

80TH CONGRESS  
1st Session

S. 1338

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**A BILL**

To amend the Articles for the Government of  
the Navy to improve the administration of  
naval justice.

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By Mr. GURNEY

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MAY 26 (legislative day, APRIL 21), 1947

Read twice and referred to the Committee on  
Armed Services

80TH CONGRESS  
1ST SESSION

3 (18)  
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IN THE SENATE OF THE UNITED STATES

MAY 26 (legislative day, APRIL 21), 1947

Mr. GURNEY (by request) introduced the following bill; which was read twice  
and referred to the Committee on Armed Services

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**A BILL**

To amend the Articles for the Government of the Navy to  
improve the administration of naval 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 the Articles for the Government of the Navy (Revised  
4 Statutes, section 1624, as amended) are hereby amended as  
5 follows:

6 Article 1 is amended to read as follows:

7 "ART. 1. The commanders of all fleets, squadrons, naval  
8 stations, vessels, and aircraft belonging to the Navy, are re-  
9 quired to show in themselves a good example of virtue, honor,  
10 patriotism, and subordination; to be vigilant in inspecting the  
11 conduct of all persons who are placed under their command;



1 to guard against and suppress all dissolute and immoral prac-  
2 tices, and to correct, according to the laws and regulations of  
3 the Navy, all persons who are guilty of them.”

4 SEC. 2. Article 3 is repealed.

5 SEC. 3. Article 4 is renumbered as article 8 and amended  
6 as follows:

7 “ART. 8. The punishment of death, or such other punish-  
8 ment as a court martial may adjudge, may be inflicted on  
9 any person subject to the Articles for the Government of the  
10 Navy—

11 “First. Who makes, or attempts to make, or unites with  
12 any mutiny or mutinous assembly, or, being witness to or  
13 present at any mutiny, does not do his utmost to suppress it;  
14 or knowing of any mutinous assembly or of any intended  
15 mutiny, does not immediately communicate his knowledge  
16 to his superior or commanding officer;

17 “Second. Or gives any intelligence to, or holds or enter-  
18 tains any intercourse with, an enemy or rebel, without leave  
19 from the President, the Secretary of the Navy, the com-  
20 mander in chief of the fleet, the commander of the squadron,  
21 or, in case of a vessel or aircraft acting singly, from his com-  
22 manding officer;

23 “Third. Or, in time of war, deserts or entices others to  
24 desert;

1       “Fourth. Or, in time of war, deserts or betrays his trust,  
2 or entices or aids others to desert or betray their trust;

3       “Fifth. Or sleeps upon his watch;

4       “Sixth. Or intentionally or willfully suffers any vessel  
5 or aircraft of the Navy to be stranded, or run upon rocks or  
6 shoals, or improperly hazarded; or maliciously or willfully  
7 injures any vessel or aircraft of the Navy, or any part of its  
8 tackle, armament, or equipment, whereby the safety of the  
9 vessel or aircraft is hazarded or the lives of the crew or  
10 passengers exposed to danger;

11       “Seventh. Or strikes or attempts to strike the flag to an  
12 enemy or rebel, without proper authority, or, when engaged  
13 in battle, treacherously yields or pusillanimously cries for  
14 quarter;

15       “Eighth. Or, in time of battle, displays cowardice, negli-  
16 gence, or disaffection, or withdraws from or keeps out of  
17 danger to which he should expose himself;

18       “Ninth. Or, in time of battle, deserts his duty or station,  
19 or entices others to do so;

20       “Tenth. Or does not properly observe the orders of his  
21 commanding officer, and use his utmost exertion to carry  
22 them into execution, when ordered to prepare for or join in,  
23 or when actually engaged in, battle, or while in sight of an  
24 enemy;

1 "Eleventh. Or, being in command of a fleet, group of  
2 vessels or aircraft, or vessel or aircraft acting singly, neglects,  
3 when an engagement is probable, or when an armed vessel  
4 or aircraft of an enemy or rebel is in sight, to prepare his  
5 ship or ships or aircraft for action;

6 "Twelfth. Or does not use his utmost exertions to join in  
7 battle, when so ordered;

8 "Thirteenth. Or fails to encourage, in his own person,  
9 his inferior officers and men to fight courageously;

10 "Fourteenth. Or does not do his utmost to overtake and  
11 capture or destroy any vessel or aircraft which it is his duty  
12 to encounter;

13 "Fifteenth. Or does not afford all practicable relief and  
14 assistance to vessels or aircraft belonging to the United States  
15 or its allies, when engaged in battle;

16 "Sixteenth. Or, in time of war, or of rebellion against  
17 the supreme authority of the United States, comes or is  
18 found in the capacity of a spy or saboteur, or who brings  
19 or delivers any seducing letter or message from an enemy  
20 or rebel, or endeavors to corrupt any person subject to these  
21 Articles to betray his trust;

22 "Seventeenth. Or violates any law or treaty or conven-  
23 tion incorporated under article 5 (e) (First), (Second), or  
24 (Fifth) of these Articles, the violation of which is, by such  
25 law or treaty or convention, punishable by death."

1       SEC. 4. Articles 5 and 6 are repealed.

2       SEC. 5. Article 7 is renumbered as article 32.

3       SEC. 6. Article 8 is repealed.

4       SEC. 7. Article 9 is renumbered as article 10 and  
5 amended by deleting therefrom the words "leave" and  
6 "ordinary seaman" and substituting therefor the words  
7 "authority" and "seaman, second class", respectively.

8       SEC. 8. Articles 10 and 11 are renumbered as articles  
9 11 and 12, respectively.

10       SEC. 9. Article 12 is repealed.

11       SEC. 10. Article 13 is amended to read as follows:

12       "ART. 13. Distilled spirits shall be admitted on board  
13 naval vessels or aircraft only upon the order and under the  
14 control of the commanding officers of such vessels or aircraft,  
15 and to be used only for nonbeverage purposes."

16       SEC. 11. Article 14 is renumbered as article 9 and  
17 amended to read as follows:

18       "ART. 9. Such punishment other than death as a court  
19 martial may adjudge may be inflicted upon any person  
20 subject to the Articles for the Government of the Navy—

21       "First. Who presents or causes to be presented to any  
22 person in the civil, military, or naval service of the United  
23 States, for approval or payment, any claim against the  
24 United States or any officer thereof, knowing such claim to  
25 be false or fraudulent;

1       “Second. Or enters into any agreement or conspiracy  
2 to defraud the United States by obtaining, or aiding others  
3 to obtain, the allowance or payment of any false or fraudu-  
4 lent claim;

5       “Third. Or, for the purpose of obtaining, or aiding  
6 others to obtain, the approval, allowance, or payment of any  
7 claim against the United States or against any officer thereof,  
8 makes or uses, or procures or advises the making or use of,  
9 any writing, or other paper, knowing the same to contain  
10 any false or fraudulent statement;

11       “Fourth. Or, for the purpose of obtaining, or aiding others  
12 to obtain, the approval, allowance, or payment of any claim  
13 against the United States or any officer thereof, makes, or  
14 procures or advises the making of, any oath to any fact or  
15 to any writing or other paper, knowing such oath to be false;

16       “Fifth. Or, for the purpose of obtaining, or aiding others  
17 to obtain, the approval, allowances, or payment of any claim  
18 against the United States or any officer thereof, forges or  
19 counterfeits, or procures or advises the forging or counter-  
20 feiting of, any signature upon any writing or other paper,  
21 or uses, or procures or advises the use of, any such signa-  
22 ture, knowing the same to be forged or counterfeited;

23       “Sixth. Or having charge, possession, custody, or con-  
24 trol of any money or other property of the United States,  
25 furnished or intended for the naval service thereof, knowingly

1 delivers, or causes to be delivered, to any person having  
2 authority to receive the same, any amount thereof less than  
3 that for which he receives a certificate or receipt;

4       “Seventh. Or, being authorized to make or deliver any  
5 paper certifying the receipt of any money or other property  
6 of the United States, furnished or intended for the naval  
7 service thereof, makes, or delivers to any person, such  
8 writing, without having full knowledge of the truth of the  
9 statements therein contained, and with intent to defraud the  
10 United States;

