

Retiring - board,
how composed.

3 Aug., 1861, c.
42, s. 17, v. 12, p.
289.

SEC. 1623. In case of an officer of the Marine Corps, the retiring-board shall be selected by the Secretary of the Navy, under the direction of the President. Two-fifths of the board shall be selected from the Medical Corps of the Navy, and the remainder shall be selected from officers of the Marine Corps, senior in rank, so far as may be, to the officer whose disability is to be inquired of.

CHAPTER TEN.

ARTICLES FOR THE GOVERNMENT OF THE NAVY.

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SEC. 1624. The Navy of the United States shall be governed by the following articles:

ARTICLE 1. The commanders of all fleets, squadrons, naval stations, and vessels belonging to the Navy, are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and any such commander who offends against this article shall be punished as a court-martial may direct.

ART. 2. The commanders of vessels and naval stations to which chaplains are attached shall cause divine service to be performed on Sunday, whenever the weather and other circumstances allow it to be done; and it is earnestly recommended to all officers, seamen, and others in the naval service diligently to attend at every performance of the worship of Almighty God.

ART. 3. Any irreverent or unbecoming behavior during divine service shall be punished as a general or summary court-martial may direct.

ART. 4. The punishment of death, or such other punishment as a court-martial may adjudge, may be inflicted on any person in the naval service—

First. Who makes, or attempts to make, or unites with any mutiny or mutinous assembly, or, being witness to or present at any mutiny, does not do his utmost to suppress it; or, knowing of any mutinous assembly or of any intended mutiny, does not immediately communicate his knowledge to his superior or commanding officer;

Second. Or disobeys the lawful orders of his superior officer;

Third. Or strikes or assaults, or attempts or threatens to strike or assault, his superior officer while in the execution of the duties of his office;

Fourth. Or gives any intelligence to, or holds or entertains any intercourse with, an enemy or rebel, without leave from the President, the Secretary of the Navy, the commander-in-chief of the fleet, the commander of the squadron, or, in case of a vessel acting singly, from his commanding officer;

Fifth. Or receives any message or letter from an enemy or rebel, or, being aware of the unlawful reception of such message or letter, fails to take the earliest opportunity to inform his superior or commanding officer thereof;

Sixth. Or, in time of war, deserts or entices others to desert;

[See §§ 1996-1998.]

Seventh. Or, in time of war, deserts or betrays his trust, or entices or aids others to desert or betray their trust;

Eighth. Or sleeps upon his watch;

Ninth. Or leaves his station before being regularly relieved;

Tenth. Or intentionally or willfully suffers any vessel of the Navy to be stranded, or run upon rocks or shoals, or improperly hazarded; or maliciously or willfully injures any vessel of the Navy, or any part of

Articles established.

17 July, 1862, c. 204, s. 1, v. 12, p. 600. Commander's duty of supervision and correction.

Id., art. 1.

Divine service.

Id., art. 2.

Irreverent behavior.

Id., art. 2.

Offenses punishable by death.

Id., art. 3.

Mutiny.

Disobedience of orders.

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Desertion in time of war.

23 April, 1800, c. 33, art. 17, v. 2, p. 47.

Deserting trust.

Sleeping on watch.

Leaving station

Willful stranding or injury of vessel.

