

AMERICAN ARTICLES.

Enacted May 31, 1786.

Whereas, crimes may be committed by officers and soldiers serving with small detachments of the forces of the United States, and where there may not be a sufficient number of officers to hold a general court-martial, according to the rules and articles of war, in consequence of which criminals may escape punishment, to the great injury of the discipline of the troops and the public service;

Resolved, That the 14th Section of the Rules and Articles for the better government of the troops of the United States, and such other Articles as relate to the holding of courts-martial and the confirmation of the sentences thereof, be and they are hereby repealed;

Resolved, That the following Rules and Articles for the administration of justice, and the holding of courts-martial, and the confirmation of the sentences thereof, be duly observed and exactly obeyed by all officers and soldiers who are or shall be in the armies of the United States.

ADMINISTRATION OF JUSTICE.

ART. 1. General courts-martial may consist of any number of commissioned officers from 5 to 13 inclusively; but they shall not consist of less than 13, where that number can be convened without manifest injury to the service.

ART. 2. General courts-martial shall be ordered, as often as the cases may require, by the general or officer commanding the troops. But no sentence of a court-martial shall be carried into execution until after the whole proceedings shall have been laid before the said general or officer commanding the troops for the time being; neither shall any sentence of a general court-martial in time of peace, extending to the loss of life, the dismissal of a commissioned 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 at war, to be laid before Congress for their confirmation, or disapproval, and their orders on 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.

ART. 3. Every officer commanding a regiment or corps, may appoint of his own regiment or corps, courts-martial, to consist of 3 commissioned officers, for the trial of offences not capital, and the inflicting corporeal punishments, and decide upon their sentences. For the same purpose, all officers commanding any of the garrisons, forts, barracks, or other place, where the troops consist of different corps, may assemble courts-martial, to consist of 3 commissioned officers, and decide upon their sentences.

1505 ART. 4. No garrison or regimental court-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, nor put to hard labor, any non-commissioned officer or soldier, for a longer time than one month.

ART. 5. The members of all courts-martial shall, when belonging to different corps, take the same rank in court which they hold in the army. But when courts-martial shall be composed of officers of one corps, they shall take rank according to the commissions by which they are mustered in the said corps.

ART. 6. The judge advocate, 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 of America; 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 question, to any of the witnesses, or any question to

the prisoner, the answer to which might tend to eriminate himself; and administer to each member the following oaths, which shall also be taken by all members of regimental and garrison courts-martial:

"You shall 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. So help you God."

"You A. B. do swear, that you will duly administer justice, according to the rules and articles for the better government of the forces of the United States of America, without partiality, favor or affection; and if any doubt shall arise, which is not explained by said articles, according to your conscience, the best of your understanding, and the custom of war in the like cases. And you do further swear, that you will not divulge the sentente of the court, until it shall be published by the commanding officer. Neither will you, 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, in a due course of law. So help you God."

And as soon as the said oaths 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, 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, in a due course of law. So help you God."

ART. 7. All the members of a court-martial are to behave with decency and calmness; and in giving their votes, are to begin with the youngest in commission.

ART. 8. All persons who give evidence before a court-martial, are to be examined on oath, or affirmation, as the case may be, and no sentence of death shall be given against any offender by any general court-martial, unless two-thirds of the members of the court shall concur therein.

ART. 9. Whenever an oath or affirmation shall be administered by a court-martial, the oath or affirmation shall be in the following form:
1506 "You swear (or affirm, as the case may be) the evidence you shall give in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

ART. 10. On the trials of cases not capital, before courts-martial, the depositions of witnesses, not in the line or 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.

ART. 11. No officer shall be tried but by a general court-martial, nor by officers of an inferior rank if it can be avoided. Nor shall any proceedings or trials be carried on, excepting between the hours of 8 in the morning and 3 in the afternoon, except in cases which, in the opinion of the officer appointing the court, require immediate example.

ART. 12. No person whatsoever shall use menacing words, signs or gestures in the presence of a court-martial, or shall cause any disorder or riot to disturb their proceedings, on the penalty of being punished at the discretion of the said court-martial.

ART. 13. No commissioned officer shall be cashiered, or dismissed from the service, excepting by order of Congress, or by the sentence of a general court-martial; and no non-commissioned officer or soldier shall be discharged the service, but by the order of Congress, the secretary at war, the commander-in-chief, or commanding officer of a department, or by the sentence of a general court-martial.

