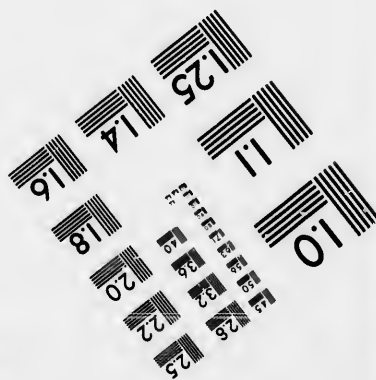
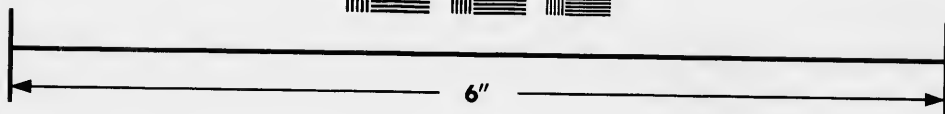
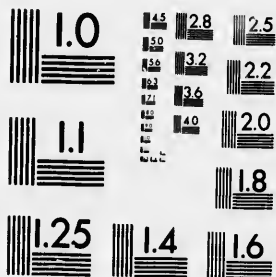


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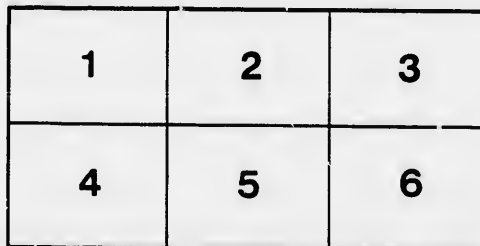
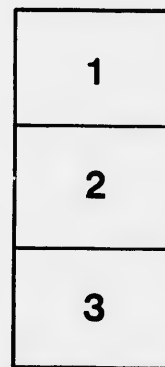
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**PROCEEDINGS**  
OF A  
**COURT MARTIAL,**  
HELD AT  
**MONTREAL,**  
*In March, 1809.*

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## PREFACE.

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THE following pages are humbly submitted to an impartial public, by an old officer, born in the army, who has faithfully served his King and Country upwards of forty-one years ; and supported the character of a gentleman and an honest man, and who is now deprived of his commissions, and left unknown, far from his native country, without the means of returning to it, or of supporting himself and a large family ; and lest any unfavorable prejudice should be entertained against him, he feels it incumbent to publish his case, and submit himself to the judgment of the public. He thinks it his duty to remark, that the proceedings are not as complete as they ought to be, owing to the impossibility of obtaining an authentic or correct copy, from the proper officer. However, he has used his utmost endeavor to render the publication as correct as possible.

MONTREAL, 23d December, 1809.



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*To his most Gracious Majesty  
GEORGE THE THIRD, of the U-  
nited Kingdom of Great Brit-  
ain and Ireland, King, Defen-  
der of the Faith, &c. &c. &c.*

MOST GRACIOUS SOVEREIGN,

THE high and just renown which your Majesty has acquired, during a long and glorious reign, by his exemplary conduct, justice and impartiality, and the benign disposition with which your Majesty receives the representations and complaints of the lowest of his subjects, will plead the excuse of a poor individual, who has long and faithfully served your Majesty, and duly discharged the important duties of his humble station; whom your Majesty has dismissed from his service, as being no longer worthy of bearing your Majesty's Commission.

In laying my case at your Majesty's feet, I cannot help expressing my conviction of the justice of your Majesty's intentions in dismissing me from your Majesty's service, but your Majesty will permit me to add, that had my case been represented in its true light, and had your Majesty had before him, the whole of the proceedings of the Court Martial, as is required by the Articles of War, your Majesty in all probability would have considered my conduct in a far different light; this is one of the motives which induces me to make public the proceedings of the Court Martial, as far as in my power, and the reiterated acts of injustice and oppression, which have been committed against me.

In rendering my case public I have made no attempt to operate upon the feelings of any individual, much less on those of your Majesty. My principal motive is that of clearing my character from any imputation that might have been unjustly made against it.— Such is the only desire of

Your Most Gracious Majesty's

Most dutiful and loyal subject,

WYNNE FAWCETT.

MONTREAL, 23d Dec. 1809.

MEMBERS.

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# COURT MARTIAL.

MONTREAL, 24th March, 1809.

District Orders.

BY command of his excellency the commander of the forces, a General Court Martial is to assemble in the mess-room of the 100th regiment, on Monday the 27th instant, at ten o'clock, for the trial of such prisoners as may be brought before it.

Brigadier General BROCK, *President.*

MEMBERS. {  
Colonel Sheaffe, }  
Brevet Lieut. Col. Vincent, } 49th Regiment.  
Lieut. Colonel Johnson, Inspecting Field Officer.  
Lieut. Colonel the Hon. L. P. Trench, ditto.  
Major Plenderleath, }  
Brevet Maj. Ormsby, } 49th Regiment.  
Major Taylor, 100th Regiment.  
Major Robertson, Canadian Fencibles.  
Brevet Major Heathcote, { Royal Newfoundland  
Fencibles.  
Captain Clement, Royal Artillery.  
Two Captains, 49th Regiment.  
Two Captains, 100th Regiment.

Capt. CLARKE, 49th Regiment, to act as *Judge Advocate*,  
To whom the names of the members, with the  
dates of their commissions, and list of evidences are  
to be sent forthwith.

CHAS. D. SHEKLETON, *Major of Brigade.*

IN consequence of the above order, the court assembled at the court house, on the 27th March, 1809, and after the members had been duly sworn, they took their seats as follows—viz.

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made against it.—

loyal subject,

NNE FAWCETT.

Brigadier General BROCK, *President.*

MEMBERS.

MEMBERS.	}	Colonel Sheaffe,	} 49th Regiment.
		Brevet Lieut. Col. Vincent,	
		Lieut. Col. Johnson, Inspecting Field Officer.	} ditto.
		Lieut. Col. the Hon. L. P. Trench,	
		Major Plenderleath,	} 49th Regiment.
		Brevet Maj. Ormsby,	
		Major Taylor, 100th Regiment.	} Canadian Fencibles.
		Major Robertson,	
		Brevet Major Heathcote,	} Royal Newfoundland
		Captain Clement, Royal Artillery.	Fencibles.
		Captain James Denis,	} 49th Regiment.
		Captain Robert Johnson,	
Captain John Andrews,	} 100th Regiment.		
Hon. Captain S. Gore,			
Captain Alexander Clarke, <i>Judge Advocate.</i>			

CHARGES,

*Against Lieutenant Colonel MURRAY, Commanding 100th Regiment, for grievances experienced by Lieutenant and Adjutant W. FAWCETT, of said Regiment,*  
13th MARCH, 1809.

I. CHARGE.—FOR having on the 10th Nov. 1808, threatened Lieutenant and Adjutant Fawcett with a General Court Martial, (through Lieutenant Fawcett, acting Adjutant) and stigmatizing his conduct, as an excuse, not to pay a debt of ten pounds (incurred on duty) agreeable to his own order, and for refusing redress, upon due application made to him, contrary to the Articles of War.

II.—FOR making a wrong statement of the particulars attending the Desertion and Robbery by Christopher Browne, and James McCabe 100th Regiment, by letter dated some time in October, 1808, by which means, public justice was evaded, and Capital Crimes

left to the decision of a Regimental Court Martial, which ended in little short of a Mock Punishment, compared with other Punishments in the Regiment, for lesser crimes, and for not trying those men, for the original Crimes given in by the Lieutenant Colonel, and entered in the Garrison Report, viz. Desertion, and suspicion of Robbery.

III.—For other acts of injustice and cruelty, in having made use of words to Adjutant Fawcett's prejudice, and to render him contemptible in the eyes of the Officers.

IV.—Injustice, in the instance of two Regimental Courts Martial.

V.—Injustice, in censuring said Adjutant at the head of the Regiment, for a private debt of two Pounds, said to be due to an inhabitant, and ordering the same to be stopped by the Quarter Master.

VI.—Injustice, in sanctioning a mutinous letter, addressed officially to Adjutant Fawcett, when in the execution of his duty, by Lieutenant Hugo, dated 27th July 1808, contrary to the Articles of War, and subversive of Military discipline.

VII.—Injustice, in not complying with the decision of a Court of Inquiry (though approved by the Lieutenant Colonel) in regard to Men's debts not being paid.

VIII.—Manifest partiality to the material loss of Government in pecuniary matters, as well as to the detriment of the service, respecting the Bounty of Recruits.

IX.—Manifest partiality; and detriment to the service, in paying an Officer's debt from the Men's Wood Fund.

X.—Detriment to the service, in not making enquiry to ascertain the circumstances of an Inhabitant being grossly abused (supposed by the Mess Waiters) agreeably to Brigadier General Brock's orders in March

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and April, 1808, though two Captains of the Regiment, were publicly spoken of as the Instigators.

XI.—Detriment to the service, in allowing men of the Regiment to hire their duty, to work for the Inhabitants, contrary to the Articles of War.

XII.—For aiming a destruction at said adjutant, by a Party in the Regiment, implied in the foregoing statements, & in the instance of a regimental court martial.

XIII.—For Lieutenant Colonel Murray, having taken no notice of a Captain in the Regiment, making use of his name, falsely, to the adjutant's prejudice; And a continuation of the party business, in an Office, purposely annoying his family, at a time one of them was dangerously ill.

WNE. FAWCETT,

*Lieutenant and Adjutant, 100th Regt.*

### INTRODUCTION.

*Mr. President and Gentlemen of the Court,*

R GARD for the Kings Commission, which I have the honor to bear, and a sense of the grievances I have experienced, joined to the feelings of self preservation, will, I hope, justify and plead my excuse, for having recourse to the Laws of my Country; in soliciting this solemn and Public investigation.

In exhibiting the following particulars, in this disagreeable business; I'll be guided by candor, and the language of truth and innocence, arising from conscious rectitude and propriety of conduct, both as an officer and gentleman, during a long period of forty one years in His Majesty's service, (as well as being born in it) with an unsullied reputation, until this unexpected stain, cast upon my character. And I trust this Honorable Court, will permit me the indulgence of adducing such facts and observations, as I may find necessary, in support of my letter dated 15th February, 1809, (from which the charges are

deduced) and which I had the honor to lay before Major General Drummond.

MONTREAL, 10th November, 1808.

SIR—Permit me to mention to you, that from what my son has just communicated, I cannot but feel a mixture of concern and astonishment, as I am perfectly conscious of never having done any thing to displease or offend you, that I know of; on the contrary, my conduct was at all times respectful and obedient—at least it was my study to manifest it. In the late unfortunate business in my family, I interfered no more than having spoken to the solicitor general about a constable not having apprehended Burl, against whom a warrant was issued; the result will even shew that I did not interfere.

You really, sir, do me great injustice, and whatever steps you are pleased to take, (tho' much I'd lament giving cause for any displeasure of your's,) I hope I'll be able to justify myself. I'd be extremely obliged to you, to have the goodness to let me know what I have done; and I am bold to say, that after a long and faithful service, it is the first instance of a general court martial being insinuated against my conduct, nor have I ever experienced the slightest censure.