	her tackle, armament, or equipment, whereby the safety of the vessel is hazarded or the lives of the crew exposed to danger ;
Unlawful destruction of public property.	Eleventh. Or unlawfully sets on fire, or otherwise unlawfully destroys, any public property not at the time in possession of an enemy, pirate, or rebel ;
Striking flag or treacherously yielding.	Twelfth. Or strikes or attempts to strike the flag to an enemy or rebel, without proper authority, or, when engaged in battle, treacherously yields or pusillanimously cries for quarters ;
Cowardice in battle.	Thirteenth. Or, in time of battle, displays cowardice, negligence, or disaffection, or withdraws from or keeps out of danger to which he should expose himself ;
Deserting duty in battle.	Fourteenth. Or, in time of battle, deserts his duty or station, or entices others to do so ;
Neglecting orders to prepare for battle.	Fifteenth. Or does not properly observe the orders of his commanding officer, and use his utmost exertions to carry them into execution, when ordered to prepare for or join in, or when actually engaged in, battle, or while in sight of an enemy ;
Neglecting to clear for action.	Sixteenth. Or, being in command of a fleet, squadron, or vessel acting singly, neglects, when an engagement is probable, or when an armed vessel of an enemy or rebel is in sight, to prepare and clear his ship or ships for action ;
Neglecting to join on signal for battle.	Seventeenth. Or does not, upon signal for battle, use his utmost exertions to join in battle ;
Failing to encourage the men to fight.	Eighteenth. Or fails to encourage, in his own person, his inferior officers and men to fight courageously ;
Failing to seek encounter.	Nineteenth. Or does not do his utmost to overtake and capture or destroy any vessel which it is his duty to encounter ;
Failing to afford relief in battle.	Twentieth. Or does not afford all practicable relief and assistance to vessels belonging to the United States or their allies when engaged in battle.
Spies.	ART. 5. All persons who, in time of war, or of rebellion against the supreme authority of the United States, come or are found in the capacity of spies, or who bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any person in the Navy to betray his trust, shall suffer death, or such other punishment as a court-martial may adjudge.
17 July, 1862, c. 204, s. 1, v. 12, p. 602, art. 4.	
13 Feb., 1862, c. 25, s. 4, v. 12, p. 340.	
3 March, 1863, c. 75, s. 38, v. 12, p. 737.	
Murder.	ART. 6. If any person belonging to any public vessel of the United States commits the crime of murder without the territorial jurisdiction thereof, he may be tried by court-martial and punished with death.
17 July, 1862, c. 204, s. 1, v. 12, p. 602, art. 5.	
Imprisonment in a penitentiary.	ART. 7. A naval court-martial may adjudge the punishment of imprisonment for life, or for a stated term, at hard labor, in any case where it is authorized to adjudge the punishment of death ; and such sentences of imprisonment and hard labor may be carried into execution in any prison or penitentiary under the control of the United States, or which the United States may be allowed, by the legislature of any State, to use ; and persons so imprisoned in the prison or penitentiary of any State or Territory shall be subject, in all respects, to the same discipline and treatment as convicts sentenced by the courts of the State or Territory in which the same may be situated.
Id., art. 6.	
Offenses punishable at discretion of court-martial.	ART. 8. Such punishment as a court-martial may adjudge may be inflicted on any person in the Navy—
Id., art. 7.	
Profanity, falsehood, &c.	First. Who is guilty of profane swearing, falsehood, drunkenness, gambling, fraud, theft, or any other scandalous conduct tending to the destruction of good morals ;
Cruelty.	Second. Or is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders ;
Quarreling.	Third. Or quarrels with, strikes, or assaults, or uses provoking or reproachful words, gestures, or menaces toward, any person in the Navy ;

