

which the same has been laid out. Which consent being obtained, he is further authorized to take prompt and effectual measures to cause said road to be made through the whole distance, or in any part or parts of the same as he shall judge most conducive to the public good, having reference to the sum appropriated for the purpose.

SEC. 4. *And be it further enacted*, That all parts of the road which the President shall direct to be made, in case the trees are standing, shall be cleared the whole width of four rods; and the road shall be raised in the middle of the carriage way with stone, earth, or gravel and sand, or a combination of some or all of them, leaving or making, as the case may be, a ditch or water-course on each side, and contiguous to said carriage way: and in no instance shall there be an elevation in said road, when finished, greater than an angle of five degrees with the horizon. But the manner of making said road, in every other particular, is left to the direction of the President.

SEC. 5. *And be it further enacted*, That said commissioners shall each receive four dollars per day, while employed as aforesaid, in full for their compensation, including all expenses. And they are hereby authorized to employ one surveyor, two chainmen, and one marker, for whose faithfulness and accuracy, they, the said commissioners, shall be responsible, to attend them in laying out said road, who shall receive in full satisfaction for their wages, including all expenses, the surveyor three dollars per day, and each chainman and the marker, one dollar per day, while they shall be employed in said business; of which fact, a certificate signed by said commissioners shall be deemed sufficient evidence.

SEC. 6. *And be it further enacted*, That the sum of thirty thousand dollars be, and the same is hereby appropriated, to defray the expense of laying out and making said road. And the President is hereby authorized to draw, from time to time, on the treasury, for such parts, or at any one time, for the whole of said sum, as he shall judge the service requires. Which sum of thirty thousand dollars, shall be paid, first, out of the fund of two per cent. reserved for laying out and making roads to the state of Ohio, by virtue of the seventh section of an act passed on the thirtieth day of April, one thousand eight hundred and two, intituled "An act to enable the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states, and for other purposes." Three per cent. of the appropriation contained in said seventh section, being directed by a subsequent law, to the laying out, opening, and making roads within the said state of Ohio. And secondly, out of any money in the treasury not otherwise appropriated, chargeable upon, and reimbursable at the treasury by said fund of two per cent. as the same shall accrue.

SEC. 7. *And be it further enacted*, That the President be, and he is hereby requested, to cause to be laid before Congress, as soon as convenience will permit, after the commencement of each session, a statement of the proceedings under this act, that Congress may be enabled to adopt such further measures, as may, from time to time, be proper, under existing circumstances.

APPROVED, March 29, 1806.

Mode in which the road is to be made.

Compensation of the commissioners.

Commissioners authorized to employ surveyor, chainmen, &c. &c.

Their compensation.

Specific appropriation.

President authorized to draw for the whole or a part of the sum appropriated.

Out of what fund the money is to be paid.
1802, ch. 40.

President to make a statement to Congress of the proceedings under this act.

STATUTE I.

CHAP. XX.—*An Act for establishing Rules and Articles for the government of the Armies of the United States.*(a)

April 10, 1806.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the pass-

Armies of the U. S. to be go-

(a) The acts for establishing rules and articles for the government of the army of the United States.

An act for the better organization of the troops of the United States, and for other purposes, March 3, 1799, repealed.

verned by the following rules, &c.

Rules and regulations.

Officers to subscribe these rules.

Officers and soldiers recommended to attend divine service.

Indecent and irreverent conduct punished.

Profane swearing.

Absence of chaplains an offence.

Contemptuous words against the President & Vice President.

Contempt or disrespect to commanding officers.

Exciting to mutiny.

Officers present at mutiny or sedition not giving information or endeavouring to

ing of this act, the following shall be the rules and articles by which the armies of the United States shall be governed:

Article 1. Every officer now in the army of the United States, shall, in six months from the passing of this act, and every officer who shall hereafter be appointed, shall, before he enters on the duties of his office, subscribe these rules and regulations.

Article 2. It is earnestly recommended to all officers and soldiers, diligently to attend divine service; and all officers who shall behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general 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 sixth of a dollar*, to be deducted out of his next pay; for the second offence, he shall not only forfeit a like sum, 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 by the captain or senior officer of the troop or company, to the use of the sick soldiers of the company or troop to which the offender belongs.

Article 3. Any non-commissioned officer or soldier who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and a commissioned officer shall forfeit and pay for each and every such offence *one dollar*, to be applied as in the preceding article.

Article 4. Every chaplain, commissioned in the army or armies of the United States, who shall absent himself from the duties assigned him (excepting in cases of sickness or leave of absence) shall, on conviction thereof before a court martial, be fined not exceeding one month's pay, besides the loss of his pay during his absence; or be discharged, as the said court martial shall judge proper.

Article 5. Any officer or soldier, who shall use contemptuous or disrespectful words against the President of the United States, against the Vice President thereof, against the Congress of the United States, or against the chief magistrate or legislature of any of the United States, in which he may be quartered, if a commissioned officer, shall be cashiered, or otherwise punished, as a court martial shall direct; if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a court martial.

