

Lecture No. 4.

The Declaration of War. - Some modern writers insist that war should be begun by a formal declaration but most states and modern usage are on the other side, i.e. that a formal declaration to the enemy is not necessary. In modern times such declarations have been rare. There have been only eleven of them since 1700 out of 116, whereas the present century alone has seen Lecture No. 4. by wars or warlike acts of reprisal begun without formal declaration to the world or

Declaration of War - Effect of war as to persons - Effect of war as to property - The laws of war with regard to persons.

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(General questions as to war - See End of Lect.3.)

In this connection a word may not be out of place here. Texas had been annexed and though the President of the United States had no power to initiate war he was by the Act of Congress of Feb. 28, 1845 and the 3d of March 1847, power and authority to call out the militia and use the military and naval forces of the United States in case of an invasion by foreign nations and to suppress insurrections against the government of a state or of the United States. An invasion of Texas by Mexico was thence technically an

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War then between two independent States may be begun, by a formal declaration or by actual hostilities without declaration. In our war of 1812 and the later war with Mexico was begun without declaration to the enemy.

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In this connection a word may not be out of place here. Texas had been annexed and though the President of the United States had no power to initiate war he has by the Act of Congress of Feb. 28, 1796 and the 3d of March 1807, power and authority to call out the militia and use the military and naval forces of the United States in case of an invasion by foreign nations and to suppress insurrections against the government of a State or of the United States. An invasion of Texas by Mexico was thence technically an

invasion of the United States.

Although a declaration of war to the enemy is no longer considered necessary yet it is generally conceded that a manifesto or proclamation should be issued within the territory of the State initiating war for the information of its subjects and of neutrals. The commencement of war dates from the first act ^{of} ~~of~~ ^{itself} hostilities.

In a civil war ~~however~~ the war dates from the recognition of a state of war by the pre-existing government.

A civil war is never solemnly declared. In ~~the~~ ^{our} civil war the proclamation instituting a blockade of the ports of the states in rebellion was considered the first official and conclusive evidence that a state of war existed, notwithstanding that Fort Sumter had previously been fired upon and had surrendered.

Although in times past hostilities have been known to take place without declaration for the purpose of obtaining a military advantage, still some little notice is now obtainable by the freedom of the distribution of news and the quickness and ease of communication. It may not be long, it may be of little service for preparation of war but it is sufficient as a rule to satisfy the necessities of the world Insurance ^{men} and bankers are ^{keen to fight and} quick to prepare for war.

Effect of war as to persons. The effect of war between two or more belligerents is to give an enemy character in varying degree to all persons and things pertaining to the belligerents.. Some persons become enemies in the fullest sense of the word, that is they may be killed or captured by the armed forces of the opposing State, others are enemies only in the sense that their business or freedom of

movement suffers certain restrictions.

So with property it may be of such a nature, or under such conditions that it is subject to capture and total loss wherever and whenever it is lawful to carry on hostilities; while under other conditions it may be touched only in very special cases.

In a broad sense the citizens or subjects of a belligerent state are divided into two classes, combatants and non-combatants.

Non-combatants - are those persons of the belligerent states not bearing arms and engaged in peaceful pursuits. They are when disconnected from hostile movements exempt from hostile attack or imprisonment. They are however exposed to all the personal injuries which may arise incidentally from military or naval operations such as the bombardment of a town, the firing upon a ship carrying passengers, an attack upon the train of an army (which may involve chaplains, surgeons and volunteer nurses) and like acts of war.

The non-combatants population of districts that are invaded or are in the occupation of an enemy may also be compelled to perform certain services to the enemy.

A class that comes rather between combatants and non-combatants are officers and seamen navigating the merchant vessels of a belligerent state. The members of this class are different from ordinary combatants in that they cannot properly make aggressive war, and they differ from the ordinary non-combatants in that they can fight to defend their vessel if attacked, and fight to recover it if captured. Under these circumstances they are combatants and treated as such. If while part of a merchant vessel they attack any other merchant vessels they can be subjected to all the severities which the international rules of war permit against non-com-

batants who perform hostile acts against an enemy.

They are also so placed that in their ordinary course they may become prisoners of war on account of their fitness and liability to become of use on board vessels of war. They have the sea-legs and hands and stomachs to start with and are accustomed to the habitat of seamen afloat. The merchant marine has been from time immemorial the nursery of the navy.

