

ARTICLES OF WAR

AN ACT FOR ESTABLISHING RULES AND ARTICLES FOR THE GOVERNMENT OF THE ARMIES OF THE UNITED STATES

(Approved, 10 April 1806)

SECTION 1. *Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled,* That, from and after the passing of this act, the following shall be the rules and articles by which the armies of the United States shall be governed:

ARTICLE 1. Every officer now in the army of the United States shall, in six months from the passing of this act, and every officer who shall hereafter be appointed shall, before he enters on the duties of his office, subscribe these rules and regulation.

Art. 2. It is earnestly recommended to all officers and soldiers diligently to attend divine service; and all officers who shall behave indecently or irreverently at any place of divine worship shall, if commissioned officers, be brought before a general courts-martial, there to be publicly and severely reprimanded by the present; if non-commissioned officers or soldiers, every person so offending shall, for his first offense, forfeit one-sixth of a dollar, to be deducted out of his next pay; for the second offense, he shall not only forfeit a like sum, but be confined twenty-four hours; and for every like offense, shall suffer and pay in like manner; which money, so forfeited shall be applied, by the captain or senior officer of the troop or company, to the use of the sick soldiers of the company or troop to which the offender belongs.

Art. 3. Any non-commissioned officer or soldier who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and a commissioned officer shall forfeit and pay, for each and every such offense, one dollar, to be applied as in the preceding articles.

Art. 4. Every chaplain commissioned in the army or armies of the United States, who shall absent himself from the duties assigned him (excepting in cases of sickness or leave of absence) shall, on conviction thereof before a courts-martial, be fined not exceeding one month's pay, besides the loss of his pay during his absence; or be discharged, as the said courts-martial shall judge proper.

Art. 5. Any officer or soldier who shall use contemptuous or disrespectful words against the President of the United States, against the Vice-President thereof, against Congress of the United States, or against the Chief Magistrate or Legislature of any of the United States, in which he may be quartered, if a commissioned officer, shall be cashiered, or otherwise be punished, as a courts-martial shall direct; if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a court-martial.

Art. 6. Any officer or soldier, who shall behave himself with contempt or disrespect toward his commanding officer, shall be punished, according to the nature of his offense, by the judgement of a court-martial.

Art. 7. Any officer or soldier who shall begin, excite, cause or join in, any mutiny or sedition, in any troop or company in the service of the United States, or in any party, post detachment, or guard shall suffer death, or such other punishments as by a court-martial shall be inflicted.

Art. 8. Any officer or non-commissioned officer, or soldier, who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or, coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding officer, shall be punished by the sentence of a court-martial with death, or otherwise, according to the nature of the offense.

Art. 9. Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretense whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offense, be inflicted upon him by the sentence of a court-martial.

Art. 10*. Every non-commissioned officer or soldier, who shall himself in the service of the United States, shall, at the time of his so enlisting, or within six days afterward have the Articles for the government of the armies of the United States read to him, and shall, by the officer who enlisted him, or by the commanding officer of the troop or company into which he was enlisted, be taken before the next justice of the peace, or chief magistrate of any city or town corporate, not being an officer of the army or where recourse cannot be had to the civil magistrate, before the judge advocate, and in his presence shall take the following oath or affirmation: "I, A.B., do solemnly swear or affirm (as the case may be) that I will bear true allegiance to the United States of America, and that I will serve them honestly and faithfully against all their enemies or opposers whatsoever, and observe and obey the orders of the President of the United States and the orders of the officers appointed over me, according to the Rules and Articles for the government of the armies of the United States." Which justice, magistrate or judge advocate is to give to the officer a certificate, signifying that the man enlisted did take the said oath or affirmation. (* By Section 111 of Chapter 42 August 3, 1861, the oath of enlistment and re-enlistment may be administered by any commissioned officer of the army.)

Art. 11. After a non-commissioned officer or soldier shall have been duly enlisted and sworn, he shall not be dismissed the service without a discharge in writing; and no discharge granted him shall be sufficient which is not signed by a field officer of the regiment to which he belongs, or commanding officer, where no field officer of the regiment is present; and no discharge shall be given to a non-commissioned officer or soldier before his term of service has expired, but by order of the President of the United States, the Secretary of War, the commanding officer of a department, or the sentence of a general court-martial; not shall a commissioned officer be discharged the service but by order of the President of the United States, or by sentence of a general court-martial.