Article 6. Any officer or soldier who shall behave himself with contempt or disrespect towards his commanding officer, shall be punished according to the nature of his offence, by the judgment of a court martial.

Article 7. Any officer or soldier who shall begin, excite, cause or join in any mutiny or sedition in any troop or company in the service of the United States, or in any party, post, detachment, or guard, shall suffer death, or such other punishment as by a court martial shall be inflicted.

Article 8. Any officer, non-commissioned officer, or soldier, who, being present at any mutiny or sedition, does not use his utmost endeavour to suppress the same, or coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding

An act fixing the military peace establishment of the United States, March 16, 1802, chap. 9.

An act for establishing rules and articles for the government of the army of the United States, April 10, 1806, chap. 20.

An act to reduce and fix the military peace establishment of the United States, March 2, 1821, chap. 12, section 14. This section provides, "That the system of 'General regulations of the army,' compiled by Major General Scott, shall be and the same is hereby approved and adopted for the government of the army of the United States, and of the militia when in the service of the United States." This section was repealed by the act of May 7, 1822, chap. 88.

An act to alter and amend the sixty-fifth article of the first section of "An act establishing rules and articles for the government of the army of the United States," passed tenth April, 1806. May 29, 1830, chap. 179.

officer, shall be punished by the sentence of a court martial with death, or otherwise, according to the nature of his offence.

Article 9. Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offence be inflicted upon him by the sentence of a court martial.

Article 10. Every non-commissioned officer or soldier who shall enlist himself in the service of the United States, shall, at the time of his so enlisting, or within six days afterwards, have the articles for the government of the armies of the United States, read to him, and shall, by the officer who enlisted him, or by the commanding officer of the troop or company into which he was enlisted, be taken before the next justice of the peace, or chief magistrate of any city or town corporate, not being an officer of the army, or where recourse cannot be had to the civil magistrate, before the judge advocate, and, in his presence, shall take the following oath, or affirmation: "I, A. B. do solemnly swear, or affirm, (as the case may be) that I will bear true allegiance to the United States of America, and that I will serve them honestly and faithfully against all their enemies or opposers whatsoever, and observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles for the government of the armies of the United States:" which justice, magistrate, or judge advocate, is to give the officer a certificate, signifying that the man enlisted did take the said oath or affirmation.

Article 11. After a non-commissioned officer or soldier shall have been duly enlisted and sworn, he shall not be dismissed the service without a discharge in writing; and no discharge granted to him, shall be sufficient, which is not signed by a field officer of the regiment to which he belongs, or commanding officer where no field officer of the regiment is present; and no discharge shall be given to a non-commissioned officer, or soldier, before his term of service has expired, but by order of the President, the Secretary of War, the commanding officer of a department, or the sentence of a general court martial; nor shall a commissioned officer be discharged the service, but by order of the President of the United States, or by sentence of a general court martial.

Article 12. Every colonel, or other officer, commanding a regiment, troop or company, and actually quartered with it, may give furloughs to non-commissioned officers or soldiers, in such numbers, and for so long a time as he shall judge to be most consistent with the good of the service; and a captain, or other inferior officer, commanding a troop or company, or in any garrison, fort or barrack of the United States, (his field officer being absent) may give furloughs to non-commissioned officers or soldiers, for a time not exceeding twenty days in six months, but not to more than two persons to be absent at the same time, excepting some extraordinary occasion shall require it.

Article 13. At every muster the commanding officer of each regiment, troop or company there present, shall give to the commissary of musters, or other officer who musters the said regiment, troop or company, certificates signed by himself, signifying how long such officers, as shall not appear at the said muster, have been absent, and the reason of their absence. In like manner, the commanding officer of every troop or company, shall give certificates, signifying the reasons of the absence of the non-commissioned officers and private soldiers, which reasons, and time of absence, shall be inserted in the muster rolls, opposite the name of the respective absent officers and soldiers. The certificates shall, together with the muster rolls, be remitted by the commissary of mus-

suppress the mutiny.

Striking a superior officer.

Death.

Rules and articles to be read on enlistment.

Oath.

To be taken before a magistrate.

After enlistment not to be discharged unless in writing.

Discharges how given.

Furloughs to non-commissioned officers or soldiers.

Certificates signifying how long officers have been absent, to be given to the commissary of musters.

The certificates to be sent

to the department of war.

False certificates.

False musters.

Taking money for false musters.

Muster of a person not a soldier.

Making false returns.

Monthly returns of the regiment.

Punishment for neglect.

Desertion.

Absence without leave.

Enlistment in other regiments without having been discharged.

Advising to desert.

ters, or other officer mustering, to the department of war, as speedily as the distance of the place will admit.

Article 14. Every officer who shall be convicted, before a general court martial, of having signed a false certificate, relating to the absence of either officer or private soldier, or relative to his or their pay, shall be cashiered.

Article 15. Every officer who shall knowingly make a false muster of man or horse, and every officer or commissary of musters, who shall willingly sign, direct, or allow the signing of muster rolls, wherein such false muster is contained, shall, upon proof made thereof by two witnesses, before a general court martial, be cashiered, and shall be thereby utterly disabled to have or hold any office or employment in the service of the United States.