I have the honor to be, sir, with great respect, your most obedient humble servant,

W<sup>NE</sup>. FAWCETT,

Lieut. & Adj. 100th Regt.

Lt. Col. MURRAY, Comd. 100th Regt.

MONTREAL, 22d December, 1809.

SIR—With sentiments of gratitude and respect, I once more take the liberty of writing to you, begging to state, that from the letter I had the honor to address you the 10th ult. I was in hopes of being favored with an answer, or that an opportunity might



be afforded me, of an explanation; and of asking you in person, what offence I had given you, or what injury has been done me, by sinister means, to deprive me of your countenance and favor. I cannot express the trouble and grief of mind I feel, (in addition to what I have experienced this time back by illness and misfortune in my family) under the apprehension of being misrepresented to you. This being my present condition, I beseech you to retain a favorable opinion of me, and to believe me innocent, until the contrary shall be proved, and I conceive I am indebted to my own reputation, to vindicate myself from what the malice of my enemies might cast upon me. I often wished, sir, for an opportunity to speak to you with regard to Browne and Mc Cabe, but was not willing to intrude, being told you were highly exasperated with me for going to the solicitor general; and another time strongly advised not to attempt it, as you would not listen to any thing I had to say. I cannot help thinking that something has been done in this business, as well as in other matters, to injure me in your opinion, and which, I trust, may yet be discovered. I have the honor to be, sir, your most respectful humble servant,

WNE. FAWCETT,  
*Lieut. and Adj. 100th Reg.*

Lt. Col. MURRAY, Commanding }  
100th Reg. Montreal.

*May it please your Excellency,*

THE unfortunate circumstance that has occurred in my family, and the high sense I entertain of your humane and paternal feelings, will, I trust, pardon the liberty I take in laying before you the following statement, and which I'm induced the more to do, lest the particulars did not reach your excellency, when you were pleased to direct that the two men concerned, Christopher Browne and Francis Mc

Cabe, 100th Regiment, were to be tried by a regimental court, though I understood it was the intention at first they were to be tried for their lives.

I will not attempt to excuse or palliate the conduct of my daughter, who is young and thoughtless, any more than to say it is hardly to be supposed that if some seducing arts were not tried, she would not have sought her own misfortune. On discovering her situation, (being pregnant) she desired Browne, the author of her ruin, to remove her from her parents, that they might not witness her shame.

The two men wantonly took from my son, a lieutenant in the regiment, a case of pistols, colored coat, round hat, and a pair of pantaloons from his servant, part found on them when apprehended. It has been stated, that they gave themselves up quietly. Was it the case, why use violence by knocking down, tying and threats with instant death, if they made any alarm? My daughter was by no means instrumental to Francis Mc Cabe's going: On the contrary, she several times urged him not to go; and when part of the way, again desired him to return: Therefore, it is presumed his conduct was the result of a spirit to desert, and to partake of the plunder. I have particularly to lament my being liable, as well as my son, on almost all calls of duty, to the contempt and derision of those men; nor am I without apprehensions, in a future design, against the peace of my family, which, if they attempt, may be attended with fatal consequences.

Was your excellency graciously pleased to cause them to be removed in any way your wisdom may think fit, I'd be satisfied. I'm informed, that as they were not tried for the foregoing robbery, they are still open to the civil power: But I'd do nothing fearing it might offend. Whatever in justice, or the feelings of a parent, and a large family, joined to a long and faithful service of forty years

in the army, might induce to solicit, in this un-  
pleasur t business; all is most humbly and most respect-  
fully submitted.

WNE. FAWCETT,

*Lieutenant and Adjutant, 100th Regiment.*

To his excellency Sir J. H. CRAIG, K. B. }

Governor, &c. &c. &c. Quebec. }

*Montréal, 30th Nov. 1808.*

MONTREAL, 15th February 1809.

SIR—Permit me the honor to acquaint you, that it  
is not without the most sensible concern, I find myself  
obliged, from motives of self preservation, to commu-  
nicate to you, that in consequence of Lieutenant Colo-  
nel Murray, having threatened me with a general  
Court Martial, and stigmatizing my conduct, as an  
excuse, to pay a debt of ten pounds, (incurred on du-  
ty) agreeable to his own order; also, the Colonel  
having made 2 wrong statement of the particulars at-  
tending the desertion and robbery by Mc Cabe and  
Browne, 100th Regiment, by which means, public,  
justice was evaded, and capital crimes, left to the deci-  
sion of a Regimental Court Martial, which ended in  
little short of a mock Punishment; this joined to  
other circumstances of injustice and cruelty, to my  
prejudice, together with manifest partiality to the ma-  
terial loss of government in pecuniary matters, as well  
as to the detriment of the service.

Under those circumstances, I beg leave to request,  
sir, you will have the goodness, to lay those particu-  
lars before His Excellency the Commander of the  
forces, for his consideration and that you will be fur-  
ther pleased to apply for a public investigation, into  
the grievances complained of, before which Tribunal  
alone, an injured officer, will have an opportunity to  
vindicate his character and conduct, and to avert, if  
possible, that destruction aimed at him, by his Com-  
manding officer, and a Party in the Regiment. I  
should hope sir, that the letters I had the honor to lay

before you, addressed to Lieutenant Colonel Murray, (conceived in the most dutiful and respectful terms, and which I entreat may accompany this paper) will bear testimony to my wish, to avoid this disagreeable business and at the same time, justify me, for making this application.

I have the honor to be sir, your very respectful and most obedient humble servant,

WNE. FAWCETT,

*Lieut. & Adj. 100th Regt.*

Major Gen. DRUMMOND, Commanding His Majesty's Forces, Montreal. }

By Lieut. Col. MURRAY, }  
Regimental Orders. }

MONTREAL, 19th September, 1808.

IN future all expences attending the searching for, or, escorting Deserters, will be charged to the Wood Fund.

MONTREAL, 27th July, 1808.

SIR—I am directed by Lieutenant Colonel Murray, to desire you will acquaint him in writing, the cause of your having been absent from parade this morning at half past four o'clock, according to order.

I have the honor to be sir, your most obedient humble servant,

WNE. FAWCETT,

*Lieutenant and Adjutant, 100th Regiment.*

Lieutenant HUGO, 100th Regiment, Montreal.

MONTREAL, 27th July, 1808.

SIR—I have to inform you, for the information of Lieutenant Colonel Murray, that I was at the barrack this morning at half past four o'clock, agreeable to the order of yesterday; and that whoever has reported to the contrary has told a palpable falsehood.

I am, sir, &c. &c. (Signed) J. HUGO,

*Lieutenant, 100th Regiment.*

To Adj. FAWCETT, 100th Reg. Montreal.

MONTREAL, 10th March 1808.

Garrison Orders, }  
By Brig. Gen. Brock. }

A MOST wanton outrage was committed the evening before last, by three soldiers, armed with cudgels, who most cruelly assaulted a defenseless youth to such a degree as to endanger his life. There is reason to believe these soldiers are waiters upon officers, and as they were seen going into the Recollet Barracks, the brigadier general hopes, that through the exertions of the officers, the offenders will be brought to the punishment such unmanly conduct deserves.

MONTREAL, 7th April, 1808.

Garrison Orders, by }  
Brig. Gen. Brock. }

BRIGADIER General Brock had hoped that the three soldiers who so wantonly and barbarously assaulted a young man in the streets, would, ere this, have been detected and brought to the punishment such base conduct so richly merits.— He was not then aware that they had the audacity of declaring they were impelled in what they did, to revenge the insults their officers had received; thus casting a scandalous slur upon the conduct of their officers, whom they wished the public to believe were mean enough to employ soldiers upon an act, which, if found out, would probably subject them to the most heavy penalty. This transaction has been represented in the newspapers, with others, highly disgraceful to the discipline of this garrison; and as the general commanding the forces has, of course, become acquainted with them, it behoves every officer to exert himself to the utmost to find out who the soldiers were that threw out so disgraceful an imputation, that his excellency may be made sensible of the falsehood of the assertion.

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[No. 1.] HADDINGTON, November 8, 1787.

SIR,—It is with much pleasure that I have received your letter of the 23d of last month, for I should not exactly say, till I read the contents of it, whether you was in my debt or I in yours, however, this I can say that I intended writing to you much sooner, and at the same time I can assure you that if I did not, I am not less sincerely your friend; nor less happy at the good account which you have sent me of your future prospects in life. I have often taken the liberty of given you advise, when I was much younger and knew much less of the world than I do at present. I would not tire you with a repetition of what I may probably have said before, but I cannot help adding a few words to what I may before have said; go on persevere in the regular discharge of your duty, let no good fortune relax your activity, nor disappointment lessen your punctuality and diligence. I am happy to hear that general Cunninghame is your friend. It may often be in his power to serve you; do you, therefore, regulate your conduct in such a manner, that it may not be your fault if he does not. If the General *did* desire you to present his compliments to me (of which circumstances, I desire you will be so good as to particularly inform me) I must request when you see him you will present my respects to him. I shall be glad to hear from you when you have leisure for writing. Direct to me under cover to the Honorable Sir George Howard, K. B. Stoke Place, near Windsor Bucks.

I hope the increase of your family, will prove an addition to your happiness, and that your wife is got well again. For the compliment which you have paid me, as a proof of your regard for a person whom you have known all your own life time, and the greatest part of his; I must think myself much obliged to you. Let me hear from you soon, and inform me of every thing that you think worth knowing: let me know

what Regiments you have now upon the Irish Establishment, and the quarters of each of them, in short of every thing that is, or has been going on in your Military world, and believe me always very sincerely,  
your faithful humble servant.

(Signed)

R. VYSE.

Adjutant W<sup>NE</sup>. FAWCETT Royal Irish }  
Dragoons, Tullamore, Ireland. }

[No. 2.]

DEAR SIR—I was favored by a letter from you many days ago. I have been very unwell and absent from my office, or should not have suffered you so long to wait my acknowledging it; and I am anxious to express to you how sensible I feel for your situation, being conscious of the honesty of your character and diligent adherence to all the relative duties as an officer, and by which I am sorry to find you have been so great and unmerited a sufferer. I cannot but approve of what you have written to General C. and heartily wish he had retired early in your behalf, and investigated into the merits of your case. Major A. is always your steady friend and well wisher: He would serve you if he could; and believe me I would also readily do the same, if occasion should present itself; being, dear sir, your sincere well wisher, and obedient  
humble servant, (Signed) WM. FAWCETT.

Dublin, 5th December, 1791.

Cornet and Adjutant FAWCETT, }  
Dunmore Tuam. }

[No. 3.] *A Piece of Plate, Value £60,*

PRESNTED to Lieutenant and Adj. W. Fawcett, by the officers of the second Regiment of Fencible Light Dragoons; as a token of their regard and acknowledgments, for the unremitting exertions of Lieutenant Fawcett, to promote the discipline and good conduct of the regiment in which they serve.

25th November, 1795.

To WYNNE FAWCETT, Esq. Captain and Adjutant of  
the 2d Regiment of Fencible Light Dragoons :

SIR—Deeply sensible of the important services which the Bandon cavalry has derived from the friendly assistance of your distinguished military talents, and from your unremitting attention to every thing that could tend to the improvement and discipline of the corps, we beg leave to assure you, of our warmest acknowledgements for your disinterested services, and request your acceptance of a piece of Plate, as a small token of our gratitude and esteem.