Art. 12. Every colonel, or other officer commanding a regiment, troop, or company, and actually quartered with it, may give furloughs to non-commissioned officers and soldiers, in such numbers, and for so long a time, as he shall judge to be most consistent with the good of the service; and a captain, or other inferior officer, commanding a troop or company or in any garrison, fort, or

barrack of the United States (his field officer being absent), may give furloughs to non-commissioned officers for a time not exceeding twenty days in six months, but not more than two persons to be absent at the same time, excepting some extraordinary occasion should require it.

Art. 13. At every muster, the commanding officer of each regiment, troop, or company, there present, shall give to the commissary of musters, or other officer who musters the said regiment, troop or company, certificates signed by himself, signifying how long such officers, as shall not appear at said muster, have been absent, and the reason of their absence. In a like manner, the commanding officer of every troop or company shall give certificates, signifying the reasons of the absence of the non-commissioned officers and private soldiers; which reasons and time of absence shall be inserted in the muster-rolls, opposite the names of the respective absent officers and soldiers. The certificates shall, together with the muster-rolls, be remitted by the commissary of musters or other officer mustering, to the Department of War, as speedily as the distance of the place will admit.

Art. 14. Every officer, who shall be convicted before a general court-martial of having signed a false certificate relating to the absence of either officer or private soldier, or relative to his or their pay, shall be cashiered.

Art. 15. Every officer who shall make a false muster of man or horse, and every officer or commissary of musters who shall willingly sign, direct, or allow the signing of muster-rolls wherein such a false muster is contained, shall, upon proof made thereof, by two witnesses, before a general court-martial, be cashiered, and shall be thereby utterly disabled to have or hold any office or employment in the service of the United States.

Art. 16. Any commissary of musters, or other officer, who shall be convicted of having taken money, or any thing, by way of gratification, on mustering any regiment, troop, or company, or on signing muster-rolls, shall be displaced from his office, and shall be thereby utterly disabled to have or hold any office or employment in the service of the United States.

Art. 17. Any officer who shall presume to muster a person as a soldier who is not a soldier, shall be deemed guilty of having made a false muster, and shall suffer accordingly.

Art. 18. Every officer who shall knowingly make a false muster return to the Department of War, or to any of his superior officers authorized to call for such returns, of the state of the regiment, troop, or company, or garrison under his command; or of the arms, ammunition, clothing or other stores thereunto belonging, shall, conviction thereof before a court-martial, be cashiered.

Art. 19. The commanding officer of every regiment, troop, or independent company or garrison of the United States, shall, in the beginning of every month

Remit, through proper channels, to the Department of War, an exact return of the regiment, troop, independent company or garrison, under his command, specifying the names of the officers then absent from their posts, with reasons for and the time of their absence. And any officer who shall be convicted of having, through neglect or design, omitted sending such returns, shall be punished, according to the nature of his crime, by the judgement of a general court-martial.

Art. 20*. All officers and soldiers who have received pay, or have been duly enlisted in the service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as, by sentence of a court-martial, shall be inflicted. (* No officer or soldier in the army of the United States shall be subject to the punishment of death for desertion in time of peace. Act. 29th May 1830)

Art. 21. Any non-commissioned officer or soldier who shall without leave from his commanding officer, absent himself from his troop, company or detachment, shall, upon being convicted thereof, be punished according to the nature of his offense, at the discretion of a court-martial.

Art. 22. No non-commissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company in which he last served, on the penalty of being reputed a deserter, and suffering accordingly. And in case any officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him, and give notice thereof to the corps in which he last served, the said officer shall, by a court martial, be cashiered.

Art. 23. Any officer or soldier who shall be convicted of having advised or persuaded any other officer or soldier to desert the service of the United States, shall suffer death, or such punishment as shall be inflicted upon him by sentence of a court-martial,

Art. 24. Officer or soldier shall use any reproachful or provoking speeches or gestures to another, upon pain, if an officer, of being put in arrest, if a soldier, confined, and of asking pardon of the party offended in the presence of his commanding officer.

