

XVII.

1544 EXECUTIVE ORDER, PRESCRIBING LIMITS OF PUNISHMENT BY SENTENCE OF COURT-MARTIAL, IN CASES OF ENLISTED MEN, UNDER THE AUTHORITY OF THE ACT OF SEPTEMBER 27, 1890.

GENERAL ORDERS, }  
No. 16. }

HEADQUARTERS OF THE ARMY,  
ADJUTANT GENERAL'S OFFICE,  
Washington, March 25, 1895.

By direction of the Secretary of War, the following Executive order will take effect twenty days from the date hereof, and is published for the information and guidance of all concerned :

EXECUTIVE MANSION,  
March 20, 1895.

The Executive order dated February 26, 1891, establishing limits of punishment for enlisted men of the Army, under an act of Congress approved September 27, 1890, and which was published in General Orders, No. 21, 1891, Headquarters of the Army, is amended so as to prescribe as follows :

ARTICLE I.

In all cases of desertion the sentence may include dishonorable discharge and forfeiture of pay and allowances.

Subject to the modifications authorized in Section 3 of this article, the limit of the term of confinement (at hard labor) for desertion shall be as follows :

SECTION 1. In case of surrender—

(a) When the deserter surrenders himself after an absence of not more than thirty days, one year.

(b) When the surrender is made after an absence of more than thirty days, eighteen months.

SEC. 2. In case of apprehension—

(a) When at the time of desertion the deserter shall not have been more than six months in the service, eighteen months.

(b) When he shall have been more than six months in the service, two and one-half years.

SEC. 3. The foregoing limitations are subject to modification under the following conditions :

(a) The punishment of a deserter may be increased by one year of confinement at hard labor in consideration of each previous conviction of desertion.

(b) The punishment of desertion when joined in by two or more 1545 soldiers in the execution of a conspiracy, or for desertion in the presence of an outbreak of Indians or of any unlawful assemblage which the troops may be opposing, shall not exceed dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for five years.

ARTICLE II.

Except as herein otherwise indicated, punishments shall not exceed the limits prescribed in the following table :

Offences.	Limits of punishment.
UNDER 17TH ARTICLE OF WAR.	
Selling horse or arms, or both.....	Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for three years.
Selling accoutrements.....	Four months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.

Offences.	Limits of punishment.
<b>UNDER 17TH ARTICLE OF WAR—Continued.</b>	
Selling clothing.....	Two months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
Losing or spoiling horse or arms through neglect..	Four months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
Losing or spoiling accoutrements or clothing through neglect.	One month's confinement at hard labor and forfeiture of \$10; for non-commissioned officer, reduction in addition thereto.
<b>UNDER 20TH ARTICLE OF WAR.</b>	
Behaving himself with disrespect to his commanding officer.	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
<b>UNDER 24TH ARTICLE OF WAR.</b>	
Refusing to obey or using violence to officer or non-commissioned officer while quelling quarrels or disorders.	Dishonorable discharge, with forfeiture of all pay and allowances and confinement at hard labor for two years.
<b>UNDER 31ST ARTICLE OF WAR.</b>	
Lying out of quarters.....	Forfeiture of \$2; corporal, \$3; sergeant, \$4.
<b>UNDER 32D ARTICLE OF WAR.</b>	
<i>Absence without leave—<sup>1</sup></i>	
Less than one hour.....	Forfeiture of \$1; corporal, \$2; sergeant, \$3; 1st sergeant or non-commissioned officer of higher grade, \$4.
From one to six hours <sup>2</sup> .....	Forfeiture of \$2; corporal, \$3; sergeant, \$4; 1st sergeant or non-commissioned officer of higher grade, \$5.
From six to twelve hours.....	Forfeiture of \$3; corporal, \$4; sergeant, \$6; 1st sergeant or non-commissioned officer of higher grade, \$7.
From twelve to twenty-four hours.....	Forfeiture of \$5; corporal, \$6; sergeant, \$7; 1st sergeant or non-commissioned officer of higher grade, \$10.
From twenty-four to forty-eight hours.....	Forfeiture of \$6 and five days' confinement at hard labor. For corporal, forfeiture of \$3; sergeant, \$10; 1st sergeant or non-commissioned officer of higher grade, \$12, or, for all non-commissioned officers, reduction.
From two to ten days.....	Forfeiture of \$10 and ten days' confinement at hard labor; for non-commissioned officer, reduction in addition thereto.
From ten to thirty days.....	Forfeiture of \$20 and one month's confinement at hard labor; for non-commissioned officer, reduction in addition thereto.
From thirty to ninety days.....	Three months' confinement at hard labor and forfeiture of \$10 per month for same period; for non-commissioned officer, reduction in addition thereto.
For ninety or more than ninety days.....	Dishonorable discharge and forfeiture of all pay and allowances and six months' confinement at hard labor.
<b>UNDER 33D ARTICLE OF WAR.</b>	
<i>Failure to repair at the time fixed, &amp; c., to the place of parade—</i>	
For reveille or retreat roll-call and 11 p. m. inspection.....	Forfeiture of \$1; corporal, \$2; sergeant, \$3; 1st sergeant, \$4.
For guard detail.....	Forfeiture of \$5; corporal, \$8; sergeant, \$10.
For fatigue detail.....	
For dress parade.....	
For the weekly inspection.....	
For target practice.....	Forfeiture of \$2; corporal, \$3; sergeant, \$5.
For drill.....	
For guard mounting (by musician).....	
For stable duty.....	
<b>UNDER 38TH ARTICLE OF WAR.</b>	
<i>Drunkness—</i>	
On guard.....	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
On duty as company cook.....	Forfeiture of \$20.

