alex^r Man Private Soldier in the 42^d Reg^t of Foot being duly Sworn, deposed that he heard the prisoner tell Serjeant Struthers, that he would find him his watch, if he would give him twenty Shillings.

John Read Private Soldier in the 42^d Reg^t of Foot being duly Sworn, deposed that he heard the prisoner say, that if Serjeant Struthers would give him twenty shillings, he would produce him his Watch in ten minutes, but when the Serjeant offered him a Guinea, he refused it and said that he knew nothing of the Watch.

The Prisoner being put upon his defence said that on the evening of the 29th April from seven to Eight he was employed in Carrying provisions and Tents with Gillespie & Belmayne, two other soldiers of the 55th Reg^t and the next morning when he met Serjeant Struthers, in a house, he was very drunk, & had some Women with him, who were also drunk; that upon hearing Serj^t Struthers say that he had lost his Watch the night before, & would give twenty shillings to any one, that would bring it to him, he (the Prisoner) said that he supposed that some of those women had taken it, & he dared to say, could bring it to him in ten Minutes, he knew something of his Watch, & insisted upon Carrying him to the Guard; that when he was in the guard room, several of the men got about him, & asked if he had not said that he could find the Watch in ten minutes to which he answered that if they were to give him twenty minutes he could not find it, & the Serjeant then pulling out a Guinea offered it to him, but he would not take it, as he knew nothing of the Watch.

The Prisoner then called on the following Witness in Support of what he had alledged Viz^t

Will^m Gillespie, Private Soldier in the 55th Reg^t of Foot being duly Sworn deposed that about 7 o'Clock in the Evening of the 29th April, the Serjeant Major ordered the Prisoner together with Bellmayne and (the Witness) himself, to carry the Tents and poles to the Reg^t Store, which they accordingly did, but there being nobody at the Store to receive them, they carried them back to the Serjeant Major; that this took up about twenty Minutes, & he (the Witness) then went to draw his provisions, but he does not know whether the Prisoner also went for Provisions.

Q. Does he recollect seeing the prisoner again that evening?

A. He recollects seeing him when the rum was served out, which was just after Roll was called at 8 o'Clock.

Catherine Garvey, being duly sworn, deposed that she is in the same Mess with the Prisoner; that about half after 6 in the Evening of the 29th of April, the Prisoner brought the Provisions into the room, & they were divided into seven parcels and as soon as each Mess had got their proportion, the Serjeant ordered the Prisoner and two other Men on Command, that the Prisoner was gone about half an hour & then returned to the room where he remained till the roll was called at 8 o'Clock, & she left him there a quarter of an hour when she went out.

Serjeant William Gunn of the 55th Reg^t of Foot being duly sworn, deposed that between six and seven in the evening of the 29th April, the Prisoner was employed in bringing in Provisions, & about seven he ordered the prisoner & three others to carry the Tents from the Serjeant Major's to the Regimental Store; how long he was employed on this duty he cannot tell, but upon calling the roll after tattoo beating at 8 o'Clock, the prisoner was then in the room.

Q. How did Serjeant Struthers say he had discovered the Person, who robbed him to be of the 55th Reg^t?

A. He said that he took hold [inserted: of the Second Button] of the left Lapell of his Coat.

James Eustace, Private Soldier of the 55th Reg^t of Foot, being duly Sworn, deposed that half an hour after five on the Evening of the 29th April, Serjeant Struthers was at his (the Witness's) house, where he drank so much as to become intoxicated; that hearing him say that he was Orderly of the Company, and it being then near Eight o'Clock, he (the Witness) advised him to go home in order to call the Roll, but he insisted upon having more liquor, & stayed in his (the Witness's) house, and at the Door, full half an hour after the Gun fired at 8 o'Clock, & was very much in liquor when he went away; that next day the Witness upon returning from Market, met the Prisoner in the Street and invited him home to breakfast, & whilst they were drinking together, Serjeant Struthers came in, in Liquor, & said that two Sailors had robbed him of his Watch and other things the night before, that he (the Witness) then went out for some more liquor, & when he returned he found a file of men at the Door, & he heard Serjeant Struthers say to the prisoner, that he believed that he was one of those who had taken his Watch, but he was then dressed in Sailors Cloaths.

Q. Did Serjeant Struthers never quit his house from half past five till half past 8 o'Clock?

A. He is positive that he did not.

Q. At what time did he see the Watch in Serjeant Struthers Possession?

A. He saw it in his hand at half past 8 o'Clock.

John Stewart, Private Soldier in the 42^d Reg^t of Foot, being duly Sworn, deposed that the Morning after Serjeant Struthers lost his Watch, he saw him search his pockets, & he bid the Witness look in the bed for something that he had lost, which he accordingly did, but could not find nothing there; that Serjeant Struthers then quitting the room, & going into the Garret, the Witness said to the Men of the room that Struthers seemed to have lost something, & upon his returning, he asked him what it was that he had lost, and he answered that it was his watch,

Q. Was this on the same Morning that the prisoner was put in Confinement?

A. Yes.

Lieut Cosby Swindle, of the 56th [55th] Reg^t of Foot being duly sworn deposed that the Prisoner has been in the Reg^t since Nov^r last, and he has never known him to be suspected of dishonesty.

The Court having Considered the Evidence for and against the Prisoner Benjamin Williams, together with what he had to offer in his Defence, is of **Opinion** that he is **Not Guilty** of the Crime laid to his charge, and doth therefore Acquit him.

E. Markham L^t Col 46th

Step. P. Adye

D. Judge Advocate

Confirmed

W Howe

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, March - Sept. 1778 at WO 71/86, ff. 124-129*) Transcribed by Mark Tully.



Detail from "East View of Edinburgh Castle," 1753, by Paul Sandby

Picture Source: *King George III's Personal Coloured Views Collection*, British Lib., London

Limited Summary of Court Martial of Pvts. Charles Williamson and Archibald M^cIver, 42nd Additional Company, for Mutiny, Edinburgh Castle, May 6, 1779

Note: The full record of the Court Martial of Pvts. Charles Williamson and Archibald M^cIver, 42nd Additional Co., for Mutiny, Edinburgh Castle, May 6, 1779 is provided in this Volume in Appendix J. *Mutiny of Drafted Highlanders, Leith, Scotland, April 1779*.

At a General Court Martial held in Edinburgh Castle on Thursday the 6th May 1779, by Order of Lieutenant General Sir Adolphus Oughton Colonel of His Majesty's 31st Regiment of Foot, and Commander of His Majesty's Forces, Castles, Forts, and Barracks in North Britain, dated the 3^d May 1779, as having powers from His Majesty to that Effect.

Lieut: Col^l Dundas of the 11th Dragoons, President...

Charles Williamson and **Archibald M^cIver** Soldiers of the 42^d Regiment of Foot, and **Robert Budge** Soldier of the 71st Regiment of Foot, came prisoners before the Court, when the following Charge was exhibited against them viz^t.

"That they and each of them had been Guilty of Mutiny at Leith upon Tuesday the 20th April last past, and of having instigated and incited others to be guilty of the same, In which Mutiny several of His Majesty's Subjects were killed and others wounded...."

