

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 June 2019 © all right reserved



Detail from "South View of Stirling Castle," 1792, by Francis Jukes

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

Appendix I.

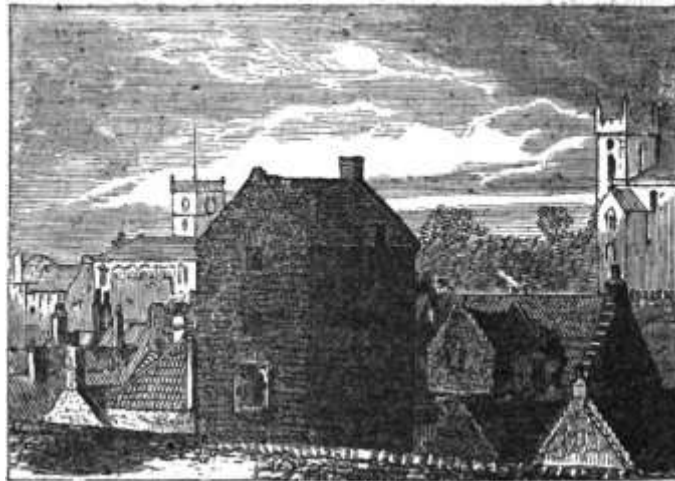
Mutiny of Drafted Highlanders, Leith, Scotland, April 1779

Introduction

On Apr. 16, 1779, Capt. James Innes of the 71st Highland Regt. (Fraser's) commanded four Additional Companies of recruits for his regiment and one Additional Company of the 42nd or Royal Highland Regt. at Stirling Castle, about 36 miles northwest of Edinburgh. Additional Companies, with the normal compliment of Officers and Non-Commissioned Officers, served as recruiting companies for deployed regiments.

At the same time the 83rd (Royal Glasgow Volunteers) Regt., was preparing to leave for the Channel Islands, but was about 60 men short in meeting its established strength. Because the regiment had to sail soon, Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces in North Britain, offered to draft recruits from his own 31st Regt. and from the Highlanders at Stirling as the only way to make up the deficiencies in the Glasgow regiment. During this period drafting referred to the practice of taking recruits who had enlisted on one regiment and transferring them (sometimes involuntarily) to another regiment.

Oughton knew he was taking a risk by drafting highlanders due to the language and cultural differences between the Highland and Lowland regiments. Gen. Lord John Murray, Colonel of the 42nd Regt, had cautioned against drafting Highlanders in a Mar. 11, 1778 letter to the Secretary at War writing *“I beg leave to Observe to your Lordship, that by reason of the difference in their dress & Language it has not been usual to draught them into other Regiments which if now done might be of detriment in recruiting the 42^d. or Royal Highland Regiment, hereafter as well as the Six new Highland Corps now raising...”*



Print of Tower in Linlithgow

Picture Source: *A History of the Town and Palace of Linlithgow*, George Waldie, Linlithgow, 1879, Google Books, p. 9.

Without mention of the impending draft, Oughton sent an order to Capt. Innes to march the five companies to Leith, Edinburgh’s seaport on Apr. 19. The Highlanders assumed they were marching to Leith to embark to join their regiments in America. The five companies of Highlanders marched out of Stirling Castle as ordered and that night as they were lodged about 20 miles away at Linlithgow, Capt. Innes received another order from Lt. Gen. Oughton. This time he was directly ordered to select 14 men from the 42nd Company and 50 men from the 71st Companies to be drafted into the 83rd Regt.

Lt. Thomas Stelfox, 55th Regt., and Adjutant to the Additional Companies at Stirling, was ordered to march the 64 men to Leith, but as they formed their ranks for the march, he failed to notify them that they had been drafted per Oughton’s directions. Stelfox marched the detachment to the coast until reaching the Links at Leith where he met Maj. Hon. Malcolm Ramsay of the 83rd Regt. The Major welcomed the soldiers to the 83rd Regiment as Corp. Ebenezer Buchanan, 71st Highland Regt. translated from English to Gaelic for the Highlanders. After the welcoming, the soldiers were ordered to march to the boats to embark. The soldiers who had maintained their discipline up to this point began to shout protests that they had volunteered to serve only in a Highland regiment and that they had been promised they wouldn’t be drafted. When the order to load in the boats was given, only five soldiers of the 42nd Regt. obeyed along with two men from the 71st. The rest of the Highlanders began to fix their bayonets at the urging of three soldiers who were the most vocal. Seeing the resistance of the rest of the detachment, the seven soldiers that had initially obeyed the order, returned to the ranks of the Highlanders and joined in the protest. The Highlanders turn away from the shore and marched back to the houses between the Tower and St. Bernard St. where they took up defiant position. Some members of the crowd that had gathered to watch the spectacle passed liquor and ammunition to the highlanders and the

mutineers loaded their muskets. An 1827 history of Leith indicates the affair took place “...in front of the buildings between the Old Ship Tavern, and the house formerly called the Britannia Inn.”

By this point Capt. Innes had arrived and tried to talk to the Highlanders, explaining in Gaelic that Lt. Gen. Oughton was sending soldiers against them and they would likely be killed. Some of the soldiers called out that they would rather be killed than serve in the Glasgow regiment.



Sir James Adolphus Oughton, 1778, by John Downman

Picture Source: *National Galleries of Scotland*: Given by Captain L.T. Ross 1957(Creative Commons Lic.)

As threatened, Lt. Gen. Oughton sent 200 men of the South Fencible Regt. from the Castle at Edinburgh to seize the mutineers. Capt. Innes pleaded with the Fencibles not to fire on the Highlanders, many of whom were now drunk. Despite the captain's pleadings, firing broke out from both sides killing Capt. James Mansfield of the Fencibles in the first volley. The two detachments advanced on each other with bayonets after firing and the battle was quickly over, as the Fencible officers regained control of their troops. Only half of the 64 highlanders were still on their feet as they grounded their firelocks and surrendered. Nine were dead and 22 wounded. Five of the Fencibles also were dead, and about six wounded.

About six o'clock that night, the remaining Highlanders marched as prisoners to Edinburgh Castle behind seven carts carrying their dead and wounded comrades. Two more died in the carts on the way to Edinburgh. The wounded Highlanders were taken to the Royal Infirmary, and despite the best efforts of the Doctors and their students, one more during the night. The dead Highlanders were wrapped in their bloody plaids and taken for burial to Lady Yester's Church, about a hundred yards from the Infirmary. Walter Scott, from the High School next door recorded seeing the bodies writing “*The Sexton admitted us to see the quarry for a penny a piece, and never was a penny in my case so well laid out for I saw nothing for ten days after but the highlanders lying stiff and stark...*” The uninjured Highlanders were marched on to the Castle and imprisoned.

A Court Martial under President, Lt. Col. Ralph Dundas of the 11th Dragoons, was held in the Castle at Edinburgh on May 6th to 9th for three of the Highlanders who were charged with mutiny under the Articles of War. Despite impassioned pleas that they had been wronged by taking them without their permission from the regiments they had enlisted in, Archibald MacIver and Charles Williamson of the 42nd Regt. and Robert Budge of the 71st were convicted and sentenced to be shot.

Along with the other mutineers, the condemned men were marched to the place of execution on May 28th by the Argyle or West Fencible Regt., who would also provide the firing squad. With the condemned men kneeling by their coffins, their prayers were interrupted so that the orders of execution could be read.

After Maj. Hugh Montgomery, of the Argyles, read the execution orders, he continued to read that because of the former commendable behavior of the 42nd Regt. and because Budge of the 71st had not played a key role in the mutiny, King George III was most graciously pleased to grant a full pardon “...in full consideration that they will endeavour upon every future occasion, by a prompt obedience and orderly demeanour, to atone for this unpremeditated but atrocious offence.” The men’s lives had been spared by Lt. Gen. Oughton’s intercession, realizing that executing the Highlanders could seriously harm future recruitment in the Highlands.

Eight of the wounded men were accepted as out-pensioners of the Chelsea Hospital. The other prisoners were subsequently released from their prison in the casement of the Castle. Oughton had obtained permission from Commander-in-Chief Sir Jeffrey Amherst to release them without stigma to return to their companies fearful that further disgrace might “...alarm others and tend to lessen the high idea entertained of His Majesty’s great lenity and Goodness.”

Introduction Sources: *Mutiny, Highland Regiments in Revolt 1745 – 1804*, John Prebble, Penguin Books, Middlesex (U.K.), 1975, pp. 154-187 and *The History of Leith*, Alex. Campbell, William Reid & Son, Leith, 1827, Google Books, p. 215.

Documents

Excerpt of Letter from Gen. Lord John Murray, Col., 42nd Regt. to Secretary at War Viscount Barrington, Cautioning on the Drafting of Highlanders, Bannercross, England, Mar. 11, 1778

I have the honor of your Lordships letter dated the 4th inst^t: that the Recruits of my Additional Companys shall forthwith embark in the Clyde to reinforce the Regiment in America.

I beg leave to Observe to your Lordship, that by reason of the difference in their dress & Language it has not been usual to draught them into other Regiments which if now done might be of detriment in recruiting the 42^d. or Royal Highland Regiment, hereafter as well as the Six new Highland Corps now raising...

I have the honor to be with the Greatest Regard My Lord

Bannercross
Serv^t
11th March 1778

Your Lordship’s most hum^{ble} and most obedient
John Murray

Source: TNA, *War Office: Secretary-at-War, In-letters and Misc. Papers, Series II Correspondence, G-M at WO 1/997*. Unlike the modern usage of the term, drafting (or draughting) in the 18th century referred to the practice of taking soldiers or recruits who had enlisted in one regiment, and transferring them (sometimes

involuntarily) to another regiment that needed the men. Lord Murray was likely worried the recruits of the 42nd Regt. being sent to America could be drafted into other regiments on arrival.

**Newspaper Account of Embarkation of 83rd Regt. for American Service,
Leith, Scotland, Mar. 15, 1779**

Edinburgh, March 6. Yesterday the [83rd] regiment of Royal Edinburgh Volunteers embarked at Leith on board the transports for Spithead [Southern coast of England] with the greatest cheerfulness: this day the remainder of the Duke of Hamilton's [82nd] regiment embarked at Leith, and they will all sail in a few days along with Co. M^cDonnel's Highlanders [76th Regt.].

Source and Note: *Newcastle Weekly Courant*, Mar. 20, 1779, p. 4. The 83rd Regt. embarked short of 64 men to complete the regt.

**War Office Summary of Actions Leading up to the Highlanders' Mutiny Affair,
Leith, Mar. 29 – Apr. 16, 1779**

It being desirable that the Glasgow [83rd] Regiment should Embark Complete, from Scotland, [Commander-in-Chief and Gen. Jeffrey] Lord Amherst in his Letter of the 23^d March 1779 directed [Lt. Gen.] Sir [James] Adolphus Oughton to supply the number of Men wanting from the Impressed Men in that Country.

- 29th Mar: 79 Sir Adolphus reports there are no impressed Men in Scotland, and proposes to Complete the Glasgow Regiment by Drafts from the additional Companies of the 31st. 42^d. and 71st. Regiments.
- 2^d April Lord Amherst approved of this proposal wishing the Glasgow Regiment to Embark Complete.
- 8th April Sir Adolphus Oughton says “your Lordship will see by the returns that the Impress Act has produced but 26 men through this whole Country: Those of that Number who were turned over to the Glasgow Regiment deserted as soon as they were set at Liberty, so that they still want fourscore Men to complete; I shall draft that number from the Additional Companies of the 31st. 42^d. and 71st. Regiments, ‘tho’ I fear the Highlanders will not readily be prevailed on to serve in a Lowland Regiment; There is however no other possible means of completing that Regiment in this Country.”
- 16th April Lord Amherst says in answer to Sir Adolphus, “as you will of course draft only as few men as you can from a Highland, to serve in a Lowland Regiment, I hope those few will have no material objection to this change of their intended Service.”