11       “Eighth. Or steals, embezzles, knowingly and willfully  
12 misappropriates, applies to his own use or benefit, or wrong-  
13 fully and knowingly sells or disposes of any ordnance, arms,  
14 equipments, ammunition, clothing, subsistence stores, money,  
15 or other property of the United States, furnished or intended  
16 for the military or naval service thereof;

17       “Ninth. Or knowingly purchases, or receives in pledge  
18 for any obligation or indebtedness, from any other person  
19 who is a part of or employed in the military or naval service,  
20 any ordnance, arms, equipment, ammunition, clothing,  
21 subsistence stores, or other property of the United States,  
22 such other person not having lawful right to sell or pledge  
23 the same;

24       “Tenth. Or executes, attempts, or countenances any  
25 other fraud against the United States;

1 "Eleventh. Or is guilty of profane swearing, falsehood,  
2 or gambling;

3 "Twelfth. Or is guilty of cruelty toward, or oppression  
4 or maltreatment of, any person subject to his orders;

5 "Thirteenth. Or uses provoking or reproachful words or  
6 gestures toward any person in the naval service, or strikes,  
7 threatens to strike, or assaults any person;

8 "Fourteenth. Or endeavors to foment quarrels between  
9 other persons in the naval service;

10 "Fifteenth. Or sends or accepts a challenge to fight a  
11 duel or acts as a second in a duel;

12 "Sixteenth. Or treats his superior officer with contempt,  
13 or is disrespectful to him in language or deportment, while  
14 such superior officer is in the execution of his office;

15 "Seventeenth. Or joins in or abets any combination to  
16 weaken the lawful authority of, or lessen the respect due to,  
17 his commanding officer;

18 "Eighteenth. Or utters any seditious or mutinous words;

19 "Nineteenth. Or is negligent or careless in obeying  
20 orders, or culpably inefficient in the performance of duty;

21 "Twentieth. Or unlawfully sets on fire, or otherwise un-  
22 lawfully destroys, any public property not at the time in  
23 possession of an enemy, pirate, or rebel, or does not use  
24 his best exertions to prevent the unlawful destruction of  
25 such public property by others;

1       “Twenty-first. Or, through inattention or negligence suf-  
2 fers any vessel or aircraft of the naval service to be  
3 stranded, or run upon a rock or shoal, or hazarded;

4       “Twenty-second. Or, when attached to any vessel ap-  
5 pointed as escort to any merchant or other vessel, fails  
6 diligently to perform his duty, or demands or exacts any  
7 compensation for his services, or maltreats the officers or  
8 crews of such merchant or other vessel;

9       “Twenty-third. Or takes, receives, or permits to be re-  
10 ceived, on board the vessel or aircraft to which he is  
11 attached or assigned, any goods or merchandise, for freight,  
12 sale, or traffic, except gold, silver, or jewels, for freight  
13 or safekeeping; or demands or receives any compensation  
14 for the receipt or transportation of any other article than  
15 gold, silver, or jewels without authority from the President  
16 or Secretary of the Navy;

17       “Twenty-fourth. Or knowingly makes or signs, or aids,  
18 abets, directs, or procures the making or signing of, any false  
19 muster;

20       “Twenty-fifth. Or wastes any ammunition, provisions, or  
21 other public property, or having power to prevent it, know-  
22 ingly permits such waste;

23       “Twenty-sixth. Or, when on shore, plunders, abuses, or  
24 maltreats any inhabitant;

1       “Twenty-seventh. Or refuses, or fails to use, his utmost  
2 exertions to detect, apprehend, and bring to punishment all  
3 offenders, or to aid all persons appointed for that purpose;

4       “Twenty-eighth. Or, having a duty to receive or guard  
5 prisoners, refuses to receive such prisoners as may be com-  
6 mitted to his charge, or, having received them, suffers them  
7 to escape, or dismisses them without orders from the proper  
8 authority;

9       “Twenty-ninth. Or is absent without authority from his  
10 place of duty;

11       “Thirtieth. Or violates or refuses obedience to any law-  
12 ful general order or regulation issued by the Secretary of the  
13 Navy;

14       “Thirty-first. Or, in time of peace, deserts or attempts  
15 to desert, or aids and entices others to desert;

16       “Thirty-second. Or receives or entertains any deserter  
17 from the military or naval service, knowing him to be such,  
18 and does not, without delay, give notice of such deserter to  
19 his commanding officer or higher authority in the chain of  
20 command;

21       “Thirty-third. Or unlawfully receives any message or  
22 letter from an enemy or rebel, or, being aware of the un-  
23 lawful reception of such message or letter, fails to take the  
24 earliest opportunity to inform his superior or commanding  
25 officer thereof;

1       “Thirty-fourth. Or fraudulently enlists in the naval  
2 service and receives any pay or allowance thereunder, or  
3 fraudulently obtains his discharge from the naval service;

4       “Thirty-fifth. Or is guilty of any irreverent or unbecom-  
5 ing behavior during divine service;

6       “Thirty-sixth. Or strips off the clothes of, or pillages, or  
7 in any manner maltreats, any person taken on board a prize;

8       “Thirty-seventh. Or takes out of a prize, or vessel or  
9 aircraft seized as a prize, any money, plate, goods, or  
10 any part of the equipment thereof, unless it be for the  
11 better preservation thereof, or unless such articles are  
12 absolutely needed for the use of any of the vessels, air-  
13 craft, or armed forces of the United States or its allies,  
14 before the same is condemned as a lawful prize;

15       “Thirty-eighth. Or, being an officer, knowingly and  
16 without specific authority enlists in the naval service any  
17 person who has deserted in time of war from the naval  
18 or military service of the United States, or any insane or  
19 intoxicated person, or any minor between the ages of fourteen  
20 and eighteen years, without the consent of his parents  
21 or guardian, or any minor under the age of fourteen years;

22       “Thirty-ninth. Or is guilty of forgery, uttering a for-  
23 gery, burglary, housebreaking, seduction, or sodomy or  
24 any other unnatural sexual act;

1       “Fortieth. Or knowingly commits any lascivious or  
2 indecent act, or procures another to do so;

3       “Forty-first. Or embezzles, or willfully or maliciously  
4 injures or destroys, private property not his own;

5       “Forty-second. Or is guilty of extortion or blackmail;

6       “Forty-third. Or obtains any property not his own by  
7 any false pretense, expressed or implied, reasonably calcu-  
8 lated to deceive the person to whom the pretense is made  
9 as to any existing or past fact, knowingly made with intent  
10 to defraud, and with intent permanently to deprive the owner  
11 thereof of said property;

12       “Forty-fourth. Or maliciously publishes any writing, pic-  
13 ture, sign, or other representation which tends to defame any  
14 person in the armed services of the United States, or slanders  
15 or threatens any person in the armed services of the United  
16 States;

17       “Forty-fifth. Or corruptly, or by threat or force, or by  
18 any threatening communication, endeavors to influence, in-  
19 timidate, or impede any witness in any disciplinary proceed-  
20 ing in the naval service, or injures any witness in his person  
21 or property on account of the witness attending or having  
22 attended such disciplinary proceeding, or on account of the  
23 witness testifying or having testified to any matter therein;

24       “Forty-sixth. Or willfully and corruptly takes any false  
25 oath to any material matter, or procures another to do so;

1       “Forty-seventh. Or is contemptuous or disrespectful in  
2 language or deportment to or concerning the President, Vice  
3 President, the Congress of the United States, the Secretary  
4 of the Navy, or the governor or legislature of any State,  
5 Territory, or other possession of the United States in which  
6 he is on duty or present;

7       “Forty-eighth. Or divulges information of a secret or  
8 confidential nature to any person not entitled to receive the  
9 same;

10       “Forty-ninth. Or negligently endangers the life of  
11 another;

12       “Fiftieth. Or resists arrest by or disobeys the lawful  
13 order of proper authority, or breaks arrest, restriction, or  
14 quarantine;

15       “Fifty-first. Or unlawfully detains another person;

16       “Fifty-second. Or uses a vehicle not his own without  
17 authority;