Edinburgh Castle 8th May 1779

This Court having met, and maturely weighed the Evidence in support of the Charge and the Defence made by the Prisoners Charles Williamson, Archibald M^cIver and Robert Budge Do unanimously find the said Charles Williamson, Archibald M^cIver and Robert Budge, Guilty of Mutiny, being a breach of the Second, third, fourth and fifth Articles, of the Second Section of the Articles of War: and having likewise duly considered the evil tendency of Mutiny and Sedition; especially when carried to

such enormous lengths, as in the present instance, Do therefore Adjudge the foresaid Charles Williamson, Archibald M^cIver and Robert Budge, to be Shot to Death.

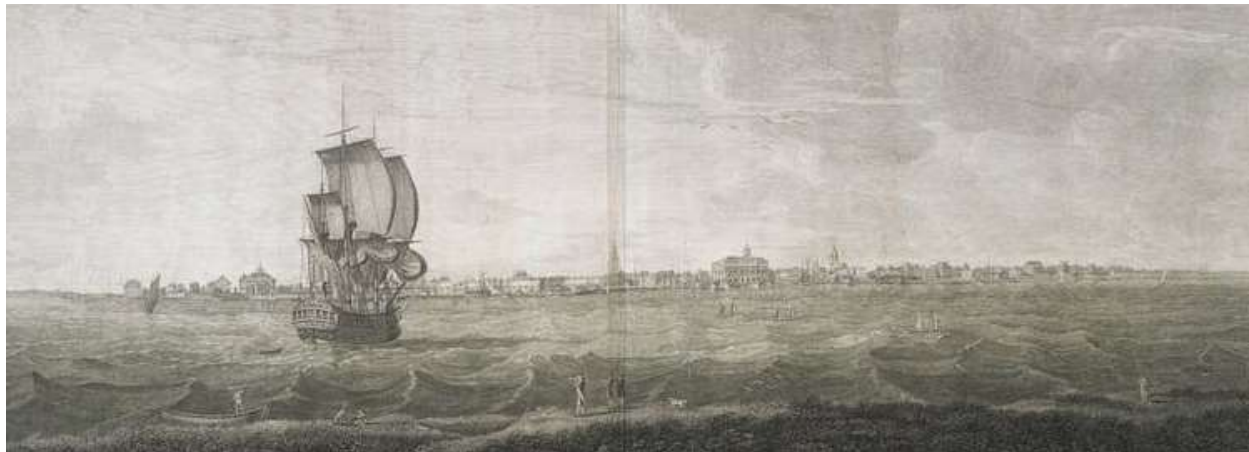
R Dundas
Lieut: Col: 11th Reg^t Dragoons
President...

Horse Guards 22 May 1779...

I am Commanded to express to your Lordship. That His Majesty, having regard to the former commendable and distinguished behavior of the 42^d Regiment to which the two first mentioned Prisoners belong, and remarking, that the third Prisoner Robert Budge, (who is represented to be now only recovering from Wounds received in the Affray) does not appear to have had any forward part in the Mutiny, is most graciously pleased to grant unto the said Charles Williamson, Archibald M^cIver and Robert Budge a free pardon, in full Confidence, that they will endeavor upon every occasion by a prompt obedience and orderly demeanor atone for this unpremeditated but atrocious Offence...

Charles Gould

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, General Courts Martial, July 1777 - Oct. 1779* at WO 71/54 (223413) pages 363-381. Williamson and M^cIver were recruits in one of the 42nd Regt. Additional (or recruit) Cos. in Scotland. They mutinied, along with 14 men from the 42nd Company and 50 men from the 71st Companies, after being drafted out of their regiments and ordered to join the 83rd Regt. embarking at Leith, Scotland. Because the events associated with this court martial are described in some detail in Appendix J, *Mutiny of Drafted Highlanders at Leith, Scotland in 1779*, the full text of this court martial and associated documents are provided in that appendix.



Detail from "A View of CHARLES-TOWN, the Capital of SOUTH CAROLINA : From an Original Picture painted at Charles Town, in the Year 1774. / Painted by Tho.^s Leitch ; Engraved by Sam^l Smith.."

Picture Source: King George III's Personal Coloured Views Collection, British Lib., London

**Garrison Courts Martial of Pvts. John M^cQuinn and James Donaldson, 42nd Regt.,
Charlestown, South Carolina, May 26, 1780**

H^d. Q^{rs}. Charlestown 26th May 1780...

Prisoners Tried by the Garrison Court martial of which Capt. [Timothy] Newmarch [7th Regt.] is President...

J^{no}. Macquin Private Soldier in the 42nd Reg^t. accused of plundering is found Guilty, & sentenced to receive 500 lashes. James Donaldson of the 42nd Regt. & John Craige of the Corps of Pioneers, confin'd for attempting to robb the House of an Inhabitant, are found Guilty, & Sentenced to receive 500 lashes each...

Major Gen^l. [Alexander] Leslie approves of the above Sentences, The Corporal punishment to be inflicted on MacQuin, Donaldson & Craige to morrow morning at 5 oClock on the Green by the Drummers of the Garrison...

The above Court martial is dissolved.

Source and Notes: "Extracts from the Orderly Book of Royal Artillery Commissary of Stores George Wray, Charlestown, South Carolina, 16 May 1780 — 24 February 1781," *Wray Papers*, William L. Clements Library, Univ. of Michigan. Provided by Todd Braisted. Donaldson and McQuinn likely remained behind in Charleston when the regiment marched or the events in this court martial must have occurred between the surrender of Charleston on May 12 and May 20, when the 42nd Regt. marched to Goose Creek and Monck's Corner where they remained until May 28. Little is known of McQuin, but Pvt. Donaldson, who was assigned to Lt. Col. Stirling's Co. on Aug. 25, 1779. He was one of the Scots soldiers of the 26th Regt. drafted into the 42nd Regt. to replace English and Irish recruits sent out for the 42nd Regt.



Detail showing Brooklyn from "Old map of Brooklyn and greater part of King's County, Long Island," circa 1770's,

Map Source: *Library of Congress Geography and Map Div.*

General Court Martial of Pvt. Alexander McDonald, 42nd Grenadier Co., for Plundering, Brooklyn, Dec. 2, 1780

Capt. John Peebles' Account of Pvt. McDonald's Arrest and Pvt. Peter Burley Death,
Nov. 27 and Dec. 1, 1780

Monday 27th fine w^r [weather] The killing of Cattle among the Gr^{rs} [Grenadiers] is become notorious Alex^r McDonald & Peter Burley were absent last night, & it was found out this Morn^g that they had been at Cornelius Rapelje's about a Mile off attempting to take a Cow, in which infamous business that rascal McDon^d was, made prisoners by two Negro's and Burley was shot dead on the spot.

Friday 1st Dec^r 1780 ...A Gen^l Court Martial to sit tomorrow to try this rascal McDonald, wrote a few lines to Col. [Henry] Fox who is Presid^t to get him turned over to the navy or somewhere else...