Source and Notes: TNA, *War Office In-letters, Commander-in-Chief, In-letters, Government Depts., 1778-1780* at WO 1/616, p. 667 and *Baron Jeffrey Amherst, Commander-in-Chief, Papers, Misc. Correspondence, Apr. –May 1779* at WO 34/114, f. 11. Lt. Gen. Sir James Adolphus Oughton was the Commander of His Majesty's Forces in North Britain. Gen. Lord Jeffrey Amherst was the Commander-in-Chief, His Majesty's Forces. “Additional Companies” were assigned the regiments for recruiting purposes. After the company was filled with recruits, the men would be forwarded to the regiment, and the company would again recruit to refill its ranks.



"Leith from the west," circa 1773-1782, by John Clerk

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

Orders from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces, Scotland, to Capt. James Innes, 71st Regt., Additional Companies, to March to Leith and Draft 64 Highlanders for the 83rd (Royal Glasgow Volunteers) Regt., Edinburgh, Apr. 16 and 19, 1779

[April 16, 1779]

You are to march with all the Officers, Non-Commissioned Officers and Private men of the 42^d and 71st Regiments under your Command in Stirling Castle, on Monday morning next the 19th instant (with the utmost expedition) to Leith, where they are to be quartered and remain till further orders.

N.B. Lieutenant [Thomas] Stelfox [55th Regt.] to march with the party to Leith.

[April 19, 1779]

You will please draught Fifty Men from the four companies of the 71st Regiment and Fourteen Men from the 42^d Regiment under your command, to be incorporated in the 83^d Reg^t (or Royal [Glasgow] Volunteers) and deliver them to the Hon^{ble} Major [Malcolm] Ramsay of said Regiment who will give separate receipts for them, and their clothing, to be transmitted to the Agents of the different regiments.

Source: TNA, *War Office: Commander-in-Chief, In-Letters, General Correspondence, Series II, Correspondence H-M, 1779* at WO1/1004, quoted in *Mutiny, Highland Regiments in Revolt 1745 – 1804*, John Prebble, Penguin Books, Middlesex (U.K.), 1975, pp. 158-159.

Court Martial Witness Accounts of the Beginning of the Mutiny, Stirling, Apr. 19-20, 1779

At a General Court Martial held in Edinburgh Castle on Thursday the 6th May 1779, by Order of Lieutenant General Sir [James] 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...

Lieu^t: [Thomas] **Stilfox** [Stelfox] of the 55th Reg^t: being duly sworn and Interrogated, Deposed ...that on the 19th April last, he marched from Stirling, with 64 Rank & file of whom 13 were of the 42^d Regiment & 51 of the 71st ... That they arrived at Leith upon the 20th April about 11 o'Clock forenoon. That on the 19th he received an Order from Capt: Imrie Aid de Camp to [Maj.] Gen^l. [Robert] Skene, to March the Men to the Links of Leith on Tuesday by 10 o'Clock,

which they reached between 11 & 12 that forenoon. That afterwards he March'd the men from the Links to the Shore of Leith, in Order to Embark and be incorporated with the 83^d Reg^t That before they came from the Links they were told they were to go to the 83^d Reg^t upon which they [began] to be concerned, but marched quietly to the Shore, and five of the 42^d and two of the 71st went on board peaceably, but the rest of them fixed their Bayonets, and refused to go on board, and disbanded and got into houses, and refused all obedience to Orders, or to be draughted, that afterwards the Town people got amongst them, and gave them liquor, when they grew more mutinous than ever. .. that about half an hour before the Fencibles came down to Leith, he saw [Pvt. Archibald] M^cIver [42nd Regt.] upon the right of the Mutineers, with his Bayonet fixed and when they arrived he went from man to man, along the Rank, the Witness did not hear what he said but from the Gestures, supposed he was persuading the Men to refuse to embark, and seemed to be quite sober and very determined... That he and the whole of the Men, had before fixed their Bayonets and refused to Embark... That the greatest objection the mutineers had to the 83^d Reg^t wearing of Long Cloaths and Breeches, and hard some of them declare, they were willing to go into any Highland Regiment, and all of them willing to join their respective Corps...

William Ralston Serj^t of the 71st Reg^t being Sworn and Interrogated Deposed, that on the 19th of April last, he marched from Stirling with the Detachment of Highlanders above mentioned. That they lay at Linlithgow that night, and marched next day to Leith, that when they were told they were to embark, and be draughted into the 83^d Regiment they declared their reluctance by saying they would not be put into Breeches. That before the Fencibles came down to Leith they had fixed their bayonets, and were drawn up, with their backs to a Wall opposite to the Ferry Boat Stairs, and several of them retired into Ale houses before the Fencibles came down, where they got liquor...

Ebenezer Buchanan Corporal in the 71st Regiment being Sworn and Interrogated Deposes, that he was at Leith the 20th of April last, when upon the refusal of the Highlanders to Embark, they fixed their Bayonets to their Muskets, and placed themselves up at the side of a Wall near the Shore. That some Officers and Serjeants came up and expostulated with them, and desired them to be obedient to the Orders that were given them. That the Mutineers would give no ear to them, and step'd back and presented their bayonets ... Being asked upon the part of the Prisoners, whether if he knew the Highlanders with whom he marched from Stirling to Leith had any Ammunition. Answers, he does not know they had any...

Source: TNA, *War Office, Judge Advocate General's Office, General Courts Martial at WO 71/54 (223413)* pages 363-381.

Account of the Mutiny of the Drafted 42nd and 71st Additional Men, by Pvt. David Love, South or Buccleuch's Fencible Regt., Leith, Scotland, Apr. 20, 1779

One day the drums beat to arms, and in a few minutes all the soldiers were ready to march, our guns were loaded, and bayonets fixed, with three rounds of shot. We marched down to Leith, where M^cLeod's Highlanders [actually drafted 42nd and 71st Regt. Additional] had rebelled against their officers, refusing to go on board a ship which lay there ready to receive them. They stood in a posture of defence with their backs close to the houses fronting the Quay; being impossible to surround them. We went very near them, only four or five yards at most was our distance. The Highlanders were not in the least dismayed; all had their bayonets fixed, and ready charged. I here confess it made me shake with fear: I saw fierceness in their looks, regardless of their lives. They would rather die than be shipped, or taken prisoners, but I wanted to live longer. I was sure some of us would lose our lives, perhaps myself: I knew I was not fit for death, but in less than a quarter of an hour it was decided. The Highlanders fired at us; and one

captain [James] Mansfield and a private soldier were shot, and four were wounded. Without any word of command, we fired, killed eight, and wounded fifteen of them. We then marched back to the castle, with about a hundred of the rebels, which we had made prisoners. Captain Mansfield was interred with great splendor, all the regiment being at his funeral, and according to the practice of the army, we fired three times over his grave.

Source: *The Life, Adventures, and Experience of David Love. Written by Himself*, 3rd Edition, Printed by Sutton and Son for the Author, Nottingham, 1823, pp. 51-52.

Edinburgh Newspaper Account of the Beginning of the Mutiny, Apr. 20, 1779

Edinburgh, 21st April, 1779.

Friday, arrived in Leith Road, his Majesty's ship, Hydra, of 20 guns, Captain Floyd, with five transports, for the Glasgow [83rd] regiment...A most tragical affair happened, yesterday [Apr. 20], at Leith. In the forenoon, about 50 Highlanders, enlisted as recruits for the 42^d and 71st regiments, now in America, arrived at Leith in order to be put onboard one of the transports lying in the road. Being impressed with an opinion that they were destined for Minorca, along with the Glasgow regiment, and that they were not obliged to serve in any other corps, than those for which they enlisted, they refused to go on board. Not withstanding every attempt was made to convince them of their mistake, they persisted.

Source: *Ruddiman's Weekly Mercury* (Edinburgh), Apr. 21, 1779.

Defensive Letter from Capt. James Innes, 71st Highland Regt. (Fraser's) Additional Company, to Secretary at War Charles Jenkinson, Minimizing the 71st Regt. Recruits' Actions in the Highlanders' Mutiny, Leith, Apr. 21, 1779

Edinburgh 21st April 1779

Sir

I think it my duty to inform you of a melancholy accident that happened on Tuesday the 20th On the arrival of the 42^d & 71st Recruits at Leith.

When they arrived at Leith they found they were to be turn'd over to the [83rd] Glasgow Reg^t, and, when they were order'd to Embark none of them w^d. move.

I inform'd [Lt. Gen.] Sir. [James Adolphus] A.D. Oughton when he order'd Two Hundred Men to endeavour to embark them, or carry the men to the Castle none of which they w^d. comply without, until they had security that they were to join the Reg^{ts}. they belong'd to.

The Fray began by two of the Fencibles forcing a man of the 42^d. on Board, when another of the 42^d pushed his Bayonet, but missed the Man & on this the two Company's fired and killed Eight men of the Seventy First Reg^t.

You will plainly see the 71st did not begin the attack. There were Seventeen of the Men Sent to the Infirmary, three died in the Night & Eight mortally wounded, & a man had his leg cut.

By this account you see we have lost Twenty. I am sure there was never such a massacre in Britain before.

I told some of the Fencible Officers that if they fired on the men when they were intoxicated with Drink, it w^d. be considered as a horrid Butchery, but that did not prevent the fatal Event.

There were Seven of the Fencibles killd with Bayonets, a good many wounded & a Captain shot in the head by one of his own men.

I am sorry to inform you that the Surgeons of the Infirmary are not certain whether four of the men will live or die, & none in the hospital will be fitt for service.

I am Sir,

The Right Honble Charles Jenkinson
Secretary at War

Your obedient Serviant
Ja^s I [torn]
Cap [torn]

I am afraid this horrid massacre will prevent the 42^d or 71st Reg^{ts}. from getting any men –

Source and Notes: TNA, *War Office: Commander-in-Chief, In-Letters, General Correspondence, Series II, Correspondence H-M, 1779* at WO 1/1004, pp. 407-409. A copy is found in the *Baron Jeffrey Amherst Papers* at WO 34/114, f. 74. Note: It appears as if part of the signature of Capt. Innes has been deliberately torn out of this letter. Fencibles were regiments restricted to serve in Britain only.



Detail of Portrait of Henry Scott, 3rd Duke of Buccleugh, 1760, by Thomas Gainsborough

Picture Source: Wikimedia Common

Order from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces, Scotland, to Lt. Governor John Wemyss, Edinburgh Castle and Col. Henry, Duke of Buccleugh, South Fencible Regt., Edinburgh, Apr. 20, 1779

Caroline Park April 20th 1779

Sir

The Drafts of the 71st Regiment have refused to embark, you will order Two Hundred Men of the S^o Fencible Regiment under the command of a Field Officer, with some Rounds of Armed Cartridges, to March immediately to Leith, seize the Mutineers and March them Prisoners to Edinburgh Castle of to be detained there till further Orders

I am Sir &^{ca}
Ja^s. Adol^s. Oughton

Lieut: Governor Wemyss &^{ca} Edinburgh Castle,
and Officer Commanding of the S^o Fencible Regiment

Source: TNA, *War Office In-letters, Government Depts., Commander-in-Chief, 1778-1780* at WO 1/616, p. 659.

Court Martial Witnesses' Accounts of the Firing Between the Highland Mutineers and the South Fencible Regt., Leith, Apr. 20, 1779

At a General Court Martial held in Edinburgh Castle on Thursday the 6th May 1779, by Order of Lieutenant General Sir [James] 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...