- Fourth. Or endeavors to foment quarrels between other persons in the Navy; Fomenting quarrels.
- Fifth. Or sends or accepts a challenge to fight a duel or acts as a second in a duel; Duels.
- Sixth. Or treats his superior officer with contempt, or is disrespectful to him in language or deportment, while in the execution of his office; Contempt of superior officer.
- Seventh. Or joins in or abets any combination to weaken the lawful authority of, or lessen the respect due to, his commanding officer; Combinations against superior officer.
- Eighth. Or utters any seditious or mutinous words; Mutinous words.
23 April, 1800, c. 33, art. 13, v. 2, p. 47.
- Ninth. Or is negligent or careless in obeying orders, or culpably inefficient in the performance of duty; Neglect of orders.
- Tenth. Or does not use his best exertions to prevent the unlawful destruction of public property by others; Preventing destruction of public property.
23 April, 1800, c. 33, art. 25, v. 2, p. 48.
- Eleventh. Or, through inattention or negligence, suffers any vessel of the Navy to be stranded, or run upon a rock or shoal, or hazarded; Negligent stranding.
- Twelfth. Or, when attached to any vessel appointed as convoy to any merchant or other vessels, fails diligently to perform his duty, or demands or exacts any compensation for his services, or maltreats the officers or crews of such merchant or other vessels; Negligence in convoy service.
- Thirteenth. Or takes, receives, or permits to be received, on board the vessel to which he is attached, any goods or merchandise, for freight, sale, or traffic, except gold, silver, or jewels, for freight or safe-keeping; or demands or receives any compensation for the receipt or transportation of any other article than gold, silver, or jewels, without authority from the President or Secretary of the Navy; Receiving articles for freight.
- Fourteenth. Or knowingly makes or signs, or aids, abets, directs, or procures the making or signing of, any false muster; False muster.
- Fifteenth. Or wastes any ammunition, provisions, or other public property, or, having power to prevent it, knowingly permits such waste; Waste of public property, &c.
- Sixteenth. Or, when on shore, plunders, abuses, or maltreats any inhabitant, or injures his property in any way; Plundering on shore.
- Seventeenth. Or refuses, or fails to use, his utmost exertions to detect, apprehend, and bring to punishment all offenders, or to aid all persons appointed for that purpose; Refusing to apprehend offenders.
- Eighteenth. Or, when rated or acting as master-at-arms, refuses to receive such prisoners as may be committed to his charge, or, having received them, suffers them to escape, or dismisses them without orders from the proper authority; Refusing to receive prisoners.
- Nineteenth. Or is absent from his station or duty without leave, or after his leave has expired; Absence from duty without leave.
- Twentieth. Or violates or refuses obedience to any lawful general order or regulation issued by the Secretary of the Navy; Violating general orders or regulations.
- Twenty-first. Or, in time of peace, deserts or attempts to desert, or aids and entices others to desert; [See §§ 1996-1998.] Desertion in time of peace.
- Twenty-second. Or receives or entertains any deserter from any other vessel of the Navy, knowing him to be such, and does not, with all convenient speed, give notice of such deserter to the commander of the vessel to which he belongs, or to the commander-in-chief, or to the commander of the squadron; Harboring deserters.
23 April, 1800, c. 33, art. 17, v. 2, p. 47.
- ART. 9. Any officer who absents himself from his command without leave may, by the sentence of a court-martial, be reduced to the rating of an ordinary seaman. Officer absent without leave may be reduced.
16 May, 1864, c. 86, s. 2, v. 13, p. 75.
- ART. 10. Any commissioned officer of the Navy or Marine Corps who, having tendered his resignation, quits his post or proper duties without leave, and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of such resignation, shall be deemed and punished as a deserter. Desertion by resignation.
5 Aug., 1861, c. 54, s. 2, v. 12, pp. 316, 317.
- ART. 11. No person in the naval service shall procure stores or other articles or supplies for, and dispose thereof to, the officers or enlisted Dealing in supplies on private account.

