

HEADQUARTERS OF THE ARMY,
Tampico, February 19, 1847.

[GENERAL ORDERS No. 20.]

1. It may be apprehended that many grave offences, not provided for in the act of Congress "establishing rules and articles for the government of the armies of the United States," approved April 10, 1806, may be again committed by or upon individuals of those armies in Mexico, pending the existing war between the two republics. Allusion is here made to atrocities, any one of which, if committed within the United States or their organized territories, would of course be tried and severely punished by the ordinary or civil courts of the land.

2. Assassination, murder, malicious stabbing or maiming, rape, malicious assault and battery, robbery, theft, the wanton desecration of churches, cemeteries, or other religious edifices and fixtures, and the destruction, except by order of a superior officer, of public or private property, are such offences.

3. The good of the service, the honor of the United States, and the interests of humanity, imperiously demand that every crime enumerated above should be severely punished.

4. But the written code as above, commonly called the rules and articles of war, provides for the punishment of not one of those crimes, and when committed by individuals of the army upon the persons or property of other individuals of the same, except in the very restricted case in the 9th of those articles; nor for like outrages committed by the same individuals upon the persons or property of a hostile country, except very partially in the 51st, 52d, and 55th articles; and the same is absolutely silent as to all injuries which may be inflicted upon individuals of the army, or their property, against the laws of war, by individuals of a hostile country.

5. It is evident that the 99th article, independent of any reference to restriction in the 87th, is wholly nugatory in reaching any one of those high crimes.

6. For all the offences, therefore, enumerated in the second paragraph above, which may be committed abroad, in, by, or upon the army, a supplemental code is absolutely needed.

7. That unwritten code is martial law, as an addition to the written military code prescribed by Congress in the rules and articles of war, and which unwritten code all armies in hostile countries are forced to adopt, not only for their own safety, but for the protection of the unfending inhabitants and their property about the theatres of military operations against injuries contrary to the laws of war.

8. From the same supreme necessity, martial law is hereby declared as a supplemental code in and about all the camps, posts, and hospitals which may be occupied by any of the forces of the United States in Mexico, and in and about all columns, escorts, convoys, guards, and detachments of the said forces while engaged in prosecuting the existing war in and against the said republic.

9. Accordingly, every crime enumerated in paragraph No. 2 above, whether committed, 1. By any inhabitant of Mexico, sojourner, or traveller therein, upon the person or property of any individuals of the United States forces, retainer or follower of the same; 2. By any individual of said forces, retainer, or follower of the same, upon the person or property of any inhabitant of Mexico, sojourner, or traveller therein; or, 3. By any individual of said forces, retainer or follower of the same, upon the person

or property of any other individual of said forces, retainer or follower of the same, shall be duly tried and punished under the said supplemental code.

10. For this purpose, it is ordered that all offenders in the matters aforesaid shall be promptly seized and confined and reported for trial before military commissions, to be duly appointed as follows:

11. Every military commission under this order will be appointed, governed, and limited, as prescribed by the 65th, 66th, 67th, and 97th of the said rules and articles of war, and the proceedings of such commissions will be duly recorded in writing, reviewed, revised, disapproved or approved, and the sentences executed, all as in the cases of the proceedings and sentences of courts martial, provided that no military commission shall try any case clearly cognizable by any court martial; and provided, also, that no sentence of a military commission shall be put in execution against any individual whatsoever which may not be according to the nature and degree of the offence as established by evidence, in conformity with known punishments in like cases in some one of the States of the United States of America.

12. This order will be read at the head of every company of the United States forces serving in Mexico, or about to enter that theatre of war.

By command of Major General Scott :

H. L. SCOTT,
A. A. Adj. General.

By order of Col. R. B. Mason :

W. T. SHERMAN,
1st Lieut. 3d Artillery, A. A. Adj. General.

HEADQUARTERS TENTH MILITARY DEPARTMENT,
Monterey, California, August 25, 1847.

SIR: Governor Mason directs me to acknowledge the receipt of your communication of August 16th, and to inform you that he has instructed Captain Lippett to discontinue proceedings against Juan Bautista Guerara and José Antonio Ruiz, that you may resume your jurisdiction over these two men, and punish them as they deserve, if fairly convicted of having insulted the women.

Signor Ruiz is also ordered to be released, that he may be tried by you for having stolen the reata.

Your authority as alcalde, in all cases between citizen and citizen, is the same as it was under the Mexican law. But when a soldier is concerned, then the military law must have precedence, so long as war exists between the republic of Mexico and the United States, unless, in special cases, this precedence is yielded by the military governor.

In California Governor Mason is ready to yield the jurisdiction over minor cases to alcaldes, when he has reason to believe they are influenced by the proper motives of justice and probity.

Believing that you are thus influenced, he has given the orders before referred to.

I am, with much respect, your obedient servant,

W. T. SHERMAN,
1st Lieut. 3d Artillery, A. A. Adj. General,
DON JUAN CARILLO, 2d Alcalde of Santa Barbara.