

GENERAL ORDERS, }

WAR DEPARTMENT,

ADJUTANT GENERAL'S OFFICE,

No. 41. }

Washington, February 11, 1863.

I..At a General Court Martial, which convened at Washington, D. C., on the 17th day of November, 1862, pursuant to "Special Orders," No. 344, from the Headquarters of the Army, Washington, D. C., November 13, 1862, and of which Colonel W. R. MURPHY, 10th New Jersey Volunteers, was President, were arraigned and tried—

1..Lieutenant Colonel *Samuel McKelvy*, Commissary of Subsistence of Volunteers.

CHARGE 1st.—"Embezzlement of public money belonging to the United States Government."

Specification—"In this; that *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence in the United States Army of Volunteers, as said Commissary of Subsistence, employed Charles Von Stockhausen, a Private in Company "C," 14th Regiment New York State Volunteers, as his clerk; that said Private Charles Von Stockhausen remained as said clerk in the employ of the said *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence, during all of the two months of November and December, 1861. That on settlement with the Government of the United States, as said Commissary of Subsistence, the said *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence, presented a receipt and voucher, representing that he had paid said Private Charles Von Stockhausen, as said clerk, the sum of one hundred and fifty dollars for his services as said clerk; the said one hundred and fifty dollars being money with which he had been intrusted by the United States Government, as said Commissary of Subsistence, to pay the men under his command, and for other purposes; when, in fact, he had only paid said clerk for his said services for the month of November, 1861, the sum of thirty dollars, and no more; that for the month of December, 1861, he did not pay his said clerk for his said services anything at all, and refuses to pay him more than twenty-five cents per day for the month of De-

ember, 1861; thereby embezzling the sum of one hundred and twelve dollars and fifty cents of the money which had been intrusted to him by the United States Government as said Commissary of Subsistence, for the payment of the men under his command, and for other purposes. This done at Washington city, D. C., on or about the 13th day of January, 1862."

CHARGE 2d.—"Misapplying public money intrusted to him."

Specification—"In this; that *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence in the United States Army of Volunteers, employed in the Commissary Department under his charge, Private Charles Von Stockhausen, of Company "C," 14th Regiment of New York State Volunteers, as his clerk; that said Private Charles Von Stockhausen remained as said clerk in the employ of the said *Samuel McKelvy* during all the two months of November and December, 1861; that for his services as said clerk for the month of November, 1861, the said *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence, paid him the sum of thirty dollars, and no more; that for his services as said clerk for the month of December, 1861, he paid him nothing at all, and refuses to pay him for his said services more than twenty-five cents per day; that for each of the months of November and December, 1861, the said *Samuel McKelvy* required his said clerk, the said Private Charles Von Stockhausen, to sign a paper entitled "Receipt Roll of Employees," for the sum of seventy-five dollars per month; that on settlement with the United States Government for the said months of November and December, 1861, the said *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence, presented said paper entitled "Receipt Roll of Employees," as a receipt and voucher for so much money paid by him to said Private Charles Von Stockhausen, as his clerk in the said Commissary Department under his charge, for his services in the months of November and December, 1861, and charged the United States Government with the said sum of one hundred and fifty dollars, when in fact he had only paid said clerk the sum of thirty dollars, and no more; and did not pay the amount which the said receipt and voucher called for, but appropriated the amount of one hundred and

twelve dollars and fifty cents, of said one hundred and fifty dollars, to his own private use and purposes, and thereby misapplied the money with which he had been intrusted by the Government of the United States, as said Commissary of Subsistence, for the payment of the men under his command, and for other purposes. This done at Washington, D. C., on or about the 13th day of January, 1862."

CHARGE 3d.—"Signing a false certificate relating to the pay of a private soldier, who acted as his clerk in the Commissary Department."

Specification—"In this; that *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence in the United States Army of Volunteers, did, on or about the 21st day of December, 1861, at Miner's Hill, Virginia, sign the following false certificate relative to the pay of Private Charles Von Stockhausen, of Company "C," 14th Regiment New York State Volunteers:

'We, the subscribers, do hereby acknowledge to have received of *Samuel McKelvy*, Captain and Commissary of Subsistence U. S. Army, at Miner's Hill, Va., the sums set opposite our names respectively, being in full of our pay for the period herein expressed, having signed duplicates hereof.

'1861, Nov. 12. Jas. C. Stockhausen, clerk, November 1 to November 30, one month, 75 dollars. Amount received, 75 dollars. (S'd) J. C. Stockhausen; witness, J. B. Barlow. * * *
Dec'r 21, J. C. Stockhausen, clerk, Dec'r. 1 to Dec'r. 31, one month, 75 dollars. Amount received, 75 dollars. (S'd) J. C. Stockhausen; witness, J. B. Barlow. * * *

'I certify, on honor, that the above receipt roll is correct and just.

'SAMUEL MCKELVY,

'*Captain and C. S., 2d Brigade, Porter's Division.*' "

To which charges and specifications he pleaded as follows:

To the *Specification* of the 1st Charge, "Not Guilty."

To the 1st CHARGE, "Not Guilty."

To the *Specification* of the 2d Charge, "Not Guilty."

To the 2d CHARGE, "Guilty."

To the *Specification* of the 3d Charge, "Guilty."

To the 3d CHARGE, "Guilty."

FINDING.

The Court, after mature deliberation upon the testimony adduced, finds the accused as follows :

Of the *Specification* of the 1st Charge, "Not Guilty."

Of the 1st CHARGE, "Not Guilty."

Of the *Specification* of the 2d Charge, "Guilty, except the words 'to his own use.' "

Of the 2d CHARGE, "Guilty," without criminal intent.

Of the *Specification* of the 3d Charge, "Guilty."