- 26 Aug., 1842, c. 206, s. 1, v. 5, p. 535. men on vessels of the Navy, or at navy-yards or naval stations, for his own account or benefit.
- Importing dutiable goods in public vessels. ART. 12. No person connected with the Navy shall, under any pretense, import in a public vessel any article which is liable to the payment of duty.
- 30 July, 1846, c. 74, s. 10, v. 9, p. 44.
- Distilled spirits only as medical stores. ART. 13. Distilled spirits shall be admitted on board of vessels of war only upon the order and under the control of the medical officers of such vessels, and to be used only for medical purposes.
- 14 July, 1862, c. 164, s. 4, v. 12, p. 565.
- Certain crimes of fraud against the United States. ART. 14. Fine and imprisonment, or such other punishment as a court-martial may adjudge, shall be inflicted upon any person in the naval service of the United States—
- 2 March, 1863, c. 67, s. 1, v. 12, p. 696.
- Presenting false claims. Who presents or causes to be presented to any person in the civil, military, or naval service thereof, for approval or payment, any claim against the United States or any officer thereof, knowing such claim to be false or fraudulent; or
- Agreement to obtain payment of false claim. Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or
- False papers. Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures or advises the making or use of, any writing, or other paper, knowing the same to contain any false or fraudulent statement; or
- Perjury. Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes, or procures or advises the making of, any oath to any fact or to any writing or other paper, knowing such oath to be false; or
- Forgery. Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of, any signature upon any writing or other paper, or uses, or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or
- Delivering less property than receipt calls for. Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the naval service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or
- Giving receipts without knowing truth of. Who, being authorized to make or deliver any paper certifying the receipt of any money or other property of the United States, furnished or intended for the naval service thereof, makes, or delivers to any person, such writing, without having full knowledge of the truth of the statements therein contained, and with intent to defraud the United States; or
- Stealing, wrongfully selling, &c. Who steals, embezzles, knowingly and willfully misappropriates, applies to his own use or benefit, or wrongfully and knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence stores, money or other property of the United States, furnished or intended for the military or naval service thereof; or
- Buying public military property. Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any other person who is a part of or employed in said service, any ordnance, arms, equipments, ammunition, clothing, subsistence stores, or other property of the United States, such other person not having lawful right to sell or pledge the same; or
- 17 July, 1862, c. 204, art. 7, v. 12, p. 602. Who executes, attempts, or countenances any other fraud against the United States.

And if any person, being guilty of any of the offenses described in this article while in the naval service, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

2 March, 1863, c. 67, s. 2, v. 12, p. 697.

ART. 15. The commanding officer of every vessel in the Navy entitled to or claiming an award of prize-money shall, as soon as it may be practicable after the capture, transmit to the Navy Department a complete list of the officers and men of his vessel entitled to share, stating therein the quality of each person rating; and every commanding officer who offends against this article shall be punished as a court-martial may direct. [See § 4615.]

List of persons claiming prize-money.

17 July, 1862, c. 204, s. 5, v. 12, p. 607.

ART. 16. No person in the Navy shall take out of a prize, or vessel seized as a prize, any money, plate, goods, or any part of her equipment, unless it be for the better preservation thereof, or unless such articles are absolutely needed for the use of any of the vessels or armed forces of the United States, before the same are adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, in order that judgment may be passed thereon; and every person who offends against this article shall be punished as a court-martial may direct.

Removing property from a prize.

Id., s. 7.

ART. 17. If any person in the Navy strips off the clothes of, or pillages, or in any manner maltreats, any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge.

Maltreating persons taken on a prize.

Id., s. 8.—Lively and Cargo, 1 Gallis., 314.

ART. 18. If any officer or person in the naval service employs any of the forces under his command for the purpose of returning any fugitive from service or labor, he shall be dismissed from the service.

Returning fugitives from service.

13 March, 1862, c. 40, s. 1, v. 12, p. 354.

ART. 19. Any officer who knowingly enlists into the naval service any deserter from the naval or military service of the United States, or any insane or intoxicated person, or any minor between the ages of sixteen and eighteen years, without the consent of his parents or guardian, or any minor under the age of sixteen years, shall be dishonorably dismissed from the service of the United States. [See §§ 1418, 1419.]

Enlisting deserters, minors, &c.

3 March, 1865, c. 79, s. 18, v. 13, p. 490.

ART. 20. Every commanding officer of a vessel in the Navy shall obey the following rules:

Duties of commanding officers.

17 July, 1862, c. 204, s. 16, v. 12, p. 609.

First. Whenever a man enters on board, the commanding officer shall cause an accurate entry to be made in the ship's books, showing his name, the date, place, and term of his enlistment, the place or vessel from which he was received on board, his rating, his descriptive list, his age, place of birth, and citizenship, with such remarks as may be necessary.

Men received on board.

Second. He shall, before sailing, transmit to the Secretary of the Navy a complete list of the rated men under his command, showing the particulars set forth in rule one, and a list of officers and passengers, showing the date of their entering. And he shall cause similar lists to be made out on the first day of every third month and transmitted to the Secretary of the Navy as opportunities occur, accounting therein for any casualty which may have happened since the last list.

List of officers, men, and passengers.

