

81ST CONGRESS
1ST SESSION

H. R. 2498

A BILL

To unify, consolidate, revise, and codify the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard and to enact and establish a Uniform Code of Military Justice.

By Mr. VINSON

FEBRUARY 8, 1949

Referred to the Committee on Armed Services

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IN THE HOUSE OF REPRESENTATIVES

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To unify, consolidate, revise, and codify the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard, and to enact and establish a Uniform Code of Military Justice.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That a Uniform Code of Military Justice for the government
4 of the armed forces of the United States, unifying, consoli-
5 dating, revising, and codifying the Articles of War, the Ar-
6 ticles for the Government of the Navy, and the disciplinary
7 laws of the Coast Guard, is hereby enacted as follows, and
8 the articles in this section may be cited as "Uniform Code
9 of Military Justice, Article ".

1 UNIFORM CODE OF MILITARY JUSTICE

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2 PART I—GENERAL PROVISIONS

Article

1. Definitions.
2. Persons subject to the code.
3. Jurisdiction to try certain personnel.
4. Dismissed officer's right to trial by court-martial.
5. Territorial applicability of the code.
6. Judge advocates and legal officers.

3 ARTICLE 1. Definitions.

4 The following terms when used in this code shall be
5 construed in the sense indicated in this article, unless the
6 context shows that a different sense is intended, namely:

7 (1) "Department" shall be construed to refer, severally,
8 to the Department of the Army, the Department of the
9 Navy, the Department of the Air Force, and, except when
10 the Coast Guard is operating as a part of the Navy, the
11 Treasury Department;

12 (2) "Armed force" shall be construed to refer, severally,
13 to the Army, the Navy, the Air Force, and, except when
14 operating as a part of the Navy, the Coast Guard;

15 (3) "Navy" shall be construed to include the Marine

1 Corps and, when operating as a part of the Navy, the Coast
2 Guard;

3 (4) "The Judge Advocate General" shall be con-
4 strued to refer, severally, to The Judge Advocates General
5 of the Army, Navy, and Air Force, and, except when the
6 Coast Guard is operating as a part of the Navy, the General
7 Counsel of the Treasury Department;

8 (5) "Officer" shall be construed to refer to a commis-
9 sioned officer including a commissioned warrant officer;

10 (6) "Superior officer" shall be construed to refer to an
11 officer superior in rank or command;

12 (7) "Cadet" shall be construed to refer to a cadet of
13 the United States Military Academy or of the United States
14 Coast Guard Academy;

15 (8) "Midshipman" shall be construed to refer to a
16 midshipman at the United States Naval Academy and any
17 other midshipman on active duty in the naval service;

18 (9) "Enlisted person" shall be construed to refer to
19 any person who is serving in an enlisted grade in any armed
20 force;

21 (10) "Military" shall be construed to refer to any or
22 all of the armed forces;

23 (11) "Accuser" shall be construed to refer to a per-
24 son who signs and swears to the charges and to any other

1 person who has an interest other than an official interest
2 in the prosecution of the accused;

3 (12) "Law officer" shall be construed to refer to an
4 official of a general court-martial detailed in accordance
5 with article 26;

6 (13) "Law specialist" shall be construed to refer to an
7 officer of the Navy or Coast Guard designated for special
8 duty (law) ;

9 (14) "Legal officer" shall be construed to refer to any
10 officer in the Navy or Coast Guard designated to perform
11 legal duties for a command.

12 ART. 2. Persons subject to the code.

13 The following persons are subject to this code:

14 (1) All persons belonging to a regular component of
15 the armed forces, including those awaiting discharge after
16 expiration of their terms of enlistment; all volunteers and in-
17 ductees, from the dates of their muster or acceptance into the
18 armed forces of the United States; and all other persons law-
19 fully called, drafted, or ordered into, or to duty in or for
20 training in, the armed forces, from the dates they are re-
21 quired by the terms of the call, draft, or order to obey the
22 same;

23 (2) Cadets, aviation cadets, and midshipmen;

24 (3) Reserve personnel who are voluntarily on inactive
25 duty training authorized by written orders;

1 (4) Retired personnel of a regular component of the
2 armed forces who are entitled to receive pay;

3 (5) Retired personnel of a reserve component who are
4 receiving hospital benefits from an armed force;

5 (6) Members of the Fleet Reserve and Fleet Marine
6 Corps Reserve;

7 (7) All persons in custody of the armed forces serving
8 a sentence imposed by a court-martial;

9 (8) Personnel of the Coast and Geodetic Survey, Public
10 Health Service, and other organizations, when serving with
11 the armed forces of the United States;

12 (9) Prisoners of war in custody of the armed forces;

13 (10) In time of war, all persons serving with or accom-
14 panying an armed force in the field;

15 (11) All persons serving with, employed by, accom-
16 panying, or under the supervision of the armed forces with-
17 out the continental limits of the United States and the follow-
18 ing territories: That part of Alaska east of longitude one
19 hundred and seventy-two degrees west, the Canal Zone, the
20 main group of the Hawaiian Islands, Puerto Rico, and the
21 Virgin Islands;

22 (12) All persons within an area leased by the United
23 States which is under the control of the Secretary of a
24 Department and which is without the continental limits of
25 the United States and the following territories: That part

1 of Alaska east of longitude one hundred and seventy-two
2 degrees west, the Canal Zone, the main group of the Hawa-
3 iian Islands, Puerto Rico, and the Virgin Islands.

4 ART. 3. Jurisdiction to try certain personnel.

5 (a) Reserve personnel of the armed forces who are
6 charged with having committed, while in a status in which
7 they are subject to this code, any offense against this code
8 may be retained in such status or, whether or not such status
9 has terminated, placed in an active-duty status for disci-
10 plinary action, without their consent, but not for a longer
11 period of time than may be required for such action.

12 (b) All persons discharged from the armed forces sub-
13 sequently charged with having fraudulently obtained said
14 discharge shall be subject to trial by court-martial on said
15 charge and shall be subject to this code while in the custody
16 of the armed forces for such trial. Upon conviction of said
17 charge they shall be subject to trial by court-martial for all
18 offenses under this code committed prior to the fraudulent
19 discharge.

20 (c) Any person who has deserted from the armed forces
21 shall not be relieved from amenability to the jurisdiction of
22 this code by virtue of a separation from any subsequent period
23 of service.

24 ART. 4. Dismissed officer's right to trial by court-martial.

25 (a) When any officer, dismissed by order of the

1 President, makes a written application for trial by court-
2 martial, setting forth, under oath, that he has been wrong-
3 fully dismissed, the President, as soon as practicable, shall
4 convene a general court-martial to try such officer on the
5 charges on which he was dismissed. A court-martial so
6 convened shall have jurisdiction to try the dismissed offi-
7 cer on such charges, and he shall be held to have waived
8 the right to plead any statute of limitations applicable to
9 any offense with which he is charged. The court-martial
10 may, as part of its sentence, adjudge the affirmance of the
11 dismissal, but if the court-martial acquits the accused or if
12 the sentence adjudged, as finally approved or affirmed,
13 does not include dismissal or death, the Secretary of the
14 Department shall substitute for the dismissal ordered by the
15 President a form of discharge authorized for administrative
16 issuance.

17 (b) If the President fails to convene a general court-
18 martial within six months from the presentation of an ap-
19 plication for trial under this article, the Secretary of the
20 Department shall substitute for the dismissal ordered by
21 the President a form of discharge authorized for administra-
22 tive issuance.

23 (c) Where a discharge is substituted for a dismissal
24 under the authority of this article, the President alone may
25 reappoint the officer to such commissioned rank and pre-

1 cedence as in the opinion of the President such former of-
2 ficer would have attained had he not been dismissed. The
3 reappointment of such a former officer shall be without
4 regard to position vacancy and shall affect the promotion
5 status of other officers only insofar as the President may di-
6 rect. All time between the dismissal and such reappoint-
7 ment shall be considered as actual service for all purposes,
8 including the right to receive pay and allowances.

9 (d) When an officer is discharged from any armed
10 force by administrative action or is dropped from the rolls
11 by order of the President, there shall not be a right to trial
12 under this article.

13 ART. 5. Territorial applicability of the code.

14 This code shall be applicable in all places.

15 ART. 6. Judge advocates and legal officers.

16 (a) The assignment for duty of all judge advocates
17 of the Army and Air Force and law specialists of the Navy
18 and Coast Guard shall be subject to the approval of The
19 Judge Advocate General of the armed force of which they are
20 members. The Judge Advocate General or senior mem-
21 bers of his staff shall make frequent inspections in the field
22 in supervision of the administration of military justice.

23 (b) Convening authorities shall at all times communi-
24 cate directly with their staff judge advocates or legal offi-
25 cers in matters relating to the administration of military

1 justice; and the staff judge advocate or legal officer of any
2 command is authorized to communicate directly with the
3 staff judge advocate or legal officer of a superior or subordi-
4 nate command, or with The Judge Advocate General.

5 (c) No person who has acted as member, law officer,
6 trial counsel, assistant trial counsel, defense counsel, assist-
7 ant defense counsel, or investigating officer in any case
8 shall subsequently act as a staff judge advocate or legal
9 officer to any reviewing authority upon the same case.

10 PART II—APPREHENSION AND RESTRAINT

Article

7. Apprehension.
8. Apprehension of deserters.
9. Imposition of restraint.
10. Restraint of persons charged with offenses.
11. Reports and receiving of prisoners.
12. Confinement with enemy prisoners prohibited.
13. Punishment prohibited before trial.
14. Delivery of offenders to civil authorities.

11 ART. 7. Apprehension.

12 (a) Apprehension is the taking into custody of a
13 person.

14 (b) Any person authorized under regulations govern-
15 ing the armed forces to apprehend persons subject to this
16 code may do so upon reasonable belief that an offense has
17 been committed and that the person apprehended com-
18 mitted it.

19 (c) All officers, warrant officers, petty officers, and
20 noncommissioned officers shall have authority to quell all

1 quarrels, frays, and disorders among persons subject to this
2 code and to apprehend persons subject to this code who take
3 part in the same.

4 ART. 8. Apprehension of deserters.

5 It shall be lawful for any civil officer having authority
6 to apprehend offenders under the laws of the United States
7 or of any State, District, Territory, or possession of the
8 United States summarily to apprehend a deserter from the
9 armed forces of the United States and deliver him into the
10 custody of the armed forces of the United States.

11 ART. 9. Imposition of restraint.

12 (a) Arrest is the restraint of a person by an order
13 directing him to remain within certain specified limits not
14 imposed as a punishment for an offense. Confinement is
15 the physical restraint of a person.

16 (b) An enlisted person may be ordered into arrest or
17 confinement by any officer by an order delivered in person
18 or through other persons subject to this code. A command-
19 ing officer may authorize warrant officers, petty officers, or
20 noncommissioned officers to order enlisted persons of his com-
21 mand or subject to his authority into arrest or confinement.

22 (c) An officer, a warrant officer, or a civilian subject
23 to this code may be ordered into arrest or confinement only
24 by a commanding officer to whose authority he is subject,
25 by an order delivered in person or by another officer. The

1 authority to order such persons into arrest or confinement
2 may not be delegated.

3 (d) No person shall be ordered into arrest or confine-
4 ment except for probable cause.

5 (e) Nothing in this article shall be construed to limit
6 the authority of persons authorized to apprehend offenders
7 to secure the custody of an alleged offender until proper
8 authority may be notified.

9 ART. 10. Restraint of persons charged with offenses.

10 Any person subject to this code charged with an offense
11 under this code shall be ordered into arrest or confinement,
12 as circumstances may require; but when charged only with
13 an offense normally tried by a summary court-martial, such
14 person shall not ordinarily be placed in confinement. When
15 any person subject to this code is placed in arrest or con-
16 finement prior to trial, immediate steps shall be taken to
17 inform him of the specific wrong of which he is accused
18 and to try him or to dismiss the charges and release him.

19 ART. 11. Reports and receiving of prisoners.

20 (a) No provost marshal, commander of a guard, or
21 master at arms shall refuse to receive or keep any prisoner
22 committed to his charge by an officer of the armed forces,
23 when the committing officer furnishes a statement, signed
24 by him, of the offense charged against the prisoner.

25 (b) Every commander of a guard or master at arms

1 to whose charge a prisoner is committed shall, within twenty-
2 four hours after such commitment or as soon as he is relieved
3 from guard, report to the commanding officer the name of
4 such prisoner, the offense charged against him, and the name
5 of the person who ordered or authorized the commitment.

6 ART. 12. Confinement with enemy prisoners prohibited.

7 No member of the armed forces of the United States
8 shall be placed in confinement in immediate association with
9 enemy prisoners or other foreign nationals not members of
10 the armed forces of the United States.

11 ART. 13. Punishment prohibited before trial.

12 Subject to the provisions of article 57, no person, while
13 being held for trial or the results of trial, shall be subjected
14 to punishment or penalty other than arrest or confinement
15 upon the charges pending against him, nor shall the arrest
16 or confinement imposed upon him be any more rigorous than
17 the circumstances require to insure his presence, but he may
18 be subjected to punishment during such period for minor in-
19 fractions of discipline.

20 ART. 14. Delivery of offenders to civil authorities.

21 (a) Under such regulations as the Secretary of the De-
22 partment may prescribe, a member of the armed forces ac-
23 cused of an offense against civil authority may be delivered,
24 upon request, to the civil authority for trial.

25 (b) When delivery under this article is made to any civil

1 authority of a person undergoing sentence of a court-martial,
2 such delivery, if followed by conviction in a civil tribunal,
3 shall be held to interrupt the execution of the sentence of the
4 court-martial, and the offender after having answered to the
5 civil authorities for his offense shall, upon request, be re-
6 turned to military custody for the completion of the said
7 court-martial sentence.

8 PART III—NON-JUDICIAL PUNISHMENT

Article

15. Commanding officer's non-judicial punishment.

9 ART. 15. Commanding officer's non-judicial punishment.

10 (a) Under such regulations as the President may pre-
11 scribe, any commanding officer may, in addition to or in
12 lieu of admonition or reprimand, impose one of the following
13 disciplinary punishments for minor offenses without the in-
14 tervention of a court-martial—

15 (1) upon officers and warrant officers of his
16 command:

17 (A) withholding of privileges for a period not
18 to exceed two consecutive weeks; or

19 (B) restriction to certain specified limits, with
20 or without suspension from duty, for a period not
21 to exceed two consecutive weeks; or

22 (C) if imposed by an officer exercising general
23 court-martial jurisdiction, forfeiture of one-half of

1 his pay per month for a period not exceeding three
2 months;

3 (2) upon other military personnel of his command:

4 (A) withholding of privileges for a period not
5 to exceed two consecutive weeks; or

6 (B) restriction to certain specified limits, with
7 or without suspension from duty, for a period not
8 to exceed two consecutive weeks; or

9 (C) extra duties for a period not to exceed two
10 consecutive weeks, and not to exceed two hours per
11 day, holidays included; or

12 (D) reduction to next inferior grade if the
13 grade from which demoted was established by the
14 command or an equivalent or lower command; or

15 (E) confinement for a period not to exceed
16 seven consecutive days; or

17 (F) confinement on bread and water or di-
18 minished rations for a period not to exceed five
19 consecutive days; or

20 (G) if imposed by an officer exercising special
21 court-martial jurisdiction, forfeiture of one-half of his
22 pay for a period not exceeding one month.

23 (b) The Secretary of a Department may, by regula-
24 tion, place limitations on the powers granted by this article
25 with respect to the kind and amount of punishment author-

1 ized, the categories of commanding officers authorized to
2 exercise such powers, and the applicability of this article to
3 an accused who demands trial by court martial.

4 (c) An officer in charge may, for minor offenses, im-
5 pose on enlisted persons assigned to the unit of which he is
6 in charge, such of the punishments authorized to be imposed
7 by commanding officers as the Secretary of the Department
8 may by regulation specifically prescribe.

9 (d) A person punished under authority of this article
10 who deems his punishment unjust or disproportionate to the
11 offense may, through the proper channel, appeal to the next
12 superior authority. The appeal shall be promptly forwarded
13 and decided, but the person punished may in the meantime
14 be required to undergo the punishment adjudged. The officer
15 who imposes the punishment, his successor in command,
16 and superior authority shall have power to suspend, set
17 aside, or remit any part or amount of the punishment and
18 to restore all rights, privileges, and property affected.

19 (e) The imposition and enforcement of disciplinary
20 punishment under authority of this article for any act or
21 omission shall not be a bar to trial by court-martial for
22 a serious crime or offense growing out of the same act or
23 omission, and not properly punishable under this article;
24 but the fact that a disciplinary punishment has been enforced
25 may be shown by the accused upon trial, and when so shown

1 shall be considered in determining the measure of punish-
2 ment to be adjudged in the event of a finding of guilty.

3 PART IV—COURTS-MARTIAL JURISDICTION

Article

- 16. Courts-martial classified.
- 17. Jurisdiction of courts-martial in general.
- 18. Jurisdiction of general courts-martial.
- 19. Jurisdiction of special courts-martial.
- 20. Jurisdiction of summary courts-martial.
- 21. Jurisdiction of courts-martial not exclusive.

4 ART. 16. Courts-martial classified.

5 There shall be three kinds of courts-martial in each of
6 the armed forces, namely:

7 (1) General courts-martial, which shall consist of
8 a law officer and any number of members not less than
9 five;

10 (2) Special courts-martial, which shall consist of
11 any number of members not less than three; and

12 (3) Summary courts-martial, which shall consist
13 of one officer.

14 ART. 17. Jurisdiction of courts-martial in general.

15 (a) Each armed force shall have court-martial juris-
16 diction over all persons subject to this code. The exercise of
17 jurisdiction by one armed force over personnel of another
18 armed force shall be in accordance with regulations pre-
19 scribed by the President.

20 (b) In all cases, departmental review subsequent to
21 that by the officer with authority to convene a general court-

1 martial for the command which held the trial, where such
2 review is required under the provisions of this code, shall
3 be carried out by the armed force of which the accused is a
4 member.

5 ART. 18. Jurisdiction of general courts-martial.

6 Subject to article 17, general courts-martial shall have
7 jurisdiction to try persons subject to this code for any offense
8 made punishable by this code and may, under such limita-
9 tions as the President may prescribe, adjudge any punish-
10 ment not forbidden by this code. General courts-martial
11 shall also have jurisdiction to try any person who by the
12 law of war is subject to trial by a military tribunal and may
13 adjudge any punishment permitted by the law of war.

14 ART. 19. Jurisdiction of special courts-martial.

15 Subject to article 17, special courts-martial shall have
16 jurisdiction to try persons subject to this code for any non-
17 capital offense made punishable by this code and, under such
18 regulations as the President may prescribe, for capital of-
19 fenses. Special courts-martial may, under such limitations
20 as the President may prescribe, adjudge any punishment
21 not forbidden by this code except death, dishonorable dis-
22 charge, dismissal, confinement in excess of six months, hard
23 labor without confinement in excess of three months, for-
24 feiture of pay exceeding two-thirds pay per month, or for-

1 forfeiture of pay for a period exceeding six months. A bad-
2 conduct discharge shall not be adjudged unless a complete
3 record of the proceedings and testimony before the court has
4 been made.

5 ART. 20. Jurisdiction of summary courts-martial.

6 Subject to article 17, summary courts-martial shall have
7 jurisdiction to try persons subject to this code except offi-
8 cers, warrant officers, cadets, aviation cadets, and midship-
9 men for any noncapital offense made punishable by this
10 code, but no person who objects thereto shall be brought to
11 trial before a summary court-martial unless he has been
12 permitted to refuse punishment under article 15. Where
13 such objection is made by the accused, trial shall be ordered
14 by special or general court-martial, as may be appropriate.
15 Summary courts-martial may, under such limitations as the
16 President may prescribe, adjudge any punishment not for-
17 bidden by this code except death, dismissal, dishonorable or
18 bad-conduct discharge, confinement in excess of one month,
19 hard labor without confinement in excess of forty-five days,
20 restriction to certain specified limits in excess of two months,
21 or forfeiture of pay in excess of two-thirds of one month's
22 pay.

23 ART. 21. Jurisdiction of courts-martial not exclusive.

24 The provisions of this code conferring jurisdiction upon
25 courts-martial shall not be construed as depriving military

1 commissions, provost courts, or other military tribunals of
 2 concurrent jurisdiction in respect of offenders or offenses that
 3 by statute or by the law of war may be tried by such mili-
 4 tary commissions, provost courts, or other military tribunals.

5 PART V—APPOINTMENT AND COMPOSITION OF
 6 COURTS-MARTIAL

Article

- 22. Who may convene general courts-martial.
- 23. Who may convene special courts-martial.
- 24. Who may convene summary courts-martial.
- 25. Who may serve on courts-martial.
- 26. Law officer of a general court-martial.
- 27. Appointment of trial counsel and defense counsel.
- 28. Appointment of reporters and interpreters.
- 29. Absent and additional members.

7 ART. 22. Who may convene general courts-martial.

8 (a) General courts-martial may be convened by—

- 9 (1) the President of the United States;
- 10 (2) the Secretary of a Department;
- 11 (3) the commanding officer of a Territorial De-
 12 partment, an Army Group, an Army, an Army Corps,
 13 a division, a separate brigade, or a corresponding unit
 14 of the Army;
- 15 (4) the Commander in Chief of a Fleet; the com-
 16 manding officer of a naval station or larger shore activity
 17 of the Navy beyond the continental limits of the United
 18 States;
- 19 (5) the commanding officer of an Air Command,

1 an Air Force, an air division, or a separate wing of the
2 Air Force;

3 (6) such other commanding officers as may be
4 designated by the Secretary of a Department; or

5 (7) any other commanding officer in any of the
6 armed forces when empowered by the President.

7 (b) When any such commanding officer is an accuser,
8 the court shall be convened by superior competent authority,
9 and may in any case be convened by such authority when
10 deemed desirable by him.

11 ART. 23. Who may convene special courts-martial.

12 (a) Special courts-martial may be convened by—

13 (1) any person who may convene a general
14 court martial;

15 (2) the commanding officer of a district, garrison,
16 fort, camp, station, Air Force base, auxiliary air field,
17 or other place where members of the Army or Air Force
18 are on duty;

19 (3) the commanding officer of a brigade, regiment,
20 detached battalion, or corresponding unit of the Army;

21 (4) the commanding officer of a wing, group, or
22 separate squadron of the Air Force;

23 (5) the commanding officer of any naval or Coast
24 Guard vessel, shipyard, base, or station; or of any
25 marine brigade, regiment or barracks;

1 (6) the commanding officer of any separate or
2 detached command or group of detached units of any
3 of the armed forces placed under a single commander
4 for this purpose; or

5 (7) the commanding officer or officer in charge of
6 any other command when empowered by the Secretary
7 of a Department.

8 (b) When any such officer is an accuser, the court shall
9 be convened by superior competent authority, and may in
10 any case be convened by such authority when deemed ad-
11 visable by him.

12 ART. 24. Who may convene summary courts-martial.

13 (a) Summary courts-martial may be convened by—

14 (1) any person who may convene a general or
15 special court-martial;

16 (2) the commanding officer of a detached company,
17 or other detachment of the Army;

18 (3) the commanding officer of a detached squadron
19 or other detachment of the Air Force; or

20 (4) the commanding officer or officer in charge of
21 any other command when empowered by the Secretary
22 of a Department.

23 (b) When but one officer is present with a command or
24 detachment he shall be the summary court-martial of that
25 command or detachment and shall hear and determine all

1 summary court-martial cases brought before him. Summary
2 courts-martial may, however, be convened in any case by
3 superior competent authority when deemed desirable by him.

4 ART. 25. Who may serve on courts-martial.

5 (a) Any officer on active duty with the armed forces
6 shall be competent to serve on all courts-martial for the trial
7 of any person who may lawfully be brought before such
8 courts for trial.

9 (b) Any warrant officer on active duty with the armed
10 forces shall be competent to serve on general and special
11 courts-martial for the trial of any person, other than an
12 officer, who may lawfully be brought before such courts for
13 trial.

14 (c) Any enlisted person on active duty with the armed
15 forces who is not a member of the same unit as the accused
16 shall be competent to serve on general and special courts-
17 martial for the trial of any enlisted person who may lawfully
18 be brought before such courts for trial, but he shall be
19 appointed as a member of a court only if, prior to the con-
20 vening of such court, the accused has requested in writing
21 that enlisted persons serve on it. After such a request, no
22 enlisted person shall be tried by a general or special court-
23 martial the membership of which does not include enlisted
24 persons in a number comprising at least one-third of the total
25 membership of the court, unless competent enlisted persons

1 cannot be obtained on account of physical conditions or mili-
2 tary exigencies. Where such persons cannot be obtained,
3 the court may be convened and the trial held without them,
4 but the convening authority shall make a detailed written
5 statement, to be appended to the record, stating why they
6 could not be obtained.

7 For the purposes of this article, the word "unit" shall
8 mean any regularly organized body as defined by the Secre-
9 tary of the Department, but in no case shall it be a body
10 larger than a company, a squadron, or a ship's crew, or
11 than a body corresponding to one of them.

12 (d) (1) When it can be avoided, no person in the
13 armed forces shall be tried by a court-martial any member
14 of which is junior to him in rank or grade.

15 (2) When convening a court-martial, the convening
16 authority shall appoint as members thereof such persons as,
17 in his opinion, are best qualified for the duty by reason of
18 age, education, training, experience, length of service, and
19 judicial temperament. No person shall be eligible to sit
20 as a member of a general or special court-martial when he
21 is the accuser or a witness for the prosecution or has acted
22 as investigating officer or as counsel in the same case.

23 ART. 26. Law officer of a general court-martial.

24 (a) The authority convening a general court-martial
25 shall appoint as law officer thereof an officer who is a mem-

1 ber of the bar of a Federal court or of the highest court of
2 a State of the United States and who is certified to be
3 qualified for such duty by The Judge Advocate General
4 of the armed force of which he is a member. No person
5 shall be eligible to act as law officer in a case when he is
6 the accuser or a witness for the prosecution or has acted
7 as investigating officer or as counsel in the same case.

8 (b) The law officer shall not consult with the members
9 of the court, other than on the form of the findings as pro-
10 vided in article 39, except in the presence of the accused, trial
11 counsel, and defense counsel, nor shall he vote with the mem-
12 bers of the court.

13 ART. 27. Appointment of trial counsel and defense counsel.

14 (a) For each general and special court-martial the
15 authority convening the court shall appoint a trial counsel
16 and a defense counsel, together with such assistants as he
17 deems necessary or appropriate. No person who has acted
18 as investigating officer, law officer, or court member in any
19 case shall act subsequently as trial counsel assistant trial
20 counsel, or, unless expressly requested by the accused, as
21 defense counsel or assistant defense counsel in the same case.
22 No person who has acted for the prosecution shall act sub-
23 sequently in the same case for the defense, nor shall any
24 person who has acted for the defense act subsequently in the
25 same case for the prosecution.

1 (b) Any person who is appointed as trial counsel or
2 defense counsel in the case of a general court-martial—

3 (1) shall be a judge advocate of the Army or the
4 Air Force, or a law specialist of the Navy or Coast
5 Guard, or a person who is a member of the bar of a
6 Federal court or of the highest court of a State; and

7 (2) shall be certified as competent to perform such
8 duties by The Judge Advocate General of the armed
9 force of which he is a member.

10 (c) In the case of a special court-martial—

11 (1) if the trial counsel is certified as competent
12 to act as counsel before a general court-martial by The
13 Judge Advocate General of the armed force of which
14 he is a member, the defense counsel appointed by the
15 convening authority shall be a person similarly certi-
16 fied; and

17 (2) if the trial counsel is a judge advocate, or a
18 law specialist, or a member of the bar of a Federal court
19 or the highest court of a State, the defense counsel
20 appointed by the convening authority shall be one of
21 the foregoing.