Art. 25. No officer or soldier shall send a challenge to another officer or soldier, to fight a duel, or accept a challenge if sent, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporeal punishment; at the discretion of a court-martial.

Art. 26. If any commissioned officer or non-commissioned officer commanding a guard shall knowingly or willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and all seconds, promoters, and carriers of challenges, in order to duels shall be deemed principals, and be punished accordingly. And it shall be the duty of every officer commanding an army, regiment, company, post or detachment, who is knowing to the challenge being given or accepted by any officer, non-commissioned officer, or soldier, under his command, or has reason to believe the same to be the case, immediately to arrest and bring to trial such officers.

Art. 27. All officers of what condition soever, have power to part and quell all quarrels, frays, and disorders, through the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non-commissioned officers or soldiers into confinement, until proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer (though of an inferior rank), or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Art. 28. Any officer or soldier who shall upbraid another for refusing a challenge, shall himself be punished as a challenger; and all officers and soldiers are hereby discharged from any disgrace or opinion of disadvantage which might arise from their having refused to accept of challenges, as they will only have acted in obedience to the laws, done their duty as good soldiers who subject themselves to discipline.

Art. 29. No sutler shall be permitted to sell any kind of liquors or victuals, or keep their houses or shops open for any entertainment of soldiers, after nine at night, or before the beating of the reveille, or upon Sundays, during divine service or sermon, on the penalty of being dismissed from all future sutling.

Art. 30. All officers commanding in the field, forts, barracks, or garrisons of the United States, are hereby required to see that the persons permitted to suttle shall supply the soldiers with good and wholesome provisions or other articles, at a reasonable price, as they shall be answerable for their neglect.

Art. 31. No officer commanding in any of the garrisons, forts, or barracks of the United States shall exact exorbitant prices for houses or stalls, let out to sutlers or connive at the like exactions in others; nor by his authority, and for his private advantage, lay any duty or imposition upon, or be interested in, the sale of victuals, liquors, or other necessaries of life brought into the garrison, fort, or barracks for the use of the soldiers, on penalty of being discharged from the service.

Art. 32. Every officer commanding in quarters, garrisons or on the march, shall keep good order, and, to the utmost of his power, redress all abuses or disorders which may be committed by any other or soldier under his command; if, upon complaint made to him of officers or soldiers beating or otherwise ill-treating any person, or disturbing fairs or markets, or of committing any kinds of riots, to the disquieting of the citizens of the United States, he, the said commander, who shall reuse or omit to see justice done to the offender or offenders, and reparation made to the party or parties injured, as far as part of the offenders pay shall enable him or them, shall, upon proof thereof, be cashiered, or otherwise punished, as a general court martial shall direct.

Art. 33. When any commissioned officer or soldier shall be accused of a capital crime, or of having used violence, or committed any offense against person or property of any citizen of the United States, such as punishable by the known laws of the land, the commanding officer and officers of every regiment, troop, or company, to which the person or persons so accused shall belong; are hereby required; upon application duly made by, or in behalf of; the party or parties injured; to use their utmost endeavors to deliver over such accused person or persons to the civil magistrate, and likewise to be aiding and assisting to the officers of justice to bring him or them to trial. If any commanding officer or officers shall willfully neglect, or shall refuse, upon application aforesaid, to deliver over such accused person or persons to the civil magistrates, or to be aiding and assisting officers of justice in apprehending such person or persons, the officer or officers so offending shall be cashiered.

Art. 34. If any officer shall think himself wronged by his Colonel or commanding officer of the regiment, and shall, upon due application being made to him, be refused redress, he may complain to the General commanding in the State or Territory where such regiment shall be stationed, in

order to obtain justice; who is hereby required to examine into said complaint, and take proper measures for redressing the wrong complained of, and transmit, as soon as possible, to the Department of War, a true state of such complaint, with the proceedings had thereon.

Art. 35. If any inferior officer or soldier shall think himself wronged by his Captain or other officer, he is to complain thereof to the commanding officer of the regiment, who is hereby required to summon a regimental courts martial, for the doing of justice to the complainant; from which regimental court martial either party may; if he thinks himself still aggrieved, appeal to a general court martial. But if, upon second hearing, the appeal shall appear vexatious and groundless, the person so appealing shall be punished at the discretion of the said court martial.