Bandon, 5th October, 1799.

[No. 4.]

1st January, 1796.

DEAR FAWCETT,

I received your letter, and it has given me very particular pleasure. The mark of esteem of the Officers of your Regiment, is as handsome as your merit deserves. I always was sure, you would give satisfaction. I had an opportunity some time ago, of speaking to Lord Glentworth, of you and he mentioned you with particular regard, and praise of your conduct, as an officer. I shall always be happy to hear from you, and wish you many returns of this day.

I am, dear Fawcett, sincerely your's,

(Signed) GEO. VALLANCEY.

Captain and Adjutant FAWCETT, }  
2d Fen. Cavalry.

[No. 5.]

January 8th, 1800.

DEAR SIR,—Many thanks for your letter. Your zeal for the good of the regiment shall never be forgotten by me. I have written to Captain Hunt pretty fully how I wish the regiment to be governed while he has the command.

(Signed)

GLENTWORTH.

Capt. and Adj. FAWCETT, }  
2d Fen. Light Drag.



[No. 6.] *Ely Place, January 10th, 1800.*  
 DEAR SIR—I have great pleasure in communicating to you that I shall this day recommend you to his excellency the Lord Lieutenant to succeed to the Troop now vacant in my regiment. If his excellency has the goodness to accept of my recommendation, I request you will attribute your promotion to your good conduct as an officer, and not to any other cause whatever. Merit only shall obtain promotion as long as I command the regiment. Believe me very sincerely your's,

(Signed)

GLENTWORTH.

Capt. Lieut. FAWCETT.

[No. 7.] *LIMERICK, October 8th, 1800.*  
 DEAR SIR—In consequence of a severe indisposition, I have been prevented from sooner forwarding the enclosed, which I received ten days since. I am most heartily grieved that the effort I made to serve you, has not succeeded. I shall now only say that I shall at all times be happy to have any opportunity of showing the sense I entertain of the service you rendered to my regiment. Most sincerely your's,

(Signed)

GLENTWORTH.

Capt. Lieut. FAWCETT, Dublin.

[No. 8.] *January 14, 1801.*  
 DEAR SIR—I certainly was plundered shamefully at Cork, in the different appointments of the regiment; but I never entertained an idea that you knew any thing about it, or allowed it, as I always found you a zealous, attentive, good officer.

Believe me, my dear sir, very truly your's,

(Signed)

GLENTWORTH.

W<sup>RE</sup>. FAWCETT, Esq. Dublin.

GENTLEMEN,

[No. 9.]

I HAVE been intimately acquainted with Mr. FAWCETT for a considerable time, having served in the same regiment with him for some years.— From his constant good conduct, integrity, and turn for business, I conceive him to be a person who might be very useful to the Grand Canal Company, to fill the office of secretary, now vacant.

(Signed)

ROSSMORE.

*Derrykeele Birr, 10th January, 1804.*

To the Chairman of the Directors,  
Grand Canal Company, &c. Dublin. }

[No. 10.]

DERRYKEELE BIRR, 10th Jan. 1804.

My Dear Lord,

AN old brother officer of mine, Mr. Fawcett, who will have the honor of presenting this letter to your lordship, has requested of me to interest myself with the grand canal company in his behalf, to fill the office of secretary now vacant. In recommending him to your lordship's notice for integrity, good conduct, and application to business, I am fully warranted by an intimate knowledge of him for many years. I do believe he would prove an acquisition as a man of business. If you are not previously engaged, my dear lord, may I request your support of him.— And I have but to add, that with great truth I remain, my dear lord, your's most sincerely,

(Signed)

ROSSMORE.

Viscount Charleville, &amp;c. &amp;c.

[No. 11.] DUBLIN, March, 1804.—*Saturday Evening.*

My Dear Sir Edward,

Allow me to name to you an old friend and brother officer of mine, (Captain & Adjutant Fawcett)—He has been 35 years in the service, is efficient

in every respect, and would prove highly useful to any regiment, particularly a young one, from his very great skill in all regimental affairs and the drilling the ranks. In taking the liberty of mentioning him to your notice, as a gentleman of national spirit in those times, and as an officer of undoubted skill and experience, I consult the good of the service.

I have the honor to be, my dear Sir Edward, your very faithful humble servant,

(Signed) ROSSMORE.

To Sir Edward Littlehales, &c. &c.

[No. 12.]

*To his excellency Philip, Earl Hardwick, Lord Lieutenant General, and General Governor of Ireland, &c. &c.*

Memorial of the undersigned Captains, commanding Yeomanry Corps, in the county of Dublin—

SHEWELLH—That the discipline necessary for our corps would be very much forwarded by the instructions of an officer of experience.

That we have derived very great benefit, and feel much indebted to Lieutenant FAWCETT, of the Sandy Mount Infantry, (late Captain and Adjutant in the Army) for the disinterested services he has shewn for the good of his majesty's service in taking every opportunity to drill and exercise our corps, both singly and together.

That sensible of his zeal and abilities, and anxious for the discipline of our respective corps, we beg leave to offer to your excellency our most earnest request and recommendation for Lieutenant Fawcett to be appointed Adjutant to the county corps in this district and which we trust will meet your excellency's approbation.

Signed by Six Captains, commanding Yeomanry Corps, in the county of Dublin.

SANDY MOUNT, 1st March, 1804.

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(No. 13.)

DUBLIN, February 7th, 1805.

SIR—I was this day favored with your letter of the 5th instant, and I have no hesitation in complying with your request, by assuring you that during the short period Colonel Falkiner's levy was placed under my command, I had frequent opportunities of observing your zeal, and attention to the corps, and it would give me great pleasure if your long services were taken into consideration, and that you succeeded in your wish to obtain a company.

I have the honor to be, sir, your most obedient  
humble servant,

(Signed)

CHARLES ASGILL, *Lt. General.*

Captain FAWCETT, &amp;c. &amp;c.

[No. 14.]

ARMAGH, 20th February, 1805.

Dear Colonel,

DUNDALK, the Head Quarters of your levy, within the northern District in which I at present command, has given me the opportunity some days past, of inspecting, not only your men, but your Barracks, the former appeared to me a fine body, which I had often heard, and was highly gratified with their appearance as well as the state of their rooms.

Your Adjutant (Fawcett,) is my old acquaintance; he has much merit for his attention to the Regiment, as such, allow me to recommend him to your notice, although I am confident, you are aware of his abilities, I have known him in several young Corps, their discipline and interior arrangement have always profited by his zeal and attention. Excuse this liberty I have taken, knowing him to be deserving.

Yours truly,

(Signed)

E. DUNN.

To Col. FALKINER, M. P. 100th Regt.

DUBLIN, 21st February, 1806.

(No. 15.)  
My Dear Sir,

I should have answered your letter before, but have been extremely hurried in my business; you wish for a recommendation from a field officer under whom you served, I really should believe, that any thing on that head from me, would be very little attended to, especially, when I consider the distance of time I was in the army, and what is still worse, the unfortunate name our late regiment (although I am certain it would not have happened had we remained in it.) has left on the minds of the people. Surely a strong letter from your late colonel, Lord Limerick, would have its effect in your favor, as his lordship certainly would in strong terms point out that you was the making of his regiment, and that I have understood was totally owing to your constant care and attention; of which I know you well capable of completing in a proper manner. Should you wish for any thing under my hand, that might be of use to you as a military man, I should suppose it would not be proper as a certificate, nor do I see how I could write a letter to Colonel Falkiner, to whom I am a perfect stranger. Therefore should you think I could be of use, let me know in what form it is to be.

I am, dear sir, your most obedient humble servant,  
(Signed) JAMES ALLEN.

To Captain FAWCETT.

(No. 16.) ARMY DEPOT, April 1st, 1806.  
SIR—In reply to your letter of this date, I beg to say, that I have had every reason to be satisfied with your conduct, since you have been under my command, as well as that of your son, Lieutenant Fawcett. It will give me much pleasure, should Colonel Falkiner's recommendation of you be attended with success. I am, sir, &c. (Signed) J. J. BARLOW, Lt. Col. Lieutenant Fawcett, 100th Reg.

(No. 17.) 12, MANCHESTER St. *Manchester Square.*  
LONDON, May 1st, 1806.

My dear Fawcett,

I HAVE great pleasure in enclosing you a copy of a letter I have received from head quarters.

(Signed) F. I. FALKINER.

Lieut. & Adj. Fawcett, 100th Regt. }  
Army Depot, Isle of Wight.

(COPY.) HORSE GUARDS, 24th April, 1806.  
Gentlemen,

I AM directed by the commander in chief to acquaint you, in reply to your note of the 21st inst. with its enclosure, for the information of Colonel Falkiner, that the name of Adjutant Fawcett has been noted for promotion, and will be duly considered as a favorable opportunity offers. I have, &c.

(Signed) J. W. GORDON.

Messrs. Greenwood and Cox, &c. &c.

(No. 18.) QUEBEC, 10th May, 1807.

Dear Colonel.

I BEG to mention in confidence, that I have experienced no small displeasure, on account of the Adjutancy being mentioned for Lieutenant Fawcett, in the event of my getting a Company, at least I must attribute it to that alone, as I cannot accuse myself to have given cause in any way whatever. I understand another name was inserted in the recommendation sent to you; however, sooner than experience a continuance of any thing disagreeable; I'd with the Adjutancy, whenever you are pleased to promote me, to be disposed of as the Commanding Officer of the Regiment may think proper. I have the honor to be fir, you very respectful humble servant.

(Signed)

W<sup>NE</sup>. FAWCETT.

Lieut. and Adj. 100th Regt.

Col. Falkiner, &c. &c. &c. Dublin.

MONTREAL, 24th January, 1808.

Dear Colonel,

SEING no prospect of Promotion, and feeling my situation of Adjutant, very irksome from harsh and unmerited treatment, I have a notion to give up that Commission, and make an exchange with a Lieutenant into a Garrison, or Veteran Battalion in Ireland; but I would not do it, without consulting you.

I have the honor to be sir, with great respect your most faithful humble servant.

(Signed)

WNE. FAWCETT,

Lieut. & Adj. 100th Reg.

Col. FALKINER, &c. &c. &c. Dublin.

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(No. 19.)

*State of Lieutenant & Adjutant Wynne Fawcett's Services.*

MY father was a warrant officer in the 5th dragoons, in which regiment I was born—1753.

I served as a dragoon non-commissioned officer and quarter master, until the date of my adjutancy in said regiment—1783.

Date of my Cornetcy	-	-	1788
Lieut. and Quarter Master, Donegal Militia,			1793
Lieut. and Adj. 2d Fencible Cavalry	-		1794
Capt. Lieut. in said regiment	-		1799
Lieutenant in the Tyrone Militia	-		1801
Lieut. in a Yeomanry Corps in Dublin	-		1803
Colonel Falkiner's Levy	-		1804
Lieutenant and Adjutant 100th regiment,			1805

(Signed)

WNE. FAWCETT,

Lieut. & Adj. 100th Regiment.

Montreal, 8th April, 1809.