22 ART. 28. Appointment of reporters and interpreters.

23 Under such regulations as the Secretary of the Depart-
24 ment may prescribe, the convening authority of a court-
25 martial or military commission or a court of inquiry shall

1 have power to appoint a reporter, who shall record the
2 proceedings of and testimony taken before such court or
3 commission. Under like regulations the convening author-
4 ity of a court-martial, military commission, or court of
5 inquiry may appoint an interpreter who shall interpret for
6 the court or commission.

7 ART. 29. Absent and additional members.

8 (a) No member of a general or special court-martial
9 shall be absent or excused after the accused has been
10 arraigned except for physical disability or as a result of a
11 challenge or by order of the convening authority for good
12 cause.

13 (b) Whenever a general court martial is reduced
14 below five members, the trial shall not proceed unless the
15 convening authority appoints new members sufficient in
16 number to provide not less than five members. When such
17 new members have been sworn, the trial may proceed
18 after the recorded testimony of each witness previously
19 examined has been read to the court in the presence of
20 the law officer, the accused, and counsel.

21 (c) Whenever a special court martial is reduced below
22 three members, the trial shall not proceed unless the con-
23 vening authority appoints new members sufficient in num-
24 ber to provide not less than three members. When such
25 new members have been sworn, the trial shall proceed as

1 if no evidence had previously been introduced, unless a
 2 verbatim record of the testimony of previously examined
 3 witnesses or a stipulation thereof is read to the court in the
 4 presence of the accused and counsel.

5 **PART VI—PRETRIAL PROCEDURE**

Article

30. Charges and specifications.

31. Compulsory self-incrimination prohibited.

32. Investigation.

33. Forwarding of charges.

34. Advice of staff judge advocate and reference for trial.

35. Service of charges.

6 **ART. 30. Charges and specifications.**

7 (a) Charges and specifications shall be signed by a
 8 person subject to this code under oath before an officer of
 9 the armed forces authorized to administer oaths and shall
 10 state—

11 (1) that the signer has personal knowledge of,
 12 or has investigated, the matters set forth therein; and

13 (2) that the same are true in fact to the best of
 14 his knowledge and belief.

15 (b) Upon the preferring of charges, the proper au-
 16 thority shall take immediate steps to determine what dispo-
 17 sition should be made thereof in the interest of justice and
 18 discipline, and the person accused shall be informed of the
 19 charges against him as soon as practicable.

20 **ART. 31. Compulsory self-incrimination prohibited.**

21 (a) No person subject to this code shall compel any

1 person to incriminate himself or to answer any question
2 the answer to which may tend to incriminate him.

3 (b) No person subject to this code shall interrogate, or
4 request any statement from, an accused or a person suspected
5 of an offense without first informing him of the nature of
6 the accusation and advising him that he does not have to
7 make any statement at all regarding the offense of which
8 he is accused or suspected and that any statement made
9 by him may be used as evidence against him in a trial by
10 court-martial.

11 (c) No person subject to this code shall compel any
12 person to make a statement or produce evidence before or
13 for use before any military tribunal if the statement or evi-
14 dence is not material to the issue and may tend to degrade
15 him.

16 (d) No statement obtained from any person in viola-
17 tion of this article or by any unlawful inducement shall be
18 received in evidence against him in a trial by court-martial.

19 ART. 32. Investigation.

20 (a) No charge or specification shall be referred to a
21 general court-martial for trial until a thorough and impartial
22 investigation of all the matters set forth therein has been
23 made. This investigation shall include inquiries as to the
24 truth of the matter set forth in the charges, form of charges,

1 and the disposition which should be made of the case in
2 the interest of justice and discipline.

3 (b) The accused shall be advised of the charges against
4 him and shall be permitted, upon his own request, to be
5 represented at such investigation by civilian counsel if pro-
6 vided by him, or military counsel of his own selection if
7 such counsel be reasonably available, or by counsel appointed
8 by the officer exercising general court-martial jurisdiction
9 over the command. At such investigation full opportunity
10 shall be given to the accused to cross-examine witnesses
11 against him if they are available and to present anything
12 he may desire in his own behalf, either in defense or mitiga-
13 tion, and the investigating officer shall examine available
14 witnesses requested by the accused. If the charges are for-
15 warded after such investigation, they shall be accompanied
16 by a statement of the substance of the testimony taken on
17 both sides and a copy thereof shall be given to the accused.

18 (c) If an investigation of the subject matter of an of-
19 fense has been conducted prior to the time the accused is
20 charged with the offense, and if the accused was present at
21 such investigation and afforded the opportunities for repre-
22 sentation, cross-examination, and presentation prescribed in
23 subdivision (b) of this article, no further investigation of
24 that charge is necessary under this article unless it is de-
25 manded by the accused after he is informed of the charge.

1 A demand for further investigation entitles the accused to
2 recall witnesses for further cross-examination and to offer
3 any new evidence in his own behalf.

4 (d) The requirements of this article shall be binding
5 on all persons administering this code, but failure to follow
6 them in any case shall not constitute jurisdictional error.

7 ART. 33. Forwarding of charges.

8 When a person is held for trial by general court-martial,
9 the commanding officer shall, within eight days after the
10 accused is ordered into arrest or confinement, if practicable,
11 forward the charges, together with the investigation and
12 allied papers, to the officer exercising general court-martial
13 jurisdiction. If the same is not practicable, he shall report
14 to such officer the reasons for delay.

15 ART. 34. Advice of staff judge advocate and reference for
16 trial.

17 (a) Before directing the trial of any charge by general
18 court-martial, the convening authority shall refer it to his
19 staff judge advocate or legal officer for consideration and
20 advice. The convening authority shall not refer a charge
21 to a general court-martial for trial unless it has been found
22 that the charge alleges an offense under this code and is war-
23 ranted by evidence indicated in the report of investigation.

24 (b) If the charges or specifications are not formally
25 correct or do not conform to the substance of the evidence

1 contained in the report of the investigating officer, formal
 2 corrections, and such changes in the charges and specifica-
 3 tions as are needed to make them conform to the evidence
 4 may be made.

5 ART. 35. Service of charges.

6 The trial counsel to whom court-martial charges are
 7 referred for trial shall cause to be served upon the accused a
 8 copy of the charges upon which trial is to be had. In time
 9 of peace no person shall, against his objection, be brought to
 10 trial before a general court-martial within a period of five
 11 days subsequent to the service of the charges upon him, or
 12 before a special court-martial within a period of three days
 13 subsequent to the service of the charges upon him.

14 **PART VII—TRIAL PROCEDURE**

Article

- 36. President may prescribe rules.
- 37. Unlawfully influencing action of court.
- 38. Duties of trial counsel and defense counsel.
- 39. Sessions.
- 40. Continuances.
- 41. Challenges.
- 42. Oaths.
- 43. Statute of limitations.
- 44. Former jeopardy.
- 45. Pleas of the accused.
- 46. Opportunity to obtain witnesses and other evidence.
- 47. Refusal to appear or testify.
- 48. Contempts.
- 49. Depositions.
- 50. Admissibility of records of courts of inquiry.
- 51. Voting and rulings.
- 52. Number of votes required.
- 53. Court to announce action.
- 54. Record of trial.

1 ART. 36. President may prescribe rules.

2 (a) The procedure, including modes of proof, in cases
3 before courts-martial, courts of inquiry, military commissions,
4 and other military tribunals may be prescribed by the Presi-
5 dent by regulations which shall, so far as he deems prac-
6 ticable, apply the principles of law and the rules of evidence
7 generally recognized in the trial of criminal cases in the
8 United States district courts, but which shall not be contrary
9 to or inconsistent with this code.

10 (b) All rules and regulations made in pursuance of this
11 article shall be reported to the Congress.

12 ART. 37. Unlawfully influencing action of court.

13 No authority convening a general, special, or summary
14 court-martial, nor any other commanding officer, shall cen-
15 sure, reprimand, or admonish such court or any member,
16 law officer, or counsel thereof, with respect to the findings
17 or sentence adjudged by the court, or with respect to any
18 other exercise of its or his functions in the conduct of the
19 proceeding. No person subject to this code shall attempt to
20 coerce or, by any unauthorized means, influence the action
21 of a court-martial or any other military tribunal or any mem-
22 ber thereof, in reaching the findings or sentence in any case,
23 or the action of any convening, approving, or reviewing
24 authority with respect to his judicial acts.

1 ART. 38. Duties of trial counsel and defense counsel.

2 (a) The trial counsel of a general or special court-
3 martial shall prosecute in the name of the United States,
4 and shall, under the direction of the court, prepare the record
5 of the proceedings.

6 (b) The accused shall have the right to be represented
7 in his defense before a general or special court-martial by
8 civilian counsel if provided by him, or by military counsel
9 of his own selection if reasonably available, or by the defense
10 counsel duly appointed pursuant to article 27. Should the
11 accused have counsel of his own selection, the duly appointed
12 defense counsel, and assistant defense counsel, if any, shall,
13 if the accused so desires, act as his associate counsel; other-
14 wise they shall be excused by the president of the court.

15 (c) In every court-martial proceeding, the defense
16 counsel may, in the event of conviction, forward for attach-
17 ment to the record of proceedings a brief of such matters
18 as he feels should be considered in behalf of the accused on
19 review, including any objection to the contents of the record
20 which he may deem appropriate.

21 (d) An assistant trial counsel of a general court-martial
22 may, under the direction of the trial counsel or when he is
23 qualified to be a trial counsel as required by article 27, per-

1 form any duty imposed by law, regulation, or the custom
2 of the service upon the trial counsel of the court. An
3 assistant trial counsel of a special court-martial may perform
4 any duty of the trial counsel.

5 (e) An assistant defense counsel of a general or special
6 court-martial may, under the direction of the defense counsel
7 or when he is qualified to be the defense counsel as required
8 by article 27, perform any duty imposed by law, regulation,
9 or the custom of the service upon counsel for the accused.

10 ART. 39. Sessions.

11 Whenever a general or special court-martial is to delib-
12 erate or vote, only the members of the court shall be present.
13 After a general court-martial has finally voted on the find-
14 ings, the court may request the law officer and the reporter
15 to appear before the court to put the findings in proper
16 form, and such proceedings shall be on the record. All
17 other proceedings, including any other consultation of the
18 court with counsel or the law officer shall be made a part
19 of the record and be in the presence of the accused, the
20 defense counsel, the trial counsel, and in general court-
21 martial cases, the law officer.

22 ART. 40. Continuances.

23 A court-martial may, for reasonable cause, grant a con-
24 tinuance to any party for such time and as often as may
25 appear to be just.

1 ART. 41. Challenges.

2 (a) Members of a general or special court-martial and
3 the law officer of a general court-martial may be challenged
4 by the accused or the trial counsel for cause stated to the
5 court. The court shall determine the relevancy and validity
6 of challenges for cause, and shall not receive a challenge to
7 more than one person at a time. Challenges by the trial
8 counsel shall ordinarily be presented and decided before
9 those by the accused are offered.

10 (b) The accused and trial counsel shall each be entitled
11 to one peremptory challenge, but the law officer shall not be
12 challenged except for cause.

13 ART. 42. Oaths.

14 (a) The law officer, all interpreters, and, in general and
15 special courts-martial, the members, the trial counsel, as-
16 sistant trial counsel, the defense counsel, assistant defense
17 counsel, and the reporter shall take an oath or affirmation in
18 the presence of the accused to perform their duties faithfully.

19 (b) All witnesses before courts-martial shall be exam-
20 ined on oath or affirmation.

21 ART. 43. Statute of limitations.

22 (a) A person charged with desertion or absence with-
23 out leave in time of war, or with aiding the enemy, mutiny,
24 or murder, may be tried and punished at any time without
25 limitation.

1 (b) Except as otherwise provided in this article, a
2 person charged with desertion in time of peace or any of the
3 offenses punishable under articles 119 through 132 inclusive
4 shall not be liable to be tried by court-martial if the offense
5 was committed more than three years before the receipt of
6 sworn charges and specifications by an officer exercising sum-
7 mary court-martial jurisdiction over the command.

8 (c) Except as otherwise provided in this article, a per-
9 son charged with any offense shall not be liable to be tried
10 by court-martial or punished under article 15 if the offense
11 was committed more than two years before the receipt of
12 sworn charges and specifications by an officer exercising sum-
13 mary court-martial jurisdiction over the command or before
14 the imposition of punishment under article 15.

15 (d) Periods in which the accused was absent from ter-
16 ritory in which the United States has the authority to ap-
17 prehend him, or in the custody of civil authorities, or in the
18 hands of the enemy, shall be excluded in computing the per-
19 iod of limitation prescribed in this article.

20 (e) In the case of any offense the trial of which in time
21 of war is certified to the President by the Secretary of the
22 Department to be detrimental to the prosecution of the war
23 or inimical to the national security, the period of limitation
24 prescribed in this article shall be extended to six months after

1 the termination of hostilities as proclaimed by the President
2 or by a joint resolution of Congress.

3 (f) When the United States is at war, the running of
4 any statute of limitations applicable to any offense—

5 (1) involving fraud or attempted fraud against the
6 United States or any agency thereof in any manner,
7 whether by conspiracy or not; or

8 (2) committed in connection with the acquisition,
9 care, handling, custody, control or disposition of any real
10 or personal property of the United States; or

11 (3) committed in connection with the negotiation,
12 procurement, award, performance, payment for, interim
13 financing, cancellation, or other termination or settle-
14 ment, of any contract, subcontract or purchase order
15 which is connected with or related to the prosecution of
16 the war, or with any disposition of termination inventory
17 by any war contractor or Government agency;

18 shall be suspended until three years after the termination of
19 hostilities as proclaimed by the President or by a joint resolu-
20 tion of Congress.

21 ART. 44. Former jeopardy.

22 No person shall, without his consent, be tried a second
23 time for the same offense; but no proceeding in which an
24 accused has been found guilty by a court-martial upon any

1 charge or specification shall be held to be a trial in the sense
2 of this article until the finding of guilty has become final after
3 review of the case has been fully completed.

4 ART. 45. Pleas of the accused.

5 (a) If an accused arraigned before a court-martial
6 makes any irregular pleading, or after a plea of guilty sets
7 up matter inconsistent with the plea, or if it appears that he
8 has entered the plea of guilty improvidently or through
9 lack of understanding of its meaning and effect, or if he
10 fails or refuses to plead, a plea of not guilty shall be entered
11 in the record, and the court shall proceed as though he had
12 pleaded not guilty.

13 (b) A plea of guilty by the accused shall not be re-
14 ceived in a capital case.

15 ART. 46. Opportunity to obtain witnesses and other evidence.

16 The trial counsel, defense counsel, and the court-martial
17 shall have equal opportunity to obtain witnesses and other
18 evidence in accordance with such regulations as the Presi-
19 dent may prescribe. Process issued in court-martial cases to
20 compel witnesses to appear and testify and to compel the
21 production of other evidence shall be similar to that which
22 courts of the United States having criminal jurisdiction
23 may lawfully issue and shall run to any part of the United
24 States, its Territories, and possessions.

1 ART. 47. Refusal to appear or testify.

2 (a) Every person not subject to this code who—

3 (1) has been duly subpenaed to appear as a wit-
4 ness before any court martial, military commission, court
5 of inquiry, or any other military court or board, or
6 before any military or civil officer designated to take a
7 deposition to be read in evidence before such court,
8 commission or board; and

9 (2) has been duly paid or tendered the fees and
10 mileage of a witness at the rates allowed to witnesses
11 attending the courts of the United States; and

12 (3) willfully neglects or refuses to appear, or re-
13 fuses to qualify as a witness or to testify or to produce
14 any evidence which such person may have been legally
15 subpenaed to produce;

16 shall be deemed guilty of an offense against the United
17 States.

18 (b) Any person who commits an offense denounced
19 by this article shall be tried on information in a United
20 States district court or in a court of original criminal juris-
21 diction in any of the territorial possessions of the United
22 States, and jurisdiction is hereby conferred upon such courts
23 for such purpose. Upon conviction, such persons shall be

1 punished by a fine of not more than \$500, or imprisonment
2 for a period not exceeding six months, or both.

3 (c) It shall be the duty of the United States district
4 attorney or the officer prosecuting for the Government in
5 any such court of original criminal jurisdiction, upon the
6 certification of the facts to him by the military court, com-
7 mission, court of inquiry, or board, to file an information
8 against and prosecute any person violating this article.

9 (d) The fees and mileage of witnesses shall be ad-
10 vanced or paid out of the appropriations for the compensation
11 of witnesses.

12 ART. 48. Contempts.

13 A court-martial, provost court, or military commission
14 may punish for contempt any person who uses any menacing
15 words, signs, or gestures in its presence, or who disturbs its
16 proceedings by any riot or disorder. Such punishment shall
17 not exceed confinement for thirty days or a fine of \$100, or
18 both.

19 ART. 49. Depositions.

20 (a) At any time after charges have been signed as
21 provided in article 30, any party may take oral or written
22 depositions unless an authority competent to convene a court-
23 martial for the trial of such charges forbids it for good cause.
24 If a deposition is to be taken before charges are referred
25 for trial, such an authority may designate officers to repre-

1 sent the prosecution and the defense and may authorize such
2 officers to take the deposition of any witness.

3 (b) The party at whose instance a deposition is to be
4 taken shall give to every other party reasonable written
5 notice of the time and place for taking the deposition.

6 (c) Depositions may be taken before and authenticated
7 by any military or civil officer authorized by the laws of
8 the United States or by the laws of the place where the
9 deposition is taken to administer oaths.

10 (d) A duly authenticated deposition taken upon reason-
11 able notice to the other party, so far as otherwise admissible
12 under the rules of evidence, may be read in evidence before
13 any military court or commission in any case not capital,
14 or in any proceeding before a court of inquiry or military
15 board, if it appears—

16 (1) that the witness resides or is beyond the State,
17 Territory, or District in which the court, commission,
18 or board is ordered to sit, or beyond the distance of one
19 hundred miles from the place of trial or hearing; or

20 (2) that the witness by reason of death, age, sick-
21 ness, bodily infirmity, imprisonment, military necessity,
22 nonamenability to process, or other reasonable cause,
23 is unable or refuses to appear and testify in person at
24 the place of trial or hearing; or

1 (3) that the present whereabouts of the witness is
2 unknown.

3 (e) Testimony by deposition may be adduced by the
4 defense in capital cases.

5 (f) A deposition may be read in evidence in any case
6 in which the death penalty is authorized by law but is not
7 mandatory, whenever the convening authority shall have
8 directed that the case be treated as not capital, and in such
9 a case a sentence of death may not be adjudged by the court-
10 martial.

11 ART. 50. Admissibility of records of courts of inquiry.

12 (a) In any case not capital and not extending to the
13 dismissal of an officer, the sworn testimony, contained in the
14 duly authenticated record of proceedings of a court of inquiry,
15 of a person whose oral testimony cannot be obtained, may,
16 if otherwise admissible, be read in evidence by any party
17 before a court-martial or military commission if the accused
18 was a party and was accorded the rights of an accused when
19 before the court of inquiry or if the accused consents to the
20 introduction of such evidence.

21 (b) Such testimony may be read in evidence only
22 by the defense in capital cases or cases extending to the dis-
23 missal of an officer.

24 (c) Such testimony may also be read in evidence be-

1 fore a court of inquiry or a military board.

2 ART. 51. Voting and rulings.

3 (a) Voting by members of a general or special court-
4 martial upon questions of challenge, on the findings, and
5 on the sentence shall be by secret written ballot. The
6 junior member of the court shall in each case count the
7 votes, which count shall be checked by the president, who
8 shall forthwith announce the result of the ballot to the mem-
9 bers of the court.

10 (b) The law officer of a general court-martial and
11 the president of a special court-martial shall rule upon in-
12 terlocutory questions, other than challenge, arising during
13 the proceedings. Any such ruling made by the law officer
14 of a general court-martial upon any interlocutory question
15 other than a motion for a finding of not guilty, or the ques-
16 tion of accused's sanity, shall be final and shall con-
17 stitute the ruling of the court; but the law officer may
18 change any such ruling at any time during the trial. Un-
19 less such ruling be final, if any member objects thereto, the
20 court shall be cleared and closed and the question decided
21 by a vote as provided in article 52, viva voce, beginning
22 with the junior in rank.

23 (c) Before a vote is taken on the findings, the law
24 officer of a general court-martial and the president of a

1 special court-martial shall, in the presence of the accused and
2 counsel, instruct the court as to the elements of the offense
3 and charge the court—

4 (1) that the accused must be presumed to be inno-
5 cent until his guilt is established by legal and competent
6 evidence beyond reasonable doubt;

7 (2) that in the case being considered, if there is
8 a reasonable doubt as to the guilt of the accused, the
9 doubt shall be resolved in favor of the accused and he
10 shall be acquitted;

11 (3) that if there is a reasonable doubt as to the
12 degree of guilt, the finding must be in a lower degree
13 as to which there is no such doubt; and

14 (4) that the burden of proof to establish the guilt
15 of the accused beyond reasonable doubt is upon the
16 Government.

17 ART. 52. Number of votes required.

18 (a) (1) No person shall be convicted of an offense for
19 which the death penalty is made mandatory by law, except
20 by the concurrence of all the members of the court-martial
21 present at the time the vote is taken.

22 (2) No person shall be convicted of any other offense,
23 except by the concurrence of two-thirds of the members
24 present at the time the vote is taken.

25 (b) (1) No person shall be sentenced to suffer death,

1 except by the concurrence of all the members of the court-
2 martial present at the time the vote is taken and for an
3 offense in this code made expressly punishable by death.

4 (2) No person shall be sentenced to life imprisonment
5 or to confinement in excess of ten years, except by the con-
6 currence of three-fourths of the members present at the time
7 the vote is taken.

8 (3) All other sentences shall be determined by the
9 concurrence of two-thirds of the members present at the
10 time the vote is taken.

11 (c) All other questions to be decided by the members
12 of a general or special court-martial shall be determined by
13 a majority vote. A tie vote on a challenge shall disqualify
14 the member challenged. A tie vote on a motion for a find-
15 ing of not guilty or on a question of the accused's sanity shall
16 be a determination against the accused. A tie vote on any
17 other question shall be a determination in favor of the
18 accused.

19 ART. 53. Court to announce action.

20 Every court-martial shall announce its findings and
21 sentence to the parties as soon as determined.

22 ART. 54. Record of trial.

23 (a) Each general court-martial shall keep a separate
24 record of the proceedings of the trial of each case brought
25 before it, and such record shall be authenticated by the

1 signature of the president and the law officer. In case the
 2 record cannot be authenticated by either the president or
 3 the law officer, by reason of the death, disability, or absence
 4 of such officer, it shall be signed by a member in lieu of
 5 him. If both the president and the law officer are unavail-
 6 able for such reasons, the record shall be authenticated by
 7 two members.

8 (b) Each special and summary court-martial shall keep
 9 a separate record of the proceedings in each case, which
 10 record shall contain such matter and be authenticated in
 11 such manner as may be required by regulations which the
 12 President may prescribe.

13 (c) A copy of the record of the proceedings of each
 14 general and special court-martial shall be given to the ac-
 15 cused as soon as authenticated.

16 PART VIII—SENTENCES

Article

55. Cruel and unusual punishments prohibited.

56. Maximum limits.

57. Effective date of sentences.

58. Execution of confinement.

17 ART. 55. Cruel and unusual punishments prohibited.

18 Punishment by flogging, or by branding, marking, or
 19 tattooing on the body, or any other cruel or unusual punish-
 20 ment, shall not be adjudged by any court-martial or inflicted
 21 upon any person subject to this code. The use of irons, single

1 or double, except for the purpose of safe custody, is prohibited.

2 ART. 56. Maximum limits.

3 The punishment which a court-martial may direct for
4 an offense shall not exceed such limits as the President may
5 prescribe for that offense.

6 ART. 57. Effective date of sentences.

7 (a) Whenever a sentence of a court-martial as law-
8 fully adjudged and approved includes a forfeiture of pay or
9 allowances in addition to confinement not suspended, the
10 forfeiture may apply to pay or allowances becoming due
11 on or after the date such sentence is approved by the con-
12 vening authority. No forfeiture shall extend to any pay
13 or allowances accrued before such date.

14 (b) Any period of confinement not suspended included
15 in a sentence of a court-martial shall begin to run from the
16 date the sentence is adjudged by the court-martial.

17 (c) All other sentences of courts-martial shall become
18 effective on the date ordered executed.

19 ART. 58. Execution of confinement.

20 (a) Under such instructions as the Department con-
21 cerned may prescribe, any sentence of confinement adjudged
22 by a court-martial or other military tribunal, whether or not
23 such sentence includes discharge or dismissal, and whether

1 or not such discharge or dismissal has been executed, may
2 be carried into execution by confinement in any place of
3 confinement under the control of any of the armed forces,
4 or in any penal or correctional institution under the con-
5 trol of the United States, or which the United States may
6 be allowed to use; and persons so confined in a penal or
7 correctional institution not under the control of one of the
8 armed forces shall be subject to the same discipline and treat-
9 ment as persons confined or committed by the courts of the
10 United States or of the State, Territory, District, or place
11 in which the institution is situated.

12 (b) The omission of the words "hard labor" in any
13 sentence of a court-martial adjudging confinement shall
14 not be construed as depriving the authority executing such
15 sentence of the power to require hard labor as a part of
16 the punishment.

17 PART IX—REVIEW OF COURTS-MARTIAL

Article

59. Error of law; lesser included offense.
60. Initial action on the record.
61. Same—General court-martial records.
62. Reconsideration and revision.
63. Rehearings.
64. Approval by the convening authority.
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66. Review by the board of review.
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71. Execution of sentence; suspension of sentence.
72. Vacation of suspension.
73. Petition for a new trial.

Article

74. Remission and suspension.

75. Restoration.

76. Finality of court-martial judgments.

1 ART. 59. Error of law; lesser included offense.

2 (a) A finding or sentence of a court-martial shall not
3 be held incorrect on the ground of an error of law unless the
4 error materially prejudices the substantial rights of the
5 accused.

6 (b) Any reviewing authority with the power to approve
7 or affirm a finding of guilty may approve or affirm, instead,
8 so much of the finding as includes a lesser included offense.

9 ART. 60. Initial action on the record.

10 After every trial by court-martial the record shall be
11 forwarded to the convening authority, and action thereon
12 may be taken by the officer who convened the court, an
13 officer commanding for the time being, a successor in com-
14 mand, or by any officer exercising general court-martial
15 jurisdiction.

16 ART. 61. Same—General court-martial records.

17 The convening authority shall refer the record of every
18 general court-martial to his staff judge advocate or legal
19 officer, who shall submit his written opinion thereon to the
20 convening authority. If the final action of the court has
21 resulted in an acquittal of all charges and specifications, the

1 opinion shall be limited to questions of jurisdiction and shall
2 be forwarded with the record to The Judge Advocate General
3 of the armed force of which the accused is a member.

4 ART. 62. Reconsideration and revision.

5 (a) If a case before a court-martial has been dismissed
6 on motion and the ruling does not amount to a finding of
7 not guilty, the convening authority may return the record to
8 the court for reconsideration of the ruling and any further
9 appropriate action.

10 (b) Where there is an apparent error or omission in
11 the record or where the record shows improper action by a
12 court-martial with respect to a finding or sentence which can
13 be rectified without material prejudice to the substantial
14 rights of the accused, the convening authority may return
15 the record to the court for appropriate action. In no case,
16 however, may the record be returned—

- 17 (1) for reconsideration of a finding of not guilty
18 or a ruling which amounts to a finding of not guilty; or
19 (2) for increasing the severity of the sentence un-
20 less the sentence prescribed for the offense is mandatory.

21 ART. 63. Rehearings.

22 (a) If the convening authority disapproves the find-
23 ings and sentence of a court-martial he may, except where
24 there is lack of sufficient evidence in the record to support
25 the findings, order a rehearing, in which case he shall state

1 the reasons for disapproval. If he does not order a rehear-
2 ing, he shall dismiss the charges.