Art. 36. Any commissioned officer, store-keeper, or commissary, who shall be convicted at a general court martial of having sold without a proper order for that purpose, embezzled, misapplied, or willfully or through neglect, suffered stores belonging to the United States to be spoiled or damaged, shall, at his own expense, make good the loss or damage, and shall moreover, forfeit all his pay, and be dismissed from the service.

Art. 37. Any non-commissioned officer or soldier who shall be convicted at a regimental court martial of having sold, or designedly, or through neglect, wasted ammunition delivered out to him, to be employed in the service of the United States, shall be punished at the discretion of such court.

Art. 38. Every non-commissioned officer or soldier who shall be convicted before a court-martial of having sold, lost, or spoiled through neglect, his horse, arms, clothes, or accoutrements, shall undergo such a weekly stoppages (not exceeding half of his pay) as such court martial shall judge sufficient, for repairing the loss or damage; and shall suffer confinement, or other such corporeal punishment as his crime shall deserve.

Art. 39. Every officer who shall be convicted before a court martial of having embezzled or misapplied any money with which he may have been entrusted

For the payment of the men under his command, or for enlisting men into the service, or for other purposes, if a commissioned officer, shall be cashiered, and compelled to refund the money; if a non-commissioned officer, shall be reduced to the ranks, be put under stoppages until the money made good, and suffer such corporeal punishment as such court martial shall direct.

Art. 40. Every captain of a troop or company is charged with the arms, accoutrements, ammunition, clothing, or other warlike-stores belonging to the troop or company under his command, which he is to be accountable for to his Colonel in case of their being lost, spoiled, or damaged, not by unavoidable accidents, or on actual service.

Art. 41. All non-commissioned officers and soldiers who shall be found one mile from camp without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted upon them by the sentence of a court martial.

Art. 42. No officer or soldier shall lie out of his quarters; garrison or camp without leave from his superior officer, upon penalty of being punished according to the nature of his offense, by the sentence of a court martial.

Art. 43. Every non-commissioned officer and soldier shall retire to his quarters or tent at the beating of the retreat; in default of which he shall be punished according to the nature of his offense.

Art. 44. No officer, non-commissioned officer, or soldier shall fail in repairing at the time fixed, to the place of parade, of exercise, or other rendezvous appointed by his commanding officer, if not prevented by sickness or some other evident necessity, or shall go from the said place of rendezvous without leave from his commanding officer, before he shall be regularly dismissed or relieved, on penalty of being punished, according to the nature of his offense, by sentence of a court martial.

Art. 45. Any commissioned officer who shall be found drunk on his guard, party or other duty shall be cashiered. Any non-commissioned officer or soldier so offending shall suffer such corporeal punishment as shall be inflicted by the sentence of a court martial.

Art. 46. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by the sentence of a court martial.

Art. 47. No soldier belonging to any regiment, troop, or company shall hire another to do his duty for him, or be excused from duty but in cases of sickness, disability, or leave of absence; and every such soldier found guilty of hiring his duty, as also the party so hired to do another's duty, shall be punished at the discretion of a regimental court martial.

Art. 48. And every non-commissioned officer conniving at such hiring of duty aforesaid, shall be reduced; and every commissioned officer knowing and allowing such ill practices in the service, shall be punished by the judgement of a general court martial.

Art. 49. Any officer belonging to the service of the United States, who, by discharging of firearms, drawing swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters shall be punished, according to the nature of his offense, by the sentence of court martial.

Art. 50. Any officer or soldier who shall, without urgent necessity, or without leave of his superior officer, quit his guard, platoon, or division, shall be punished, according to the nature of his offense, by the sentence of court martial.

Art. 51. No officer or soldier shall do violence to any person who brings provisions or other necessaries to the camp, garrison, or quarters of the forces of the United States, upon pain of death, or such punishment as a court martial shall direct.