In 1870 Bismark denied that sailors found in merchant vessels could be made prisoners of war and threatened and finally did make reprisals on this account. The French government in responding had no difficulty in showing that the usage of capturing sailors had been ^{an} ^{one} invariable, that the merchantile marine of a nation, apart from any question of privateering, is capable of being transformed at will into an instrument of war, and that where, as in Germany, all sea-faring men are subject to conscription for the Navy, the reasons for capture were of double force. This reasoning though sound had no effect upon the actions of Bismark ; though Bismark's action in turn has not affected the rule.

The position of surgeons and chaplains has been an uncertain one. They were captured and detained as prisoners of war by the Confederates during the Civil War, while the instructions for the armies of the United States in the same war, provided that they were only to be retained if the Commander of the Army capturing them had need of their services. Under the Geneva convention, chaplains and medical officers, nurses &c are neutralized provided they show the Red Cross flag or wear the red cross badge. As these rules are almost universally adopted, this usage may be said to prevail. A further discussion of the rules adopted in 1864 at Geneva will be treated under the head of the "Laws of War with

respect to enemy persons."

It is generally conceded that certain non-combatants from their position and importance to the enemy can be made and retained as prisoners of war. These are the monarch and members of the reigning family, the Chief Executive and Chief officers of the hostile government, diplomatic agents, and any person who for special reasons may be of importance at a special time to an enemy.

Combatants are persons enrolled and found in the military and naval service of the belligerent state. They may be killed or wounded in a fair fight and if captured may be held as prisoners of war. They are entitled to all the rights of war as provided for in international law. Their nationality makes no difference in this respect unless they are subjects of the state against which they are fighting. In such case, this state would have the right, should they be captured, to execute them as traitors, instead of considering them as prisoners of war.

But neutral subjects in the ranks of an enemy receive the same treatment as enemy subjects, they have neither immunities nor special severities. Their own state may possibly at some future time punish them for breach of ^{her} neutrality regulations in joining a foreign army to fight against a state with which she is at peace, but so far as the enemy State is concerned they are lawful combatants.

A question was raised in the Franco-German war and since as to the status of irregular troops, like the the French franc tireurs whether they should be recognized and treated as ~~not~~ combatants. Certainly if such troops appear as tillers of the soil at one time and guerillas killing and

wounding stragglers at the next moment their position is illegal and a harsh treatment is excusable; but to condemn all irregular troops and to forbid the rising of the people en masse in order to repel an invasion of their country is quite another. A certain amount of organization with responsible chiefs and a recognizable uniform or badge should however be insisted upon. And above all arms should be carried openly.

There are some persons of the non-combatant class who possess the character of an enemy to a degree so as to affect their property in cases in which it is involved.

They are

1. Persons residing in an enemy country though not subjects of it:

"These" as T.J. Lawrence says "are enemies to one belligerent in so far as they are identified with the other." That is to say any property they possess in connection with their residence is enemy property in case it is exposed to maritime capture; or in case the territory in which they reside is a place of warlike operations and actual hostilities. The fact that the person is a subject of the country making war would not exempt his property or himself from disabilities or from use if needed by a belligerent for military purposes.

2. Persons living in places in the military occupation of the enemy.

People in this class enrich the occupying enemy by contributing, though unwillingly, to his warlike resources. If the enemy is dispossessed they lose their enemy taint and become in all respects subjects of their own states. During

our Civil War the courts held that all places in secure possession of the Southern Confederacy was enemy territory and the property there enemy property so far as warlike capture was concerned and without regard to the question of individual loyalty.

5. Neutral subjects having houses of trade in the enemy's country.

These are enemies so far as their property involved with these houses of trade is concerned. At the same time an enemy merchant with house of trade in a neutral country, is likely to have his goods also seized. It is a case where a rule does not work both ways. In the first place the national character of the place prevails in the second case the national character of the person holds.

Effect of War as to Property.

The first property that takes an inimical character is naturally the property of a belligerent State of a warlike nature. In fact all property belonging to the State becomes enemy property with the limitation that property not of a warlike nature or of the nature of resources can not properly be subject to wanton destruction. It can be used of course but not legitimately destroyed. A familiar historical example of the violation of this rule was the destruction or partial destruction of the Capitol and other public buildings in Washington during the War of 1812 by the British forces. Even English writers of the present day do not condone this action. The excuse was offered by the British authorities at the time that it was in retaliation for the burning of the village of Newark in Canada by our

forces; but it was established that this burning was an incident of the hostile operations there, and not deliberate and besides no complaint had been made to us nor reparation asked. It is well established that before retaliation can be exercised against an enemy proper reparation should be asked which if refused then gives a right to exercise retaliation.