3 (b) Every rehearing shall take place before a court-
4 martial composed of members not members of the court-
5 martial which first heard the case. Upon such rehearing
6 the accused shall not be tried for any offense of which he
7 was found not guilty by the first court-martial, and no
8 sentence in excess of or more severe than the original
9 sentence shall be imposed unless the sentence is based upon
10 a finding of guilty of an offense not considered upon the
11 merits in the original proceedings or unless the sentence
12 prescribed for the offense is mandatory.

13 ART. 64. Approval by the convening authority.

14 In acting on the findings and sentence of a court-martial,
15 the convening authority shall approve only such findings
16 of guilty, and the sentence or such part or amount of the
17 sentence, as he finds correct in law and fact and determines
18 should be approved. Unless he indicates otherwise, approval
19 of the sentence shall constitute approval of the findings and
20 sentence.

21 ART. 65. Disposition of records after review by the con-
22 vening authority.

23 (a) When the convening authority has taken final
24 action in a general court-martial case, he shall forward the
25 entire record, including his action thereon and the opinion

1 or opinions of the staff judge advocate or legal officer, to the
2 appropriate Judge Advocate General.

3 (b) Where the sentence of a special court-martial as
4 approved by the convening authority includes a bad-conduct
5 discharge, whether or not suspended, the record shall be
6 forwarded to the officer exercising general court-martial juris-
7 diction over the command to be reviewed in the same manner
8 as a record of trial by general court-martial or directly to the
9 appropriate Judge Advocate General to be reviewed by a
10 board of review. If the sentence as approved by an officer
11 exercising general court-martial jurisdiction includes a bad-
12 conduct discharge, whether or not suspended, the record
13 shall be forwarded to the appropriate Judge Advocate Gen-
14 eral to be reviewed by a board of review.

15 (c) All other special and summary court-martial records
16 shall be reviewed by a judge advocate of the Army or Air
17 Force, a law specialist of the Navy, or a law specialist or
18 lawyer of the Coast Guard or Treasury Department and
19 shall be transmitted and disposed of as the Secretary of the
20 Department may prescribe by regulations.

21 ART. 66. Review by the board of review.

22 (a) The Judge Advocate General of each of the armed
23 forces shall constitute in his office one or more boards of re-
24 view, each composed of not less than three officers or civilians,

1 each of whom shall be a member of the bar of a Federal
2 court or of the highest court of a State of the United States.

3 (b) The Judge Advocate General shall refer to a board
4 of review the record in every case of trial by court-martial
5 in which the sentence, as approved, affects a general or flag
6 officer or extends to death, dismissal of an officer, cadet, or
7 midshipman, dishonorable or bad-conduct discharge, or con-
8 finement for more than one year.

9 (c) In a case referred to it, the board of review shall
10 act only with respect to the findings and sentence as ap-
11 proved by the convening authority. It shall affirm only
12 such findings of guilty, and the sentence or such part or
13 amount of the sentence, as it finds correct in law and fact
14 and determines, on the basis of the entire record, should be
15 approved. In considering the record it shall have authority
16 to weigh the evidence, judge the credibility of witnesses,
17 and determine controverted questions of fact, recognizing
18 that the trial court saw and heard the witnesses.

19 (d) If the board of review sets aside the findings and
20 sentence, it may, except where the setting aside is based
21 on lack of sufficient evidence in the record to support the
22 findings, order a rehearing. Otherwise it shall order that the
23 charges be dismissed.

24 (e) Within ten days after any decision by a board of

1 review, the Judge Advocate General may refer the case
2 for reconsideration to the same or another board of re-
3 view.

4 (f) Otherwise, the Judge Advocate General shall, un-
5 less there is to be further action by the President or the
6 Secretary of the Department or the Judicial Council, in-
7 struct the convening authority to take action in accordance
8 with the decision of the board of review. If the board of
9 review has ordered a rehearing but the convening authority
10 finds a rehearing impracticable, he may dismiss the charges.

11 (g) The Judge Advocates General of the armed forces
12 shall prescribe uniform rules of procedure for proceedings
13 in and before boards of review and shall meet periodically
14 to formulate policies and procedure in regard to review
15 of court-martial cases in the offices of the Judge Advocates
16 General and by the boards of review.

17 ART. 67. Review by the Judicial Council.

18 (a) There is hereby established in the National Military
19 Establishment a Judicial Council. The Judicial Council
20 shall be composed of not less than three members. Each
21 member of the Judicial Council shall be appointed by the
22 President from civilian life and shall be a member of the
23 bar admitted to practice before the Supreme Court of the
24 United States, and each member shall receive compensation

1 and allowances equal to those paid to a judge of a United
2 States Court of Appeals.

3 (b) Under rules of procedure which it shall prescribe,
4 the Judicial Council shall review the record in the following
5 cases:

6 (1) All cases in which the sentence, as affirmed
7 by a board of review, affects a general or flag officer or
8 extends to death;

9 (2) All cases reviewed by a board of review which
10 The Judge Advocate General orders forwarded to the
11 Judicial Council for review; and

12 (3) All cases reviewed by a board of review in
13 which, upon petition of the accused and on good cause
14 shown, the Judicial Council has granted a review.

15 (c) The accused shall have thirty days from the time
16 he is notified of the decision of a board of review to petition
17 the Judicial Council for a grant of review. The Judicial
18 Council shall act upon such a petition within fifteen days
19 of the receipt thereof.

20 (d) In any case reviewed by it, the Judicial Council
21 shall act only with respect to the findings and sentence as
22 approved by the convening authority and as affirmed or
23 set aside as incorrect in law by the board of review. In a
24 case which The Judge Advocate General orders forwarded

1 to the Judicial Council, such action need be taken only with
2 respect to the issues raised by him. In a case reviewed
3 upon petition of the accused, such action need be taken only
4 with respect to issues specified in the grant of review. The
5 Judicial Council shall take action only with respect to
6 matters of law.

7 (e) If the Judicial Council sets aside the findings and
8 sentence, it may, except where the setting aside is based
9 on lack of sufficient evidence in the record to support the
10 findings, order a rehearing. Otherwise it shall order that
11 the charges be dismissed.

12 (f) After it has acted on a case, the Judicial Council
13 may direct The Judge Advocate General to return the
14 record to the board of review for further review in accord-
15 ance with the decision of the Judicial Council. Otherwise,
16 unless there is to be further action by the President, or the
17 Secretary of the Department, The Judge Advocate General
18 shall instruct the convening authority to take action in
19 accordance with that decision. If the Judicial Council has
20 ordered a rehearing, but the convening authority finds a
21 rehearing impracticable, he may dismiss the charges.

22 (g) The Judicial Council and The Judge Advocates
23 General of the armed forces shall meet annually to make a
24 comprehensive survey of the operation of this code and
25 report to the Secretary of Defense and the Secretaries of

1 the Departments any recommendations relating to uniformity
2 of sentence policies, amendments to this code, and any other
3 matters deemed appropriate.

4 ART. 68. Branch offices.

5 (a) Whenever the President deems such action neces-
6 sary, he may direct The Judge Advocate General to establish
7 a branch office, under an Assistant Judge Advocate General,
8 with any distant command, and to establish in such branch
9 office one or more boards of review. Such Assistant Judge
10 Advocate General and any such board of review shall be
11 empowered to perform for that command, under the general
12 supervision of The Judge Advocate General, the duties
13 which The Judge Advocate General and a board of review
14 in his office would otherwise be required to perform in
15 respect of all cases involving sentences not requiring ap-
16 proval by the President.

17 (b) In time of emergency, the President may direct
18 that one or more temporary Judicial Councils be established
19 for the period of the emergency, each of which shall be under
20 the general supervision of the Judicial Council.

21 ART. 69. Review in the office of The Judge Advocate
22 General.

23 Every record of trial by general court-martial, in which
24 there has been a finding of guilty and a sentence, the appel-
25 late review of which is not otherwise provided for by article

1 66, shall be examined in the office of The Judge Advocate
2 General. If any part of the findings or sentence is found
3 unsupported in law, or if The Judge Advocate General so
4 directs, the record shall be reviewed by a board of review
5 in accordance with article 66, but in such event there will
6 be no further review by the Judicial Council.

7 ART. 70. Appellate counsel.

8 (a) The Judge Advocate General shall appoint in his
9 office one or more officers as appellate Government counsel,
10 and one or more officers as appellate defense counsel.

11 (b) It shall be the duty of appellate Government coun-
12 sel to represent the United States before the board of review
13 or the Judicial Council when directed to do so by The Judge
14 Advocate General.

15 (c) It shall be the duty of appellate defense counsel to
16 represent the accused before the board of review or the
17 Judicial Council—

18 (1) when he is requested to do so by the accused;
19 or

20 (2) when the United States is represented by coun-
21 sel; or

22 (3) when The Judge Advocate General has re-
23 quested the reconsideration of a case before the board of
24 review or has transmitted it to the Judicial Council.

25 (d) The accused shall have the right to be represented

1 before the Judicial Council or the board of review by civil-
2 ian counsel if provided by him.

3 (e) The appellate counsel shall also perform such other
4 functions in connection with the review of court-martial
5 cases as The Judge Advocate General shall direct.

6 ART. 71. Execution of sentence; suspension of sentence.

7 (a) No court-martial sentence extending to death or
8 involving a general or flag officer shall be executed until
9 approved by the President. He shall approve the sentence
10 or such part, amount, or commuted form of the sentence as
11 he sees fit, and may suspend the execution of the sentence
12 or any part of the sentence, as approved by him, except a
13 death sentence.

14 (b) No sentence extending to the dismissal of an
15 officer, cadet, or midshipman shall be executed until ap-
16 proved by the Secretary of the Department, or such Under
17 Secretary or Assistant Secretary as may be designated
18 by him. He shall approve the sentence or such part, amount,
19 or commuted form of the sentence as he sees fit, and may
20 suspend the execution of any part of the sentence as ap-
21 proved by him. In time of war or national emergency he
22 may commute a sentence of dismissal to reduction to any
23 enlisted grade. A person who is so reduced may be re-
24 quired to serve for the duration of the war or emergency
25 and six months thereafter.

1 (c) No sentence which includes, unsuspended, a dis-
2 honorable or bad conduct discharge, or confinement for
3 more than one year shall be executed until affirmed by a
4 board of review and, in cases reviewed by it, the Judicial
5 Council.

6 (d) All other court-martial sentences, unless suspended,
7 may be ordered executed by the convening authority when
8 approved by him. The convening authority may suspend
9 the execution of any sentence, except a death sentence.

10 ART. 72. Vacation of suspension.

11 (a) Prior to the vacation of the suspension of a special
12 court-martial sentence which as approved includes a bad-
13 conduct discharge, or of any general court-martial sentence,
14 the officer having special court-martial jurisdiction over the
15 probationer shall hold a hearing on the alleged violation of
16 probation. The probationer shall be represented at such
17 hearing by counsel if he so desires.

18 (b) The record of the hearing and the recommenda-
19 tions of the officer having special court-martial jurisdiction
20 shall be forwarded for action to the officer exercising gen-
21 eral court-martial jurisdiction over the probationer. If he
22 vacates the suspension, the vacation shall be effective, sub-
23 ject to applicable restrictions in article 71 (c), to execute
24 any unexecuted portion of the sentence except a dismissal.

1 The vacation of the suspension of a dismissal shall not be
2 effective until approved by the Secretary of the Department.

3 (c) The suspension of any other sentence may be
4 vacated by any authority competent to convene, for the com-
5 mand in which the accused is serving or assigned, a court of
6 the kind that imposed the sentence.

7 ART. 73. Petition for a new trial.

8 At any time within one year after approval by the con-
9 vening authority of a court-martial sentence which extends
10 to death, dismissal, dishonorable or bad-conduct discharge,
11 or confinement for more than one year, the accused may
12 petition The Judge Advocate General for a new trial on
13 grounds of newly discovered evidence or fraud on the court.
14 If the accused's case is pending before the board of review or
15 before the Judicial Council, The Judge Advocate General
16 shall refer the petition to the board or Council, respectively,
17 for action. Otherwise The Judge Advocate General shall
18 act upon the petition.

19 ART. 74. Remission and suspension.

20 (a) The Secretary of the Department and any Under
21 Secretary, Assistant Secretary, or commanding officer desig-
22 nated by the Secretary may remit or suspend any part or
23 amount of the unexecuted portion of any sentence, includ-
24 ing all uncollected forfeitures, other than a sentence approved
25 by the President.

1 (b) The Secretary of the Department may, for good
2 cause, substitute an administrative form of discharge for a
3 discharge or dismissal executed in accordance with the sen-
4 tence of a court-martial.

5 ART. 75. Restoration.

6 (a) Under such regulations as the President may pre-
7 scribe, all rights, privileges, and property affected by an
8 executed portion of a court-martial sentence which has been
9 set aside or disapproved, except an executed dismissal or dis-
10 charge, shall be restored unless a new trial or rehearing is
11 ordered and such executed portion is included in a sentence
12 imposed upon the new trial or rehearing.

13 (b) Where a previously executed sentence of dishonor-
14 able or bad-conduct discharge is not sustained on a new trial,
15 the Secretary of the Department shall substitute therefor a
16 form of discharge authorized for administrative issuance un-
17 less the accused is to serve out the remainder of his enlistment.

18 (c) Where a previously executed sentence of dismissal
19 is not sustained on a new trial, the Secretary of the Depart-
20 ment shall substitute therefor a form of discharge authorized
21 for administrative issuance and the officer dismissed by such
22 sentence may be reappointed by the President alone to such
23 commissioned rank and precedence as in the opinion of the
24 President such former officer would have attained had he
25 not been dismissed. The reappointment of such a former

1 officer shall be without regard to position vacancy and shall
2 affect the promotion status of other officers only insofar as
3 the President may direct. All time between the dismissal and
4 such reappointment shall be considered as actual service for
5 all purposes, including the right to receive pay and allow-
6 ances.

7 ART. 76. Finality of court-martial judgments.

8 The appellate review of records of trial provided by this
9 code, the proceedings, findings, and sentences of courts-
10 martial as approved, reviewed, or affirmed as required by
11 this code, and all dismissals and discharges carried into
12 execution pursuant to sentences by courts-martial following
13 approval, review, or affirmation as required by this code,
14 shall be final and conclusive, and orders publishing the pro-
15 ceedings of courts-martial and all action taken pursuant to
16 such proceedings shall be binding upon all departments,
17 courts, agencies, and officers of the United States, subject
18 only to action upon a petition for a new trial as provided in
19 article 73 and to action by the Secretary of a Department
20 as provided in article 74.

21 PART X—PUNITIVE ARTICLES

Article

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- 78. Accessory after the fact.
- 79. Conviction of lesser included offense.
- 80. Attempts.
- 81. Conspiracy.
- 82. Solicitation.
- 83. Fraudulent enlistment, appointment, or separation.
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Article

85. Desertion.
86. Absence without leave.
87. Missing movement.
88. Disrespect towards officials.
89. Disrespect towards superior officer.
90. Assaulting or willfully disobeying officer.
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98. Non-compliance with procedural rules.
99. Misbehavior before the enemy.
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109. Property other than military property of United States—Waste, spoil, or destruction.
110. Improper hazarding of vessel.
111. Drunken or reckless driving.
112. Drunk on duty.
113. Misbehavior of sentinel.
114. Dueling.
115. Malingering.
116. Riot or breach of peace.
117. Provoking speeches or gestures.
118. Murder.
119. Manslaughter.
120. Rape.
121. Larceny.
122. Robbery.
123. Forgery.
124. Maiming.
125. Sodomy.
126. Arson.
127. Extortion.
128. Assault.
129. Burglary.
130. Housebreaking.
131. Perjury.
132. Frauds against the Government.
133. Conduct unbecoming an officer and gentleman.
134. General article.

1 ART. 77. Principals.

2 Any person punishable under this code who—

3 (1) commits an offense punishable by this code, or
4 aids, abets, counsels, commands, or procures its com-
5 mission; or

6 (2) causes an act to be done which if directly
7 performed by him would be punishable by this code;

8 shall be punished with the punishment provided for the
9 commission of the offense.

10 ART. 78. Accessory after the fact.

11 Any person subject to this code who, knowing that an
12 offense punishable by this code has been committed, receives,
13 comforts, or assists the offender in order to hinder or pre-
14 vent his apprehension, trial, or punishment shall be punished
15 as a court-martial may direct.

16 ART. 79. Conviction of lesser included offense.

17 An accused may be found guilty of an offense neces-
18 sarily included in the offense charged or of an attempt to
19 commit either the offense charged or an offense necessarily
20 included therein.

21 ART. 80. Attempts.

22 (a) An act, done with specific intent to commit an
23 offense under this code, amounting to more than mere prep-

1 aration and tending but failing to effect its commission, is
2 an attempt to commit that offense.

3 (b) Any person subject to this code who attempts to
4 commit any offense punishable by this code shall be punished
5 as a court-martial may direct, unless otherwise specifically
6 prescribed.

7 (c) Any person subject to this code may be convicted
8 of an attempt to commit an offense although it appears on
9 the trial that the offense was consummated.

10 ART. 81. Conspiracy.

11 Any person subject to this code who conspires with
12 any other person or persons to commit an offense under
13 this code shall, if one or more of the conspirators does an
14 act to effect the object of the conspiracy, be punished as
15 a court-martial may direct.

16 ART. 82. Solicitation.

17 (a) Any person subject to this code who solicits or
18 advises another or others to desert in violation of article 85
19 or mutiny in violation of article 94 shall, if the offense
20 solicited or advised is attempted or committed, be punished
21 with the punishment provided for the commission of the
22 offense, but if the offense solicited or advised is not committed
23 or attempted, he shall be punished as a court-martial may
24 direct.

25 (b) Any person subject to this code who solicits or

1 advises another or others to commit an act of misbehavior
2 before the enemy in violation of article 99 or sedition in
3 violation of article 94 shall, if the offense solicited or advised
4 is committed, be punished with the punishment provided for
5 the commission of the offense, but if the offense solicited or
6 advised is not committed, he shall be punished as a court-
7 martial may direct.

8 ART. 83. Fraudulent enlistment, appointment, or separa-
9 tion.

10 Any person who—

11 (1) procures his own enlistment or appointment
12 in the armed forces by means of knowingly false repre-
13 sentations or deliberate concealment as to his qualifica-
14 tions for such enlistment or appointment and receives
15 pay or allowances thereunder; or

16 (2) procures his own separation from the armed
17 forces by means of knowingly false representations or
18 deliberate concealment as to his eligibility for such
19 separation;

20 shall be punished as a court martial may direct.

21 ART. 84. Unlawful enlistment, appointment, or separation.

22 Any person subject to this code who effects an enlist-
23 ment or appointment in or a separation from the armed
24 forces of any person who is known to him to be ineligible
25 for such enlistment, appointment, or separation because it

1 is prohibited by law, regulation, or order shall be punished
2 as a court martial may direct.

3 ART. 85. Desertion.

4 (a) Any member of the armed forces of the United
5 States who—

6 (1) without proper authority goes or remains ab-
7 sent from his place of service, organization, or place of
8 duty with intent to remain away therefrom perma-
9 nently; or

10 (2) quits his unit or organization or place of duty
11 with intent to avoid hazardous duty or to shirk im-
12 portant service; or

13 (3) without being regularly separated from one
14 of the armed forces enlists or accepts an appointment
15 in the same or another one of the armed forces without
16 fully disclosing the fact he has not been so regularly
17 separated, or enters any foreign armed service except
18 when authorized by the United States;

19 is guilty of desertion.

20 (b) Any officer of the armed forces who, having ten-
21 dered his resignation and prior to due notice of the accept-
22 ance of the same, quits his post at proper duties without
23 leave and with intent to remain away therefrom perma-
24 nently is guilty of desertion.

25 (c) Any person found guilty of desertion or attempt-

1 ed desertion shall be punished, if the offense is committed in
2 time of war, by death or such other punishment as a court-
3 martial may direct, but if the desertion or attempted deser-
4 tion occurs at any other time, by such punishment, other
5 than death, as a court-martial may direct.

6 ART. 86. Absence without leave.

7 Any person subject to this code who, without proper
8 authority—

9 (1) fails to go to his appointed place of duty at the
10 time prescribed; or

11 (2) goes from that place; or

12 (3) absents himself or remains absent from his
13 unit, organization, or other place of duty at which he
14 is required to be at the time prescribed;

15 shall be punished as a court-martial may direct.

16 ART. 87. Missing movement.

17 Any person subject to this code who through neglect or
18 design misses the movement of a ship, aircraft, or unit with
19 which he is required in the course of duty to move shall be
20 punished as a court-martial may direct.

21 ART. 88. Disrespect towards officials.

22 Any officer who uses contemptuous or disrespectful
23 words against the President, Vice President, Congress,
24 Secretary of Defense, or a Secretary of a Department, a
25 Governor or a legislature of any State, Territory, or other

1 possession of the United States in which he is on duty or
2 present shall be punished as a court-martial may direct.

3 ART. 89. Disrespect towards superior officer.

4 Any person subject to this code who behaves with
5 disrespect towards his superior officer shall be punished as
6 a court-martial may direct.

7 ART. 90. Assaulting or willfully disobeying officer.

8 Any person subject to this code who—

9 (1) strikes his superior officer or draws or lifts up
10 any weapon or offers any violence against him while
11 he is in the execution of his office; or

12 (2) willfully disobeys a lawful command of his
13 superior officer;

14 shall be punished, if the offense is committed in time of war,
15 by death or such other punishment as a court-martial may
16 direct, and if the offense is committed at any other time,
17 by such punishment, other than death, as a court-martial
18 may direct.

19 ART. 91. Insubordinate conduct towards noncommissioned
20 officer.

21 Any warrant officer or enlisted person who—

22 (1) strikes or assaults a warrant officer, noncom-
23 missioned officer, or petty officer, while such officer is
24 in the execution of his office; or

1 (2) willfully disobeys the lawful order of a war-
2 rant officer, noncommissioned officer, or petty officer; or

3 (3) treats with contempt or is disrespectful in lan-
4 guage or deportment towards a warrant officer, non-
5 commissioned officer, or petty officer while such officer
6 is in the execution of his office;

7 shall be punished as a court-martial may direct.

8 ART. 92. Failure to obey order or regulation.

9 Any person subject to this code who—

10 (1) violates or fails to obey any lawful general
11 order or regulation; or

12 (2) having knowledge of any other lawful order
13 issued by a member of the armed forces, which it is his
14 duty to obey, fails to obey the same; or

15 (3) is derelict in the performance of his duties;
16 shall be punished as a court-martial may direct.

17 ART. 93. Cruelty and maltreatment.

18 Any person subject to this code who is guilty of cruelty
19 toward, or oppression or maltreatment of, any person subject
20 to his orders shall be punished as a court-martial may direct.

21 ART. 94. Mutiny or sedition.

22 (a) Any person subject to this code—

23 (1) who with intent to usurp or override lawful
24 military authority refuses, in concert with any other

1 person or persons, to obey orders or otherwise do his
2 duty or creates any violence or disturbance is guilty
3 of mutiny;

4 (2) who with intent to cause the overthrow or
5 destruction of lawful civil authority, creates, in concert
6 with any other person or persons, revolt, violence, or
7 other disturbance against such authority is guilty of
8 sedition;

9 (3) who fails to do his utmost to prevent and sup-
10 press an offense of mutiny or sedition being committed
11 in his presence, or fails to take all reasonable means to
12 inform his superior or commanding officer of an of-
13 fense of mutiny or sedition which he knows or has
14 reason to believe is taking place, is guilty of a failure
15 to suppress or report a mutiny or sedition.

16 (b) A person who is found guilty of attempted mutiny,
17 mutiny, sedition, or failure to suppress or report a mutiny
18 or sedition shall be punished by death or such other pun-
19 ishment as a court-martial may direct.

20 ART. 95. Arrest and confinement.

21 Any person subject to this code who resists apprehen-
22 sion or breaks arrest or who escapes from custody or con-
23 finement shall be punished as a court-martial may direct.

24 ART. 96. Releasing prisoner without proper authority.

25 Any person subject to this code who, without proper

1 authority, releases any prisoner duly committed to his charge,
2 or who through neglect or design suffers any such prisoner
3 to escape, shall be punished as a court-martial may direct.

4 ART. 97. Unlawful detention of another.

5 Any person subject to this code who, except as provided
6 by law, apprehends, arrests, or confines any person shall
7 be punished as a court-martial may direct.

8 ART. 98. Noncompliance with procedural rules.

9 Any person subject to this code who—

10 (1) is responsible for unnecessary delay in the
11 disposition of any case of a person accused of an of-
12 fense under this code; or

13 (2) knowingly and intentionally fails to enforce
14 or comply with any provision of this code regulating
15 the proceedings before, during, or after trial of an
16 accused;

17 shall be punished as a court-martial may direct.

18 ART. 99. Misbehavior before the enemy.

19 Any member of the armed forces who before or in the
20 presence of the enemy—

21 (1) runs away; or

22 (2) shamefully abandons, surrenders, or delivers
23 up any command, unit, place, or military property which
24 it is his duty to defend; or

25 (3) through disobedience, neglect, or intentional

1 misconduct endangers the safety of any such command,
2 unit, place, or military property; or

3 (4) casts away his arms or ammunition; or

4 (5) is guilty of cowardly conduct; or

5 (6) quits his place of duty to plunder or pillage; or

6 (7) causes false alarms in any command, unit, or
7 place under control of the armed forces; or

8 (8) willfully fails to do his utmost to encounter,
9 engage, capture, or destroy any enemy troops, com-
10 batants, vessels, aircraft, or any other thing, which it
11 is his duty so to encounter, engage, capture, or destroy;

12 or

13 (9) does not afford all practicable relief and assist-
14 ance to any troops, combatants, vessels, or aircraft of
15 the armed forces belonging to the United States or their
16 allies when engaged in battle;

17 shall be punished by death or such other punishment as a
18 court-martial may direct.

19 ART. 100. Subordinate compelling surrender.

20 Any person subject to this code who compels or at-
21 tempts to compel a commander of any place, vessel, air-
22 craft, or other military property, or of any body of members
23 of the armed forces, to give it up to an enemy or to abandon
24 it, or who strikes the colors or flag to an enemy without

1 proper authority, shall be punished by death or such other
2 punishment as a court-martial may direct.

3 ART. 101. Improper use of countersign.

4 Any person subject to this code who in time of war
5 discloses the parole or countersign to any person not en-
6 titled to receive it or who gives to another who is entitled
7 to receive and use the parole or countersign a different parole
8 or countersign from that which, to his knowledge, he was
9 authorized and required to give, shall be punished by death
10 or such other punishment as a court-martial may direct.

11 ART. 102. Forcing a safeguard.

12 Any person subject to this code who forces a safeguard
13 shall suffer death or such other punishment as a court-martial
14 may direct.

15 ART. 103. Captured or abandoned property.

16 (a) All persons subject to this code shall secure all
17 public property taken from the enemy for the service of the
18 United States, and shall give notice and turn over to the
19 proper authority without delay all captured or abandoned
20 property in their possession, custody, or control.

21 (b) Any person subject to this code who—

22 (1) fails to carry out the duties prescribed in sub-
23 division (a) of this article; or

24 (2) buys, sells, trades, or in any way deals in or
25 disposes of captured or abandoned property, whereby

1 he shall receive or expect any profit, benefit, or advan-
2 tage to himself or another directly or indirectly con-
3 nected with himself; or

4 (3) engages in looting or pillaging;
5 shall be punished as a court-martial may direct.

6 ART. 104. Aiding the enemy.

7 Any person who—

8 (1) aids, or attempts to aid, the enemy with arms,
9 ammunition, supplies, money, or other thing; or

10 (2) without proper authority, knowingly harbors
11 or protects or gives intelligence to, or communicates
12 or corresponds with or holds any intercourse with the
13 enemy, either directly or indirectly;

14 shall suffer death or such other punishment as a court-martial
15 or military commission may direct.

