

GENERAL ORDERS, }
No. 146. }

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, May 26, 1863.

I. - Before a General Court Martial, which convened at the Headquarters 2d Brigade, 1st Division, 3d Corps, January 12, 1863, pursuant to General Orders No. 9, dated December 19, 1862, Special Orders No. 26, dated December 28, 1862, and No. 28, dated December 31, 1862, Headquarters 1st Division, 3d Corps, and of which Brigadier General J. H. H. WARD, U. S. Volunteers, is President, was arraigned and tried—

Lieutenant Colonel *F. F. Cavada*, 114th Pennsylvania Volunteers.

CHARGE I—"Misbehavior before the enemy."

Specification 1st—"In this; that the said Lieutenant Colonel *F. F. Cavada*, 114th Regiment Pennsylvania Volunteers, did behave himself in a cowardly manner in the presence of the enemy by absenting himself from the battle-field. This at Fredericksburg on the thirteenth day of December, anno Domini one thousand eight hundred and sixty-two."

Specification 2d—"In this; that the said Lieutenant Colonel *F. F. Cavada*, having, by his own request, been directed by his commanding officers, Colonel Collis and Brigadier General Robinson, 'to report to his regiment should it be engaged,' (he then being officer of the day,) did neglect to do so, but did remain in the rear in shelter while his regiment was engaging the enemy. This at Fredericksburg on the thirteenth day of December, anno Domini one thousand eight hundred and sixty-two."

Specification 3d—"In this; that the said Lieutenant Colonel *F. F. Cavada*, being Brigade Officer of the day, and having in charge the Brigade Guard, did desert them while under fire from the enemy and seek shelter in the rear. This at Fredericksburg, Virginia, on the 13th day of December, A. D. 1862."

CHARGE II.—"Absence without leave."

Specification—"In this; that Lieutenant Colonel *F. F. Cavada*, 114th Regiment Pennsylvania Volunteers, did absent himself from his command without leave, and remain so absent up to this date. This at Fredericksburg, Virginia, on or about the 14th day of December, A. D. 1862."

To which charges and specifications the accused, Lieutenant Colonel *F. F. Cavada*, 114th Pennsylvania Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Lieutenant Colonel *F. F. Cavada*, 114th Pennsylvania Volunteers, as follows:

CHARGE I.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

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

Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Not Guilty."

Of the CHARGE, "Not Guilty."

SENTENCE.

And the Court does therefore sentence him, Lieutenant Colonel *F. F. Cavada*, 114th Pennsylvania Volunteers, "*To forfeit all pay and allowances that are or may become due him, and to be cashiered.*"

II.—Before a General Court-Martial, which convened at Falmouth, Virginia, November 27, 1862, pursuant to General Orders No. 161, dated November 21, 1862, and No. 162, dated November 22, 1862, Headquarters 2d Division, 2d Corps, near Falmouth, Virginia, and of which Colonel J. A. SUTER, 34th New York Volunteers, is President, was arraigned and tried—

Sergeant *Michael McKew*, Company "D," 82d New York Volunteers.

CHARGE I.—“ Violation of the 21st Article of War.”

Specification—“ In this, to wit; that he, the said *Michael McKew*, 2d Sergeant ‘D’ Company, 82d New York Volunteers, (in service of the United States,) did, in violation of Article of War No. 21, ‘ without leave from his commanding officer, absent himself from his company and regiment.’ This at or near Rectortown, Virginia, on or about 7th November, 1862, on the march towards Warrenton, Virginia.”

CHARGE II.—“ Disorderly and unsoldierly conduct.”

Specification—“ In this, to wit; that he, the said *Michael McKew*, 2d Sergeant 82d Regiment New York Volunteers, (in service of the United States,) did, in violation of explicit and strict orders, particularly of General Orders No. 27, Headquarters 2d Army Corps, of November 5th, (said order having been read previously to the company and regiment to which said Sergeant McKew belongs,) did go to and enter a house against the wish of the occupants, and behave in a riotous, disorderly, and unsoldierlike manner; that he used abusive, insulting, and threatening language to the occupants of the house; that he forced his way into the house, and afterwards, with other or others, broke and destroyed furniture and other articles. This on or about November 7th, 1862, at or near Rectortown, Virginia, while on the march towards Warrenton, Virginia.”

CHARGE III.—“ Violation of 9th Article of War.”

