

GENERAL ORDERS, }
No. 134.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, May 16, 1863.

I. Before a General Court Martial, which convened at the Camp of the 1st Division, 5th Corps, March 18, 1863, pursuant to General Orders No. 13, dated Headquarters, 1st Division, 5th Army Corps, February 28, 1863, and of which Colonel J. C. Rice, 44th New York Volunteers, is President, was arraigned and tried—

First Lieutenant *John H. Borden*, 83d Pennsylvania Volunteers.

CHARGE—"Conduct to the prejudice of good order and military discipline."

Specification—"In this; that he, First Lieutenant *John H. Borden*, of the 83d Regiment Pennsylvania Volunteers, having been granted ten days' leave of absence, of which he availed himself on or about the 30th day of January, 1863, did overstay his leave of absence, and failed to return to his regiment and to report himself until on or about the 20th day of February, 1863. This at Camp near Falmouth, Virginia."

To which charge and specification the accused, First Lieutenant *John H. Borden*, 83d Pennsylvania Volunteers, pleaded "Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, First Lieutenant *John H. Borden*, 83d Pennsylvania Volunteers, as follows:

- Of the *Specification*, "Guilty."
- Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, First Lieutenant *John H. Borden*, 83d Pennsylvania Volunteers, "To be dismissed the service of the United States."

II. .Before a General Court Martial, which convened at the Camp of the Engineer Brigade, near Falmouth, Virginia, February 26, 1863, pursuant to Special Orders, No. 50, dated February 19, 1863, and No. 51, dated February 20, 1863, Headquarters Army of the Potomac, Camp near Falmouth, Virginia, and of which Colonel C. G. COLGATE, 15th New York Volunteers, is President, was arraigned and tried—

Private *William Durnin*, Company "D," 50th New York Volunteer Engineers.

CHARGE—"Desertion."

Specification—"In that the said Private *William Durnin*, of company and regiment aforesaid, having been duly enlisted into the service of the United States, did desert the same on or about the 18th day of January, 1863, and did remain absent from his Company and Regiment until on or about the 3d day of February, 1863, when he returned and reported to his company commander. All this at Camp of the Headquarters of the 50th Regiment New York Volunteer Engineers, at Aquia Creek Landing, Virginia."

To which charge and specification the accused, Private *William Durnin*, Company "D," 50th New York Volunteer Engineers, pleaded "Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *William Durnin*, Company "D," 50th New York Volunteer Engineers, as follows :

Of the *Specification*, "Guilty"

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Private *William Durnin*, Company "D," 50th New York Volunteer Engineers, "To be shot to death by musketry at such time and place as the General Commanding the Army

of the Potomac shall direct, two-thirds of the members of the Court concurring therein."

III.—Before a General Court Martial, which convened at the Camp of the 2d Division, 3d Corps, near Falmouth, Virginia, April 6, 1863, pursuant to General Orders, No. 3, dated February 2, 1863, Special Orders, No. 20, dated February 3, 1863, Special Orders, No. 1, dated February 8, 1863, Special Orders, No. 9, dated February 17, 1863, Special Orders, No. 14, dated February 23, 1863, Special Orders, No. 22, dated March 3, 1863, and Special Orders, No. 44, dated March 26, 1863, Headquarters 2d Division, 3d Corps, Camp near Falmouth, Virginia, and of which Colonel A. B. McLAUGHLIN, 1st Massachusetts Volunteers, is President, were arraigned and tried—

1. Private *Reuben C. Fagan*, Company "K," 73d New York Volunteers.

CHARGE I.—"Misbehavior before the enemy."

Specification—"In this; that Private *Reuben C. Fagan*, Company 'K,' seventy-third Regiment of New York Volunteers, a duly enlisted soldier of the United States, did, when the seventy-third regiment New York Volunteers was drawn up in line of battle, at or near Fredericksburg, run away and shamefully abandon his Company and Regiment, when they were momentarily expecting to be engaged with the enemy, and did not return to his company and regiment until brought back, on or about the eighth day of March, anno Domini one thousand eight hundred and sixty-three. This at or near Fredericksburg, Virginia, on or about the fifteenth day of December, anno Domini one thousand eight hundred and sixty-three."