16 ART. 105. Misconduct as prisoner.

17 Any person subject to this code who, while in the hands
18 of the enemy in time of war—

19 (1) for the purpose of securing favorable treat-
20 ment by his captors acts without proper authority in a
21 manner contrary to law, custom, or regulation, to the
22 detriment of others of whatever nationality held by the
23 enemy as civilian or military prisoners; or

24 (2) while in a position of authority over such per-
25 sons maltreats them without justifiable cause;

1 shall be punished as a court-martial may direct.

2 ART. 106. Spies.

3 Any person who in time of war is found lurking or act-
4 ing as a spy in or about any place, vessel, or aircraft, within
5 the control or jurisdiction of any of the armed forces of the
6 United States, or in or about any shipyard, any manufac-
7 turing or industrial plant, or any other place of institution
8 engaged in work in aid of the prosecution of the war by the
9 United States, or elsewhere, shall be tried by a general
10 court-martial or by a military commission and on conviction
11 shall be punished by death.

12 ART. 107. False official statements.

13 Any person subject to this code who, with intent to de-
14 ceive, signs any false record, return, regulation, order, or
15 other official document, knowing the same to be false, or
16 makes any other false official statement knowing the same to
17 be false, shall be punished as a court-martial may direct.

18 ART. 108. Military property of United States—Loss, dam-
19 age, destruction, or wrongful disposition.

20 Any person subject to this code who, without proper
21 authority—

22 (1) sells or otherwise disposes of; or

23 (2) willfully or through neglect damages, destroys,

24 or loses; or

1 (3) willfully or through neglect suffers to be lost,
2 damaged, destroyed, sold or wrongfully disposed of;
3 any military property of the United States, shall be punished
4 as a court-martial may direct.

5 ART. 109. Property other than military property of United
6 States—Waste, spoil, or destruction.

7 Any person subject to this code who willfully or reck-
8 lessly wastes, spoils, or otherwise willfully and wrongfully
9 destroys or damages any property other than military prop-
10 erty of the United States shall be punished as a court-martial
11 may direct.

12 ART. 110. Improper hazarding of vessel.

13 (a) Any person subject to this code who willfully and
14 wrongfully hazards or suffers to be hazarded any vessel of
15 the armed forces shall suffer death or such other punishment
16 as a court-martial may direct.

17 (b) Any person subject to this code who negligently
18 hazards or suffers to be hazarded any vessel of the armed
19 forces, shall be punished as a court-martial may direct.

20 ART. 111. Drunken or reckless driving.

21 Any person subject to this code who operates any vehicle
22 while drunk, or in a reckless or wanton manner, shall be
23 punished as a court-martial may direct.

24 ART. 112. Drunk on duty.

25 Any person subject to this code, other than a sentinel

1 or look-out, who is found drunk on duty, shall be punished
2 as a court-martial may direct.

3 ART. 113. Misbehavior of sentinel.

4 Any sentinel or look-out who is found drunk or sleeping
5 upon his post, or leaves it before he is regularly relieved,
6 shall be punished, if the offense is committed in time of war,
7 by death or such other punishment as a court-martial may
8 direct, but if the offense is committed at any other time, by
9 such punishment other than death as a court-martial may
10 direct.

11 ART. 114. Dueling.

12 Any person subject to this code who fights or pro-
13 motes, or is concerned in or connives at fighting a duel,
14 or who, having knowledge of a challenge sent or about to
15 be sent, fails to report the fact promptly to the proper au-
16 thority, shall be punished as a court-martial may direct.

17 ART. 115. Malingering.

18 Any person subject to this code who for the purpose of
19 avoiding work, duty, or service—

20 (1) feigns illness, physical disablement, mental
21 lapse or derangement; or

22 (2) intentionally inflicts self-injury;

23 shall be punished as a court-martial may direct.

24 ART. 116. Riot or breach of peace.

25 Any person subject to this code who causes or partici-

1 pates in any riot or breach of the peace shall be punished
2 as a court-martial may direct.

3 ART. 117. Provoking speeches or gestures.

4 Any person subject to this code who uses provoking or
5 reproachful words or gestures towards any other person sub-
6 ject to this code shall be punished as a court-martial may
7 direct.

8 ART. 118. Murder.

9 Any person subject to this code who, without justifica-
10 tion or excuse, kills a human being, when he—

11 (1) has a premeditated design to kill; or

12 (2) intends to kill or inflict great bodily harm; or

13 (3) is engaged in an act which is inherently dan-
14 gerous to others and evinces a wanton disregard of
15 human life; or

16 (4) is engaged in the perpetration or attempted
17 perpetration of burglary, sodomy, rape, robbery, or ag-
18 gravated arson, though he has no intent to kill;

19 is guilty of murder, and shall suffer such punishment as a
20 court-martial may direct, except that if found guilty under
21 paragraph (1) of this article, he shall suffer death or
22 imprisonment for life as a court-martial may direct.

23 ART. 119. Manslaughter.

24 Any person subject to this code who, without a design
25 to effect death, kills a human being—

- 1 (1) in the heat of sudden passion; or
2 (2) by culpable negligence; or
3 (3) while perpetrating or attempting to perpetrate
4 an offense, other than those specified in paragraph (4)
5 of article 118, directly affecting the person;

6 is guilty of manslaughter and shall be punished as a court
7 martial may direct.

8 ART. 120. Rape.

9 (a) Any person subject to this code who commits an
10 act of sexual intercourse with a female not his wife, by force
11 and without her consent, is guilty of rape. Penetration,
12 however slight, is sufficient to complete the offense.

13 (b) Any person found guilty of rape shall be punished
14 by death or such other punishment as a court-martial may
15 direct.

16 ART. 121. Larceny.

17 Any person subject to this code who, with intent to de-
18 prive or defraud another of the use and benefit of property
19 or to appropriate the same to his own use or the use of any
20 person other than the true owner, wrongfully takes, obtains,
21 or withholds, by any means whatever, from the possession
22 of the true owner or of any other person any money, per-
23 sonal property, or article of value of any kind, steals such

1 property and is guilty of larceny, and shall be punished as
2 a court-martial may direct.

3 ART. 122. Robbery.

4 Any person subject to this code who with intent to
5 steal takes anything of value from the person or in the
6 presence of another, against his will, by means of force or
7 violence or fear of immediate or future injury to his person
8 or property or the person or property of a relative or mem-
9 ber or his family or of anyone in his company at the time
10 of the robbery, is guilty of robbery and shall be punished
11 as a court-martial may direct.

12 ART. 123. Forgery.

13 Any person subject to this code who, with intent to
14 defraud—

15 (1) falsely makes or alters any signature to, or any
16 part of, any writing which would, if genuine, apparently
17 impose a legal liability on another or change his legal
18 right or liability to his prejudice; or

19 (2) utters, offers, issues, or transfers such a writing,
20 known by him to be so made or altered;

21 is guilty of forgery and shall be punished as a court-martial
22 may direct.

23 ART. 124. Maiming.

24 Any person subject to this code who, with intent to

1 injure, disfigure, or disable, inflicts upon the person of an-
2 other an injury which—

3 (1) seriously disfigures his person by any mutila-
4 tion thereof; or

5 (2) destroys or disables any member or organ of
6 his body; or

7 (3) seriously diminishes his physical vigor by the
8 injury of any member or organ;

9 is guilty of maiming and shall be punished as a court-martial
10 may direct.

11 ART. 125. Sodomy.

12 (a) Any person subject to this code who engages in
13 unnatural carnal copulation with another of the same or
14 opposite sex or with an animal is guilty of sodomy. Pene-
15 tration, however slight, is sufficient to complete the offense.

16 (b) Any person found guilty of sodomy shall be pun-
17 ished as a court-martial may direct.

18 ART. 126. Arson.

19 (a) Any person subject to this code who willfully and
20 maliciously burns or sets on fire a dwelling in which there is
21 at the time a human being, or any other structure, water
22 craft, or movable, wherein to the knowledge of the offender
23 there is at the time a human being, is guilty of aggravated
24 arson and shall be punished as a court-martial may direct.

25 (b) Any person subject to this code who willfully and

1 maliciously burns or sets fire to the property of another,
2 except as provided in subdivision (a) of this article, is
3 guilty of simple arson and shall be punished as a court-
4 martial may direct.

5 ART. 127. Extortion.

6 Any person subject to this code who communicates
7 threats to another with the intention thereby to obtain any-
8 thing of value or any acquittance, advantage, or immunity of
9 any description is guilty of extortion and shall be punished as
10 a court-martial may direct.

11 ART. 128. Assault.

12 (a) Any person subject to this code who attempts or
13 offers with unlawful force or violence to do bodily harm to
14 another person, whether or not the attempt or offer is con-
15 summated, is guilty of assault and shall be punished as a
16 court-martial may direct.

17 (b) Any person subject to this code who—

18 (1) commits an assault with a dangerous weapon
19 or other means or force likely to produce death or
20 grievous bodily harm; or

21 (2) commits an assault and intentionally inflicts
22 grievous bodily harm with or without a weapon;

23 is guilty of aggravated assault and shall be punished as a
24 court-martial may direct.

25 ART. 129. Burglary.

1 Any person subject to this code who, with intent to
2 commit an offense punishable under articles 118 through
3 128 inclusive, breaks and enters, in the nighttime, the
4 dwelling house of another, is guilty of burglary and shall
5 be punished as a court-martial may direct.

6 ART. 130. Housebreaking.

7 Any person subject to this code who unlawfully enters
8 the building or structure of another with intent to commit a
9 criminal offense therein is guilty of housebreaking and shall
10 be punished as a court-martial may direct.

11 ART. 131. Perjury.

12 Any person subject to this code who in a judicial pro-
13 ceeding or course of justice willfully and corruptly gives,
14 upon a lawful oath or in any form allowed by law to be
15 substituted for an oath, any false testimony material to the
16 issue or matter of inquiry is guilty of perjury and shall be
17 punished as a court-martial may direct.

18 ART. 132. Frauds against the Government.

19 Any person subject to this code—

20 (1) who, knowing it to be false or fraudulent—

21 (A) makes any claim against the United
22 States or any officer thereof; or

23 (B) presents to any person in the civil or
24 military service thereof, for approval or payment,

1 any claim against the United States or any officer
2 thereof; or

3 (2) who, for the purpose of obtaining the approval,
4 allowance, or payment of any claim against the United
5 States or any officer thereof—

6 (A) makes or uses any writing or other paper
7 knowing the same to contain any false or fraud-
8 ulent statements;

9 (B) makes any oath to any fact or to any
10 writing or other paper knowing such oath to be
11 false; or

12 (C) forges or counterfeits any signature upon
13 any writing or other paper, or uses any such signa-
14 ture knowing the same to be forged or counter-
15 feited; or

16 (3) who, having charge, possession, custody, or
17 control of any money or other property of the United
18 States, furnished or intended for the armed forces there-
19 of, knowingly delivers to any person having authority
20 to receive the same, any amount thereof less than that
21 for which he receives a certificate or receipt; or

22 (4) who, being authorized to make or deliver any
23 paper certifying the receipt of any property of the
24 United States furnished or intended for the armed forces
25 thereof, makes or delivers to any person such writing

1 without having full knowledge of the truth of the state-
 2 ments therein contained and with intent to defraud the
 3 United States;
 4 shall, upon conviction, be punished as a court-martial may
 5 direct.

6 ART. 133. Conduct unbecoming an officer and gentleman.

7 Any officer, cadet, or midshipman who is convicted of
 8 conduct unbecoming an officer and a gentleman shall be
 9 dismissed from the armed forces.

10 ART. 134. General article.

11 Though not specifically mentioned in this code, all
 12 disorders and neglects to the prejudice of good order and
 13 discipline in the armed forces, all conduct of a nature to
 14 bring discredit upon the armed forces, and crimes and
 15 offenses not capital, of which persons subject to this code
 16 may be guilty, shall be taken cognizance of by a general
 17 or special or summary court-martial, according to the na-
 18 ture and degree of the offense, and punished at the discre-
 19 tion of such court.

20 PART XI—MISCELLANEOUS PROVISIONS

Article

135. Courts of inquiry.

136. Authority to administer oaths and to act as notary.

137. Articles to be explained.

138. Complaints of wrongs.

139. Redress of injuries to property.

140. Delegation by the President.

1 ART. 135. Courts of inquiry.

2 (a) Courts of inquiry to investigate any matter may
3 be convened by any person authorized to convene a general
4 court-martial or by any other person designated by the
5 Secretary of a Department for that purpose whether or
6 not the persons involved have requested such an inquiry.

7 (b) A court of inquiry shall consist of three or more
8 officers. For each court of inquiry the convening authority
9 shall also appoint counsel for the court.

10 (c) Any person subject to this code whose conduct is
11 subject to inquiry shall be designated as a party. Any
12 person subject to this code or employed by the National
13 Military Establishment who has a direct interest in the sub-
14 ject of inquiry shall have the right to be designated as a
15 party upon request to the court. Any person designated as
16 a party shall be given due notice and shall have the right
17 to be present, to be represented by counsel, to cross-examine
18 witnesses, and to introduce evidence.

19 (d) Members of a court of inquiry may be challenged
20 by a party, but only for cause stated to the court.

21 (e) The members, counsel, the reporter, and inter-
22 preters of courts of inquiry shall take an oath or affirmation
23 to faithfully perform their duties.

24 (f) Witnesses may be summoned to appear and testify

1 and be examined before courts of inquiry as provided for
2 courts-martial.

3 (g) Courts of inquiry shall make findings of fact but
4 shall not express opinions or make recommendations unless
5 required to do so by the convening authority.

6 (h) Each court of inquiry shall keep a record of its
7 proceedings, which shall be authenticated by the signatures
8 of the president and counsel for the court and forwarded to
9 the convening authority. In case the record cannot be
10 authenticated by the president it shall be signed by a mem-
11 ber in lieu of the president and in case the record cannot be
12 authenticated by the counsel for the court it shall be signed
13 by a member in lieu of the counsel.

14 ART. 136. Authority to administer oaths and to act as notary.

15 (a) The following persons on active duty in the armed
16 forces shall have authority to administer oaths for the pur-
17 poses of military administration, including military justice,
18 and shall have the general powers of a notary public and
19 of a consul of the United States, in the performance of all
20 notarial acts to be executed by members of any of the
21 armed forces, wherever they may be, and by other persons
22 subject to this code outside the continental limits of the
23 United States:

1 (1) All judge advocates of the Army and Air
2 Force;

3 (2) All law specialists;

4 (3) All summary courts-martial;

5 (4) All adjutants, assistant adjutants, acting ad-
6 jutants, and personnel adjutants;

7 (5) All commanding officers of the Navy and
8 Coast Guard;

9 (6) All staff judge advocates and legal officers,
10 and acting or assistant staff judge advocates and legal
11 officers; and

12 (7) All other persons designated by regulations
13 of the armed forces or by statute.

14 (b) The following persons on active duty in the armed
15 forces shall have authority to administer oaths necessary in
16 the performance of their duties:

17 (1) The president, law officer, trial counsel, and
18 assistant trial counsel for all general and special courts-
19 martial;

20 (2) The president and the counsel for the court of
21 any court of inquiry;

22 (3) All officers designated to take a deposition;

23 (4) All persons detailed to conduct an investi-
24 gation;

25 (5) All recruiting officers; and

1 (6) All other persons designated by regulations of
2 the armed forces or by statute.

3 (c) No fee of any character shall be paid to or received
4 by any person for the performance of any notarial act herein
5 authorized.

6 (d) The signature without seal of any such person
7 acting as notary, together with the title of his office, shall
8 be prima facie evidence of his authority.

9 ART. 137. Articles to be explained.

10 Articles 2, 3, 7 through 15, 25, 27, 31, 37, 38, 55, 77
11 through 134, and 137 through 139 of this code shall be
12 carefully explained to every enlisted person at the time of
13 his entrance on active duty in any of the armed forces of the
14 United States, or within six days thereafter. They shall be
15 explained again after he has completed six months of active
16 duty, and again at the time he reenlists. A complete text of
17 the Uniform Code of Military Justice and of the regulations
18 prescribed by the President thereunder shall be made avail-
19 able to any person on active duty in the armed forces of the
20 United States, upon his request, for his personal examination.

21 ART. 138. Complaints of wrongs.

22 Any member of the armed forces who believes himself
23 wronged by his commanding officer, and, upon due applica-
24 tion to such commander, is refused redress, may complain to
25 any superior officer who shall forward the complaint to the

1 officer exercising general court-martial jurisdiction over the
2 officer against whom it is made. That officer shall examine
3 into said complaint and take proper measures for redressing
4 the wrong complained of; and he shall, as soon as possible,
5 transmit to the Department concerned a true statement of
6 such complaint, with the proceedings had thereon.

7 ART. 139. Redress of injuries to property.

8 (a) Whenever complaint is made to any commanding
9 officer that willful damage has been done to the property
10 of any person or that his property has been wrongfully
11 taken by members of the armed forces he may, subject to
12 such regulations as the Secretary of the Department may
13 prescribe, convene a board to investigate the complaint.
14 The board shall consist of from one to three officers and
15 shall have, for the purpose of such investigation, power to
16 summon witnesses and examine them upon oath or affirma-
17 tion, to receive depositions or other documentary evidence,
18 and to assess the damages sustained against the responsible
19 parties. The assessment of damages made by such board
20 shall be subject to the approval of the commanding officer,
21 and in the amount approved by him shall be charged against
22 the pay of the offenders. The order of such commanding
23 officer directing charges herein authorized shall be conclusive
24 on any disbursing officer for the payment by him to the
25 injured parties of the damages so assessed and approved.

1 (b) Where the offenders cannot be ascertained, but
2 the organization or detachment to which they belong is
3 known, charges totaling the amount of damages assessed
4 and approved may be made in such proportion as may be
5 deemed just upon the individual members thereof who are
6 shown to have been present at the scene at the time the
7 damages complained of were inflicted, as determined by the
8 approved findings of the board.

9 ART. 140. Delegation by the President.

10 The President is authorized to delegate any authority
11 vested in him under this code, and to provide for the
12 subdelegation of any such authority.

13 SEC. 2. If any article or part thereof, as set out in sec-
14 tion 1 of this Act, shall be held invalid, the remainder shall
15 not be affected thereby.

16 SEC. 3. No inference of a legislative construction is to
17 be drawn by reason of the part in which any article is placed
18 nor by reason of the catch lines of the part or the article
19 as set out in section 1 of this Act.

20 SEC. 4. All offenses committed and all penalties, for-
21 feitures, fines, or liabilities incurred prior to the effective date
22 of this Act under any law embraced in or modified, changed,
23 or repealed by this Act may be prosecuted, punished, and en-
24 forced, and action thereon may be completed, in the same

1 manner and with the same effect as if this Act had not been
2 passed.

3 SEC. 5. This Act shall become effective on the last day
4 of the twelfth calendar month after approval of this Act, or
5 on July 1, 1950, whichever date is later.

6 SEC. 6. Articles of War 107, 108, 112, 113, 119, and
7 120 (41 Stat. 809, 810, 811), as amended are further
8 amended as follows:

- 9 (a) Delete from article 107, the words "Article 107."
10 (b) Delete from article 108, the words "Article 108."
11 (c) Delete from article 112, the words "Article 112."
12 (d) Delete from article 113, the words "Article 113."
13 (e) Delete from article 119, the words "Article 119."
14 (f) Delete from article 120, the words "Article 120."

15 These provisions as amended herein shall be construed
16 to have the same force, effect, and applicability as they now
17 have, but shall not be known as "Articles of War".

18 SEC. 7. (a) AUTHORITY OF NAVAL OFFICERS AFTER
19 LOSS OF VESSEL.—When the crew of any naval vessel or air-
20 craft are separated from their vessel or aircraft by means of
21 its wreck, loss, or destruction, all the command and authority
22 given to the officer of such vessel or aircraft shall remain in
23 full force until such crew shall be regularly discharged or
24 reassigned by competent authority.

1 (b) AUTHORITY OF OFFICERS OF SEPARATE ORGANI-
2 ZATION OF MARINES.—When a force of marines is embarked
3 on a naval vessel or vessels, as a separate organization, not
4 a part of the authorized complement thereof, the authority
5 and powers of the officers of such separate organizations of
6 marines shall be the same as though such organization were
7 serving at a naval station on shore, but nothing herein shall
8 be construed as impairing the paramount authority of the
9 commanding officer of any vessel over the vessel under his
10 command and all persons embarked thereon.

11 (c) COMMANDERS' DUTIES OF EXAMPLE AND CORREC-
12 TION.—All commanding officers and others in authority in
13 the naval service are required to show in themselves a good
14 example of virtue, honor, patriotism, and subordination; to
15 be vigilant in inspecting the conduct of all persons who are
16 placed under their command; to guard against and suppress
17 all dissolute and immoral practices, and to correct, accord-
18 ing to the laws and regulations of the Navy, all persons
19 who are guilty of them; and to take all necessary and proper
20 measures, under the laws, regulations and customs of the
21 naval service, to promote and safeguard the morale, the phy-
22 sical well-being, and the general welfare of the officers and
23 enlisted persons under their command or charge.

24 (d) DIVINE SERVICE.—The commanders of vessels and

1 naval activities to which chaplains are attached shall cause
 2 divine service to be performed on Sunday, whenever the
 3 weather and other circumstances allow it to be done; and it
 4 is earnestly recommended to all officers, seamen, and others
 5 in the naval service diligently to attend at every performance
 6 of the worship of Almighty God.

7 (e) REVERENT BEHAVIOR.—All persons in the Navy
 8 are enjoined to behave themselves in a reverent and becom-
 9 ing manner during divine service.

10 OATH OF ENLISTMENT

11 SEC. 8. Every person who is enlisted in any armed
 12 force shall take the following oath or affirmation at the time
 13 of his enlistment: "I, -----, do solemnly swear (or
 14 affirm) that I will bear true faith and allegiance to the
 15 United States of America; that I will serve them honestly
 16 and faithfully against all their enemies whomsoever; and
 17 that I will obey the orders of the President of the United
 18 States and the orders of the officers appointed over me,
 19 according to regulations and the Uniform Code of Military
 20 Justice." This oath or affirmation may be taken before
 21 any officer.

22 REMOVAL OF CIVIL SUITS

23 SEC. 9. When any civil or criminal prosecution is com-
 24 menced in any court of a State of the United States against
 25 any member of the armed forces of the United States on

1 account of any act done under color of his office or status,
2 or in respect to which he claims any right, title, or authority
3 under any law of the United States respecting the armed
4 forces thereof, or under the law of war, such suit or prosecu-
5 tion may at any time before the trial or final hearing thereof
6 be removed for trial into the district court of the United
7 States in the district where the same is pending in the man-
8 ner prescribed by law, and the cause shall thereupon be en-
9 tered on the docket of such district court, which shall proceed
10 as if the cause had been originally commenced therein and
11 shall have full power to hear and determine said cause.

12 DISMISSAL OF OFFICERS

13 SEC. 10. No officer shall be dismissed from any of the
14 armed forces except by sentence of a general court-martial,
15 or in commutation thereof, or, in time of war, by order of the
16 President; but the President may at any time drop from the
17 rolls of any armed force any officer who has been absent with-
18 out authority from his place of duty for a period of three
19 months or more, or who, having been found guilty by the
20 civil authorities of any offense, is finally sentenced to con-
21 finement in a Federal or State penitentiary or correctional
22 institution.

23 SEC. 11. The proviso of section 3 of the Act of April

1 9, 1906 (34 Stat. 104, ch. 1370), is amended to read
2 as follows:

3 *“Provided, That such midshipman shall not be confined*
4 *in a military or naval prison or elsewhere with men who*
5 *have been convicted of crimes or misdemeanors; and such*
6 *finding and sentence shall be subject to review in the manner*
7 *prescribed for general court-martial cases.”*

8 SEC. 12. The following sections or parts thereof of the
9 Revised Statutes or Statutes at Large are hereby repealed.
10 Any rights or liabilities existing under such sections or parts
11 thereof prior to the effective date of this Act shall not be
12 affected by this repeal, and this Act shall not be effective
13 to authorize trial or punishment for any offense if such trial
14 or punishment is barred by the provisions of existing law:

15 (a) Chapter II of the Act of June 4, 1920 (41 Stat.
16 759, 787-811, ch. 227), as amended, except Articles of
17 War 107, 108, 112, 113, 119, and 120;

18 (b) Revised Statutes, 1228 through 1230;

19 (c) Act of January 19, 1911 (36 Stat. 894, ch. 22) ;

20 (d) Paragraph 2 of section 2 of the Act of March 4,
21 1915 (38 Stat. 1062, 1084, ch. 143) ;

22 (e) Revised Statutes 1441, 1621, and 1624, articles
23 1 through 14 and 16 through 63, as amended;

24 (f) The provision of section 1457, Revised Statutes,
25 which subjects officers retired from active service to the rules

1 and articles for the government of the Navy and to trial by
2 general court-martial;

3 (g) Section 2 of the Act of June 22, 1874 (18 Stat.
4 191, 192, ch. 392) ;

5 (h) The provision of the Act of March 3, 1893 (27
6 Stat. 715, 716, ch. 212), under the heading "Pay, Miscel-
7 laneous", relating to the punishment for fraudulent enlistment
8 and receipt of any pay or allowances thereunder;

9 (i) Act of January 25, 1895 (28 Stat. 639, ch. 45), as
10 amended;

11 (j) Provisions contained in the Act of March 2, 1895
12 (28 Stat. 825, 838, ch. 186), as amended, under the head-
13 ing "Naval Academy", relating to the power of the Secre-
14 tary of the Navy to convene general courts-martial for the
15 trial of naval cadets (title changed to "midshipmen" by Act
16 of July 1, 1902, 32 Stat. 662, 686, ch. 1368), his power
17 to approve proceedings and execute sentences of such courts-
18 martial, and the exceptional provision relating to approval,
19 confirmation, and carrying into effect of sentences of suspen-
20 sion and dismissal;

21 (k) Sections 1 through 12 and 15 through 17 of the
22 Act of February 16, 1909 (35 Stat. 621, 623, ch. 131) ;

23 (l) The provision of the Act of August 29, 1916 (39
24 Stat. 556, 573, ch. 417), under the heading "Hospital
25 Corps", making officers and enlisted men of the Medical

1 Department of the Navy who are serving with a body of
2 marines detached for service with the Army subject to the
3 rules and Articles of War while so serving;

4 (m) The provisions in the Act of August 29, 1916 (39
5 Stat. 556, 586, ch. 417), under the heading "Adminis-
6 tration of Justice";

7 (n) Act of October 6, 1917 (40 Stat. 393, ch. 93);

8 (o) Act of April 2, 1918 (40 Stat. 501, ch. 39);

9 (p) Act of April 25, 1935 (49 Stat. 161, ch. 81);

10 (q) The third proviso of section 6, title I, of the Naval
11 Reserve Act of 1938 (52 Stat. 1175, 1176, ch. 690);

12 (r) Section 301, title III, of the Naval Reserve Act of
13 1938 (52 Stat. 1175, 1180, ch. 690);

14 (s) Act of March 22, 1943 (57 Stat. 41, ch. 18);

15 (t) Act of April 9, 1943 (57 Stat. 58, ch. 36);

16 (u) Sections 2, 3, 4, 6 and 7 of the Act of May 26,
17 1906 (34 Stat. 200, 201, ch. 2556);

18 (v) The provision of the Act of June 5, 1920 (41 Stat.
19 874, 880, ch. 235), under the heading "Coast Guard",
20 authorizing the trial of enlisted men in the Coast Guard by
21 deck courts.

81ST CONGRESS
1ST SESSION

S. 857

A BILL

To unify, consolidate, revise, and codify the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard, and to enact and establish a Uniform Code of Military Justice.