Captain Ja^s Innes of the 71st Reg^t being Sworn, Deposed... That Gen^l Oughton dispatched Captain [Ninian] Imrie [1st or Royals Regt.] to the Castle of Edinburgh for 200 of the South Fencibles. That upon the return of the Witness to Leith, he found the Men in a Single Rank, with their backs to a Wall. That the Witness exhorted & admonished them to go on board, told them that the Fencibles were coming down, and if they persisted in their disobedience, the consequence was they would be shot. That at this time he found many of the Men much in liquor. They declared they were under no apprehensions from the Fencibles and that they would stand upon their defense. That about an hour after the Witness returned from Gen^l Oughton. The Fencibles arrived at Leith and in that Interval he endeavored all he could to bring the men to a sense of their duty, but to no purpose they being extremely insolent to him, and one Muir made a push at the Witness with his Bayonet. That upon the appearance of the Fencibles, he again spoke to them and told them, if they continued refractory they would be shot, to which they answered, they would rather be Shot than draughted into the Glasgow Regiment. _ That upon the Evidences retiring he heard a Shot from the right of the line, and thinks it came from the Wall. _ That the Fencibles arrived about an hour before the Witness left the mutineers. That during this period the Witness and the Officers of the Highlanders, with some of the Officers of the Fencibles, were employed to pacify the Mutineers and make them comply with the Orders for Embarkation, but to no purpose...

M^r James Dempster Dweller in Edinburgh being duly Sworn Deposed That he was at Leith upon the 20th when the Fencibles were taking their ground, and went up to a house on the Shore, where he looked out a window, immediately above the third man on the left of the Highlanders, and soon after that, he heard a Shot from the North, but whether from the Fencibles of Highlanders he does not know. That about a Minute after followed another Shot from a Highlander on the left, by which Captain [James] Mansfield [South Fencibles] fell _ Upon this a Corporal that was along with Captain Mansfield fired, and killed that Highlander, after which the Witness withdrew pulling down the Window.

M^r Tho^s Anderson Surgeon in Leith being duly Sworn Deposed That upon the 20th April last he went down from his own house, with the Fencibles to the Shore of Leith, where the Highlanders were drawn up with fixed bayonets, and observed Captain Imrie, and another Officer who was along with the Highlanders in the forenoon talking to them, when [Maj.] Sir James Johnston commanding the Fencibles ordered his men to make ready and afterwards to recover their Arms, and not to fire, which they did. _ That about a minute or two afterwards, he heard a Shot which seemed to come from about the middle of the Highlanders, and immediately thereafter he saw, two or three dropping Shot from the Highlanders on the left of their Line, being on the South. And upon that the fire became general from the Fencibles, who rushed in upon the Highlanders with their Bayonets fixed, and secured them. The Witness then looked to the place from whence the first Shot seem to have come; where he saw one of the Fencibles lying wounded, from whence he concluded, that this man had fallen from the first Shot, which he's heard already mentioned.

David Skea Grocer in Edinburgh being Sworn Deposed that he was at Leith the 20th of April last and went down the Shore before the Fencibles and observed the Highlanders standing on their defense with their Bayonets charged. And when the Fencibles came up they surrounded them. That a Short while after he saw a Shot from the Right of the Highlanders, upon which the

Witness went up a Stair, when he heard a great many Shots, and upon looking out the Window he saw Captain Mansfield lying wounded.

James Dun Stabler in Edin^r being Sworn and Interrogated Disposed that he was at Leith upon the 20th of April last, that he saw the Highlanders with their Bayonets charged standing in a Posture of Defense, when looking out at a Window opposite to the River whence he saw a Shot come from the right of the Highlanders, that before this he saw one of the Fencibles pull a Highlander out of his Rank. That two or three of the Highlanders endeavored to rescue him, but he thinks they did not succeed, that a little after the Shot already mentioned he saw Capt: Mansfield step up to one of the Highlanders in the Ranks, and seemed to lay his hand on his Shoulder, as if to expostulate with him, and that he and another Highlander to his right, step'd back and made a push at Capt: Mansfield with their Bayonets, upon which Capt: Mansfield retreated, and immediately either the 3^d or 4th man from the left of the Highlanders fired a Shot upon which Capt: Mansfield fell, and further declares he observed no fire from the Fencibles before Capt: Mansfield fell.

William Ralston Serj^t of the 71st Reg^t being Sworn and Interrogated Deposed, that on the 19th of April last, he marched from Stirling with the Detachment of Highlanders above mentioned...

That before the Fencibles came down to Leith they had fixed their bayonets, and were drawn up, with their backs to a Wall opposite to the Ferry Boat Stairs, and several of them retired into Ale houses before the Fencibles came down, where they got liquor... when a party of Fencibles advanced along the Wall to the right of the Highlanders line, where M^cIver and Williamson two of the Prisoners were posted, they turned about keeping their Bayonets pointed toward that party of the Fencibles. Being asked from whence and when he heard the first Shot? Answers that it appeared to him to have been from the left of the Highlanders or the right of the Fencibles, but which of them he does not know. That it was not a Single Shot but a running fire...

Alex: Ross Serj^t in the South Fencibles, being Sworn & Interrogated Deposed, that he was at Leith upon the 20th April last during the Mutiny...

That the Deponent by the orders of Sir James Johnston went up to expostulate with the Mutineers, and that when he was going on that Errand, Williamson desired him not to go farther, and pushed his Bayonet again and again at the Deponent. When M^cIver desired Williamson to let the Deponent alone to which Williamson replied, that he wanted none of their Corps to come near him, still pushing his Bayonet at the deponent._ Sometimes after that the Deponent heard a Shot from the right of the Highlanders, that two Serjeants of the South Fencibles came up and laid hold of M^cIver, who struggled with them, in order to get rid of them, when a Shot came from same of M^cIvers party, upon his left which wounded the deponent, that before that happened, the Deponent was telling the Mutineers as far as they could hear him, that by Orders of Sir James Johnston he informed them, that the Fencibles were provided in ammunition, and their Guns all loaded, and that they would better desist, because they would be forced to embark, who answered they would die first before they would wear Breeches, and told the Deponent they were provided in ammunition. Being Interrogated upon the part of the prisoners, at what distance the Evidence supposed the firing began, from the two prisoners of the 42^d. Answered he thinks about 20 Yards from their left. That about two or three minutes before the fire began, a Highlander from the Mob, called to the Highlanders, why don't you fire, M^cIver answered, he would not be the first that would fire.

James Home Soldier of the South Fencibles duly Sworn & Interrogated Deposés That upon the 20th of April last, he was at Leith upon duty, that the Highlanders were standing in a

line, with their bayonets charged, that the Witness was along with Capt: Mansfield, when the Highlanders began to fire from their right, the Evidence having heard them say before, that they could prime load and fire as fast as the Fencibles, that Capt: Mansfield spoke with the Highlanders, a considerable time endeavoring to pacify them, and quell the Mutiny, when the Highlanders charged their Bayonets and rushed at him, and when he retreated into the division that he commanded, a Highlander fired upon him, and Shot him, upon which the Evidence took aim at the man that did so, and Shot him.

George Little Corporal in the South Fencibles, being duly Sworn and Interrogated Deposes, that he was at Leith upon the 20th of April last, being a Soldier in the Fencibles, and examined several of the Highlanders muskets which he found loaded, and likewise a Cartridge Box with Shot, but cannot ascertain whether it belonged to the Highlanders or the Fencibles.

Robert Mudie Shipmaster in Leith being duly Sworn and Interrogated Deposes he was at Leith upon the 20th of April last, and was upon the Top of the Pier on the left of the Fencibles, opposite to the Right of the Highlanders, whom he saw standing with their Bayonets charged, from which position he retired further to the right of the Fencibles, apprehending he might be in danger of a Shot from the Highlanders. That he saw a Shot from the right of the Highlanders, which was the first that was fired, and afterwards another from the left of their Centre that before the second Shot was fired from the left of the Highlanders Centre he observed Capt: Mansfield who was upon the right of the Fencibles protecting with his Sword, one of this Soldiers who was attacked by the Highlanders, and upon a Shot being fired, the Mob called out that Capt: Mansfield was killed, and the Evidence retreated.

Capt: [John] Rutherford of the South Fencibles being duly Sworn and Interrogated Deposes, that he was at Leith upon the 20th April last, with his division of the Fencibles, where he observed the Highlanders very mutinous, and one in particular in a violent agitation, being asked if any of the prisoners were the persons he observed so Active in the Mutiny? Answers he could not positively say they were, that he heard a Shot come from the Highlanders, and getting into his place he observed a Corporal upon the right of his division mortally wounded...

Source: TNA, War Office, *Judge Advocate General's Office, General Courts Martial* at WO 71/54 (223413) pages 363-381.

**Excerpt of Letter from Escorting Officer, Lt. Thomas Stelfox, 55th Regt., to His Wife,
Edinburgh Castle, Apr. 21, 1779**

Edin^r. Castle 21st April 177

...there had been a squabble at Embarkation of the Highland Recruits who in general refused to embark, upon which a large Party of the Fencibles were ordered to carry them to this Castle as Prisoners; whereupon a kind of unequal battle ensued in which 10 of the Highland Lads were kill'd on the spot and 25 wounded, on the part of the Fencibles one Captain and 2 private Men were kill'd, and others wounded, in my endeavouring to reconcile these people without effect.

Source; "A small archive relating to Thomas Stelfox," at Personalia Website, at www.personalia.co.uk. Lt. Stelfox was assigned to escort the drafted highlanders to Leith to join the 83rd Regt.

**Newspaper Account of the Firing Between the Highland Mutineers
and the South Fencible Regt., Edinburgh, Apr. 20, 1779**

Edinburgh, 21st April, 1779...

It was then thought necessary to apply force in place of expostulations, and, accordingly, five companies of the Duke of Buccleuch's Fencibles marched down to Leith, a little before five o'clock, headed by their proper officers. The Highlanders were formed in a line along the houses opposite to the ferry-boat stairs, and the Fencibles very cautiously divided into three parties. One marched by the sands and came to the pier to the northward of the windmill; another entered the street by the timber bush, and the third marched along the pier opposite to the Highlanders. Seeing themselves thus hemmed in, they presented their pieces with fixed bayonets. Captain Mansfield advanced to them, and taking one of them by the shoulder, began to expostulate with him, drawing him a little out of the line, when the rascal stabbed him; another fired immediately, and the ball lodging in his head, he instantly dropped down dead. Upon seeing Captain Mansfield fall, the Fencibles were enraged, and immediately fired on the mutineers, on which a dismal carnage ensued. About 23 of the Highlanders fell, of which 8 were killed outright, and the wounded were brought up in carts and sent to the infirmary, two of whom died by the way, four have died since, and most of the wounded are despaired of. Of the Fencibles, one sergeant and two private men of the grenadiers were killed, and several desparately wounded. The remainder of the mutineers were directly brought up to the Castle, under a guard. The worthy Captain Mansfield is greatly regretted, especially as he has left an amiable widow, and five or six children. (He was the son of Mansfield the banker.)

Source: *Ruddiman's Weekly Mercury* [Edinburgh], April 21, 1779.

Scots Magazine Account of the Firing Between the Highland Mutineers and the South Fencible Regt., Edinburgh, Apr. 20, 1779

SCOTLAND...a party of 200 of the South fencibles, under the command of a major, three captains, and six subalterns, were ordered to Leith, to carry the mutineers prisoners to Edinburgh castle if they would not imbark. On their arrival, they found the highlanders drawn up, with screwed bayonets, their backs to the wall facing the quay. The Major drew up his men to as to prevent any of the highlanders escaping; and, attended by a serjeant who spake Erse, went up to them, stated to them the positive orders he had received, and expostulated with them on the folly of resistance. The serjeant reasoned with them too, and in their own language; but soon turned to the Major, and intreated him to retire, for that they would fire. The Major, upon this, ordered the division on the right to present, and afterwards recover their arms; which they did. Meanwhile a serjeant observing one at the highlanders attempting to escape, seized him by the collar; upon which the serjeant received two wounds by a sword or bayonet; another serjeant of the fencibles was wounded by a musket-shot; then several shot were fired on both sides. Capt. Mansfield was killed by one of the first shots. According to one account, Capt. Mansfield was in front, and after some words, one of the highlanders pushed at him with his bayonet, and missing his push, fired his piece, and killed him on the spot. A corporal who stood near, shot the murderer, and instantly a good many shots were fired. About twelve highlanders were killed, and above twenty wounded; and of the fencibles two privates were killed and one wounded.