Note.—I was on adjutant's half pay from 2d Fencible Light Dragoons, from 1800, until gazetted in the 100th regiment.

[No. 20.] ABBOT'S TOWN, Wednesday, Aug. 1804.  
My Dear Sir,

I am very sorry to report to you I found one of our men in so disorderly a state, I ordered him into the black hole. I should have found myself wanting in feeling to you, had I done otherwise. I leave him to you, for his punishment and confinement, having that perfect reliance upon your experience and knowledge of the service, that you at all times temper it with the greatest temper and justice. Leaving the entire Barrack in your hands until my return, I feel perfectly safe in the responsibility.

Most truly yours,

F. I. FALKNER,

Col. R. C. D. R.

Capt. Fawcett.

### CONCLUSION.

*Mr. President, and Gentlemen of the Court,*

I THINK it my duty, previous to making any observations on the charges which I have brought against Lieutenant Colonel Murray, or on the evidence, which has been produced, as well on the part of the prosecution as on the defence, to remark, that it was not at first my intention to have laid any charges, or imputed any crime to Lieutenant Colonel Murray. My only view was to wipe away the stain, and clear myself of the unjust aspersion which had been made on my conduct and character by Lieutenant Colonel Murray. To do this, I had recourse to the most respectful, conciliating measures: I called on Lieutenant Colonel Murray in the manner prescribed by the Articles of War, (Sec. 12, Art. 1.) for redress of the wrongs he had done me, by making due application to him, as appears by my supplicating letters of 10th November and 22d December last; to either of

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which I received no answer. The silence which was preserved by Lieutenant Colonel Murray towards me, and the menaces which he made use of (made me apprehensive of a meditated ruin against me, and in which would be involved a large family) were sufficient to induce me to believe that he refused; and it was in fact a refusal of that redress which the laws of my country afford to every subject, however low may be his rank, and justifies me in having made the application I did to his Excellency the Commander in Chief, to obtain that justice which Lieutenant Colonel Murray was bound to afford me; and on that application which was made at least seven weeks after my second letter to Lieutenant Colonel Murray, the charges which are now before this honorable court, were drawn.

I beg leave further to remark, that although some prejudice cannot be but entertained against me (being an inferior officer,) for accusing an officer of so high a rank as Lieutenant Colonel Murray, in comparison to that which I hold; and considering also that Lieutenant Colonel Murray is my commanding officer; but when on the other hand it is considered that no such considerations will be viewed by this honorable court and in law, justice is due to all persons, without regard to rank, power, or fortune, and the laws of the country are to be equally distributed, as well to the beggar as to the prince.

What is more injurious to the reputation of a man, who has long and faithfully served his King and country, than an unjust attack on his character! Conscious of ever having filled the duties of my station, with promptitude and exactitude, I look up with confidence to this honorable court for that justice, which the laws of my country afford me.

I shall now proceed to make a few observations on the charges, and the evidences adduced in support of them.

*Observations on the first charge.*—The grammatical error in this charge is not sufficient in law to dismit the same, in as much as it does not invalidate the charge, nor in any way alter the substance thereof. Even as it now stands, I have supported it by sufficient proof; and that part of the charge which regards the *excuse* to pay the £10. incurred on duty agreeable to Lieutenant Colonel Murray's order, is, I trust, in particular proved. I shall cite in support of the validity of the charge, the following authorities, viz. the 16th maxim of the laws of England—"The law of England respecteth the effect and substance of the matter, & not any nicety of form or circumstances." Coke upon Littleton, 283 and 336. Jacob's law grammar, 36. The 112th maxim, "neither false English, or bad Latin, will destroy a deed." 2d, Blackstone's commentaries, 379. Jacob's law grammar, 87. Tenth reports, 133. Coke upon Littleton, 223. 2d, Shower's reports, 334.

*2d Charge.*—With regard to this charge, my being deprived of getting the original statement, made out by Captain Dawson, (which is admitted by Lieutenant Colonel Murray to have been destroyed) and Lieutenant Colonel Murray's statement, being withheld from me, notwithstanding its having been forwarded by his excellency's order to Major General Drummond, to be delivered to me, in order to support this charge, which statement has been given by Major General Drummond, or by his order, to this honorable court, as appears by the letter of Brigade Major Shekelton, hereunto annexed, which last mentioned statement I have repeatedly applied for to this honorable court, but without effect, until Lieutenant Colonel Murray was put on his defense. Therefore it was unnecessary for me to prove the contents of the original statement made by Captain Dawson, and given to Lieutenant Colonel Murray for his Excellency the Governor's information; and Lieutenant Colonel Mur-

ray's favorable statement was and is still held from me; and by that means it was utterly impossible for me to support this charge. It was upon Captain Dawson's statement I founded the memorial I had the honor to address his Excellency the Governor; and from it I formed this charge. Situated as I am in the present prosecution, and without any support but that which the justice of my cause affords me, I shall reserve making any further remarks upon this charge, until I make some general observations on the whole of them. I shall cite on this charge the following authority.—17th Maxim of the Laws of England—"The law compels no man to do impossible things."

*3d Charge.*—It is unfortunate that the evidences examined in support of this charge, failed so much in memory, one of them having repeatedly mentioned to me and my family the very words on which the charge was founded; and another telling me that the Colonel never intended I should hear it. These words correspond with the Colonel's constant abuse of me, tending to render my situation unhappy, to tire me of the service, and in the end to force me to quit the regiment. This I submit to the court.

*4th and 5th Charges.*—I beg to observe that complaints of whatever description were industriously laid hold of, and became the subject of courts martial, and public censure. Where acts of other officers, as manifestly appear in the subsequent charges, a shade of oblivion was thrown over them, and met with protection and favor. This circumstance I humbly entreat will have its due weight with the court, in regard to the injustice and partiality I complained of.

The 5th charge is sufficiently proved. The 6th and 7th charges, are, I trust, substantiated to the satisfaction of the court.

*8th Charge.*—I declined proceeding on this charge, without the public documents and papers relative to it, being produced for the purpose, and from which I

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founded the charge ; those documents and papers con-  
 sisting of the proceedings of arbitration and attesta-  
 tions. (Major Hamilton produced to the court the day  
 after, four attestations ; whether they were those be-  
 longing to the men's names inserted in the proceed-  
 ings or not, I will not pretend to say, as I did not ex-  
 amine) respecting Captain Dawson's complaint against  
 Major Hamilton for defrauding government by draw-  
 ing men's bounty, 16 guineas, for boys entitled to 8  
 guineas, and retaining the surplus thereof in his hands ;  
 also, Major Hamilton's having said that Captain Daw-  
 son made out attestations to cover the transaction.  
 Lieutenant Colonel Murray being one of the members  
 of this arbitration.

*2d part of 8th Charge.*—It appearing to the court  
 from the proceedings of the board of accounts and  
 the witnesses produced, that there was a misapplica-  
 tion of the 3 companies' subsistence lost in the Nais trans-  
 port, to the payment of leggins, £52 6 6, and a fraud  
 of £94 10, for knapsacks, (not at all delivered) which  
 sums, amounting to £146 16 6, should have been  
 paid from the recruits' bounty retained by Major  
 Hamilton for that purpose, agreeably to a regimental  
 order, 3d August, 1805 ; this joined to those men be-  
 ing mustered for 32 or 33 days, after their death, is  
 sufficient proof of this charge, as well as a manifest  
 instance of partiality and detriment to the service,  
 wherein private individuals are allowed to retain the  
 public money.

The party resentment that appears against me, by  
 noticing transactions of this nature, where so many  
 of the officers of the regiment are concerned, needs  
 very little comment.

*9th Charge.*—My receipt given the quarter master  
 at the time I received the money, will, I trust, impress  
 upon the minds of the court, the tenor of the order  
 given me by Lieutenant Colonel Murray for the pur-  
 pose, particularly, as it is so connected with his own

regimental order for the payment of other monies from the men's wood fund. [Reference to one order, quoted in the first charge.]

*10th Charge*—I shall make no comment on, but submit to this honorable court the testimony of witnesses in support thereof.

*11th Charge*—I respectfully submit to the decision of the court.

*12th Charge*—The feelings of injustice and cruelty manifested in some of the foregoing charges, and from which impression my complaints originated, will, I trust, appear sufficiently clear to the court, and leave no doubt upon their minds as to what I have unhappily experienced. With regard to the court martial alluded to, I likewise hope it will appear to the court my zeal and attention to execute Lieutenant Colonel Murray's orders as a faithful officer, lamenting at the same time the causeless prejudice entertained against me, by the majority of the officers for reporting those absent from parades, agreeably to Colonel Murray's orders. [Instance Lieutenant Hugo's letter.]

Had I been in a less responsible and active situation than Adjutant, my observing the orders of the Regiment, might be considered as too strict an exercise of power, but let the Court remark, when they know that the Colonel and most of the Officers were united against me; how incumbent it was, my discharging the duties of my station.

*13th Charge*.—The unmerited abuse I experienced from Lieutenant Colonel Murray, through the means of an officer making use of his name, to obtain a paper from me, and the ill treatment by another Officer, to the annoyance of my family, I shall leave upon the minds of this honorable Court.

Before I proceed to my general observations, I will make a few remarks on the evidence adduced in support of Lieutenant Colonel Murray's defence.

With respect to Lieutenant Gilleland's evidence the

conversation he states, I don't recollect ever having taken place.

Gibbin's words as stated, are totally without foundation, and the evidence of so infamous a character, cannot in the least be taken into consideration by this honorable Court.

The Serjeant Major's evidence, in as much as it regards the watch, is entirely false, as my daughter had not returned, at the time he alluded to : therefore it was impossible she could have mentioned such a fact to me, (as she did not come back, at least for 5 days )

Serjeant Hutchintons evidence, with respect to the erasure in the book, and my taking papers from the orderly room, for my own private use, is absolutely without foundation.

Captain Dawson's testimony, that my Daughter had brought off Mc Cabe, is abso utely false, as the contrary is clearly proved, and as it further appears, that Captain Dawson himself used his utmost endeavors to persuade her to say, she had brought Mc Cabe off

Captain Dawson had brought me the following message sometime in October last, (prefacing that Lieutenant Colonel Murray had sent for him, and he came direct to me by his desire) " that Lieutenant Colonel Murray was highly exasperated with me, for going to the Solicitor General, and if I interfered in the least, my daughter would be taken up for Robbery, adding, that I could not think of remaining in the Regiment, or my son either."

With respect to serjeant Jones' complaint, I totally deny ever having promised to pay the money ; about six months ago, Lieutenant Colonel Murray, shewed me a Memorial, which he said he would transmit to His Royal Highness the Duke of Yorke, on the subject, and promised to give me the particulars of the account, as I was unacquainted with it. I heard no more on the subject, until ere yesterday when Lieutenant Colouel Murray brought it before this honorable

Court, though foreign to any of the charges brought against him.

Lieutenant Hugo's letter speaks for itself, which nothing can just fy.

Captain Martin having stuted, that the meeting of the officers, was countermanded, in consequence of the apology he says, to have brought me from Lieutenant Hugo. The evening of the 27th July, an order was issued for a meeting of the officers after parade, the morning of the 28th, at which time it was countermanded; Captain Martin coming to me, was at least one or two days after this period, therefore I hope this statement is refuted.