Specification—“ In this; that he, the said *Michael McKew*, ‘D’ Company, 2d Sergeant 82d New York Volunteers, (in service of the United States,) did, in violation of Article of War No. 9, disobey and hoot at the lawful command of 2d Lieutenant William Harding, 6th Pennsylvania Reserves, ordnance officer of General Meade’s Division, his superior officer, the said 2d Lieutenant Harding exercising at the time legitimate authority as an officer of the United States army in endeavoring to suppress noise and disturbance, and to prevent the said Sergeant McKew from com-

mitting abuse and damage to persons and property. That the said Sergeant McKew used insulting and abusive language to the said Lieutenant Harding, (while in the execution of his office,) calling him 'a mean, stinking, son of a bitch,' and daring him to 'say that he was a man,' or words to that effect, at the same time 'squaring off' at said Lieutenant Harding, and threatening him by words and gestures. This in violation of said Article of War No. 9, at or near Rectortown, Virginia, on the march towards Warrenton, Virginia, on or about November 7, 1862."

To which charges and specifications the accused, Sergeant *Michael McKew*, Company "D," 82d New York Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Sergeant *Michael McKew*, Company "D," 82d New York Volunteers, as follows :

CHARGE I.

Of the *Specification*, "Not Guilty."

Of the *CHARGE*, "Not Guilty."

CHARGE II.

Of the *Specification*, "Guilty of entering the mill in violation of General Orders No. 27, Headquarters 2d Army Corps, of November 5th. Guilty of using abusive and threatening language to the owner of said mill. Not Guilty of entering a house against the wish of the occupants. Not Guilty of behaving in a riotous, disorderly, and unsoldierly manner to the occupants of said house. Not Guilty of breaking and destroying furniture and other articles."

Of the *CHARGE*, "Guilty."

CHARGE III.

Of the *Specification*, "Guilty."

Of the *CHARGE*, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Sergeant *Michael McKew*, Company "D," 82d New York Volunteers, "To be shot to death: two-thirds of the members of the Court concurred in this sentence."

III.—Before a General Court Martial, which convened at the Camp of the 1st Brigade, Sykes' Division, near Heartwood church, Virginia, November 21, 1862, pursuant to General Orders No. 2, dated November 14, 1862, and Special Orders No. 2, dated November 15, 1862, Headquarters 5th Army Corps, and of which Major GEORGE L. ANDREWS, 17th U. S. Infantry, is President, was arraigned and tried—

Corporal *William J. Flynn*, Company "H," 1st Battalion 17th U. S. Infantry.

CHARGE I.—"Drunkenness on duty."

Specification—"In this; that the said Corporal *William J. Flynn*, Company "H," 1st Battalion 17th Infantry, was drunk on duty, on or about the 21st day of October, 1862, while on picket near Sheppard's Ford, Maryland."

CHARGE II.—"Breaking his arrest."

Specification—"In this; that the said Corporal *William J. Flynn*, Company "H," 1st Battalion 17th Infantry, having been placed in arrest, did break his arrest, and did return to the camp of the Battalion without permission. All this on or about the 21st day of October, 1862, while on picket near Sheppard's Ford, Maryland."

CHARGE III.—"Resisting the authority of his superior non-commissioned officer."

Specification—"In this; that the said Corporal *William J. Flynn*, Company "H," 1st Battalion 17th Infantry, did resist the authority of his superior non-commissioned officer, by loading his musket and attempting to shoot him. This on or about the

21st day of October, 1862, while on picket near Sheppard's Ford, Maryland."

To which charges and specifications the accused, Corporal *William J. Flynn*, Company "H," 1st Battalion, 17th U. S. Infantry, pleaded as follows:

CHARGE I.

To the *Specification*, "Not Guilty."

To the CHARGE, "Not Guilty."

CHARGE II.

To the *Specification*, "Guilty."

To the CHARGE, "Guilty."

CHARGE III.

To the *Specification*, "Not Guilty."

To the CHARGE, "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Corporal *William J. Flynn*, Company "H," 1st Battalion, 17th U. S. Infantry, as follows:

CHARGE I

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

CHARGE III.

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Corporal *William J. Flynn*, Company "H," 1st Battalion, 17th U. S. Infantry, "To be shot to death at such time and place as the Commanding General may direct, two-thirds of the members of the Court concurring therein."