The fencibles returned to the castle, with twenty-five prisoners, several of whom were wounded. Near thirty wounded were sent to the Royal infirmary. – A Leith porter and another man were taken up, accused of inciting the mutiny, and of procuring ammunition to the mutineers; and a reward of 50 l. Sterling was offered by the Sheriff to whoever would discover by whom the mutineers were improperly furnished with ammunition.

Source: *Scots Magazine*, April 1779, pp. 219-220.

Letter from Lt. Gen. Sir James Adolphus Oughton, Commander of His

**Majesty's Forces in North Britain to Principal Secretary of State
Thomas Thynne, 3rd Viscount Weymouth, Edinburgh, Apr. 20, 1779**

My Lord,

I think it is my Duty to give Your Lordship the earliest Intelligence of an unlucky Occurrence which has happened here this Day. The Drafts from the Additional Companies of the 42^d and 71st Regiments, which were order'd to compleat the 83^d Regiment, having mutinied and refused to embark, I was under the Necessity of sending a Detachment of the South Fencible Reg^t to reduce them to Obedience. Though the Mutineers did not exceed sixty Men, and had two hundred Men opposed to them they persisted in their Resistance; which, as Your Lordship will see by the enclosed Report, was justly fatal to many of themselves, and most unfortunately so to Captain Mansfield, a very worthy Gentleman with a large Family of young Children.

I have the Honor to be

My Lord,

Your Lordship's most Obedient and
most humble Servant

Caroline Park April 20th 1779

Ja^s: Adol^s: Oughton

Source: TNA, *State Papers Scotland Series II*, SP54/47, f. 234.

**Letter from Gen. Sir James Adolphus Oughton, Commander of His
Majesty's Forces in North Britain, to Gen. Lord Jeffrey Amherst,
Commander-in-Chief, His Majesty's Forces, Edinburgh, Apr. 20, 1778**

My Lord

In obedience to your Lordship's Commands for compleating the 83^d [Glasgow] Regiment with Drafts from the additional Companies of the 31st, 42^d, and 71st. Regiments I order'd those Companies to Parade this Morning on the Links of Leith; having previously directed Major [Hon. Malcolm] Ramsay with some Officers and Non-Commissioned Officers of the 83^d to be there to receive the Drafts and put them on Board. The Drafts from the 31st. embarked with the utmost Chearfulness, and were followed by five Men of the 42^d: but the rest of the Highlanders absolutely refused to go on Board. This being reported to me by the Aide-de-Camp whom I had sent to attend the Draft, and Captain [James] Innes who commanded the Companies of the 71st. I sent the enclosed Order for 200 Men to seize the Mutineers and carry them Prisoners to the Castle. I judged it advisable to send so large a number, least the Mutineers should entertain any Idea of Resistance. The Result of their Obstinacy, your Lordship will see in the enclosed Report. I have greatly to regret the Loss of poor Captain Mansfield, who was a very good Officer, and a worthy Man.

I have the honour to be, My Lord

most obedient and most humble Servant

Caroline Park April 20th, 1779

Ja^s Adol^s Oughton

Source: TNA, War Office: *Baron Jeffrey Amherst Papers, Miscellaneous Correspondence* at WO 34/114, f. 71 and War Office In-letters, Commander-in-Chief, WO1/616, p. 655.

**Letter from Col. Henry, Duke of Buccleugh, South Fencible Regt. to Lt. Gen. Sir James
Adolphus Oughton, Commander of His Majesty's Forces in Scotland, Edinburgh,
Apr. 20, 1779**

May it please your Excellency

In consequence of Your Excellency's orders this day, directed to Governor Wemyss & the Com^g Officer of the South Fencibles, I immediately ordered a detachment of Two Hundred men commanded by one Major three Captains and six Subalterns to carry your Excellency's orders into Execution.

Upon arrival of the party at Leith, Major Sir James Johnstone found from forty to fifty Mutineers drawn up with their backs to the Wall facing the Quay & Charged Bayonets. The Major not Imagining that so small a body would make any resistance formed his men so as to prevent any of them from Escaping, and attended by a Serjeant who Spoke Erse, went up to them & remonstrated with them upon the folly of proceeding to Extremities and the positive orders he had. The Serjeant too reasoned with them for some time in their own Language representing to them that all resistance on their part was vain, but they answered that they would kill man for man, and die on the Spot. The Serjeant then turned to the Major & intreated him for Gods sake to retire, as the men were desperate. Upon this the Major gave orders to make ready & to the Division on the right to present, and afterwards to recover their arms which they did without firing. In the mean time one of the Serjeants observing a Mutineer attempting to make his Escape, seized him by the Collar, and dragged him from the wall, upon which he received two wounds, with a Sword or Bayonet, & was knock'd down by some of the Mutineers. Another Serjeant was wounded by a Musket Shot from one of them and they advancing with charged Bayonets the Firing became general on both sides –

Captain Mansfield was unfortunately killed by one of the first Shots from the Mutineers, two Rank & File were kill'd upon the Spot, several were wounded & two, it is supposed mortally. The Party returned to the Castle about Seven of Clock with Twenty five of the Mutineers prisoners. The number of them kill'd & wounded cannot as yet be ascertained, it is supposed about Ten are kill'd & double that number wounded.

I have the honor to be
&c &c &c

Edin^r. Castle
20 April 1779

/signed/ [Henry, Duke of] Buccleugh, Col. S. F. Reg.

Source: TNA, *State Papers Scotland Series II*, SP 54/47, f. 238, *War Office In-letters, Commander-in-Chief*, WO 1/616, p. 663 and *Baron Jeffrey Amherst Papers*, WO3 4/114, f.73.

**Excerpt of Letter from Lt. Gen. Sir James Adolphus Oughton, Commander
of His Majesty's Forces in North Britain, to Commander-in-Chief Lord
Amherst Regarding the Mutiny of the Highland Recruits, Apr. 22, 1779**

My Lord...

Your Lordship will know from the Returns that, of the seven Additional Companies, six were Highlanders; of course the far greatest Part of the Draft for completing the 83^d. were necessarily to be made from them. The Prepossession of the Highlanders to their native Dress is indubitable; and I have had but too many Instances of late of their Proneness to Mutiny: but their invincibly Obstinacy, on this Occasion, surpassed all Belief. That fifty Recruits without any Ammunition but a few Balls, Slugs, and small Shot which they had picked up from the Inhabitants, should dare to attack a regular Detachment of two hundred Men, and choose to throw away their Lives rather than go into a lowland Regiment or submit to be made Prisoners is, I imagine, without Example. A Leith Porter is sent to Goal, on the Accusation of furnishing the Mutineers with Ammunition, and repeatedly calling on them to Fire. If this Fellow can be hanged it will be of infinite Service here, as the mutinous Disposition of the Populace calls for Correction...

I have the Honour to be My Lord,
Your Lordship's most obedient and most humble Servant

The Storm has been so violent

Ja^s: Adol^f. Oughton

these three days that the Reg^t: can
not possibly be embarked, 'till
the weather changes

Caroline Park April 22^d 1779

Source: TNA, *War Office, Baron Jeffrey Amherst Papers, Miscellaneous Correspondence* at WO 34/114, f. 76.

**Excerpt of 42nd Regt. Agent's Report to Gen. Lord John Murray, Col., 42nd Regt.,
London, Apr. 24, 1779**

I am sorry to inform Y^r Lordship that a Letter...mentions that the recruits for the 71st Reg^t refused to Embark at Leith, when the Duke of Buccleugh's [South] Fencibles were called & Cap^t James Mansfield lying hold of one of the Mens Arms he killed the Cap^t dead on the Spott with his bayonett, a Scuffle insued wherein 24 were killed, that is all the particulars I have yet heard.

Source: Alexander Anderson Letter to Lord John Murray, Apr. 24, 1779 in the Lord John Murray Papers, item B 5/2/45, Univ. of Manchester.



Detail from Portrait of Thomas Thynne, 3rd Viscount Weymouth (Later 1st Marquess of Bath), 1795, by Thomas Lawrence

Picture Source: Wikimedia Commons

**Letter from Principal Secretary of State Thomas Thynne, 3rd Viscount Weymouth to
Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces in Scotland;
London, Apr. 28, 1779**

S^t. James's April 28th: 1779

Sir Ja^s: Ad^s. Oughton.

Sir'

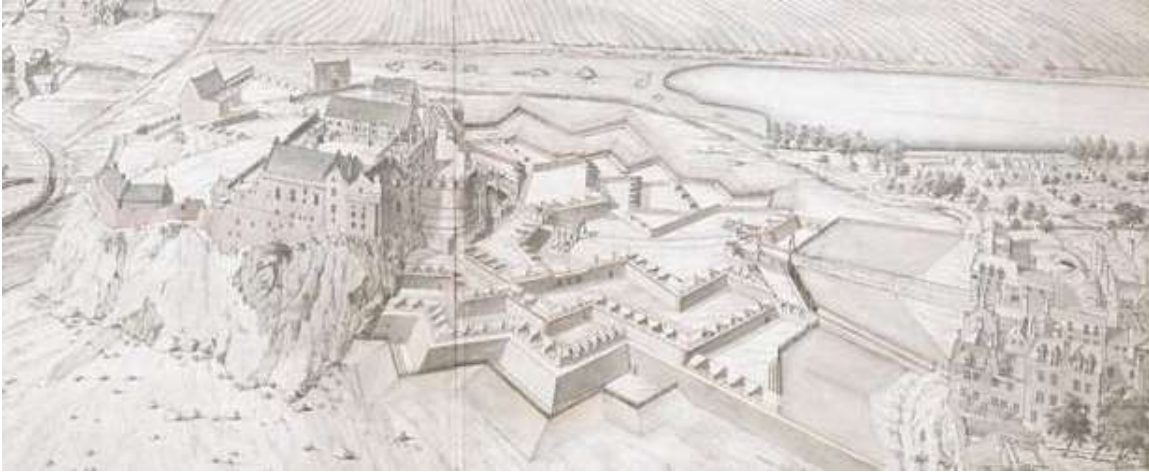
I received Your Letter of the 20th Inst^t by Express, with It's Inclosures, containing the Account of the Mutiny which had unfortunately happened in drafting the Additional Companies of the 42^d and 71st Regiments to compleat the 83^d._ I immediately laid Your Letter before the

King, & as soon as the Proceedings at Law against the Mutineers shall be concluded I shall expect to learn the Sentence that may be passed upon them for His Majesty's Information.

I am &^{ca}

Weymouth

Source: TNA, *State Papers Scotland Series II*, SP 54/47, f. 242.



Detail from "*A bird's-eye view of Edinburgh castle*," circa 1740-1750

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

Excerpt of Letter from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces in North Britain, to Gen. Lord Jeffrey Amherst, Commander-in-Chief, His Majesty's Forces, Edinburgh, May 1, 1779

My Lord

I am honoured with You Lordship's of the 23^d & 26th. I have not yet been able to find out M^r Cuninghame; as soon as I do, shall obey Your Lordship's Commands relative to him.

It is truly to be lamented that we lost some good Men in the late Mutiny of the Highland additional Companies: but I flatter myself it will prove a seasonable Check to that dangerous Spirit, which has prevailed so much of late in this Country. These very Companies were sent up last year; 29 of them turned out Volunteers for the 25th Regiment; 5 of them were drafted into the 50th, and 14 sent back; 4 of the latter were killed in the Mutiny: it is therefore pretty evident that their Repugnance to go into a lowland Regiment was not so great as they pretended. They saw the Drafts from the 31st embark with the utmost Alacrity, and 5 of the 42^d; the rest, indeed joined in the Mutiny and two of them became principal Ringleaders.

As it was impracticable to try the whole of the Mutineers I order'd a Court of Enquiry to find out those who were most deeply engaged in it, and encouraged the rest to oppose and attack the Troops who were sent to take them prisoners. They have reported to me six: four of whom are severely wounded, two prisoners in the Castle both of the 42^d Reg^t: These I propose trying by a General Court Martial, on Thursday next: but wish to know His Majesty's Pleasure whither I shall carry the Sentence into Execution (as empower'd by my Warrant) or wait for further Orders.