Property belonging to a State or Territory occupied by an enemy cannot be sold by the occupying belligerent. The property can be used or rented by the belligerent but upon his departure he has neither the right to destroy it, if it be not of a military nature, nor to sell it. All such ^{acquired} titles are ~~not~~ illegal and of course not recognized by the State to whom they belong upon re-occupation.

The seizure of money belonging to the enemy state is legitimate, except funds set apart for hospitals, schools, and for scientific or artistic objects. Taxes for local administrative purposes, such as roads, police, lighting towns, &c, &c are not legitimate objects of capture or confiscation. Timber can be cut and sold from State forests, but apart from the necessities of war such as the necessity for fuel &c timber should not be cut so as to affect the future annual productiveness of the timbered lands. During the Franco-German war for instance the German authorities sold 15,000 oaks growing in the State forests in certain departments of France. After the war the French authorities seized those which had not already been removed. The purchasers appealed to the German government but the latter left it to the French courts which annulled the sale as being wasteful and excessive.

Vessels of the state engaged in peaceful explorations or voyages of scientific discovery are by common consent

granted immunity from capture.

Although the usage is not definitely settled the prevailing opinion of jurists and ^{of} the most enlightened people is that the ~~contents~~ contents of museums and libraries as well as works of art are not legitimate objects of capture or removal. During the campaigns of the Revolution and of the First French Empire the practice was otherwise but ^{until} the recent short lived Turko-Greek war the rule was not to disturb such things. Last summer (1897) the Director of Museums at Constantinople sent an order to the Commander-in-Chief of the Turkish Army at Thessaly to transport to the capital all antiquities found during the occupation. This has been done and the great powers of Europe in arranging the treaty of peace, either ignored or assented to this spoliation.

2. Property belonging to the individual subjects of the enemy State assumes the character of enemy property.

Property on land of this kind is in modern times exempt from direct seizure, but though contributions and requisitions, fines &c such property suffers indirectly but heavily in occupied territory, not to speak of the direct results of the march of a great army through a territory. Besides there is the possibility of its use for hostile purposes and a liability to direct destruction of anything approaching military resources in case a devastation is ordered to prevent the supplies reaching the other belligerent. Private property ^{under} of an enemy flag at sea is of course liable to capture and confiscation. ~~The goods of a neutral found board of an enemy vessel of war takes the character of enemy property and it is subject to confiscation.~~

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~~tion.~~ There are some anomalies that would come under this head as when one belligerent assumes a protectorate over another state or country. In this case war does not necessarily exist between the protected State and the other belligerent. A case in point was the position of the Ionian Islands in the Crimean War. This little Republic under the protectorate of Great Britain kept ^{up} its trade with Russia and an Ionian vessel captured for trading with the enemy was released by the English courts on the ground that the Ionian Republic was not at war with Russia. Hall gives a good rule for such cases when he says the use which a country or place is put by the power which exercises de facto control determines the neutrality or belligerency of the territory. (Hawaiian Ids as Protected.)

The Laws of War with regard to persons.

One of the first questions arising at the outbreak of war would be the future status of enemy subjects or citizens residing in the State of the other belligerent at the outbreak of war.

The treatment of such persons has varied very much since the Middle Ages but the usage has been progressively ~~professionally~~ more humane and liberal.

The modern doctrine can be stated to be that expulsion may be resorted to in extreme cases, the necessity to be judged by the government of the State, but unless there are such special ^{reasons} ~~lessons~~ existing, the subjects or citizens of the enemy State should be allowed to remain in the State of the other belligerent so long as they gave no aid or information to their own country.

The United States took the stand by special treaty with Great Britain in 1794 that in future wars between the countries, subjects or citizens of each residing in the country of the other should remain undisturbed so long as they lived peaceably and observed the laws. If their conduct was such as to ~~cause them~~ ^{cause them} to be suspected they were to be allowed a term of twelve months to settle their ^aaffairs before leaving.

T.J. Lawrence sums up the modern rule of international law in general terms to be "that, in absence of treaty stipulations, the right to arrest no longer exists, and, though the right to expel remains, it should be used sparingly and only in great emergencies.

