

VIII.

1470

THE MASSACHUSETTS ARTICLES OF WAR.

[Adopted by the Provisional Congress of Massachusetts Bay, April 5, 1775.]

Whereas the lust of power which of old oppressed, persecuted and exiled our pious and virtuous ancestors from their fair possessions in Britain, now pursues with ten-fold severity us, their guileless children, who are unjustly and wickedly charged with licentiousness, sedition, treason and rebellion; and being deeply impressed with a sense of the almost incredible fatigues and hardships our venerable progenitors encountered, who fled from oppression for the sake of civil and religious liberty for themselves and their offspring, and began a settlement here on bare creation at their own expense; and having seriously considered the duty we owe to God, to the memory of such invincible worthies, to the King, to Great Britain, our country, ourselves, and posterity, do think it our indispensable duty, by all lawful ways and means in our power, to recover, maintain, defend, and preserve the free exercise of all those civil and religious rights and liberties, for which many of our forefathers fought, bled and died, and to hand them down entire for the free enjoyment of the latest posterity. And whereas the keeping of a Standing Army in any of these Colonies in times of peace, without the consent of the Legislature of that Colony in which such Army is kept, is against law. And whereas such an Army, with a large Naval force, is now placed in the Town and Harbour of Boston, for the purpose of subjecting us to the power of the British Parliament. And whereas we are frequently told by the tools of the Administration, dupes to Ministerial usurpation, that Great Britain will not in any degree relax in her measures until we acknowledge her "right of making laws binding upon us in all cases whatever," and that if we persist in our denial of her claim, the dispute must be decided by Arms, in which it is said by our enemies "we shall have no chance, being undisciplined, cowards, disobedient, impatient of command, and possessed of that spirit of revelling which admits of no order, subordination, rule, or government."

And whereas the Ministerial Army and Fleet now at Boston, the large reinforcement of Troops expected, the late Circular Letter to the Governours upon the Continent, the general tenour of intelligence from Great Britain and the hostile preparations making here, as also from the threats and repeated insults of our enemies in the Capital Town, we have reason to apprehend that the sudden destruction of this Province is in contemplation if not determined upon.

And whereas the great law of self-preservation may suddenly require
1471 our raising and keeping an Army of observation and defence, in order to prevent or repel any further attempt to force the late cruel and oppressive Acts of the British Parliament, which are evidently designed to subject us and the whole Continent to the most ignominious slavery. And whereas, in case of raising and keeping such an Army, it will be necessary that the Officers and Soldiers in the same be fully acquainted with their duty, and that the Articles, Rules and Regulations thereof be made as plain as possible; and having great confidence in the honour and public virtue of the inhabitants of this Colony that they will readily obey the Officers chosen by themselves, and will cheerfully do their duty when known, without any such severe Articles and Rules, (except in capital cases,) and cruel punishments as are usually practised in Standing Armies, and will submit to all such Rules and Regulations as are founded in reason, honour and virtue. It is, therefore,

Resolved, That the following Articles, Rules and Regulations for the Army, that may be raised for the defence and security of our lives, liberties, and estates, be, and are hereby earnestly recommended to be, strictly adhered to, by all Officers, Soldiers, and others concerned, as they regard their own honour and the publick good.

Article 1st. All Officers and Soldiers, not having just impediment, shall diligently frequent Divine Service and Sermon in the places appointed for the Assembling of the Regiment, Troop or Company to which they belong; and such as wilfully absent themselves, or being present behave indecently or irreverently, shall, if Commissioned Officers be brought before a Regimental Court Martial, there to be publicly and severely reprimanded by the President; if Non-Commissioned Officers or Soldiers, every person so offending shall, for his first offence, forfeit one Shilling to be deducted out of his wages; for the second offence he shall not only forfeit one shilling, but be confined twenty-four hours; and for every like offence shall suffer and pay in like manner: which money so forfeited shall be applied to the use of the sick Soldiers of the Troop or Company to which the Offender belongs.

Article 2d. Whatsoever Non-Commissioned Officer or Soldier shall use any unlawful oath or execration, shall incur the penalties expressed in the preceding Article; and if a Commissioned Officer be thus guilty of profane cursing and swearing, he shall forfeit and pay for each and every such offence four Shillings, lawful money.

Article 3d. Any Officer or Soldier who shall begin, excite, or cause any mutiny or sedition, or join in such mutiny, in the Regiment, Troop, or Company to which he belongs, or in any other regiment, Troop, or Company of the Massachusetts forces, either by Land or Sea, or in any Party, Post, Detachment, or Guard, on any pretence whatever, shall suffer such punishment as by a General Court Martial shall be ordered.