Source and Note: NRS, *Peebles' Journal* entries for Nov. 27 and Dec. 1, 1780 in "13 notebooks containing the journal of Lt. [latterly Capt.] John Peebles of the 42nd or Royal Highland Regiment, during the American War of Independence," *Papers of the Cuninghame Family of Thorntoun, 1776-1782* at GD 21/492/2. Pvt. Peter Burley is listed in the muster report for the 42nd Gren. Co. taken at "New Town L. Island 8th Feb^y 1781" as "Died 27th Nov^r 17

General Court Martial, Brooklyn, Dec. 2, 1780

At a General Court Martial held at Brooklyn on Long Island in the Province of New York on Saturday Dec^r 2^d 1780, by Virtue of a Warrant, bearing date the 1st instant, from His Excellency Sir Henry Clinton, Knight of the Most Honourable Order of the Bath, General and Commander in Chief of All His Majesty's Forces, within the Colonies, laying on the Atlantic Ocean, from Nova Scotia to West Florida inclusive, &^{ca} &^{ca} &^{ca}

Lieu^t Colonel Hon^{bl} Henry Fox, 38th Reg^t of Foot President

Major Thomas Armstrong,	64 th Reg ^t
Capt ⁿ Walter Home,	7 th Reg ^t [Future Maj., 42 nd Regt.]
Capt ⁿ Charles McLean,	43 ^d Reg ^t
Capt ⁿ Eyre P. French,	54 th Reg ^t
Capt ⁿ George Seymour,	17 th Reg ^t
Capt ⁿ Will Rayman,	22 ^d Reg ^t
Major Hon. George Damer,	87 th Reg ^t
Capt ⁿ Will. Brereton,	17 th Reg ^t
Capt ⁿ Rob ^t Irving,	70 th Reg ^t
Capt ⁿ Warren Symondson,	64 th Reg ^t
Capt ⁿ Matthew Millett,,	38 ^d Reg ^t
Capt ⁿ James Drury,	23 ^d Reg ^t

Stephen Payne Adye Esq^r D. Judge Advocate

The President, members, and D. Judge Advocate being duly Sworn,

Alexander McDonald, Private Soldier in the 42^d Reg^t of Foot, was brought Prisoner before the Court, accused of having broke into an Enclosure of Cornelius Rapalje, Inhabitant of New Town, in the Night of the 26th of Nov^r, and attempting to plunder the Property of the said Cornelius Rapalje, and the following Witnesses were examined in support of the Accusation viz.

Cornelius Rapalje being duly Sworn, deposed that having lost a Beast from his Cow Yard. He took particular care in securing the railing round it, leaving only a part of it to take down, and even this he secured at night by pins, which in the Morning he was obliged to force out; that about 11 O'clock at Night, a Negro of the name of France, who used to lay in a Waggon house, adjoining to the Cow Yard, came and informed him that some People had broke into the Cow Yard; his orders to this Negro had been, in case any body attempted to come into the Yard, to fire over their Heads, in hopes of intimidating them; this France inform'd him he had done upon this Occasion, but that they would not go away; that he (the Witness) then took a Gun and went out with France, and called out to the People in the Cow Yard, whom they could not see but heard, that if they would go away, they should not be hurt, but finding that they still persisted he ordered France to fire over their heads again, and again called to them to go off; that he himself pulled the Trigger of his Firelock several times, but it constantly miss'd Fire; finding that this proceeded from want of priming, and thinking from their perseverance that further Assistance might be necessary, he return'd to the House, leaving directions with France and Sam (another Negro who had come out) not to hurt them unless they advanced on them, to fire at any part of them they could; these directions he gave in Dutch, that they might not understand it. That after calling up another Negro, who lay in the Dwelling House, and priming his piece he returned to the Yard, and on his way thither he heard the Negro France call out several times, stand off, and directly after he heard him fire and Sam call'd out that one of them was down, and that they had taken another; that the Man they took proved to be the Prisoner McDonald, whom they carried in, if he had killed any of them; he answered he did not know, as he had not been out of the house since the Negro had fired last, but upon their going out together, they found a Soldier of the 42^d Reg^t laying dead in a field between the Cow Yard & the House, and he (the

Witness) reported these Circumstances to Col^o [John] Yorke the next Morning; he further deposed that after they had apprehended the Prisoner, France call'd to him that there were more of them coming behind, but he answered that they would carry that one into the house, and he then ordered the Doors to be locked.

Q. (by the Court) Did the Prisoner give any Account of himself, after he was brought into the House?

A. Upon being ask'd how many of them there were, he first said that there were five, and upon being further questioned with respect to their Names, he mentioned those of three of them, which he then said were all that were there. On being ask'd the Name of the deceased, he said he could not tell which of them was killed.

Q. Did he appear to be in liquor?

A. After being brought into the house, he drank Rum several times out of a Canteen, which he had brought with him, and he (the Witness) was apprehensive that he might become intoxicated & therefore would not permit him to drink any more, but he did not appear to be in liquor when he was brought in; he had besides lain down about an hour, before he made the Confession with respect to their Numbers.

Q. (by desire of the Prisoner) was not the prisoner so intoxicated at the time he apprehended him that he could not speak?

A. Oh no, he was not.

Q. What Condition was the Prisoner in, when he carried him into the House?

A. He might be a little Merry, but he seem'd to know very well what he was about, and spoke as well as he does at this instant; he struggled so forcibly that it would have been difficult for one Person to have managed him. A further instance of his not being so very drunk is, that having declared he had occasion to go into the Yard, two Soldiers of the Garrison Battalion, in whose Custody he was at this time, together with M^r Moore, the Witness himself and four Negroes went with him; that having bound him to a Chair, when they brought him into the House; they on this Occasion, untied him in part, and he contriv'd to disencumber himself intirely from the Chair, and ran at least 50 yards from them before they could overtake him, and had nearly made his Escape tho' there were no less than eight of them standing round him at the time.

Q. Had the Prisoner any of his (the Witness's) Property about him, when he took him in Custody?

A. Not that he knows of.

Q. How many Shots were fired before the man was killed?

A. It was the third Shot that killed him.

France, a Negro, being duly Sworn, deposed that he lay in the Waggon house, adjoining to M^r Rapalje's Cow Yard, and hearing some People in the Yard between 10 & 11 o'clock at Night, he got up & heard whispering in different parts of the Yard, and also observ'd that they had taken out the Pins, by which the Rails were fastened; that he bid them be gone or he would fire on them, and after putting up the Rails, went to bed; but finding that they did not go away, he again got up, and taking his firelock, fired over their heads; that this not intimidating them & fearing his life was in danger, he call'd up his Master M^r Rapalje, who came out with a Gun in his hand, and attempted several times to fire over their heads, but the Gun would not go off, and he bid him (the Witness) fire again over their heads, which he accordingly did; that M^r Rapalje then went into the House to get fresh priming and to call for further Assistance, when he (the Witness) saw the Prisoner M^cDonald coming round the Corner of the Waggon, upon which he call'd to him that if he advanced, he would blow his brains out, and he with the Assistance of another Negro of the Name of Sam secured him; that the Man, who afterwards fell, was then advancing upon them with a Tomahawk in his hand, and he (the Witness) call'd to him to stand off, or he would blow his brains out, but the Man still pressing him, after retiring several paces, and the man being within ten Yards of him, he fired & killed him; hat they then carried the One they had secured into the House, and who, he is very certain was the Prisoner M^cDonald.