CHARGE II—"Desertion."

Specification—"In this; that he, the said Private *Reuben C. Fagan*, seventy-third Regiment, New York Volunteers, having been duly enlisted in the service of the United States, and having received pay therein, did desert his Company, Regiment, and the service of the United States, and did not return until brought back, on or about the eighth day of March, anno Domini one thousand

eight hundred and sixty-three. This at or near Fredericksburg, Virginia, on or about the fifteenth day of December, anno Domini one thousand eight hundred and sixty-three."

To which charges and specifications the accused, Private *Reuben C. Fagan*, Company "K," 73d New York Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *Reuben C. Fagan*, Company "K," 73d New York Volunteers, as follows :

CHARGE I.

Of the *Specification*, "Guilty, except the words 'brought back.'"
Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Guilty, except the words 'brought back.'"
Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Private *Reuben C. Fagan*, 73d New York Volunteers, "To be shot to death with musketry, and two-thirds of the members of the Court do concur in the sentence."

2. Private *James H. Dilks*, Company "K," 73d New York Volunteers.

CHARGE I.—"Misbehavior before the enemy."

Specification — "In this; that Private *James H. Dilks*, Company 'K,' seventy-third Regiment New York Volunteers, a duly enlisted soldier of the United States, did, when the seventy-third Regiment New York Volunteers was drawn up in line of battle at or near Fredericksburg, run away and shamefully abandon his Company and Regiment when they were momentarily expecting to be engaged with the enemy, and did not return to his Company and Regiment until brought back on or about the eighth

day of March, anno Domini one thousand eight hundred and sixty-three. This at or near Fredericksburg, Virginia, on or about the fifteenth day of December, anno Domini one thousand eight hundred and sixty-three."

CHARGE II.—"Desertion."

Specification—"In this; that he, the said Private *James H. Dilks*, of Company 'K,' seventy-third Regiment New York Volunteers, having been duly enlisted in the service of the United States, and having received pay therein, did desert his Company and Regiment and the service of the United States, and did not return until brought back, on or about the eighth day of March, anno Domini one thousand eight hundred and sixty-three. This at or near Fredericksburg, Virginia, on or about the fifteenth day of December, anno Domini one thousand eight hundred and sixty-three."

To which charges and specifications the accused, Private *James H. Dilks*, Company "K," 73d New York Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *James H. Dilks*, Company "K," 73d New York Volunteers, as follows:

CHARGE I.

Of the *Specification*, "Guilty," except the words 'brought back.'"

Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Guilty, except the words 'brought back.'"

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Private *James H. Dilks*,

Company "K," 73d New York Volunteers, "*To be shot to death with musketry, and two-thirds of the members of the Court do concur in the sentence.*"

IV..Before a General Court Martial, which convened at Falmouth, Virginia, November 26, 1862, pursuant to Special Orders, No. 429, dated November 21, 1862, and No. 448, dated November 24, 1862, Headquarters Hancock's Division, Falmouth, Virginia, and of which Major E. E. STURTEVANT, 5th Hew Hampshire Volunteers, is President, was arraigned and tried—

First Lieutenant *Thomas Morton*, 81st Pennsylvania Volunteers.

CHARGE—"Disobedience of orders."

Specification—"In this; that he, said First Lieutenant *Thomas Morton*, Company 'H,' 81st Pennsylvania Volunteers, on being ordered by his Colonel, Charles F. Johnson, of the 81st Pennsylvania Volunteers, to go on picket, said Colonel being in the execution of his office, did peremptorily refuse to do so. This near Salem, Virginia, November 7, 1862."

To which charge and specification the accused, First Lieutenant *Thomas Morton*, 81st Pennsylvania Volunteers, pleaded "Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, First Lieutenant *Thomas Morton*, 81st Pennsylvania Volunteers, as follows:

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, First Lieutenant *Thomas Morton*, 81st Pennsylvania Volunteers, "*To be dismissed the service of the United States.*"

V..Before a Military Commission, which convened at Headquarters

French's Division, 2d Corps, November 7, 1862, pursuant to Special Orders, No. 115, dated Headquarters 2d Corps, Upperville, Virginia, November 5, 1862, and of which Brigadier General W. H. FRENCH, U. S. Volunteers, is President, was arraigned and tried—

Private *Peter Shannon*, Company "C," 2d Delaware Volunteers.