Article 16. Any commissary of musters, or other officer, who shall be convicted of having taken money or other thing, by way of gratification, on mustering any regiment, troop or company, or on signing muster rolls, shall be displaced from his office, and shall be thereby utterly disabled to have, or hold any office or employment in the service of the United States.

Article 17. Any officer who shall presume to muster a person as a soldier, who is not a soldier, shall be deemed guilty of having made a false muster, and shall suffer accordingly.

Article 18. Every officer who shall knowingly make a false return to the department of war, or to any of his superior officers, authorized to call for such returns, of the state of the regiment, troop or company, or garrison under his command; or of the arms, ammunition, clothing or other stores thereunto belonging, shall, on conviction thereof before a court martial, be cashiered.

Article 19. The commanding officer of every regiment, troop or independent company, or garrison of the United States, shall, in the beginning of every month, remit, through the proper channels, to the department of war, an exact return of the regiment, troop, independent company, or garrison, under his command, specifying the names of the officers then absent from their posts, with the reasons for, and the time of their absence. And any officer who shall be convicted of having, through neglect or design, omitted sending such returns, shall be punished according to the nature of his crime by the judgment of a general court martial.

Article 20. All officers and soldiers, who have received pay, or have been duly enlisted in the service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as by sentence of a court martial shall be inflicted.

Article 21. Any non-commissioned officer or soldier, who shall, without leave from his commanding officer, absent himself from his troop, company, or detachment, shall, upon being convicted thereof, be punished according to the nature of his offence, at the discretion of a court martial.

Article 22. No non-commissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company, in which he last served, on the penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such non-commissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him and give notice thereof to the corps in which he last served, the said officer shall, by a court martial, be cashiered.

Article 23. Any officer or soldier who shall be convicted of having advised or persuaded any other officer or soldier to desert the service of

the United States, shall suffer death, or such other punishment as shall be inflicted upon him by the sentence of a court martial.

Article 24. No officer or soldier shall use any reproachful or provoking speeches or gestures to another, upon pain, if an officer, of being put in arrest; if a soldier, confined, and of asking pardon of the party offended, in the presence of his commanding officer.

Reproachful
speeches by sol-
diers.

Article 25. No officer or soldier shall send a challenge to another officer or soldier, to fight a duel, or accept a challenge, if sent, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporeal punishment, at the discretion of a court martial.

Sending a chal-
lenge to fight.

Article 26. If any commissioned or non-commissioned officer commanding a guard, shall knowingly or willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and all seconds, promoters and carriers of challenges, in order to duels, shall be deemed principals, and be punished accordingly. And it shall be the duty of every officer, commanding an army, regiment, company, post, or detachment, who is knowing to a challenge being given, or accepted, by any officer, non-commissioned officer, or soldier, under his command, or has reason to believe the same to be the case, immediately to arrest and bring to trial such offenders.

Allowing a
person to go
forth to fight a
duel.

Article 27. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, though the persons concerned should belong to another regiment, troop, or company; and either to order officers into arrest, or non-commissioned officers or soldiers into confinement, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank) or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Quarrels and
affrays.

Article 28. Any officer or soldier, who shall upbraid another for refusing a challenge, shall himself be punished as a challenger, and all officers and soldiers are hereby discharged from any disgrace or opinion of disadvantage, which might arise from their having refused to accept of challenges, as they will only have acted in obedience to the laws, and done their duty as good soldiers, who subject themselves to discipline.

Upbraiding an-
other for not
sending a chal-
lenge.

Article 29. No sutler shall be permitted to sell any kind of liquors or victuals, or to keep their houses or shops open for the entertainment of soldiers, after nine at night, or before the beating of the reveillies, or upon Sundays, during divine service or sermon, on the penalty of being dismissed from all future suttling.

Prohibition of
sale of liquors
and victuals af-
ter nine at night.

Article 30. All officers commanding in the field, forts, barracks, or garrisons of the United States, are hereby required to see that the persons permitted to suttle, shall supply the soldiers with good and wholesome provisions, or other articles, at a reasonable price, as they shall be answerable for their neglect.

Suttlers.

Article 31. No officer commanding in any of the garrisons, forts, or barracks of the United States, shall exact exorbitant prices for houses or stalls let out to suttlers, or connive at the like exactions in others; nor by his own authority, and for his private advantage, lay any duty or imposition upon, or be interested in, the sale of any victuals, liquors, or other necessaries of life, brought into the garrison, fort, or barracks, for the use of the soldiers, on the penalty of being discharged from the service.

Rents of stalls,
&c. to suttlers.

Article 32. Every officer commanding in quarters, garrisons, or on the march, shall keep good order, and to the utmost of his power, redress all 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, of disturbing fairs or markets, or of committing any kinds of riots to the disquieting

Good order to
be kept.

Reparation for injuries.

Officers or soldiers who commit offences against the persons or property of citizens of the United States to be delivered over to the officers of justice.