Art. 52. Any officer or soldier who shall misbehave himself before the enemy, run away, or shamefully abandon any fort, post, or guard which he or they may be commanded to defend, or speak words inducing others to do the like, or shall cast away his arms or ammunition, or who shall quit his post or colors to plunder and pillage, every such offender, being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Art. 53. Any person belonging to the armies of the United States who shall make known the watchword to any person who is not entitled to it according to the rules and discipline of war, or shall presume to give a parole or watchword different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Art. 54. All officers and soldiers are to behave themselves orderly in quarters and on their march; and whoever shall commit any waste or spoil, either in walks of trees, parks, warrens, fish-ponds, houses or gardens, corn-fields, enclosures of meadows, or shall maliciously destroy any property belonging to the inhabitants of the United States unless by order of the then command-in-chief of the armies of the said States, shall (besides such penalties as they are liable to by law) be punished according to the nature and degree of their offense, by judgement of a regimental or general court martial.

Art. 55. Whosoever, belonging to the armies of the United States in foreign parts, shall force a safeguard, shall suffer death.

Art. 56. Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Art. 57. Whosoever shall be convicted of holding correspondence with, or giving intelligence to, the enemy, either directly or indirectly, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Art. 58. All public stores taken in the enemy's camp, towns, forts, or magazines shall be secured for the service of the United States; for the neglect of which the commanding officer is answerable.

Art 59. If any commander of any garrison, fortress, or post shall be compelled by the officers and soldiers under his command, to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers, or soldiers who shall be convicted of having so offended, shall suffer death, or other such punishment as shall be inflicted upon them by the sentence of a court martial.

Art. 60. All sutlers and retainers to the camp, and all persons whatsoever serving with the armies of the United States in the field, though not enlisted soldiers, are subject to orders, according to the rules and discipline of war.

Art. 61. Officers having brevets or commissions of a prior date to these of the regiment in which they serve, may take place in courts martial and on detachments when composed of different corps,

according to the ranks given them in their brevets or dates of their former commissions, but in the regiments, troop, or company to which such officers belong, they shall do duty and take rank both in courts-martial and on detachments which shall be composed of their own corps, according to the commissions by which they are mustered in the said corps.

Art. 62 If, upon marches, guards or in quarters, different corps of the army shall happen to join, or do duty together, the officer highest in rank of the line of the army, marine cops, or militia, by commission, there on duty or in quarters shall command the whole, and give orders for what is needful to the service, unless otherwise specially directed by he President of the United States, according to the nature of the case.

Art. 63. The functions of the engineers being generally continued to the most elevated branch of military science, they are not to assume, nor are they subject to be ordered on any duty beyond the line of their immediate profession, except by special order of the President of the United States; but they are to receive every mark of respect to which their rank in the army entitle them respectively, and are liable to be transferred, at the discretion of the President, from one corps to another, regard being paid to rank.

Art. 64. General courts-martial may consist of any number of commissioned officers, from five to thirteen, inclusively; but they shall not consist of less than thirteen where that number can be convened without manifest injury to the service

Art. 65. * Any general officer commanding an army, or Colonel commanding a separate department, may appoint general courts-martial whenever necessary. But no sentence of a courts-martial shall be carried into execution until after the whole proceedings shall have been laid before the same officer ordering the same. or the officer commanding the troops for the time being; neither shall any sentence of a general courts-martial, in time of peace, extending to the loss of life, or the dismissal of a commissioner officer, or which shall, either in time of peace or war, respect a general officer, be carried into execution until after the whole proceedings shall have been transmitted to the Secretary of War, to be laid before the President of the United States for his conformation or disapproval, and orders in the case. All other sentences may be confirmed and executed by the officer ordering the court to assemble, or the commanding officer for the time being, as the case may be. (* Whenever a general officer commanding an army, or a colonel commanding a separate department, shall be the accuser or prosecutor of any officer in the army of the United States, under his command, the general courts-martial for the trial of such officer shall be appointed by the President of the United States.

The proceedings and sentence of that said courts-martial shall be sent directly to the Secretary of was, to be by him laid before the President of the United States for his confirmation or approval, or orders in this case.

So much of the sixty-fifth article of the first section of: An act for establishing rules and articles for the government of the armies of the United States. passed on the tenth of April eighteen hundred and six, as is repugnant hereto, shall be, and the same is hereby, repealed.---Act 29th May, 1830, Sects 1,2,3.)

Art. 66. Every officer commanding a regiment or corps may appoint for his own regiment or corps, courts martial, to consist of three commissioned officers for the trial and punishment of offenses not capital, and decide upon their sentences. For the same purpose, all offices commanding any of the garrisons, forts, barracks, or other places where the troops consist of different corps, may assemble courts-martial, to consist of three commissioned officers, and decide their sentences.