Q. Were all the orders and Directions he received from his Master that Night in English?

A. Yes

Q. Did he hear his Master speak Dutch that Night?

A. He did not.

Q. Upon his Masters going into the house, to get priming, did he give any Directions how to Act?

A. He bid him to stay till he return'd, he did not hear any other.

Q. Might not his Master have given other and he not have heard him?

A. Yes, he might, but he heard no other.

Q. Might not his Master have spoke in Dutch and he not have heard him?

A. He did not speak Dutch at all.

Q. Does he (the Witness) understand Dutch?

A. Yes.

Q. Did he hear his Master call out to the People in the Yard, that if they would go off; no harm should be done to him?

A. Yes.

Q. (by desire of the Prisoner) Had the Prisoner anything in his hand or was he doing any harm, when they apprehended him?

A. None at all, but seem'd to be looking round to see if there was anybody there.

Q. Is he sure that the prisoner was one of those who was in the Cow Yard?

A. Yes, very sure.

Q. Did the fence appear the next Morning to have been broke down?

A. Yes.

Q. by the Court. Is the Waggon house near the Road?

A. It stands upon the Road.

Q. Did the Prisoner give any Account of himself, after he was apprehended?

A. He first said he was just come from New York, and then from Hell gate; and upon being asked how many were in the Yard with him, he first said that there were five and afterwards that there were none but himself and the man that was shot.

Q. Did he tell the name of those who were with him, and particularly of the Man that was killed?

A. Not in his hearing, he was often out of the Room, on different Occasions.

Q. How many Men did he (the Witness) see?

A. He only saw the prisoner & the deceased, but he heard many more.

Q. Where did he see the Prisoner and the deceased?

A. They were within the Cow Yard, driving out the Pins of the rails.

Q. How near was he to them?

A. About ten yards off.

Q. Was it a light Night?

A. Tollerably so.

Q. Where was the deceased killed?

A. In the field, leading from the Cow Yard to the Dwelling house.

Q. Is he positive that the Prisoner was one of those he saw taking the pins out of the Rails?

A. Yes, he is, upon his calling to them to desist from pulling down the Rails, the Prisoner pass'd within five yards of him from whence he was able to ascertain his Person, and from having seen him before, he (the Witness) having often carted thatch for the huts of the Grenadier Company of the 42^d Reg^t to which the Prisoner belong'd.

Q. Did the Prisoner appear to be much in liquor, when he took him?

A. Yes, he did.

Q. Did he appear to be so drunk as to not be able to speak or know what he was about?

A. He was so drunk that he could scarcely speak.

Q. Did he not attempt to make his Escape?

A. Yes.

Q. Did he not contrive to extricate himself from the Rope, by which he was bound?

A. Yes, he cut the Rope half way through with his Knife, before he was discover'd.

Q. Did he appear to be in liquor, at the time that he saw him taking the Pins out of the rails?

A. No, he did not.

Q. What length of time intervened between his seeing him taking the Pins out and his apprehending him?

A. About an Hour; when he came towards him, he appear'd to walk very steadily, but after apprehending him, he seem'd much in liquor.

Q. (by desire of the Prisoner) Does he recollect ever to have seen the Prisoner before that Night so as to have taken particular Notice of him?

A. He recollects having seen him whilst they were thatching the Huts.

A Negro, named Sam, being duly Sworn, deposed that being call'd out of Bed between 10 & 11 o'clock, by his Fellow Servant France, upon getting up he saw the Prisoner advancing towards him as he was standing near the gate that leads to the Cow Yard; that he immediately seiz'd him, telling him, he was his prisoner; he struggled to get away, but the Witness held him fast and France push'd him up with the butt of his Firelock; that just then seeing another Man coming up, he called to France to take that he did not strike; France stepped back and the other advanced upon him, when he (the Witness) call'd to France to shoot him, which he accordingly did; that they then carried the Prisoner into the House, where they bound him & kept him 'till next Morning; he does not think the Prisoner was perfectly sober, but he could speak and walk very well and knew what he did.

Q. (by the Court) Where did the Prisoner appear to be coming from?

A. He was coming round the Waggon house.

Q. Was M^r Rapalje present when they took the prisoner?

A. No, he was gone into the house to get priming for his Gun.

Q. What Directions did his Master give them when he went into the House?

A. he told them in Dutch to take care that they did not carry off any thing, and to fire over their heads.

Q. Had the man that was killed, anything in his hand?

A. Yes, he had a Tomahawk.

Q. Had the Prisoner any thing in his hand?

A. No.

The Prisoner being put upon his defence said that he together with Peter Burley, the Soldier who was killed, took a Walk on the 26th of Nov^r to Hell Gate; where they bought a canteen of Rum; that on their Return to their Quarters at new Town, they met an Artillery Driver of the Name of David Brown, who had formerly been acquainted with Burley in Germany; that in the course of their Walk, he heard them talk of going to get a Cow, but he (the Prisoner) drop't behind them; that just as he passed Rapalje's House, he heard two Shots fired, and suspecting that they were committing some Misdemeanor, he got over the rails with an Intention to bring them off, when he was seiz'd by a Negro.

The Court having consider'd the Evidence against the Prisoner, together with what he had to offer in his Defence, is of the **Opinion** that he, Alexander M^cDonald is **Guilty** of the Crime laid to his Charge in breach of the 21st Article of War of the 14th Section and doth therefore sentence him to receive One Thousand Lashes, on his bare back with a Cat of Nine Tails.

H. Fox
L^t Col. 38th Reg^t
President

Step. P. Adye
D. Judge Advocate

Confirmed
H. Clinton

at the discretion of the Commanding Officer
H.C.

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, April-Dec. 1780* at WO 71/92, pp. 411-419. McDonald's company commander, Capt. John Peebles called him that "notorious scoundrel Alex^r M^cDonald" based on a second court martial as shown below dated Aug. 7, 1781. The *Historical Guide to the City of New York* (1909) identified the location of the events of this court martial as "QUEENS...Go north on the Bowery bay Road...Purdy Farmhouse (opposite Grand Avenue), built shortly before the Revolution and scene of shooting of one of the soldiers of the Royal Highlanders Regiment...while on a marauding expedition, by one of the slaves of Cornelius Rapalye, then owner." This location is approximately at intersection of current 30th Ave and Hobart St. in Queens.

**Will of Pvt. John M^cGregor, Gen. Lord John Murray's Company, 42nd Regt.,
Greenwich, New York, Sept. 5, 1781,**

To all who sees these presents Greeting;

I John M^cGregor, Private soldier in the Generals Company of His Majesties 42 or R.H. R. of foot Does give and bequeath to Duncan Monro of the above Regt. and Company; all My effects and Money in Custody Or due me from the Regiment or any other person or persons If it should be the Will of providence to Call me off the stage of time. and doth empower him to pay my debts an Receive from those indebted to me. I further disavow Any wills or forms of wills in Words or Writing heretofore.

Witness My hand, this 5th Day of September in the year of God one thousand seven hundred & eighty one.

J M^cGregor

N.B. this Testament Remains in force Till it is our Mutual Consent to Dissolve An defallon the same in the presence of Each other if alive.