The following papers were with held from me or destroyed, as appears by the letters hereunto annexed.

I.—Captain Dawson's original statement of the desertion and robbery by Browne and Mc Cabe, given to Lieutenant Colonel Murray.

II.—Proceedings of a Court of Enquiry in regard to the payment of men's debts.

III.—Proceeding of the Board of Arbitration and other documents alluded to in the first part of the 8th charge.

IV.—Lieutenant Colonel Murray's statement of the desertion and robbery by Browne and Mc Cabe, sent to His Excellency the Governor, I had no opportunity of seeing, until Lieutenant Colonel Murray was put on his defence, which I trust, I have fully proved.

I have to lament, that several of the witnesses produced by Lieutenant Colonel Murray in his defence, are concerned in some of the charges brought against the Lieutenant Colonel.

As to Lieutenant Colonel Murray's unjust and unfounded aspersions on my character and conduct, I have, I hope, fully refuted by producing the most satisfactory testimonials to the contrary, from general and field officers, under whom I served.

I shall make no comment on Lieutenant Colonel Murray's observations to the Court, any more than to say that the sentiments which dictated them, are fraught, with all the injustice, and cruelty which malignity could invent, calculated to destroy my character, to render my situation intolerable, and in the end, to accomplish my destruction and that of my large family.

I most solemnly declare, that I never brought Major Allen to a General Court martial, and that the statement made by Lieutenant Colonel Murray, is wrong and unfounded.

Having Mr. President and Gentlemen, unfolded to view, an oppressive conduct which I have experienced manifested in those statements; I have made and supported by, I trust satisfactory evidence and having endeavored to shew, perhaps, with some degree of success, instances of unmerited treatment, for the purpose of embracing the first opportunity to put me in danger of losing, what after a long and faithful service I have acquired, in order to force me to relinquish that line of life, which it was always my ambition to pursue. Hoping for a favorable decision from this honorable Court, I most humbly rest my cause on their high sense of justice and I beg, they will do me the honor to accept, my most sincere acknowledgements, for the patience shown throughout the whole of this disagreeable business.

(Signed)

WNE. FAWCETT.

*Lieut. and Adj. 100th Regt.*

Montreal, 8th April, 1809.

—————  
MONTREAL, 29th March, 1809.

SIR.—I have the honor to acquaint you, that the list of papers and documents which I transmitted you in order to enable me to support the prosecution, not being yet given me, particularly Captain Dawson's statement to Lieutenant Colonel Murray of the parti-

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culars attending the desertion and robbery by Browne and Mc Cabe, 100th Regiment,—also, Lieutenant Colonel Murray's statement on that subject, sent His Excellency the Governor, as well as the other papers, &c. &c. &c.

It being the admitted principle in courts of law and equity, as well as at general Courts Martial, that documents of such public nature, cannot be legally withheld, either from the prosecutor, or the prisoner, in support of their respective allegations. You will therefore see the obvious necessity of furnishing me with the required documents, to enable me to carry on the whole of my prosecution according to law. I have the honor to be sir, your most obedient servant,

(Signed)

WNE. FAWCETT.

*Lieut. and Adj. 100th Regt.*

Capt. CLARKE, 49th Regt. Dept. }  
 Judge Advocate. Montreal. }

MONTREAL, 30th March, 1809.

SIR—IN answer to your letter which I received last night, I enclose you a copy of Maj. Hamilton's answers to your requisition for Regimental papers, by which you will see, that all which have been preserved, are ready to be produced, if admitted by the Court.

I take the opportunity of giving you my opinion, that your having Lieutenant Richard Vyse Fawcett to assist you in carrying on the prosecution, will preclude again calling on him as a witness, if therefore, his testimony will be again required by you, in the course of the proceedings; I would recommend to you to procure another assistant. I am sir, your most obedient servant,

(Signed)

A. C. CLARKE.

*Acting Judge Advocate.*

Lieut. and Adj. FAWCETT, }  
 100th Regt. Montreal. }

*Answer to Adjutant Fawcett's requisition for Regimental papers, &c. &c. &c.*

No. 1.—No copy of the paper was kept, the original not being of sufficient consequence.

2. In possession of the Deputy Judge Advocate.

3. No such document in the Regiment.

4. In the orderly Room, will be given to the Judge Advocate, or the Court if required; but not to the Prosecutor.

5. Ditto. Ditto.

6. No copy kept, but the whole circumstances are fresh in the memory of most of the Officers of the Regiment.

7, 8, 9, 10, 11, 12, 13, 14, 15, 16. As No 4.

17 and 18. The Drum Major will account for them.

19. As No. 4. (Signed) C. HAMILTON,

*Major 100th Regt.*

7th April, 1809.

*The following books, papers, &c. &c. &c. Wanting by Lieut. and Adj. Fawcett, at the General Court Martial.*

March, 1809.

1. Captain Dawson's statement of the particulars attending the desertion and robbery by Browne and Mc Cabe, 100th Regiment, given to Lieutenant Colonel Murray in, or about October, 1808.

2. Lieutenant Colonel Murray's statement on the same, sent His Excellency the Governor.

3. Proceedings of the Arbitration, respecting Capt. Dawson's complaint against Major Hamilton for Recruits bounty, also the attestations and recruit's names produced at the time.

4. Standing orderly book No. 1.—containing the letter of service for Colonel Falkiner's Levy 28th April, 1804, specifying the Bounty for Men and Boys. Instructions dated 10th or 11th July 1804, for a further increase of Bounty.

robbery by Browne  
Lieutenant Co-  
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EAWCETT.

*Adj. 100th Regt.*

March, 1809.  
I received last  
Hamilton's answers  
papers, by which  
preserved, are  
the Court.

In my opinion,  
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CLARKE.

*Judge Advocate.*

5. The Adjutant's receipt with the Quarter Master for the money given to Buchanan, ordered to be charged to the men's Wood Fund.
6. Lieutenant Hugo's letter with Colonel Murray dated 17th July 1808, given him by the Adjutant.
7. Adjutant's orderly book from April, 1804, to March, 1805.
8. Regimental Court Martial Book.
9. Court of Enquiry ditto.
10. Proceedings of the Court Martial respecting late serjeant Judge, confined by the Adjutant (Spring 1808.)
11. The account of £10, furnished Colonel Murray, for the expence incurred in pursuit of deserters.
12. Adjutant's Regimental book, containing Brig. Gen. Brock's orders, dated April and March, 1808.
13. Ditto. containing Lieutenant Colonel Murray's order 19th Sept. 1808,—expences attending deserters, to be paid from the men's Wood Fund.
- 14 and 15. Memorandum Books, 1808 and 1809.
16. Proceedings of the Court martial, on complaint made by Hendrick being wronged in his account by the Adjutant.
17. Proceedings of ditto.—Atkinson being wrong charged with necessaries by the Adjutant.
18. The Catts with which Browne and Mc Cabe were punished, November, 1808.
19. Also the Catts made particularly for deserters, with which Mr. Guize (deserter) was punished.

W<sup>NE</sup>. FAWCETT.

*Lieut. and Adj. 100th Regt.*

ADJUTANT GENERAL'S Office, Que- }  
bec, 17th April, 1809. }

General Orders,

AT a General Court Martial held at Montreal on the 27th March, and continued by adjournment,

Quarter Master  
ordered to be

Colonel Murray  
the Adjutant.  
April, 1804, to

trial respecting  
Adjutant (Spring

Colonel Murray,  
deserters.  
containing Brig.  
March, 1808.  
Colonel Murray's  
leading deserters,

1808 and 1809.  
on complaint  
his account by

being wrong  
at.  
and Mc Cabe

for deserters,  
finished.  
AWCETT.  
of 100th Regt.

Office, Que. }  
1809. }

at Montreal  
adjournment,

until the 8th day of April following, Lieutenant Colonel Murray was arraigned upon the following charges, Viz.

Upon which charges the Court came to the following decision.

With respect to the 1st charge, the Court is of opinion, that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 2d Charge, the Court is of opinion that, Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same. With respect to the 3d Charge, the Court is of opinion, that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 4th charge, the Court is of opinion, that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 5th Charge, the Court is of opinion that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 6th Charge, the Court acquits Lieutenant Colonel Murray, of sanctioning a mutinous letter, but the Court is of opinion, that Lieutenant Colonel Murray did not insist on sufficient and due reparation being made for the injury done to Adjutant Fawcett's feelings, after the highly indecent and improper letter addressed to him, by Lieutenant Hugo on a point of duty, and not taking that public notice of it, which such a breach of discipline demanded.

With respect to the 7th charge the Court is of opinion; that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 8th charge, the Court fully acquits Lieutenant Colonel Murray of all intentions, of acting with any sinister motives, to the detriment of Government, in giving his approval, to a decision of a board of accounts, which appropriated part of the surplus, of the subsistence of the men of three Com-

panies, that was drowned 32 days prior to the expiration of the period, for which subsistence had been drawn for them upon embarkation, to reimburse the Quarter-Master, for the loss of Knapfacks and Leggings, provided for the men. But the Court conceive, that the pay which had been drawn for them, beyond the day of their decease should have been credited without deduction to the public.

The Court is likewise of opinion, that Lieutenant Colonel Murray is not guilty of any part of that charge and most fully clear him of all insinuations to his prejudice, which have arisen therefrom.

With respect to the 9th charge, the Court is of opinion, that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 10th charge, the court is of opinion, that Lieutenant Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 11th Charge, the Court is of opinion, that Lieut. Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 12th Charge, the Court is of opinion, that Lieut. Colonel Murray is not guilty, and he is therefore acquitted of the same.

With respect to the 13th Charge, the Court is of opinion, that Lieut. colonel Murray is not guilty, and he is therefore acquitted of the same.

The Court cannot close its proceedings, without giving its opinion, that the charges in general are either frivolous, or vexatious, particularly the 7th, which appears to implicate the character of the Prosecutor—and the Court is further of opinion, that he was not in his conduct actuated by any zeal for the service.

The commander of the Forces approves of the above sentence, and directs, Lieut. colonel Murray to



[A.] MONTREAL, 6th May, 1809.

SIR—Your politeness will, I'm sure, readily excuse the liberty a stranger takes in requesting to know if the letters of recommendation that accompanied the General Court martial, are in your possession, as I'd wish to get them, if they are not otherwise disposed of. I have the honor to be, sir, your very respectful humble servant,

W<sup>NE</sup>. FAWCETT,

*Lieut. and Adj. 100th Reg.*

Col. Baynes, Adj. Gen. &c. &c. Montreal.

[B.] *Adjutant General's Office, Quebec, 15th May, 1809.*

SIR—I have the honor to acknowledge the receipt of your letter of the 6th May, and to inform you that the letters accompanying the general court martial, being necessary documents, cannot be separated from the proceedings, but must be sent with them to England. I have the honor to be, sir, your most obedient humble servant, (Signed) EDWD. BAYNES,

*Adj. Gen. N. A.*

Lieut. and Adj. Fawcett, 100th Reg. Montreal.

[C.] *Saturday Morning.*

SIR—By desire of His Excellency the Commander of the Forces. I have the honor to return you the several enclosed papers, (twenty in number.)

I am, sir, very much your obedient servant,

(Signed) Wm. THORNTON.