CHARGE—"Assault and robbery."

Specification—"In this; that *Peter Shannon*, private of 'C' Company, 2d Regiment Delaware Volunteers, did assault and knock down, or aid and abet in the same, and did then and there rob, or aid and abet in robbing, Private Charles H. Banner, of 'D' Company, 2d Regiment Delaware Volunteers, of eighty dollars, more or less. All this at or near Bolivar Heights, Virginia, on or about the 21st day of October, 1862."

To which charge and specification the accused, Private *Peter Shannon*, Company "C," 2d Delaware Volunteers, pleaded "Not Guilty."

FINDING.

The Commission, having maturely considered the evidence adduced, finds the accused, Private *Peter Shannon*, Company "C," 2d Delaware Volunteers, as follows:

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Commission does therefore sentence him, Private *Peter Shannon*, Company "C," 2d Delaware Volunteers, "To forfeit all pay and allowances that are or may become due him, to be dishonorably discharged from the service of the United States, and then to be confined at hard labor in the penitentiary of the District of Columbia for the term of five years."

VI..Before a General Court Martial, which convened at Headquarters 1st Division 1st Army Corps, at Camp near Belle Plains, Va., February 7, 1863, pursuant to Special Orders, No. 27, dated Headquarters 1st Division 1st Army Corps, Army of the Potomac, February 3, 1863, and

of which Colonel HENRY A. MORROW, 24th Michigan Volunteers, is President, was arraigned and tried—

Captain *James N. Root*, Company "A," 24th New York Volunteers.

CHARGE—"Disobedience of orders."

Specification.—"In this; that said Captain *James N. Root*, of Company "A," 24th New York Volunteers, did, on the morning of the 23d day of January, 1863, leave his Company and Regiment without permission, while said regiment was bivouacked in the vicinity of the ford above Falmouth, Va., in violation of General Orders No. 3, from Division Headquarters, for the purpose of reaching the former camp of said regiment before the arrival of the regiment, at which place he was found on its arrival in the evening of said day."

To which charge and specification the accused, Captain *James N. Root*, Company "A," 24th New York Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Captain *James N. Root*, Company "A," 24th New York volunteers, as follows:

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence Captain *James N. Root*, Company "A," 24th New York Volunteers, "That he be dismissed the service of the United States without loss of pay."

VII..The proceedings of the Court in the case of Lieutenant *John H. Borden*, 83d Regiment Pennsylvania Volunteers, have been approved by the proper commanders and forwarded for the action of the President of the United States, who is pleased to commute the sentence awarded the prisoner to "forfeiture of pay for one month."

The proceedings of the court in the case of Private *William Durnin*,

Company "D," 50th New York Volunteers, have been forwarded for the action of the President of the United States, who directs that the sentence awarded the prisoner be commuted to "*imprisonment for three months.*"

The proceedings of the Court in the cases of Privates *Reuben C. Fagan* and *James H. Dilks*, of Company "K," 73d New York Volunteers, have been forwarded for the action of the President of the United States, who disapproves the sentences awarded the prisoners, on account of the irregularity of the action of the reviewing officer, who disapproved the findings on the second charge and its specification in each case, and then approved the sentences, which should rest on all the findings.

The proceedings of the Court in the case of Lieutenant *Thomas Morton*, 81st Pennsylvania Volunteers, have been approved by the proper commanders, and forwarded for the action of the President of the United States, who directs that the sentence of dismissal be commuted to "*loss of pay proper for three months.*"

In compliance with the 5th section of the act approved July 17, 1862, the proceedings in the case of Private *Peter Shannon*, of Company "C," 2d Delaware Volunteers, have been submitted to the President of the United States, who approves the sentence awarded the prisoner.

The proceedings of the Court in the case of Captain *James N. Root*, 24th New York Volunteers, have been approved by the proper commanders and forwarded for the action of the President of the United States, who is pleased to remit the sentence awarded the prisoner.

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND,
Assistant Adjutant General.