

ADJUTANT AND INSPECTOR GENERAL'S OFFICE,
Richmond, Oct. 28, 1863.

GENERAL ORDERS, }
No. 139. }

I. The President having commuted or remitted the sentences pronounced by General Courts Martial in the following cases, his decision is published for the information and guidance of all concerned:

1. Lieut. E. M. P. BROWN, Company B, 8th Battalion Ga. Volunteers. Charged with failure to suppress mutiny, and exciting and joining therein.

Sentence—Death.

2. First Sergt. ABNER UNDERWOOD, Company D, 8th Battalion Ga. Volunteers; also,

3. Private T. P. WOOD;

4. Private T. W. CANNON;

5. Private WM GARNER; and

6. Private T. ROBERTS,

of Company B, 8th Battalion Ga. Volunteers. Charged with exciting and joining in mutiny.

Sentence—Death.

7. Private DANIEL HOLLIS, Company B, 8th Battalion Ga. Volunteers. Charged with exciting and joining in mutiny.

Sentence—Confinement with ball and chain for twelve months, and forfeiture of pay.

The aforesaid parties were all tried by General Court Martial, convened under General Orders, No. 3, of 1863, Department of South Carolina, Georgia and Florida. In view of the evident want of discipline in this battalion, the President has remitted the sentences of all the parties. Lieut. Brown, Sergt. Underwood, and Privates Wood, Cannon, Garner, Roberts and Hollis will therefore be released from confinement and returned to duty.

The Department observes with regret the absence of a just military discipline in the above named battalion. Had this been properly observed and enforced, there is reason to believe these trials would have been obviated. The officers in charge are responsible for these evils, and must correct them. At the same time they should observe towards the soldiers

in their command a proper degree of consideration and kindness, which is generally a sure means of securing obedience and respect.

II.—8. Private STEPHEN OUTLAW, of Troop A, 5th Ga. Cavalry. Charged with desertion.

Sentence—Death.

Tried by General Court Martial, convened under General Orders, No. 22, of February 6, 1863, Department of South Carolina, Georgia and Florida. This is not properly a case of desertion. The prisoner escaped the guard while undergoing sentence. He should have been returned to complete his sentence, if there was no other charge against him than that for an escape.

Private Outlaw will be released from confinement and returned to duty.

9. Lieut. Col. A. C. EDWARDS. Charged with violating the 52d, 83d and 99th Articles of War.

Tried by Court, convened under Special Orders, No. 118, Head Quarters Department of South Carolina, Georgia and Florida, July 28, 1862.

Sentence—Suspension from rank and command, without pay for eighteen months. Commuted to reprimand in General Orders.

The sentence in the case of Lieut. Col. Edwards was the just consequence of an unbecoming disregard of official obligations on his part. In directing his release from arrest and restoration to duty, the Department indulges the hope that this exercise of Executive clemency may have its due effect in exciting him to a stricter vigilance and a more exemplary discharge of duty in the future.

10. Lieut. JAMES M. CHESSEY, 47th Ga. Volunteers. Charged with defamation of character, mutiny and incompetency.

Tried by Court, convened under General Orders, No. 11, of January 29th, 1863, from Division Head Quarters, Wilmington, N. C., issued in pursuance of General Orders, No. 14, Department of South Carolina, Georgia and Florida.

Sentence—Dismission from service, with forfeiture of pay and allowances.

The record in this case is incomplete. The proceedings, finding and sentence are disapproved; and Lieut. Chessy will be released from arrest and returned to duty.

III.—11. Second Lieut. J. J. WORTHAM, Waccamaw Light Artillery. Charged with sending a challenge, and with conduct to the prejudice of good order and military discipline.

Sentence—To be cashiered. Commuted to reprimand in General Orders.

12. Second Lieut. W. J. GORE, Waccamaw Light Artillery. Charged with carrying a challenge.

Sentence—To be cashiered. Commuted to reprimand in General Orders.

13. Lieut. L. A. RICE, 2d Regiment S. C. Volunteers. Charged with sending and accepting a challenge to fight a duel.

Sentence—To be cashiered. Commuted to reprimand in General Orders.

Lieuts. Wortham, Gore and Rice were tried by a General Court Martial, convened under General Orders, No. 70, of May 20, 1863, Department of South Carolina, Georgia and Florida.

The Articles of War expressly prohibit the sending of challenges to fight; and all seconds, promoters and carriers of challenges are deemed principals, and directed to be punished as such—i. e. by being cashiered.

The offences of which these officers have been convicted are thus seen to be of a very grave character, and cannot be regarded with toleration. Dueling is a military not less than a moral offence. It is unfortunate if the error prevails in the army that punishment will not be inflicted on those who violate the laws of the service respecting it; and the Department avails itself of this occasion to express its unqualified reprobation of the practice, and of the conduct of the accused in the foregoing trials.

Lieut. Chesser appears to have rested under an honest misapprehension as to his duty to a brother officer, in bearing a challenge; and the records present in the cases of Lieuts. Wortham and Rice certain mitigating circumstances which to some extent justify the recommendations to clemency made by their superior officers.

These considerations, in connection with the too generally prevailing misapprehension in the army, already adverted to, have determined the Executive so far to respect the appeals made in behalf of these officers as to direct the commutation of their respective sentences. They will accordingly be released from arrest and restored to duty with their proper companies.

14. Lieut. W. C. PRUITT, Company E, 20th S. C. Volunteers.

Tried under Special Orders, No. 105, March 10, 1863, Department of South Carolina, Georgia and Florida, for intoxication while on duty.

