

Leaving post or colors in search of plunder.

Posts forcibly surrendered by their garrisons.

Sutlers and retainers subject to orders.

Brevets and former commissions—when to take effect.

Troops joining on marches, guards or in quarters—eldest officer shall command the whole and give out orders for what is needful to the service.

Troops marching or encamped together; eldest officer without respect to corps shall command the whole.

General courts martial not to consist of less than thirteen commissioned officers.

Members to take rank according

ART. 21. If any officer or soldier shall leave his post or colors to go in search of plunder, he shall upon being convicted thereof before a general court-martial, suffer death, or such other punishment as by a court-martial shall be inflicted.

ART. 22. If any commander of any garrison, fortress, or post, shall be compelled by the officers or 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.

ART. 23. All sutlers and retainers to a camp, and all persons whatsoever serving with the armies of the United States, in the field, though no enlisted soldier, are to be subject to orders, according to the rules and discipline of war.

ART. 24. Officers having brevets, or commissions of a prior date to those of the regiment in which they now 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 brevet officers and those who have commissions of a prior date do belong, they shall do duty and take rank both on court-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.

ART. 25. If upon marches, guards, or in quarters, different corps shall happen to join or do duty together, the eldest officer by commission there, on duty, or in quarters, shall command the whole, and give out orders for what is needful to the service; regard being always had to the several ranks of those corps, and the posts they usually occupy.

ART. 26. And in like manner also, if any regiments, troops, or detachments of horse or foot, shall happen to march with, or be encamped or quartered with any bodies or detachments of other troops in the service of the United States, the eldest officer, without respect to corps, shall take upon him the command, of the whole, and give the necessary orders to the service.

SECTION XIV.*

ART. 1. A general court-martial in the United States shall not consist of less than thirteen commissioned officers, and the president of such court-martial shall not be the commander-in-chief or commandant of the garrison where the offender shall be tried, nor be under the degree of a field officer.

ART. 2. The members both of general and regimental courts-martial shall, when belonging to different corps, take the same

*This section, and such articles as relate to the holding of courts-martial and confirmation of sentences, were repealed and supplied by resolutions of the 31st of May, 1786—See chap. 8.

rank which they hold in the army; but when courts-martial shall be composed of officers of one corps, they shall take their ranks according to the dates of the commissions, by which they are mustered in the said corps.

ART. 3. The judge advocate general, or some person deputed by him, shall prosecute in the name of the United States of America; and in trials of offenders by general courts-martial, administer to each member the following oaths:

"You shall well and truly try and determine, according to your evidence, the matter now before you, between the United States of America, and the prisoners to be tried. So help you God."

"You A. B. do swear, that you will duly administer justice according to the rules and articles for the better government of the forces of the United States of America, without partiality, favor, or affection; and if any doubt shall arise, which is not explained by the said articles, according to your conscience, the best of your understanding, and the custom of war in the like cases. And you do further swear, that you will not divulge the sentence of the court, until it shall be approved of by the general, or commander-in-chief; neither will you, upon any account, at any time whatever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice, in a due course of law. So help you God."

And as soon as the said 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, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law. So help you God."

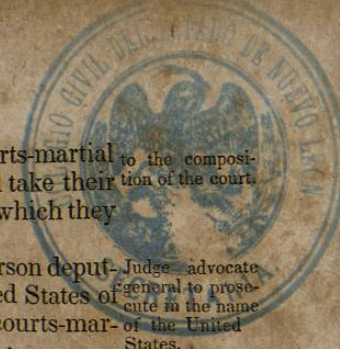
ART. 4. All the members of a court-martial are to behave with calmness and decency; and in the giving of their votes, are to begin with the youngest in commission.

ART. 5. All persons who give evidence before a general court-martial, are to be examined upon oath; and no sentence of death shall be given against any offender by any general court-martial, unless two-thirds of the officers present shall concur therein.

ART. 6. All persons called to give evidence, in any cause, before a court-martial, who refuse to give evidence, shall be punished for such refusal, at the discretion of such court-martial: The oath to be administered in the following form, viz.

"You swear 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."

ART. 7. No field officer shall be tried by any person under the degree of a captain; nor shall any proceedings or trials be



carried on excepting between the hours of eight in the morning and three in the afternoon, except in cases which require an immediate example.

Sentences of general courts-martial.

ART. 8. No sentence of a general court-martial shall be put in execution, till after a report shall be made of the whole proceedings to Congress, or to the general or commander-in-chief of the forces of the United States, and their or his directions be signified thereupon.*

Disputes between individuals of different corps.

ART. 9. For the more equitable decision of disputes which may arise between officers and soldiers belonging to different corps, it is hereby directed, that the courts-martial shall be equally composed of officers belonging to the corps in which the parties in question do then serve; and that the presidents shall be taken by turns, beginning with that corps which shall be eldest in rank.

Regimental courts-martial—powers.