ART. 14. Whenever any officer shall be charged with a crime, he shall be arrested and confined to his barracks, quarters or tent, and deprived of his sword by 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 power, shall be cashiered for it.

ART. 15. Non-commissioned officers and soldiers, who shall be charged with crimes, shall be imprisoned until they shall be tried by a court-martial, or released by proper authority.

ART. 16. No officer or soldier, who shall be put in arrest or imprisonment, shall continue in his confinement more than 8 days, or until such time as a court-martial can be assembled.

ART. 17. No officer commanding a guard, or provost-marshal, shall refuse to receive or keep any prisoner committed to his charge by any 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 the said prisoner is charged.

ART. 18. No officer commanding a guard, or provost-marshal, shall presume to release any person committed to his charge, without proper authority for so doing; nor shall he suffer any person to escape, on penalty of being punished for it by the sentence of a court-martial.

ART. 19. Every officer, or provost-marshal, to whose charge prisoners shall be committed, shall, within 24 hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commander-in-chief or commanding officer, of their names, their crimes and the names of the officers who committed them, on the penalty of his being punished for disobedience or neglect at the discretion of a court-martial.

ART. 20. Whatever commissioned officer shall be convicted before a 1507 general court-martial, of behaving in a scandalous and infamous manner, such as is unbecoming an officer and a gentleman, shall be dismissed the service.

ART. 21. In cases where a court-martial may think it proper to sentence a commissioned officer to be suspended from command, they shall have power also to suspend his pay and emoluments for the same time, according to the nature and heinousness of the offense.

ART. 22. In all cases where a commissioned officer is cashiered for cowardice or fraud, it shall be added in the sentence, that the crime, name, place of abode, and punishment of the delinquent be published in the newspapers in and about camp, and of the particular State from which the offender came, or usually resides; after which it shall be deemed scandalous for any officer to associate with him.

ART. 23. The commanding officer of any post or detachment, in which there shall not be a number of officers adequate to form a general court-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 to be assembled at the nearest post or detachment, and the party accused, with the necessary witnesses, to be transported to the place where the said court shall be assembled.

ART. 24. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles; nor shall more than 100 lashes be inflicted on any offender at the discretion of a court-martial.

Every judge advocate, or person officiating as such, at any general court-martial, shall 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 secretary of war, which said original proceedings and sentence, shall be carefully kept and preserved, in the office of the said secretary, to the end, that persons entitled thereto may be enabled, upon application, to the said office, to obtain copies thereof.

The party tried by any general court-martial, shall be entitled to a copy of the sentence and proceedings of such court-martial after a decision on the sentence, upon demand thereof made by himself, or by any person or persons in his behalf, whether such sentence be approved or not.

ART. 25. In such case where the general or commanding officer may think proper to 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 be conducted conformably to the following regulations: It may consist of one or more officers, not exceeding 3, with the judge advocate or a 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 court-martial, and to examine them on 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 question.

ART. 26. 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 1508 a court-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 demanded by the accused.

ART. 27. The judge advocate, or the recorder, shall administer to the members the following oath:

"You shall well and truly examine and inquire, according to your evidence, into the matter now before you, without favor or affection. So help you God."

After which the president shall administer to 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 evidences to be given in the case in hearing. So help you God."

The witnesses shall take the same oath as is directed to be administered to witnesses sworn before a court-martial.

Resolved, That when any desertion shall happen from the troops of the United States, the officer commanding the regiment or corps to which the deserters belonged, shall be responsible, that an immediate report of the same be made to the commanding officer of the forces of the United States present.

Resolved, That the commanding officer of any of the forces in the service of the United States, shall, upon report made to him of any desertions in the troops under his orders, cause the most immediate and vigorous search to be made after the deserter or deserters, which may be conducted by a commissioned or non-commissioned officer, as the case shall require. That, if such search should prove ineffectual, the officer commanding the regiment or corps to which the deserter or deserters belonged, shall insert in the nearest gazette or newspaper, an advertisement, descriptive of the deserter or deserters, and offering a reward, not exceeding ten dollars, for each deserter, who shall be apprehended and secured in any of the goals in the neighboring states. That the charges of advertising deserters, the reasonable extra expenses incurred by the person conducting the pursuit, and the reward, shall be paid by the secretary at war, on the certificate of the commanding officer of the troops.