Third. He shall cause to be accurately minuted on the ship's books the names of any persons dying or deserting, and the times at which such death or desertion occurs.

Deaths and desertions.

Fourth. In case of the death of any officer, man, or passenger on said vessel, he shall take care that the paymaster secures all the property of the deceased, for the benefit of his legal representatives.

Property of deceased persons.

Fifth. He shall not receive on board any man transferred from any other vessel or station to him, unless such man is furnished with an

Accounts of men received.

- account, signed by the captain and paymaster of the vessel or station from which he came, specifying the date of his entry on said vessel or at said station, the period and term of his service, the sums paid him, the balance due him, the quality in which he was rated, and his descriptive list.
- Accounts of men sent from the ship. Sixth. He shall, whenever officers or men are sent from his ship, for whatever cause, take care that each man is furnished with a complete statement of his account, specifying the date of his enlistment, the period and term of his service, and his descriptive list. Said account shall be signed by the commanding officer and paymaster.
- Inspection of provisions. Seventh. He shall cause frequent inspections to be made into the condition of the provisions on his ship, and use every precaution for their preservation.
- Health of crew. Eighth. He shall frequently consult with the surgeon in regard to the sanitary condition of his crew, and shall use all proper means to preserve their health. And he shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their hammocks and bedding, when the surgeon so advises, and shall direct that some of the crew attend them and keep the place clean.
- Attendance at final payment of crew. Ninth. He shall attend in person, or appoint a proper officer to attend, when his crew is finally paid off, to see that justice is done to the men and to the United States in the settlement of the accounts.
- Articles for the government of the Navy. Tenth. He shall cause the articles for the government of the Navy to be hung up in some public part of the ship and read once a month to his ship's company.
- Punishment for offending against this article. Every commanding officer who offends against the provisions of this article shall be punished as a court-martial may direct.
- Authority of officers after loss of vessel. ART. 21. When the crew of any vessel of the United States are separated from their vessel by means of her wreck, loss, or destruction, all the command and authority given to the officers of such vessel shall remain in full force until such ship's company shall be regularly discharged from or ordered again into service, or until a court-martial or court of inquiry shall be held to inquire into the loss of said vessel. And if any officer or man, after such wreck, loss, or destruction, acts contrary to the discipline of the Navy, he shall be punished as a court-martial may direct.
- Id., s. 14.
- Offenses not specified. ART. 22. All offenses committed by persons belonging to the Navy which are not specified in the foregoing articles shall be punished as a court-martial may direct.
- Id., art. 8.
- Offenses committed on shore. ART. 23. All offenses committed by persons belonging to the Navy while on shore shall be punished in the same manner as if they had been committed at sea.
- Id., art. 9.
- Punishments by order of commander. ART. 24. No commander of a vessel shall inflict upon a commissioned or warrant officer any other punishment than private reprimand, suspension from duty, arrest, or confinement, and such suspension, arrest, or confinement shall not continue longer than ten days, unless a further period is necessary to bring the offender to trial by a court-martial; nor shall he inflict, or cause to be inflicted, upon any petty officer, or person of inferior rating, or marine, for a single offense, or at any one time, any other than one of the following punishments, namely:
- First. Reduction of any rating established by himself.
- Second. Confinement, with or without irons, single or double, not exceeding ten days, unless further confinement be necessary, in the case of a prisoner to be tried by court-martial.
- Third. Solitary confinement, on bread and water, not exceeding five days.
- Fourth. Solitary confinement not exceeding seven days.
- Fifth. Deprivation of liberty on shore.
- Sixth. Extra duties.
- No other punishment shall be permitted on board of vessels belonging to the Navy, except by sentence of a general or summary court-martial.
- Wilkes vs. Dinsman, 7 How., 89.
Dinsman vs. Wilkes, 12 How., 390.

All punishments inflicted by the commander, or by his order, except reprimands, shall be fully entered upon the ship's log.

ART. 25. No officer who may command by accident, or in the absence of the commanding officer, except when such commanding officer is absent for a time by leave, shall inflict any other punishment than confinement.

Punishment by officer temporarily commanding.

