

Statement of
SECRETARY OF DEFENSE JAMES FORRESTAL

Before The
House Committee on Armed Services
Monday, March 7, 1949

H. R. 2498

In various recent statements and in my report to the President and the Congress covering the first fifteen months of the existence of the National Military Establishment, I have described the more important steps that have been undertaken and the accomplishments which have been achieved.

From the outset, the unification of the court-martial procedures of the Army, Navy and Air Force has had a high priority in the National Military Establishment because it is a field in which unification is logical and particularly desirable.

We have discovered, in studying many of the fields in which the military establishment operates, that unification requires careful, painstaking study. Major problems of complexity cannot be solved and unification achieved at the stroke of a pen. Unifying the Army and Navy court-martial procedures was no exception. It required concentrated hard work and was a most difficult job.

As you know, the Articles of War and the Articles for

the Government of the Navy stem from laws adopted early in the history of this country. From the beginning, the Articles were marked by basic differences and their growth over the years reflected the varying customs of the Services. As a result, the special committee which undertook to draft the Uniform Code of Military Justice early last summer found differences in nomenclature, organization, function and procedure between the Articles of War and the Articles for the Government of the Navy.

While I am far from being an expert in the field, I must admit that when the project started I was sure that the committee would find a considerable number of areas which were not susceptible to uniform treatment. It is extremely gratifying that the committee reduced those areas to the vanishing point, and we now have submitted to you a proposed Code which can be uniformly applicable to all the armed forces in time of peace and war.

Another problem faced by the committee was to devise a Code which would insure the maximum amount of justice within the framework of a military organization. I am aware of the number of criticisms which have been levelled against the court-martial system over the years. I do not believe it is as bad as it has been painted, nor as good as some of its defenders claim. Many of the criticisms have seemed to me to be without foundation, but many of them have seemed to me to be justified. The point of proper accommodation between the meting out of justice and the

performance of military operations - which involves not only the fighting, but also the winning of wars - is one which no one has discovered. I don't know of any expert on the subject - military or civilian - who can be said to have the perfect solution. Suffice it to say, we are striving for maximum military performance and maximum justice. I believe the proposed Code is the nearest approach to those ideals.

Great credit is, therefore, due to the Army, the Navy and the Air Force and the members of the committee who represented them - Assistant Secretary Gordon Gray of the Army, Under Secretary John Kenney of the Navy, and Assistant Secretary Eugene Zuckert of the Air Force. Professor Edmund M. Morgan of the Harvard University Law School acted as chairman, and under his leadership a remarkable degree of unanimity was achieved within the committee. I say "remarkable" because, in view of the kind and number of problems before them, they were divided on only three issues. These issues were submitted to me and the proposed Code incorporates my decisions on them. Two other provisions have been incorporated at the request of the Bureau of the Budget.

A project of this kind of necessity represents the combined views of a number of people, and each and every participant partially compromised his views on a number of points. Therefore, the proposed Code is not the product of one person,

nor would it have all its present provisions if written by one person or by one Department. The Army, the Navy, the Air Force, the Coast Guard, Professor Morgan and I each support the many individual provisions with varying shades of enthusiasm, but the committee agreed on all points, except to the extent I have mentioned.

For this reason, I think the proposed Code should be analyzed as an integrated whole. On that basis, it is my opinion that the Code as set forth in H. R. 2498 is well-designed to protect the rights of those subject to it and to afford more equal and uniform justice to the members of all the armed forces. I believe it does not interfere with appropriate military functions. Since it has these characteristics, I strongly urge your favorable consideration.

As you know, I am not a lawyer and so will not attempt to explain to you the details of the proposed Code. Professor Morgan has agreed to take up that burden on my behalf, and Mr. Felix Larkin of my staff can supply you with the technical information you may need. If you desire testimony from the members of the committee, from the Judge Advocates General, or from anyone else in the National Military Establishment, they are available at your call.

Without taking more of your time, I would like to conclude my remarks and introduce Professor Morgan who, as I have said, was the extremely able chairman of the committee which drafted the proposed Code.