Art. 67. No garrison or regimental courts-martial shall have the power to try capital cases or commissioned officers; neither shall they inflict a fine exceeding one month's pay, nor imprison, not put to hard labor, any non-commissioned officer or soldier for a longer time than one month.

Art. 68 Whenever it may be found convenient and necessary to the public service, the officers of the marines shall be associated with the officers of the land forces, for the purpose of holding courts-martial, and trying offenders belonging to either; and, in such cases, the orders of the senior officer of either corps may be present and duly authorized, shall be received and obeyed.

Art. 69. The judge advocate general, or some person deputed by him, or by the general or officer commanding the army, detachment, or garrison shall prosecute in the name of the United States, but shall so far consider himself as counsel for the prisoner, after the said prisoner shall have made his plea, as to object to any leading questions to any witness or any question to the prisoner, the answer to which might tend to criminate himself; and administer to each member of the court, before they proceed on any trial the following oath, which shall also be taken by all members of the regimental and garrison courts-martial:

You, A.B., do swear you will well and truly try and determine, according to evidence, the matter now before you, between the United States of America and the prisoner to be tried, and that you will duly administer justice, according to the provisions of "An Act establishing rules and articles for the government of the armies of the United States," without partiality, favor, or affection; and if any doubt should arise, not explained by said articles, according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear that you will not divulge the sentence of the court until it shall be published by the proper authority; neither will you disclose or discover the vote or opinion of any particular member of the courts-martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help you God."

And as soon as the said oath shall have been administered to the respective members, the president of the court shall administer to the judge advocate, or person officiating as such, an oath in the following words:

You, A.B., do swear that you will not disclose or discover the vote or opinion of any particular member of the courts-martial, unless required to give as evidence thereof, by a court of justice, in due course of law; nor divulge the sentence of the court to any but the proper authorities, until it shall be duly disclosed by the same. So help you God."

Art. 70. When a prisoner, arraigned before a general courts-martial shall, from obstinacy and deliberate design, stand mute or answer foreign to the purpose, the court may proceed to trial and judgement as if the prisoner had regularly pleaded not guilty.

Art. 71. When a member shall be challenged by a prisoner, he must state his cause of challenge, of which the court shall, after due deliberation, determine the relevancy or validity, and decide accordingly; and no challenge to more than one member at a time shall be received by the court.

Art. 72. All members of a courts-martial are to behave with decency and calmness; and in giving their votes are to begin with the youngest in commission.

Art. 73 All persons who give evidence before a courts-martial are to be examined on oath or affirmation in the following form:

You, swear, or affirm (as the case may be), the evidence you shall give in this cause now in hearing shall be the truth, the whole truth and nothing but the truth. So help you God.”

Art. 74. On the trials of cases not capital, before courts-martial, the deposition of witnesses, not in the line of staff of the army, may be taken before some justice of the peace, and read in evidence; provided the prosecutor and person accused are present at the taking of the same, or are duly notified thereof.

Art. 75. No officer shall be tried by a general courts-martial nor by officers of an inferior rank, if it can be avoided. Nor shall any proceedings of trials be carried on, except between the hours of eight in the morning and three in the afternoon, excepting in cases which, in the opinion of the officer appointing the courts-martial, require immediate example.

Art. 76. No person whatsoever shall use menacing words, signs or gestures, in presence of a courts-martial or shall cause any disorder or riot or disturb their proceedings, on the penalty of being punished at the discretion of the said courts-martial.

Art. 77. Whenever any officer shall be charged with a crime, he shall be arrested and confined to his barracks, quarters, tent, and deprived of his sword his commanding officer. And any officer, who shall leave his confinement before he shall be set at liberty by his commanding officer, or by a superior officer, shall be cashiered.

Art. 78. Non-commissioned officers and soldiers, charged with crimes, shall be confined until tried by courts-martial, or released by proper authority.

Art. 79. No officer or soldier who shall be put in arrest shall continue in confinement more than eight days, or until such time as a courts-martial can be assembled.