23 April, 1800, c. 33, s. 1, v. 2, p. 49, art. 30.

ART. 26. Summary courts-martial may be ordered upon petty officers and persons of inferior ratings, by the commander of any vessel, or by the commandant of any navy-yard, naval station, or marine barracks to which they belong, for the trial of offenses which such officer may deem deserving of greater punishment than such commander or commandant is authorized to inflict, but not sufficient to require trial by a general court-martial.

Summary courts-martial.

2 March, 1855, c. 136, s. 4, v. 10, p. 627.
15 July, 1870, c. 295, s. 14, v. 16, p. 334.

ART. 27. A summary court-martial shall consist of three officers not below the rank of ensign, as members, and of a recorder. The commander of a ship may order any officer under his command to act as such recorder.

Constitution of summary courts-martial.

Id., s. 6.
Oath of members and recorder.

Id., s. 5.

ART. 28. Before proceeding to trial the members of a summary court-martial shall take the following oath or affirmation, which shall be administered by the recorder: "I, A B, do swear (or affirm) that I will well and truly try, without prejudice or partiality, the case now depending, according to the evidence which shall be adduced, the laws for the government of the Navy, and my own conscience." After which the recorder of the court shall take the following oath or affirmation, which shall be administered by the senior member of the court: "I, A B, do swear (or affirm) that I will keep a true record of the evidence which shall be given before this court and of the proceedings thereof."

ART. 29. All testimony before a summary court-martial shall be given orally, upon oath or affirmation, administered by the senior member of the court.

Testimony.

Id., s. 7.

ART. 30. Summary courts-martial may sentence petty officers and persons of inferior ratings to any one of the following punishments, namely:

Punishments by summary courts.

Id., s. 7.

First. Discharge from the service with bad conduct discharge; but the sentence shall not be carried into effect in a foreign country.

Second. Solitary confinement, not exceeding thirty days, in irons, single or double, on bread and water, or on diminished rations.

Third. Solitary confinement in irons, single or double, not exceeding thirty days.

Fourth. Solitary confinement not exceeding thirty days.

Fifth. Confinement not exceeding two months.

Sixth. Reduction to next inferior rating.

Seventh. Deprivation of liberty on shore on foreign station.

Eighth. Extra police duties, and loss of pay, not to exceed three months, may be added to any of the above-mentioned punishments.

ART. 31. A summary court-martial may disrate any rated person for incompetency.

Disrating for incompetency.

17 July, 1862, c. 204, s. 1, art. 10, v. 12, p. 603.

ART. 32. No sentence of a summary court-martial shall be carried into execution until the proceedings and sentence have been approved by the officer ordering the court and by the commander-in-chief, or, in his absence, by the senior officer present. And no sentence of such court which involves loss of pay shall be carried into execution until the proceedings and sentence have been approved by the Secretary of the Navy.

Execution of sentence of summary court.

2 March, 1855, c. 136, s. 8, v. 10, p. 628.
2 March, 1867, c. 174, s. 5, v. 14, p. 516.

ART. 33. The officer ordering a summary court-martial shall have power to remit, in part or altogether, but not to commute, the sentence of the court. And it shall be his duty either to remit any part or the whole of any sentence, the execution of which would, in the opinion of the surgeon or senior medical officer on board, given in writing, produce

Remission of sentence.

2 March, 1855, c. 136, s. 8, v. 10, p. 628.

serious injury to the health of the person sentenced; or to submit the case again, without delay, to the same or to another summary court-martial, which shall have power, upon the testimony already taken, to remit the former punishment and to assign some other of the authorized punishments in the place thereof.

Manner of conducting proceedings.

Id., s. 9.

Same punishments by general court-martial.

Dismissal of officers.

13 July, 1866, c. 176, s. 5, v. 14, p. 92.

Officer dismissed by the President may demand trial.

3 March, 1865, c. 79, s. 12, v. 13, p. 489.

General courts-martial, by whom convened.

17 July, 1862, c. 204, s. 1, art. 11, v. 12, p. 603.

Constitution of.