Sentence—To be dismissed the service. No evidence was submitted with the record in this case.

In consideration of the recommendation of the Commanding General, the sentence is remitted; and Lieut. Pruitt will be released from arrest and returned to duty.

15. Private C. H. KENT, Company D, 18th Va. Battalion. Charged

with desertion, and conduct to the prejudice of good order and military discipline.

Sentence—Six months' hard labor with ball and chain. To wear a placard with the word "forger" legibly printed thereon, for the period of six months.

Tried by General Court Martial, under General Orders, No. 7, of October 11, 1862, Head Quarters Richmond, Va.

The sentence is remitted, and Private Kent will be released from confinement, and assigned to a company in the Army of Northern Virginia.

16. Private MAJOR RUNNELLS, Company H, 2d S. C. Rifles.

Tried by General Court Martial, convened under General Orders, No. 4, of August 4, 1863.

Sentence—Death. Remitted: and Private Runnells will be released from confinement and returned to his company.

17. Capt. R. Y. L. LONG, Company D, Phillips' Legion of Cavalry. Charged with disobedience of orders and breach of arrest.

Sentence—To be cashiered. Remitted: and Capt. Long will be released from arrest and returned to his company.

Tried under Special Orders, No. 205, of August 11, 1863, Department of Northern Virginia.

18. Capt. R. Z. HARLEE, Company D, 10th S. C. Volunteers. Charged with drunkenness.

Sentence—To be cashiered. Remitted: Capt. Harlee will be released from arrest and returned to duty.

Tried by Court, convened under Special Orders, No. 134, May 20, 1863, from the Army of Tennessee.

19. Private HENRY TAYLOR, Company F, 11th Miss. Volunteers. Charged with theft.

Sentence—To have his head shaved. To be labeled with the word "theft;" marched through camp, hat off, wearing a barrel—the rogue's march to be played during the time. To be confined in the penitentiary two years, and fed on bread and water fourteen days.

Sentence remitted. Private Taylor will be released from confinement and transferred to some other army.

Tried by Court, convened under General Orders, No. 133, of Dec. 7, 1862, Army of Northern Virginia.

20. Private FREEMAN W. JOHNSON, Read's Battery Light Artillery. Charged with disobedience of orders—violation of the 9th Article of War.

Sentence—Death. Commuted to labor for four months, and transferred to some other command.

Tried by Court, convened under General Orders, No. 133, of December 7, 1862, Army of Northern Virginia.

21. Private JOHN DUNCAN, Company F, 3d Tenn. Volunteers. Charged with absence without leave. Illegal and outrageous assaults on a citizen. Brutal assaults on a woman, with attempt to commit rape on two occasions.

Sentence—Forfeiture of pay and allowances, and imprisonment for twenty-five years.

Residue of sentence remitted. Private Duncan will be released from confinement and returned to his company.

Tried by Court, convened under General Orders, No. 36, Department of East Tennessee.

22. Second Lieut E. H. HAMMELL, Company B, 8th Ark. Volunteers. Charged with quitting his guard without leave, &c.

Sentence—To be dismissed. Commuted to two months' suspension from rank and pay.

Tried by Military Court of Gen. Hardee's Corps, May 26, 1863.

23. Private T. W. BARLOW, of Carne's Light Artillery. Charged with violating the 46th Article of War, by sleeping on post.

Sentence—Death. Remitted: and Private Barlow will be released from confinement and returned to his company.

Tried by Court, convened under General Orders, No. 66, of March 13, 1863, Army of Tennessee.

24. Lieut. J. R. SIMMONS, Company E, 12th Ga. Volunteers. Charged with conduct unbecoming an officer and gentleman.

Sentence—To be dismissed. Commuted to reprimand in orders; which will accordingly be done by his commanding officer.

Tried by the Military Court of Gen. Ewell's Corps, August 6, 1863.

25. Lieut. E. S. McCLUNG, McClung's Battery. Charged with violation of the 15th and 39th Articles of War, and conduct to the prejudice of good order and military discipline.

Sentence—To be cashiered, and disabled to hold any office or employment in the service of the Confederate States; to have his name, crime and place of abode published in the newspapers in and about the camp of Knoxville, and of Huntsville, Alabama: after which, it shall be deemed scandalous for an officer to associate with him.

Sentence—Commuted to dismissal from the Confederate service—of which Lieut. McClung ceased to be an officer on the 14th of February 1863.

IV. The 89th Article of War provides, that where the sentence of a Court Martial is death, or the cashiering of an officer, the officer convening the Court may suspend execution of the sentence till the pleasure of the President of the Confederate States be known.

The intent of this article is not to relieve Commanding Generals of responsibility, but to enable them, in difficult and doubtful cases, to refer the question to higher authority. But it has been observed that in many cases, where the course to be pursued was rendered obvious by the evidence, commanding officers have nevertheless availed themselves of the privilege conferred in the article referred to, by sending on the record to be reviewed by the President. The duties of the Executive are sufficiently onerous without the accumulation of such matters for his attention, where they can be properly disposed of elsewhere; and while it is not designed to weaken the provisions of the articles of war, or interfere with the views of duty entertained by officers on this subject, it is proper to remark, that there are cases of capital punishment and dismissal, where the duty of the Commanding General is rendered by the Court record too plain to be doubted, and in which the responsibility "*in time of war*" being fixed upon him in the first instance by the law, should not be avoided.

By order.

S. COOPER,
Adjutant and Inspector General.