Addressed under cover to

Brig. Gen. Brock, &c. &c.—and afterwards to  
Lieut. and Adj. Fawcett, 100th Reg. Montreal. }

[D.] MONTREAL, 23d June, 1809.

SIR—I beg your excuse for the liberty I once more take of writing to you, begging to mention that in

th May, 1809.  
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ETT,  
dj. 100th Regt.  
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consequence of the letters that accompanie the Court  
Martial, having been sent me a few days ago, by desire  
of His Excellency, and which from the letter you was  
pleased to honor me, I took for granted, were transmit-  
ted a long with the proceedings to England, I'd be ex-  
tremely obliged to you, to have the goodness to let  
me know if copies of those papers have been sent. I  
have the honor to be sir, with great respect, your most  
obedient humble servant,

(Signed)

WNE. FAWCETT.

Lieut. and Adj. 100th Regt.

Col. Baynes, Adj. Gen. &c. &c. Quebec.

, 15th May, 1809.  
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BAYNES,  
Adj. Gen. N. A.  
Montreal.

[E.]

*Adjutant General's Office, Montreal, 4th June, 1809.*

SIR—In reply to your letter of the 22d June, I have  
the honor to acquaint you, that the proceedings of the  
General Court Martial held at Montreal, upon charges  
prefered by you, not having been forwarded through  
my office, I am unable to acquaint you, whether copies  
of the letters and documents, were sent with the pro-  
ceedings, or not. I have the honor to be sir, your  
most obedient servant,

(Signed)

EDWD. BAYNES,

*Adjutant General, N. A.*

Lieut. and Adj. FAWCETT, }  
100th Regt. Montreal. }

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THORNTON.

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Montreal. }

3d June, 1809.  
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[F.]

*Montreal, 5th July, 1809.*

SIR—May I take the liberty of requesting to be in-  
formed, whether copies of the letters and documents,  
you did me the honor to inclose me some days ago,  
were transmitted along with the Proceedings of the  
General Court Martial to England. I have the hon-  
F



or to be fir, with great respect your most obedient  
humble fervant,

(Signed)

W<sup>N</sup>E. FAWCETT,  
*Lieut. and Adj. 100th Regt.*  
Col. THORNTON, Military Secre- }  
tary, &c. &c. Montreal. }

[G.] *Friday, 3 o'clock, P. M. 7th July, 1809.*

SIR—I have ony this inoment received your letter, and in reply, beg to refer you for the information you require, to the Officer who acted as Deputy Judge Advocate to the general Court Martial to which you allude, as the proceedings were forwarded to England by his Excellency the Commander of the Forces, precisely as he himself had received them. I have the honor to be fir, your most obedient humble fervant,

(Signed)

W<sup>M</sup>. THORNTON.  
Lieut. and Adj. FAWCETT, }  
100th Regt. Montreal. }

[H.]

*Montreal, 7th July, 1809.*

SIR—I have to request, you will be so good as to furnish me with a copy (or allow me to take it) of the whole of the proceedings of the General Court Martial held at this place, the 27th March last, agreeably to the Articles of War. I beg your excuse for this trouble, and I have the honor to remain fir, your most obedient fervant,

(Signed)

W<sup>N</sup>E. FAWCETT.  
Capt. CLARKE, 49th Regt. acting }  
Judge Advocate, Montreal. }

[I.]

*MONTREAL, 9th July, 1809.*

SIR—I beg leave to refer you to the enclosed copy of a letter I had the honor to receive from Colonel

Thornton, Military Secretary, and request you'll be pleased to favor me with an answer thereto. The letter I had the honor to address him, was to know if copies of the letters and documents which Brig. Gen. Brock, President, desired you to get from me, (20 in number,) were transmitted along with the proceedings of the General Court Martial, to England.

I have the honor to be, sir, your most obedient humble servant, (Signed) WNE FAWCETT, Lieut. and Adj. 100th Reg.

Wmpt. Clarke, 49th Reg. Acting }  
Judge Advocate, Montreal }

[J.] MONTREAL, 9th July, 1809.

SIR—I have received both your letters of the 7th instant, and in reply to the first I have to acquaint you that the proceedings of the General Court Martial, of which Brigadier General Brock was President were forwarded to Quebec, without my having had time to take copies of the papers connected with, and which accompanied it; the originals not having been returned to me, I am as yet in possession of nothing but the evidences taken during the sittings.

With respect to your second letter, and its enclosure, the letters and documents to which you allude, were sent by me to Brigadier General Brock, (by desire of the court,) who I believe laid them before His Excellency the Commander of the Forces, at Quebec.

I have the honor to be, sir, your most obedient servant, (Signed) ABM. CLARKE, 49th Reg. Acting Judge Advocate. Lieut. and Adj. Fawcett, 100th Reg. Montreal.

most obedient

FAWCETT,  
Adj. 100th Regt.

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HORNTON.

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FAWCETT.

h July, 1809.  
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e from Colonel

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## REMARKS, &c.

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THE preceding pages hardly present sufficiently the proceedings, to enable any person to give a decisive opinion on them; but I trust I shall unveil facts enough to let the public say, whether I have been dealt with justly or unjustly.

I shall briefly state those facts, with a few remarks,<sup>1</sup> and leave them entirely on the reader to draw his own conclusions. The first one is, I was refused the right of giving my own evidence in support of the first and several of the following charges, and the court was so convinced of the justice of my pretention, that one or two days afterwards it was permitted me to give my evidence, and I was by that means prevented from supporting, in a more clear manner, the charges which had been gone through. And the better to enable the reader to decide, I recite a passage from Tytler on courts martial, p. 271, where he says, that "in trials before courts martial, a private party, who is accuser, and who sustains the character of prosecutor upon the trial, jointly with the judge advocate, may offer his own evidence upon oath in support of the charges. The court cannot refuse such testimony."

McArthur on courts martial, holds the same opinion, and the same has been decided by numbers of courts martial composed of very learned and experienced officers, and particularly in the following cases. Sir Wm. Draper, against the honorable lieutenant general James Murray. General Ferguson against the honorable major H. I. Stanhope. Vice admiral Bellow against several captains. Wm. Taylor against lieutenant Charles McKay, and the opinion given by the learned McCust in this case, cited by McArthur.—

This doctrine is also confirmed by the practice in the court of king's bench in criminal prosecutions, and I leave the reader to say how many persons have been convicted on the only testimony of the prosecutor or party injured?

The 2d—I was refused the right of producing Mrs. Fawcett, (my wife) as a witness. This question needs very little comment; if I had the right of being a witness myself, *a fortiori*, my wife was a competent witness, for the prosecution being a criminal one, and the King the prosecutor, she was a legal witness, and the practice of all his Majesty's courts, proves the truth of my assertion; had I been the person prosecuted, my wife could not have been a witness in my favor.

The 3d—The regimental books and papers, &c. &c. were retained from me, and notwithstanding the requisition made for them to major Hamilton, who then commanded the 100th, he refused producing them before the court, by which means I was prevented supporting several of the charges, and particularly the 8th, which was for defrauding government.

See on this subject major Hamilton's letter, (p. 35) in answer to my requisition made through the medium of the judge advocate; and there can be no doubt that major Hamilton was bound to produce them, as he was summoned as a witness; and to show which I refer to Tytler, p. 309 and 310, where he says, "all military persons are bound by their duty to attend and furnish testimony in all military courts, whenever required so to do, by a proper authority. This authority is contained in the warrant for assembling the court martial, and in consequence thereof the prosecutor and prisoner, respectively summon or give warning to those persons who are necessary evidences, of the time and place of the meeting of the court, and make requisition of their appearance to give testimony."

The 4th.—Lieutenant Colonel Murray did not give

in previous to the opening of the Court Martial, a list of the Witnesses he intended to produce in his defence, see the warrant for assembling the Court Martial page 5th, and also, McArthur on Courts Martial, vol. 1. page 167, where he says, that "the Prisoner must give in a list of his witnesses."

The 5th—Lieutenant colonel Murray's witnesses were permitted to remain in court, during the whole of the trial, and notwithstanding my objection to their being admitted to give testimony, I was overruled. Is it possible that such a thing could be permitted at a court martial, which is and ought to be as much a court of justice as any other in the Kingdom? To shew that those witnesses could not be heard on the part of the prisoner, after remaining in court during the prosecution, I refer to Tytler, p. 252, who says that "The more effectually to guard the purity of the evidence, those who are cited to appear as witnesses are not allowed to be present in court during the examination of any of the previous witnesses, as this circumstance would of itself afford a valid objection to their testimony, being a species of subornation." Much might be said on the validity of my objection, and of the injustice of the judgment on them; but I have already declared that I would leave the reader to draw his own conclusions, so I shall remain silent. The 6th—A paper was forwarded by order of his excellency the commander in chief, to be delivered to me to support the second charge: the paper came into the hands of the president, and although it was often demanded it was retained from me, by which means the prosecution on the second charge failed, and I could not do otherwise than fail upon it; but what was my astonishment, to behold this paper in the prisoner's possession when he was put upon his defence, and then it was produced too late for me to derive any advantage from it in favor of the prosecution. I leave to

every candid reader to judge whether in justice the president or any of the members had a right to retain any paper from me, and much less a paper forwarded by the King's representative, to support the prosecution which in fact was the sovereign, as will be clearly shewn hereafter, and after retaining it, to give it to the prisoner.

The 7th—Licutenant Colonel Vincent, one of the members of the court martial, declared with some warmth in open court, on the second day of the trial, his opinion that the charges were frivolous & vexatious, & notwithstanding my remark of it to the president, his opinion was taken of it. This clearly shews the prejudice of at least one of the members, & the silence of the President when the circumstance was mentioned by me to him during the sitting of the court proves evidently that before the prosecution was gone through, an opinion had been formed of it. Whether this is consistent with the oath of the members, I shall not decide, but leave the reader to draw his own conclusions.—  
The Oath is as follows, viz.

YOU shall well and truly try and determine, according to your Evidence in the Matter now before you :

So help you GOD.

I A. B. do swear, That I will duly administer justice, according to the Rules and Articles for the better Government of His Majesty's Forces, and according to an Act of Parliament now in Force for the Punishment of Mutiny and Desertion, and other Crimes therein mentioned, without Partiality, Favour, or Affection ; and if any Doubt shall arise (which is not explained by the said Articles or Act of Parliament) according to my Conscience, the best of my Understanding, and the Custom of War in the like Cases ; And I further swear, That I will not divulge the Sentence of the Court, until it shall be approved by His majesty,

or by some Person duly authorized by Him ; neither will I, upon any Account, at any Time, whatsoever, disclose or discover the Vote or Opinion of any particular Member of the Court-martial, unless required to give Evidence thereof, as a Witness, by a Court of Justice, or a Court-martial, in a due Course of Law.

So help me GOD:

Both the obligations, contained in this Oath, have their foundation in reason, and good policy ; no sentence of a court martial is complete, or final, until it has received His majesty's approbation, or that of the Commander, by whose warrant the Court is assembled ; until that period, it is strictly speaking no more than an opinion, which is subject to alteration, and reversal : In this interval, the communication of that opinion, could answer no ends of justice, but might in many defeat them.