Punishment for neglect.

Officers who shall think themselves wronged by their commanding officer may complain to the general.

Inferior officers who think themselves wronged.

Embezzlement &c. of public property by commissioned officers.

Embezzlement, &c. by soldiers.

Sale of his horse, arms, &c. by non-commissioned officers or soldiers.

of the citizens of the United States, 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 far as part of the offender's pay shall enable him or them, shall, upon proof thereof, be cashiered or otherwise punished as a general court martial shall direct.

Article 33. When any commissioned officer or soldier, shall be accused of a capital crime, or of having used violence, or committed any offence against the persons or property of any citizen of any of the United States, such as is punishable by the known laws of the land, the commanding officer, and officers of every regiment, troop, or company, to which the person, or persons, so accused, shall belong, are hereby required, upon application duly made by, or in behalf of the party or parties injured, to use their utmost endeavours to deliver over such accused person, or persons, to the civil magistrate, and likewise to be aiding and assisting to the officers of justice in apprehending and securing the person or persons so accused, in order to bring him or them to trial. If any commanding officer, or officers, shall wilfully neglect, or shall refuse, upon the application aforesaid, to deliver over such accused person, or persons, to the civil magistrates, or to be aiding and assisting to the officers of justice in apprehending such person, or persons, the officer, or officers, so offending, shall be cashiered.

Article 34. If any officer shall think himself wronged by his colonel, or the commanding officer of the regiment, and shall, upon due application being made to him, be refused redress, he may complain to the general, commanding in the state or territory where such regiment shall be stationed, in order to obtain justice; who is hereby required to examine into the said complaint, and take proper measures for redressing the wrong complained of, and transmit, as soon as possible, to the department of war, a true state of such complaint, with the proceedings had thereon.

Article 35. If any inferior officer or soldier shall think himself wronged by his captain, or other officer, 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 complainant; 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 vexatious and groundless, the person, so appealing, shall be punished at the discretion of the said court martial.

Article 36. Any commissioned officer, storekeeper, or commissary, who shall be convicted at a general court martial, of having sold, without a proper order for that purpose, embezzled, misapplied, or wilfully, or through neglect, suffered any of the provisions, forage, arms, clothing, ammunition, or other military stores, belonging to the United States, to be spoiled, or damaged, shall, at his own expense, make good the loss, or damage, and shall, moreover, forfeit all his pay, and be dismissed from the service.

Article 37. Any non-commissioned officer, or soldier, who shall be convicted, at a regimental court martial, of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him, to be employed in the service of the United States, shall be punished at the discretion of such court.

Article 38. Every non-commissioned officer or soldier, who shall be convicted before a court martial, of having sold, lost, or spoiled, through neglect, his horse, arms, clothes, or accoutrements, shall undergo such weekly stoppages, (not exceeding the half of his pay) as such court martial shall judge sufficient, for repairing the loss or damage; and shall suffer confinement or such other corporeal punishment as his crime shall deserve.

Article 39. Every officer, who shall be convicted before a court

martial, of having embezzled, or misapplied any money, with which he may have been entrusted for the payment of the men under his command, or for enlisting men into the service, or for other purposes, if a commissioned officer, shall be cashiered, and compelled to refund the money; if a non-commissioned officer, shall be reduced to the ranks, be put under stoppages until the money be made good, and suffer such corporeal punishment as such court martial shall direct.

Embezzlement of money.

Article 40. Every captain of a troop, or company, is charged with the arms, accoutrements, ammunition, clothing, or other warlike stores belonging to the troop, or company under his command, which he is to be accountable for to his colonel, in case of their being lost, spoiled, or damaged, not by unavoidable accidents, or on actual service.

Every captain of a troop to be accountable for the arms of the troop.

Article 41. All non-commissioned officers and 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 upon them by the sentence of a court martial.

Absence from camp without leave.

Article 42. No officer, or soldier, shall lie out of his quarters, garrison, or camp, without leave from his superior officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

Officer or soldier out of garrison without leave in writing.

Article 43. Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the retreat; in default of which he shall be punished according to the nature of his offence.

Retirement to quarters at beating the retreat.

Article 44. No officer, non-commissioned officer, or soldier, shall fail in repairing, at the time fixed, to the place of parade, of exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness, or some other evident necessity; or shall go from the said place of rendezvous, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence by the sentence of a court martial.

Attendance at parade.

Article 45. Any commissioned officer who shall be found drunk on his guard, party, or other duty, shall be cashiered. Any non-commissioned officer or soldier so offending, shall suffer such corporeal punishment as shall be inflicted by the sentence of a court martial.

Drunkenness.

Article 46. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by the sentence of a court martial.

Sentinel sleeping on his post.

Article 47. No soldier belonging to any regiment, troop, or company, shall hire another to do his duty for him, or be excused from duty, but in cases of sickness, disability, or leave of absence; and every such soldier found guilty of hiring his duty, as also the party so hired to do another's duty, shall be punished at the discretion of a regimental court martial.