Art. 80. No officer commanding a guard, or provost marshal, shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the forces of the United States; provided the officer committing shall, at the same time, deliver an account in writing, signed by himself, of the crime with which said prisoner is charged.

Art. 81. No officer commanding a guard, or provost marshal, shall presume to release any prisoner committed to his charge without proper authority for doing so, nor shall he suffer any person to escape, on the penalty of being punished for it by the sentence of a courts-martial.

Art. 82. Every officer or provost marshal, to whose charge prisoners shall be committed, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commanding officer, of their names, their crimes, and the names of the officers committing them, on the penalty of being punished for disobedience or neglect, at the discretion of a courts-martial.

Art. 83. Any commissioned officer convicted before a general courts-martial of conduct unbecoming an officer and a gentleman, shall be dismissed from the service.

Art. 84. In cases where a courts-martial may think proper to sentence a commissioned officer to be suspended from command, they shall have power to suspend his pay and emoluments for the same time, according to the nature and heinousness of the offense.

Art. 85. In cases where a commissioned officer is cashiered for cowardice or fraud, it shall be added to the sentence, that the crime, name, and place of abode, and punishment of the delinquent, be published in the newspapers in and about the camp, and of the particular State from which the offender came, or where he usually resides; after which it shall be deemed scandalous for any officer to associate with him.

Art. 86. The commanding officer of any post or detachment, in which there shall not be a number of officers adequate to form a general courts-martial, shall, in cases which require the cognizance of such a court, report to the commanding officer of the department, who shall order a court assembled at the nearest post or department, and the party accused with necessary witnesses, be transported to the place where the said court shall be assembled.

Art. 87. * No person shall be sentenced to suffer death but by the concurrence of two-thirds of the members of a general courts-martial, nor except in the cases herein expressly mentioned; *nor shall more than fifty lashes be inflicted on any offender, at the discretion of a courts-martial*; and no officer, non-commissioned officer, soldier, or follower of the army, shall be tried a second time for the same offense. (* So much of these rules and articles as authorizes the infliction of corporeal punishment by stripes of lashes was specially repealed by Act of 16th May, 1812. By Act of 2d March 1833, the repealing act was repealed, so far as it applied to the crime of desertion, which, of course, revived the punishment of lashes for that offense. Flogging was totally abolished by Sec. 3 of Chapter 54, 5 August, 1861.)

Art. 88. No person shall be liable to be tried and punished by a general courts-martial for any offense which shall appear to have been committed more than two years before the issuing of the order for such trial, unless the person, by reason of having absented himself, or some other manifest impediment, shall not have been amenable to justice within that period.

Art. 89. Every officer authorized to order a general courts-martial shall have the power to pardon or mitigate any punishment ordered by such court, except the sentence of death, or of cashiering

an officer; which in the cases where he has authority (by Article 65) to carry them into execution, he may suspend, until the pleasure of the President of the United States can be known; which suspension; together with copies of the proceedings of the courts-martial, the said officer shall immediately transmit to the President for his determination. And the colonel or commanding officer of the regiment or garrison where any regimental or garrison courts-martial shall be held, may pardon or mitigate any punishment ordered by such any punishment ordered by such court to be inflicted.

Art 90. Every judge advocate, or person officiating as such, at any general courts-martial, shall transmit, with as much expedition as the opportunity of the time and distance of place can admit, the original proceedings and sentence of such courts-martial to the Secretary of War; which said original proceedings and sentence shall be carefully kept and preserved in the office of said Secretary, to the end that the persons entitled thereto may be enabled, upon application to the said office, to obtain copies thereof.

The party tried by any general courts-martial shall, upon demand thereof, made by himself, or any person or persons in his behalf, be entitled to a copy of the sentence and proceedings of such courts-martial.

Art. 91. In cases where the general, or commanding officer may order a court of inquiry to examine into the nature of any transaction, accusation, or imputation against any officer or soldier, the said court shall consist of one or more officers, not exceeding three, and a judge advocate, or other suitable person, as a recorder, to reduce the proceedings and evidence to writing; all of whom shall be sworn to the faithful performance of their duty. This court shall have the same power to summon witnesses as a courts-martial, and to examine them n oath. But they shall not give their opinion on the merits of the case, excepting they shall be thereto specially required. The parties accused shall also be permitted to cross-examine and interrogate the witnesses, so as to investigate fully the circumstances in the question.