(Last instance of expulsion in 1870 by French from Department of the Seine.)

Several of the great States have within the last forty years issued instructions to their armies in the form of manuals containing a complete code of rules for their government during times of war. They correspond ~~in~~ in most essential matters, but they have no general authority as international law or otherwise except that they very largely represent the unison of opinion of a number of distinguished specialists and also [^]to the ~~extent~~ [^]of formulating [^]general usage.

It is gratifying to quote the statement of Bluntschli, a distinguished European ~~publicist~~ publicist when he says that [^]the various modern acts and movements that have tended to ameliorate the evils of war, the promulgation of the "instructions for the government of the armies of the United States in the field, drawn up mainly by Dr. Francis Lieber, as a general order in 1863, was among the first and most remarkable." These rules are still in substantial accordance

with the existing rules of international law and taken in connection with the code adopted by the Institute of International Law in 1880 represent the best opinion of the present day upon the subjects of which they treat.

To these codes have been added the authoritative rules embraced in what is known as the Geneva Convention for the amelioration of the condition of the sick and wounded. This convention has been agreed to generally by the civilized powers, the United States acceding to the original articles March 1st, 1862 ~~and to the additional articles in~~

(See For. Relations of the U.S.)

Men who take up arms against one another in public war do not, as one of the articles of our code says, cease on that account to be human beings, responsible to one another and to God. The laws of war do not recognize in belligerents ^{unlimited} ~~an unlimited~~ liberty as to the means of injuring the enemy. Belligerents are expected to avoid all needless severity and all perfidious, unjust or tyrannical acts. Agreements made by them during the continuance of war are to be scrupulously observed and respected. Religion and morality, the persons of the inhabitants, especially those of women ^{and} the sacredness of domestic relations must be acknowledged and protected during hostilities and in hostile countries.

All municipal law of the land upon which the armies stand or of the countries to which they belong, is silent and of no effect between armies in the field, but crimes punishable by all penal codes, such as arson, murder, maiming assaults, highway robbery, theft, burglary, fraud forgery and rape, if committed by an American soldier in an hostile country are not ^{only} punishable as at home, but in all cases in which

death is not inflicted the severer punishment shall be preferred.

Offenders against the laws of war are liable to the punishments specified in the criminal law. In all cases of serious importance, reprisals, if necessary shall not exceed the violation of the laws committed by the enemy. They must be expressly authorized by the Commander-in-Chief and conform to the rules of humanity and morality. Reprisals are prohibited when the injury complained of has been repaired.

The Law or Laws of War.

Before going more into detail as to what the law or laws of war rule upon various subjects during war and hostilities let us ascertain the definition and scope of the law of war in its international aspect. Colonel Winthrop of the U.S. Army, one of the most distinguished writers upon military law, says,

"By the term of Law of war is intended that branch of international law which prescribes the rights and obligations of belligerents, ^{- or more broadly - those principles} and usages which in time of war, define the status and relations not only of enemies - whether or not in arms - but also of persons under military government or martial law, and persons simply resident or being upon the theatre of war, and which authorize their trial and punishment when offenders. Unlike military law proper, the law of war in this country is not a formal written code, but consists mainly of general rules derived from International law, supplemented by acts and orders of the military power and a few legislative provisions. In general it is quite independent of the ordinary law."

"On the actual theatre of military operations", says Mr. Justice Field[#] "the ordinary laws of the land are superseded by the laws of war. The jurisdiction of the civil magistrate is there suspended and military authority and force are substituted. Finding indeed its original authority in the war powers of Congress and the Executive, and thus constitutional in its source, the Law of War, may in its exercise substantially supersede for the time, even the Constitution itself." "Inter *Uma* silent leges"

The laws of war apply to the Navy as well as to the Army of the United States; the military establishment of our country in a legal sense being composed of the army and navy. For this reason an examination of the various usages and laws of war which may apply to both services is not out of place. It is not necessary perhaps to more than mention generally that the laws of war as now in force do not permit the use of poison or poisoned weapons, cold blooded murder of individuals by treachery, the killing of antagonists who have surrendered, the use of arms, projectiles or substances that will cause unnecessary suffering, ~~the~~ refusal ^{of} quarter, or ^{a declaration} ~~to declare~~ that no quarter will be given.