Camp near Greenwich 1781

Source: NRS, *Stewart of Urrard Papers* at GD1/394/26. This will was prepared shortly before the 42nd Regt. sailed on the expedition to reinforce Lt. Gen. Earl Cornwallis at Yorktown Virginia. The regiment did not land at Yorktown as Lord Cornwallis had surrendered prior to the arrival of the expedition.



Detail showing New Town and New Town Creek from "Plan of New York and Staten Islands with part of Long Island," 1780's.

Map Source: *Library of Congress Geography and Map Div.*

**General Court Martial of Pvt. Alexander M^cDonald, 42nd Grenadier Co., for
Killing a Hog and Wounding a Civilian, New York, Aug. 7, 1781**

Capt. John Peebles' Account of Pvt. M^cDonald's Offence, July 2, 6 and 30, 1781

Monday 2^d July...

last night that notorious scoundrel Alex^r M^cDonald went to newtown Kills & kill'd a hog at Widow Hallets, was pursued & taken by the people of the house & in the scuffle he wounded one Adolf Humpherys in the head with a tomahawk, of this they sent me notice in the morning, & I sent a Corp^l & a file of men for & lodged him in the Q^r Guard & applied to the Commanding officer to have him tried by a Gen^l Court martial...

Friday 6th July 1781...

Went to Town & spoke to Col [Francis] Marsh [1st Grenadier Bn.] & Major [Charles] Graham [42nd Regt.] about the prisoner M^c Donald agreed to send him to the provost & let him take his chance at the first Gen^l Co: Martial...

Monday 30th July 1781 – hot w^r went to Town to attend the Gen^l Court Martial but they put off the trial of M^cDonald for another week after Summoning the Evidence for this day...

Source: NRS, *Peebles' Journal* entries for July 2, 6 and 30, 1781 in "13 notebooks containing the journal of Lt. [latterly Capt.] John Peebles of the 42nd or Royal Highland Regiment, during the American War of Independence," *Papers of the Cuninghame Family of Thorntoun, 1776-1782* at GD 21/492/2.

General Court Martial, New York, Aug. 7, 1781

Tuesday August 7th 1781

The Court being met pursuant to Adjournment

Alexander M^cDonald Private Soldier in the Forty Second Regiment of Foot, was brought before the Court, Accused of having been out of Camp all Night of Sunday the first of July last, and killing a Hog the property of Widow Hallet, near Newtown Long Island, and Wounding Adolphus Humphry, an Inhabitant of Long Island on the Head with a Hatchet.

The following Witnesses were examined in support of the Accusation.

Captain John Peebles of the Forty Second Grenadier Company being duly Sworn, deposes, that on the Morning of the Second of July last, the Prisoner was reported absent at day break, in about an hour or two after the report was made, Corporal M^cDonald of the same Regiment, who was then, and is at this time in Sick Quarters near Newtown, came and reported to him, the Deponent, that Alexander M^cDonald of his Company, had been detected in killing a Hog at the Widow Hallet's, near his Corporal M^cDonald's Quarters, and taken into Custody by two Men living in the House, after a Scuffle, in which he, the Prisoner, had Wounded one of the Men, in the Head with a Hatchet, and he, the Prisoner, was also Wounded – that he the deponent immediately sent a Corporal and a file of Men for the Prisoner, who found him at the Widow Hallet's all Bloody, and tied with a Cord, that they brought him to Camp, and lodged him in the Quarter Guard, and he, the Deponent, reported him to the Commanding Officer of the Battalion, who, on account of his having been guilty of the like bad practices before, and for which Crimes he had been tried and Sentenced by a General Court Martial last Winter, Ordered him to be sent prisoner to the provost.

Corporal Alexander Leslie of the Forty Second Regiment being duly Sworn, deposes, that one Morning in the Beginning of July last, he was sent with a file of Men by order of Captain Peebles to bring the Prisoner Alexander M^cDonald to camp – that he, the Deponent, found him at Widow Hallet's near Newtown on Long Island, that the Woman of the House inform'd him, that he, the Prisoner, had been killing a Hog her property, and that a Man belonging to the House, had been wounded by him in the Head, that he, the Deponent, brought him to Camp as he was Ordered, and delivered him to the Charge of the Quarter Guard of the Battalion.

Adolphus Humphry an Inhabitant of Long Island being duly Sworn, deposes, that he knows the Prisoner very well, that some time the latter end of June last or thereabouts, he, the deponent, was called to in the Night, by the Widow Hallet, who told him that someone was Stealing her Pigs, that he, the Deponent, got up immediately and went out of Doors, with his Firelock in his hand, that he found the Widow Hallet at the Hog Pen, where he saw a Pig laying dead – that the Widow Hallet told him the Deponent, which way, she supposed the Person had gone, who had kill'd the Pig, that he, the deponent, ran accordingly to her directions some little way, and then returned as he could see no one, that on his return he missed the Pig and on looking about, he saw a Man getting up into an Apple Tree, and also observed the Dead Pig, laying at the foot of the Tree, that he, the deponent, call'd to the Man to come down, and on his not coming down, he, the deponent, struck him, that the Man then came down, and ran away, that he, the deponent pursued him and struck him several times in the pursuit, that he, the Prisoner then turn'd round, and seized his the Deponent's Firelock, after struggling sometime he, the Deponent, called a Young Man to his Assistance that the Prisoner on his calling for Assistance, ran, and jump'd over a Stone Fence, and he, the Deponent pursued him, that on overtaking him again, he the deponent struck him several times, and knock'd him down, that the Prisoner got up again and seiz'd his Firelock, and after some struggling Wounded him, the deponent on the head with a hatchet – that he, the deponent, knock'd the prisoner down again and fell on him as they were laying on the Ground, he took the Hatchet from the Prisoner, and call'd to the Young man again for his Assistance, that on the Young man's coming up, they secured the Prisoner, and brought him to the Widow Hallet's House, where they tied him with a Cord, and confined him 'till a Corporal and some Soldiers came for him by Order from their Commanding Officer.

Q. by the P^r – Were there any more Persons than one in the Tree when he the deponent, says he called to him, the Prisoner, to come down?

A. Not that he recollects.

Peter Vanderbeck an Inhabitant of Long Island being duly Sworn deposes that he knows the Prisoner very well, that some time the beginning of July last, he and Adolphus Humfry were called up in the Night by the Widow Hallet, who told them some person was Stealing her Pigs, that they both got up and went out that Adolphus Humfry had a firelock in his hand but he, the Deponent, had no sort of Weapon – that on coming out he observ'd a dead Pig laying some little distance from the Pen, that he, the deponent, in company with Adolphus Humfry pursued the Person, according to Widow Hallet's direction, some little way, but saw no one – on coming back to the Pen, he, the Deponent, saw a Man getting up into an Apple tree, that Adolphus Humfry went to the Tree, call'd to the man to come down and struck him, upon which the man come down from the tree, and ran some little way, and then turn'd about and seiz'd Adolphus Humfry's Firelock – that he, the Deponent, then went up to Adolphus Humfry's Assistance, that on his coming up Adolphus Humfry told him to take up a Stone and knock the Prisoner down- that he accordingly struck at the Prisoner, who warded off the stroke, that he, the deponent, then went in search of a Stick, and during that time the Prisoner ran off again, that before he could come up to him a second time, he heard Adolphus Humfry call out, that the Prisoner had struck him two or three times on the head with a Hatchet, that on his coming up the Prisoner resigned himself – that he, the deponent and Adolphus Humfry then took him to the Widow Hallet's house tied him with a Cord, and confined him 'till he was taken away by a Corporal and two Soldiers, who were sent for him by the Commanding Officer.