ART. 10. The commissioned officers of every regiment may, by the appointment of their colonel or commanding officer, hold regimental court-martial for the inquiring into such disputes, or criminal matters, as may come before them, and for the inflicting corporeal punishments for small offences, and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding officer (not being a member of the court-martial) or the commandant of the garrison, shall have confirmed the same.

Organization of regimental courts-martial.

ART. 11. No regimental court-martial shall consist of less than five officers, excepting in cases where that number cannot conveniently be assembled, when three may be sufficient; who are likewise to determine upon the sentence by the majority of voices; which sentence is to be confirmed by the commanding officer of the regiment, not being a member of the court-martial.

Garrison or detachment courts-martial.

ART. 12. Every officer commanding in any of the forts, barracks, or elsewhere, where the corps under his command consists of detachments from different regiments, or of independent companies, may assemble courts-martial for the trial of offenders in the same manner as if they were regimental, whose sentence is not to be executed until it shall be confirmed by the said commanding officer.

Dismissal of commissioned officers.

ART. 13. No commissioned officer shall be cashiered or dismissed from the service, excepting by an order from the Congress, or by the sentence of a general court-martial; but non-commissioned officers may be discharged as private soldiers, and, by the order of the colonel of the regiment, or by the sentence of a regimental court-martial, be reduced to private sentinels.

Conduct in presence of courts-martial, &c.

ART. 14. No person whatever shall use menacing words, signs, or gestures, in the presence of a court-martial then sitting, or shall cause any disorder or riot, so as to disturb their proceedings, on the penalty of being punished at the discretion of the said court-martial.

* Repealed and supplied by resolution of 14th April, 1777—See chap. 3.

ART. 15. To the end that offenders may be brought to justice, it is hereby directed, that whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned till he shall be either tried by a court-martial, or shall be lawfully discharged by a proper authority.

Offenders to be arrested and confined.

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

Limitation of arrest and confinement.

ART. 17. No officer commanding a guard, or provost-martial, shall refuse to receive or keep any prisoner committed to his charge, by any officer belonging to the forces of the United States; which officer shall, at the same time, deliver an account in writing, signed by himself, of the crime with which the said prisoner is charged.

Refusal to receive prisoners.

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

Release and escape of prisoners.

ART. 19. Every officer or provost-martial to whose charge prisoners shall be committed, is hereby required, within twenty-four hours after such commitment, or as soon as he shall be relieved from his guard, to give in writing to the colonel of the regiment to whom the prisoner belongs (where the prisoner is confined upon the guard belonging to the said regiment, and that his offence only relates to the neglect of duty in his own corps) or to the commander-in-chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for his disobedience or neglect, at the discretion of a court-martial.

Provost martial to make daily reports of prisoners confined.

ART. 20. And if any officer under arrest, shall leave his confinement before he is set at liberty by the officer who confined him, or by a superior power, he shall be cashiered for it.

Breach of arrest.

ART. 21. Whatsoever commissioned officer shall be convicted, before a general court-martial, of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, shall be discharged from the service.

Conduct unbecoming an officer and gentleman.

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

Officers cashiered for cowardice or fraud—sentence to be published in newspapers, in and about the camp, and of the state from which the offender came.

SECTION XV.

Effects of commissioned officers who die or are killed in service.

ART. 1. When any commissioned officer shall happen to die, or be killed in the service of the U. States, the major of the regiment, or the officer doing the major's duty in his absence, shall immediately secure all his effects, or equipage, then in camp or quarters; and shall, before the next regimental court-martial, make an inventory thereof, and forthwith transmit the same to the office of the board of war, to the end, that his executors may, after payment of his debts in quarters and interment, receive the overplus, if any be, to his or their use.

Effects of non-commissioned officers and soldiers who shall happen to die or be killed in service.

ART. 2. When any non-commissioned officer or soldier shall happen to die, or to 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 whatever effects he dies possessed of, above his regimental clothing, arms and accoutrements, and transmit the same to the office of the board at war; which said effects are to be accounted for, and paid to the representative of such deceased non-commissioned officer or soldier. And in case any of the officers, so authorized to take care of the effects of dead officers and soldiers, should, before they shall have accounted to their representatives for the same, have occasion to leave the regiment, 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 agent of the regiment, 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.

SECTION XVI.

Artillery subject to rules and articles of war.

ART. 1. All officers, conductors, gunners, matrosses, drivers, or any other persons whatsoever, receiving pay or hire in the service of the artillery 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.

Artillery courts-martial.

ART. 2. For differences arising amongst themselves, or in matters relating solely to their own corps, the court-martial may be composed of their own officers; but where a number sufficient of such officers cannot be assembled, or in matters wherein other corps are interested, the officers of artillery shall sit in courts-martial with the officers of the other corps, taking their rank according to the dates of their respective commissions, and no otherwise.

SECTION XVII.

Militia, &c. when in continental pay, sub-

ART. 1. The officers and soldiers of any troops, whether minute-men, militia, or others, being mustered and in continental pay, 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 or 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 of the same provincial corps with the offender.