Excuses from duty.

Hiring of duty.

Article 48. And every non-commissioned officer conniving at such hiring of duty aforesaid, shall be reduced; and every commissioned officer, knowing and allowing such ill practices in the service, shall be punished by the judgment of a general court martial.

Connivance at hiring.

Article 49. Any officer belonging to the service of the United States, who, by discharging of fire-arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

False alarms by officers.

Article 50. Any officer or soldier, who shall, without urgent necessity or without the leave of his superior officer, quit his guard, platoon, or division, shall be punished according to the nature of his offence, by the sentence of a court martial.

Quitting guard.

Article 51. No officer or soldier shall do violence to any person who

Violence to

persons bringing provisions.

brings provisions or other necessities to the camp, garrison, or quarters, of the forces of the United States, employed in any parts out of the said states, upon pain of death, or such other punishment as a court martial shall direct.

Misbehaviour before the enemy.

Article 52. Any officer or soldier, who shall misbehave himself before the enemy, run away, or shamefully abandon any fort, post, or guard, which he or they may be commanded to defend, or speak words inducing others to do the like; or shall cast away his arms and ammunition, or who shall quit his post or colours to plunder and pillage, every such offender, being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Casting away arms.

Plunder.

Making known the watchword.

Article 53. Any person belonging to the armies of the United States, who shall make known the watchword to any person who is not entitled to receive it, according to the rules and discipline of war, or 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 the sentence of a general court martial.

Behaviour on march.

Article 54. All officers and soldiers are to behave themselves orderly in quarters, and on their march; and whosoever shall commit any waste or spoil, either in walks of trees, parks, warrens, fish ponds, houses, or gardens, cornfields, enclosures of meadows, or shall maliciously destroy any property whatsoever, belonging to the inhabitants of the United States, unless by order of the then commander in chief of the armies of the said states, shall (besides such penalties as they are liable to by law) be punished according to the nature and degree of the offence, by the judgment of a regimental or general court martial.

Forcing a safe guard.

Article 55. Whosoever, belonging to the armies of the United States, employed in foreign parts, shall force a safe guard, shall suffer death.

Relieving or assisting the enemy.

Article 56. Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Correspondence with the enemy.

Article 57. Whosoever shall be convicted of holding correspondence with or giving intelligence to the enemy either directly or indirectly, shall suffer death or such other punishment as shall be ordered by the sentence of a court martial.

All public stores taken in the enemy's camp to be secured.

Article 58. All public stores taken in the enemy's camp, towns, forts, or magazines, whether of artillery, ammunition, clothing, forage or provisions, shall be secured for the service of the United States; for the neglect of which the commanding officer is to be answerable.

Compelling the surrender of a fort, &c.

Article 59. If any commander of any garrison, fortress, or post, shall be compelled, by the officers and soldiers under his command, to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a court martial.

Suttlers to be subject to orders.

Article 60. All suttlers and retainers to the camp, and all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders, according to the rules and discipline of war.

Rank of brevets.

Article 61. Officers having brevets, or commissions, of a prior date to those of the regiment in which they serve, may take place in courts martial and on detachments, when composed of different corps, according to the ranks given them in their brevets, or dates of their former commissions; but in the regiment, troop, or company, to which such officers belong, they shall do duty and take rank, both in courts martial and on detachments, which shall be composed only of their own corps, according to the commissions by which they are mustered in the said corps.

Article 62. If upon marches, guards, or in quarters, different corps of the army shall happen to join, or do duty together, the officer highest in rank of the line of the army, marine corps, or militia, by commission there, on duty, or in quarters, shall command the whole, and give orders for what is needful to the service, unless otherwise specially directed by the President of the United States, according to the nature of the case.

Command on
march.

Article 63. The functions of the engineers being generally confined to the most elevated branch of military science, they are not to assume, nor are they subject to be ordered on any duty beyond the line of their immediate profession, except by the special order of the President of the United States; but they are to receive every mark of respect, to which their rank in the army may entitle them, respectively, and are liable to be transferred, at the discretion of the President, from one corps to another, regard being paid to rank.

Engineers.

Article 64. General courts martial may consist of any number of commissioned officers, from five to thirteen, inclusively, but they shall not consist of less than thirteen, where that number can be convened without manifest injury to the service.

General court
martial.

Article 65. Any general officer commanding an army, or colonel commanding a separate department, may appoint general courts martial, whenever necessary. But no sentence of a court martial shall be carried into execution until after the whole proceedings shall have been laid before the officer ordering the same, or the 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, or 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 of War, to be laid before the President of the United States, for his confirmation or disapproval, and orders, in 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. (a)

General offi-
cers may ap-
point court
martial.

Proceedings of
court martial.

Article 66. Every officer commanding a regiment, or corps, may appoint, for his own regiment, or corps, courts martial, to consist of three commissioned officers, for the trial and punishment of offences not capital, and decide upon their sentences. For the same purpose, all officers, commanding any of the garrisons, forts, barracks, or other places, where the troops consist of different corps, may assemble courts martial, to consist of three commissioned officers, and decide upon their sentences.