Q. by the Court – Is he, the deponent, positive that the Prisoner is the Person, who was in the Apple Tree, and 6that no other Person was in the Tree but the Prisoner?

A. He is positive the Prisoner is the Person who was in the Tree, he is also positive that no other Person was in the Tree.

The Prisoner Alexander M^cDonald being call'd to and put on his Defence Says that on Sunday Night the first of July he was absent from his Camp, and had gone to see some Acquaintance, that on returning home about One oClock in the Morning he heard a noise of some men running, which he imagined to be the Patrole, that designing to avoid them, he jumped over a fence near the Road, that two Men immediately came up, and swore he had kill'd a Pig belonging to them that one of the Men attempted to fire his piece at him, and then struck him on the head with it, on which he took hold of the Firelock, and desired him to strike him no more, for he had done them no harm that they still persisted he was the Man, on which he endeavored to make his Escape, buy jumping over the Fence into the Road – they still pursued him, and the Men struck him again with the Firelock, upon which he seiz'd the Firelock, and then took up something, he does not recollect what and struck the Man on the Head they then seized on him and brought him Prisoner to the House, and said they were certain he was the Man who had kill'd the Pig, as they could see no other Person – about an hour after he was confined, the people told him if he would confess who was with him, they would suffer him to go to camp, on his telling them that he was quite innocent and know nothing of the matter, they kept him confin'd 'till he was sent for by Captain Peebles – that he is quite innocent of the Charge brought against him, respecting killing the Pig, but acknowledges being absent from his Camp.

Q. by the Prisoner, to the Evidence Adolphus Humfry Did he not hear a Noise of People passing by, after he, the Prisoner, was Confined?

A. He did not.

Q. Did he not say, they were the Persons, who were concerned with him, the Prisoner?

A. No.

Q. Did he not say, if he, the Prisoner would confess what Persons were concerned with him, he would suffer him to go to Camp?

A. He did not.

Q. to the Evidence Corporal Leslie Did not the People in the House, tell him Corporal Leslie that two more Persons, were concerned with the Prisoner in killing the Pig?

A. No Person told him but the Woman, who said she imagined there was one more person, who ran away.

The Court having heard and considered the Evidence in support of the Accusation, together with what the Prisoner had to offer in his Defence, is of Opinion, that the Prisoner Alexander M^cDonald is **Guilty** of the Charge brought against him, in breach of the twenty first Article of the fourteenth Section of the Articles of War And do therefore Sentence him, to receive One Thousand lashes, in the usual manner.

Richard Porter
Ass. D^y J. Advocate

Rich^d Temple
President

Confirmed
H Clinton

The Court Adjourned 'till
Thursday Morning 10 o'Clock

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, April-Sept. 1781*, WO 71/94 ff. 297 –302.

Brief Summary of General Court Martial of Ens. David Sutherland, 42nd Regt., for Acting in a Manner Unbecoming the Character of an Officer and a Gentleman, New York, Sept. 12- 19, 1781

Note: The full record of this court martial is provided in *Kilts & Courage*, Vol. II, *Officers of the 42nd or Royal Highland Regiment in the American War for Independence, 1776-1783*, App. F: *Court Martial of Ens. David Sutherland*.

At a General Court Martial held at the City Hall in New York in the Province of New York on Wednesday the twelfth day of September and continued by Adjournment to Wednesday the Nineteenth day of September 1781 by Virtue of a Warrant from His Excellency Sir Henry Clinton, Knight of the Most Honorable Order of the Bath, General and Commander in Chief of all His Majesty's Forces laying on the Atlantic Ocean from Nova Scotia to West Florida inclusive &c, &c, &c bearing date the 11th September 1781.

Major John Breese 54th Reg^t **President...**

Ensign David Sutherland of the Forty Second Regiment of Foot, was brought before the Court – Accus'd by the Subaltern Officers of the same Regiment, of having acted in a manner unbecoming the Character of an Officer and a Gentleman...

Major Charles Graham, Commanding the 42^d Regiment, being duly Sworn, deposed, That his reason for Ordering the Prisoner Ensign Sutherland in Arrest, was on his receiving a Letter Sign'd by the whole of the Subaltern Officers of the Regiment, in which they refused to do duty with him; which Letter on being produced and read to the Court, contained the refusal of the Subalterns to do duty with Ensign Sutherland, untill some aspirations of a heinous nature reflecting on him Ensign Sutherland, were cleared up to their (the Subalterns) satisfaction; that he (the Deponent) did not immediately put Ensign Sutherland in Arrest, as he requested sometime to settle the matter to the satisfaction of the Subalterns; that instead of settling the matter, (he the Prisoner Ensⁿ Sutherland) went and attack'd the Man who had made use of the Aspersions against him, and confined him in one of the Guards of the Regiment, in which, he (the Deponent) Ordered him (Ensign Sutherland) under an Arrest; and that in a day or two afterwards he (the Prisoner Ensign Sutherland) sent for his Crime, which was delivered to him; that he (the Deponent) knows nothing further of the matter...

The Court having heard and Consider'd the Evidence in support of the Accusation, together with the Prisoner's Defence, and Evidence in support of it, **is of Opinion** that the Prisoner, Ensign David Sutherland, is **not Guilty** of the Charge brought against him, and therefore **Acquitt** him.

The Court is further of Opinion, that from the Information, the Subaltern Officers of the Forty second Regiment had receiv'd, respecting Ensign Sutherland, and the steps they took in consequence of such Information, that, they, the Subaltern Officers of the Forty second Regiment, acted, in a manner, highly justifiable and proper.

Richard Porter
Ass. D^y J. Advocate.

Jn^o Breesse
President

Confirmed
H Clinton

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, April-Dec. 1780, Sept. 1781 - June 1782* at WO 71/95 ff. 129 –185. Volunteer Sutherland was commissioned ensign in the 42nd Regt. Apr. 18, 1780 (effective Feb. 2, 1779). Seventeen months after this court martial, he retired from the regt.

on Feb. 13, 1783. A “*Letter of Administration*” was issued for Agnes Graham, Brooklyn, widow to “*Cousin, David Sutherland, Ensign 42d Regiment*” on July 31, 1781.

Court Martial Results for Ens. David Sutherland, 42nd Regt., Published in General Orders, New York, Oct. 13, 1781

Head Qrs New York 13th Oct^r 1781...

Ensign David Sutherland of the 42^d Reg^t tried by the General Court Martial of which Maj^r [John] Breese of the 54th Regiment is President accused by the Subalterns of the same Regiment of having acted in a manner unbecoming the character of an Officer and Gentleman.

The Court having considered the Evidence in Support of the accusation together with the Prisoners defence is of the opinion that the Prisoner, Ensign David Sutherland is not guilty of the Charges brought against him and therefore acquit him.