18       “Fifty-third. Or, while under the influence of alcoholic  
19 liquors or narcotic drugs, operates any vehicle;

20       “Fifty-fourth. Or operates any vehicle in a reckless or  
21 wanton manner;

22       “Fifty-fifth. Or is incapacitated for the proper per-  
23 formance of duty by the use of, or previous indulgence in,  
24 alcoholic liquors or narcotic drugs, or by self-injury inflicted  
25 with intent to incapacitate, or by refusing to submit to

1 medical or surgical treatment with intent to remain unfit  
2 for duty;

3 "Fifty-sixth. Or feigns sickness or any physical dis-  
4 ablement or mental lapse or derangement, for the purpose  
5 of escaping work or duty;

6 "Fifty-seventh. Or, without authority, deliberately and  
7 willfully misses his ship or mobile unit;

8 "Fifty-eighth. Or exhibits a deliberate indifference to  
9 his just financial obligations;

10 "Fifty-ninth. Or, in any way other than specifically pro-  
11 vided against herein, being an officer, so seriously offends  
12 against law, justice, morality, or decorum as to expose the  
13 offender, socially as a man or woman, to disgrace, and at  
14 the same time to bring, through the nature of the act or the  
15 circumstances under which it was committed, dishonor or  
16 disrepute upon the naval profession;

17 "Sixtieth. Or fails to comply with or violates any pro-  
18 vision of articles 1, 3, 12 and 13 of these Articles;

19 "Sixty-first. Or is guilty of any disorder or neglect to  
20 the prejudice of good order and discipline or any conduct of  
21 a nature to bring discredit upon the naval service other than  
22 any disorder or neglect or conduct mentioned in these  
23 Articles;

24 "Sixty-second. Or is guilty of an attempt, or of a con-

1    spiracy, or of a solicitation, to commit any offense against  
2    these Articles;

3           “Sixty-third. Or is guilty of any violation which is an  
4    offense against the Articles for the Government of the Navy  
5    under article 5 (d).”

6           SEC. 12. Articles 16, 17, 18, and 19 are repealed.

7           SEC. 13. Article 20 is renumbered as article 3 and  
8    amended to read as follows:

9           “ART. 3. Officers and all others in authority in the naval  
10   service shall take all necessary and proper measures, under  
11   the laws, regulations, and customs of the naval service to  
12   promote and safeguard the morale, the physical well-being,  
13   and the general welfare of the officers and enlisted persons  
14   under their command or charge.”

15          SEC. 14. Article 21 is renumbered as article 4 and  
16   amended to read as follows:

17          “ART. 4. When the crew of any vessel or aircraft of  
18   the United States are separated from their vessel or aircraft  
19   by means of its wreck, loss, or destruction, all the command  
20   and authority given to the officers of such vessel or aircraft  
21   shall remain in full force until such crew shall be regularly  
22   discharged from or ordered again into service, or until a  
23   court martial or court of inquiry shall be held to inquire into  
24   the loss of said vessel or aircraft.”

1        SEC. 15. Articles 22 and 23 are repealed.

2        SEC. 16. Article 24 is renumbered as article 14 and  
3 amended to read as follows:

4        "ART. 14. (a) No commander of a vessel shall inflict  
5 upon a commissioned or warrant officer any other punishment  
6 than private reprimand, suspension from duty, arrest, or  
7 confinement, and such suspension, arrest or confinement shall  
8 not continue longer than ten days unless a further period is  
9 necessary to bring the offender to trial by a court martial;  
10 nor shall he inflict, or cause to be inflicted, upon any enlisted  
11 person, for a single offense, or at any one time, any other  
12 than one of the following punishments, namely:

13        "First. Reduction to the next inferior rank or rating;

14        "Second. Solitary confinement on bread and water not  
15 exceeding five days, to run consecutively;

16        "Third. Confinement not exceeding ten days, to run  
17 consecutively, unless further confinement be necessary, in  
18 the case of a prisoner to be tried by court martial;

19        "Fourth. Deprivation of liberty on shore for a period  
20 not exceeding one month;

21        "Fifth. Extra duties not exceeding one month;

22 No other punishment shall be permitted on board of vessels  
23 belonging to the Navy, except by sentence of a court martial.

24 All punishments inflicted by the commander, or by his order,  
25 except reprimands, shall be fully entered upon the ship's log.

1       “(b) All officers who are empowered to convene  
2 summary courts martial shall have the same authority as  
3 that of a commander of a vessel to inflict punishments for  
4 minor offenses committed by persons regularly or tempo-  
5 rarily under their command: *Provided*, That such officers  
6 may delegate to their subordinate officers on separate or  
7 detached duty the authority to inflict the punishments set  
8 forth in article 14 (a).

9       “(c) As an alternative to a punishment provided for  
10 in this article, loss of pay, not exceeding one-half of one  
11 month's pay, may, in time of war or national emergency or,  
12 when specifically authorized by the Secretary of the Navy,  
13 in time of peace, be inflicted as a punishment, for a single  
14 offense, or at any one time.

15             “(1) upon any officer by an officer having authority  
16 to convene a general court martial for the trial of the  
17 offender,

18             “(2) upon any enlisted person by an officer having  
19 authority to convene a summary court martial for the  
20 trial of the offender:

21 *Provided*, That a full report be made of the infliction under  
22 this article of any punishment involving loss of pay,

23             “(1) to the Secretary of the Navy by the officer  
24 inflicting this punishment upon an officer,

1           “(2) to the next senior officer in the chain of com-  
2           mand by an officer inflicting this punishment upon an  
3           enlisted person.

4           “(d) No officer who may command by accident, or in  
5           the absence of the commanding officer, except when such  
6           commanding officer is absent for a time by leave, shall inflict  
7           any other punishments than confinement or suspension from  
8           duty.

9           SEC. 17. Article 25 is repealed.

10          SEC. 18. Article 26 is renumbered as article 17 and  
11          amended to read as follows:

12          “ART. 17. Commanding officers of naval vessels and such  
13          other officers in command or in charge of naval forces or  
14          activities as may be designated by the Secretary of the  
15          Navy may convene summary courts martial for the trial  
16          of enlisted persons regularly or temporarily under their  
17          command or charge for alleged offenses deemed deserving  
18          of greater punishment than he is authorized to inflict, but  
19          not sufficient to require trial by general court martial.”

20          SEC. 19. Article 27 is renumbered as article 18 and  
21          amended to read as follows:

22          “ART. 18. (a) A summary court martial shall con-  
23          sist of three commissioned officers.

24          “(b) For every summary court martial, the conven-  
25          ing authority shall appoint a prosecutor and a defense

1 counsel, who shall be persons qualified to perform such  
2 duties. This shall not affect the right of the accused to  
3 counsel of his own choice.

4 “(c) It shall be the duty of the prosecutor, under such  
5 rules of practice, pleading, and procedure as the Secretary  
6 of the Navy may prescribe, (1) to summon all witnesses  
7 and (2) to keep the record of proceedings.”

8 SEC. 20. Article 28 is renumbered as article 19 and  
9 amended to read as follows:

10 “ART. 19. The senior member of the summary court  
11 martial shall administer the following oath or affirmation to  
12 the prosecutor: ‘I, A. B., do swear (or affirm) that I will  
13 keep a true record of the evidence which shall be given before  
14 this court and of the proceedings thereof.’ This oath or  
15 affirmation being duly administered, each member of the  
16 court, before proceeding to trial, shall take the following  
17 oath or affirmation, which shall be administered by the  
18 prosecutor: ‘I, A. B., do swear (or affirm) that I will truly  
19 try, without prejudice or partiality, the case(s) now de-  
20 pending, according to the evidence which shall be adduced,  
21 the laws for the government of the Navy, and my own  
22 conscience; and that I will not at any time divulge or dis-  
23 close the vote or opinion of any particular member of the  
24 court, unless required so to do, before a court of justice in  
25 due course of law.’ These oaths shall not be required if

1 the accused was present when such oaths were previously  
2 administered: *Provided*, That the right of an accused to  
3 challenge any member of the court shall not thereby be  
4 prejudiced."