Commanding
officers of regi-
ments may ap-
point courts
martial.

Article 67. 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 labour, any non-commissioned officer or soldier, for a longer time than one month.

No garrison
or regimental
court martial
shall have power
to try offi-
cers.

Article 68. Whenever it may be found convenient and necessary to the public service, the officers of the marines shall be associated with the officers of the land forces, for the purpose of holding courts martial and trying offenders belonging to either; and in such cases the orders of the senior officer of either corps, who may be present and duly authorized, shall be received and obeyed.

Limitation of
powers.
Court martial
how composed.

Article 69. 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, 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

Judge advo-
cate.

Oath of officers of court martial.

tend to criminate himself; and administer to each member of the court, before they proceed upon any trial, the following oath, which shall also be taken by all members of the regimental and garrison courts martial:

"You A. B. do swear, that you will 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; and that you will duly administer justice, according to the provisions of 'An act establishing rules and articles for the government of the armies of the United States,' without partiality, favour, or affection: and if any doubt shall arise, not explained by said articles, according to your conscience, the best of your understanding, and the custom of war in like cases: and you do further swear, that you will not divulge the sentence of the court until it shall be published by the proper authority: neither will you 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.*"

Oath of judge advocate.

And as soon as the said oath 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 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 due course of law; nor divulge the sentence of the court, to any but the proper authority, until it shall be duly disclosed by the same. *So help you God.*"

Prisoner standing mute.

Article 70. When a prisoner arraigned before a general court martial shall, from obstinacy and deliberate design, stand mute or answer foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had regularly pleaded not guilty.

Challenges of members of courts martial by prisoners.

Article 71. When a member shall be challenged by a prisoner, he must state his cause of challenge, of which the court shall, after due deliberation, determine the relevancy or validity, and decide accordingly; and no challenge to more than one member at a time shall be received by the court.

Behaviour of the members of a court martial.

Article 72. 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.

Evidence.

Article 73. All persons who give evidence before a court martial, are to be examined on oath or affirmation in the following form:

"You swear or affirm, (as the case may be,) the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. *So help you God.*"

Depositions.

Article 74. On the trials of cases not capital, before courts martial, the deposition 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 the person accused are present at the taking of the same, or are duly notified thereof.

Officers not to be tried, if it can be avoided, by inferior officers.

Article 75. 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 eight in the morning and three in the afternoon, excepting in cases which, in the opinion of the officer appointing the court martial, require immediate example.

Sessions of courts martial.

Article 76. No person whatsoever shall use any menacing words, signs, or gestures, in presence of a court martial, or shall cause any disorder or riot, or disturb their proceedings, on the penalty of being punished, at the discretion of the said court martial.

Officers before courts martial.

Article 77. Whenever any officer shall be charged with a crime, he

shall be arrested and confined in his barracks, quarters, or tent, and deprived of his sword, by the 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 officer, shall be cashiered.

Article 78. Non-commissioned officers and soldiers, charged with crimes, shall be confined, until tried by a court martial, or released by proper authority.

Article 79. No officer or soldier who shall be put in arrest, shall continue in confinement more than eight days, or until such time as a court martial can be assembled.

Article 80. No officer commanding a guard, or provost marshal, shall refuse to receive or keep any prisoner committed to his charge, by an 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.

Article 81. 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 the penalty of being punished for it by the sentence of a court martial.

Article 82. Every officer or provost marshal, to whose charge prisoners shall be committed, shall, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commanding officer, of their names, their crimes, and the names of the officers who committed them, on the penalty of being punished for disobedience or neglect, at the discretion of a court martial.

Article 83. Any commissioned officer convicted before a general court martial of conduct unbecoming an officer and a gentleman, shall be dismissed the service.

Article 84. 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 offence.

Article 85. In all cases where a commissioned officer is cashiered for cowardice or fraud, it shall be added in the sentence, that the crime, name, and place of abode and punishment of the delinquent, be published in the newspapers in and about the camp, and of the particular state from which the offender came, or where he usually resides, after which it shall be deemed scandalous for an officer to associate with him.

Article 86. 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 necessary witnesses, to be transported to the place where the said court shall be assembled.

Article 87. No person shall be sentenced to suffer death, but by the concurrence of two thirds of the members of a general court martial, nor except in the cases herein expressly mentioned; nor shall more than fifty lashes be inflicted on any offender, at the discretion of a court martial; and no officer, non-commissioned officer, soldier, or follower of the army, shall be tried a second time for the same offence.

Article 88. No person shall be liable to be tried and punished by a general court martial for any offence which shall appear to have been committed more than two years before the issuing of the order for such trial, unless the person, by reason of having absented himself or some other manifest impediment, shall not have been amenable to justice within that period.

Article 89. Every officer authorized to order a general court martial, shall have power to pardon or mitigate any punishment ordered by such

Arrest of officers.
Confinement of offenders.

Confinement of persons charged with crimes.
No officer to be confined more than eight days before trial.

Officers refusing to keep prisoners.