Id., art. 11.

Wise vs. Withers, 3 Cr., 337.

Dynes vs. Hoover, 20 How., 81, 84.

Oaths of members and judge-advocate.

Id., art. 12.

ART. 34. The proceedings of summary courts-martial shall be conducted with as much conciseness and precision as may be consistent with the ends of justice, and under such forms and rules as may be prescribed by the Secretary of the Navy, with the approval of the President; and all such proceedings shall be transmitted, in the usual mode, to the Navy Department.

ART. 35. Any punishment which a summary court-martial is authorized to inflict may be inflicted by a general court-martial.

Id., s. 10.

ART. 36. No officer shall be dismissed from the naval service except by the order of the President or by sentence of a general court-martial; and in time of peace no officer shall be dismissed except in pursuance of the sentence of a general court-martial or in mitigation thereof.

ART. 37. When any officer, dismissed by order of the President since 3d March, 1865, makes, in writing, an application for trial, setting forth, under oath that he has been wrongfully dismissed, the President shall, as soon as the necessities of the service may permit, convene a court-martial to try such officer on the charges on which he shall have been dismissed. And if such court-martial shall not be convened within six months from the presentation of such application for trial, or if such court, being convened, shall not award dismissal or death as the punishment of such officer, the order of dismissal by the President shall be void.

ART. 38. General courts-martial may be convened by the President, the Secretary of the Navy, or the commander-in-chief of a fleet or squadron; but no commander of a fleet or squadron in the waters of the United States shall convene such court without express authority from the President.

ART. 39. A general court-martial shall consist of not more than thirteen nor less than five commissioned officers as members; and as many officers, not exceeding thirteen, as can be convened without injury to the service, shall be summoned on every such court. But in no case, where it can be avoided without injury to the service, shall more than one-half, exclusive of the president, be junior to the officer to be tried. The senior officer shall always preside and the others shall take place according to their rank.

ART. 40. The president of the general court-martial shall administer the following oath or affirmation to the judge-advocate or person officiating as such:

"I, A B, do swear (or affirm) that I will keep a true record of the evidence given to and the proceedings of this court; that I will not divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority; and that I will not at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

This oath or affirmation being duly administered, each member of the court, before proceeding to trial, shall take the following oath or affirmation, which shall be administered by the judge-advocate or person officiating as such:

"I, A B, do swear (or affirm) that I will truly try without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the Navy, and my own conscience; that I will not by any means divulge or disclose the sentence of the court until it shall have been approved by the proper authority; and that I will not at any time divulge or disclose the

vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law."

ART. 41. An oath or affirmation, in the following form, shall be administered to all witnesses, before any court-martial, by the president thereof:

"You do solemnly swear (or affirm) that the evidence you shall give in the case now before this court shall be the truth, the whole truth, and nothing but the truth, and that you will state everything within your knowledge in relation to the charges. So help you God; (or 'this you do under the pains and penalties of perjury.')

ART. 42. Whenever any person refuses to give his evidence or to give it in the manner provided by these articles, or prevaricates, or behaves with contempt to the court, it shall be lawful for the court to imprison him for any time not exceeding two months.

ART. 43. The person accused shall be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest; and no other charges than those so furnished shall be urged against him at the trial, unless it shall appear to the court that intelligence of such other charge had not reached the officer ordering the court when the accused was put under arrest, or that some witness material to the support of such charge was at that time absent and can be produced at the trial; in which case reasonable time shall be given to the accused to make his defense against such new charge.

ART. 44. Every officer who is arrested for trial shall deliver up his sword to his commanding officer and confine himself to the limits assigned him, on pain of dismissal from the service.

ART. 45. When the proceedings of any general court-martial have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more are assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence is given, unless temporarily adjourned by the authority which convened it.

ART. 46. No member of a general court-martial shall, after the proceedings are begun, absent himself therefrom, except in case of sickness, or of an order to go on duty from a superior officer, on pain of being cashiered.