5 SEC. 21. Article 29 is repealed.

6 SEC. 22. Article 30 is renumbered as article 20 and  
7 amended to read as follows:

8 "ART. 20. (a) A summary court martial shall have  
9 power to impose either a part or the whole of any one of  
10 the following punishments:

11 "First. Discharge with a bad-conduct discharge;

12 "Second. Reduction to the next inferior rank or rating;

13 "Third. Solitary confinement on bread and water with  
14 full ration every third day for a period not exceeding thirty  
15 days, to run consecutively;

16 "Fourth. Confinement, or restriction within stated limits,  
17 for a period not exceeding six months, to run consecutively;

18 "Fifth. Deprivation of liberty on shore for a period not  
19 exceeding three months, to run consecutively;

20 "Sixth. Loss of pay not to exceed six months' pay.

21 "(b) Confinement for a period not exceeding three  
22 months, to run consecutively, and loss of pay not to exceed  
23 three months' pay may be imposed in addition to a bad con-  
24 duct discharge; and loss of pay not to exceed six months'  
25 pay may be imposed in addition to any one of the punish-

1 ments enumerated under (Third), (Fourth), and (Fifth)  
2 of section (a) of this article.”

3 SEC. 23. Articles 31, 32, and 33 are repealed.

4 SEC. 24. Article 34 is renumbered as article 21 and  
5 amended to read as follows:

6 “ART. 21. The records of proceedings of all courts  
7 martial shall be transmitted to the Navy Department to  
8 be kept on file: *Provided*, That the records of summary  
9 and deck courts martial may be destroyed in the discretion  
10 of the Secretary of the Navy at such time as their retention  
11 will serve no useful purpose.”

12 SEC. 25. Article 35 is renumbered as article 30.

13 SEC. 26. Article 36 is renumbered as article 40 and  
14 amended to read as follows:

15 “ART. 40. No officer shall be dismissed from the naval  
16 service except by sentence of a general court martial, or  
17 in mitigation or commutation thereof, or, in time of war,  
18 by order of the President: *Provided*, That the President  
19 is authorized to drop from the rolls of the Navy or Marine  
20 Corps any officer thereof who is absent without authority  
21 from his place of duty for a period of three months or  
22 more, or who, having been found guilty by the civil author-  
23 ities of any offense, is finally sentenced to confinement in  
24 a State or Federal penitentiary: *Provided further*, That  
25 no officer so dropped shall be eligible for reappointment.”

1 SEC. 27. Article 37 is renumbered as article 41, and  
2 amended by deleting the words "since 3rd, March 1865,".

3 SEC. 28. Article 38 is renumbered as article 22.

4 SEC. 29. Article 39 is renumbered as article 24 and  
5 amended to read as follows:

6 "ART. 24. (a) A general court martial shall consist of  
7 not less than five commissioned officers as members. In no  
8 case, where it can be avoided without injury to the service,  
9 shall more than one-half, exclusive of the President, be junior  
10 to the person to be tried. The senior officer shall always  
11 preside and the others shall take place according to their  
12 rank.

13 "(b) For every general court martial, the convening  
14 authority shall appoint: (1) a prosecutor and a defense  
15 counsel, who shall be certified by the Judge Advocate Gen-  
16 eral as persons qualified to perform such duties, but the  
17 appointment of such defense counsel shall not affect the right  
18 of the person accused to counsel of his own choice; and (2) a  
19 judge advocate, whose duties it shall be (1) to advise the  
20 court on all matters of law arising during the trial of the  
21 case; (2) to rule on interlocutory questions, except chal-  
22 lenges; (3) in open court, to instruct the court upon the law  
23 of the case; and (4) to perform such other duties as the  
24 Secretary of the Navy may prescribe: *Provided*, That the  
25 judge advocate may be overruled by a majority vote of the

1 court, in which case the reasons therefor shall be spread upon  
2 the record: *Provided further*, That the judge advocate shall  
3 be an officer certified by the Judge Advocate General as  
4 qualified to perform the duties herein prescribed and who  
5 shall be responsible to the Judge Advocate General for the  
6 performance thereof: *And provided further*, That the judge  
7 advocate shall be subject to challenge.”

8 SEC. 30. Article 40 is renumbered as article 25 and  
9 amended to read as follows:

10 “ART. 25. The president of the general court martial  
11 shall administer the following oath or affirmation to the  
12 judge advocate: ‘I, A. B., do swear (or affirm) that I will  
13 discharge all my duties as judge advocate of this court with-  
14 out prejudice or partiality or fear of disfavor.’ This oath  
15 or affirmation being duly administered, each member of the  
16 court, before proceeding to trial, shall take the following  
17 oath or affirmation, which shall be administered by the judge  
18 advocate: ‘I, A. B., do swear (or affirm) that I will truly  
19 try without prejudice or partiality, the case (s) now depend-  
20 ing, according to the evidence which shall come before the  
21 court, the rules for the government of the Navy, and my  
22 own conscience; and that I will not at any time divulge  
23 or disclose the vote or opinion of any particular member  
24 of the court, unless required so to do before a court of  
25 justice in due course of law.’ These oaths shall not be

1 required if the accused was present when such oaths were  
2 previously administered: *Provided*, That the right of an  
3 accused to challenge any member of the court or the judge  
4 advocate shall not thereby be prejudiced.”

5 SEC. 31. Article 41 is renumbered as article 26 and  
6 amended to read as follows:

7 “ART. 26. An oath or affirmation in the following form  
8 shall be administered to all witnesses, before any court mar-  
9 tial, by the president or senior member thereof: ‘You do  
10 solemnly swear (or affirm) that the evidence you shall give  
11 in the case now before this court shall be the truth, the whole  
12 truth, and nothing but the truth. So help you God (or “this  
13 you do under the pains and penalties of perjury”)’.”

14 SEC. 32. Article 42 is renumbered as article 35 and  
15 amended to read as follows:

16 “ART. 35. (a) A general court martial, a summary  
17 court martial, and a court of inquiry shall have power to issue  
18 like process to compel witnesses to appear and testify which  
19 United States courts of criminal jurisdiction within the State,  
20 Territory, District, or possession where such naval court shall  
21 be ordered to sit may lawfully issue. Such process shall  
22 run to any part of the United States, its Territories, and  
23 possessions.

24 “(b) Any person, not subject to the Articles for the  
25 Government of the Navy, duly subpoenaed to appear as a

1 witness before a general court martial, summary court martial,  
2 or court of inquiry, who fails to appear or refuses to qualify  
3 as a witness or to testify or produce documentary evidence,  
4 which such person may have been legally subpoenaed to  
5 produce, or who refuses to give his evidence or to give it in  
6 the manner provided by these Articles, or behaves with  
7 contempt to the court, shall be deemed guilty of a misde-  
8 meanor, for which such person shall be punished on infor-  
9 mation in the district court of the United States; and it shall  
10 be the duty of the United States district attorney, on the  
11 certification of the facts to him by such naval court, to file  
12 an information against and prosecute the person so offending,  
13 and the punishment of such person, on conviction, shall be a  
14 fine of not more than \$500 or imprisonment not to exceed  
15 six months, or both, at the discretion of the court: *Pro-*  
16 *vided*, That the fees of such witness and his mileage in the  
17 rates provided for witnesses in the United States district court  
18 for said State, Territory, District, or possession shall be duly  
19 paid or tendered said witness, such amounts to be paid by  
20 the Navy Department out of the appropriations made  
21 therefor.

22 “(c) Whenever any person, subject to the Articles for  
23 the Government of the Navy, refuses to give his evidence  
24 before a general or summary court martial or court of

1 inquiry or to give it in the manner provided by these Articles,  
2 or behaves with contempt to the court, it shall be lawful  
3 for the court to imprison him for any time not exceeding two  
4 months.”