That such militia and minute-men as are now in service, and have, by particular contract with their respective states, engaged to be governed by particular regulations while in continental service, shall not be subject to the above articles of war.

ART. 2. For the future, all general officers and colonels, 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 generals and colonels serving by commissions from Congress, though the commissions of such particular generals and colonels should be of elder date; and in like manner lieutenant-colonels, majors, captains, and other inferior officers, serving by commission from 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, have rank next after all officers of the like rank serving by commissions from Congress, though the commissions of such lieutenant-colonels, majors, captains, and other inferior officers, should be of elder date to those of the like rank from Congress.

SECTION XVIII.

ART. 1. The foregoing articles are to be read and published once in every two months, at the head of every regiment, troop or company, mustered, or to be mustered in the service of the United States; and are to be duly observed and exactly obeyed by all officers and soldiers who are or shall be in the said service.

ART. 2. The general, or commander-in-chief for the time being, shall have full power of pardoning or mitigating any of the punishments ordered to be inflicted, for any of the offences mentioned in the foregoing articles; and every offender convicted as aforesaid, by any regimental court-martial, may be pardoned, or have his punishment mitigated by the colonel, or officer commanding the regiment.*

ART. 3. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles; nor shall more than one hundred lashes be inflicted on any offender, at the discretion of a court-martial.

That every judge-advocate, or person officiating as such, at any general court-martial, do, and he is hereby required to transmit, with as much expedition as the opportunity of time and distance of place can admit, the original proceedings and

* Repealed and supplied by resolution of 14th April, 1777—See chap. 3.

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

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

Fines to be collected and applied to relief of the sick.

ART. 4. The field-officers of each and every regiment, are to appoint some suitable person belonging to such regiment, to receive all such fines as may arise within the same, for any breach of any of the foregoing articles, and shall direct the same to be carefully and properly applied to the relief of such sick, wounded or necessitous soldiers as belong to such regiments; and such person shall account with such officer for all fines received, and the application thereof.

Crimes not capital, &c. punishable at discretion of courts-martial.

ART. 5. 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 above 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 to be punished at their discretion.

CHAPTER 3.

In Congress—April 14, 1777.

Resolved, That from and after the publication hereof, the 2d article of the 8th section, the 1st article of the 11th section, the 8th article of the 14th section, and the 2d article of the 18th section, of the rules and articles for the better government of the troops raised, or to be raised, and kept in pay by, and at the expense of the United States of America, passed in Congress the 20th day of September, 1776,* shall be, and they are hereby, repealed; and that the four following articles be substituted in the place and stead thereof.

All officers and soldiers at liberty to bring provisions into forts or garrisons except when contracted for by Congress.

ART. 1: All officers and soldiers shall have full liberty to bring into any of the forts or garrisons of the United States of America, any quantity of eatable provisions, except where any contracts are, or shall be, entered into by Congress, or by their orders, for furnishing such provisions, and with respect only to the species of provisions so contracted for.

Officers wronged by their colonel and refused redress may complain to the general commanding who

ART. 2. If any officer shall think himself to be wronged by his colonel, or the commanding officer of the regiment, and shall, upon due application made to him, be refused to be redressed, he may complain to the continental general commanding in the state where such regiment shall be stationed, in order

* See chapter 2.

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 Congress, a true state of such complaint, with the proceedings had thereon.

ART. 3. No sentence of a general court-martial shall be put in execution, till after report shall be made of the whole proceedings to Congress, the commander-in-chief, or the continental general commanding in the state, where such a general court-martial shall be held, and their or his orders be issued for carrying such sentence into execution.*

ART. 4. The continental general, commanding in either of the American states, for the time being, shall have full power of appointing general courts-martial to be held, and of pardoning or mitigating any of the punishments ordered to be inflicted for any of the offences mentioned in the aforementioned rules and articles for the better government of the troops; except the punishment of offenders, under sentence of death, by a general court-martial, which he may order to be suspended until the pleasure of Congress can be known, which suspension, with the proceedings of the court-martial, the said general shall immediately transmit to Congress for their determination. And every offender, convicted by any regimental court-martial, may be pardoned, or have his punishment mitigated by the colonel, or officer commanding the regiment.*

CHAPTER 4.

In Congress—May 27, 1777.

Resolved, That the general, or commander-in-chief, for the time being, shall have full power of pardoning or mitigating any of the punishments ordered to be inflicted for any of the offences mentioned in the rules and articles, for the better government of the troops raised, or to be raised and kept in pay by, and at the expense of, the United States of America; the fourth article resolved in Congress the 14th day of April last, notwithstanding.

CHAPTER 5.

In Congress—June 14, 1777.

Resolved, That the flag of the thirteen United States, be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation.†

* Modified by resolutions of 27th May, and 18th June, 1777—see chaps. 4, and 6, also chap. 8, art. 2.

† Altered by act of 13th January, 1794—see chap. 17.