

#### XIV.

### 1538 ADDITIONAL STATUTORY PROVISIONS OF THE EXISTING LAW, (1895,) IN THE NATURE OF ARTICLES OF WAR.

*Attachment of Witnesses.*—SEC. 1202, R. S. Every judge advocate of a court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the State, Territory, or District where such military courts shall be ordered to sit, may lawfully issue.

*Appointment of Reporter.*—SEC. 1203, R. S. The judge advocate of a military court shall have power to appoint a reporter, who shall record the proceedings of, and testimony taken before, such court, and may set down the same, in the first instance, in short-hand. The reporter shall, before entering upon his duty, be sworn or affirmed, faithfully to perform the same.

*Restoration of dismissed officer.*—SEC. 1223, R. S. No officer of the Army who has been or may be dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service, except by a re-appointment confirmed by the Senate.

*Dropping of officer from rolls for desertion.*—SEC. 1229, R. S. The President is authorized to drop from the rolls of the Army for desertion, any officer who is absent from duty three months without leave; and no officer so dropped shall be eligible for re-appointment. And no officer in the military or naval service shall, in time of peace, be dismissed from service, except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof.

*Trial of officer dismissed by order.*—SEC. 1230, R. S. When any officer, dismissed by order of the President, makes, in writing, an application for trial, setting forth, under oath, that he has been wrongfully dismissed, the President shall, as soon as the necessities of the service may permit, convene a court-martial, to try such officer on the charges on which he shall have been dismissed. And if a court-martial is not so convened within six months from the presentation of such application for trial, or if such court, being convened, does not award dismissal or death as the punishment of such officer, the order of dismissal by the President shall be void.

*Authority of Supt., Mil. Academy as to courts-martial.*—SEC. 1326, R. S. The Superintendent of the Military Academy shall have power to convene general courts-martial for the trial of cadets, and to execute the sentences of such courts, except the sentences of suspension and dismissal, subject to the same limitations and conditions now existing as to other general courts-martial.

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1539 *The three Sections next following relate to Offences committed at the Military Prison at Fort Leavenworth.*—SEC. 1359, R. S. Any officer who shall suffer a convict to escape, or shall in any way consent to his escape, or shall aid him to escape, or in an attempt to escape, shall be dismissed from the service, and suffer such other punishment as a court-martial may inflict.

SEC. 1360, R. S. Any soldier or other person employed in the prison, who shall suffer a convict to escape, or shall in any way consent to his escape, or shall aid him to escape, or in an attempt to escape, shall, upon conviction by a court-martial, be confined therein not less than one year.

SEC. 1361, R. S. All persons under confinement in said military prison undergoing sentence of court-martial, shall be liable to trial and punishment by court-martial under the Rules and Articles of War for offences committed during the said confinement.

*Amenability of Marine Corps.*—SEC. 1621, R. S. The Marine Corps, \* \* \* when detached for service with the Army, by order of the President, \* \* \* shall be subject to the Rules and Articles of War prescribed for the government of the Army.

*Militia courts-martial.*—SEC. 1658, R. S. Courts-martial for the trial of militia shall be composed of militia officers only.

*Forfeiture of citizenship by desertion.*—SECS. 1996, 1998, R. S. Every person who hereafter deserts the military (or naval) service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military (or naval) service, lawfully ordered, shall be deemed to have voluntarily relinquished and forfeited his right of citizenship, as well as his right to become a citizen; and such person shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of a citizen thereof.

*Disposition of records of inferior courts-martial.*—ACT OF MARCH 3, 1877, c. 102, s. 1. Hereafter the records of the regimental, garrison, and field officers' courts-martial, shall, after having been acted upon, be retained and filed in the Judge Advocate's office at the Headquarters of the Department Commander in whose department the courts were held, for two years, at the end of which time they may be destroyed.

*Competency of accused as a witness.*—ACT OF MARCH 16, 1878, c. 37. In the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offences, and misdemeanors, in the United States courts, Territorial courts, and courts-martial and courts of inquiry, in any State or Territory, including the District of Columbia, the person so charged shall, at his own request but not otherwise, be a competent witness. And his failure to make such request shall not create any presumption against him.

*Limitation in cases of desertion—Amendment of Art. 103.*—ACT OF APRIL 11, 1890, c. 78. *Be it enacted, &c.*, That the one hundred and third article of the Rules and Articles of War be, and the same is hereby, amended by adding thereto the following words:

1540 "No person shall be tried or punished by a court-martial for desertion in time of peace and not in the face of an enemy, committed more than two years before the arraignment of such person for such offence, unless he shall meanwhile have absented himself from the United States, in which case the time of his absence shall be excluded in computing the period of the limitation: *Provided*, That said limitation shall not begin until the end of the term for which said person was mustered into the service."

*Maximum Punishments.*—ACT OF SEPT. 27, 1890, c. 998. Whenever by any of the Articles of War for the government of the Army the punishment on conviction of any military offence is left to the discretion of the court-martial, the punishment therefor shall not, in time of peace, be in excess of a limit which the President may prescribe.

[The code of *maximum punishments* prescribed by the President under this Act is published in G. O. 16 of 1895, set forth *post*.]