The Sheriff having summoned most of the surviving Mutineers to appear as Evidence against two of the Townspeople, at the ensuing Justiciary Court; they can not possibly be removed till that Trial is over, which will not be these six Weeks; when I shall apprise you Lordship, and can have no objection to the withdrawing those Companies from this Country...

My Lord, Your Lordship's most obedient and most humble Servant

Caroline Park May 1st 1779

Ja^s Adol^s Oughton

Source: TNA, *Baron Jeffrey Amherst, Commander in Chief, Papers* at WO 34/151, f. 23.

Letter from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces in North Britain to Principal Secretary of State Thomas Thynne, 3rd Viscount Weymouth, Edinburgh, May 4th, 1779

My Lord

I am honoured with Your Lordship's of the 28th. A General Court Martial is to sit on Thursday the 6th Ins^t to try the Ringleader in the Late Mutiny. Their Sentence, agreeable to Lordship's Orders, shall be transmitted to You for His Majesty's Information; whose Pleasure I shall wait for carrying it into Execution.

The Trail of the Townsmen, who are accused of being Aides and Instigators of the Mutiny, can not take Place before the 12th June which is the first Day of Session.

I have the Honour to be, with the highest Regard.

My Lord, Your Lordships most obedient
And most humble Servant

Caroline Park May 4th, 1779

Ja^s: Adol^s: Oughton

Source: TNA, *State Papers Scotland Series II* at SP 54/47, f. 244.



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

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

Mutiny Charges Read to Pvt. Charles Williamson and Pvt. Archibald M^cIver 42^d Regt., and Pvt. Robert Budge, 71st Highland Regt. by Judge Advocate James Dundas, May 6, 1779

Charles Williamson and Archibald Maciver, soldiers of the 42^d Regiment of Foot, and Robert Budge, soldier of the 71st Regiment of Foot, you are charged with having been guilty of mutiny at Leith, upon Tuesday, the 20th of 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.

You are to stand trial on the above charge, on Thursday, 6th May 1779.

James Dundas, J. A.

Source: "Mutiny of Detachments of the 42d and 71st Regiments" in *Great Historical Mutinies*, by David Herbert, William P. Nimmo, London, 1879, p. 363.

Court Martial of Pvt. Charles Williamson and Pvt. Archibald M^cIver 42^d Regt., and Pvt. Robert Budge, 71st Highland Regt. (Fraser's), Edinburgh Castle, May 6 – 8, 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.

Major John Campbell of West Fencibles	}	Major Ja ^s Mercer of North Fencibles	}
Capt: Ja ^s Campbell of West Fencibles	}	Capt: John Pople of the 4 th Dragoons	}
Capt: Jo: W ^m Romes of 31 st Reg ^t of Foot	}	Capt: Angus M ^c Alister of West Fencibles	}
Capt: Lord Haddo of North Fencibles	}	Lieut: W ^m Morison of West Fencibles	}
Lieut: Peter Boissur of 11 th Dragoons	}	Lieut: Lord Napier of 31 st Reg ^t of Foot	}
Lieut: Alex ^r Trotter of 66 th Reg ^t of Foot	}	Lieut: Ja ^s Ferguson of West Fencibles	}

Sir James Dunbar Deputy Judge Advocate

The members being met and duly Sworn, the Judge Advocate being also Sworn, and Prosecuting in His Majesty's Name.

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."

M^r. Joseph Robertson M^cGrigor Erse [Gaelic] Minister of the Gospel in Edinburgh, being sworn Interpreter, and the Charge being read by him in Erse to the prisoners and they pleading not Guilty, the following Witnesses were adduced in support of the Charge.

Lieu^t: [Thomas] **Stilfox** [Stelfox] of the 55th Reg^t: being duly sworn and Interrogated, Deposed that he knows the three prisoners, that they were in pay as Soldiers before the 20th April last, that on the 19th April last, he marched from Stirling, with 64 Rank & file of whom 13 were

of the 42^d Regiment & 51 of the 71st of which number the Prisoners were. That they arrived at Leith upon the 20th April about 11 o'Clock forenoon. That on the 19th he received an Order from Capt: Imrie Aid de Camp to Genl. Skene, to March the Men to the Links of Leith on Tuesday scits 10 o'Clock, which they reached between 11 & 12 that forenoon. That afterwards he March'd the men from the Links to the Shore of Leith, in Order to Embark and be incorporated with the 83^d Reg^t That before they came from the Links they were told they were to go to the 83^d Reg^t upon which they to be concerned, but marched quietly to the Shore, and five of the 42^d and two of the 71st went on board peaceably, but the rest of them fixed their Bayonets, and refused to go on board, and disbanded and got into houses, and refused all obedience to Orders, or to be draughted, that afterwards the Town people got amongst them, and gave them liquor, when they grew more mutinous than ever. That the Prisoners were part of the Mutineers. That M^cIver pretending to be sick, was carried in a Baggage Cart from Stirling to Leith, that about half an hour before the Fencibles came down to Leith, he saw M^cIver upon the right of the Mutineers, with his Bayonet fixed and when they arrived he went from man to man, along the Rank, the Witness did not hear what he said but from the Gestures, supposed he was persuading the Men to refuse to embark, and seemed to be quite sober and very determined, That he also observed the Prisoner Williamson who seemed to be drunk, and was very noisy; That he and the whole of the Men, had before fixed their Bayonets and refused to Embark, Being questioned for the prisoners declared he saw Budge have his Bayonet fixed, but observed nothing else, particular in his conduct more than the rest. That the greatest objection the mutineers had to the 83^d Reg^t wearing of Long Cloaths and Breeches, and hard some of them declare, they were willing to go into any Highland Regiment, and all of them willing to join their respective Corps.

Captain Ja^s Innes of the 71st Reg^t being Sworn, Deposed. That he knows the three prisoners, that they were in pay before the 20th of April last, _ that he marched the Men mentioned in the former Disposition from Stirling to Leith _ that they set off from Stirling on the 19th lay at Lithgow that night, and set off next morning for Leith. That the mens arms were examined before leaving Lithgow, and no powder or shot found upon them, and to the best of his knowledge, and belief at that time, they had no Ammunition about them. That he received a Letter while at Lithgow from Gen^l Oughton advising that the Men under his Command were to be incorporated, with the 83^d Reg^t but did not then communicate the same to the Men. _ That he marched the Men to Leith Links on the forenoon of Tuesday the 20th where they learned, that they were to be incorporated with the 83^d. from people thereabouts, upon which they expressed their displeasure, and dissent to be so draughted, and particularly M^cIver and Williamson swore they would rather die on the spot than be draughted into the 83^d. _ At the same time they all declared their willingness to Join their own respective Corps, or any other Highland Regiment. That when the Witness marched from the Links to the Shore of Leith, M^cIver & Williamson instigated the Mutiny by doing all they could to prevail upon the 71st to join them in it, who to appearance had no such intentions. And the Witness believes had the men of the 71st come by themselves they would have been prevailed on to embark. That two of the 71st and 5 of the 42^d did go on board & the rest refused, and fixed their Bayonets, upon which the Witness went to Gen^l Oughton, and acquainted him with what had happened, & was absent for about an hour. That Gen^l Oughton dispatched Captain Imrie to the Castle of Edinburgh for 200 of the South Fencibles. That upon the return of the Witness to Leith, he found the Men in a Single Rank, with their backs to a Wall. That the Witness exhorted & admonished them to go on board, told them that the Fencibles were coming down, and if they persisted in their disobedience, the consequence was they would be shot. That at this time he found many of the Men much in liquor. They declared they were under no apprehensions from the Fencibles and that they would stand upon their defense. That about an hour after the Witness returned from Gen^l Oughton. The Fencibles arrived at Leith and in that Interval he endeavored all he could to bring the men to a sense of their duty, but to no purpose they being extremely insolent to him, and one Muir made a push at the Witness with his Bayonet.

That upon the appearance of the Fencibles, he again spoke to them and told them, if they continued refractory they would be shot, to which they answered, they would rather be Shot than draughted into the Glasgow Regiment. _ That upon the Evidences retiring he heard a Shot from the right of the line, and thinks it came from the Wall. _ That the Fencibles arrived about an hour before the Witness left the mutineers. That during this period the Witness and the Officers of the Highlanders, with some of the Officers of the Fencibles, were employed to pacify the Mutineers and make them comply with the Orders for Embarkation, but to no purpose. That M^cIver and Williamson appeared to be most active of the Mutineers of the 42^d and were greatly enraged. That on the Morning of the 20th he left his party at Lithgow and rejoined them on the Links of Leith, having gone to Gen^l Oughton for Orders, so that it must be understood, that he did not actually march along with the party from Lithgow to Leith Links, but joined it there. Capt: Innes adds, that it was reported to him the three prisoners had come to Leith in the Baggage Cart, and then went to the Links, where the Witness is certain he saw them along with the rest of the party.

Serj^t Sutherland of the 71st Regim^t being duly Sworn deposed that about the Month of April 1778, he embarked at Greenock and arrived at Spithead with 30 Men of the 71st and 28 of the 42^d and march'd them from thence to Chatham Barracks, where 18 of the 42^d entered voluntarily into the 25th Reg^t of foot and 11 of the 71st likewise entered voluntarily into said Regiment, and two of the 42^d and three of the 71st were draughted into the 50th _ That he embarked at Shurness with the remainder being 14 and arrived at Leith in December last; and that 4 of the 14 were killed in the late Mutiny on the 20th April last. Being asked by the Prisoners, if these 14 were not returned upon their refusal to be draughted declares they did not refuse to be drafted, and appeared equally willing with the rest to be draughted, so far as he knows and that the three prisoners were none of these 14.

M^r James Dempster Dweller in Edinburgh being duly Sworn Deposed That he was at Leith upon the 20th when the Fencibles were taking their ground, and went up to a house on the Shore, where he looked out a window, immediately above the third man on the left of the Highlanders, and soon after that, he heard a Shot from the North, but whether from the Fencibles of Highlanders he does not know. That about a Minute after followed another Shot from a Highlander on the left, by which Captain Mansfield fell _ Upon this a Corporal that was along with Captain Mansfield fired, and killed that Highlander, after which the Witness withdrew pulling down the Window.

M^r Tho^s Anderson Surgeon in Leith being duly Sworn Deposed That upon the 20th April last he went down from his own house, with the Fencibles to the Shore of Leith, where the Highlanders were drawn up with fixed bayonets, and observed Captain Imrie, and another Officer who was along with the Highlanders in the forenoon talking to them, when Sir James Johnston commanding the Fencibles ordered his men to make ready and afterwards to recover their Arms, and not to fire, which they did. _ That about a minute or two afterwards, he heard a Shot which seemed to come from about the middle of the Highlanders, and immediately thereafter he saw, two or three dropping Shot from the Highlanders on the left of their Line, being on the South. And upon that the fire became general from the Fencibles, who rushed in upon the Highlanders with their Bayonets fixed, and secured them. The Witness then looked to the place from whence the first Shot seem to have come; where he saw one of the Fencibles lying wounded, from whence he concluded, that this man had fallen from the first Shot, which he's heard already mentioned.

David Skea Grocer in Edinburgh being Sworn Deposed that he was at Leith the 20th of April last and went down the Shore before the Fencibles and observed the Highlanders standing on their defense with their Bayonets charged. And when the Fencibles came up they surrounded them. That a Short while after he saw a Shot from the Right of the Highlanders, upon which the

Witness went up a Stair, when he heard a great many Shots, and upon looking out the Window he saw Captain Mansfield lying wounded.