5 SEC. 33. Articles 43, 44, 45, and 46 are repealed.

6 SEC. 34. Article 47 is renumbered as article 27 and  
7 amended to read as follows:

8 “ART. 27. Whenever a general court martial is reduced  
9 below five members the reduced court may, with the con-  
10 sent of the accused, proceed to a final determination of the  
11 case being tried: *Provided*, That if the accused does not  
12 give his consent the convening authority may appoint new  
13 members sufficient in number to provide not less than five  
14 members, such new members to be subject to challenge:  
15 *And provided further*, That upon the new members taking  
16 their seats, the trial may proceed after the recorded testi-  
17 mony of each witness previously examined has been read  
18 to the witness in open court and verified by him and after  
19 such further examination of the witness thereon as any  
20 new member may require.”

21 SEC. 35. Article 48 is renumbered as article 34.

22 SEC. 36. Article 49 is renumbered as article 31 and  
23 amended to read as follows:

24 “ART. 31. In no case shall punishment by flogging,  
25 or by branding, marking, or tattooing on the body be ad-

1 judged by any court martial or be inflicted upon any  
2 person in the naval service. The use of irons, single or  
3 double, is abolished, except for the purpose of safe custody."

4 SEC. 37. Articles 50 and 51 are repealed.

5 SEC. 38. Article 52 is renumbered as article 29 and  
6 amended to read as follows:

7 "ART. 29. The record of every general court martial  
8 shall be authenticated by the signatures of the President and  
9 of the Judge Advocate; but in case the record cannot be  
10 authenticated by the President and the Judge Advocate, by  
11 reason of death, disability, or absence of either or both of  
12 them, it shall be signed by a member in lieu of the President  
13 and by another member in lieu of the Judge Advocate."

14 SEC. 39. Article 53 is renumbered as article 39 and  
15 amended to read as follows:

16 "ART. 39. (a) Every punishment, except death, dis-  
17 missal, discharge, or reduction in rank or rating, imposed  
18 by the sentence of a general court martial shall be executed  
19 upon announcement of the sentence by the court: *Provided,*  
20 That reduction in rank or rating shall be effective upon the  
21 date of the forwarding of the record of proceedings by the  
22 convening authority to the Navy Department without having  
23 remitted or suspended the reduction in rank or rating: *Pro-*  
24 *vided further,* That a discharge shall be executed only after  
25 confirmation by the Secretary of the Navy or of other au-

1 thority duly appointed by him; that a dismissal shall be  
2 executed only after confirmation by the President or, when  
3 empowered by the President, by the Secretary of the Navy;  
4 and that a punishment of death shall be executed only after  
5 confirmation by the President.

6 “(b) The convening authority of any court martial  
7 shall have the power to remit or mitigate, but not to com-  
8 mute, the punishment imposed by the sentence of any court  
9 martial convened by him.

10 “(c) Every punishment imposed by the sentence of a  
11 summary court martial, except discharge or reduction in  
12 rank or rating, or of a deck court martial, except reduction  
13 in rank or rating, shall be executed upon announcement of  
14 the sentence by the court: *Provided*, That a discharge shall  
15 be executed only after confirmation by the Secretary of the  
16 Navy or of other authority duly appointed by him: *Provided*  
17 *further*, That reduction in rank or rating shall be executed  
18 upon the date of forwarding of the record of proceedings by  
19 the authority exercising the power of legal review to the  
20 Navy Department without having remitted or suspended  
21 the reduction in rank or rating.

22 “(d) The officer empowered to convene general courts  
23 martial who is next senior in the chain of command to any  
24 convening authority of summary or deck courts martial shall

1 be the reviewing authority as to legality of the proceedings,  
2 findings, and sentences thereof, if such reviewing authority  
3 be present or found by the convening authority to be reason-  
4 ably available: *Provided*, That if such reviewing authority  
5 be not present or found to be so available, the convening  
6 authority shall review the records of such courts as to  
7 legality: *Provided further*, That the reviewing authority  
8 shall have the power to set aside the proceedings, findings,  
9 and sentence or to remit or mitigate, but not to commute,  
10 the punishment imposed by the sentence of any such  
11 summary or deck court martial: *And provided further*, That  
12 the power to set aside shall include the power to approve  
13 only so much of a finding of guilty of a particular offense as  
14 involves a finding of guilty of an offense of which the accused  
15 might have been convicted under article 28 (a) (2).

16       “(e) The proceedings, findings, and sentence of every  
17 general court martial shall, and of any other court martial  
18 may, be reviewed as to legality in the Office of the Judge  
19 Advocate General of the Navy: *Provided*, That the Judge  
20 Advocate General of the Navy shall have the power to  
21 set aside the proceedings, findings, and sentence of any  
22 court martial: *Provided further*, That the power to set aside  
23 shall include the power to approve only so much of a finding  
24 of guilty of a particular offense as involves a finding of

1 guilty of an offense of which the accused might have been  
2 convicted under article 28 (a) (2).

3       “(f) The sentence of every general court martial and  
4 of such other courts martial as may be designated by the  
5 Secretary of the Navy, shall, under such regulations as  
6 the Secretary of the Navy may prescribe, be reviewed by  
7 a clemency board appointed by the Secretary of the Navy:  
8 *Provided*, That such clemency boards shall have the power  
9 to remit, mitigate or commute the sentence, in whole or in  
10 part, imposed by any naval court martial except a court  
11 martial convened by the Secretary of the Navy or by the  
12 President, in which case like power shall repose in the  
13 convening authority.

14       “(g) The proceedings, findings, and sentence of every  
15 court martial shall upon request by the convicted person  
16 made within one year after such person has been informed  
17 that the review of his case has been completed and under such  
18 regulations as the Secretary of the Navy may prescribe, be  
19 reviewed by a board of appeals appointed by the Secretary  
20 of the Navy to serve in his office: *Provided*, That such boards  
21 of appeals shall have the power to take any action which  
22 could have been taken by the Judge Advocate General under  
23 section (e) of this article and by a clemency board under  
24 section (f) of this article: *Provided further*, That any officer  
25 dismissed shall, upon the setting aside or remission of the

1 dismissal on such subsequent review, be restored, without  
2 further appointment or confirmation and without regard to  
3 the number of officers authorized or appropriated for, to the  
4 rank and precedence to which he would be entitled if he had  
5 not been dismissed; but no pay or allowances shall be held  
6 to have accrued from the date of his dismissal to the date of  
7 his restoration.

8       “(h) The Secretary of the Navy shall have the power  
9 to set aside the proceedings, findings, and sentence, or to re-  
10 mit, or mitigate, or commute the sentence, in whole or in  
11 part, imposed by any naval court martial except a court  
12 martial convened by the President, in which case like power  
13 shall repose in the President: *Provided*, That upon the re-  
14 quest provided for in section (g) of this article, in cases  
15 convened by the Secretary of the Navy or by the President,  
16 the convening authority shall have the power to revoke his  
17 former action and to take any action which he could have  
18 taken at the time the case was first presented for confirma-  
19 tion: *Provided further*, That the effect of the remission of  
20 a dismissal shall have the same effect as provided in the last  
21 proviso of section (g) of this article.

22       “(i) No record of proceedings of a court martial shall  
23 be returned to the court for the purpose of reconsidering a  
24 finding of ‘not proved’ or ‘not guilty’ or for reconsideration of  
25 a sentence with a view to increasing its severity.

1       “(j) The Secretary of the Navy is authorized and  
2 directed to issue such regulations as may be necessary to  
3 assure that the members of every court martial shall be free  
4 to perform their sworn duties without any coercion or  
5 influence, directly or indirectly, on the part of any person  
6 in the naval service.”

7       SEC. 40. Article 54 is repealed.

8       SEC. 41. Article 55 is renumbered as article 42 and  
9 amended to read as follows:

10       “ART. 42. (a) Courts of inquiry may be convened by  
11 any person authorized to convene general courts martial.  
12 A court of inquiry shall consist of three or more commissioned  
13 officers.

14       “(b) Boards of investigation composed of two or more  
15 officers and investigations conducted by one officer may  
16 be convened by any person authorized to convene courts  
17 of inquiry, and by such other officers as the Secretary of  
18 the Navy may designate.

19       “(c) For every court of inquiry and board of investiga-  
20 tion, the convening authority shall appoint a counsel to assist  
21 the court or board in its duties.