Article 4th. Any Officer or Soldier who shall behave himself with contempt or disrespect towards the General or Generals, or Commanders-in-Chief of the Massachusetts Forces, or shall speak words tending to his or their hurt or dishonor, shall be punished according to the nature of his offence, by the judgment of a General Court Martial.

Article 5th. Any Officer, Non-Commissioned Officer, or Soldier, who, 1472 being present at any mutiny or sedition, does not use his utmost endeavors to suppress the same, or coming to the knowledge of any mutiny does not, without delay, give information thereof to his Commanding Officer, shall be punished by order of a General Court Martial, according to the nature of his offence.

Article 6th. Any Officer or Soldier who shall strike his Superiour Officer, or draw, or offer to draw, or shall lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatever, or shall disobey any lawful commands of his Superiour Officer, shall suffer such punishment as shall be, according to the nature of his offence, ordered by the sentence of a General Court Martial.

Article 7th. Any Non-Commissioned Officer or Soldier who shall desert, or, without leave from his Commanding Officer, absent himself from the Troop or Company to which he belongs, or from any detachment of the same, shall, upon being convicted thereof, be punished according to the nature of his offence, at the direction of a General Court Martial.

Article 8th. Whatever Officer or Soldier shall be convicted of having advised or persuaded any other Officer or Soldier to desert, shall suffer such punishment as shall be ordered by a sentence of a General Court Martial.

Article 9th. All Officers of what condition soever shall have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another Regiment, Troop, or Company, and order Officers to be arrested, or Non-Commissioned Officers or Soldiers to be confined and imprisoned till their proper Superiour Officer shall be made acquainted therewith; and whoever shall refuse to obey such Officer, (though of an inferiour rank,) or shall draw his sword upon him, shall be punished at the discretion of a General Court Martial.

Article 10th. No Officer or Soldier shall use any reproachful or provoking speeches or gestures, nor shall presume to send a challenge to any person to fight a duel, nor shall second, promote, or carry any challenge; and whoever shall knowingly and wilfully suffer any person whatsoever to go forth to fight a duel, or shall second any such conduct, shall be deemed as a principal; and whatsoever Officer or Soldier shall upbraid another for refusing a challenge, shall be considered as a challenger, and all such offenders, in any of these or the like cases, shall be punished at the discretion of a General Court Martial.

Article 11th. Every Officer commanding in quarters, or on a march, shall keep good order, and to the utmost of his power, redress all such abuses or disorders

which may be committed by any Officer or Soldier under his command; if upon complaint made to him of Officers or Soldiers beating or otherwise ill-treating any person, or committing any kind of riots to the disquieting of the inhabitants of this Continent, he the said Commander, who shall refuse or omit to see Justice done to the offender or offenders, and reparation made to the party or parties injured, as soon as the offender's wages shall enable him or them, shall, upon due proof thereof, be punished, as ordered by a General Court Martial, in such manner as if he himself had committed the crimes or disorders complained of.

Article 12th. If any Officer should think himself to be wronged by 1473 his Colonel, or the Commanding Officer of the Regiment, and shall, upon due application made to him, be refused to be redressed, he may complain to the General or Commander-in-Chief of the Massachusetts Forces, in order to obtain justice, who is hereby required to examine into the complaint and see that justice be done.

Article 13. If any inferior Officer or Soldier shall think himself wronged by his Captain, or other Officer commanding the Troop or Company to which he belongs, he is to complain thereof to the Commanding Officer of the Regiment, who is hereby required to summon a Regimental Court Martial for the doing justice to the complaint, from which Regimental Court Martial either party may, if he thinks himself still aggrieved, appeal to a General Court Martial; but if upon a second hearing the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of a General Court Martial.

Article 14th. Whatsoever Non-Commissioned Officer or Soldier shall be convicted at a Regimental Court Martial of having sold, or designedly or through neglect wasted the Ammunition, Arms, or Provisions, or other Military Stores delivered out to him to be employed in the service of this Colony, shall, if an Officer, be reduced to a Private Soldier; and, if a Private Soldier, shall suffer such punishment as shall be ordered by a Regimental Court Martial.

Article 15th. All Non-Commissioned Officers or Soldiers, who shall be found one mile from the camp, without leave in writing from their Commanding Officer, shall suffer such punishment as shall be inflicted by the sentence of a Regimental Court Martial.

Article 16th. No Officer or Soldier shall be out of his quarters or camp, without leave from the Commanding Officer of his Regiment, upon penalty of being punished according to the nature of his offence, by order of a Regimental Court Martial.