By Mr. TYDINGS

FEBRUARY 8, 1949

Read twice and referred to the Committee on
Armed Services

81ST CONGRESS
1ST SESSION

5. (8)
S. 857

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 1949

Mr. TYDINGS introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To unify, consolidate, revise, and codify the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard, and to enact and establish a Uniform Code of Military Justice.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That a Uniform Code of Military Justice for the government
4 of the armed forces of the United States, unifying, consoli-
5 dating, revising, and codifying the Articles of War, the Ar-
6 ticles for the Government of the Navy, and the disciplinary
7 laws of the Coast Guard, is hereby enacted as follows, and
8 the articles in this section may be cited as "Uniform Code
9 of Military Justice, Article ".

1 UNIFORM CODE OF MILITARY JUSTICE

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2 PART I—GENERAL PROVISIONS

Article

1. Definitions.
2. Persons subject to the code.
3. Jurisdiction to try certain personnel.
4. Dismissed officer's right to trial by court-martial.
5. Territorial applicability of the code.
6. Judge advocates and legal officers.

3 ARTICLE 1. Definitions.

4 The following terms when used in this code shall be
5 construed in the sense indicated in this article, unless the
6 context shows that a different sense is intended, namely:

7 (1) "Department" shall be construed to refer, severally,
8 to the Department of the Army, the Department of the
9 Navy, the Department of the Air Force, and, except when
10 the Coast Guard is operating as a part of the Navy, the
11 Treasury Department;

12 (2) "Armed force" shall be construed to refer, severally,
13 to the Army, the Navy, the Air Force, and, except when
14 operating as a part of the Navy, the Coast Guard;

15 (3) "Navy" shall be construed to include the Marine

1 Corps and, when operating as a part of the Navy, the Coast
2 Guard;

3 (4) "The Judge Advocate General" shall be con-
4 strued to refer, severally, to The Judge Advocates General
5 of the Army, Navy, and Air Force, and, except when the
6 Coast Guard is operating as a part of the Navy, the General
7 Counsel of the Treasury Department;

8 (5) "Officer" shall be construed to refer to a commis-
9 sioned officer including a commissioned warrant officer;

10 (6) "Superior officer" shall be construed to refer to an
11 officer superior in rank or command;

12 (7) "Cadet" shall be construed to refer to a cadet of
13 the United States Military Academy or of the United States
14 Coast Guard Academy;

15 (8) "Midshipman" shall be construed to refer to a
16 midshipman at the United States Naval Academy and any
17 other midshipman on active duty in the naval service;

18 (9) "Enlisted person" shall be construed to refer to
19 any person who is serving in an enlisted grade in any armed
20 force;

21 (10) "Military" shall be construed to refer to any or
22 all of the armed forces;

23 (11) "Accuser" shall be construed to refer to a per-
24 son who signs and swears to the charges and to any other

1 person who has an interest other than an official interest
2 in the prosecution of the accused;

3 (12) "Law officer" shall be construed to refer to an
4 official of a general court-martial detailed in accordance
5 with article 26;

6 (13) "Law specialist" shall be construed to refer to an
7 officer of the Navy or Coast Guard designated for special
8 duty (law);

9 (14) "Legal officer" shall be construed to refer to any
10 officer in the Navy or Coast Guard designated to perform
11 legal duties for a command.

12 ART. 2. Persons subject to the code.

13 The following persons are subject to this code:

14 (1) All persons belonging to a regular component of
15 the armed forces, including those awaiting discharge after
16 expiration of their terms of enlistment; all volunteers and in-
17 ductees, from the dates of their muster or acceptance into the
18 armed forces of the United States; and all other persons law-
19 fully called, drafted, or ordered into, or to duty in or for
20 training in, the armed forces, from the dates they are re-
21 quired by the terms of the call, draft, or order to obey the
22 same;

23 (2) Cadets, aviation cadets, and midshipmen;

24 (3) Reserve personnel who are voluntarily on inactive
25 duty training authorized by written orders;

1 (4) Retired personnel of a regular component of the
2 armed forces who are entitled to receive pay;

3 (5) Retired personnel of a reserve component who are
4 receiving hospital benefits from an armed force;

5 (6) Members of the Fleet Reserve and Fleet Marine
6 Corps Reserve;

7 (7) All persons in custody of the armed forces serving
8 a sentence imposed by a court-martial;

9 (8) Personnel of the Coast and Geodetic Survey, Public
10 Health Service, and other organizations, when serving with
11 the armed forces of the United States;

12 (9) Prisoners of war in custody of the armed forces;

13 (10) In time of war, all persons serving with or accom-
14 panying an armed force in the field;

15 (11) All persons serving with, employed by, accom-
16 panying, or under the supervision of the armed forces with-
17 out the continental limits of the United States and the follow-
18 ing territories: That part of Alaska east of longitude one
19 hundred and seventy-two degrees west, the Canal Zone, the
20 main group of the Hawaiian Islands, Puerto Rico, and the
21 Virgin Islands;

22 (12) All persons within an area leased by the United
23 States which is under the control of the Secretary of a
24 Department and which is without the continental limits of
25 the United States and the following territories: That part

1 of Alaska east of longitude one hundred and seventy-two
2 degrees west, the Canal Zone, the main group of the Hawa-
3 iian Islands, Puerto Rico, and the Virgin Islands.

4 ART. 3. Jurisdiction to try certain personnel.

5 (a) Reserve personnel of the armed forces who are
6 charged with having committed, while in a status in which
7 they are subject to this code, any offense against this code
8 may be retained in such status or, whether or not such status
9 has terminated, placed in an active-duty status for disci-
10 plinary action, without their consent, but not for a longer
11 period of time than may be required for such action.

12 (b) All persons discharged from the armed forces sub-
13 sequently charged with having fraudulently obtained said
14 discharge shall be subject to trial by court-martial on said
15 charge and shall be subject to this code while in the custody
16 of the armed forces for such trial. Upon conviction of said
17 charge they shall be subject to trial by court-martial for all
18 offenses under this code committed prior to the fraudulent
19 discharge.

20 (c) Any person who has deserted from the armed forces
21 shall not be relieved from amenability to the jurisdiction of
22 this code by virtue of a separation from any subsequent period
23 of service.

24 ART. 4. Dismissed officer's right to trial by court-martial.

25 (a) When any officer, dismissed by order of the

1 President, makes a written application for trial by court-
2 martial, setting forth, under oath, that he has been wrong-
3 fully dismissed, the President, as soon as practicable, shall
4 convene a general court-martial to try such officer on the
5 charges on which he was dismissed. A court-martial so
6 convened shall have jurisdiction to try the dismissed offi-
7 cer on such charges, and he shall be held to have waived
8 the right to plead any statute of limitations applicable to
9 any offense with which he is charged. The court-martial
10 may, as part of its sentence, adjudge the affirmance of the
11 dismissal, but if the court-martial acquits the accused or if
12 the sentence adjudged, as finally approved or affirmed,
13 does not include dismissal or death, the Secretary of the
14 Department shall substitute for the dismissal ordered by the
15 President a form of discharge authorized for administrative
16 issuance.

17 (b) If the President fails to convene a general court-
18 martial within six months from the presentation of an ap-
19 plication for trial under this article, the Secretary of the
20 Department shall substitute for the dismissal ordered by
21 the President a form of discharge authorized for administra-
22 tive issuance.

23 (c) Where a discharge is substituted for a dismissal
24 under the authority of this article, the President alone may
25 reappoint the officer to such commissioned rank and pre-

1 cedence as in the opinion of the President such former of-
2 ficer would have attained had he not been dismissed. The
3 reappointment of such a former officer shall be without
4 regard to position vacancy and shall affect the promotion
5 status of other officers only insofar as the President may di-
6 rect. All time between the dismissal and such reappoint-
7 ment shall be considered as actual service for all purposes,
8 including the right to receive pay and allowances.

9 (d) When an officer is discharged from any armed
10 force by administrative action or is dropped from the rolls
11 by order of the President, there shall not be a right to trial
12 under this article.

13 ART. 5. Territorial applicability of the code.

14 This code shall be applicable in all places.

15 ART. 6. Judge advocates and legal officers.

16 (a) The assignment for duty of all judge advocates
17 of the Army and Air Force and law specialists of the Navy
18 and Coast Guard shall be subject to the approval of The
19 Judge Advocate General of the armed force of which they are
20 members. The Judge Advocate General or senior mem-
21 bers of his staff shall make frequent inspections in the field
22 in supervision of the administration of military justice.

23 (b) Convening authorities shall at all times communi-
24 cate directly with their staff judge advocates or legal offi-
25 cers in matters relating to the administration of military

1 justice; and the staff judge advocate or legal officer of any
2 command is authorized to communicate directly with the
3 staff judge advocate or legal officer of a superior or subordi-
4 nate command, or with The Judge Advocate General.

5 (c) No person who has acted as member, law officer,
6 trial counsel, assistant trial counsel, defense counsel, assist-
7 ant defense counsel, or investigating officer in any case
8 shall subsequently act as a staff judge advocate or legal
9 officer to any reviewing authority upon the same case.

10 PART II—APPREHENSION AND RESTRAINT

Article

7. Apprehension.
8. Apprehension of deserters.
9. Imposition of restraint.
10. Restraint of persons charged with offenses.
11. Reports and receiving of prisoners.
12. Confinement with enemy prisoners prohibited.
13. Punishment prohibited before trial.
14. Delivery of offenders to civil authorities.

11 ART. 7. Apprehension.

12 (a) Apprehension is the taking into custody of a
13 person.

14 (b) Any person authorized under regulations govern-
15 ing the armed forces to apprehend persons subject to this
16 code may do so upon reasonable belief that an offense has
17 been committed and that the person apprehended com-
18 mitted it.

19 (c) All officers, warrant officers, petty officers, and
20 noncommissioned officers shall have authority to quell all

1 quarrels, frays, and disorders among persons subject to this
2 code and to apprehend persons subject to this code who take
3 part in the same.

4 ART. 8. Apprehension of deserters.

5 It shall be lawful for any civil officer having authority
6 to apprehend offenders under the laws of the United States
7 or of any State, District, Territory, or possession of the
8 United States summarily to apprehend a deserter from the
9 armed forces of the United States and deliver him into the
10 custody of the armed forces of the United States.

11 ART. 9. Imposition of restraint.

12 (a) Arrest is the restraint of a person by an order
13 directing him to remain within certain specified limits not
14 imposed as a punishment for an offense. Confinement is
15 the physical restraint of a person.

16 (b) An enlisted person may be ordered into arrest or
17 confinement by any officer by an order delivered in person
18 or through other persons subject to this code. A command-
19 ing officer may authorize warrant officers, petty officers, or
20 noncommissioned officers to order enlisted persons of his com-
21 mand or subject to his authority into arrest or confinement.

22 (c) An officer, a warrant officer, or a civilian subject
23 to this code may be ordered into arrest or confinement only
24 by a commanding officer to whose authority he is subject,
25 by an order delivered in person or by another officer. The

1 authority to order such persons into arrest or confinement
2 may not be delegated.

3 (d) No person shall be ordered into arrest or confine-
4 ment except for probable cause.

5 (e) Nothing in this article shall be construed to limit
6 the authority of persons authorized to apprehend offenders
7 to secure the custody of an alleged offender until proper
8 authority may be notified.

9 ART. 10. Restraint of persons charged with offenses.

10 Any person subject to this code charged with an offense
11 under this code shall be ordered into arrest or confinement,
12 as circumstances may require; but when charged only with
13 an offense normally tried by a summary court-martial, such
14 person shall not ordinarily be placed in confinement. When
15 any person subject to this code is placed in arrest or con-
16 finement prior to trial, immediate steps shall be taken to
17 inform him of the specific wrong of which he is accused
18 and to try him or to dismiss the charges and release him.

19 ART. 11. Reports and receiving of prisoners.

20 (a) No provost marshal, commander of a guard, or
21 master at arms shall refuse to receive or keep any prisoner
22 committed to his charge by an officer of the armed forces,
23 when the committing officer furnishes a statement, signed
24 by him, of the offense charged against the prisoner.

25 (b) Every commander of a guard or master at arms

1 to whose charge a prisoner is committed shall, within twenty-
2 four hours after such commitment or as soon as he is relieved
3 from guard, report to the commanding officer the name of
4 such prisoner, the offense charged against him, and the name
5 of the person who ordered or authorized the commitment.

6 ART. 12. Confinement with enemy prisoners prohibited.

7 No member of the armed forces of the United States
8 shall be placed in confinement in immediate association with
9 enemy prisoners or other foreign nationals not members of
10 the armed forces of the United States.

11 ART. 13. Punishment prohibited before trial.

12 Subject to the provisions of article 57, no person, while
13 being held for trial or the results of trial, shall be subjected
14 to punishment or penalty other than arrest or confinement
15 upon the charges pending against him, nor shall the arrest
16 or confinement imposed upon him be any more rigorous than
17 the circumstances require to insure his presence, but he may
18 be subjected to punishment during such period for minor in-
19 fractions of discipline.

20 ART. 14. Delivery of offenders to civil authorities.

21 (a) Under such regulations as the Secretary of the De-
22 partment may prescribe, a member of the armed forces ac-
23 cused of an offense against civil authority may be delivered,
24 upon request, to the civil authority for trial.

25 (b) When delivery under this article is made to any civil

1 authority of a person undergoing sentence of a court-martial,
2 such delivery, if followed by conviction in a civil tribunal,
3 shall be held to interrupt the execution of the sentence of the
4 court-martial, and the offender after having answered to the
5 civil authorities for his offense shall, upon request, be re-
6 turned to military custody for the completion of the said
7 court-martial sentence.

8 PART III—NON-JUDICIAL PUNISHMENT

Article

15. Commanding officer's non-judicial punishment.

9 ART. 15. Commanding officer's non-judicial punishment.

10 (a) Under such regulations as the President may pre-
11 scribe, any commanding officer may, in addition to or in
12 lieu of admonition or reprimand, impose one of the following
13 disciplinary punishments for minor offenses without the in-
14 tervention of a court-martial—

15 (1) upon officers and warrant officers of his
16 command:

17 (A) withholding of privileges for a period not
18 to exceed two consecutive weeks; or

19 (B) restriction to certain specified limits, with
20 or without suspension from duty, for a period not
21 to exceed two consecutive weeks; or

22 (C) if imposed by an officer exercising general
23 court-martial jurisdiction, forfeiture of one-half of

1 his pay per month for a period not exceeding three
2 months;

3 (2) upon other military personnel of his command:

4 (A) withholding of privileges for a period not
5 to exceed two consecutive weeks; or

6 (B) restriction to certain specified limits, with
7 or without suspension from duty, for a period not
8 to exceed two consecutive weeks; or

9 (C) extra duties for a period not to exceed two
10 consecutive weeks, and not to exceed two hours per
11 day, holidays included; or

12 (D) reduction to next inferior grade if the
13 grade from which demoted was established by the
14 command or an equivalent or lower command; or

15 (E) confinement for a period not to exceed
16 seven consecutive days; or

17 (F) confinement on bread and water or di-
18 minished rations for a period not to exceed five
19 consecutive days; or

20 (G) if imposed by an officer exercising special
21 court-martial jurisdiction, forfeiture of one-half of his
22 pay for a period not exceeding one month.

23 (b) The Secretary of a Department may, by regula-
24 tion, place limitations on the powers granted by this article
25 with respect to the kind and amount of punishment author-

1 ized, the categories of commanding officers authorized to
2 exercise such powers, and the applicability of this article to
3 an accused who demands trial by court martial.

4 (c) An officer in charge may, for minor offenses, im-
5 pose on enlisted persons assigned to the unit of which he is
6 in charge, such of the punishments authorized to be imposed
7 by commanding officers as the Secretary of the Department
8 may by regulation specifically prescribe.

9 (d) A person punished under authority of this article
10 who deems his punishment unjust or disproportionate to the
11 offense may, through the proper channel, appeal to the next
12 superior authority. The appeal shall be promptly forwarded
13 and decided, but the person punished may in the meantime
14 be required to undergo the punishment adjudged. The officer
15 who imposes the punishment, his successor in command,
16 and superior authority shall have power to suspend, set
17 aside, or remit any part or amount of the punishment and
18 to restore all rights, privileges, and property affected.

19 (e) The imposition and enforcement of disciplinary
20 punishment under authority of this article for any act or
21 omission shall not be a bar to trial by court-martial for
22 a serious crime or offense growing out of the same act or
23 omission, and not properly punishable under this article;
24 but the fact that a disciplinary punishment has been enforced
25 may be shown by the accused upon trial, and when so shown

1 shall be considered in determining the measure of punish-
2 ment to be adjudged in the event of a finding of guilty.

3 PART IV—COURTS-MARTIAL JURISDICTION

Article

- 16. Courts-martial classified.
- 17. Jurisdiction of courts-martial in general.
- 18. Jurisdiction of general courts-martial.
- 19. Jurisdiction of special courts-martial.
- 20. Jurisdiction of summary courts-martial.
- 21. Jurisdiction of courts-martial not exclusive.

4 ART. 16. Courts-martial classified.

5 There shall be three kinds of courts-martial in each of
6 the armed forces, namely:

7 (1) General courts-martial, which shall consist of
8 a law officer and any number of members not less than
9 five;

10 (2) Special courts-martial, which shall consist of
11 any number of members not less than three; and

12 (3) Summary courts-martial, which shall consist
13 of one officer.

14 ART. 17. Jurisdiction of courts-martial in general.

15 (a) Each armed force shall have court-martial juris-
16 diction over all persons subject to this code. The exercise of
17 jurisdiction by one armed force over personnel of another
18 armed force shall be in accordance with regulations pre-
19 scribed by the President.

20 (b) In all cases, departmental review subsequent to
21 that by the officer with authority to convene a general court-

1 martial for the command which held the trial, where such
2 review is required under the provisions of this code, shall
3 be carried out by the armed force of which the accused is a
4 member.

5 ART. 18. Jurisdiction of general courts-martial.

6 • Subject to article 17, general courts-martial shall have
7 jurisdiction to try persons subject to this code for any offense
8 made punishable by this code and may, under such limita-
9 tions as the President may prescribe, adjudge any punish-
10 ment not forbidden by this code. General courts-martial
11 shall also have jurisdiction to try any person who by the
12 law of war is subject to trial by a military tribunal and may
13 adjudge any punishment permitted by the law of war.

14 ART. 19. Jurisdiction of special courts-martial.

15 Subject to article 17, special courts-martial shall have
16 jurisdiction to try persons subject to this code for any non-
17 capital offense made punishable by this code and, under such
18 regulations as the President may prescribe, for capital of-
19 fenses. Special courts-martial may, under such limitations
20 as the President may prescribe, adjudge any punishment
21 not forbidden by this code except death, dishonorable dis-
22 charge, dismissal, confinement in excess of six months, hard
23 labor without confinement in excess of three months, for-
24 feiture of pay exceeding two-thirds pay per month, or for-

1 forfeiture of pay for a period exceeding six months. A bad-
2 conduct discharge shall not be adjudged unless a complete
3 record of the proceedings and testimony before the court has
4 been made.

5 ART. 20. Jurisdiction of summary courts-martial.

6 Subject to article 17, summary courts-martial shall have
7 jurisdiction to try persons subject to this code except offi-
8 cers, warrant officers, cadets, aviation cadets, and midship-
9 men for any noncapital offense made punishable by this
10 code, but no person who objects thereto shall be brought to
11 trial before a summary court-martial unless he has been
12 permitted to refuse punishment under article 15. Where
13 such objection is made by the accused, trial shall be ordered
14 by special or general court-martial, as may be appropriate.
15 Summary courts-martial may, under such limitations as the
16 President may prescribe, adjudge any punishment not for-
17 bidden by this code except death, dismissal, dishonorable or
18 bad-conduct discharge, confinement in excess of one month,
19 hard labor without confinement in excess of forty-five days,
20 restriction to certain specified limits in excess of two months,
21 or forfeiture of pay in excess of two-thirds of one month's
22 pay.

23 ART. 21. Jurisdiction of courts-martial not exclusive.

24 The provisions of this code conferring jurisdiction upon
25 courts-martial shall not be construed as depriving military

1 commissions, provost courts, or other military tribunals of
 2 concurrent jurisdiction in respect of offenders or offenses that
 3 by statute or by the law of war may be tried by such mili-
 4 tary commissions, provost courts, or other military tribunals.

5 PART V—APPOINTMENT AND COMPOSITION OF
 6 COURTS-MARTIAL

Article

22. Who may convene general courts-martial.
 23. Who may convene special courts-martial.
 24. Who may convene summary courts-martial.
 25. Who may serve on courts-martial.
 26. Law officer of a general court-martial.
 27. Appointment of trial counsel and defense counsel.
 28. Appointment of reporters and interpreters.
 29. Absent and additional members.

7 ART. 22. Who may convene general courts-martial.

8 (a) General courts-martial may be convened by—

- 9 (1) the President of the United States;
 10 (2) the Secretary of a Department;
 11 (3) the commanding officer of a Territorial De-
 12 partment, an Army Group, an Army, an Army Corps,
 13 a division, a separate brigade, or a corresponding unit
 14 of the Army;
 15 (4) the Commander in Chief of a Fleet; the com-
 16 manding officer of a naval station or larger shore activity
 17 of the Navy beyond the continental limits of the United
 18 States;
 19 (5) the commanding officer of an Air Command,

1 an Air Force, an air division, or a separate wing of the
2 Air Force;

3 (6) such other commanding officers as may be
4 designated by the Secretary of a Department; or

5 (7) any other commanding officer in any of the
6 armed forces when empowered by the President.

7 (b) When any such commanding officer is an accuser,
8 the court shall be convened by superior competent authority,
9 and may in any case be convened by such authority when
10 deemed desirable by him.

11 ART. 23. Who may convene special courts-martial.

12 (a) Special courts-martial may be convened by—

13 (1) any person who may convene a general
14 court martial;

15 (2) the commanding officer of a district, garrison,
16 fort, camp, station, Air Force base, auxiliary air field,
17 or other place where members of the Army or Air Force
18 are on duty;

19 (3) the commanding officer of a brigade, regiment,
20 detached battalion, or corresponding unit of the Army;

21 (4) the commanding officer of a wing, group, or
22 separate squadron of the Air Force;

23 (5) the commanding officer of any naval or Coast
24 Guard vessel, shipyard, base, or station; or of any
25 marine brigade, regiment or barracks;

1 (6) the commanding officer of any separate or
2 detached command or group of detached units of any
3 of the armed forces placed under a single commander
4 for this purpose; or

5 (7) the commanding officer or officer in charge of
6 any other command when empowered by the Secretary
7 of a Department.

8 (b) When any such officer is an accuser, the court shall
9 be convened by superior competent authority, and may in
10 any case be convened by such authority when deemed ad-
11 visable by him.

12 ART. 24. Who may convene summary courts-martial.

13 (a) Summary courts-martial may be convened by—

14 (1) any person who may convene a general or
15 special court-martial;

16 (2) the commanding officer of a detached company,
17 or other detachment of the Army;

18 (3) the commanding officer of a detached squadron
19 or other detachment of the Air Force; or

20 (4) the commanding officer or officer in charge of
21 any other command when empowered by the Secretary
22 of a Department.

23 (b) When but one officer is present with a command or
24 detachment he shall be the summary court-martial of that
25 command or detachment and shall hear and determine all

1 summary court-martial cases brought before him. Summary
2 courts-martial may, however, be convened in any case by
3 superior competent authority when deemed desirable by him.

4 ART. 25. Who may serve on courts-martial.

5 (a) Any officer on active duty with the armed forces
6 shall be competent to serve on all courts-martial for the trial
7 of any person who may lawfully be brought before such
8 courts for trial.

9 (b) Any warrant officer on active duty with the armed
10 forces shall be competent to serve on general and special
11 courts-martial for the trial of any person, other than an
12 officer, who may lawfully be brought before such courts for
13 trial.

14 (c) Any enlisted person on active duty with the armed
15 forces who is not a member of the same unit as the accused
16 shall be competent to serve on general and special courts-
17 martial for the trial of any enlisted person who may lawfully
18 be brought before such courts for trial, but he shall be
19 appointed as a member of a court only if, prior to the con-
20 vening of such court, the accused has requested in writing
21 that enlisted persons serve on it. After such a request, no
22 enlisted person shall be tried by a general or special court-
23 martial the membership of which does not include enlisted
24 persons in a number comprising at least one-third of the total
25 membership of the court, unless competent enlisted persons

1 cannot be obtained on account of physical conditions or mili-
2 tary exigencies. Where such persons cannot be obtained,
3 the court may be convened and the trial held without them,
4 but the convening authority shall make a detailed written
5 statement, to be appended to the record, stating why they
6 could not be obtained.

7 For the purposes of this article, the word "unit" shall
8 mean any regularly organized body as defined by the Secre-
9 tary of the Department, but in no case shall it be a body
10 larger than a company, a squadron, or a ship's crew, or
11 than a body corresponding to one of them.

12 (d) (1) When it can be avoided, no person in the
13 armed forces shall be tried by a court-martial any member
14 of which is junior to him in rank or grade.

15 (2) When convening a court-martial, the convening
16 authority shall appoint as members thereof such persons as,
17 in his opinion, are best qualified for the duty by reason of
18 age, education, training, experience, length of service, and
19 judicial temperament. No person shall be eligible to sit
20 as a member of a general or special court-martial when he
21 is the accuser or a witness for the prosecution or has acted
22 as investigating officer or as counsel in the same case.

23 ART. 26. Law officer of a general court-martial.

24 (a) The authority convening a general court-martial
25 shall appoint as law officer thereof an officer who is a mem-

1 ber of the bar of a Federal court or of the highest court of
2 a State of the United States and who is certified to be
3 qualified for such duty by The Judge Advocate General
4 of the armed force of which he is a member. No person
5 shall be eligible to act as law officer in a case when he is
6 the accuser or a witness for the prosecution or has acted
7 as investigating officer or as counsel in the same case.

8 (b) The law officer shall not consult with the members
9 of the court, other than on the form of the findings as pro-
10 vided in article 39, except in the presence of the accused, trial
11 counsel, and defense counsel, nor shall he vote with the mem-
12 bers of the court.

13 ART. 27. Appointment of trial counsel and defense counsel.

14 (a) For each general and special court-martial the
15 authority convening the court shall appoint a trial counsel
16 and a defense counsel, together with such assistants as he
17 deems necessary or appropriate. No person who has acted
18 as investigating officer, law officer, or court member in any
19 case shall act subsequently as trial counsel assistant trial
20 counsel, or, unless expressly requested by the accused, as
21 defense counsel or assistant defense counsel in the same case.
22 No person who has acted for the prosecution shall act sub-
23 sequently in the same case for the defense, nor shall any
24 person who has acted for the defense act subsequently in the
25 same case for the prosecution.

1 (b) Any person who is appointed as trial counsel or
2 defense counsel in the case of a general court-martial—

3 (1) shall be a judge advocate of the Army or the
4 Air Force, or a law specialist of the Navy or Coast
5 Guard, or a person who is a member of the bar of a
6 Federal court or of the highest court of a State; and

7 (2) shall be certified as competent to perform such
8 duties by The Judge Advocate General of the armed
9 force of which he is a member.

10 (c) In the case of a special court-martial—

11 (1) if the trial counsel is certified as competent
12 to act as counsel before a general court-martial by The
13 Judge Advocate General of the armed force of which
14 he is a member, the defense counsel appointed by the
15 convening authority shall be a person similarly certi-
16 fied; and

17 (2) if the trial counsel is a judge advocate, or a
18 law specialist, or a member of the bar of a Federal court
19 or the highest court of a State, the defense counsel
20 appointed by the convening authority shall be one of
21 the foregoing.

22 ART. 28. Appointment of reporters and interpreters.

23 Under such regulations as the Secretary of the Depart-
24 ment may prescribe, the convening authority of a court-
25 martial or military commission or a court of inquiry shall

1 have power to appoint a reporter, who shall record the
2 proceedings of and testimony taken before such court or
3 commission. Under like regulations the convening author-
4 ity of a court-martial, military commission, or court of
5 inquiry may appoint an interpreter who shall interpret for
6 the court or commission.