22       “(d) Any person subject to these articles, or in the  
23 employ of the naval service, whose conduct shall be the  
24 subject of inquiry, or his counsel, shall have the right to  
25 cross-examine all the witnesses.

1       “(e) Any person subject to these articles, or in the  
2 employ of the naval service, who has an interest in the  
3 subject of inquiry, shall have the right to be present and to  
4 be represented by counsel of his own choice.”

5       SEC. 42. Article 56 is repealed.

6       SEC. 43. Article 57 is renumbered as article 43 and  
7 amended as follows:

8       “ART. 43. Courts of inquiry, and, when empowered by  
9 the convening authority, boards of investigation and investi-  
10 gations conducted by one officer shall have power to ad-  
11 minister oaths. They shall make findings of fact, and when  
12 required so to do, express opinions and make recommenda-  
13 tions.”

14       SEC. 44. Articles 58 and 59 are repealed.

15       SEC. 45. Article 60 is renumbered as article 44 and  
16 amended to read as follows:

17       “ART. 44. The proceedings of courts of inquiry shall  
18 be authenticated by the signatures of the president of the  
19 court and of the counsel for the court; but in case the pro-  
20 ceedings cannot be authenticated by the signatures of the  
21 president and of the counsel, by reason of death, disability, or  
22 absence of either or both of them, they shall be signed by  
23 a member in lieu of the president and by another member  
24 in lieu of the counsel. The sworn testimony, contained in  
25 the duly authenticated record of proceedings of a court of

1 inquiry, of a person whose oral testimony cannot be ob-  
2 tained, shall be evidence before a court martial of a de-  
3 fendant before said court of inquiry: *Provided*, That where  
4 such testimony is used in evidence against the accused per-  
5 son, other than under the general rules of evidence, the  
6 punishment imposed shall not extend to death.”

7 SEC. 46. Articles 61, 62, and 63 are repealed.

8 SEC. 47. “Art. 5. (a) The following persons shall be  
9 subject to the Articles for the Government of the Navy:

10 “First. Except as provided in Articles 6 and 7, all  
11 persons on active duty in the naval service, including those,  
12 not unlawfully detained, awaiting discharge after expiration  
13 of their terms of enlistment, and any such person alleged to  
14 have committed any offense against these Articles during a  
15 prior period of service: *Provided*, That any person who  
16 deserted and subsequently reentered and was discharged  
17 from the naval service shall continue to be subject to the  
18 Articles for any offense committed during the period of  
19 service from which he deserted.

20 “Second. All reserve personnel of the naval service  
21 when employed on authorized training or drill duty, with  
22 or without pay, or other equivalent instruction or duty,  
23 or when employed in authorized travel to or from such duty,  
24 or appropriate duty, drill or instruction, or during such  
25 time as they may by law be required to perform active duty,

1 or while wearing a uniform prescribed for reserve personnel  
2 of the naval service: *Provided*, That release from such duty  
3 status shall not terminate jurisdiction for offenses thereto-  
4 fore committed; and in such cases, reserve personnel of the  
5 naval service may be retained on or returned to a duty  
6 status without their consent, but not for a longer period of  
7 time than may be required therefor.

8 "Third. All retired naval personnel entitled to receive  
9 pay.

10 "Fourth. All persons discharged from the naval service  
11 subsequently charged with having fraudulently obtained said  
12 discharge: *Provided*, That upon conviction of this offense,  
13 said discharge shall be null and void ab initio.

14 "Fifth. All persons in naval custody serving a sentence  
15 adjudged by a court martial.

16 "Sixth. All former officers of the naval service dismissed  
17 by order of the President who make written application for  
18 trial, setting forth under oath that they have been wrong-  
19 fully dismissed.

20 "Seventh. Personnel of the Coast Guard, Coast and  
21 Geodetic Survey, Public Health Service, and other organiza-  
22 tions, when actively serving under the Navy Department,  
23 pursuant to law, as a part of the naval forces of the United  
24 States.

25 In time of war or national emergency, in addition to the

1 foregoing, the following persons shall be subject to the  
2 Articles for the Government of the Navy:

3 "Eighth. Prisoners of war in naval custody.

4 "Ninth. All persons alleged to be spies or saboteurs,  
5 or to have brought or delivered, or to have attempted to  
6 bring or deliver, any seducing letter or message from an  
7 enemy or rebel, or to have endeavored to corrupt any person  
8 subject to these Articles to betray his trust.

9 "Tenth. All persons, other than persons in the military  
10 service of the United States, outside the continental limits  
11 of the United States accompanying or serving with the  
12 United States Navy, the Marine Corps, or the Coast Guard  
13 when serving as a part of the Navy, including but not lim-  
14 ited to persons employed by the Government directly, or by  
15 contractors or subcontractors engaged in naval projects, and  
16 all persons, other than persons in the military service of the  
17 United States, within an area leased by the United States  
18 which is without the territorial jurisdiction thereof and which  
19 is under the control of the Secretary of the Navy: *Provided,*  
20 That the jurisdiction herein conferred shall not extend to  
21 Alaska, the Canal Zone, the Hawaiian Islands, Puerto Rico,  
22 or the Virgin Islands, except the Islands of Palmyra, Mid-  
23 way, Johnston, and that part of the Aleutian Islands west  
24 of longitude one hundred and seventy-two degrees west.

25 "(b) Except for desertion in time of war or absence

1 from place of duty without authority in time of war, or for  
2 mutiny or murder, no person subject to these Articles shall  
3 be tried or punished by a court martial for any offense com-  
4 mitted more than two years before the signing of charges and  
5 specifications to be preferred against him: *Provided*, That  
6 nothing in this section of this Article shall extend to any  
7 person fleeing from justice or in the custody of civil authori-  
8 ties or shall be construed to affect the provisions of the Act of  
9 August 24, 1942 (ch. 555, sec. 1, 56 Stat. 747), as amended  
10 by the Acts of July 1, 1944 (ch. 358, sec. 19 (b), 58 Stat.  
11 667), and October 3, 1944 (ch. 479, sec. 28, 58 Stat. 781) :  
12 *Provided further*, That before evidence is received on the  
13 general issue in any case involving any offense enumerated  
14 in this section of this article the judge advocate or, if the  
15 trial is before a deck or summary court martial, the court will  
16 cause to be noted in the record of proceedings whether the  
17 accused desires the court to plead the limitations on prose-  
18 cution prescribed in this section in bar of any offense of which  
19 he might be convicted under article 28 (a) (2).

20 “(c) The Articles for the Government of the Navy shall  
21 extend to all places.

22 “(d) The following shall be offenses against the Articles  
23 for the Government of the Navy:

24 “First. Violations of the criminal laws of the United  
25 States, whenever enacted, during the time such laws are in

1 force; and any limitation as to Territorial jurisdiction shall  
2 not apply.

3 "Second. Violations of the treaties or conventions of the  
4 United States, whenever adopted, during the time such trea-  
5 ties or conventions are in force.

6 "Third. Violations of such criminal laws of a State, Ter-  
7 ritory, District, or possession of the United States, or any  
8 political subdivision thereof, in which the acts or omissions  
9 occurred, as are in force at the date of the passage of this Act  
10 and at the time they occurred.

11 "Fourth. Violations of the laws, orders, regulations, or  
12 customs of the naval service.

13 "Fifth. Violations of the law of war.

14 "(e) Whoever aids, abets, counsels, commands, induces,  
15 or procures the commission of any offense by another is  
16 a principal.

17 "(f) The provisions of these Articles conferring juris-  
18 diction upon courts martial shall not be construed as  
19 affecting the jurisdiction of extraordinary military tribunals.

20 "ART. 6. The Marine Corps shall, at all times, be  
21 subject to the laws and regulations established for the gov-  
22 ernment of the Navy, except when detached for service  
23 with the Army by order of the President; and when so  
24 detached they shall be subject to the rules and Articles of  
25 War prescribed for the government of the Army: *Provided,*

1 That an officer or enlisted person of the Marine Corps  
2 when so detached may be tried by military court martial  
3 for an offense committed against the laws for the govern-  
4 ment of the naval service prior to his detachment, and for  
5 an offense committed against the Articles of War he may  
6 be tried by naval court martial after such detachment ceases.