James Dun Stabler in Edin^r being Sworn and Interrogated Disposed that he was at Leith upon the 20th of April last, that he saw the Highlanders with their Bayonets charged standing in a Posture of Defense, when looking out at a Window opposite to the River whence he saw a Shot come from the right of the Highlanders, that before this he saw one of the Fencibles pull a Highlander out of his Rank. That two or three of the Highlanders endeavored to rescue him, but he thinks they did not succeed, that a little after the Shot already mentioned he saw Capt: Mansfield step up to one of the Highlanders in the Ranks, and seemed to lay his hand on his Shoulder, as if to expostulate with him, and that he and another Highlander to his right, step'd back and made a push at Capt: Mansfield with their Bayonets, upon which Capt: Mansfield retreated, and immediately either the 3^d or 4th man from the left of the Highlanders fired a Shot upon which Capt: Mansfield fell, and further declares he observed no fire from the Fencibles before Capt: Mansfield fell.

William Ralston Serj^t of the 71st Reg^t being Sworn and Interrogated Deposed, that on the 19th of April last, he marched from Stirling with the Detachment of Highlanders above mentioned. That they lay at Linlithgow that night, and marched next day to Leith, that when they were told they were to embark, and be draughted into the 83^d Regiment they declared their reluctance by saying they would not be put into Breeches. That before the Fencibles came down to Leith they had fixed their bayonets, and were drawn up, with their backs to a Wall opposite to the Ferry Boat Stairs, and several of them retired into Ale houses before the Fencibles came down, where they got liquor. Being asked if he saw the three prisoners more mutinous than the rest? Answers he did not. But when a party of Fencibles advanced along the Wall to the right of the Highlanders line, where M^cIver and Williamson two of the Prisoners were posted, they turned about keeping their Bayonets pointed toward that party of the Fencibles. Being asked from whence and when he heard the first Shot? Answers that it appeared to him to have been from the left of the Highlanders or the right of the Fencibles, but which of them he does not know. That it was not a Single Shot but a running fire._ Being examined for the Prisoners, whether [Pvt. Archibald] M^cIver [42nd Regt.] and [Pvt. Robert] Budge [71st Regt.] staid with the party with the baggage or marched to Leith Links? Declares that to the best of his knowledge they staid with the Baggage, and that [Pvt. Charles] Williamson [42nd Regt.] the other prisoner got drunk at Linlithgow and came up with the Rear Guard and that upon the Road they were obliged to press a Cart to bring him on.

Alex: Ross Serj^t in the South Fencibles, being Sworn & Interrogated Deposed, that he was at Leith upon the 20th April last during the Mutiny where he saw two of the Prisoners, Williamson & M^cIver, and Williamson very active in promoting the Mutiny. That Williamson was much in liquor. That the Deponent by the orders of [Maj.] Sir James Johnston went up to expostulate with the Mutineers, and that when he was going on that Errand, Williamson desired him not to go farther, and pushed his Bayonet again and again at the Deponent. When M^cIver desired Williamson to let the Deponent alone to which Williamson replied, that he wanted none of their Corps to come near him, still pushing his Bayonet at the deponent._ Sometimes after that the Deponent heard a Shot from the right of the Highlanders, that two Serjeants of the South Fencibles came up and laid hold of M^cIver, who struggled with them, in order to get rid of them, when a Shot came from same of M^cIvers party, upon his left which wounded the deponent, that before that happened, the Deponent was telling the Mutineers as far as they could hear him, that by Orders of Sir James Johnston he informed them, that the Fencibles were provided in ammunition, and their Guns all loaded, and that they would better desist, because they would be forced to embark, who answered they would die first before they would wear Breeches, and told

the Deponent they were provided in ammunition. Being Interrogated upon the part of the prisoners, at what distance the Evidence supposed the firing began, from the two prisoners of the 42^d. Answered he thinks about 20 Yards from their left. That about two or three minutes before the fire began, a Highlander from the Mob, called to the Highlanders, why don't you fire, M^cIver answered, he would not be the first that would fire.

Ebenezer Buchanan Corporal in the 71st Regiment being Sworn and Interrogated Deposes, that he was at Leith the 20th of April last, when upon the refusal of the Highlanders to Embark, they fixed their Bayonets to their Muskets, and placed themselves up at the side of a Wall near the Shore. That some Officers and Serjeants came up and expostulated with them, and desired them to be obedient to the Orders that were given them. That the Mutineers would give no ear to them, and step'd back and presented their bayonets to them particularly Williamson, but that he did not observe any of the two prisoners do so, but that when some of the Mutineers were unfixing their Bayonets Budge desired them not to do so. Being asked upon the part of the Prisoners, whether if he knew the Highlanders with whom he marched from Stirling to Leith had any Ammunition. Answers, he does not know they had any.

The Court adjourned till tomorrow at none o'Clock forenoon.

Edin^r Castle 7th May 1779. The Court being again pursuant to Adjournment.

James Home Soldier of the South Fencibles duly Sworn & Interrogated Deposes That upon the 20th of April last, he was at Leith upon duty, that the Highlanders were standing in a line, with their bayonets charged, that the Witness was along with Capt: Mansfield, when the Highlanders began to fire from their right, the Evidence having heard them say before, that they could prime load and fire as fast as the Fencibles, that Capt: Mansfield spoke with the Highlanders, a considerable time endeavoring to pacify them, and quell the Mutiny, when the Highlanders charged their Bayonets and rushed at him, and when he retreated into the division that he commanded, a Highlander fired upon him, and Shot him, upon which the Evidence [witness] took aim at the man that did so, and Shot him.

George Little Corporal in the South Fencibles, being duly Sworn and Interrogated Deposes, that he was at Leith upon the 20th of April last, being a Soldier in the Fencibles, and examined several of the Highlanders muskets which he found loaded, and likewise a Cartridge Box with Shot, but cannot ascertain whether it belonged to the Highlanders or the Fencibles.

Robert Mudie Shipmaster in Leith being duly Sworn and Interrogated Deposes he was at Leith upon the 20th of April last, and was upon the Top of the Pier on the left of the Fencibles, opposite to the Right of the Highlanders, whom he saw standing with their Bayonets charged, from which position he retired further to the right of the Fencibles, apprehending he might be in danger of a Shot from the Highlanders. That he saw a Shot from the right of the Highlanders, which was the first that was fired, and afterwards another from the left of their Centre that before the second Shot was fired from the left of the Highlanders Centre he observed Capt: Mansfield who was upon the right of the Fencibles protecting with his Sword, one of this Soldiers who was attacked by the Highlanders, and upon a Shot being fired, the Mob called out that Capt: Mansfield was killed, and the Evidence retreated.

Capt: [John] Rutherford of the South Fencibles being duly Sworn and Interrogated Deposes, that he was at Leith upon the 20th April last, with his division of the Fencibles, where he observed the Highlanders very mutinous, and one in particular in a violent agitation, being asked if any of the prisoners were the persons he observed so Active in the Mutiny? Answers he could

not positively say they were, that he heard a Shot come from the Highlanders, and getting into his place he observed a Corporal upon the right of his division mortally wounded.

Donald M^cDonald Soldier in the Castle of Edinburgh being duly Sworn and Interrogated Depos that he was at Leith upon the 20th April last where he observed Williamson and M^cIver amongst the Mutineers with their Bayonets Charged, and that M^cIver was the right hand man of the Highlanders, and Williamson hard by him. That he spoke to M^cIver and told him that he was sorry to see one of the Regiment in which he had formerly served concerned in such an affair. He answered that none of the Regiment had been used as he or they were, and that the Evidence did not observe M^cIver more active than the other Mutineers, but that Williamson was very noisy and seemed to be drunk.

John M^cIntosh Soldier in the 42^d Regiment being duly Sworn and Interrogated Depos that he was at Leith upon the 20th April last, and that he had voluntarily embarked and was brought back again, and was at Leith the time of the Mutiny, and saw the three prisoners with their Bayonets charged, and that they were noisy and talking to one another as the rest did, and that Budge and M^cIver came along with the baggage from Lithgow and joined this party at Leith five minutes before the Fencibles came down.

The Evidence being rested upon the part of the Prosecutor, the Prisoners gave in Defences, which were read to the Court of which the tenor follows.

Defence.

The Charge against the Prisoners that they were Guilty of Mutiny at Leith on Tuesday the 20th of April, and instigating and inciting others to be Guilty of that Mutiny in which several of His Majestys' Subjects were killed & others wounded, and they pleaded not Guilty to that Charge:

The Prisoners Arch^d M^cIver & Cha^s Williamson enlisted as Soldiers in the 42^d Regiment being an Old Highland Regiment wearing the Highland Dress, their native language was Erse, the one being a native of the Northern part of Argyleshire and the other of the Western part of Invernessshire, where the language of the Country is Erse only _ They have used no other Language and are so ignorant of the English Tongue that they could not avail themselves of it for any purpose in life, they have always been accustomed to the Highland habit, so far as never to have worn Breeches, a thing so inconvenient and even so impossible for a native Highlander to do, that when the Highland dress was prohibited by Act of Parliament, tho' the Philabeg was one of the forbidden parts of the dress, yet it was found necessary to connive at the use of it provided only that it was made of a Stuff of one Colour and not of Tartan, as it is well known to all acquainted with the Highlanders particularly the more mountaneous parts of the Country. These circumstances made it necessary for them to enlist & serve in a Highland regiment only as they neither could have understood the Language, nor have used the Arms, or marched in the Dress of any other Regiment.

The Prisoner Robert Budge is a native of Caithness where his Mother tongue likewise was Erse, and that Language was commonly used by him, for tho' he had acquired so much of the English in the common Articles of Commerce in the Country, yet he could not have made use of it, in the Ordinary run of the occurrences of Life, he too had been accustomed to the Philabeg, and found that in any other dress than the Highland one, he could not have performed the duties of a Soldier, he therefore likewise enlisted in the 71st Regiment which is a Highland Corps.

The Prisoners along with a detachment to the number of between 60 and 70 were marched from Sterling on the 19th April last; they arrived in the Town of Leith, all the three being on carts, so that none of them were on the Links on the 20th of that Month, during the march they behaved with that obedience which belongs to Soldiers _ nor have they been accused of any riotous or mutinous behavior on the road, when the rest of the detachment arrived on Leith Links. The Prisoners understand they were informed by their Officer Capt: Innes, who had conducted them, that they were now to consider the Officers of the 83^d or Glasgow Reg^t (a Regiment wearing Lowland dress and speaking the English tongue) as their officers; But how this happened they were not informed, no Order from the Commander in Chief to their being draughted was read or explained to them, but they were told, that they must immediately march to the Shore and Embark.

A great number of the Detachment represented, without any disorder or mutinous behavior that they were altogether unfit for Service in any other Corps, than a Highland one, particularly that they were incapable of wearing Breeches as part of their dress._ At the same time they declared their willingness to be regularly transferred or draughted into any other Highland Regiment or to continue to Serve in those Regiments in which they had originally been inlisted, But no regard was paid to those remonstrances, which if they had had an opportunity, they would have laid before the Commander in Chief; But an order for immediate Embarkation must effectually prevent this.

The Articles of War, which are appointed to be read and published once in every two Months, at the head of every Regiment Troop or Company mustered, and to be duely observed and exactly obeyed by all officers and Soldiers in His Majestys' Service cannot be unknown to any Soldier and must be attended to by them. By the 6th Section of these Articles and Art: 3^d, It is declared, That no noncommissioned officer or soldier shall Inlist himself in any other Regiment Troop or Company without a regular discharge from the Regiment Troop or Company in which he last served, on the penalty of being reputed a deserter and suffering accordingly; And in case any officer shall knowingly receive and entertain such non Commissioned Officer or Soldier, or shall not after his being discovered to be a deserter, immediately confine him & give notice therefore to the Corps in which he had last Served, he the said Officer so offending shall by a Court Martial be Cashiered!