7 ART. 29. Absent and additional members.

8 (a) No member of a general or special court-martial
9 shall be absent or excused after the accused has been
10 arraigned except for physical disability or as a result of a
11 challenge or by order of the convening authority for good
12 cause.

13 (b) Whenever a general court martial is reduced
14 below five members, the trial shall not proceed unless the
15 convening authority appoints new members sufficient in
16 number to provide not less than five members. When such
17 new members have been sworn, the trial may proceed
18 after the recorded testimony of each witness previously
19 examined has been read to the court in the presence of
20 the law officer, the accused, and counsel.

21 (c) Whenever a special court martial is reduced below
22 three members, the trial shall not proceed unless the con-
23 vening authority appoints new members sufficient in num-
24 ber to provide not less than three members. When such
25 new members have been sworn, the trial shall proceed as

1 if no evidence had previously been introduced, unless a
 2 verbatim record of the testimony of previously examined
 3 witnesses or a stipulation thereof is read to the court in the
 4 presence of the accused and counsel.

5 PART VI—PRETRIAL PROCEDURE

Article

30. Charges and specifications.

31. Compulsory self-incrimination prohibited.

32. Investigation.

33. Forwarding of charges.

34. Advice of staff judge advocate and reference for trial.

35. Service of charges.

6 ART. 30. Charges and specifications.

7 (a) Charges and specifications shall be signed by a
 8 person subject to this code under oath before an officer of
 9 the armed forces authorized to administer oaths and shall
 10 state—

11 (1) that the signer has personal knowledge of,
 12 or has investigated, the matters set forth therein; and

13 (2) that the same are true in fact to the best of
 14 his knowledge and belief.

15 (b) Upon the preferring of charges, the proper au-
 16 thority shall take immediate steps to determine what dispo-
 17 sition should be made thereof in the interest of justice and
 18 discipline, and the person accused shall be informed of the
 19 charges against him as soon as practicable.

20 ART. 31. Compulsory self-incrimination prohibited.

21 (a) No person subject to this code shall compel any

1 person to incriminate himself or to answer any question
2 the answer to which may tend to incriminate him.

3 (b) No person subject to this code shall interrogate, or
4 request any statement from, an accused or a person suspected
5 of an offense without first informing him of the nature of
6 the accusation and advising him that he does not have to
7 make any statement at all regarding the offense of which
8 he is accused or suspected and that any statement made
9 by him may be used as evidence against him in a trial by
10 court-martial.

11 (c) No person subject to this code shall compel any
12 person to make a statement or produce evidence before or
13 for use before any military tribunal if the statement or evi-
14 dence is not material to the issue and may tend to degrade
15 him.

16 (d) No statement obtained from any person in viola-
17 tion of this article or by any unlawful inducement shall be
18 received in evidence against him in a trial by court-martial.

19 ART. 32. Investigation.

20 (a) No charge or specification shall be referred to a
21 general court-martial for trial until a thorough and impartial
22 investigation of all the matters set forth therein has been
23 made. This investigation shall include inquiries as to the
24 truth of the matter set forth in the charges, form of charges,

1 and the disposition which should be made of the case in
2 the interest of justice and discipline.

3 (b) The accused shall be advised of the charges against
4 him and shall be permitted, upon his own request, to be
5 represented at such investigation by civilian counsel if pro-
6 vided by him, or military counsel of his own selection if
7 such counsel be reasonably available, or by counsel appointed
8 by the officer exercising general court-martial jurisdiction
9 over the command. At such investigation full opportunity
10 shall be given to the accused to cross-examine witnesses
11 against him if they are available and to present anything
12 he may desire in his own behalf, either in defense or mitiga-
13 tion, and the investigating officer shall examine available
14 witnesses requested by the accused. If the charges are for-
15 warded after such investigation, they shall be accompanied
16 by a statement of the substance of the testimony taken on
17 both sides and a copy thereof shall be given to the accused.

18 (c) If an investigation of the subject matter of an of-
19 fense has been conducted prior to the time the accused is
20 charged with the offense, and if the accused was present at
21 such investigation and afforded the opportunities for repre-
22 sentation, cross-examination, and presentation prescribed in
23 subdivision (b) of this article, no further investigation of
24 that charge is necessary under this article unless it is de-
25 manded by the accused after he is informed of the charge.

1 A demand for further investigation entitles the accused to
2 recall witnesses for further cross-examination and to offer
3 any new evidence in his own behalf.

4 (d) The requirements of this article shall be binding
5 on all persons administering this code, but failure to follow
6 them in any case shall not constitute jurisdictional error.

7 ART. 33. Forwarding of charges.

8 When a person is held for trial by general court-martial,
9 the commanding officer shall, within eight days after the
10 accused is ordered into arrest or confinement, if practicable,
11 forward the charges, together with the investigation and
12 allied papers, to the officer exercising general court-martial
13 jurisdiction. If the same is not practicable, he shall report
14 to such officer the reasons for delay.

15 ART. 34. Advice of staff judge advocate and reference for
16 trial.

17 (a) Before directing the trial of any charge by general
18 court-martial, the convening authority shall refer it to his
19 staff judge advocate or legal officer for consideration and
20 advice. The convening authority shall not refer a charge
21 to a general court-martial for trial unless it has been found
22 that the charge alleges an offense under this code and is war-
23 ranted by evidence indicated in the report of investigation.

24 (b) If the charges or specifications are not formally
25 correct or do not conform to the substance of the evidence

1 contained in the report of the investigating officer, formal
 2 corrections, and such changes in the charges and specifica-
 3 tions as are needed to make them conform to the evidence
 4 may be made.

5 ART. 35. Service of charges.

6 The trial counsel to whom court-martial charges are
 7 referred for trial shall cause to be served upon the accused a
 8 copy of the charges upon which trial is to be had. In time
 9 of peace no person shall, against his objection, be brought to
 10 trial before a general court-martial within a period of five
 11 days subsequent to the service of the charges upon him, or
 12 before a special court-martial within a period of three days
 13 subsequent to the service of the charges upon him.

14 PART VII—TRIAL PROCEDURE

Article

- 36. President may prescribe rules.
- 37. Unlawfully influencing action of court.
- 38. Duties of trial counsel and defense counsel.
- 39. Sessions.
- 40. Continuances.
- 41. Challenges.
- 42. Oaths.
- 43. Statute of limitations.
- 44. Former jeopardy.
- 45. Pleas of the accused.
- 46. Opportunity to obtain witnesses and other evidence.
- 47. Refusal to appear or testify.
- 48. Contempts.
- 49. Depositions.
- 50. Admissibility of records of courts of inquiry.
- 51. Voting and rulings.
- 52. Number of votes required.
- 53. Court to announce action.
- 54. Record of trial.

1 ART. 36. President may prescribe rules.

2 (a) The procedure, including modes of proof, in cases
3 before courts-martial, courts of inquiry, military commissions,
4 and other military tribunals may be prescribed by the Presi-
5 dent by regulations which shall, so far as he deems prac-
6 ticable, apply the principles of law and the rules of evidence
7 generally recognized in the trial of criminal cases in the
8 United States district courts, but which shall not be contrary
9 to or inconsistent with this code.

10 (b) All rules and regulations made in pursuance of this
11 article shall be reported to the Congress.

12 ART. 37. Unlawfully influencing action of court.

13 No authority convening a general, special, or summary
14 court-martial, nor any other commanding officer, shall cen-
15 sure, reprimand, or admonish such court or any member,
16 law officer, or counsel thereof, with respect to the findings
17 or sentence adjudged by the court, or with respect to any
18 other exercise of its or his functions in the conduct of the
19 proceeding. No person subject to this code shall attempt to
20 coerce or, by any unauthorized means, influence the action
21 of a court-martial or any other military tribunal or any mem-
22 ber thereof, in reaching the findings or sentence in any case,
23 or the action of any convening, approving, or reviewing
24 authority with respect to his judicial acts.

1 ART. 38. Duties of trial counsel and defense counsel.

2 (a) The trial counsel of a general or special court-
3 martial shall prosecute in the name of the United States,
4 and shall, under the direction of the court, prepare the record
5 of the proceedings.

6 (b) The accused shall have the right to be represented
7 in his defense before a general or special court-martial by
8 civilian counsel if provided by him, or by military counsel
9 of his own selection if reasonably available, or by the defense
10 counsel duly appointed pursuant to article 27. Should the
11 accused have counsel of his own selection, the duly appointed
12 defense counsel, and assistant defense counsel, if any, shall,
13 if the accused so desires, act as his associate counsel; other-
14 wise they shall be excused by the president of the court.

15 (c) In every court-martial proceeding, the defense
16 counsel may, in the event of conviction, forward for attach-
17 ment to the record of proceedings a brief of such matters
18 as he feels should be considered in behalf of the accused on
19 review, including any objection to the contents of the record
20 which he may deem appropriate.

21 (d) An assistant trial counsel of a general court-martial
22 may, under the direction of the trial counsel or when he is
23 qualified to be a trial counsel as required by article 27, per-

1 form any duty imposed by law, regulation, or the custom
2 of the service upon the trial counsel of the court. An
3 assistant trial counsel of a special court-martial may perform
4 any duty of the trial counsel.

5 (e) An assistant defense counsel of a general or special
6 court-martial may, under the direction of the defense counsel
7 or when he is qualified to be the defense counsel as required
8 by article 27, perform any duty imposed by law, regulation,
9 or the custom of the service upon counsel for the accused.

10 ART. 39. Sessions.

11 Whenever a general or special court-martial is to delib-
12 erate or vote, only the members of the court shall be present.
13 After a general court-martial has finally voted on the find-
14 ings, the court may request the law officer and the reporter
15 to appear before the court to put the findings in proper
16 form, and such proceedings shall be on the record. All
17 other proceedings, including any other consultation of the
18 court with counsel or the law officer shall be made a part
19 of the record and be in the presence of the accused, the
20 defense counsel, the trial counsel, and in general court-
21 martial cases, the law officer.

22 ART. 40. Continuances.

23 A court-martial may, for reasonable cause, grant a con-
24 tinuance to any party for such time and as often as may
25 appear to be just.

1 ART. 41. Challenges.

2 (a) Members of a general or special court-martial and
3 the law officer of a general court-martial may be challenged
4 by the accused or the trial counsel for cause stated to the
5 court. The court shall determine the relevancy and validity
6 of challenges for cause, and shall not receive a challenge to
7 more than one person at a time. Challenges by the trial
8 counsel shall ordinarily be presented and decided before
9 those by the accused are offered.

10 (b) The accused and trial counsel shall each be entitled
11 to one peremptory challenge, but the law officer shall not be
12 challenged except for cause.

13 ART. 42. Oaths.

14 (a) The law officer, all interpreters, and, in general and
15 special courts-martial, the members, the trial counsel, as-
16 sistant trial counsel, the defense counsel, assistant defense
17 counsel, and the reporter shall take an oath or affirmation in
18 the presence of the accused to perform their duties faithfully.

19 (b) All witnesses before courts-martial shall be exam-
20 ined on oath or affirmation.

21 ART. 43. Statute of limitations.

22 (a) A person charged with desertion or absence with-
23 out leave in time of war, or with aiding the enemy, mutiny,
24 or murder, may be tried and punished at any time without
25 limitation.

1 (b) Except as otherwise provided in this article, a
2 person charged with desertion in time of peace or any of the
3 offenses punishable under articles 119 through 132 inclusive
4 shall not be liable to be tried by court-martial if the offense
5 was committed more than three years before the receipt of
6 sworn charges and specifications by an officer exercising sum-
7 mary court-martial jurisdiction over the command.

8 (c) Except as otherwise provided in this article, a per-
9 son charged with any offense shall not be liable to be tried
10 by court-martial or punished under article 15 if the offense
11 was committed more than two years before the receipt of
12 sworn charges and specifications by an officer exercising sum-
13 mary court-martial jurisdiction over the command or before
14 the imposition of punishment under article 15.

15 (d) Periods in which the accused was absent from ter-
16 ritory in which the United States has the authority to ap-
17 prehend him, or in the custody of civil authorities, or in the
18 hands of the enemy, shall be excluded in computing the per-
19 iod of limitation prescribed in this article.

20 (e) In the case of any offense the trial of which in time
21 of war is certified to the President by the Secretary of the
22 Department to be detrimental to the prosecution of the war
23 or inimical to the national security, the period of limitation
24 prescribed in this article shall be extended to six months after

1 the termination of hostilities as proclaimed by the President
2 or by a joint resolution of Congress.

3 (f) When the United States is at war, the running of
4 any statute of limitations applicable to any offense—

5 (1) involving fraud or attempted fraud against the
6 United States or any agency thereof in any manner,
7 whether by conspiracy or not; or

8 (2) committed in connection with the acquisition,
9 care, handling, custody, control or disposition of any real
10 or personal property of the United States; or

11 (3) committed in connection with the negotiation,
12 procurement, award, performance, payment for, interim
13 financing, cancellation, or other termination or settle-
14 ment, of any contract, subcontract or purchase order
15 which is connected with or related to the prosecution of
16 the war, or with any disposition of termination inventory
17 by any war contractor or Government agency;

18 shall be suspended until three years after the termination of
19 hostilities as proclaimed by the President or by a joint resolu-
20 tion of Congress.

21 ART. 44. Former jeopardy.

22 No person shall, without his consent, be tried a second
23 time for the same offense; but no proceeding in which an
24 accused has been found guilty by a court-martial upon any

1 charge or specification shall be held to be a trial in the sense
2 of this article until the finding of guilty has become final after
3 review of the case has been fully completed.

4 **ART. 45. Pleas of the accused.**

5 (a) If an accused arraigned before a court-martial
6 makes any irregular pleading, or after a plea of guilty sets
7 up matter inconsistent with the plea, or if it appears that he
8 has entered the plea of guilty improvidently or through
9 lack of understanding of its meaning and effect, or if he
10 fails or refuses to plead, a plea of not guilty shall be entered
11 in the record, and the court shall proceed as though he had
12 pleaded not guilty.

13 (b) A plea of guilty by the accused shall not be re-
14 ceived in a capital case.

15 **ART. 46. Opportunity to obtain witnesses and other evidence.**

16 The trial counsel, defense counsel, and the court-martial
17 shall have equal opportunity to obtain witnesses and other
18 evidence in accordance with such regulations as the Presi-
19 dent may prescribe. Process issued in court-martial cases to
20 compel witnesses to appear and testify and to compel the
21 production of other evidence shall be similar to that which
22 courts of the United States having criminal jurisdiction
23 may lawfully issue and shall run to any part of the United
24 States, its Territories, and possessions.

1 ART. 47. Refusal to appear or testify.

2 (a) Every person not subject to this code who—

3 (1) has been duly subpoenaed to appear as a wit-
4 ness before any court martial, military commission, court
5 of inquiry, or any other military court or board, or
6 before any military or civil officer designated to take a
7 deposition to be read in evidence before such court,
8 commission or board; and

9 (2) has been duly paid or tendered the fees and
10 mileage of a witness at the rates allowed to witnesses
11 attending the courts of the United States; and

12 (3) willfully neglects or refuses to appear, or re-
13 fuses to qualify as a witness or to testify or to produce
14 any evidence which such person may have been legally
15 subpoenaed to produce;

16 shall be deemed guilty of an offense against the United
17 States.

18 (b) Any person who commits an offense denounced
19 by this article shall be tried on information in a United
20 States district court or in a court of original criminal juris-
21 diction in any of the territorial possessions of the United
22 States, and jurisdiction is hereby conferred upon such courts
23 for such purpose. Upon conviction, such persons shall be

1 punished by a fine of not more than \$500, or imprisonment
2 for a period not exceeding six months, or both.

3 (c) It shall be the duty of the United States district
4 attorney or the officer prosecuting for the Government in
5 any such court of original criminal jurisdiction, upon the
6 certification of the facts to him by the military court, com-
7 mission, court of inquiry, or board, to file an information
8 against and prosecute any person violating this article.

9 (d) The fees and mileage of witnesses shall be ad-
10 vanced or paid out of the appropriations for the compensation
11 of witnesses.

12 ART. 48. Contempts.

13 A court-martial, provost court, or military commission
14 may punish for contempt any person who uses any menacing
15 words, signs, or gestures in its presence, or who disturbs its
16 proceedings by any riot or disorder. Such punishment shall
17 not exceed confinement for thirty days or a fine of \$100, or
18 both.

19 ART. 49. Depositions.

20 (a) At any time after charges have been signed as
21 provided in article 30, any party may take oral or written
22 depositions unless an authority competent to convene a court-
23 martial for the trial of such charges forbids it for good cause.
24 If a deposition is to be taken before charges are referred
25 for trial, such an authority may designate officers to repre-

1 sent the prosecution and the defense and may authorize such
2 officers to take the deposition of any witness.

3 (b) The party at whose instance a deposition is to be
4 taken shall give to every other party reasonable written
5 notice of the time and place for taking the deposition.

6 (c) Depositions may be taken before and authenticated
7 by any military or civil officer authorized by the laws of
8 the United States or by the laws of the place where the
9 deposition is taken to administer oaths.

10 (d) A duly authenticated deposition taken upon reason-
11 able notice to the other party, so far as otherwise admissible
12 under the rules of evidence, may be read in evidence before
13 any military court or commission in any case not capital,
14 or in any proceeding before a court of inquiry or military
15 board, if it appears—

16 (1) that the witness resides or is beyond the State,
17 Territory, or District in which the court, commission,
18 or board is ordered to sit, or beyond the distance of one
19 hundred miles from the place of trial or hearing; or

20 (2) that the witness by reason of death, age, sick-
21 ness, bodily infirmity, imprisonment, military necessity,
22 nonamenability to process, or other reasonable cause,
23 is unable or refuses to appear and testify in person at
24 the place of trial or hearing; or

1 (3) that the present whereabouts of the witness is
2 unknown.

3 (e) Testimony by deposition may be adduced by the
4 defense in capital cases.

5 (f) A deposition may be read in evidence in any case
6 in which the death penalty is authorized by law but is not
7 mandatory, whenever the convening authority shall have
8 directed that the case be treated as not capital, and in such
9 a case a sentence of death may not be adjudged by the court-
10 martial.

11 ART. 50. Admissibility of records of courts of inquiry.

12 (a) In any case not capital and not extending to the
13 dismissal of an officer, the sworn testimony, contained in the
14 duly authenticated record of proceedings of a court of inquiry,
15 of a person whose oral testimony cannot be obtained, may,
16 if otherwise admissible, be read in evidence by any party
17 before a court-martial or military commission if the accused
18 was a party and was accorded the rights of an accused when
19 before the court of inquiry or if the accused consents to the
20 introduction of such evidence.

21 (b) Such testimony may be read in evidence only
22 by the defense in capital cases or cases extending to the dis-
23 missal of an officer.

24 (c) Such testimony may also be read in evidence be-

1 fore a court of inquiry or a military board.

2 ART. 51. Voting and rulings.

3 (a) Voting by members of a general or special court-
4 martial upon questions of challenge, on the findings, and
5 on the sentence shall be by secret written ballot. The
6 junior member of the court shall in each case count the
7 votes, which count shall be checked by the president, who
8 shall forthwith announce the result of the ballot to the mem-
9 bers of the court.

10 (b) The law officer of a general court-martial and
11 the president of a special court-martial shall rule upon in-
12 terlocutory questions, other than challenge, arising during
13 the proceedings. Any such ruling made by the law officer
14 of a general court-martial upon any interlocutory question
15 other than a motion for a finding of not guilty, or the ques-
16 tion of accused's sanity, shall be final and shall con-
17 stitute the ruling of the court; but the law officer may
18 change any such ruling at any time during the trial. Un-
19 less such ruling be final, if any member objects thereto, the
20 court shall be cleared and closed and the question decided
21 by a vote as provided in article 52, viva voce, beginning
22 with the junior in rank.

23 (c) Before a vote is taken on the findings, the law
24 officer of a general court-martial and the president of a

1 special court-martial shall, in the presence of the accused and
2 counsel, instruct the court as to the elements of the offense
3 and charge the court—

4 (1) that the accused must be presumed to be inno-
5 cent until his guilt is established by legal and competent
6 evidence beyond reasonable doubt;

7 (2) that in the case being considered, if there is
8 a reasonable doubt as to the guilt of the accused, the
9 doubt shall be resolved in favor of the accused and he
10 shall be acquitted;

11 (3) that if there is a reasonable doubt as to the
12 degree of guilt, the finding must be in a lower degree
13 as to which there is no such doubt; and

14 (4) that the burden of proof to establish the guilt
15 of the accused beyond reasonable doubt is upon the
16 Government.

17 ART. 52. Number of votes required.

18 (a) (1) No person shall be convicted of an offense for
19 which the death penalty is made mandatory by law, except
20 by the concurrence of all the members of the court-martial
21 present at the time the vote is taken.

22 (2) No person shall be convicted of any other offense,
23 except by the concurrence of two-thirds of the members
24 present at the time the vote is taken.

25 (b) (1) No person shall be sentenced to suffer death,

1 except by the concurrence of all the members of the court-
2 martial present at the time the vote is taken and for an
3 offense in this code made expressly punishable by death.

4 (2) No person shall be sentenced to life imprisonment
5 or to confinement in excess of ten years, except by the con-
6 currence of three-fourths of the members present at the time
7 the vote is taken.

8 (3) All other sentences shall be determined by the
9 concurrence of two-thirds of the members present at the
10 time the vote is taken.

11 (c) All other questions to be decided by the members
12 of a general or special court-martial shall be determined by
13 a majority vote. A tie vote on a challenge shall disqualify
14 the member challenged. A tie vote on a motion for a find-
15 ing of not guilty or on a question of the accused's sanity shall
16 be a determination against the accused. A tie vote on any
17 other question shall be a determination in favor of the
18 accused.

19 ART. 53. Court to announce action.

20 Every court-martial shall announce its findings and
21 sentence to the parties as soon as determined.

22 ART. 54. Record of trial.

23 (a) Each general court-martial shall keep a separate
24 record of the proceedings of the trial of each case brought
25 before it, and such record shall be authenticated by the

1 signature of the president and the law officer. In case the
2 record cannot be authenticated by either the president or
3 the law officer, by reason of the death, disability, or absence
4 of such officer, it shall be signed by a member in lieu of
5 him. If both the president and the law officer are unavail-
6 able for such reasons, the record shall be authenticated by
7 two members.

8 (b) Each special and summary court-martial shall keep
9 a separate record of the proceedings in each case, which
10 record shall contain such matter and be authenticated in
11 such manner as may be required by regulations which the
12 President may prescribe.

13 (c) A copy of the record of the proceedings of each
14 general and special court-martial shall be given to the ac-
15 cused as soon as authenticated.

16 PART VIII—SENTENCES

Article

55. Cruel and unusual punishments prohibited.

56. Maximum limits.

57. Effective date of sentences.

58. Execution of confinement.

17 ART. 55. Cruel and unusual punishments prohibited.

18 Punishment by flogging, or by branding, marking, or
19 tattooing on the body, or any other cruel or unusual punish-
20 ment, shall not be adjudged by any court-martial or inflicted
21 upon any person subject to this code. The use of irons, single

1 or double, except for the purpose of safe custody, is prohibited.

2 ART. 56. Maximum limits.

3 The punishment which a court-martial may direct for
4 an offense shall not exceed such limits as the President may
5 prescribe for that offense.

6 ART. 57. Effective date of sentences.

7 (a) Whenever a sentence of a court-martial as law-
8 fully adjudged and approved includes a forfeiture of pay or
9 allowances in addition to confinement not suspended, the
10 forfeiture may apply to pay or allowances becoming due
11 on or after the date such sentence is approved by the con-
12 vening authority. No forfeiture shall extend to any pay
13 or allowances accrued before such date.

14 (b) Any period of confinement not suspended included
15 in a sentence of a court-martial shall begin to run from the
16 date the sentence is adjudged by the court-martial.

17 (c) All other sentences of courts-martial shall become
18 effective on the date ordered executed.

19 ART. 58. Execution of confinement.

20 (a) Under such instructions as the Department con-
21 cerned may prescribe, any sentence of confinement adjudged
22 by a court-martial or other military tribunal, whether or not
23 such sentence includes discharge or dismissal, and whether

1 or not such discharge or dismissal has been executed, may
2 be carried into execution by confinement in any place of
3 confinement under the control of any of the armed forces,
4 or in any penal or correctional institution under the con-
5 trol of the United States, or which the United States may
6 be allowed to use; and persons so confined in a penal or
7 correctional institution not under the control of one of the
8 armed forces shall be subject to the same discipline and treat-
9 ment as persons confined or committed by the courts of the
10 United States or of the State, Territory, District, or place
11 in which the institution is situated.

12 (b) The omission of the words "hard labor" in any
13 sentence of a court-martial adjudging confinement shall
14 not be construed as depriving the authority executing such
15 sentence of the power to require hard labor as a part of
16 the punishment.

17 PART IX—REVIEW OF COURTS-MARTIAL

Article

59. Error of law; lesser included offense.
60. Initial action on the record.
61. Same—General court-martial records.
62. Reconsideration and revision.
63. Rehearings.
64. Approval by the convening authority.
65. Disposition of records after review by the convening authority.
66. Review by the board of review.
67. Review by the judicial council.
68. Branch offices.
69. Review in the office of The Judge Advocate General.
70. Appellate counsel.
71. Execution of sentence; suspension of sentence.
72. Vacation of suspension.
73. Petition for a new trial.

Article

74. Remission and suspension.

75. Restoration.

76. Finality of court-martial judgments.

1 ART. 59. Error of law; lesser included offense.

2 (a) A finding or sentence of a court-martial shall not
3 be held incorrect on the ground of an error of law unless the
4 error materially prejudices the substantial rights of the
5 accused.

6 (b) Any reviewing authority with the power to approve
7 or affirm a finding of guilty may approve or affirm, instead,
8 so much of the finding as includes a lesser included offense.

9 ART. 60. Initial action on the record.

10 After every trial by court-martial the record shall be
11 forwarded to the convening authority, and action thereon
12 may be taken by the officer who convened the court, an
13 officer commanding for the time being, a successor in com-
14 mand, or by any officer exercising general court-martial
15 jurisdiction.

16 ART. 61. Same—General court-martial records.

17 The convening authority shall refer the record of every
18 general court-martial to his staff judge advocate or legal
19 officer, who shall submit his written opinion thereon to the
20 convening authority. If the final action of the court has
21 resulted in an acquittal of all charges and specifications, the

1 opinion shall be limited to questions of jurisdiction and shall
2 be forwarded with the record to The Judge Advocate General
3 of the armed force of which the accused is a member.

4 ART. 62. Reconsideration and revision.

5 (a) If a case before a court-martial has been dismissed
6 on motion and the ruling does not amount to a finding of
7 not guilty, the convening authority may return the record to
8 the court for reconsideration of the ruling and any further
9 appropriate action.

10 (b) Where there is an apparent error or omission in
11 the record or where the record shows improper action by a
12 court-martial with respect to a finding or sentence which can
13 be rectified without material prejudice to the substantial
14 rights of the accused, the convening authority may return
15 the record to the court for appropriate action. In no case,
16 however, may the record be returned—

17 (1) for reconsideration of a finding of not guilty
18 or a ruling which amounts to a finding of not guilty; or

19 (2) for increasing the severity of the sentence un-
20 less the sentence prescribed for the offense is mandatory.

21 ART. 63. Rehearings.

22 (a) If the convening authority disapproves the find-
23 ings and sentence of a court-martial he may, except where
24 there is lack of sufficient evidence in the record to support
25 the findings, order a rehearing, in which case he shall state

1 the reasons for disapproval. If he does not order a rehear-
2 ing, he shall dismiss the charges.

3 (b) Every rehearing shall take place before a court-
4 martial composed of members not members of the court-
5 martial which first heard the case. Upon such rehearing
6 the accused shall not be tried for any offense of which he
7 was found not guilty by the first court-martial, and no
8 sentence in excess of or more severe than the original
9 sentence shall be imposed unless the sentence is based upon
10 a finding of guilty of an offense not considered upon the
11 merits in the original proceedings or unless the sentence
12 prescribed for the offense is mandatory.