The Court is further of opinion that from the Information the Subalterns of the 42nd Regt had received suspecting Ensⁿ Sutherland and the steps they took in consequence of such Information that, they the Subalterns of the 42^d Regim^t acted in a manner highly Justifiable & Proper. The Commander in Chief is pleased to approve of the above sentence and orders Ensⁿ Sutherland to be released from his arrest....

Source: “Orders, 1778-1782,” *Sir Henry Clinton Papers*, William L. Clements Library.



Old New York City Hall (View up Wall Street with City Hall (Federal Hall) and Trinity Church, New York City from around 1798), by Archibald Robertson)

Picture Source: Wikimedia Commons

**General Courts Martial of Pvt. Finley M^cEver and Pvt. Robert M^cDonald for Desertion,
New York, Nov. 23, 1781**

At a General Court Martial held at the City hall in New York in the Province of New York on Thursday the Twenty Second day of November and continued by Adjournment to Saturday the twenty fourth day of November 1781 by Virtue of a Warrant from His Excellency Sir Henry Clinton Knight of the Most Honorable Order of the Bath, General and Commander in Chief of all His Majesty’s Forces

within the Colonies laying on the Atlantic Ocean from Nova Scotia to West Florida inclusive &ca, &ca &ca, bearing date the Twenty first day of November 1781.

Major George Thompson 43 ^d Reg ^t President	
Major William Dansay 33 ^d Reg ^t	Major Simon Fraser [1 st Bn.] 71 st Reg ^t
Captain John Stewart Royal Artillery	Captain Boulter Johnston 70 th d ^o
Captain Hildebrand Oakes 33 ^d Reg ^t	Captain John Moore 82 nd d ^o
Captain James Ricketts 60 th d ^o	Captain John M ^c Pherson 82 nd d ^o
Captain George Anson Nutt 33 ^d d ^o	Cap ⁿ Alexander Saunderson 17 th d ^o
Captain John Moore 40 th d ^o	Cap ⁿ John Wilkinson 64 th d ^o
Cap ⁿ Stephen Hoyt P.W.A. Reg ^t	Captain George Dawson K. ^s O. Rangers
Lieu ^t Richard Porter Ass. D ^y Judge Advocate	

The President Members and Deputy Judge Advocate being duly Sworn,
The Court Adjourned ‘till Tomorrow Morning 11 o’Clock

Friday November the 23^d

The Court being met pursuant to Adjournment

Finley M^cEver Private Soldier in the Forty Second Regiment of Foot, was brought **Prisoner** before the Court Charged with **Desertion** – The Prisoner pleaded **Not Guilty** and the following Witnesses were examined in support of the Accusation.

Serjeant Major John M^cPherson of the Forty Second Regiment of Foot, being duly Sworn, deposed, That he knew the Prisoner very well. That he received Pay and Cloathing as a Soldier in the Forty Second Regiment from some time in the Year 1775 ‘till the thirteenth day of October 1778 – that on that day, viz^t 13th of October 1778, He was reported absent to the Commanding Officer of the Regiment, and on the tenth of this present Inst. Month of November, was reported to the Commanding Officer to be apprehended as a Deserter – that he knows nothing farther respecting the circumstances of the Prisoner’s desertion.

Q. from the Court. Did the Prisoner go off in his Regimentals”

A. He cannot positively say.

Serjeant Hugh Fraser of the Forty Second Regiment being duly Sworn deposed, that he knew the Prisoner very well, that he belong’d to the same [Capt. Charles Grant’s] Company with him, the Deponent, that he absented himself from the Regiment, which was at that time at a place called, “English Neighbourhood” in the Jersies, / some time in the Month of October 1778 that he supposes he went away in his Regimentals as he could not at that time or place procure any other Cloathing – that he knows nothing further, than that he, the Prisoner, was brought to the Regimental Guard, as a Deserter, at a place call’d Flat Bush on Long Island, by a Soldier belonging to the same Regiment, about ten days or a Fortnight since.

Q. by the C^t. Did the Prisoner take away with him his Arms and Accoutrements?

A. He did not.

George Black, Private Soldier in the Forty Second Regiment being duly Sworn, deposed, that he knew the Prisoner very well, that about three Year since he absented himself from the Regiment at a place nam’d “English Neighbourhood” in the Jersies, that on the tenth of this Instant November on his Road from New York to Flat Bush on Long Island, He the Deponent, stopp’d at a House on the Road to refresh himself, that he there met with the Prisoner, who he recollected and knew to belong to, and to

have Deserted from the Regiment – that he apprehended him as a Deserter , and reported him accordingly to the Commanding Officer.

The Prisoner Finley M^cEver being call'd to and put on his Defence, says, that he was in Liquor when he Absented himself from the Regiment, that he attempted twice to make his Escape and return to his Regiment, but was taken both times by the New Jersey Militia.

Adjutant Hugh Fraser of the Forty Second Regiment being call'd upon by the Prisoner in support of his Character, and being duly Sworn deposed, that he was in the same Company with the Prisoner, that he always bore the Character of a Good Soldier in every particular 'till the time of his Desertion.

Serjeant Major John M^cPherson already Sworn, being call'd upon by the Prisoner, and questioned by him with respect to his Character, depos'd, that previous to his absenting himself from the Regiment, he the Prisoner always supported the Character of an honest, and good Soldier.

The Court having heard and consider'd the Evidence in support of the Accusation, together with the Prisoner's Defence, is of **Opinion** that the Prisoner Finley M^cEver is **Guilty** of the Charge brought against him, in breach of the first Article of the Sixth Section of the Articles of War, and do therefore **Sentence** him to receive One Thousand Lashes in the usual Manner.

G; Thompson
Major 43^d Reg^t

Richard Porter
Ass. D^y. J. Advocate

Robert M^cDonald Private Soldier in the [Capt. Charles Grant's Company] Forty Second Regiment of Foot, was brought **Prisoner** before the Court, Charg'd with **Desertion** – The Prisoner pleaded **Not Guilty**, and the following Witnesses were examined in support of the Accusation.

Serjeant Major John M^cPherson of the Forty Second Regiment of Foot, being duly Sworn, depos'd, that he knew the Prisoner, that he has known him to have receiv'd Pay and Cloathing as a Soldier in the Regiment, from the Year 1775 to the fourteenth or fifteenth day of October last past, that he, knows nothing of his Desertion only by Information.

Serjeant Hugh Fraser of the Forty Second Regiment being duly Sworn deposed, That on the fourteenth of October last, he was sent on shore from the Betsy Transport to Staten Island, that the prisoner Robert M^cDonald, and three other Soldiers were with him, that on account of the Night being Stormy, they could not return to the Transport but remain'd on Shore at Cole's Ferry – that on the Morning of the Fifteenth of October, the Prisoner came to him and requested leave to go to some Huts or Tents that were contiguous to the Ferry to search for some Money he said he had lost – that he the deponent, knowing he had received some Money from his Officers, suffer'd him to go but immediately dispatched another Soldier to watch him, that the man returned and told him he could not find the Prisoner, that he the deponent went on Board, and reported his being absent to the Commanding Officer, that he never saw him the Prisoner, from that time 'till this present day before the Court, that he was not in his Regimentals when he absented himself, but was dress'd according to the best of his, the Deponent's recollection in a Jacket and trousers.