Releasing prisoners or suffering them to escape.

Report to be made of prisoners.

Behaviour before courts martial.

Sentences of courts martial.

Punishment for cowardice or fraud.

Courts martial where the officers adequate to form a court martial are not in sufficient number at the post.

Sentence of a court martial shall be by the concurrence of two-thirds.

Limitation of trials.

Power of pardon, or mitigating sentences.

court, except the sentence of death, or of cashiering an officer; which, in the cases where he has authority (by article 65) to carry them into execution, he may suspend until the pleasure of the President of the United States can be known; which suspension, together with copies of the proceedings of the court martial, the said officer shall immediately transmit to the President, for his determination. And the colonel or commanding officer of the regiment or garrison, where any regimental or garrison court martial shall be held, may pardon or mitigate any punishment ordered by such court to be inflicted.

Duty of the judge advocate.

Article 90. 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 said secretary, to the end that the persons entitled thereto may be enabled, upon application to the said office, to obtain copies thereof.

Copies of proceedings and sentence of court martial.

The party tried by any general court martial, shall, upon demand thereof made by himself or by any person or persons in his behalf, be entitled to a copy of the sentence and proceedings of such court martial.

Courts of inquiry.

Article 91. In cases where the general or commanding officer may 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 consist of one or more officers, not exceeding three, and a judge advocate, or other 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 the question.

Authentication of proceedings of courts of inquiry.

Where proceedings of courts of inquiry are evidence.

Article 92. 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 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 dishonourable 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 directed by the President of the United States, or demanded by the accused.

Oath to members of courts of inquiry.

Article 93. The judge advocate, or 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 partiality, favour, affection, prejudice, or hope of reward. 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 evidence to be given in the case in hearing. So help you God."

The witnesses shall take the same oath as witnesses sworn before a court martial.

Effects of a commissioned officer who dies to be secured for his executors

Article 94. When any commissioned officer shall die or be killed in the service of the United States, the major of the regiment, or the officer doing the major's duty in his absence, or in any post or garrison, the second officer in command, or the assistant military agent, shall imme-

diately secure all his effects or equipage, then in camp or quarters, and shall make an inventory thereof, and forthwith transmit the same to the office of the department of war, to the end that his executors or administrators may receive the same.

Article 95. When any non-commissioned officer, or soldier, shall die, or be killed in the service of the United States, the then commanding officer of the troop or company, shall, in the presence of two other commissioned officers, take an account of what effects he died possessed of, above his arms and accoutrements, and transmit the same to the office of the department of war; which said effects are to be accounted for, and paid to the representatives of such deceased non-commissioned officer or soldier. And in case any of the officers, so authorized to take care of the effects of deceased officers and soldiers, should, before they have accounted to their representatives for the same, have occasion to leave the regiment, or post, by preferment, or otherwise, they shall, before they be permitted to quit the same, deposit in the hands of the commanding officer, or of the assistant military agent, all the effects of such deceased non-commissioned officers and soldiers, in order that the same may be secured for, and paid to their respective representatives.

Article 96. All officers, conductors, gunners, matrosses, drivers, or other persons whatsoever, receiving pay, or hire, in the service of the artillery, or corps of engineers of the United States, 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 other troops in the service of the United States.

Article 97. The officers and soldiers, of any troops, whether militia or others, being mustered and in pay of the United States, shall, at all times and in all places, when joined, or acting in conjunction with the regular forces of the United States, be governed by these rules and articles of war, and shall be subject to be tried by courts martial, in like manner with the officers and soldiers in the regular forces, save only that such courts martial shall be composed entirely of militia officers.

Article 98. All officers, serving by commission from the authority of any particular state, shall, on all detachments, courts martial, or other duty, wherein they may be employed in conjunction with the regular forces of the United States, take rank, next after all officers of the like grade in said regular forces, notwithstanding the commissions of such militia or state officers may be elder than the commissions of the officers of the regular forces of the United States.

Article 99. 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 foregoing 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 100. The President of the United States shall have power to prescribe the uniform of the army.

Article 101. The foregoing articles are to be read and published once in every six months, to every garrison, regiment, troop, or company, mustered or to be mustered in the service of the United States, and are to be duly observed and obeyed by all officers and soldiers who are, or shall be in said service.

SEC. 2. And be it further enacted, That in time of war, all persons not citizens of, or owing allegiance to the United States of America, who shall be found lurking as spies, in or about the fortifications or encampments of the armies of the United States, or any of them, shall suffer death, according to the law and usage of nations, by sentence of a general court martial.

SEC. 3. And be it further enacted, That the rules and regulations, by

or administrators.

The effects of non-commissioned officers or soldiers who die or shall be killed to be taken care of.

These articles to govern all officers, &c.

Officers and soldiers of the militia when in service to be governed by these articles.

Rank of militia officers when serving with officers of the army.

Crimes not capital, and all disorders and neglects not mentioned in these articles to be taken cognizance of by court martial.

Uniform of the army.

Publication of these articles once in six months.

Persons lurking about fortifications as spies.