The Detachment found themselves in a disagreeable situation, none of them were possessed of discharges in Terms of this Article of War, to enable them voluntarily to enter into another Corps, other than the one they had inlisted in. _ No order from the Commander in Chief had been read or explained to them, which could either supersede the necessity or intitle them to the benefit of such discharge. Capt: Innes was no field officer, and could not grant them one, and the Officers of the Glasgow Regiment seemed in such circumstances disabled from assuming Military command over them. _ The natural Idea, that suggested itself to them was, that they should insist on serving still in the Regiments in which they had been inlisted, and not go abroad as a part of the 83^d Reg^t till such time as these difficulties were removed. They accordingly drew up under Arms on the Shore of Leith, each respective Corps by itself, and the prisoners seeing them drawn up joined them and were informed of what happened.

The prisoners are informed, that the Orders that were issued to the detachment of Southern Fencibles that came down to Leith, was to make them prisoners and conduct them all to the castle. _ Had these orders been explained to them, they would have submitted and with proper humility have laid their case before those that could give them redress; But unfortunately the Serjeant who explained the Orders to them in Erse represented them to them, as if they were

immediately to go aboard, as part of the Glasgow Regiment, but which they do with great deference say they did not at the time conceive they could lawfully have done.

None of the Prisoners were Guilty of any Actual violence. _ No man received any hurt from them – The Prisoner M^cIver declared, that he would not fire when some among the Mob called out to them to do it. _ The Prisoner Williamson had got drunk at Linlithgow, and continued very much intoxicated to the very end, so that he was not perfectly conscious of what he was doing, and the Prisoner Budge behaved in a very inoffensive manner, and Surrendered himself quietly as a Prisoner. None of all of the three had any Ammunition, nor could they have any previous intention to Mutiny, the Idea of their being to be transferred into another Regiment, having been intimated to them of a Sudden, so as to leave no room for deliberation.

And the following Witnesses were adducted in support of their Defence.

Serj^t Ralston of the 71st Reg^t being Sworn and Interrogated, whether he heard any Order or paper read or explained to them on the Links of Leith, relative to their being Embarked or Draughted into the 83^d Reg^t deposes That he neither heard nor saw any such paper, and that he was on the Links all the while. Interrogated If the Highlanders complained of this usage referring to the former question. Answer that after they came to the Pier of Leith Hugh Muir of the 71st amongst others said, that of an Offer had been made to them of a Voluntary draught into the 83^d Reg^t in the manner that the 31st was draughted, he would have been among the first, that would have offered himself, but that they were going to Boat them like a parcel of Sheep, But as that was the Case, he would stand till the last.

Corporal Buchanan of said Regiment being duly Sworn and Interrogated whether he heard any paper or order read to the men of the 42^d or 71st relative to their Embarkation and their being draughted into the 83^d Reg^t Deposes that the first intimation they had of their being draughted into the 83^d Reg^t was from the Officers of the Glasgow Reg^t upon the Links of Leith, who informed some of the Men that they were to be incorporated into their Reg^t and that no order was read or spoke of.

Serjeant Alex^t Ross of the South Fencibles being duly Sworn and Interrogated what Message he delivered to the Highlanders from Sir James Johnston upon the 20th of April last _ Deposes That Sir James ordered him to go to the Highlanders and desired him to use every gentle method and persuasion to pacify them, and comply with the order for their Embarkation. Being asked if he told the Highlanders from [Maj.] Sir James Johnston what they were to expect when their refusal to embark Deposes that Sir James Johnston told the Deponent that his Orders were either to force them to Embark or bring them Prisoners to the Castle. That the Witness communicated these Orders to the Highlanders.

Major Sir James Johnston of the South Fencibles being duly Sworn & Interrogated If he Commanded the Detachment of the Fencibles ordered to Leith upon the 20th of April last. Deposes he did command that Detachment, and produces the Order for so doing of the following tenor. 'Head Quarters April 20th 1779 Sir the drafts of the 71st Reg^t having refused to Embark you will order 200 men of the South Fencible Regiment, under the Command of a Field Officer to march immediately to Leith, seize the Mutineers and march them prisoners to the Castle of Edin^f to be detained there till further Orders I am, Sir Your Most Obedient humble Servant. Signed Ja^s Adolp^s Oughton. Directed to Governor Weymss or Officer Commanding South Fencible Reg^t Edinburgh Castle, which being read was returned. The Evidence further Deposes that when he gave the orders to Serjeant Ross to speak to the Mutineers in Order to pacify them, that Williamson one of the prisoners more than once presented his piece to the Deponent called out

Dunemore, which is the Bigman, and that once the Deponent thought, he was actually going to fire upon him, but was as oft prevented, by M^cIver another of the Prisoners by saying something to Williamson which the Deponent did not understand, but upon which Williamson took down his piece, and the Deponent thinks he owes his Life to M^cIver by so doing.

Captain Innes of the 71st Reg^t who being Sworn and Interrogated. If he has the Attestations of the three prisoners. Depos he has none of the Attestations of the Prisoners. Being Interrogated further whether upon the Links of Leith he read the Order to the Highlanders relative to the draughting of them into the 83^d Regiment Depos he did not, as he thought it improper.

The Evidence being closed upon the part of the Prisoners, the Court was cleared _ And the whole proceedings being read, Adjourned till to morrow at 10 o'Clock.

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 [Ralph] Dundas
Lieut: Col: 11th Reg^t Dragoons
President

Source: TNA, *War Office, Judge Advocate General's Office, General Courts Martial* at WO 71/54 (223413) pages 363-381.

Letter from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces, Scotland, to Secretary Thomas Thynne, 3rd Viscount Weymouth, Regarding Leith Mutiny Court Martial Sentence, Edinburgh, May 8, 1779

My Lord

Agreeable to Your Lordships orders of April 28th, I have the Honour of enclosing, for His Majesty's Information, the Sentence of the General Court Martial held for the Trial of some of the Soldiers concerned in the late Mutiny at Leith.

I am requested by the Court to lay at His Majesty's Feet their humble Request that he will be graciously pleased to extend His Royal Mercy to the Prisoners [Pvt. Archibald] M^cIver [42nd Regt.], and [Pvt. Robert] Budge [71st Regt.]. The former, because it did not appear to them that he had been more active than others in the Course of the Mutiny, and that he had, by his Interposition, prevented [Maj.] S^r James Johnston [South Fencibles] from being shot: to the latter, Budge; because he did not appear to them to have been deeply concerned in the Mutiny, to be simple almost to Idiotism and just recover'd from the Wounds he received in the Affray.

I hope to be honoured with His Majesty's Commands, as soon as convenient; and have the Honour to be, with the highest Regard,

My Lord, Your Lordship's most obedient and most humble

Servant

Caroline Park May 8th 1779

Ja^s: Adol^s: Oughton

Sentence of a Court Martial held at Edinburgh Castle on the 6th. 7th. and 8th. Days of May 1779. By Order of Lieutenant General Sir Adolphus Oughton, Commander of His Majesty's Forces in North Britain [Scotland], passed upon Charles Williamson and Archibald M^cIver private Soldiers in the 42^d. Regiment of Foot, and Robert Budge private Soldier in the 71st Regiment of Foot, for having on Tuesday the 20th Day of April last, been Guilty of Mutiny.

“The Court having Maturely weighed the Evidence in Support of the Charge and the Defense Made by the Prisoners, Charles Williamson, Archibald M^cIver, and Robert Budge “Guilty of Mutiny, being a breach of the 2^d. 3^d. 4th. And 5th 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 length as in the present instance; do therefore adjudge “the foresaid Prisoners Charles Williamson, Archibald M^cIver, and Robert Budge, to be Shot to “Death.

R [Ralph] Dundas
Lieut. Col. 11th Reg^t of Dragoons
President

Source: TNA, *State Papers Scotland Series II, 1777-1780* at SP 54/47, ff. 246- 248.

**Excerpts from Scottish News Account of the Trial of the Mutineers,
With Evidence not Shown in the Trial Record, Edinburgh, May 6-8, 1779**

The Evidence was taken on Thursday and Friday, after which the court was cleared: and the members having remained inclosed about an hour, adjourned till ten o'clock on Saturday, and then pronounced their judgment; which was transmitted to the King. Though in military courts, prisoners are not usually allowed counsel; yet in this case, by the canoer of the commander in chief, a very eminent lawyer (Mr Andrew Crosbie) was permitted to appear on behalf of these prisoners....

Capt. Innes showed to the court an attestation, which he said was in the uniform style of the attestations for that regiment: and it bore expressly, That the person thereby attested was to serve in the 71st regiment, commanded by Maj.-Gen. Simon Fraser; and that they were to serve for three years only, or during the continuance of the present war.

Source: *Scots Magazine*, June 1779, pp. 272 and 308. The trial record above indicates Capt. Innes, 71st Regt. responded to the defense questions concerning the wording of their attestations, as follows: “*Captain Innes of the 71st Reg^t who being Sworn and Interrogated. If he has the Attestations of the three prisoners. Deposes he has none of the Attestations of the Prisoners.*” This statement is contradicted by the *Scots Magazine* account.

**Letter from Lt. Gen. Sir James Adolphus Oughton, Commander of His Majesty's
Forces, Scotland, to Commander-in-Chief Gen. Lord Jeffrey Amherst
Regarding the Drafting of Highlanders, Edinburgh, May 13, 1779**

My Lord,

I am honoured with your Lordship's of the 6th and most heartily hope that the Calamities the Mutineers have drawn on themselves will check that Spirit of Disobedience and Obstinacy; which may in some Measure be imputed to a total Ignorance of the Service and a Want of regular Troops to give them the Ton.

I thought it advisable to obviate the Popular Prejudice of Highlanders being never drafted into other Corps, by bringing Proof before the General Court Martial that these very Companies had been drafted last year. And I do most heartily rejoice that Your Lordship has rejected the

Idea of giving any promise of Exemption to the Highlanders in future. Your Lordship evidently sees that such a Distinction would be extremely disgusting to all the rest of His Majesty's military subjects; and of Course, highly prejudicial to the Service. The only Plea in favour of it is that their strong Attachment to their Dress is a powerfull Incitement to their enlisting: but Experience shows that the Love of Gain is still more powerfull; as there is scarcely a Regiment in His Majesty's Service, where some of them are not to be found; and as far as my Observation extends, they make much better soldiers, when dispersed among others, than in collective bodies of their own Countrymen. Nor is it unreasonable to suppose that the Highland Gentlemen, who have profited so much by the late Levies, are not fond of seeing them enlist into other Corps. But, were the were the Reasons for granting them such an exclusive Privilege ever so cogent, Your Lordship, I am sure, will never consent to its being extorted by Mutiny and Murder...

I have the honour to be, My Lord,

Your Lordships most humble and most obedient Servant

Caroline Park May 13 1779

Ja^s. Adol^s Oughton

Source: TNA, *War Office: Baron Jeffrey Amherst Papers, Miscellaneous Correspondence, Apr. – May 1779* at WO 34/114, f. 144.



Detail of Portrait of Sir Charles Gould (Sir Charles Morgan after 1792), by Mather Brown

Picture Source: Wikimedia Commons, from *Tredegar House*

**Leith Mutiny Court Martial Results Forwarded to Judge Advocate General
Sir Charles Gould for his Opinion by Principal Secretary of State Thomas Thynne, 3rd
Viscount Weymouth, and Sir Charles Gould's Reply, London, May 14 and 22, 1779**

S^t James's May 14th 1779

Sir,

I send inclosed the Copy of a letter I have received from Sir Adolphus Oughton, together with a Copy of the Sentence of a Court Martial held at Edinburgh Castle on the 6th 7th & 8th days of May 1779 by Order of Lieut: general Sir James Adolphus Oughton, Commander in Chief of His Majesty's Forces in North Britain, passed upon Charles Williamson and Archibald M^cIver private Soldiers in the 42^d Reg^t of Foot, and Robert Budge private Soldier in the 71st Reg^t of Foot, for having on Tuesday the 20th day of April last, been Guilty of Mutiny. And I am commanded to signify to You His Majesty's Pleasure that You do take the same into your Consideration and report to His Majesty Your Opinion thereupon.

I am, Sir

Sir Charles Gould K^t

Your most Obedient Humble Servant
Weymouth.

