

*v. Ruddy*, decided by the police magistrate at Cornwall. The subject is of interest not only because of the divergent views expressed, but also and chiefly because it is another example of Imperial legislation affecting the colonies.

In examining the question it may be instructive to consider briefly the history of the Act in question and the causes of the origin, progress and development of military law, and the passage of the various acts and ordinances on the subject, culminating in the passage of the Army Act, 1881, and the Army (annual) Act, as until the close of the 17th century a distinct military code was unknown in England.

In the early periods of England's history military law only existed in time of actual war. When war broke out troops were raised as occasion required, and ordinances for their government, or as they were afterwards called, "articles of war" were issued by the Crown with the advice of the Constable, or of the peers and other experienced persons, or was enacted by the Commander in chief, in pursuance of an authority for that purpose given in his commission from the Crown. These ordinances or articles, however, remained in force only during the service of the troops for whose government they were issued, and ceased to operate upon the conclusion of peace. Military law in time of peace did not come into existence until the passing of the first Mutiny Act in 1689. The system of governing troops on active service by means of articles of war continued from the time of the Conquest until long after the passage of the annual Mutiny Act.

The first record of a special military code is to be found in a statute of Richard II. (1377-99) which recognized the "Court of a Marshal," instituted to deal with military matters not cognizable by the common law. The power of the marshal and his deputies was absolute and summary, extending to the death penalty, and there was no appeal, except to the Sovereign in person, though this was always objected to by Parliament.

The army continued to be governed by martial law in the reign of James I. and Charles I. and the latter in 1625 issued a commission to 35 officers and civilians for the government of troops, (guilty of offences civil and military), returned from Spain, and who were not disbanded.

At the Restoration in 1660, the army raised by Parliament during the civil war, was disbanded, but Charles II. obtained from