ART. 47. Whenever any member of a court-martial, from any legal cause, is absent from the court after the commencement of a case, all the witnesses who have been examined during his absence must, when he is ready to resume his seat, be recalled by the court, and the recorded testimony of each witness so examined must be read over to him, and such witness must acknowledge the same to be correct and be subject to such further examination as the said member may require. Without a compliance with this rule, and an entry thereof upon the record, a member who shall have been absent during the examination of a witness shall not be allowed to sit again in that particular case.

ART. 48. Whenever a court-martial sentences an officer to be suspended, it may suspend his pay and emoluments for the whole or any part of the time of his suspension.

ART. 49. In no case shall punishment by flogging, or by branding, marking, or tattooing on the body be adjudged by any court-martial or be inflicted upon any person in the Navy.

ART. 50. No person shall be sentenced by a court-martial to suffer death, except by the concurrence of two-thirds of the members present, and in the cases where such punishment is expressly provided in these articles. All other sentences may be determined by a majority of votes.

ART. 51. It shall be the duty of a court-martial, in all cases of conviction, to adjudge a punishment adequate to the nature of the offense; but the members thereof may recommend the person convicted as deserving of clemency, and state, on the record, their reasons for so doing.

Oath of witness.

Id., art. 14.

Contempts of court.

Id., art. 13.

Charges.

Id., art. 15.

Duty of officer arrested.

Id., art. 15.

Suspension of proceedings.

Id., art. 16.

Absence of members.

Id., art. 16.

Witnesses examined in absence of a member.

Id., art. 17.

Suspension of pay.

Id., art. 18.

Flogging, branding, &c.

Id., art. 8.

6 June, 1872, c. 316, s. 2, v. 17, p. 261.

Sentences, how determined.

Id., art. 19.

Adequate punishment; recommendation to mercy.

Id., art. 21.

- Authenticat ion
of judgment.
Id., art. 22. ART. 52. The judgment of every court-martial shall be authenticated by the signature of the president, and of every member who may be present when said judgment is pronounced, and also of the judge-advocate.
- Confirmation of
sentence.
Id., art. 19. ART. 53. No sentence of a court-martial, extending to the loss of life, or to the dismissal of a commissioned or warrant officer, shall be carried into execution until confirmed by the President. All other sentences of a general court-martial may be carried into execution on confirmation of the commander of the fleet or officer ordering the court.
- Remission and
mitigation of sen-
tence.
Id., art. 20. ART. 54. Every officer who is authorized to convene a general court-martial shall have power, on revision of its proceedings, to remit or mitigate, but not to commute, the sentence of any such court which he is authorized to approve and confirm.
- Courts of inquiry,
by whom ordered.
Id., art. 23. ART. 55. Courts of inquiry may be ordered by the President, the Secretary of the Navy, or the commander of a fleet or squadron.
- Constitution of.
Id., art. 23. ART. 56. A court of inquiry shall consist of not more than three commissioned officers as members, and of a judge-advocate, or person officiating as such.
- Powers of.
Id., art. 23. ART. 57. Courts of inquiry shall have power to summon witnesses, administer oaths, and punish contempts, in the same manner as courts-martial; but they shall only state facts, and shall not give their opinion, unless expressly required so to do in the order for convening.
- Oath of mem-
bers and judge-ad-
vocate.
Id., art. 25. ART. 58. The judge-advocate, or person officiating as such, shall administer to the members the following oath or affirmation: "You do swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality." After which the president shall administer to the judge-advocate, or person officiating as such, the following oath or affirmation: "You do swear (or affirm) truly to record the proceedings of this court and the evidence to be given in the case in hearing."
- Rights of party
inquired of.
Id., art. 23. ART. 59. The party whose conduct shall be the subject of inquiry, or his attorney, shall have the right to cross-examine all the witnesses.
- Proceedings, how
authenticated and
used as evidence.
Id., art. 24. ART. 60. The proceedings of courts of inquiry shall be authenticated by the signature of the president of the court and of the judge-advocate, and shall, in all cases not capital, nor extending to the dismissal of a commissioned or warrant officer, be evidence before a court-martial, provided oral testimony cannot be obtained.