Of the 3d CHARGE, "Guilty," without criminal intent.

SENTENCE.

And the Court does therefore sentence him, the said *Samuel McKelvy*, Lieutenant Colonel and Commissary of Subsistence of Volunteers, "*To be dismissed from the service of the United States.*"

2. Colonel *Samuel Graham*, 5th Regiment New York Volunteer Artillery.

CHARGE 1st.—"Receiving money as an officer of the United States Army, from the Sutler of the 5th Regiment New York Volunteer Artillery."

Specification 1st—"In this; that *Samuel Graham*, Colonel Commanding the 5th Regiment of New York Volunteer Artillery, did appoint one George H. Sealey, Sutler of the said 5th Regiment New York Volunteer Artillery, for which appointment he received, as such Colonel, the sum of one thousand dollars as a present from said Sutler, George H. Sealey; the said Colonel being at the time an officer in the United States army. This done on or about the 21st day of March, 1862, at or near Fort Richmond."

Specification 2d—"In this; that *Samuel Graham*, Colonel Commanding the 5th Regiment New York Volunteer Artillery, did appoint one George H. Sealey, Sutler of the 5th Regiment New York Volunteer Artillery, for which said appointment he received from said Sutler, George H. Sealey, the sum of one thousand dollars, said Colonel *Samuel Graham* being at the time an officer in the United States army. This done on or about the 21st day of March, 1862, at or near Fort Richmond, on Staten Island."

Specification 3d—"In this; that *Samuel Graham*, Colonel Commanding the 5th Regiment New York Volunteer Artillery, did appoint and permit one George H. Sealey to act as a Sutler for the 5th Regiment New York Volunteer Artillery, for which said appointment and permission he received from the said George H. Sealey the sum of one thousand dollars; said Colonel being at the same time an officer in the army of the United States. This done on or about the 21st day of March, 1862, at or near Fort Richmond, on Staten Island."

CHARGE 2d.—"Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this; that *Samuel Graham*, Colonel Commanding the 5th Regiment of New York Volunteer Artillery, appointed and permitted one George H. Sealey to act as Sutler for the said 5th Regiment New York Volunteer Artillery, contrary to, and in violation of the law which provides for the appointment of Regimental Sutlers, and received from the said George H. Sealey, as an inducement to make said appointment, and to violate said law, the amount of one thousand dollars; said Colonel being at the time an officer of the United States army. This done on or about the 21st day of March, 1862, at or near Fort Richmond, on Staten Island."

Specification 2d—"In this; that *Samuel Graham*, Colonel Commanding the 5th Regiment of New York Volunteer Artillery, received, as said Colonel, the sum of one thousand dollars from one George H. Sealey, as an inducement to use his influence to have the said George H. Sealey appointed Sutler for the 5th Regiment of New York Volunteer Artillery; the said Colonel being at the same time an officer in the United States army. This done on or about the 21st day of March, 1862, at or near Fort Richmond."

To which charges and specifications he pleaded as follows:

- To the 1st *Specification*, 1st Charge, "Not Guilty."
- To the 2d *Specification*, 1st Charge, "Not Guilty."
- To the 3d *Specification*, 1st Charge, "Not Guilty."
- To the 1st **CHARGE**, "Not Guilty."

To the 1st *Specification*, 2d Charge, "Not Guilty."

To the 2d *Specification*, 2d Charge. "Not Guilty."

To the 2d CHARGE, "Not Guilty."

FINDING.

The Court, after mature deliberation upon the testimony adduced, finds the accused as follows:

Of the 1st *Specification*, 1st Charge, "Guilty, except the words 'as a present;' and insert the amount received by the accused, five hundred dollars, instead of 'one thousand dollars.' "

Of the 2d *Specification*, 1st Charge, "Guilty;" and find the amount received by the accused, five hundred dollars, instead of "one thousand dollars."

Of the 3d *Specification*, 1st Charge, "Guilty;" and find the amount received by the accused to be five hundred dollars, instead of "one thousand dollars."

Of the 1st CHARGE, "Guilty."

Of the 1st *Specification* of the 2d Charge, "Guilty, except the words 'and as an inducement to violate said;' and insert the words three hundred dollars, instead of 'one thousand dollars.' "

Of the 2d *Specification* of the 2d Charge, "Not Guilty."

Of the 2d CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, the said *Samuel Graham*, Colonel of the 5th Regiment New York Volunteer Artillery, "To be dismissed the service of the United States."

II..The proceedings, findings, and sentences in the foregoing cases are approved.

In consideration, however, of the fact that the Court attaches no criminal intent to the charges of which Lieutenant Colonel McKelvy, Commissary of Subsistence, was found guilty, but believes that the acts of the accused were the result of inexperience, and committed inadvertently, and does recommend his full and honorable pardon, the General-in-Chief suspended the sentence in his case until the pleasure of the President of the United States should be known.

The sentence in the case of Colonel Samuel Graham, 5th Regiment of New York Volunteer Artillery, is confirmed, but the execution of the sentence was suspended till the pleasure of the President of the United States should be known.

The proceedings in the cases of Lieutenant Colonel McKelvy and Colonel Graham having been submitted to the President, he directs that Colonel Graham and Lieutenant Colonel McKelvy be reprimanded for the impropriety of their conduct; but, in consideration of the recommendation of the Court in the case of Lieutenant Colonel McKelvy, and also of a majority of the Court in the case of Colonel Graham, and satisfactory evidence of meritorious conduct on his part, that the sentence of dismissal be remitted.

III. The General Court Martial, of which Colonel W. R. MURPHY is President, is dissolved.

BY ORDER OF THE SECRETARY OF WAR:

L. THOMAS,
Adjutant General.

OFFICIAL :

Assistant Adjutant General.