7 "ART. 7. Officers and enlisted persons of the Medical  
8 Department of the Navy, serving with a body of marines  
9 detached for service with the Army in accordance with the  
10 provisions of article 6, shall be subject to the provisions of  
11 article 6 in the same manner as officers and enlisted persons  
12 of the Marine Corps.

13 "ART. 15. All officers who are empowered to convene  
14 summary courts martial may convene deck courts martial for  
15 the trial of enlisted persons regularly or temporarily under  
16 their command or charge for minor offenses triable by sum-  
17 mary courts martial.

18 "ART. 16. (a) Deck courts martial shall consist of one  
19 commissioned officer only, who, while serving in such  
20 capacity shall have power to administer oaths and to hear  
21 and determine cases.

22 "(b) A deck court martial shall have power to impose  
23 either a part or the whole of any one of the following  
24 punishments:

25 "First. Reduction to the next inferior rank or rating;

1       “Second. Solitary confinement on bread and water with  
2 full ration every third day for a period not exceeding twenty  
3 days, to run consecutively;

4       “Third. Confinement, or restriction within stated limits,  
5 for a period not exceeding one month;

6       “Fourth. Deprivation of liberty on shore for a period not  
7 exceeding one month;

8       “Fifth. Loss of pay not to exceed one month’s pay.

9       “(e) Loss of pay not to exceed one month’s pay may  
10 be imposed in addition to any one of the punishments  
11 enumerated under Second, Third, and Fourth of section (b)  
12 of this article.

13       “(d) Any person in the naval service under command  
14 of the officer by whose order a deck court martial is convened  
15 may be detailed to act as clerk thereof.

16       “(e) The record of the proceedings of deck courts  
17 martial shall contain such matters only as are necessary to  
18 enable the reviewing authorities to act thereon.

19       “(f) No person who objects thereto shall be brought to  
20 trial before a deck court martial. Where such objection is  
21 made by the person accused, trial shall be ordered by  
22 summary or general court martial, as may be appropriate.

23       “ART. 23. A general court martial shall have juris-  
24 diction to try and punish any person subject to the Articles

1 for the Government of the Navy for any offense against said  
2 Articles.

3 "ART. 28. (a) (1) Every finding shall be determined  
4 by a majority vote. A tie vote shall be a determination in  
5 favor of the accused. The court shall announce its findings in  
6 open court as soon as they have been determined.

7 "(2) A court martial may convict the accused of the  
8 offense charged, or a lesser and included offense, or an  
9 attempt of either, or of a lesser but not included offense.  
10 A lesser but not included offense shall be construed to mean  
11 an offense which is not included in the offense charged and  
12 only because of proof of criminal negligence instead of crim-  
13 inal intent.

14 "(b) It shall be the duty of a court martial, in all cases  
15 of conviction, to adjudge a punishment adequate to the nature  
16 of the offense; but the members thereof may recommend the  
17 person convicted as deserving of clemency, and state, on the  
18 record, their reasons for so doing.

19 "(c) No person shall be sentenced to death, except by  
20 the concurrence of all the members of the court martial, and  
21 then only for the offenses for which the punishment of death  
22 is expressly provided in article 8 of these Articles subject  
23 to any exceptions which the President may have prescribed  
24 under article 33 (b) of these Articles; nor sentenced to life

1 imprisonment, nor to confinement for more than ten years,  
2 except by the concurrence of three-fourths of all the members.  
3 All other sentences by general or summary court martial  
4 shall be determined by a two-thirds vote of the members.  
5 Every court shall announce in open court the sentence and  
6 recommendations to clemency, if any, as soon as determined.

7 "ART. 33. (a) No court martial shall adjudge a sen-  
8 tence of imprisonment upon conviction of an offense under  
9 the laws specified in article 5 (d), First, of these Articles,  
10 in excess of the period prescribed for that offense in such laws,  
11 but such limitations upon the period of imprisonment shall  
12 not affect the power to impose additional or other types of  
13 punishment authorized by these Articles.

14 "(b) The President is authorized to prescribe a limita-  
15 tion of the punishment which may be inflicted under any of  
16 these Articles; and thereafter, such limitation while in force  
17 shall not be exceeded.

18 "ART. 36. Except in trials by courts martial of offenses  
19 in which the maximum punishment is death under Article 8  
20 of these Articles and not excepted by the maximum limita-  
21 tions of punishment which the President may have pre-  
22 scribed under Article 33 (b) of the Articles, a duly  
23 authenticated deposition taken upon reasonable notice to  
24 the opposite party may be read in evidence before any naval  
25 court when it appears to the satisfaction of the judge advocate

1 of the general court martial, or the senior member of the  
2 summary court martial, or the deck court-martial officer  
3 or the president of the court of inquiry, that the witness,  
4 by reason of death, age, sickness, bodily infirmity, imprison-  
5 ment, or military necessity, is unable to, or, in foreign places,  
6 because of nonamenability to process, refuses to appear and  
7 testify in person at the place of trial or hearings: *Provided,*  
8 That the accused, or defendant, and his counsel, or a repre-  
9 sentative of the accused or defendant if so desired by the  
10 accused or defendant, shall be given an opportunity to be  
11 present and cross-examine any deponent against the accused  
12 or defendant, unless the Secretary of the Navy has, in  
13 extraordinary circumstances, expressly authorized the taking  
14 of the deposition without the granting of such opportunity.

15       “ART. 37. A court martial may, for reasonable cause,  
16 grant a continuance for such time and as often as may  
17 appear to be just. In time of peace no person shall, against  
18 his objection, be brought to trial before a general, summary,  
19 or deck court martial, within periods of five days, three  
20 days, and twenty-four hours, subsequent to the service of  
21 specifications upon him, respectively.

22       “ART. 38. In every court-martial proceeding in which  
23 the accused pleads not guilty, defense counsel, if there  
24 be one, shall, in the event of conviction, attach to the  
25 record of proceedings either a brief of such matters as

1 he feels should be considered on behalf of the accused on  
2 review or a signed statement setting forth his reasons for  
3 not so doing.

4 "ART. 45. When actively serving under the Navy  
5 Department, pursuant to law, as a part of the naval forces  
6 of the United States, commissioned officers of the Naval  
7 Reserve, Marine Corps Reserve, Coast Guard, Coast and  
8 Geodetic Survey, and Public Health Service, and other  
9 organizations serving as a part of the naval forces of the  
10 United States, shall be eligible to serve on naval courts  
11 martial and fact-finding bodies.

12 "ART. 46. When a force of marines is embarked on a  
13 naval vessel, or vessels, as a separate organization, not a  
14 part of the authorized complement thereof, the authority  
15 and powers of the officers of such separate organizations or  
16 marines shall be the same as though such organization were  
17 serving at a naval station on shore, but nothing herein shall  
18 be construed as impairing the paramount authority of the  
19 commanding officer of any vessel over the vessel under his  
20 command and all persons embarked thereon.

21 "ART. 47. (a) Such officers as may be designated by  
22 the Secretary of the Navy shall at all times have authority  
23 to administer oaths for the purpose of naval administration,  
24 including naval justice, and, shall have the general powers

1 of a notary public and of a consul of the United States,  
2 in the performance of all notarial acts.

3 “(b) No fee of any character shall be paid to or  
4 accepted by any officer for the performance of any notarial  
5 act herein authorized.

6 “(c) The signature without seal of any such officer  
7 acting as such notary public shall be prima facie evidence  
8 of his authority.

9 “ART. 48. The Secretary of the Navy is authorized to  
10 prescribe, and to modify from time to time, the rules of  
11 pleading and procedure, including modes of proof, in pro-  
12 ceedings before naval courts martial, other naval tribunals,  
13 and fact-finding bodies as will insure the enforcement of  
14 discipline and the fair and impartial administration of justice  
15 in the United States naval service: *Provided*, That, insofar  
16 as applicable, such modes of proof shall follow the law of  
17 evidence prevailing in the district courts of the United States  
18 in the trial of criminal cases: *Provided further*, That nothing  
19 contrary to or inconsistent with these Articles shall be so  
20 prescribed.”