<sup>1</sup> Upon trial for desertion and conviction of absence without leave only, the court may, in addition to the limit prescribed for such absence, award a stoppage of the amount paid for apprehension.

<sup>2</sup> Including first and excluding last.

Offences.	Limits of punishment.
<b>UNDER 38TH ARTICLE OF WAR—Continued.</b>	
<b>Drunkenness—Continued.</b>	
On extra or special duty.....	Forfeiture of \$12. For non-commissioned officer, reduction and forfeiture of \$20.
At drill.....	
At target practice.....	
At parade.....	
At inspection.....	
At inspection of company guard detail.....	
At stable duty.....	
<b>UNDER 40TH ARTICLE OF WAR.</b>	
Quitting guard.....	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
<b>UNDER 51ST ARTICLE OF WAR.</b>	
Persuading soldiers to desert.....	Dishonorable discharge, forfeiture of all pay and allowances, and one year's confinement at hard labor.
<b>UNDER 60TH ARTICLE OF WAR.</b>	
<b>UNDER 62D ARTICLE OF WAR.</b>	
Manslaughter.....	Dishonorable discharge, forfeiture of all pay and allowances, and ten years' confinement at hard labor.
Assault, with intent to kill.....	Dishonorable discharge, forfeiture of all pay and allowances, and ten years' confinement at hard labor.
Burglary.....	Dishonorable discharge, forfeiture of all pay and allowances, and five years' confinement at hard labor.
Forgery.....	Dishonorable discharge, forfeiture of all pay and allowances, and four years' confinement at hard labor.
Perjury.....	Dishonorable discharge, forfeiture of all pay and allowances, and four years' confinement at hard labor.
False swearing.....	Dishonorable discharge, forfeiture of all pay and allowances, and two years' confinement at hard labor.
Robbery.....	Dishonorable discharge, forfeiture of all pay and allowances, and six years' confinement at hard labor.
Larceny or embezzlement of property— <sup>1</sup>	Dishonorable discharge, forfeiture of all pay and allowances, and four years' confinement at hard labor.
Of the value of more than \$100.....	
Of the value of \$100 or less and more than \$50.....	
Of the value of \$50 or less and more than \$20.....	
Of the value of \$20 or less.....	Dishonorable discharge, forfeiture of all pay and allowances, and three years' confinement at hard labor.
Fraudulent enlistment, procured by false representation or concealment of a fact in regard to a prior enlistment or discharge, or in regard to conviction of a civil or military crime.....	Dishonorable discharge, forfeiture of all pay and allowances, and two years' confinement at hard labor.
Fraudulent enlistment, other cases of.....	Dishonorable discharge, forfeiture of all pay and allowances, and one year's confinement at hard labor.
Disobedience of orders, involving wilful defiance of the authority of a non-commissioned officer in the execution of his office.....	Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for one year.
Using threatening or insulting language or behaving in an insubordinate manner to a non-commissioned officer while in the execution of his office.....	Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for six months.
Absence from fatigue duty.....	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
Absence from extra or special duty.....	One month's confinement at hard labor and forfeiture of \$10; for non-commissioned officer, reduction in addition thereto.
Absence from duty as company or hospital cook.....	Forfeiture of \$4; corporal, \$5; sergeant, \$6.
Introducing liquor into post or camp in violation of standing orders.....	Forfeiture of \$4; corporal, \$5; sergeant, \$6.
Drunkenness at post or in quarters.....	Forfeiture of \$10.
Drunkenness and disorderly conduct, causing the offender's arrest and conviction by civil authorities at a place within ten miles of his station.....	Forfeiture of \$3. For non-commissioned officer, reduction and forfeiture of \$5.
Noisy or disorderly conduct in quarters.....	Forfeiture of \$3. For non-commissioned officer, reduction and forfeiture of \$5.
Abuse by non-commissioned officer of his authority over an inferior.....	Forfeiture of \$10 and seven days' confinement at hard labor. For non-commissioned officer, reduction and forfeiture of \$12.
Non-commissioned officer encouraging gambling.....	Reduction, three months' confinement at hard labor, and forfeiture of \$10 per month for the same period.
Non-commissioned officer making false report.....	Reduction and forfeiture of \$5.
Sentinel allowing a prisoner under his charge to escape through neglect.....	Reduction, forfeiture of \$5, and ten days' confinement at hard labor.
Sentinel wilfully suffering prisoner under his charge to escape.....	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period.
	Dishonorable discharge, forfeiture of all pay and allowances, and one year's confinement at hard labor.