IV.—Before a General Court Martial, which convened at Falmouth, Virginia, November 25, 1862, pursuant to General Orders No. 161, dated November 21, 1862, and No. 162, dated November 21, 1862, Headquarters 2d Division, 2d Corps, near Falmouth, Virginia, and of which Colonel J. A. SUITER, 34th New York Volunteers, is President, was arraigned and tried—

2d Lieutenant *John A. W. Jones*, 1st Minnesota Volunteers.

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

Specification 1st—"In this; that *John A. W. Jones*, 2d Lieutenant of Company 'L,' 1st Regiment Minnesota Volunteers, did release prisoners Oscar F. Cheney, Jacob Fisher, Upton Donley, William McMahan, and Clark Putnam, privates of 'L' Company, 1st Regiment Minnesota Volunteers, in defiance of the authority of his superior officer; said privates Cheney, Fisher, Donley, McMahan, and Putnam being under arrest and in the hands of the regimental guard, by order of Captain William F. Russell, of Company 'L,' 1st Regiment Minnesota Volunteers. All this in camp on Bolivar Heights, Virginia, on or about the nineteenth day of October, 1862."

Specification 2d—"In this; that the said *John A. W. Jones*, 2d Lieutenant of Company 'L,' 1st Regiment of Minnesota Volunteers, did use insulting and insubordinate language to his superior officer, Captain William F. Russell, saying, in the presence of enlisted men, 'I don't care a d—n if I have been interfering with your orders. If you don't like it, you may court martial me and be d—d,' and other language to this effect. All this in camp on Bolivar Heights, Virginia, on or about the 19th day of October, 1862."

To which charge and specifications the accused, 2d Lieutenant *John A. W. Jones*, Company "L," 1st Minnesota Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, 2d Lieutenant *John A. W. Jones*, 1st Minnesota Volunteers, as follows:

Of the 1st *Specification*, "Guilty, except the words 'Oscar F. Cheney, Jacob Fisher, Upton Donley, William McMahon, and Clark Putnam,' and the words 'Cheney, Fisher, Donley, McMahon, and Putnam.'"

Of the 2d *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, 2d Lieutenant *John A. W. Jones*, 1st Minnesota Volunteers, "To be dismissed the service of the United States."

V. Before a General Court Martial which convened at the Headquarters 2d Division, 1st Corps, near Sharpsburg, Maryland, October 23, 1862, pursuant to Special Orders No. 114, dated October 18, 1862, No. 116, dated October 18, 1862, and No. 117, dated October 20, 1862. Headquarters 2d Division, 1st Corps, and of which Lieutenant Colonel N. WALTER BATCHELDER, 13th Massachusetts Volunteers, is President, was arraigned and tried—

Private *James Dolan*, Company "G," 105th New York State Volunteers.

CHARGE I—"Drunkenness on duty."

Specification—"That Private *James Dolan*, 105th Regiment New York State Volunteers, was drunk while on picket. This on the line of the Cumberland canal, near Sharpsburg, Maryland, on the 29th day of September, 1862."

CHARGE II—"Disorderly conduct."

Specification—"In this; that the said *James Dolan* drew and aimed a loaded revolver, full cocked, at Lieutenant Willis Benham, his commanding officer, swearing that he would shoot him. This on the line of the Cumberland canal, near Sharpsburg, on the 29th day of September, 1862."

CHARGE III.—"Using violence toward his commanding officer."

Specification—"That the said *James Dolan* thrust violently to the ground Lieutenant Benham, his commanding officer, who had undertaken to arrest him. This on the line of the Cumberland canal, near Sharpsburg, Maryland, on the 29th of September, 1862."

To which charges and specifications the accused, Private *James Dolan*, Company "G," 105th New York State Volunteers, pleaded as follows:

CHARGE I.

To the *Specification*, "Guilty."

To the CHARGE, "Guilty."

CHARGE II.

To the *Specification*, "Not Guilty."

To the CHARGE, "Not Guilty."

CHARGE III.

To the *Specification*, "Not Guilty."

To the CHARGE, "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *James Dolan*, Company "G," 105th New York State Volunteers, as follows:

CHARGE I.

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

CHARGE III.

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Private *James Dolan*, Company "G," 105th New York State Volunteers, "To be shot to death with musketry at such time and place as the General Commanding may direct; two-thirds of the members concurring."