Article 17th. Every Non-Commissioned Officer and Soldier shall retire to his quarters or tent at the beating the retreat; in default of which he shall be punished according to the nature of his offence, by order of the Commanding Officer.

Article 18th. No Officer, Non-Commissioned Officer, or Soldier, shall fail of repairing at the time fixed to the place of parade, of exercise, or other rendezvous, appointed by the Commanding Officer, if not prevented by sickness, or some other evident necessity, or shall go from the said place of rendezvous, or from his guard, 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 offence, by the sentence of a Regimental Court Martial.

Article 19th. Whatsoever Commissioned Officer shall be found drunk upon his guard, party, or other duty under Arms, shall be cashiered for it; any Non-Commissioned Officer or Soldier so offending shall suffer such punishment as shall be ordered by the sentence of a Regimental Court Martial.

Article 20th. Whatever Centinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be ordered by the sentence of a General Court Martial.

Article 21st. Any person belonging to the Massachusetts Army, who, by discharging of Fire-Arms, beating of Drums, or by any other means 1474 whatever, shall occasion false alarms in camp or quarters, shall suffer such punishment as shall be ordered by the sentence of a General Court Martial.

Article 22d. Any Officer or Soldier, who shall, without urgent necessity, or without leave of his Superior Officer, quit his platoon or division, shall be punished according to the nature of his offence, by the sentence of a Regimental Court Martial.

Article 23d. No Officer or Soldier shall do violence, or offer any insult or abuse, to any person who shall bring Provisions or other necessities to the

camp or quarters of the Massachusetts Army; any Officer or Soldier so offending shall, upon complaint being made to the Commanding Officer, suffer such punishment as shall be ordered by a Regimental Court Martial.

Article 24th. Whatever Officer or Soldier shall shamefully abandon any post committed to his charge, or shall speak words inducing others to do the like in time of an engagement, shall suffer death immediately.

Article 25th. Any person belonging to the Massachusetts Army who shall make known the watchword to any person who is not entitled to receive it, according to the rules and discipline of war, 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 a General Court Martial.

Article 26th. Whosoever belonging to the Massachusetts Army shall relieve the enemy with Money, Victuals, or Ammunition, or shall knowingly harbour and protect an enemy, shall suffer such punishment as by a General Court Martial shall be ordered.

Article 27th. Whosoever belonging to the Massachusetts Army shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer such punishment as by a General Court Martial shall be ordered.

Article 28. All Publick Stores taken in an enemy's camp, whether of Artillery, Ammunition, Clothing, or Provisions, shall be secured for the use of the Massachusetts Colony.

Article 29th. If any Officer or Soldier shall leave his post or colors in time of an engagement, to go in search of plunder, he shall upon being convicted thereof before a General Court Martial, suffer such punishment as by said Court Martial shall be ordered.

Article 30th. If any Commander of any Post, Intrenchment, or Fortress, shall be compelled by the Officers or Soldiers under his command, to give it up to the enemy or to abandon it, the Commissioned Officers or Soldiers who shall be convicted of having so offended shall suffer death or such other punishment as may be inflicted on them by the sentence of a General Court Martial.

Article 31st. All sellers and retailers to a camp, and all persons whatsoever serving with the Massachusetts Army in the field, though not enlisted Soldiers, are to be subject to the Articles, Rules and Regulations of the Massachusetts Army.

Article 32d. No General Court Martial shall consist of a less number than thirteen, none of which shall be under the degree of a Field Officer; and the President of each and every Court Martial, whether General or Regimental, shall have power to administer an oath to every witness, in order to the trial of offenders; and the Members of all Courts Martial shall be duly sworn
1475 by the President, and the next in rank on the Court Martial shall administer the oath to the President.

Article 33d. The Members both of General and Regimental Courts Martial shall, when belonging to different Corps, take the same rank which they hold in the Army; but when Courts Martial shall be composed of Officers of one Corps, they shall take rank according to their commissions, by which they are mustered in the said Corps.

Article 34th. All the Members of a Court Martial are to behave with calmness, decency, and impartiality, and in the giving of their votes are to begin with the youngest or lowest in commission.

Article 35. No Field Officers shall be tried by any person under the degree of a Captain; nor shall any proceeding or trial be carried on excepting between the hours of eight in the morning and three in the afternoon, except in cases which require an immediate example.

Article 36th. The Commissioned Officers of every Regiment may, by the appointment of their Colonel or Commanding Officer, hold Regimental Courts Martial for the inquiring into such disputes or criminal matters as may come before them, and for the inflicting corporeal punishments for small offences, and shall give judgment by the majority of voices; but no sentence shall be executed until the Commanding Officer (not being a Member of the Court Martial,) shall have confirmed the same.