Art. 92. The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president, and delivered to the commanding officer, and the said proceedings may be admitted as evidence by a courts-martial, in cases not capital, or extending to the dismissal of an officer, provided that the circumstances are such that oral testimony cannot be obtained. But as courts of inquiry may be perverted to dishonorable purposes, and may be considered as engines of destruction to military merit, in the hands of weak and envious commandants, they are hereby prohibited unless directed by the President of the United States or demanded of the accused.

Art. 93. The judge advocate or recorder shall administer to members the following oath:

“You shall well and truly examine and inquire, according to your evidence into the matter before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God.”

After which the president shall administer the judge advocate or recorder the following oath:

You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court, and the evidence to be given in the case in hearing, So help you God.”

The witnesses shall take the same oath as witnesses sworn before a courts-martial.

Art. 94. When any commissioned officer shall die or be killed in the service of the United States, the major of the regiment, or officer doing the major’s duty in his absence, or in any post or garrison, the second in command, or the assistant military agent, shall immediately secure all his effects or equipage, then in camp or quarters, and shall make an inventory thereof, and forthwith transmit the same to the office of the Department of War, to the end that his executors or administrators may receive the same.

Art. 95 When any non-commissioned officer or soldier shall die or be killed in the service of the United States, the then commanding officer or the troop or company shall, in the presence of two other commissioned officers, take an account of what effects he died possessed of, above his arms and accoutrements and transmit the same to the office of the Department of War, which said effects are to be accounted for, and paid to the representatives of such deceased non-commissioned officer or soldier. And in case any of he officers, so authorized to take care of the effects of deceased officers and soldiers, should, before they have accounted to their representatives for the same, have occasion to leave the regiment or post, by performance or otherwise, they shall, before they be permitted to quit the same, deposit in the hands of the commanding officer, or of the assistant military agent, all the effects of such deceased non-commissioned officer and soldiers, in order that the same may be secured for, and paid to, their respective representatives.

Art. 96. All officers, conductors, gunners, matrosses, drivers, or other persons whatsoever, receiving pay or hire in the service of the artillery, or corps of engineers of the United States, shall be governed by the aforesaid rules and Articles, and shall be subject to be tried by courts-martial, in like manner with the officers and soldiers of the other troops in the service of the United States.

Art. 97. The officers and soldiers of any troops, whether militia or others, being mustered and in the pay of the United States, shall, at all times and in all places, when joined, or acting in conjunction with the regular forces of the United States, be governed by these rules and articles of war, and shall be subject to be tried by courts-martial, in a like manner with the officers and soldiers in the regular forces; save only that such courts-martial shall be composed entirely of militia officers.

Art. 98. All officers serving by commission from the authority of any particular State, shall, on all detachments, courts-martial, or other duty, wherein they may be employed in conjunction with regular forces of the United States, take rank next after all officers of the like grade in said regular forces, notwithstanding the commissions of such militia or State officers may be elder than the commissions of the officers of the regular forces of the United States.

Art. 99. All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the

foregoing articles of war, are to be taken cognizance of by the general or regimental courts-martial, according to the nature and degree of the offense, and be punished at their discretion.

Art. 100. The President of the United States shall have power to prescribe the uniform of the army.

Art. 101. The foregoing articles are to be read and published, once in every six months, to every garrison, regiment, troop, or company mustered, or to be mustered, in the service of the United States, and are to be duly observed and obeyed by all officers and soldiers who are, or shall be, in said service.

Sec. 2. *And be it further enacted,* That in time of war, all persons not citizens of, or owing allegiance to, the United States of America, who shall be found lurking as spies in or about the fortification or encampments of the armies of the United States, or any of them, shall suffer death, according to the law and usage of nations, by sentence of a general courts-martial.

Sec. 3. *And it be further enacted,* That the rules and regulations by which armies of the United states have heretofore been governed, and the resolves of Congress thereunto annexed, and respecting the same, shall henceforth be void and of no effect so far as may relate to any transactions under them prior to the promulgation of this act, at the several posts and garrisons respectively, occupied by any part of the army of the United States.

(Source: <http://suvchw.org/education/documents/articles.htm>)