[Sir Charles Gould's Reply]

Horse Guards 22 May 1779

My Lord

Having had the honor, in obedience to the King's Command Signified in you Lordship's Letter to me of the 14th Instant of reporting to His Majesty the Proceedings and of humbly submitting such observations as occurred to me upon the Sentence of the General Court martial holden at Edinburgh Castle on the 6th, 7th, and 8th days of this Month for the trials of Charles Williamson and Archibald M^cIver private Soldiers in the 42^d Regiment of Foot, and Robert Budge private Soldier in the 71st Regiment of Foot, who were severally found Guilty of Mutiny, and were adjudged to be Shot to Death, 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 attone for this unpremeditated but atrocious Offence.

I have the honor to be, with much respect,
My Lord,

Your Lordship's most Obedient
And most humble Servant
Charles Gould

Viscount Weymouth, His Majesty's Principal Secretary of State

Source: TNA, *Judge Advocate General's Office, General Courts Martial, July 1777-Oct. 1779* at WO 71/54, pp. 363-381.



Lt. Gen. Lord John Murray, circa 1759 by Allan Ramsay

Picture Source: *Chronicles of the Atholl and Tullibardine Families*,
Vol. III, Ed. John, 7th Duke of Atholl, 1908, opp. p. 370.

**Excerpt of Regimental Agent's Report to Gen. Lord John Murray, Col., 42nd Regt.,
Lothbury, May 15, 1779**

I have not heard anything about the affair of the Highland Recruits at Leith only that out of 55 about 30 were killed & wounded and the Rest are trying by a Court Martial, the Issue not yet known. Cap^t [James] Mansfield & three of the Fencibles were killed. The newspapers say some of Y^r Lordships Recruits were amongst them, but as I have not heard from Cap^t [Patrick] Graham that it was so or anything about it, hope it is not true...

Source: Alexander Anderson to Lord John Murray, May 15, 1779 in the *Lord John Murray Papers*, item B 5/2/50, Univ. of Manchester.

**Extract of Note from Lt. Thomas Stelfox, 55th Regt. to His Wife Regarding
Trial of Civilian from Mutiny, Edinburgh, May 22, 1779**

Edin^r. May 22nd 1779

...I was this morning again with [Maj.] Gen^l. [Robert] Skene who now tells me I can't leave Edin^r. until the trial of Tinkler Tom is over, a notorious Rascal who stirr'd up the poor highlanders to munity, and who I think well deserves a Halter".

Source: "A small archive relating to Thomas Stelfox," at Personalia Website, at www.personalia.co.uk.

**Letter from Principal Secretary of State Thomas Thynne, 3rd Viscount Weymouth to Lt.
Gen. Sir James Adolphus Oughton, Commander of His Majesty's Forces, Scotland, with
Full Pardons for the Leith Mutineers, Including Copy of the Judge Advocate General's
Evaluation and Sir James Adolphus Oughton's Acknowledgement, London and Edinburgh,
May 22 and 25, 1779**

S^t. James's May 22^d: 1779

Sir Ja^s: Ad^s. Oughton ...
(by Express)

Sir,

I have already informed You that I had, by His Majesty's Command referred the Sentence of the General Court Martial held in Edinburgh Castle on the 6th. 7th. and 8th. Inst^t [May] for the Trials of Charles Williamson and Archibald M^cIver private Soldiers in the 42^d. Regiment of Foot, and Robert Budge a Soldier in the 71st Reg^t of Foot, to His Majesty's Judge Advocate General; I now send you inclosed the Copy of the Letter I have received from Him, & am commanded to signify to You His Majesty's Pleasure that a Free Pardon be granted to the said Charles Williamson, Archibald M^cIver, and Robert Budge.

I am &^{ca}

Weymouth

P.S. I desire You will acknowledge the Receipt of this Letter by the Return of the Post.

[Judge Advocate General's Evaluation and Response]

Horse Guards 22 May 1779

My Lord

Having had the honor, in obedience to the King's Command Signified in you Lordship's Letter to me of the 14th Instant of reporting to His Majesty the Proceedings and of

humbly submitting such observations as occurred to me upon the Sentence of the General Court martial holden at Edinburgh Castle on the 6th, 7th, and 8th days of this Month for the trials of Charles Williamson and Archibald M^cIver private Soldiers in the 42^d Regiment of Foot, and Robert Budge private Soldier in the 71st Regiment of Foot, who were severally found Guilty of Mutiny, and were adjudged to be Shot to Death, 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.

I have the honor to be, with much respect,
My Lord, Your Lordship's most Obedient And most humble Servant
Charles Gould

Viscount Weymouth, His Majesty's Principal Secretary of State

16th. May 1779

The Judge Advocate General's Report to His Majesty respecting the trial of [Pvt.] Archibald M^cIver [42nd Regt.] & others by a General Court Martial at Edinburgh.

May it please your Majesty,

In obedience to your Majesty's Command Signified by Viscount Weymouth one of your Majesty's principal Secretaries of State, I have attentively considered the representation made in a Letter from Lieutenant General Sir James Adolphus Oughton dated the 8th. day of this instant May and the Sentence of a General Court Martial lately held at Edinburgh Castle, to which the same refers, and have also looked into the Evidence and Proceedings of the said Court Martial transmitted to me by Sir James Dunbar, who assisted thereat as Judge Advocate, – and have the honor in further pursuance of Your Majesty's Command to report, that the Sentence of the Court Martial, although not so aptly worded, as might have been wished, appears upon the whole to be substantially just; – the Fact of the Prisoners having joined in an atrocious Mutiny is fully established, and by one of the Articles of War Enumerated in the Sentence viz^t – the 3^d. Article of the Second Section (tho' unnecessarily coupled with the others) the Court is, I think, warranted in pronouncing Judgement of Death for the same.

The Motives which have induced the Court Martial humbly to recommend Archibald M^cIver and Robert Budge as proper Objects of Mercy, seem to lay a very reasonable foundation for discriminating the case of these Prisoners from that of the others of the Mutineers – With regard to the third Prisoner included in the Sentence, who does not stand in the like predicament, it is only to be observed, that his having been more noisy and daring, than some others, appears to have been owing to liquor, which he had unhappily been supplied with upon the March from Linlithgow to Leith.

There are in this Case peculiar circumstances, which excite a Wish, if it might consist with Your Majesty's Service and maintenance of good Order due Subordination therein, that Your Majesty's Royal Mercy might be extended to all the Offenders. The Mutiny appears not to have been preconcerted or meditated, not to have proceeded from a disinclination to any duty, upon which the Corps might be employed or from discontent entertained with regard to any of their Officers, but from a sudden impulse and distress of Mind springing from an Idea that they were to be immediately transferred to and incorporated in another Regiment, not conversant in their language, Commanded by officers with whom they were unacquainted, and wherein, instead of the Highland Dress to which they had from infancy been accustomed, they would be obliged to

wear a Cloathing totally different, contrary to the terms upon which they conceived themselves to have been Inlisted: – Circumstances which might have merited some consideration, if instead of opposing the measure by tumult, they had offered a decent and humble representation of what appeared to them to be a grievance. But whether in a Case of Mutiny, which has proceeded to open violence (tho' it is not proved that any has been actually committed by either of the now Prisoners) and which has been attended with consequences fatal to some of Your Majesty's Subjects, Justice will be satisfied, and Whether Strict discipline so salutary and even essential to Your Majesty's Service can be enforced and upheld without some instance of exemplary punishment, is in all humility Submitted to Your Majesty's Wisdom.

Horse Guards
16th. May 1779

Charles Gould,
Judge Advocate Gen^l.

[Lt. Gen. Sir James Adolphus Oughton's Acknowledgement]

My Lord,

I am this Moment honoured, by Express, with Your Lordship's of the 22^d, covering Sir Charles Gould's Letter to Your Lordship, and acquainting me that His Majesty has been graciously pleased to grant a Free Pardon to Charles Williamson and Archibald M^cIver, private Soldiers in the 42^d. Regiment of Foot, and Robert Budge a Soldier in the 71st Regiment of Foot, who had been condemned to Death for Mutiny by the Sentence of a General Court Martial...

[I take the Opportunity of acquainting Your Lordship that, by Intelligence from Whitehaven, the Corsair [John] Paul Jones with five Frigates and some Troops from Brest, is daily expected in the Channel. Your Lordship is sensible that a Country like this, accessible on every side, can only be protected by Ships of war from the Insults of an Enemy, wither he means to make a Diversion, or merely Plunder and Devastation.]

I have the Honour to be, with the highest Respect, My Lord
Extract sent to Admiralty
Your Lordship's most obedient
And most devoted humble

Servant

Caroline Park May 25th, 1779

Ja^s: Adol^s: Oughton

Sources and Note: TNA, *State Papers Scotland Series II* at SP 54/47, ff. 250 and 262 and *War Office: Judge Advocate General's Office: Court Martial Correspondence and Papers, 1777-1780* at WO 72/8 and *Court Martial Proceedings, General Court Martial, July 1777 - Oct. 1779* at WO 71/54, pp. 363-381. Brackets [] shown in original.

Scottish News Account of the Preparation for Execution and Pardon of the Leith Mutineers, Edinburgh, May 28, 1779

Though the court-martial pronounced their judgment on the 8th of May, it was not made public till the 28th. In the forenoon of that day, the regiment of West Fencibles, then quartered in the suburbs of Edinburgh, having been marched up to the Castle-hill; the three prisoners were brought down from the castle; the Fencibles formed around them; the prisoners were ordered to kneel; and then the Major read as follows.

"Head Quarters, 26th May, 1779.

GENERAL ORDERS.

AT a General Court-Martial held in Edinburgh Castle on Thursday the 6th day of May, and the two following days, whereof Lieutenant-Colonel Dundas, of the 11th dragoons, was President, for the trial of Charles Williamson and Archibald Maciver, soldiers of the 42d regiment, and Robert Budge, soldier of the 71st regiment, accused of being guilty of a mutiny at

Leith, upon Tuesday the 20th day of April 1779, and of instigating others to do the same; the Court unanimously found the prisoners guilty of mutiny, being a breach of the 2d, 3d, 4th, and 5th articles of the second section of the articles of war; and having duly considered the evil tendency of mutiny and sedition, especially when carried to such enormous lengths as in the present case, did adjudge the aforesaid Charles Williamson, Archibald Maciver, and Robert Budge, to be shot to death.

Which sentence having been transmitted to the King, his Majesty has been pleased to signify his royal pleasure, that his Majesty, having regard to the former commendable and distinguished behaviour of the 42d regiment, to which the two first-mentioned prisoners belong; and remarking that the third prisoner, Robert Budge, who is represented to be only now recovering from the wounds received in the affray, does not appear to have any forward part in the mutiny, is most graciously pleased to grant the said Charles Williamson, Archibald Maciver, and Robert Budge, a free pardon, in full confidence that they will endeavour, upon every future occasion, by a prompt obedience and orderly demeanour, to atone for this unpremeditated but atrocious offence.

The prisoners are therefore to be released, and join their respective companies.

ROBERT SKENE, Maj.-Gen.”

The prisoners then joined a small party of their corps, who were on the hill.”

Source: *Scots Magazine*, June 1779, p. 308.

Scottish News Account Summary of the Preparation for Execution and Pardon of the Leith Mutineers, Edinburgh, May 28, 1779

This day the three Highlanders, who were tried for the mutiny at Leith, were brought to Castel-hill, the West Fencibles surrounding them. The sentence of the court-martial was read, finding them GUILTY, and they were sentenced to be shot; but immediately after, his Majesty's gracious PARDON was read to them, which they received upon their knees, and were dismissed. It must give pleasure to every humane person to find that no more blood is to be shed in consequence of the above unhappy affair.

Source and Note: *Edinburgh Advertiser*, May 28, 1779, p. 340. The three highlanders were Pvt. Charles Williamson and Pvt. Archibald McIver, 42^d Regt. and Pvt. Robert Budge, 71st Regt.