VI.—Before a General Court Martial, which convened at the Headquarters 1st Brigade, 1st Division, 6th Corps, March 13, 1863, pursuant to Special Orders No. 68, dated February 6, 1863, and No. 86, dated March 2, 1863, Headquarters 1st Division, 6th Corps, and of which Major JAMES W. H. STICKNEY, 3d New Jersey Volunteers, is President, was arraigned and tried—

First Lieutenant *Lowe Emerson*, 15th New Jersey Volunteers.

CHARGE—"Absence without leave."

Specification—"In this; that said 1st Lieutenant *Lowe Emerson*, Quartermaster 15th Regiment New Jersey Volunteers, having left his camp and regiment on the 10th day of February last by virtue of Special Order No. 37, granting him leave of absence for five days, which leave of absence expired on the 14th day of the same month, did not return to his camp and regiment on the said 14th day of February last, but was absent without leave from that time until the 25th day of said month, when he did return to his camp and regiment. This at camp near White Oak church, Virginia, from the 14th to the 25th of February last."

To which charge and specification the accused, 1st Lieutenant *Lowe Emerson*, 15th New Jersey Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, 1st Lieutenant *Lowe Emerson*, 15th New Jersey Volunteers, as follows :

Of the *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, 1st Lieutenant *Lowe Emerson*, Quartermaster 15th New Jersey Volunteers, "*To be dismissed the service of the United States, said dismissal to date from the approval of this sentence.*"

VII. 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—

Captain *Judd M. Mott*, 16th Michigan Volunteers.

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

Specification—"In this; that Captain *Judd M. Mott*, of the 16th Regiment Michigan Volunteers, having been granted leave of absence for five days, of which he availed himself on or about the second day of February, 1863, which leave of absence was extended ten days by proper authority, did overstay his leave of absence so granted and extended, and did fail to return to his regiment and to report himself until about the 10th day of March, 1863. This at camp near Falmouth, Virginia."

To which charge and specification the accused, Captain *Judd M. Mott*, 16th Michigan Volunteers, pleaded as follows :

To the *Specification*, "Guilty."

To the CHARGE, "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Captain *Judd M. Mott*, 16th Michigan Volunteers, as follows :

Of the *Specification*, " Guilty." "

Of the *CHARGE*, " Guilty." "

SENTENCE.

And the Court does therefore sentence him, Captain *Judd M. Mott*, 16th Michigan Volunteers, " *To be dismissed the service of the United States.*" "

VIII.—Before a General Court Martial, which convened at the Camp of the 1st Brigade, 1st Division, 1st Corps, April 23, 1863, pursuant to Special Orders No. 89, dated Headquarters 1st Division, 1st Army Corps, Army of the Potomac, April 21, 1863, and of which Lieutenant Colonel WILLIAM H. DE BEVOICE, 14th New York State Militia, is President, was arraigned and tried—

Private *Michael Fitzgibbons*, Company " B," 24th New York Volunteers.

CHARGE I—" Disorderly and riotous conduct."

Specification 1st—" In this ; that said Private *Michael Fitzgibbons*, Company ' B,' 24th Regiment New York Volunteers, did become intoxicated, and by his riotous and violent conduct greatly disturb the camp of said 24th Regiment ; and when ordered to go to his tent by his superior officer, Colonel Samuel R. Beardsley, of said 24th Regiment, did refuse to do so, and did resist with force the efforts of said Colonel Samuel R. Beardsley to put him, the said *Michael Fitzgibbons*, in his tent. This at the camp of said 24th Regiment on the evening of April 14th, 1863."

Specification 2d—" In this ; that said Private *Michael Fitzgibbons*, Company ' B,' 24th Regiment New York Volunteers, did threaten to destroy the guard-house of said 24th Regiment, and release the

prisoners therein confined; for which language, and for other disorderly conduct, he was placed in said guard-house, which was soon thereafter burned to the ground—he, the said *Michael Fitzgibbons*, being one of the prisoners then confined in said guard-house. This at and near the camp of said 24th Regiment on the 21st day of April, 1863.”

CHARGE II.—“Disobedience of orders.”

Specification—“In this; that said Private *Michael Fitzgibbons*, Company ‘B,’ 24th Regiment New York Volunteers, when ordered to go to his tent by his superior officer, Colonel Samuel R. Beardsley, commanding said 24th Regiment New York Volunteers, and 1st Lieutenant John S. McNair, commanding Company ‘B,’ 24th Regiment New York Volunteers, did refuse to obey said officers, and resisted their authority. This at the camp of said 24th Regiment on the evening of April 14, 1863.”

