

## **General Orders No. 100 : The Lieber Code**

### **INSTRUCTIONS FOR THE GOVERNMENT OF ARMIES OF THE UNITED STATES IN THE FIELD**

Prepared by Francis Lieber, promulgated as General Orders No. 100 by President Lincoln, 24 April 1863.

Instructions for the Government of Armies of the United States in the Field, prepared by Francis Lieber, LL.D., Originally Issued as General Orders No. 100, Adjutant General's Office, 1863, Washington 1898: Government Printing Office.

<b>Table of Contents</b>	<b>Articles</b>
<b>Section I. Martial Law - Military jurisdiction - Military necessity - Retaliation.</b>	<b><u>1-30</u></b>
<b>Section II. Public and private property of the enemy - Protection of persons, and especially of women, of religion, the arts and sciences - Punishment of crimes against the inhabitants of hostile countries.</b>	<b><u>31-47</u></b>
<b>Section III. Deserters - Prisoners of war - Hostages - Booty on the battlefield.</b>	<b><u>48-80</u></b>
<b>Section IV. Partisans - Armed enemies not belonging to the hostile army - Scouts- Armed prowlers - War-rebels.</b>	<b><u>81-85</u></b>
<b>Section V. Safe-conduct - Spies - War-traitors - Captured messengers - Abuse of the flag of truce.</b>	<b><u>86-104</u></b>
<b>Section VI. Exchange of prisoners - Flags of truce - Flags of protection</b>	<b><u>105-118</u></b>
<b>Section VII. The Parole</b>	<b><u>119-134</u></b>
<b>Section VIII. Armistice - Capitulation</b>	<b><u>135-147</u></b>
<b>Section IX. Assassination</b>	<b><u>148</u></b>
<b>Section X. Insurrection - Civil War - Rebellion</b>	<b><u>149-157</u></b>

1.

**I appreciate all the difficulties in my path:** the impatience of the people, the venality and bad faith of the politicians, the gross neglect that has occurred in obtaining arms, clothing, etc.; and, above all, **I feel in my inmost soul how small is my ability** in comparison with the gigantic dimensions of the task, and that, even if I had the greatest intellect that was ever given to man, **the result remains in the hands of God.**

(October 31, 1861)

**I hope and trust that God will watch over, guide, and protect me.** I accept most resignedly all He has brought upon me. **Perhaps I have really brought it on myself;** for while striving conscientiously to do my best, it may well be that I have made great mistakes that my vanity does not permit me to perceive. When I see so much self-blindness around me **I cannot arrogate to myself greater clearness of vision and self-examination.**

(July 17, 1862)

2.

**It was pleasant to join in the prayers again,** & Mr P gave us a plain but good sermon. I see though he has brought to this wilderness the colouring of the high church which had much better be left behind. There is already **enough of Romanism** in this country inherited from Mexico, & there is more want of **“the worship of spirit & of truth”** in all the beauty of its sincerity & holiness. When I see its perversion by man from the **purity preached by our Saviour,** there is an inward rebellion over which I have no control, & I think it better for me to remain in the wilderness from whence I came & **adore the Great God** with all the power & all the strength he has given me free from the detraction, & disturbing forces around me.

(Robert E. Lee to his wife, November 15, 1856)

3.

**Since the war I have met many of my late antagonists,** and have found none who entertained any personal enmity against me. While acknowledging, with Lee and other of their generals, that they feared me more than any of the Northern generals, and that I had struck them harder blows when in the full prime of their strength, **they have all said that I fought them like a gentleman,** and in an honorable way, and that they felt nothing but respect for me.

(McClellan's Own Story, 35)

4.

**The major-general commanding desires and requests that in future there may be a more perfect respect for the Sabbath on the part of his command.**

We are fighting in a **holy cause,** and should endeavor to deserve the **benign favor of the Creator.**

Unless in the case of an attack by the enemy, or some other extreme military necessity, it is commended to commanding officers that **all work shall be suspended on the Sabbath**; that no unnecessary movements shall be made on that day; that the men shall, as far as possible, be permitted to rest from their labors; that they shall attend divine service after the customary Sunday morning inspection, and that officers and men shall alike use their influence to insure the utmost decorum and quiet on that day. **The general commanding regards this as no idle form; one day's rest in seven is necessary to men and animals**; more than this, the observance of the holy day of the God of Mercy and of Battles is **our sacred duty**.

(McClellan's General Orders, number 7, on the subject of the Sabbath, issued in Washington on September 6, 1861)

5.

**From the Harrison's Landing (or Bar) Letter, George B. McClellan to Abraham Lincoln, July 7, 1862**

This rebellion has assumed the character of war; as such it should be regarded, and it should be **conducted upon the highest principles known to Christian civilization**. It should not be a war looking to the subjugation of the people of any State in any event. **It should not be at all a war upon population, but against armed forces and political organizations. Neither confiscation of property, political executions of persons, territorial organization of States, or forcible abolition of slavery should be contemplated for a moment. In prosecuting the war all private property and unarmed persons should be strictly protected, subject only to the necessity of military operations.** All private property taken for military use should be paid or receipted for; pillage and waste should be treated as high crimes; all unnecessary trespass sternly prohibited, and offensive demeanor by the military towards citizens promptly rebuked. Military arrests should not be tolerated, except in places where active hostilities exist, and oaths not required by enactments constitutionally made should be neither demanded nor received. Military government should be confined to the preservation of public order and the protection of political rights. **Military power should not be allowed to interfere with the relations of servitude**, either by supporting or impairing the authority of the master, except for repressing disorder, as in other cases. **Slaves contraband under the act of Congress, seeking military protection, should receive it. The right of the government to appropriate permanently to its own service claims to slave labor should be asserted, and the right of the owner to compensation therefor should be recognized. . . .**

**A system of policy thus constitutional and conservative, and pervaded by the influences of Christianity and freedom**, would receive the support of almost all truly loyal men, would deeply impress the rebel masses and all foreign nations, and it might be humbly hoped that it would commend itself to the favor of the Almighty.