The obligation to perpetual secrecy with respect to the votes, or opinion of the particular members of the Court, is likewise founded on the wisest policy. The members of a court martial cannot boast the same independence on the Crown, and consequent immunity from influence, as the judges in the ordinary Courts of Law.

The officers who compose a military Tribunal, are all necessarily dependent for their preferment from the Crown, and its ministers, they are even in some degree, under the influence of their general in chief; powerful motives of opinion, and which might sometimes lead astray a weaker mind from the direct path of justice. This danger therefore is best obviated by the confidence and severity, which every man possesses, that his particular opinion is never to be divulged. Another reason, of yet a stronger nature, is, that the individual members of the court may be exposed to the

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resentment of parties, and their connections, which  
 can hardly fail to be excited by those sentences, which  
 it is often necessary for Courts Martial to pronounce.  
 It may be necessary for Officers in the course of their  
 duty daily to associate, and frequently to be sent on  
 the same command, or service, with a person against  
 whom they have given, an unfavourable vote, or opi-  
 nion in a Court Martial, the publicity of these votes,  
 or opinions, would create the most dangerous animosi-  
 ties, equally fatal to the peace and security of individu-  
 als, and prejudicial to the public service.

I have now gone through with the different facts  
 that took place during the trial, and which do not  
 appear on the face of the proceedings ; but I shall  
 now proceed to make a few remarks on such parts of  
 the proceedings as is published so as to enable the  
 public to decide whether my complaints are well  
 founded or not. The 6th charge was for injustice  
 in functioning a mutinous letter addressed officially  
 to me when in the execution of my duty and when  
 acting under the express orders of Lieutenant Colo-  
 nel Murray, contrary to the articles of war, and  
 subversive of military discipline. (See Lieutenant Hu-  
 go's letter, p. 13.) The 1st article of the 7th section  
 of the articles of war is very clear and precise on  
 the subject : It is in the following words :-

No Officer, Non-commissioned Officer, or Soldier,  
 shall use any reproachful or provoking Speeches or  
 Gestures to another, upon Pain, if an Officer, of being  
 put in Arrest, (or if a Non-commissioned Officer, or a  
 Soldier, imprisoned,) and of asking Pardon of the Par-  
 ty offended, in the Presence of his Commanding  
 Officer.

And the opinion of the court coincides clearly  
 with the latter part of the charge ; and even uses  
 stronger terms than those expressed in this charge—



for the court admits that Lieutenant Hugo was guilty of a breach of discipline, and he was only charged of a crime *subversive* of Military discipline: (see the opinion of the Court on this charge, page 37.) and yet Lieutenant Colonel Murray is acquitted. (See Mc Arthur, vol. 2d, page 75.) The case of Lieutenant Marbeaux, who was tried for having written a letter, containing insolent and infamous expressions respecting Captain Penny, his Commander, and was for the offence, dismissed His Majesty's service.

The 8th Charge—Was for manifest partiality to the material loss of Government in pecuniary matters, as well as to the detriment of the service, respecting the bounty of recruits, and was certainly of a serious nature, since it charged Lieutenant Colonel Murray with defrauding government.

I refused proceeding on it, as the regimental papers and documents requisite to support it, were withheld from me, as already mentioned at. (page 45.) yet the Court acquits Lieutenant Colonel Murray: As to the 2d part of this charge, it was certainly clearly proved, that three companies of men had been mustered for 32 or 33 day after their death, the articles of war on the subject of signing false musters is positive, the 3d article of the 4th section says, “that every officer  
“who shall knowingly, make a false muster of man,  
“or horse, and every officer and commissary, or muster master, who shall wittingly sign, direct, or allow  
“the signing of the muster rolls, wherein such false  
“muster is contained, shall, upon proof made thereof  
“by two witnesses before a general Court-Martial, be  
“cashiered, and suffer such other penalty as he is liable to by the act for punishing mutiny and discipline.” As to that part of the charge, which regards the misapplication of the three companies subsistence, although the Court acquits Lieutenant Colonel Murray of all intentions of acting with any sinister motives to the detriment of government, yet the court

Hugo was guilty as only charged in the sentence: (see the next page 37.) and acquitted. (See Memoirs of Lieutenant Colonel Murray, written a letter, reflections respecting and was for the

best partiality to military matters, service, respecting only of a serious Colonel Murray

regimental papers were withheld (page 45.) yet the report: As to the charge clearly proved, when mustered for articles of war on a positive, the 3d article at every officer's muster of man, military, or military direct, or allow therein such false of made thereof court-Martial, be guilty as he is liable, and discipline, which regards the colonies subsistence, at Colonel Murray's any sinister motives, yet the court

conceived, that the pay which had been drawn for them, beyond the day of their decease, should have been credited without deduction to the public. Since the Court Martial, the order of Lieutenant Colonel Murray, on the subject, has come into my possession, and I give a copy thereof, page 56. How this opinion of the Court—coincides with Lieutenant Colonel Murray's order, I shall not pretend to say. It appears however singular, that the Court should have acquitted Lieutenant Colonel Murray, and that it should say, that he had not applied the whole of the money as he should have done, this opinion seems to me to confirm this part of the charge, for if he did not apply the money as he should have done, or if he did not properly credit it, is that not a misapplication of it, I leave the reader to his own judgement.

The case of Colonel Sir ~~George~~ Chapman, which was still more favourable than that of Lieutenant Colonel Murray, will shew His Majesty's opinion on charges of a similar nature, see this case, page 50.

The 10th Charge—Was for detriment to the service, in not making enquiry to ascertain the circumstances of an inhabitant being grossly abused (supposed by the Mess Waiters,) agreeably to Brigadier General Brock's orders in March and April, 1808, though two Captains of the Regiment were publicly spoken of as the instigators, (see the orders, page 14.)—by the evidence adduced in support of the prosecution, it appeared that two of the Captains of the Regiment were the authors of the act, namely, Captains Rynde & Burke, and had been reported to Lieutenant Colonel Murray as such, and although their names were mentioned by two witnesses entered on the minutes of the Proceedings nevertheless their names were erased by order of the President; and yet Lieutenant Colonel Murray is acquitted for his neglect of duty.

The remark of the Court before it closed its proceedings, that the charges in general, were either friv-

olous, or vexations, particularly the 7th which appeared to implicate my character, and that my conduct was not actuated by any zeal for the service, might easily be reversed, and brought home to some other persons: but I shall content myself with remarking, that my character has never been stained by any crime, and that the documents which I produced at the Court Martial, and those annexed to these remarks, and the presents I received from the Regiments, in which I had the honor to serve would do honor to any person of the first rank in the army.

I shall abstain from making any remark on the opinion entertained by the Court of the charges, as there is yet another tribunal, where justice will be sought for; the laws of my country are yet open to me, and recourse will be had to them. The sentence of a Court Martial, like that of every subordinate judicature, is subject to review, and may be appealed from by the party who conceives that he has suffered injustice. The appeal from the sentences of Courts Martial, lies to the supreme civil Courts of law, as the Courts of King's Bench and Common pleas in England, and Ireland, and the Court of Session in Scotland, such is the opinion of Tytler, page 271, and M'Arthur, vol. 1, page 227, and vol. 2, page 296.

I shall not take up any more of the time of my readers, by unveiling any more of the facts that took place during the Court. I shall only make a few remarks on the correspondence which took place after the closing of the Court, and which is contained in pages 40, 41, 42 and 43.—By the 28th Section, of the mutiny act, formerly the 22d Section, it is enacted, “that every Judge Advocate, or person officiating as such, at any General Court Martial, do, and he is hereby required to transmit, with as much expedition, as the opportunity of time, and distance of place can admit, *the original proceedings* and sentence of such Court Martial, to the Judge Advocate Gene-

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“ral in London.”—By this correspondence it appears evident, that the whole of the original proceedings have not been transmitted to the Judge Advocate General; because on one hand it appears by the Adjutant General’s letter (marked B, page 40.) that some letters (which in fact were the letters contained in the pages 15 to 25 and marked 1 to 20, exclusively,) and not having produced any other letters of recommendation,) accompanied the General Court Martial, were necessary documents and could not be separated from the proceedings, but must be sent with them to England, and on the other hand it appears by the letter from the Military Secretary, (marked C. page 40.) that twenty papers, (being the same letters,) were returned to me, by desire of His Excellency the Commander of the Forces. The letter from the same Secretary, (marked G. page 42.) contradicts the other, for in this letter, he says, “that the proceedings were forwarded to England by His Excellency the Commander of the Forces, precisely as he himself received them,” why this contradiction; for if His Excellency forwarded the proceedings, in the same state as he received them, how does it happen, that the twenty papers above mentioned, were returned to me by desire of His Excellency: one thing is certain, that the *whole of the original proceedings* of the court, were not transmitted to the Judge Advocate General, agreeable to the mutiny act, as I have still that part of them in my possession which, were returned to me.

It may then be asked—Who retained those papers, and why were they not forwarded to England? This question I cannot answer—The letter from the acting Judge Advocate, marked (J. page 43) shews something mysterious, as he therein acknowledges, “that the proceedings of the court were forwarded to Quebec, without his having had time to take copies of the papers connected with, and which accompanied it,”—whether this is consistent with the duty of the

acting Judge Advocate, I shall not pretend to say; In addition to this, after the court finally closed (as I have been informed by the acting Judge Advocate) papers explanatory of some part of the defence, and particularly a paper, or papers, in explanation of the 8th charge, were given in and received by the court without giving me an opportunity of seeing those papers, much less of rebutting them. By the 11th article of the 10th Section of the Articles of War, it is enacted, "that no sentence of General Court Martial shall be put in execution, till after a report shall have been made of *the whole of the proceedings to us*, or to the officer Commanding, in Chief."—Under those circumstances, I have thought fit to cause to be laid before His most Gracious Majesty, through the medium of the Judge Adv. Gen. (11 Oct. last,) those facts, which are duly authenticated, namely, that the whole of the proceedings had not been transmitted to England, agreeably to the mutiny act, and that other papers had been added to them, after the final closing of the Court, and at the same time, causing to be exposed to His most Gracious Majesty, that other acts would be at a subsequent period, submitted to his consideration; and I do not hesitate a moment in saying, that His Majesty will exercise that authority, which is vested in him, for the doing of justice to one of his injured subjects, for it is at all times competent to his Majesty, and entirely consistent with his constitutional authority, to remark on whatever may have been either omitted by the court, or improperly judged by them, and which from its blameable nature, calls for animadversion.

Before I close my remarks, I cannot help mentioning that a person high in rank, gave in evidence at the Court, that Lieutenant Colonel Murray had no charges to bring against me, why, then threaten me with a General Court Martial, and stigmatize my conduct publicly, together with a message sent me by

Captain Dawson, (a painful one indeed, page 31.) see my letters to Lieutenant Colonel Murray in consequence thereof, (page 9.) to which I received no answer : I appeal to the reader's nicer feelings of humanity, that where is the man who could be silent, when his ruin was meditated, in which would be involved an innocent family ; nature forbids it ; conscious of the propriety and uprightness of my conduct, I trust, I'll be justified in the eyes of the world, (though it proved unfortunate to me,) for bringing to light, acts of oppression.