Article 37th. No Regimental Court Martial shall consist of less than five Officers, except in case when that number cannot be conveniently assembled, when three may be sufficient, who are likewise to determine upon the sentence by the majority of voices, which sentence is to be confirmed by the Commanding Officer, not being a member of the Court Martial.

Article 38th. Any Officer commanding in Forts, Castles, or Barracks, or elsewhere, where the Corps under his command consists of detachments from different Regiments, or of independent Companies, may assemble Courts Martial for the trial of offenders in the same manner as if they were Regimental, whose sentence is not to be executed till it shall be confirmed by the said Commanding Officer.

Article 39th. No person whatsoever shall use menacing words, signs, or gestures, in the presence of a Court Martial then sitting, or shall cause any disorder or riot, so as to disturb their proceedings, on penalty of being punished at the discretion of said Court Martial.

Article 40th. To the end that offenders may be brought to justice, whenever any Officer or Soldier shall commit a crime deserving punishment, he shall, by his Commanding Officer, if an Officer, be put in arrest; if a Non-Commissioned Officer or Soldier, be imprisoned till he shall be either tried by a Court Martial, or shall be lawfully discharged by proper authority.

Article 41st. No Officer or Soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or till such time as a Court Martial can be conveniently assembled.

Article 42d. No Officer commanding a Guard, or a Provost Martial, shall refuse to receive or keep any prisoner committed to his charge by any Officer belonging to the Massachusetts Forces; which Officer shall, at the same time, deliver an account in writing, signed by himself, of the crimes with which the said prisoner is charged.

1476 *Article 43d.* No Officer commanding a Guard, or Provost Martial shall presume to release any prisoner committed to his charge, without proper authority for so doing; nor shall he suffer any prisoner to escape on the penalty of being punished for it by the sentence of a General Court Martial.

Article 44th. Every Officer, or Provost Martial, to whose charge prisoners shall be committed, is hereby required, within twenty-four hours of such confinement, or as soon as he shall be released from his guard, to give in writing to the Colonel of the Regiment, to whom the prisoner belongs, (when the prisoner is confined upon the guard belonging to the said Regiment, and that his offence only relates to the neglect of duty in his own Corps,) or to the Commander-in-Chief, their names, their crimes, and the names of the Officers who committed them, on the penalty of his being punished for his disobedience or neglect, at the discretion of a General Court Martial.

Article 45th. And if any officer under arrest shall leave his confinement before he is set at liberty by the Officer who confined him, or by a superiour power, he shall be cashiered for it.

Article 46th. Whatsoever Commissioned Officer shall be convicted before a General Court Martial of behaving in a scandalous, infamous manner, such as is unbecoming an Officer and a Gentleman, shall be discharged from the service.

Article 47th. All Officers, Conductors, Gunners, Matrosses, Drivers, or any other person whatever, receiving pay or hire in the service of the Massachusetts Artillery, 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 Massachusetts Troops.

Article 48th. For differences arising among themselves, or in matters relating solely to their own Corps, the Courts Martial may be composed of their own Officers; but where a number sufficient cannot be assembled, or in matters wherein other Corps are interested, the Officers of Artillery shall sit in Courts Martial with the Officers of the other Corps.

Article 49th. 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 Articles of War, are to be taken cognizance of by a General or Regimental Court Martial, according to the nature and degree of the offence, and be punished at their discretion.

Article 50th. No Court Martial shall order any offenders to be whipped, or receive more than thirty-nine stripes for any one offence.

Article 51st. The Field Officers of each and every Regiment are to appoint some suitable person belonging to such Regiment to receive all such fines as may arise within the same, for any breach of any of the foregoing Articles, and shall direct the same to be carefully and properly applied to the relief of such sick, wounded or necessitous Soldiers as belong to such Regiment; and such person shall account with such Officers for all fines received and the application thereof.

Article 52d. All members sitting in Courts Martial shall be sworn by the President of such Courts, which President shall himself be sworn by the Officer in said Court next in rank; the oaths to be administered previous to their proceeding to the trial of any offender, in form following, viz:

You A. B., swear that you well and truly try, and impartially
1477 determine the cause of the prisoner now to be tried according to the Rules for regulating the Massachusetts Army, so help you God.

Article 53d. All persons called to give evidence in any case before a Court Martial, who shall refuse to give evidence, shall be punished for such refusal, at the discretion of such Court Martial.

The Oath to be administered in the form following, viz:

You swear that the evidence you shall give in the case in hearing, shall be the truth, the whole truth, and nothing but the truth, so help you God.