13 ART. 64. Approval by the convening authority.

14 In acting on the findings and sentence of a court-martial,
15 the convening authority shall approve only such findings
16 of guilty, and the sentence or such part or amount of the
17 sentence, as he finds correct in law and fact and determines
18 should be approved. Unless he indicates otherwise, approval
19 of the sentence shall constitute approval of the findings and
20 sentence.

21 ART. 65. Disposition of records after review by the con-
22 vening authority.

23 (a) When the convening authority has taken final
24 action in a general court-martial case, he shall forward the
25 entire record, including his action thereon and the opinion

1 or opinions of the staff judge advocate or legal officer, to the
2 appropriate Judge Advocate General.

3 (b) Where the sentence of a special court-martial as
4 approved by the convening authority includes a bad-conduct
5 discharge, whether or not suspended, the record shall be
6 forwarded to the officer exercising general court-martial juris-
7 diction over the command to be reviewed in the same manner
8 as a record of trial by general court-martial or directly to the
9 appropriate Judge Advocate General to be reviewed by a
10 board of review. If the sentence as approved by an officer
11 exercising general court-martial jurisdiction includes a bad-
12 conduct discharge, whether or not suspended, the record
13 shall be forwarded to the appropriate Judge Advocate Gen-
14 eral to be reviewed by a board of review.

15 (c) All other special and summary court-martial records
16 shall be reviewed by a judge advocate of the Army or Air
17 Force, a law specialist of the Navy, or a law specialist or
18 lawyer of the Coast Guard or Treasury Department and
19 shall be transmitted and disposed of as the Secretary of the
20 Department may prescribe by regulations.

21 ART. 66. Review by the board of review.

22 (a) The Judge Advocate General of each of the armed
23 forces shall constitute in his office one or more boards of re-
24 view, each composed of not less than three officers or civilians,

1 each of whom shall be a member of the bar of a Federal
2 court or of the highest court of a State of the United States.

3 (b) The Judge Advocate General shall refer to a board
4 of review the record in every case of trial by court-martial
5 in which the sentence, as approved, affects a general or flag
6 officer or extends to death, dismissal of an officer, cadet, or
7 midshipman, dishonorable or bad-conduct discharge, or con-
8 finement for more than one year.

9 (c) In a case referred to it, the board of review shall
10 act only with respect to the findings and sentence as ap-
11 proved by the convening authority. It shall affirm only
12 such findings of guilty, and the sentence or such part or
13 amount of the sentence, as it finds correct in law and fact
14 and determines, on the basis of the entire record, should be
15 approved. In considering the record it shall have authority
16 to weigh the evidence, judge the credibility of witnesses,
17 and determine controverted questions of fact, recognizing
18 that the trial court saw and heard the witnesses.

19 (d) If the board of review sets aside the findings and
20 sentence, it may, except where the setting aside is based
21 on lack of sufficient evidence in the record to support the
22 findings, order a rehearing. Otherwise it shall order that the
23 charges be dismissed.

24 (e) Within ten days after any decision by a board of

1 review, the Judge Advocate General may refer the case
2 for reconsideration to the same or another board of re-
3 view.

4 (f) Otherwise, the Judge Advocate General shall, un-
5 less there is to be further action by the President or the
6 Secretary of the Department or the Judicial Council, in-
7 struct the convening authority to take action in accordance
8 with the decision of the board of review. If the board of
9 review has ordered a rehearing but the convening authority
10 finds a rehearing impracticable, he may dismiss the charges.

11 (g) The Judge Advocates General of the armed forces
12 shall prescribe uniform rules of procedure for proceedings
13 in and before boards of review and shall meet periodically
14 to formulate policies and procedure in regard to review
15 of court-martial cases in the offices of the Judge Advocates
16 General and by the boards of review.

17 ART. 67. Review by the Judicial Council.

18 (a) There is hereby established in the National Military
19 Establishment a Judicial Council. The Judicial Council
20 shall be composed of not less than three members. Each
21 member of the Judicial Council shall be appointed by the
22 President from civilian life and shall be a member of the
23 bar admitted to practice before the Supreme Court of the
24 United States, and each member shall receive compensation

1 and allowances equal to those paid to a judge of a United
2 States Court of Appeals.

3 (b) Under rules of procedure which it shall prescribe,
4 the Judicial Council shall review the record in the following
5 cases:

6 (1) All cases in which the sentence, as affirmed
7 by a board of review, affects a general or flag officer or
8 extends to death;

9 (2) All cases reviewed by a board of review which
10 The Judge Advocate General orders forwarded to the
11 Judicial Council for review; and

12 (3) All cases reviewed by a board of review in
13 which, upon petition of the accused and on good cause
14 shown, the Judicial Council has granted a review.

15 (c) The accused shall have thirty days from the time
16 he is notified of the decision of a board of review to petition
17 the Judicial Council for a grant of review. The Judicial
18 Council shall act upon such a petition within fifteen days
19 of the receipt thereof.

20 (d) In any case reviewed by it, the Judicial Council
21 shall act only with respect to the findings and sentence as
22 approved by the convening authority and as affirmed or
23 set aside as incorrect in law by the board of review. In a
24 case which The Judge Advocate General orders forwarded

1 to the Judicial Council, such action need be taken only with
2 respect to the issues raised by him. In a case reviewed
3 upon petition of the accused, such action need be taken only
4 with respect to issues specified in the grant of review. The
5 Judicial Council shall take action only with respect to
6 matters of law.

7 (e) If the Judicial Council sets aside the findings and
8 sentence, it may, except where the setting aside is based
9 on lack of sufficient evidence in the record to support the
10 findings, order a rehearing. Otherwise it shall order that
11 the charges be dismissed.

12 (f) After it has acted on a case, the Judicial Council
13 may direct The Judge Advocate General to return the
14 record to the board of review for further review in accord-
15 ance with the decision of the Judicial Council. Otherwise,
16 unless there is to be further action by the President, or the
17 Secretary of the Department, The Judge Advocate General
18 shall instruct the convening authority to take action in
19 accordance with that decision. If the Judicial Council has
20 ordered a rehearing, but the convening authority finds a
21 rehearing impracticable, he may dismiss the charges.

22 (g) The Judicial Council and The Judge Advocates
23 General of the armed forces shall meet annually to make a
24 comprehensive survey of the operation of this code and
25 report to the Secretary of Defense and the Secretaries of

1 the Departments any recommendations relating to uniformity
2 of sentence policies, amendments to this code, and any other
3 matters deemed appropriate.

4 ART. 68. Branch offices.

5 (a) Whenever the President deems such action neces-
6 sary, he may direct The Judge Advocate General to establish
7 a branch office, under an Assistant Judge Advocate General,
8 with any distant command, and to establish in such branch
9 office one or more boards of review. Such Assistant Judge
10 Advocate General and any such board of review shall be
11 empowered to perform for that command, under the general
12 supervision of The Judge Advocate General, the duties
13 which The Judge Advocate General and a board of review
14 in his office would otherwise be required to perform in
15 respect of all cases involving sentences not requiring ap-
16 proval by the President.

17 (b) In time of emergency, the President may direct
18 that one or more temporary Judicial Councils be established
19 for the period of the emergency, each of which shall be under
20 the general supervision of the Judicial Council.

21 ART. 69. Review in the office of The Judge Advocate
22 General.

23 Every record of trial by general court-martial, in which
24 there has been a finding of guilty and a sentence, the appel-
25 late review of which is not otherwise provided for by article

1 66, shall be examined in the office of The Judge Advocate
2 General. If any part of the findings or sentence is found
3 unsupported in law, or if The Judge Advocate General so
4 directs, the record shall be reviewed by a board of review
5 in accordance with article 66, but in such event there will
6 be no further review by the Judicial Council.

7 ART. 70. Appellate counsel.

8 (a) The Judge Advocate General shall appoint in his
9 office one or more officers as appellate Government counsel,
10 and one or more officers as appellate defense counsel.

11 (b) It shall be the duty of appellate Government coun-
12 sel to represent the United States before the board of review
13 or the Judicial Council when directed to do so by The Judge
14 Advocate General.

15 (c) It shall be the duty of appellate defense counsel to
16 represent the accused before the board of review or the
17 Judicial Council—

18 (1) when he is requested to do so by the accused;

19 or

20 (2) when the United States is represented by coun-
21 sel; or

22 (3) when The Judge Advocate General has re-
23 quested the reconsideration of a case before the board of
24 review or has transmitted it to the Judicial Council.

25 (d) The accused shall have the right to be represented

1 before the Judicial Council or the board of review by civil-
2 ian counsel if provided by him.

3 (e) The appellate counsel shall also perform such other
4 functions in connection with the review of court-martial
5 cases as The Judge Advocate General shall direct.

6 ART. 71. Execution of sentence; suspension of sentence.

7 (a) No court-martial sentence extending to death or
8 involving a general or flag officer shall be executed until
9 approved by the President. He shall approve the sentence
10 or such part, amount, or commuted form of the sentence as
11 he sees fit, and may suspend the execution of the sentence
12 or any part of the sentence, as approved by him, except a
13 death sentence.

14 (b) No sentence extending to the dismissal of an
15 officer, cadet, or midshipman shall be executed until ap-
16 proved by the Secretary of the Department, or such Under
17 Secretary or Assistant Secretary as may be designated
18 by him. He shall approve the sentence or such part, amount,
19 or commuted form of the sentence as he sees fit, and may
20 suspend the execution of any part of the sentence as ap-
21 proved by him. In time of war or national emergency he
22 may commute a sentence of dismissal to reduction to any
23 enlisted grade. A person who is so reduced may be re-
24 quired to serve for the duration of the war or emergency
25 and six months thereafter.

1 (c) No sentence which includes, unsuspended, a dis-
2 honorable or bad conduct discharge, or confinement for
3 more than one year shall be executed until affirmed by a
4 board of review and, in cases reviewed by it, the Judicial
5 Council.

6 (d) All other court-martial sentences, unless suspended,
7 may be ordered executed by the convening authority when
8 approved by him. The convening authority may suspend
9 the execution of any sentence, except a death sentence.

10 ART. 72. Vacation of suspension.

11 (a) Prior to the vacation of the suspension of a special
12 court-martial sentence which as approved includes a bad-
13 conduct discharge, or of any general court-martial sentence,
14 the officer having special court-martial jurisdiction over the
15 probationer shall hold a hearing on the alleged violation of
16 probation. The probationer shall be represented at such
17 hearing by counsel if he so desires.

18 (b) The record of the hearing and the recommenda-
19 tions of the officer having special court-martial jurisdiction
20 shall be forwarded for action to the officer exercising gen-
21 eral court-martial jurisdiction over the probationer. If he
22 vacates the suspension, the vacation shall be effective, sub-
23 ject to applicable restrictions in article 71 (c), to execute
24 any unexecuted portion of the sentence except a dismissal.

1 The vacation of the suspension of a dismissal shall not be
2 effective until approved by the Secretary of the Department.

3 (c) The suspension of any other sentence may be
4 vacated by any authority competent to convene, for the com-
5 mand in which the accused is serving or assigned, a court of
6 the kind that imposed the sentence.

7 ART. 73. Petition for a new trial.

8 At any time within one year after approval by the con-
9 vening authority of a court-martial sentence which extends
10 to death, dismissal, dishonorable or bad-conduct discharge,
11 or confinement for more than one year, the accused may
12 petition The Judge Advocate General for a new trial on
13 grounds of newly discovered evidence or fraud on the court.
14 If the accused's case is pending before the board of review or
15 before the Judicial Council, The Judge Advocate General
16 shall refer the petition to the board or Council, respectively,
17 for action. Otherwise The Judge Advocate General shall
18 act upon the petition.

19 ART. 74. Remission and suspension.

20 (a) The Secretary of the Department and any Under
21 Secretary, Assistant Secretary, or commanding officer desig-
22 nated by the Secretary may remit or suspend any part or
23 amount of the unexecuted portion of any sentence, includ-
24 ing all uncollected forfeitures, other than a sentence approved
25 by the President.

1 (b) The Secretary of the Department may, for good
2 cause, substitute an administrative form of discharge for a
3 discharge or dismissal executed in accordance with the sen-
4 tence of a court-martial.

5 ART. 75. Restoration.

6 (a) Under such regulations as the President may pre-
7 scribe, all rights, privileges, and property affected by an
8 executed portion of a court-martial sentence which has been
9 set aside or disapproved, except an executed dismissal or dis-
10 charge, shall be restored unless a new trial or rehearing is
11 ordered and such executed portion is included in a sentence
12 imposed upon the new trial or rehearing.

13 (b) Where a previously executed sentence of dishonor-
14 able or bad-conduct discharge is not sustained on a new trial,
15 the Secretary of the Department shall substitute therefor a
16 form of discharge authorized for administrative issuance un-
17 less the accused is to serve out the remainder of his enlistment.

18 (c) Where a previously executed sentence of dismissal
19 is not sustained on a new trial, the Secretary of the Depart-
20 ment shall substitute therefor a form of discharge authorized
21 for administrative issuance and the officer dismissed by such
22 sentence may be reappointed by the President alone to such
23 commissioned rank and precedence as in the opinion of the
24 President such former officer would have attained had he
25 not been dismissed. The reappointment of such a former

1 officer shall be without regard to position vacancy and shall
 2 affect the promotion status of other officers only insofar as
 3 the President may direct. All time between the dismissal and
 4 such reappointment shall be considered as actual service for
 5 all purposes, including the right to receive pay and allow-
 6 ances.

7 ART. 76. Finality of court-martial judgments.

8 The appellate review of records of trial provided by this
 9 code, the proceedings, findings, and sentences of courts-
 10 martial as approved, reviewed, or affirmed as required by
 11 this code, and all dismissals and discharges carried into
 12 execution pursuant to sentences by courts-martial following
 13 approval, review, or affirmation as required by this code,
 14 shall be final and conclusive, and orders publishing the pro-
 15 ceedings of courts-martial and all action taken pursuant to
 16 such proceedings shall be binding upon all departments,
 17 courts, agencies, and officers of the United States, subject
 18 only to action upon a petition for a new trial as provided in
 19 article 73 and to action by the Secretary of a Department
 20 as provided in article 74.

21 PART X—PUNITIVE ARTICLES

Article

- 77. Principals.
- 78. Accessory after the fact.
- 79. Conviction of lesser included offense.
- 80. Attempts.
- 81. Conspiracy.
- 82. Solicitation.
- 83. Fraudulent enlistment, appointment, or separation.
- 84. Unlawful enlistment, appointment, or separation.

Article

85. Desertion.
86. Absence without leave.
87. Missing movement.
88. Disrespect towards officials.
89. Disrespect towards superior officer.
90. Assaulting or willfully disobeying officer.
91. Insubordinate conduct towards noncommissioned officer.
92. Failure to obey order or regulation.
93. Cruelty and maltreatment.
94. Mutiny or sedition.
95. Arrest and confinement.
96. Releasing prisoner without proper authority.
97. Unlawful detention of another.
98. Non-compliance with procedural rules.
99. Misbehavior before the enemy.
100. Subordinate compelling surrender.
101. Improper use of countersign.
102. Forcing a safeguard.
103. Captured or abandoned property.
104. Aiding the enemy.
105. Misconduct as prisoner.
106. Spies.
107. False official statements.
108. Military property of United States—Loss, damage, destruction, or wrongful disposition.
109. Property other than military property of United States—Waste, spoil, or destruction.
110. Improper hazarding of vessel.
111. Drunken or reckless driving.
112. Drunk on duty.
113. Misbehavior of sentinel.
114. Dueling.
115. Malingering.
116. Riot or breach of peace.
117. Provoking speeches or gestures.
118. Murder.
119. Manslaughter.
120. Rape.
121. Larceny.
122. Robbery.
123. Forgery.
124. Maiming.
125. Sodomy.
126. Arson.
127. Extortion.
128. Assault.
129. Burglary.
130. Housebreaking.
131. Perjury.
132. Frauds against the Government.
133. Conduct unbecoming an officer and gentleman.
134. General article.

1 ART. 77. Principals.

2 Any person punishable under this code who—

3 (1) commits an offense punishable by this code, or
4 aids, abets, counsels, commands, or procures its com-
5 mission; or

6 (2) causes an act to be done which if directly
7 performed by him would be punishable by this code;
8 shall be punished with the punishment provided for the
9 commission of the offense.

10 ART. 78. Accessory after the fact.

11 Any person subject to this code who, knowing that an
12 offense punishable by this code has been committed, receives,
13 comforts, or assists the offender in order to hinder or pre-
14 vent his apprehension, trial, or punishment shall be punished
15 as a court-martial may direct.

16 ART. 79. Conviction of lesser included offense.

17 An accused may be found guilty of an offense neces-
18 sarily included in the offense charged or of an attempt to
19 commit either the offense charged or an offense necessarily
20 included therein.

21 ART. 80. Attempts.

22 (a) An act, done with specific intent to commit an
23 offense under this code, amounting to more than mere prep-

1 aration and tending but failing to effect its commission, is
2 an attempt to commit that offense.

3 (b) Any person subject to this code who attempts to
4 commit any offense punishable by this code shall be punished
5 as a court-martial may direct, unless otherwise specifically
6 prescribed.

7 (c) Any person subject to this code may be convicted
8 of an attempt to commit an offense although it appears on
9 the trial that the offense was consummated.

10 ART. 81. Conspiracy.

11 Any person subject to this code who conspires with
12 any other person or persons to commit an offense under
13 this code shall, if one or more of the conspirators does an
14 act to effect the object of the conspiracy, be punished as
15 a court-martial may direct.

16 ART. 82. Solicitation.

17 (a) Any person subject to this code who solicits or
18 advises another or others to desert in violation of article 85
19 or mutiny in violation of article 94 shall, if the offense
20 solicited or advised is attempted or committed, be punished
21 with the punishment provided for the commission of the
22 offense, but if the offense solicited or advised is not committed
23 or attempted, he shall be punished as a court-martial may
24 direct.

25 (b) Any person subject to this code who solicits or

1 advises another or others to commit an act of misbehavior
2 before the enemy in violation of article 99 or sedition in
3 violation of article 94 shall, if the offense solicited or advised
4 is committed, be punished with the punishment provided for
5 the commission of the offense, but if the offense solicited or
6 advised is not committed, he shall be punished as a court-
7 martial may direct.

8 ART. 83. Fraudulent enlistment, appointment, or separa-
9 tion.

10 Any person who—

11 (1) procures his own enlistment or appointment
12 in the armed forces by means of knowingly false repre-
13 sentations or deliberate concealment as to his qualifica-
14 tions for such enlistment or appointment and receives
15 pay or allowances thereunder; or

16 (2) procures his own separation from the armed
17 forces by means of knowingly false representations or
18 deliberate concealment as to his eligibility for such
19 separation;

20 shall be punished as a court martial may direct.

21 ART. 84. Unlawful enlistment, appointment, or separation.

22 Any person subject to this code who effects an enlist-
23 ment or appointment in or a separation from the armed
24 forces of any person who is known to him to be ineligible
25 for such enlistment, appointment, or separation because it

1 is prohibited by law, regulation, or order shall be punished
2 as a court martial may direct.

3 ART. 85. Desertion.

4 (a) Any member of the armed forces of the United
5 States who—

6 (1) without proper authority goes or remains ab-
7 sent from his place of service, organization, or place of
8 duty with intent to remain away therefrom perma-
9 nently; or

10 (2) quits his unit or organization or place of duty
11 with intent to avoid hazardous duty or to shirk im-
12 portant service; or

13 (3) without being regularly separated from one
14 of the armed forces enlists or accepts an appointment
15 in the same or another one of the armed forces without
16 fully disclosing the fact he has not been so regularly
17 separated, or enters any foreign armed service except
18 when authorized by the United States;

19 is guilty of desertion.

20 (b) Any officer of the armed forces who, having ten-
21 dered his resignation and prior to due notice of the accept-
22 ance of the same, quits his post at proper duties without
23 leave and with intent to remain away therefrom perma-
24 nently is guilty of desertion.

25 (c) Any person found guilty of desertion or attempt-

1 ed desertion shall be punished, if the offense is committed in
2 time of war, by death or such other punishment as a court-
3 martial may direct, but if the desertion or attempted deser-
4 tion occurs at any other time, by such punishment, other
5 than death, as a court-martial may direct.

6 ART. 86. Absence without leave.

7 Any person subject to this code who, without proper
8 authority—

9 (1) fails to go to his appointed place of duty at the
10 time prescribed; or

11 (2) goes from that place; or

12 (3) absents himself or remains absent from his
13 unit, organization, or other place of duty at which he
14 is required to be at the time prescribed;

15 shall be punished as a court-martial may direct.

16 ART. 87. Missing movement.

17 Any person subject to this code who through neglect or
18 design misses the movement of a ship, aircraft, or unit with
19 which he is required in the course of duty to move shall be
20 punished as a court-martial may direct.

21 ART. 88. Disrespect towards officials.

22 Any officer who uses contemptuous or disrespectful
23 words against the President, Vice President, Congress,
24 Secretary of Defense, or a Secretary of a Department, a
25 Governor or a legislature of any State, Territory, or other

1 possession of the United States in which he is on duty or
2 present shall be punished as a court-martial may direct.

3 ART. 89. Disrespect towards superior officer.

4 Any person subject to this code who behaves with
5 disrespect towards his superior officer shall be punished as
6 a court-martial may direct.

7 ART. 90. Assaulting or willfully disobeying officer.

8 Any person subject to this code who—

9 (1) strikes his superior officer or draws or lifts up
10 any weapon or offers any violence against him while
11 he is in the execution of his office; or

12 (2) willfully disobeys a lawful command of his
13 superior officer;

14 shall be punished, if the offense is committed in time of war,
15 by death or such other punishment as a court-martial may
16 direct, and if the offense is committed at any other time,
17 by such punishment, other than death, as a court-martial
18 may direct.

19 ART. 91. Insubordinate conduct towards noncommissioned
20 officer.

21 Any warrant officer or enlisted person who—

22 (1) strikes or assaults a warrant officer, noncom-
23 missioned officer, or petty officer, while such officer is
24 in the execution of his office; or

1 (2) willfully disobeys the lawful order of a war-
2 rant officer, noncommissioned officer, or petty officer; or

3 (3) treats with contempt or is disrespectful in lan-
4 guage or deportment towards a warrant officer, non-
5 commissioned officer, or petty officer while such officer
6 is in the execution of his office;

7 shall be punished as a court-martial may direct.

8 ART. 92. Failure to obey order or regulation.

9 Any person subject to this code who—

10 (1) violates or fails to obey any lawful general
11 order or regulation; or

12 (2) having knowledge of any other lawful order
13 issued by a member of the armed forces, which it is his
14 duty to obey, fails to obey the same; or

15 (3) is derelict in the performance of his duties;
16 shall be punished as a court-martial may direct.

17 ART. 93. Cruelty and maltreatment.

18 Any person subject to this code who is guilty of cruelty
19 toward, or oppression or maltreatment of, any person subject
20 to his orders shall be punished as a court-martial may direct.

21 ART. 94. Mutiny or sedition.

22 (a) Any person subject to this code—

23 (1) who with intent to usurp or override lawful
24 military authority refuses, in concert with any other

1 person or persons, to obey orders or otherwise do his
2 duty or creates any violence or disturbance is guilty
3 of mutiny;

4 (2) who with intent to cause the overthrow or
5 destruction of lawful civil authority, creates, in concert
6 with any other person or persons, revolt, violence, or
7 other disturbance against such authority is guilty of
8 sedition;

9 (3) who fails to do his utmost to prevent and sup-
10 press an offense of mutiny or sedition being committed
11 in his presence, or fails to take all reasonable means to
12 inform his superior or commanding officer of an of-
13 fense of mutiny or sedition which he knows or has
14 reason to believe is taking place, is guilty of a failure
15 to suppress or report a mutiny or sedition.

16 (b) A person who is found guilty of attempted mutiny,
17 mutiny, sedition, or failure to suppress or report a mutiny
18 or sedition shall be punished by death or such other pun-
19 ishment as a court-martial may direct.

20 ART. 95. Arrest and confinement.

21 Any person subject to this code who resists apprehen-
22 sion or breaks arrest or who escapes from custody or con-
23 finement shall be punished as a court-martial may direct.

24 ART. 96. Releasing prisoner without proper authority.

25 Any person subject to this code who, without proper

1 authority, releases any prisoner duly committed to his charge,
2 or who through neglect or design suffers any such prisoner
3 to escape, shall be punished as a court-martial may direct.

4 ART. 97. Unlawful detention of another.

5 Any person subject to this code who, except as provided
6 by law, apprehends, arrests, or confines any person shall
7 be punished as a court-martial may direct.

8 ART. 98. Noncompliance with procedural rules.

9 Any person subject to this code who—

10 (1) is responsible for unnecessary delay in the
11 disposition of any case of a person accused of an of-
12 fense under this code; or

13 (2) knowingly and intentionally fails to enforce
14 or comply with any provision of this code regulating
15 the proceedings before, during, or after trial of an
16 accused;

17 shall be punished as a court-martial may direct.

18 ART. 99. Misbehavior before the enemy.

19 Any member of the armed forces who before or in the
20 presence of the enemy—

21 (1) runs away; or

22 (2) shamefully abandons, surrenders, or delivers
23 up any command, unit, place, or military property which
24 it is his duty to defend; or

25 (3) through disobedience, neglect, or intentional

1 misconduct endangers the safety of any such command,
2 unit, place, or military property; or

3 (4) casts away his arms or ammunition; or

4 (5) is guilty of cowardly conduct; or

5 (6) quits his place of duty to plunder or pillage; or

6 (7) causes false alarms in any command, unit, or
7 place under control of the armed forces; or

8 (8) willfully fails to do his utmost to encounter,
9 engage, capture, or destroy any enemy troops, com-
10 batants, vessels, aircraft, or any other thing, which it
11 is his duty so to encounter, engage, capture, or destroy;
12 or

13 (9) does not afford all practicable relief and assist-
14 ance to any troops, combatants, vessels, or aircraft of
15 the armed forces belonging to the United States or their
16 allies when engaged in battle;

17 shall be punished by death or such other punishment as a
18 court-martial may direct.

19 ART. 100. Subordinate compelling surrender.

20 Any person subject to this code who compels or at-
21 tempts to compel a commander of any place, vessel, air-
22 craft, or other military property, or of any body of members
23 of the armed forces, to give it up to an enemy or to abandon
24 it, or who strikes the colors or flag to an enemy without

1 proper authority, shall be punished by death or such other
2 punishment as a court-martial may direct.

3 ART. 101. Improper use of countersign.

4 Any person subject to this code who in time of war
5 discloses the parole or countersign to any person not en-
6 titled to receive it or who gives to another who is entitled
7 to receive and use the parole or countersign a different parole
8 or countersign from that which, to his knowledge, he was
9 authorized and required to give, shall be punished by death
10 or such other punishment as a court-martial may direct.

11 ART. 102. Forcing a safeguard.

12 Any person subject to this code who forces a safeguard
13 shall suffer death or such other punishment as a court-martial
14 may direct.

15 ART. 103. Captured or abandoned property.

16 (a) All persons subject to this code shall secure all
17 public property taken from the enemy for the service of the
18 United States, and shall give notice and turn over to the
19 proper authority without delay all captured or abandoned
20 property in their possession, custody, or control.

21 (b) Any person subject to this code who—

22 (1) fails to carry out the duties prescribed in sub-
23 division (a) of this article; or

24 (2) buys, sells, trades, or in any way deals in or
25 disposes of captured or abandoned property, whereby

1 he shall receive or expect any profit, benefit, or advan-
2 tage to himself or another directly or indirectly con-
3 nected with himself; or

4 (3) engages in looting or pillaging;

5 shall be punished as a court-martial may direct.