Rules and regulations, formerly in force, abolished.

which the armies of the United States have heretofore been governed, and the resolves of Congress thereunto annexed, and respecting the same, shall henceforth be void and of no effect, except so far as may relate to any transactions under them, prior to the promulgation of this act, at the several posts and garrisons respectively, occupied by any part of the army of the United States.

APPROVED, April 10, 1806.

STATUTE I.

April 10, 1806.

CHAP. XXI.—*An Act relating to bonds given by Marshals.*(a)

Bond of the marshal shall be *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bond heretofore*

(a) By the 27th section of the act of September 24, 1789, chap. 20, vol. i. 87, the appointment of a marshal in each district, is provided for, and his duties and powers regulated.

The decisions of the courts of the United States as to the duties, powers, and liabilities of Marshals are:—

The marshal may have an attachment to enforce the payment of his fees of office, against suitors in the court; so also against the endorser on the writ, who by the *lex loci*, is liable to respond for costs. Anonymous, 2 Gallis. C. C. R. 101.

The marshal is entitled to his full commissions according to the act of 1799, chap. 19, upon all interlocutory sales of prize property. The act of 27th January, 1813, applies only to sales after final condemnation. The Avery, 2 Gallis. C. C. R. 308.

It is the duty of the marshal, upon all interlocutory sales, to bring the proceeds into court, with a regular account of the sales. *Ibid.*

The marshal is entitled to commissions upon prize property, removed from his district, by consent of parties, and there sold. The San Jose Indiana, 2 Gallis. C. C. R. 311.

After a rule on the marshal to return the *capias ad satisfaciendum* issued against the defendants, on the return of the marshal that the plaintiff had directed him not to serve the writ on one defendant, and that the other could not be found, the court have nothing more to do with the rule. If the marshal has misconducted himself, the remedy is an action for a false return. *Segourney v. Ingraham et al.*, 2 Wash. C. C. R. 336.

Where an individual, acting in pursuance of what he conceives a just claim to property, proceeds by legal process to enforce it, and causes a levy to be made on property which is claimed by another, without abusing or perverting its true object, there is and ought to be a very different rule for damages, from the case in which vindictive damages may be allowed, if after a due course of legal investigation, his case is not well founded. Where the defendant had acted as the marshal of the United States, in the execution of his duties as a public officer, and had made a levy, but had done nothing out of the strictest line of duty, the circuit court instructed the jury to allow compensation for the injury sustained, and nothing more. *Pacific Ins. Co. v. Conard*, Baldwin's C. C. R. 143.

It has long been settled that a jury ought not in any case to find exemplary damages against a public officer, acting in obedience to orders from the government, without any circumstances of aggravation, if he violates the law in making a seizure of property. *Ibid.*

A marshal is not removed by the appointment of a new one, until he receives notice of such appointment; all acts done by the old marshal after the appointment of a new one, before notice, are good; but his acts subsequent to notice are void. *Wallace's C. C. R. 119.*

If a debtor, committed to the state jail under process from the courts of the United States, escape, the marshal is not liable. *Randolph v. Donaldson*, 9 Cranch, 76; 3 Cond. Rep. 280.

The act of Congress has limited the responsibility of the marshal to his own acts and the acts of his deputies. The keeper of a state jail is, neither in fact nor in law, the deputy of the marshal; he is not appointed by, nor removable at the will of the marshal. When a prisoner is regularly committed to a state jail by the marshal, he is no longer in the custody of the marshal, or controllable by him. *Ibid.*

If a marshal, before the date of his official bond, receive, upon an execution, money due to the United States, with orders from the comptroller to pay it into the Bank of the United States, which he neglects to do, the sureties in his official bond, executed afterwards, are not liable therefor upon the bond; although the money remain in the marshal's hands after the execution of the bond. *The United States v. Giles and others*, 9 Cranch, 212; 3 Cond. Rep. 377.

Query. Whether the sureties in a marshal's bond conditioned for the faithful execution of his duty, "during his continuance in the said office," are liable for money received by him after his removal from office, upon an execution which remained in his hands at the time of such removal? *Ibid.*

The comptroller of the treasury has a right to direct the marshal to whom he shall pay money received upon executions, and a payment according to such directions is good; and it seems he may avail himself of it upon the trial without having submitted it as a claim to the accounting officers of the treasury. *Ibid.*

It is the duty of the marshal of a court of the United States, to execute all process which may be placed in his hands; but he performs this duty at his peril, and under the guidance of law. He must, of course, exercise some judgment in the performance. Should he fail to obey the exigent of the writ without a legal excuse, or should he in its letter violate the rights of others, he is liable to the action of the injured party. *Life and Fire Ins. Co. of New York v. Adams*, 9 Peters, 573.

The marshal makes distribution of proceeds of prize sales in his hands, at his peril; and on his mispayment a libel lies against him. For safety the marshal should obtain the order of the court, which ought not to be made without previous measures guarding against fraud, and providing for latent claims. *Keene et al. v. The Gloucester*, 2 Dallas, 36.