The whole of my case, I leave to the public, and to silent eloquence to tell my feelings, and unmerited sufferings, in a strange country, far removed from friends, and was it not for the attention of an only son (stationed in Upper Canada) who from Subaltern's pay, supported his aged parents, and four sisters, misery, and its melancholy train, must have ended our sad days. Amiable trait of filial goodness in a young Man, 22 years of age.

“ Oh nature, 'twas thy kind work,  
“ And do thou, gracious heaven, be to him, a friend.”

To those gentlemen, whose letters I was under the necessity of producing, in support of my conduct, and character, my being far from my native land, friends, and my former brother officers, will I hope plead my excuse, and they must rest assured, that I return thanks to that *ALL WISE BEING*, who sees with an equal eye, as God of all, a hero perish, or a sparrow fall, for having it in my power to produce such high proofs of my character ; for a man's character and reputation for good conduct, is his most valuable estate, and to protect them from injury, is his dearest interest.

BY LIEUT. COL. MURRAY.

R. O.

*Quebec, 23d. August, 1806.*

A list to be given in from each company, on the 27th instant, of the effects, and credits of men, who have been non effective from 25th March, to the 24th December 1805 : And from 25th December to 24th June, 1806—in order that the accounts may be credited in the public accounts. The accounts of the men lost on board the Nais Transport, belonging to the late 3d. 6th. and 8th. companies, are not to be included.

*To His Grace Charles, Duke of Rutland; Lord Lieut. General and General Governor of Ireland, &c. &c. &c.*

The Memorial of the Provost, and Principal Gentlemen of the Corporation of Bandon,

HUMBLY SHEWETH,

That it having fully appeared at the Civil and Military Trial, that Adjutant WYNNE FAWCETT, of the 5th Dragoons, who was charged with being concerned in the Riot, which happened in this town, on the 5th May last, that his conduct was in a conspicuous manner, proved to be perfectly innocent. We in justice to the very humane part he took in endeavouring to suppress it, thoroughly sensible, that was it not for his uncommon exertions, and activity; much more mischief would have been done—beg leave to represent to your Grace, how much we are interested in the hardships he has suffered, as well as the very heavy expenses unfortunately incurred in this business, which at this time, is particularly distressing to him.

That he is a young man, who has made the Army his profession, and by his merit, has raised himself to his present rank, uniting at the same time, a prudent conduct, to a general good character, which for the

MURRAY.

23d. *August*, 1806.  
each company, on the  
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Rutland; Lord Lieut.  
of Ireland, &c. &c. &c.

Provost, and Principal  
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, has raised himself to  
f same time, a prudent  
racter, which for the

year he was quartered here, was very remarkable.  
And we are extremely glad, in having this opportuni-  
ty of expressing our satisfaction and pleasure at it, and  
in recommending him in the warmest manner to your  
Grace. All which is most humbly submitted.

Signed by the PROVOST, &c. &c. &c.  
BANDON, December, 1785.

*In consequence of the above petition Government gave me  
a Hundred guineas as compensation.*

*Character by Major Allen, Commanding the Regiment.*

“And though I am not called upon by the Adju-  
tant (Mr. Fawcett,) who has been involved by this  
“unlucky riot in the same crimes, and with expence,  
“it would not be doing him the justice he is entitled  
“to, if I did not *voluntarily* state to the Court, that  
“owing to his own personal merit, and constant at-  
“tention to his duty for many years, he has been pre-  
“ferred, from being in a private station, to his pre-  
“sent one, which he fills with a care and attention,  
“that does him credit.”

BANDON, 1785.

*To His Excellency Earl Camden, Lord Lieutenant General  
and General Governor of Ireland, &c. &c. &c.*  
Memorial of Colonel, the Right Honorable Lord Glent-  
worth, and the Officers of the second Fencible Light  
Dragoons.

SHEWETH,

That the zeal and diligence of Lieutenant and  
Adjutant Fawcett, to promote the discipline of the a-  
bove Regiment, deserves our warmest approbation.  
That he has served 28 years in His Majesty's service,  
sixteen of which, as a Subaltern Officer, that in confi-



deration of his merit, and long and faithful services, and his not having money to purchase higher Rank in the Army. We beg leave to recommend him to your Excellency. And we pray, that your Excellency will apply to His Majesty, that He will be graciously pleased to bestow on him the Brevet Rank of Captain in the Army. Which is humbly submitted.

(Signed

GLENTWORTH.

*Colonel 2<sup>d</sup> Lt. Dragoons.*

CLONMELL, 10th August, 1796.

DUBLIN, Sandy Mount, 8th }  
January, 1804. }

My Dear Sir,

I beg leave to recommend to your notice, Lieutenant Wynne Fawcett of the Sandy Mount. Infantry, late Captain and Adjutant in the 2d Fencible Light Dragoons, to which Regiment, I was Agent, you will find him a person of trust, and probity and perfectly correct in business: As he intends to offer himself a Candidate for the Office of Secretary, vacant in the Grand Canal Company. If he appears to you equally eligible to any other Candidate, I shall esteem it a very particular obligation, your rendering him any service in your power, on the occasion.

I am, my dear Sir, very faithfully yours,

ORMSBY.

To Sir JOHN M'CARTNEY, Bart. }  
&c. &c. &c. Merrion. }

*By the Lord Lieutenant General and General Governor  
of Ireland, &c. &c. &c.*

CORNIVALLIS.

WHEREAS at a General Court-Martial held in the Barracks of Dublin, on the Eighteenth Day of July, One Thousand Seven Hundred and Ninety-nine, and

continued by Adjournment to the Twenty-second Day of the same Month, whereof Lieutenant-General Ralph Dundas is President; the Court being met, and duly sworn, proceeded to the Trial of

Colonel Sir THOMAS CHAPMAN,

Of His Majesty's 6th Regiment of Dragoon Guards, or Carbineers, on the following Charges, viz.

" 1st. For having behaved in a scandalous, infamous Manner, unbecoming the Character of an Officer and a Gentleman, by having signed Abstracts of Vouchers wherein much higher Prices were charged to Government for the Forage of the Regiment under his Command, than were actually paid for the same."

" 2d. For having knowingly signed false Monthly Returns, representing a greater Number of Horses to be in the Possession of the Officers of the Regiment than were actually effective at the respective Dates of said Returns, and for having certified false Lodging Returns."

" 3d. For having signed his Name as a Witness to Affidavits annexed to the Monthly Pay-Lists, as directed to be taken by the Paymaster in his Presence, before a Magistrate, although such Affidavits were not sworn."

The Court having taken into their Consideration the Whole of the Evidence produced in Support of the several Charges preferred against the Prisoner, Colonel Sir Thomas Chapman, of the 6th Regiment of Dragoon Guards, or Carbineers; as also what was offered by him in his Defence, are of Opinion, that he is not guilty to the Extent of the 1st Charge, viz. of having behaved in a scandalous and infamous Manner, unbecoming an Officer and a Gentleman; but do consider him reprehensible in having signed Abstracts of Vouchers, wherein it appears that a higher Price (to the Amount of between Nine and

l faithful services,  
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nk of Captain in  
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ENTWORTH.

*Lt. Dragoons.*

y Mount, 8th }  
1804. }

our notice, Liente-  
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fully yours,  
ORMSBY.

General Governor  
c.

Martial held in the  
nth Day of July,  
Ninety-nine, and

Ten Pounds) is charged to Government for Forage than was actually paid for the same, though without any fraudulent intention on his Part, which is fully proved by the Tenor of his Orders, which seem well calculated to prevent any Mal-practices of the Kind ; and it further appearing that the above Sum of Nine or Ten Pounds was expended in making up the Forage of the Regiment.

“ 2d Charge. The Court do find the Prisoner, Colonel Sir Thomas Chapman, guilty of the second Charge ; but with Respect to the second Charge, the Court cannot but be convinced, from the Evidence produced before them, and which has been in Part admitted by Colonel Sir Thomas Chapman, that a greater Number of Officers Horses were returned than were actually effective with the Regiment, and that Officers were returned for Lodging-Money, who were not strictly entitled thereto ; but as they cannot discover any intentional Deception on the Part of Colonel Sir Thomas Chapman, they can only find him guilty of a reprehensible Neglect in not examining particularly the different Accounts which the Prisoner has signed his Name as Commanding Officer.”

“ 3d Charge. The Court do also find that the Prisoner, Colonel Sir Thomas Chapman, is guilty of the third Charge ; on the Whole, the Court having found Colonel Sir Thomas Chapman guilty as above set forth, are of Opinion, and do accordingly adjudge, that the Prisoner, Colonel Sir Thomas Chapman, be reprimanded in such Manner as His Excellency shall please to direct.”

The Proceedings and Sentence of the said General Court-Martial having been laid before His Majesty it is His Majesty's Pleasure that the President and Members composing said Court-Martial be acquainted, that His Majesty cannot by any Means approve of the Sentence passed by them upon Colonel Sir Thomas

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His Excellency

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l Sir Thomas

Chapman, the same being altogether inadequate to the  
Offences of which the Court has expressly found the  
Defendant guilty, and by no means calculated to an-  
swer the purpose of Punishment, namely, the deter-  
ring of others from the like irregular practice in fu-  
ture : The service being exposed to the greatest mis-  
chief from the unjustifiable measure of signing Re-  
turns, which the Officer who signs them does not  
know to be true and correct, and by a Non-compli-  
ance with the Rules enjoined by His Majesty's Regu-  
tions.

“ It is therefore His Majesty's Will and Pleasure,  
that the Court-Martial should be dissolved, and that  
Colonel Sir Thomas Chapman should be acquitted,  
that His Majesty has not any further occasion for his  
Services ; but that His Majesty being disposed with  
the Court-martial, to give him credit for not having  
been actuated by any interested or dishonorable mo-  
tives, is graciously pleased to allow him to retire from  
the service, receiving the regulated value of his com-  
mission, as Lieutenant-Colonel in His Majesty's 6th  
Regiment of Dragoon Guards, or Carbineers.”

Given at His Majesty's Castle of Dublin, this  
eleventh day of September, 1799.

By his Excellency's Command,

CASTLEREIGH.

To Major General George }  
Nugent, Adjt. Gen. Dublin. }

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## *Index to the 20 Letters.*

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LIEUT. GEN. } Richard Vise, Col. 3d Drags.—M. P.  
                  } Sir Chs Asgill, Col. 85th Regt. Bt.

MAJ. GEN. } Wm. Fawcett, Gov. Limrick Fort.  
                  } Edward Dunne.

Major James Allen, Treasurer, Ordnance Board, Castle Dublin.

Edwd. Henry Perry, Earl of Limrick, (Lord Glentworth) M. P. Col. late 2d. Fencible Lt. Dragoons.

William Warner Westera. Baron of Rossmore.

Lieut. Col. John James Barlow.

Fredk. John Falkiner, Col. 100th Regt.

George Vallancy, Capt. & Adjt. Tyrone Militia.

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### ERRATA.

Page 18, line 17, read services for service.

— 36, — — M'Guire, for M'Guize.

— 38, — 16, the for in.

— 41, — 1, accompanied for accompanie.

— 42, in date of letter, read 7th for 9th July.

— 53, line 7, read inclusive for exclusive.