CHARGE III.—“Using disrespectful and threatening language, and threatening to strike his superior officer.”

Specification 1st—“In this; that said Private *Michael Fitzgibbons*, Company ‘B,’ 24th Regiment New York Volunteers, did say to Colonel Samuel R. Beardsley, commanding said 24th Regiment New York Volunteers, ‘You damned old bald-headed son of a bitch, if you don’t let go of me I will smash your snout,’ at the same time raising his hand as if to strike said Colonel Samuel R. Beardsley—he, the said Samuel R. Beardsley being then in the execution of his office, and trying to quell a disturbance in the camp of said 24th Regiment. This at the camp of said 24th Regiment on the evening of the 14th of April, 1863.”

Specification 2d—“In this; that said Private *Michael Fitzgibbons* did say of his commanding officer, Samuel R. Beardsley, Colonel of said 24th New York Volunteers, ‘the damned old bald-headed son of a bitch;’ and of Captain Severin Beaulieu, of said 24th Regiment, the officer of the day for said 24th Regiment, ‘the damned French son of a bitch.’ ‘I’ll show ’em, God damn ’em,’ or

words to that effect. This at the camp of said 24th Regiment on the 21st day of April, 1863."

To which charges and specifications the accused, Private *Michael Fitzgibbons*, Company "B," 24th New York Volunteers, pleaded "Not Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *Michael Fitzgibbons*, Company "B," 24th New York Volunteers, as follows:

CHARGE I.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty, except the words, 'and release the prisoners therein confined.'"

Of the CHARGE, "Guilty."

CHARGE II.

Of the *Specification*, "Guilty, except the words that refer to disobeying the orders of and resisting the authority of 1st Lieutenant John S. McNair, commanding 'B' Company, 24th Regiment New York Volunteers."

Of the CHARGE, "Guilty."

CHARGE III.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty, except the words, 'I'll show 'em, God damn 'em.'"

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence him, Private *Michael Fitzgibbons*, Company "B," 24th New York Volunteers, "To be shot to death with musketry at such time and place as the Commanding General may direct: two-thirds of the members of the Court concurring therein."

IX.—The proceedings of the Court in the case of Lieutenant Colonel *F. F. Cavada*, 114th Pennsylvania Volunteers, have been forwarded for the decision of the President of the United States, with a recommendation, by the General Commanding the Army of the Potomac, that, from the circumstances of the case as established before the Court, and the good character proven by Lieutenant Colonel *Cavada*, the sentence be remitted. The sentence in the case of Lieutenant Colonel *Cavada* is accordingly remitted.

The proceedings of the Court in the case of Sergeant *Michael McKew*, Company "D," 82d New York Volunteers, have been forwarded for the action of the President of the United States, who directs that the sentence *to be shot to death* be commuted to imprisonment for one year. The prisoner will be sent to Fort Delaware.

The proceedings of the Court in the case of Corporal *William J. Flynn*, of Company "H," 1st Battalion, 17th U. S. Infantry, have been forwarded for the action of the President of the United States, who directs that the sentence *to be shot to death* be commuted to imprisonment for one year. The prisoner will be sent to Fort Delaware.

The proceedings of the Court in the case of Second Lieutenant *John A. W. Jones*, 1st Minnesota Volunteers, have been forwarded for the action of the President of the United States, who approves the sentence and directs that it be carried into execution.

The proceedings of the Court in the case of Private *James Dolan*, Company "G," 105th New York State Volunteers, have been forwarded for the action of the President of the United States, who directs that the sentence *to be shot to death* be commuted to imprisonment for six months, at hard labor, with loss of pay. The prisoner will be sent to Fort Delaware.

The proceedings of the Court in the case of First Lieutenant *Lowe Emerson*, Quartermaster 15th New Jersey Volunteers, have been forwarded to the President of the United States, who approves the sentence, but directs that it be mitigated to forfeiture of pay for the period of two months.

The proceedings of the Court in the case of Captain *Judd M. Mott*, 16th Michigan Volunteers, have been forwarded for the action of the President of the United States, who approves the sentence, but directs that it be mitigated to forfeiture of pay for the period of two months.

The proceedings of the Court in the case of Private *Michael Fitzgibbons*, Company "B," 24th New York Volunteers, have been forwarded for the action of the President of the United States, who approves the sentence, but directs that it be commuted to imprisonment for one year. The prisoner will be sent to Fort Delaware.

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND,

Assistant Adjutant General.