Prisoners of war Prisoners of war are to be treated with humanity and should be exchanged without unreasonable delay. Capture is now neither a matter of punishment nor an act of vengeance but a detention devoid of any penal character. The persons entitled to the privilege of prisoners of war are members of the army or navy of the enemy, both combatants and non-combatants, and

Beckwith vs. Bean 98 U.S. 293.

the wounded and sick taken during operations or in hospital
Civilians engaged in military or auxiliary duties such as
clerks, telegraphers, aeronauts, teamsters, laborers, mes-
sengers, guides, scouts, pilots and men employed in trans-
ports, tenders and on military railways are liable to be
held as prisoners of war. Camp followers, such as sut-
lers, contractors, newspaper ~~men~~ correspondents and others
allowed with the army are subject to the restraint and
treatment of prisoners of war but should be held only as
long as necessary.

Prisoners of war are at the disposal of the enemy's
government but not of the individuals or corps which have
captured them. Each prisoner should be treated with the
regard due to his rank. The government of the captor is
charged with their maintenance and where not otherwise
agreed upon they should be rationed and clothed in the same
manner as the troops of the government that has captured
them. If the captor is without the means of subsisting
or transporting his prisoners they should then be released
on parole. Prisoners should not be deprived of their
personal property, unless it should be of large sums of
money or is of such a nature as to be intended for, or
adapted to, military uses.

Prisoners of war cannot rightfully be required to
furnish information concerning their own forces, etc/ or to
assist, by labor or service the military operations of the
enemy. They may be employed upon public works not of a
military character providing that the work is not exhaust-
ing and in accordance with military rank and position.
They can be subject to such discipline as is necessary for
good order and their safekeeping but they should not be
punished (except by stricter surveillance) for any attempt

to escape.

Prisoners can be liberated by exchange or parole. Cartels or conventions of exchange are drawn up for the purpose of establishing the conditions and scale of exchange. In the cartel arranged between the United States and the Confederate States in 1862 it was stipulated for instance that a General Commanding or Admiral should be exchanged for an officer of equal rank or 60 privates or common seamen and so down to a Lieutenant whose equivalent is four privates. Citizens were to be exchanged for citizens, occupations for occupations.

The parole in its simplest form is a pledge to the effect that the prisoner will not bear arms against the government or armies of the captor during the pending war unless duly exchanged. He may in general in the absence of stipulations to the contrary legally perform internal service such as ~~recruiting~~ recruiting or drilling recruits, garrisoning posts not in the theatre of war, guarding stores or provisions of war in the interior and paying the troops and making purchases on account of the general government. A paroled prisoner ^{for instance} was detailed for duty at the Naval Academy during the civil war as instructor. No military person other than a commissioned officer can give a parole for himself or others. Paroles must be voluntary on both sides. A breach of parole once punishable by death is now punished by deprivation of the rights of prisoner of war.

Troops seeking refuge in neutral ~~foreign~~ territory may be interned by the ^{neutral} government until the end of the war, but at the expense of the government of the interned troops, as in the case of Bourbon's army which took refuge in Switzer-

land during the Franco-German War, where they were disarmed and their arms held as security for payment of their support.

At one time it was held that prisoners beyond the control of captors could be killed. Doubtful. All prisoners should be discharged at the end of war. (The Alabama and Deerhound affair - interned or returned.)

Care of the sick and wounded. Sick and wounded, officers and men taken in the field or hospital are prisoners of war and entitled to receive the same treatment as members of the captured army ~~xxxxxxx~~ similarly placed. Ambulances and hospitals are neutralized by the Geneva convention and protected and respected by both belligerents so long as any sick ^{or} wounded may be therein. If these ambulances and hospitals are protected by armed troops detailed for the purpose the neutralization ceases.

The rules of the Geneva convention further provide that persons employed in hospitals or ambulances, comprising the medical staff, as well as Chaplains, shall participate in the benefit of neutrality while so employed and may continue to fulfil their duties or may withdraw and join their forces being delivered to the outposts of the enemy. In so doing they take only their own personal property.

Inhabitants of the country who may bring help to the wounded shall be respected and remain free. Taking care of the wounded in private houses protects those houses and exempts ~~these houses~~ ^{them} from quartering of troops and contributions.

?# The additional articles of the Geneva convention that apply to maritime warfare will most likely be adopted in case of war and are found in purport on p.92 of Snow's

lectures. Conduct of Hostilities.

Fortified and unfortified places.