6.

Sept. 5, [1862,] 4 P. M.--. . . **It makes my heart bleed** to see the poor, shattered remnants of my noble Army of the Potomac, poor fellows! and to see how they love me even now. I hear them

calling out to me as I ride among them, “George, don’t leave us again!” “They sha’n’t take you away from us again,” etc., etc. I can hardly restrain myself when I see how fearfully they are reduced in numbers, and realize how many of them lie unburied on the field of battle, where their lives were uselessly sacrificed. **It is the most terrible trial I ever experienced. Truly, God is trying me in the fire . . . .**

7.

**But what a cruel thing is war;** to separate and destroy families and friends, and mar the purest joys and happiness God has granted us in this world; to fill our hearts with hatred instead of love for our neighbors, and to devastate the fair face of this beautiful world! . . . **My heart bleeds at the death of every one of our gallant men.**

(Lee to his wife, Christmas Day, 1862)

8.

**I am about doing a thing to-day which will, I suppose, cause the abolitionists and my other friends to drive the last nail in my official coffin.** You know that our sick and wounded in Richmond are suffering terribly for want of proper food, medicines, and hospital supplies. I have ordered a boatload of all such things — lemons, tea, sugar, brandy, underclothing, lint, bandages, chloroform, quinine, ice, etc., etc.--**to be sent up to Gen. Lee to-day, to be used at his discretion for the sick and wounded of both armies. I know he would not, and could not, receive them for our men alone, therefore I can only do it in the way I propose, and trust to his honor** to apply them properly-half and half. I presume I will be accused now of double-dyed treason — giving aid and comfort to the enemy, etc. What do you think of it? **Am I right or wrong?**

(McClellan to his wife, July 22, 1862)

9.

**I have been through the hospitals,** where are many of our own men and of the rebels. One Virginian sent for me this morning and told me that I was the only general from whom they expected any humanity. I corrected this mistake. (May 6, 1862)

. . . **Went on the hospital-steamer.** . . . I saw all the officers and men on board, and tried to cheer them up. The visit seemed to do them a great deal of good, and it would have done you good to see how the poor, suffering fellows brightened up when they saw me. . . . (July 20, 1862)

. . . **This morning I visited the general hospital not far from here, and went through it all,** finding the patients comfortable and all improving in health. They are nearly all in hospital-tents and are well provided for; in truth, they are about as well off as they could be away from home, and many of them doubtless better off than they would be there. I find the men more contented than the officers. **I confess that the men enlist my sympathies much more warmly than the officers.** They are so patient and devoted. They have generally entered the service, too, from

higher and more unselfish motives. **Poor fellows! I can never willingly break the link that unites me to them, and shall always be very proud of them and of their love for me, even if it is not decreed by Providence that I am to lead them to Richmond.** (July 31, 1862)

## **From SECTION II of the Lieber Code**

**Public and private property of the enemy - Protection of persons, and especially of women, of religion, the arts and sciences - Punishment of crimes against the inhabitants of hostile countries.**

### **Art. 34.**

**As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning or observatories, museums of the fine arts, or of a scientific character** such property is not to be considered public property in the sense of paragraph 31; but it may be taxed or used when the public service may require it.

### **Art. 35.**

**Classical works of art, libraries, scientific collections, or precious instruments,** such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded.

### **Art. 37.**

**The United States acknowledge and protect,** in hostile countries occupied by them, **religion and morality; strictly private property; the persons of the inhabitants, especially those of women: and the sacredness of domestic relations.** Offenses to the contrary shall be rigorously punished.

### **Art. 42.**

**Slavery, complicating and confounding the ideas of property, (that is of a thing,) and of personality, (that is of humanity,) exists according to municipal or local law only. The law of nature and nations has never acknowledged it.** The digest of the Roman law enacts the early dictum of the pagan jurist, that "so far as the law of nature is concerned, all men are equal." Fugitives escaping from a country in which they were slaves, villains, or serfs, into another country, have, for centuries past, been held free and acknowledged free by judicial decisions of European countries, even though the municipal law of the country in which the slave had taken refuge acknowledged slavery within its own dominions.

#### **Art. 43.**

Therefore, in a war between the United States and a belligerent which admits of slavery, if a person held in bondage by that belligerent be captured by or come as a fugitive under the protection of the military forces of the United States, such person is immediately entitled to the rights and privileges of a freeman To return such person into slavery would amount to enslaving a free person, and neither the United States nor any officer under their authority can enslave any human being. Moreover, a person so made free by the law of war is under the shield of the law of nations, and the former owner or State can have, by the law of postliminy, no belligerent lien or claim of service.

#### **Art. 44.**

**All wanton violence committed against persons in the invaded country, all destruction of property not commanded by the authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death, or such other severe punishment as may seem adequate for the gravity of the offense.**

A soldier, officer or private, in the act of committing such violence, and disobeying a superior ordering him to abstain from it, **may be lawfully killed on the spot** by such superior.

#### **Art. 47.**

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 a hostile country against its inhabitants, are not only punishable as at home, but in all cases in which death is not inflicted, the severer punishment shall be preferred.