Corporal John Hannay of the Forty Second Regiment being duly Sworn deposed, that he had been informed by Lieut: [Alexander] Lorraine's Servant of the same Regiment, that the Prisoner Robert M^cDonald had Deserted, that on Monday Evening the Sixteenth of October last, he the Deponent, went

into a House in Smith Street in the City of New York, where he saw the Prisoner, that he asked him the Prisoner if he had any Pass or leave of Absence from the regiment – he reply'd he had not – that he then told him he must go with him a Prisoner to the guard – that he reply'd "he had no objection to go that liquor was the cause of his absenting himself from the Regiment, that he, hop'd he the Deponent would go with him and intercede with an Officer in his behalf, that he accordingly went, both to Lieutenant Lorraine and Ensign [William] Fraser of the Same regiment, that Lieutenant Lorraine order'd him to stay at the Regimental Store, and told him he would write in his Favor to any Officer he should think proper, that on going to the Store with the Prisoner, he the Deponent stopp'd at the house where he first met him, that after remaining in the house some time, and missing the Prisoner, he suspected his design was to get off, that he then went in search of him and found he had escape'd from the back part of the house, that he saw no more of him 'till he found him Prisoner in the Provost, six or seven days after he had made his escape.

Thomas Willis, Inhabitant of New York and Mayor's Serjeant being duly Sworn depos'd, that that he knew the Prisoner Robert M^cDonald, that some time since on receiving information that a Spy was in the City, he went with a Guard to a suspected house at the back of the Burnt Church, that in that house he found the Prisoner, who he had been previously inform'd had Deserted from his Regiment, that he accordingly took him Prisoner and delivered him up as a Deserter, to the Officer Commanding the Main Guard.

The Prisoner Robert M^cDonald being call'd to and put on his Defence, denied having any intention to desert, acknowledged his being absent from his Regiment, which was caused by his getting too much Liquor – that being much intoxicated he remained in New York with a Woman and was afraid to return to his Regiment, that his Character as a Soldier has been known some time, and he can have it supported by several Officers in the Regiment.

The Court adjourned 'till Tomorrow Morning 11 o'Clock

Saturday November the 24th

The Court being Met pursuant to Adjournment.

Lieutenant George Campbell of the Forty Second Regiment being duly Sworn depos'd, that he was near three Years in the same Company with the prisoner, that he never recollected his having been brought to a Regimental Court Martial or any Action of the Prisoner's that was unbecoming a Soldier, that his Character in general was a good one, previous to his Absenting himself from his Regiment.

The Prisoner in his Defence further says, that the reason of his not having Regimentals on, was in compliance with an Order from the Commanding Officer, that upon duties of Fatigue, the Soldiers should wear any old Cloaths they might have that upon missing the Boat he did not know what step to take, but went to a Friend where he continued intoxicated and did not know what he did – that he had not the least intention of Deserting.

The Court having heard and considered the Evidence in support of the Charge, together with the Prisoner's Defence, **is of opinion**, - from many Circumstances that appear'd in the course of the Prosecution, that the Prisoner RM, had no Intention to desert – and do therefore **acquitt** him of the Charge brought against him.

Richard Porter
Ass. D^y. J. Advocate

G; Thompson
Major 43^d Reg^t

Confirmed
H Clinton

Source and Notes: TNA, *Judge Advocate General's Office: Courts Martial Proceedings, Marching regiments, Sept. 1781 - June 1782* at WO 71/95, ff. 233- 240. Pvt. Finley M^cEver [also Finlay M^cIver] had served in Capt. Charles Grant's Co. from the beginning of the war until he was listed as "*Deserted 6 Oct 78*" in the muster of the company taken at "*Newton on Long Island 28 Dec' 1778.*" Pvt. Robert M^cDonald was assigned to Capt. James Campbell's Co. which had gone into winter quarters on Manhattan Island along the north river near New York City shortly before his desertion.

Provost Martial's Report with Prisoner Pvt. Finley M^cEver, Capt. Grant's Company, 42nd Regt., New York, Mar. 18, 1782

Weekly State of the Provost New York 18 th March 1782			
Names	Regiments &c	Confind by	Crimes...
Finly M ^c Ever	42 ^d .	Com ^t .	Under Sentence of Gen ^l . C: Mart ^l ...
23			
3	To be sent on	board Man of War	
14	Prisoners of	War	
Total	40		

Source: TNA, *Guy Carleton, 1st Baron Dorchester: Papers, Folios 10255-10299, Mar. 7, 1781-June 24, 1782* at PRO 30/55/96, 10282 (1).

Provost Martial's Report with Prisoner Pvt. Finley M^cEver, Capt. Grant's Company, 42nd Regt., New York, Apr. 1, 1782

Weekly State of the Provost New York 1 st . April 1782			
Names	Reg ^{ts} . &c	Confind by	Crimes...
Finly M ^c Ever	42 ^d .	Com ^t .	Under Sentence of G: C: Martial...
Total	33		

Source: TNA, *Guy Carleton, 1st Baron Dorchester: Papers, Folios 10255-10299, Mar. 7, 1781-June 24, 1782* at PRO 30/55/96, 10283 (1).

Provost Martial's Report with Prisoner Pvt. William Anderson, 42nd Regt., New York, Jan. 6-7, 1783

Weekly State of the Provost in New York, 6 th January 1783					
Names	Regim ^t N ^o	Confin'd By	When Confin'd	Crimes	N ^o Conf'd
Willm Anderson	42 ^d	,do, [Commandant]	7 th ,do, [Jan ^y 1783]	Deserting off his Post when Centry	2...

W: Cunningham
Cap^t & Provost Martial

Source: TNA, *Guy Carleton, 1st Baron Dorchester: Papers, Folios* at PRO 30/55/97 p. 10354 (1).

Orders for a General Court Martial for Pvt. William Anderson, 42nd Regt., for Desertion New York, Jan. 15-31, 1783

Head Quarters New York 15th January 1783...

A General Court Martial to Assemble at the City Hall in New York at 10 OClock on Monday morn^g y^e 20th Inst^t for the Trial of such Prisoners as shall be brought before it – Major [Walter] Home 42^d Reg^t President...

Head Quarters New York 28th January 1783...

William Anderson private Sol^r in 42^d Reg^t tried by the General Court martial of which Major [Walter] Home of 42^d Reg^t is President accused of Desertion. The Court having heard and Considered the Evidence in Support of the accusation together with what the Prisoner had to Offer in his defence is of opinion that the Prisoner W^m Anderson is Guilty of the Charge brought against him & do therefore Sentence him to Suffer Death...

His Excellency The Commander in Chief is pleased to approve of the foregoing Sentences...

Head Quarters New York 31st January 1783...

William Anderson Private Soldier in 42^d Reg^t under Sentence of Death is to be executed at Powlis Hook on Monday the 17th Day of February next between the Hours of 10 & 12 OClock in the forenoon.

Source: TNA, *Entry Book of General Orders, Orders Issued by His Excellency General Sir Guy Carleton at New York*, at WO28/9/215-216, ff. 286 – 482. The Court martial record is not available in the National Archives – UK. Pvt. Anderson was received in Capt. James Campbell Co. from a draft of recruits from the 21st Regt. on Aug. 14, 1781. The 42nd Regt. was assigned to a post at Paulus Hook, now Jersey City.