At one time it was held that it was an offense to defend an open and unfortified town or resist in a weak place the attack of a vastly superior force. These views may now be held to be obsolete.

Earthworks, which can be thrown up in a few hours are very efficient defenses and they can gradually be so strengthened as to be able to resist heavy artillery. Plevna for instance was an open town when Osman Pasha determined to hold it as a defensive point in 1877 but by continuous labor and engineering skill it was rendered so strong that it repulsed three distinct assaults made in force by the Russians.

With the facilities for defense just named every place may be considered a possible fortress if its topographical situation favors defense; and it can be no longer held that there should be any discriminating severity against a commander who holds a place by improvised works. His forces, if captured, are entitled to the same privileges as troops captured in the open field.

Fortified places in time of war are liable at any time to attack and bombardment, the fact of its fortification ~~prestiges~~ ^{freshness} a surprise and in time of war the non-combatants residing in such a place must be prepared to ~~take~~ share its fortunes. Cutting off the food and water supply of a besieged place in order to hasten its surrender is proper warfare.

Reference ^{should be made to} (has been made in Snow's lectures of) the usage of the Germans ~~in~~ the war against France of bombarding the town under siege with guns of longer range than those

in the defensive works, ignoring the defenses and directing the fire towards the residential part of the town. The propriety of this as a modern act of war has been much discussed.

In view of what has been said in its favor, it is but fair to quote Hall upon the other side.

He says "The bombardment of a town in the course of a siege, x x x when in strict necessity operations need only be directed against the works, and when therefore bombardment really amounts to an attempt to obtain an earlier surrender than would be militarily necessary, through the pressure of misery inflicted upon the inhabitants is an act which, though permissible by custom is a glaring violation of the principle by which custom professes to be governed.

(Fort Adams vs. Cliffs. Life vs. property; defended by a Fort can they be killed.

The officer in command of a besieged place is alone the judge of the duration of the defense and it rightfully may be continued so long as he may consider it necessary either for the safety of the place or for some indirect military or political advantage to his government.

Pillage is not now sanctioned even when places are taken by assault. Requisitions and contributions have taken the place of pillage in all well ordered and disciplined forces.

Hostages: - In modern times hostages have been seized as a species of retaliation, and held until reparation has been made or offenders surrendered for trial. They have been used for the protection of trains etc. In 1862 General Rosseau of U.S. Army, while commanding in Alabama found great trouble from the killing of loyal citizens by lawless

persons firing into railway trains and ordered that the preachers and leading men of the churches (not exceeding twelve in number) in and about Huntsville, who have been active secessionists, be arrested and kept in custody and that one of them be detailed each day and placed on board the train running by way of Athens and taken to Elk River and back and that a like detail be made and taken to Stevenson and back."

In 1870 under somewhat similar circumstances the German military authorities required that railway trains on a French railway should be accompanied by well known and respected inhabitants of the towns en route who should be placed upon the engine and held as hostages to ensure the trains from attack or interruption by francs tireurs &c.

Spies "A spy" says Winthrop, "is a person who without authority and secretly, or under a false pretext, contrives to enter within the lines of an army for the purpose of obtaining material information and communicating it to the enemy; or one who, being by authority within the lines, attempts secretly to accomplish such purpose. "The information is commonly such as relates to the numbers or resources of the enemy, the state of his defences, the positions of his forces, military or naval, and the like".

By the articles for the government of the navy it is directed that punishment for a spy is "death or such other punishment as a court martial may ~~infix~~ adjudge". By Sec. 1343 of the Revised Statutes of the United States, any persons lurking or acting as spies in or about the armies of the United States, or elsewhere, shall be

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triable by a General Court Martial and shall on conviction thereof, suffer death. By the law of nations the crime of spy is punishable with death. In most cases during our late war the form of death was by hanging. Women who are especially qualified to act as spies on account as Winthrop says of "the natural **subtlety** of their sex" were in some instances sentenced to be hung as spies, though in their case this punishment was rarely if ever enforced.

In closing it is well to **note** that the extreme punishment attached to the spy is not on account of the depravity of his acts, but on account of the secrecy and fraud connected therewith, it may readily expose a military or naval force, without warning to the greatest disaster. A spy is necessarily a volunteer, and when with full knowledge of the consequences, and from patriotic motives alone, he exposes himself to such imminent danger for the public good, he and his memory is worthy to be held in the highest honor by his countrymen - Such a spy was Nathan Hale of Revolutionary fame.