6 ART. 104. Aiding the enemy.

7 Any person who—

8 (1) aids, or attempts to aid, the enemy with arms,
9 ammunition, supplies, money, or other thing; or

10 (2) without proper authority, knowingly harbors
11 or protects or gives intelligence to, or communicates
12 or corresponds with or holds any intercourse with the
13 enemy, either directly or indirectly;

14 shall suffer death or such other punishment as a court-martial
15 or military commission may direct.

16 ART. 105. Misconduct as prisoner.

17 Any person subject to this code who, while in the hands
18 of the enemy in time of war—

19 (1) for the purpose of securing favorable treat-
20 ment by his captors acts without proper authority in a
21 manner contrary to law, custom, or regulation, to the
22 detriment of others of whatever nationality held by the
23 enemy as civilian or military prisoners; or

24 (2) while in a position of authority over such per-
25 sons maltreats them without justifiable cause;

1 shall be punished as a court-martial may direct.

2 ART. 106. Spies.

3 Any person who in time of war is found lurking or act-
4 ing as a spy in or about any place, vessel, or aircraft, within
5 the control or jurisdiction of any of the armed forces of the
6 United States, or in or about any shipyard, any manufac-
7 turing or industrial plant, or any other place of institution
8 engaged in work in aid of the prosecution of the war by the
9 United States, or elsewhere, shall be tried by a general
10 court-martial or by a military commission and on conviction
11 shall be punished by death.

12 ART. 107. False official statements.

13 Any person subject to this code who, with intent to de-
14 ceive, signs any false record, return, regulation, order, or
15 other official document, knowing the same to be false, or
16 makes any other false official statement knowing the same to
17 be false, shall be punished as a court-martial may direct.

18 ART. 108. Military property of United States—Loss, dam-
19 age, destruction, or wrongful disposition.

20 Any person subject to this code who, without proper
21 authority—

22 (1) sells or otherwise disposes of; or

23 (2) willfully or through neglect damages, destroys,

24 or loses; or

1 (3) willfully or through neglect suffers to be lost,
2 damaged, destroyed, sold or wrongfully disposed of;
3 any military property of the United States, shall be punished
4 as a court-martial may direct.

5 ART. 109. Property other than military property of United
6 States—Waste, spoil, or destruction.

7 Any person subject to this code who willfully or reck-
8 lessly wastes, spoils, or otherwise willfully and wrongfully
9 destroys or damages any property other than military prop-
10 erty of the United States shall be punished as a court-martial
11 may direct.

12 ART. 110. Improper hazarding of vessel.

13 (a) Any person subject to this code who willfully and
14 wrongfully hazards or suffers to be hazarded any vessel of
15 the armed forces shall suffer death or such other punishment
16 as a court-martial may direct.

17 (b) Any person subject to this code who negligently
18 hazards or suffers to be hazarded any vessel of the armed
19 forces, shall be punished as a court-martial may direct.

20 ART. 111. Drunken or reckless driving.

21 Any person subject to this code who operates any vehicle
22 while drunk, or in a reckless or wanton manner, shall be
23 punished as a court-martial may direct.

24 ART. 112. Drunk on duty.

25 Any person subject to this code, other than a sentinel

1 or look-out, who is found drunk on duty, shall be punished
2 as a court-martial may direct.

3 ART. 113. Misbehavior of sentinel.

4 Any sentinel or look-out who is found drunk or sleeping
5 upon his post, or leaves it before he is regularly relieved,
6 shall be punished, if the offense is committed in time of war,
7 by death or such other punishment as a court-martial may
8 direct, but if the offense is committed at any other time, by
9 such punishment other than death as a court-martial may
10 direct.

11 ART. 114. Dueling.

12 Any person subject to this code who fights or pro-
13 motes, or is concerned in or connives at fighting a duel,
14 or who, having knowledge of a challenge sent or about to
15 be sent, fails to report the fact promptly to the proper au-
16 thority, shall be punished as a court-martial may direct.

17 ART. 115. Malingering.

18 Any person subject to this code who for the purpose of
19 avoiding work, duty, or service—

20 (1) feigns illness, physical disablement, mental
21 lapse or derangement; or

22 (2) intentionally inflicts self-injury;
23 shall be punished as a court-martial may direct.

24 ART. 116. Riot or breach of peace.

25 Any person subject to this code who causes or partici-

1 pates in any riot or breach of the peace shall be punished
2 as a court-martial may direct.

3 ART. 117. Provoking speeches or gestures.

4 Any person subject to this code who uses provoking or
5 reproachful words or gestures towards any other person sub-
6 ject to this code shall be punished as a court-martial may
7 direct.

8 ART. 118. Murder.

9 Any person subject to this code who, without justifica-
10 tion or excuse, kills a human being, when he—

11 (1) has a premeditated design to kill; or

12 (2) intends to kill or inflict great bodily harm; or

13 (3) is engaged in an act which is inherently dan-
14 gerous to others and evinces a wanton disregard of
15 human life; or

16 (4) is engaged in the perpetration or attempted
17 perpetration of burglary, sodomy, rape, robbery, or ag-
18 gravated arson, though he has no intent to kill;

19 is guilty of murder, and shall suffer such punishment as a
20 court-martial may direct, except that if found guilty under
21 paragraph (1) of this article, he shall suffer death or
22 imprisonment for life as a court-martial may direct.

23 ART. 119. Manslaughter.

24 Any person subject to this code who, without a design
25 to effect death, kills a human being—

1 (1) in the heat of sudden passion; or
2 (2) by culpable negligence; or
3 (3) while perpetrating or attempting to perpetrate
4 an offense, other than those specified in paragraph (4)
5 of article 118, directly affecting the person;
6 is guilty of manslaughter and shall be punished as a court
7 martial may direct.

8 ART. 120. Rape.

9 (a) Any person subject to this code who commits an
10 act of sexual intercourse with a female not his wife, by force
11 and without her consent, is guilty of rape. Penetration,
12 however slight, is sufficient to complete the offense.

13 (b) Any person found guilty of rape shall be punished
14 by death or such other punishment as a court-martial may
15 direct.

16 ART. 121. Larceny.

17 Any person subject to this code who, with intent to de-
18 prive or defraud another of the use and benefit of property
19 or to appropriate the same to his own use or the use of any
20 person other than the true owner, wrongfully takes, obtains,
21 or withholds, by any means whatever, from the possession
22 of the true owner or of any other person any money, per-
23 sonal property, or article of value of any kind, steals such

1 property and is guilty of larceny, and shall be punished as
2 a court-martial may direct.

3 ART. 122. Robbery.

4 Any person subject to this code who with intent to
5 steal takes anything of value from the person or in the
6 presence of another, against his will; by means of force or
7 violence or fear of immediate or future injury to his person
8 or property or the person or property of a relative or mem-
9 ber or his family or of anyone in his company at the time
10 of the robbery, is guilty of robbery and shall be punished
11 as a court-martial may direct.

12 ART. 123. Forgery.

13 Any person subject to this code who, with intent to
14 defraud—

15 (1) falsely makes or alters any signature to, or any
16 part of, any writing which would, if genuine, apparently
17 impose a legal liability on another or change his legal
18 right or liability to his prejudice; or

19 (2) utters, offers, issues, or transfers such a writing,
20 known by him to be so made or altered;

21 is guilty of forgery and shall be punished as a court-martial
22 may direct.

23 ART. 124. Maiming.

24 Any person subject to this code who, with intent to

1 injure, disfigure, or disable, inflicts upon the person of an-
2 other an injury which—

3 (1) seriously disfigures his person by any mutila-
4 tion thereof; or

5 (2) destroys or disables any member or organ of
6 his body; or

7 (3) seriously diminishes his physical vigor by the
8 injury of any member or-organ;

9 is guilty of maiming and shall be punished as a court-martial
10 may direct.

11 ART. 125. Sodomy.

12 (a) Any person subject to this code who engages in
13 unnatural carnal copulation with another of the same or
14 opposite sex or with an animal is guilty of sodomy. Pene-
15 tration, however slight, is sufficient to complete the offense.

16 (b) Any person found guilty of sodomy shall be pun-
17 ished as a court-martial may direct.

18 ART. 126. Arson.

19 (a) Any person subject to this code who willfully and
20 maliciously burns or sets on fire a dwelling in which there is
21 at the time a human being, or any other structure, water
22 craft, or movable, wherein to the knowledge of the offender
23 there is at the time a human being, is guilty of aggravated
24 arson and shall be punished as a court-martial may direct.

25 (b) Any person subject to this code who willfully and

1 maliciously burns or sets fire to the property of another,
2 except as provided in subdivision (a) of this article, is
3 guilty of simple arson and shall be punished as a court-
4 martial may direct.

5 ART. 127. Extortion.

6 Any person subject to this code who communicates
7 threats to another with the intention thereby to obtain any-
8 thing of value or any acquittance, advantage, or immunity of
9 any description is guilty of extortion and shall be punished as
10 a court-martial may direct.

11 ART. 128. Assault.

12 (a) Any person subject to this code who attempts or
13 offers with unlawful force or violence to do bodily harm to
14 another person, whether or not the attempt or offer is con-
15 summated, is guilty of assault and shall be punished as a
16 court-martial may direct.

17 (b) Any person subject to this code who—

18 (1) commits an assault with a dangerous weapon
19 or other means or force likely to produce death or
20 grievous bodily harm; or

21 (2) commits an assault and intentionally inflicts
22 grievous bodily harm with or without a weapon;
23 is guilty of aggravated assault and shall be punished as a
24 court-martial may direct.

25 ART. 129. Burglary.

1 Any person subject to this code who, with intent to
2 commit an offense punishable under articles 118 through
3 128 inclusive, breaks and enters, in the nighttime, the
4 dwelling house of another, is guilty of burglary and shall
5 be punished as a court-martial may direct.

6 ART. 130. Housebreaking.

7 Any person subject to this code who unlawfully enters
8 the building or structure of another with intent to commit a
9 criminal offense therein is guilty of housebreaking and shall
10 be punished as a court-martial may direct.

11 ART. 131. Perjury.

12 Any person subject to this code who in a judicial pro-
13 ceeding or course of justice willfully and corruptly gives,
14 upon a lawful oath or in any form allowed by law to be
15 substituted for an oath, any false testimony material to the
16 issue or matter of inquiry is guilty of perjury and shall be
17 punished as a court-martial may direct.

18 ART. 132. Frauds against the Government.

19 Any person subject to this code—

20 (1) who, knowing it to be false or fraudulent—

21 (A) makes any claim against the United
22 States or any officer thereof; or

23 (B) presents to any person in the civil or
24 military service thereof, for approval or payment,

1 any claim against the United States or any officer
2 thereof; or

3 (2) who, for the purpose of obtaining the approval,
4 allowance, or payment of any claim against the United
5 States or any officer thereof—

6 (A) makes or uses any writing or other paper
7 knowing the same to contain any false or fraud-
8 ulent statements;

9 (B) makes any oath to any fact or to any
10 writing or other paper knowing such oath to be
11 false; or

12 (C) forges or counterfeits any signature upon
13 any writing or other paper, or uses any such signa-
14 ture knowing the same to be forged or counter-
15 feited; or

16 (3) who, having charge, possession, custody, or
17 control of any money or other property of the United
18 States, furnished or intended for the armed forces there-
19 of, knowingly delivers to any person having authority
20 to receive the same, any amount thereof less than that
21 for which he receives a certificate or receipt; or

22 (4) who, being authorized to make or deliver any
23 paper certifying the receipt of any property of the
24 United States furnished or intended for the armed forces
25 thereof, makes or delivers to any person such writing

1 without having full knowledge of the truth of the state-
2 ments therein contained and with intent to defraud the
3 United States;

4 shall, upon conviction, be punished as a court-martial may
5 direct.

6 ART. 133. Conduct unbecoming an officer and gentleman.

7 Any officer, cadet, or midshipman who is convicted of
8 conduct unbecoming an officer and a gentleman shall be
9 dismissed from the armed forces.

10 ART. 134. General article.

11 Though not specifically mentioned in this code, all
12 disorders and neglects to the prejudice of good order and
13 discipline in the armed forces, all conduct of a nature to
14 bring discredit upon the armed forces, and crimes and
15 offenses not capital, of which persons subject to this code
16 may be guilty, shall be taken cognizance of by a general
17 or special or summary court-martial, according to the na-
18 ture and degree of the offense, and punished at the discre-
19 tion of such court.

20 PART XI—MISCELLANEOUS PROVISIONS

Article

135. Courts of inquiry.

136. Authority to administer oaths and to act as notary.

137. Articles to be explained.

138. Complaints of wrongs.

139. Redress of injuries to property.

140. Delegation by the President.

1 ART. 135. Courts of inquiry.

2 (a) Courts of inquiry to investigate any matter may
3 be convened by any person authorized to convene a general
4 court-martial or by any other person designated by the
5 Secretary of a Department for that purpose whether or
6 not the persons involved have requested such an inquiry.

7 (b) A court of inquiry shall consist of three or more
8 officers. For each court of inquiry the convening authority
9 shall also appoint counsel for the court.

10 (c) Any person subject to this code whose conduct is
11 subject to inquiry shall be designated as a party. Any
12 person subject to this code or employed by the National
13 Military Establishment who has a direct interest in the sub-
14 ject of inquiry shall have the right to be designated as a
15 party upon request to the court. Any person designated as
16 a party shall be given due notice and shall have the right
17 to be present, to be represented by counsel, to cross-examine
18 witnesses, and to introduce evidence.

19 (d) Members of a court of inquiry may be challenged
20 by a party, but only for cause stated to the court.

21 (e) The members, counsel, the reporter, and inter-
22 preters of courts of inquiry shall take an oath or affirmation
23 to faithfully perform their duties.

24 (f) Witnesses may be summoned to appear and testify

1 and be examined before courts of inquiry as provided for
2 courts-martial.

3 (g) Courts of inquiry shall make findings of fact but
4 shall not express opinions or make recommendations unless
5 required to do so by the convening authority.

6 (h) Each court of inquiry shall keep a record of its
7 proceedings, which shall be authenticated by the signatures
8 of the president and counsel for the court and forwarded to
9 the convening authority. In case the record cannot be
10 authenticated by the president it shall be signed by a mem-
11 ber in lieu of the president and in case the record cannot be
12 authenticated by the counsel for the court it shall be signed
13 by a member in lieu of the counsel.

14 ART. 136. Authority to administer oaths and to act as notary.

15 (a) The following persons on active duty in the armed
16 forces shall have authority to administer oaths for the pur-
17 poses of military administration, including military justice,
18 and shall have the general powers of a notary public and
19 of a consul of the United States, in the performance of all
20 notarial acts to be executed by members of any of the
21 armed forces, wherever they may be, and by other persons
22 subject to this code outside the continental limits of the
23 United States:

1 (1) All judge advocates of the Army and Air
2 Force;

3 (2) All law specialists;

4 (3) All summary courts-martial;

5 (4) All adjutants, assistant adjutants, acting ad-
6 jutants, and personnel adjutants;

7 (5) All commanding officers of the Navy and
8 Coast Guard;

9 (6) All staff judge advocates and legal officers,
10 and acting or assistant staff judge advocates and legal
11 officers; and

12 (7) All other persons designated by regulations
13 of the armed forces or by statute.

14 (b) The following persons on active duty in the armed
15 forces shall have authority to administer oaths necessary in
16 the performance of their duties:

17 (1) The president, law officer, trial counsel, and
18 assistant trial counsel for all general and special courts-
19 martial;

20 (2) The president and the counsel for the court of
21 any court of inquiry;

22 (3) All officers designated to take a deposition;

23 (4) All persons detailed to conduct an investi-
24 gation;

25 (5) All recruiting officers; and

1 (6) All other persons designated by regulations of
2 the armed forces or by statute.

3 (c) No fee of any character shall be paid to or received
4 by any person for the performance of any notarial act herein
5 authorized.

6 (d) The signature without seal of any such person
7 acting as notary, together with the title of his office, shall
8 be prima facie evidence of his authority.

9 ART. 137. Articles to be explained.

10 Articles 2, 3, 7 through 15, 25, 27, 31, 37, 38, 55, 77
11 through 134, and 137 through 139 of this code shall be
12 carefully explained to every enlisted person at the time of
13 his entrance on active duty in any of the armed forces of the
14 United States, or within six days thereafter. They shall be
15 explained again after he has completed six months of active
16 duty, and again at the time he reenlists. A complete text of
17 the Uniform Code of Military Justice and of the regulations
18 prescribed by the President thereunder shall be made avail-
19 able to any person on active duty in the armed forces of the
20 United States, upon his request, for his personal examination.

21 ART. 138. Complaints of wrongs.

22 Any member of the armed forces who believes himself
23 wronged by his commanding officer, and, upon due applica-
24 tion to such commander, is refused redress, may complain to
25 any superior officer who shall forward the complaint to the

1 officer exercising general court-martial jurisdiction over the
2 officer against whom it is made. That officer shall examine
3 into said complaint and take proper measures for redressing
4 the wrong complained of; and he shall, as soon as possible,
5 transmit to the Department concerned a true statement of
6 such complaint, with the proceedings had thereon.

7 ART. 139. Redress of injuries to property.

8 (a) Whenever complaint is made to any commanding
9 officer that willful damage has been done to the property
10 of any person or that his property has been wrongfully
11 taken by members of the armed forces he may, subject to
12 such regulations as the Secretary of the Department may
13 prescribe, convene a board to investigate the complaint.
14 The board shall consist of from one to three officers and
15 shall have, for the purpose of such investigation, power to
16 summon witnesses and examine them upon oath or affirma-
17 tion, to receive depositions or other documentary evidence,
18 and to assess the damages sustained against the responsible
19 parties. The assessment of damages made by such board
20 shall be subject to the approval of the commanding officer,
21 and in the amount approved by him shall be charged against
22 the pay of the offenders. The order of such commanding
23 officer directing charges herein authorized shall be conclusive
24 on any disbursing officer for the payment by him to the
25 injured parties of the damages so assessed and approved.

1 (b) Where the offenders cannot be ascertained, but
2 the organization or detachment to which they belong is
3 known, charges totaling the amount of damages assessed
4 and approved may be made in such proportion as may be
5 deemed just upon the individual members thereof who are
6 shown to have been present at the scene at the time the
7 damages complained of were inflicted, as determined by the
8 approved findings of the board.

9 ART. 140. Delegation by the President.

10 The President is authorized to delegate any authority
11 vested in him under this code, and to provide for the
12 subdelegation of any such authority.

13 SEC. 2. If any article or part thereof, as set out in sec-
14 tion 1 of this Act, shall be held invalid, the remainder shall
15 not be affected thereby.

16 SEC. 3. No inference of a legislative construction is to
17 be drawn by reason of the part in which any article is placed
18 nor by reason of the catch lines of the part or the article
19 as set out in section 1 of this Act.

20 SEC. 4. All offenses committed and all penalties, for-
21 feitures, fines, or liabilities incurred prior to the effective date
22 of this Act under any law embraced in or modified, changed,
23 or repealed by this Act may be prosecuted, punished, and en-
24 forced, and action thereon may be completed, in the same

1 manner and with the same effect as if this Act had not been
2 passed.

3 SEC. 5. This Act shall become effective on the last day
4 of the twelfth calendar month after approval of this Act, or
5 on July 1, 1950, whichever date is later.

6 SEC. 6. Articles of War 107, 108, 112, 113, 119, and
7 120 (41 Stat. 809, 810, 811), as amended are further
8 amended as follows:

9 (a) Delete from article 107, the words "Article 107."

10 (b) Delete from article 108, the words "Article 108."

11 (c) Delete from article 112, the words "Article 112."

12 (d) Delete from article 113, the words "Article 113."

13 (e) Delete from article 119, the words "Article 119."

14 (f) Delete from article 120, the words "Article 120."

15 These provisions as amended herein shall be construed
16 to have the same force, effect, and applicability as they now
17 have, but shall not be known as "Articles of War".

18 SEC. 7. (a) AUTHORITY OF NAVAL OFFICERS AFTER
19 LOSS OF VESSEL.—When the crew of any naval vessel or air-
20 craft are separated from their vessel or aircraft by means of
21 its wreck, loss, or destruction, all the command and authority
22 given to the officer of such vessel or aircraft shall remain in
23 full force until such crew shall be regularly discharged or
24 reassigned by competent authority.

1 (b) AUTHORITY OF OFFICERS OF SEPARATE ORGANI-
2 ZATION OF MARINES.—When a force of marines is embarked
3 on a naval vessel or vessels, as a separate organization, not
4 a part of the authorized complement thereof, the authority
5 and powers of the officers of such separate organizations of
6 marines shall be the same as though such organization were
7 serving at a naval station on shore, but nothing herein shall
8 be construed as impairing the paramount authority of the
9 commanding officer of any vessel over the vessel under his
10 command and all persons embarked thereon.

11 (c) COMMANDERS' DUTIES OF EXAMPLE AND CORREC-
12 TION.—All commanding officers and others in authority in
13 the naval service are required to show in themselves a good
14 example of virtue, honor, patriotism, and subordination; to
15 be vigilant in inspecting the conduct of all persons who are
16 placed under their command; to guard against and suppress
17 all dissolute and immoral practices, and to correct, accord-
18 ing to the laws and regulations of the Navy, all persons
19 who are guilty of them; and to take all necessary and proper
20 measures, under the laws, regulations and customs of the
21 naval service, to promote and safeguard the morale, the phy-
22 sical well-being, and the general welfare of the officers and
23 enlisted persons under their command or charge.

24 (d) DIVINE SERVICE.—The commanders of vessels and

1 naval activities to which chaplains are attached shall cause
2 divine service to be performed on Sunday, whenever the
3 weather and other circumstances allow it to be done; and it
4 is earnestly recommended to all officers, seamen, and others
5 in the naval service diligently to attend at every performance
6 of the worship of Almighty God.

7 (e) REVERENT BEHAVIOR.—All persons in the Navy
8 are enjoined to behave themselves in a reverent and becom-
9 ing manner during divine service.

10 OATH OF ENLISTMENT

11 SEC. 8. Every person who is enlisted in any armed
12 force shall take the following oath or affirmation at the time
13 of his enlistment: "I, -----, do solemnly swear (or
14 affirm) that I will bear true faith and allegiance to the
15 United States of America; that I will serve them honestly
16 and faithfully against all their enemies whomsoever; and
17 that I will obey the orders of the President of the United
18 States and the orders of the officers appointed over me,
19 according to regulations and the Uniform Code of Military
20 Justice." This oath or affirmation may be taken before
21 any officer.

22 REMOVAL OF CIVIL SUITS

23 SEC. 9. When any civil or criminal prosecution is com-
24 menced in any court of a State of the United States against
25 any member of the armed forces of the United States on

1 account of any act done under color of his office or status,
2 or in respect to which he claims any right, title, or authority
3 under any law of the United States respecting the armed
4 forces thereof, or under the law of war, such suit or prosecu-
5 tion may at any time before the trial or final hearing thereof
6 be removed for trial into the district court of the United
7 States in the district where the same is pending in the man-
8 ner prescribed by law, and the cause shall thereupon be en-
9 tered on the docket of such district court, which shall proceed
10 as if the cause had been originally commenced therein and
11 shall have full power to hear and determine said cause.

12 DISMISSAL OF OFFICERS

13 SEC. 10. No officer shall be dismissed from any of the
14 armed forces except by sentence of a general court-martial,
15 or in commutation thereof, or, in time of war, by order of the
16 President; but the President may at any time drop from the
17 rolls of any armed force any officer who has been absent with-
18 out authority from his place of duty for a period of three
19 months or more, or who, having been found guilty by the
20 civil authorities of any offense, is finally sentenced to con-
21 finement in a Federal or State penitentiary or correctional
22 institution.

23 SEC. 11. The proviso of section 3 of the Act of April

1 9, 1906 (34 Stat. 104, ch. 1370), is amended to read
2 as follows:

3 *“Provided, That such midshipman shall not be confined*
4 *in a military or naval prison or elsewhere with men who*
5 *have been convicted of crimes or misdemeanors; and such*
6 *finding and sentence shall be subject to review in the manner*
7 *prescribed for general court-martial cases.”*

8 SEC. 12. The following sections or parts thereof of the
9 Revised Statutes or Statutes at Large are hereby repealed.
10 Any rights or liabilities existing under such sections or parts
11 thereof prior to the effective date of this Act shall not be
12 affected by this repeal, and this Act shall not be effective
13 to authorize trial or punishment for any offense if such trial
14 or punishment is barred by the provisions of existing law:

15 (a) Chapter II of the Act of June 4, 1920 (41 Stat.
16 759, 787-811, ch. 227), as amended, except Articles of
17 War 107, 108, 112, 113, 119, and 120;

18 (b) Revised Statutes, 1228 through 1230;

19 (c) Act of January 19, 1911 (36 Stat. 894, ch. 22);

20 (d) Paragraph 2 of section 2 of the Act of March 4,
21 1915 (38 Stat. 1062, 1084, ch. 143);

22 (e) Revised Statutes 1441, 1621, and 1624, articles
23 1 through 14 and 16 through 63, as amended;

24 (f) The provision of section 1457, Revised Statutes,
25 which subjects officers retired from active service to the rules

1 and articles for the government of the Navy and to trial by
2 general court-martial;

3 (g) Section 2 of the Act of June 22, 1874 (18 Stat.
4 191, 192, ch. 392) ;

5 (h) The provision of the Act of March 3, 1893 (27
6 Stat. 715, 716, ch. 212), under the heading "Pay, Miscel-
7 laneous", relating to the punishment for fraudulent enlistment
8 and receipt of any pay or allowances thereunder;

9 (i) Act of January 25, 1895 (28 Stat. 639, ch. 45) , as
10 amended;

11 (j) Provisions contained in the Act of March 2, 1895
12 (28 Stat. 825, 838, ch. 186) , as amended, under the head-
13 ing "Naval Academy", relating to the power of the Secre-
14 tary of the Navy to convene general courts-martial for the
15 trial of naval cadets (title changed to "midshipmen" by Act
16 of July 1, 1902, 32 Stat. 662, 686, ch. 1368) , his power
17 to approve proceedings and execute sentences of such courts-
18 martial, and the exceptional provision relating to approval,
19 confirmation, and carrying into effect of sentences of suspen-
20 sion and dismissal;

21 (k) Sections 1 through 12 and 15 through 17 of the
22 Act of February 16, 1909 (35 Stat. 621, 623, ch. 131) ;

23 (l) The provision of the Act of August 29, 1916 (39
24 Stat. 556, 573, ch. 417) , under the heading "Hospital
25 Corps", making officers and enlisted men of the Medical

1 Department of the Navy who are serving with a body of
2 marines detached for service with the Army subject to the
3 rules and Articles of War while so serving;

4 (m) The provisions in the Act of August 29, 1916 (39
5 Stat. 556, 586, ch. 417), under the heading "Adminis-
6 tration of Justice";

7 (n) Act of October 6, 1917 (40 Stat. 393, ch. 93);

8 (o) Act of April 2, 1918 (40 Stat. 501, ch. 39);

9 (p) Act of April 25, 1935 (49 Stat. 161, ch. 81);

10 (q) The third proviso of section 6, title I, of the Naval
11 Reserve Act of 1938 (52 Stat. 1175, 1176, ch. 690);

12 (r) Section 301, title III, of the Naval Reserve Act of
13 1938 (52 Stat. 1175, 1180, ch. 690);

14 (s) Act of March 22, 1943 (57 Stat. 41, ch. 18);

15 (t) Act of April 9, 1943 (57 Stat. 58, ch. 36);

16 (u) Sections 2, 3, 4, 6 and 7 of the Act of May 26,
17 1906 (34 Stat. 200, 201, ch. 2556);

18 (v) The provision of the Act of June 5, 1920 (41 Stat.
19 874, 880, ch. 235), under the heading "Coast Guard",
20 authorizing the trial of enlisted men in the Coast Guard by
21 deck courts.