<sup>1</sup> In specifications to charges of larceny or embezzlement the value of the property shall be stated.

Offences.	Limits of punishment.
UNDER 62D ARTICLE OF WAR—Continued.	
Sentinel allowing a prisoner under his charge to obtain liquor.	Two months' confinement at hard labor and forfeiture of \$10 per month for the same period.
Sentinel or member of guard drinking liquor with prisoners.	Two months' confinement at hard labor and forfeiture of \$10 per month for the same period.
Disrespect or affront to a sentinel.....	Two months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
Resisting or disobeying sentinel in lawful execution of his duty.	Six months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.
Lewd or indecent exposure of person.....	Three months' confinement at hard labor and forfeiture of \$10 per month for the same period; for non-commissioned officer, reduction in addition thereto.

## ARTICLE III.

SECTION 1. When a soldier shall be convicted of an offence the punishment for which, as authorized by Article II of this order or the custom of the service, does not exceed that which an inferior court-martial may award, the punishment so authorized may be increased by one-half for every previous conviction of one or more offences within eighteen months preceding the trial and during the current enlistment; provided that the increase of punishment for five or more previous convictions shall not exceed that thus authorized when there are four previous convictions, and that when one or more of such five or more previous convictions shall have been by general court-martial, or when such convictions shall have occurred within one year preceding the trial, the limit of punishment shall be dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for three months.

When the conviction is of an offence punishable under Article II of this order or the custom of the service with a greater punishment than an inferior court-martial can award, but not punishable with dishonorable discharge, the sentence may, on proof of five or more previous convictions within eighteen months and during the current enlistment, impose dishonorable discharge and forfeiture of all pay and allowances in addition to the authorized confinement, and when this confinement is less than three months it may be increased to three months.

When a non-commissioned officer is convicted of an offence not punishable with reduction, he may, if he shall have been convicted of a military offence within a year and during the current enlistment, be sentenced to reduction, in addition to the punishment already authorized.

SEC. 2. In every case when an offence on trial before a court-martial is of a character admitting of the introduction of evidence of previous convictions, and the accused is convicted, the court, after determining its findings, will be opened for the purpose of ascertaining whether there is such evidence, and, if so, of hearing it. These convictions must be proved by the records of 1550 previous trials, or by duly authenticated orders promulgating the same, except in the cases of conviction by summary court, when a duly authenticated copy of the record of said court shall be deemed sufficient proof. Charges forwarded to the authority ordering a general court-martial, or submitted to a summary, garrison, or regimental court, must be accompanied by the proper evidence of such previous convictions as may have to be considered in determining upon a sentence.

## ARTICLE IV.

When a soldier shall, on one arraignment, be convicted of two or more offences, none of which is punishable under Article II of this order or the custom of the service with dishonorable discharge, but the aggregate term of confinement for which may exceed six months, dishonorable discharge with forfeiture of pay and allowances may be awarded in addition to the authorized confinement.

## ARTICLE V.

This order prescribes the *maximum* limit of punishment for the offences named, and this limit is intended for those cases in which the severest punishment should be awarded. In other cases the punishment should be graded down according

to the extenuating circumstances. Offences not herein provided for remain punishable as authorized by the Articles of War and the custom of the service.

## ARTICLE VI.

Summary courts are subject to the restrictions named in the 83d Article of War. Soldiers against whom charges may be preferred for trial by summary court shall not be confined in the guardhouse, but shall be placed in arrest in quarters, before and during trial and while awaiting sentence, except when in particular cases restraint may be necessary.

## ARTICLE VII.

The following substitutions for punishments named in Article II of this order are authorized at the discretion of the court:

Two days' confinement at hard labor for one dollar forfeiture; one day's solitary confinement on bread and water diet for two days' confinement at hard labor or for one dollar forfeiture; provided that a non-commissioned officer not sentenced to reduction shall not be subject to confinement; and provided that solitary confinement shall not exceed fourteen days at one time, nor be repeated until fourteen days have elapsed, and shall not exceed eighty-four days in one year. Whenever the limit herein prescribed for an offence or offences may be brought within the punishing power of inferior courts-martial, as defined by the 83d Article of War, by substitution of punishment under the provisions of this article, the said courts have jurisdiction of such offence or offences.

## ARTICLE VIII.

Non-commissioned officers above the rank of corporal shall not, if they 1551 object thereto, be brought to trial before regimental, garrison, or summary courts-martial, without the authority of the officer competent to order their trial by general court-martial; nor shall sergeants of the post non-commissioned staff or hospital stewards be reduced, but they may be dishonorably discharged whenever reduction is included in the limit of punishment.

By command of Lieutenant-General SCHOFIELD:

GROVER CLEVELAND.

GEO. D. RUGGLES,  
*Adjutant General.*