21 SEC. 48. The following Acts, as amended, are repealed:

22 (a) That portion of the Act of March 3, 1893 (ch. 212,  
23 27 Stat. 716), relating to the punishment for fraudulent  
24 enlistment and receipt of any pay or allowance thereunder;

1 (b) Act of January 25, 1895 (ch. 45, 28 Stat. 639-  
2 640) ;

3 (c) Act of February 16, 1909 (ch. 131, secs. 1-12,  
4 16-17, 35 Stat. 621) ;

5 (d) That portion of the Act of August 29, 1916 (ch.  
6 417, 39 Stat. 586) entitled "Administration of Justice";

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

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

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

10 (h) Act of March 22, 1943 (ch. 18, 57 Stat. 41) ;

11 (i) So much of the Act of April 9, 1943 (ch. 36, 57  
12 Stat. 58), as applies to the Navy and Marine Corps.

13 SEC. 49. This Act shall become effective on January 1,  
14 1948.

15 SEC. 50. All offenses committed and all punishments, for-  
16 feitures, or liabilities imposed or incurred prior to the effective  
17 date of this Act, under any law embraced in, or amended  
18 or changed or rescinded by this Act, may be prosecuted,  
19 punished, and enforced in the same manner and with the  
20 same effect as if this Act had not been passed.

80TH CONGRESS  
1ST SESSION

# H. R. 3687

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## A BILL

To amend the Articles for the Government of  
the Navy to improve the administration of  
naval justice.

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By Mr. ELSTON

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JUNE 2, 1947

Referred to the Committee on Armed Services

80TH CONGRESS  
1ST SESSION

# H. R. 3687

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 1947

Mr. ELSTON introduced the following bill; which was referred to the Committee on Armed Services

## A BILL

To amend the Articles for the Government of the Navy to improve the administration of naval 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 the Articles for the Government of the Navy (Revised  
4 Statutes, section 1624, as amended) are hereby amended as  
5 follows:

6 Article 1 is amended to read as follows:

7 "ART. 1. The commanders of all fleets, squadrons, naval  
8 stations, vessels, and aircraft belonging to the Navy, are re-  
9 quired to show in themselves a good example of virtue, honor,  
10 patriotism, and subordination; to be vigilant in inspecting the  
11 conduct of all persons who are placed under their command;

1 to guard against and suppress all dissolute and immoral prac-  
2 tices, and to correct, according to the laws and regulations of  
3 the Navy, all persons who are guilty of them.”

4 SEC. 2. Article 3 is repealed.

5 SEC. 3. Article 4 is renumbered as article 8 and amended  
6 as follows:

7 “ART. 8. The punishment of death, or such other punish-  
8 ment as a court martial may adjudge, may be inflicted on  
9 any person subject to the Articles for the Government of the  
10 Navy—

11 “First. Who makes, or attempts to make, or unites with  
12 any mutiny or mutinous assembly, or, being witness to or  
13 present at any mutiny, does not do his utmost to suppress it;  
14 or knowing of any mutinous assembly or of any intended  
15 mutiny, does not immediately communicate his knowledge  
16 to his superior or commanding officer;

17 “Second. Or gives any intelligence to, or holds or enter-  
18 tains any intercourse with, an enemy or rebel, without leave  
19 from the President, the Secretary of the Navy, the com-  
20 mander in chief of the fleet, the commander of the squadron,  
21 or, in case of a vessel or aircraft acting singly, from his com-  
22 manding officer;

23 “Third. Or, in time of war, deserts or entices others to  
24 desert;

1       “Fourth. Or, in time of war, deserts or betrays his trust,  
2 or entices or aids others to desert or betray their trust;

3       “Fifth. Or sleeps upon his watch;

4       “Sixth. Or intentionally or willfully suffers any vessel  
5 or aircraft of the Navy to be stranded, or run upon rocks or  
6 shoals, or improperly hazarded; or maliciously or willfully  
7 injures any vessel or aircraft of the Navy, or any part of its  
8 tackle, armament, or equipment, whereby the safety of the  
9 vessel or aircraft is hazarded or the lives of the crew or  
10 passengers exposed to danger;

11       “Seventh. Or strikes or attempts to strike the flag to an  
12 enemy or rebel, without proper authority, or, when engaged  
13 in battle, treacherously yields or pusillanimously cries for  
14 quarter;

15       “Eighth. Or, in time of battle, displays cowardice, negli-  
16 gence, or disaffection, or withdraws from or keeps out of  
17 danger to which he should expose himself;

18       “Ninth. Or, in time of battle, deserts his duty or station,  
19 or entices others to do so;

20       “Tenth. Or does not properly observe the orders of his  
21 commanding officer, and use his utmost exertion to carry  
22 them into execution, when ordered to prepare for or join in,  
23 or when actually engaged in, battle, or while in sight of an  
24 enemy;

1       “Eleventh. Or, being in command of a fleet, group of  
2 vessels or aircraft, or vessel or aircraft acting singly, neglects,  
3 when an engagement is probable, or when an armed vessel  
4 or aircraft of an enemy or rebel is in sight, to prepare his  
5 ship or ships or aircraft for action;

6       “Twelfth. Or does not use his utmost exertions to join in  
7 battle, when so ordered;

8       “Thirteenth. Or fails to encourage, in his own person,  
9 his inferior officers and men to fight courageously;

10       “Fourteenth. Or does not do his utmost to overtake and  
11 capture or destroy any vessel or aircraft which it is his duty  
12 to encounter;

13       “Fifteenth. Or does not afford all practicable relief and  
14 assistance to vessels or aircraft belonging to the United States  
15 or its allies, when engaged in battle;

16       “Sixteenth. Or, in time of war, or of rebellion against  
17 the supreme authority of the United States, comes or is  
18 found in the capacity of a spy or saboteur, or who brings  
19 or delivers any seducing letter or message from an enemy  
20 or rebel, or endeavors to corrupt any person subject to these  
21 Articles to betray his trust;

22       “Seventeenth. Or violates any law or treaty or conven-  
23 tion incorporated under article 5 (e) (First), (Second), or  
24 (Fifth) of these Articles, the violation of which is, by such  
25 law or treaty or convention, punishable by death.”

1       SEC. 4. Articles 5 and 6 are repealed.

2       SEC. 5. Article 7 is renumbered as article 32.

3       SEC. 6. Article 8 is repealed.

4       SEC. 7. Article 9 is renumbered as article 10 and  
5 amended by deleting therefrom the words "leave" and  
6 "ordinary seaman" and substituting therefor the words  
7 "authority" and "seaman, second class", respectively.

8       SEC. 8. Articles 10 and 11 are renumbered as articles  
9 11 and 12, respectively.

10       SEC. 9. Article 12 is repealed.

11       SEC. 10. Article 13 is amended to read as follows:

12       "ART. 13. Distilled spirits shall be admitted on board  
13 naval vessels or aircraft only upon the order and under the  
14 control of the commanding officers of such vessels or aircraft,  
15 and to be used only for nonbeverage purposes."

16       SEC. 11. Article 14 is renumbered as article 9 and  
17 amended to read as follows:

18       "ART. 9. Such punishment other than death as a court  
19 martial may adjudge may be inflicted upon any person  
20 subject to the Articles for the Government of the Navy—

21       "First. Who presents or causes to be presented to any  
22 person in the civil, military, or naval service of the United  
23 States, for approval or payment, any claim against the  
24 United States or any officer thereof, knowing such claim to  
25 be false or fraudulent;

1       “Second. Or enters into any agreement or conspiracy  
2 to defraud the United States by obtaining, or aiding others  
3 to obtain, the allowance or payment of any false or fraudu-  
4 lent claim;

5       “Third. Or, for the purpose of obtaining, or aiding  
6 others to obtain, the approval, allowance, or payment of any  
7 claim against the United States or against any officer thereof,  
8 makes or uses, or procures or advises the making or use of,  
9 any writing, or other paper, knowing the same to contain  
10 any false or fraudulent statement;

11       “Fourth. Or, for the purpose of obtaining, or aiding others  
12 to obtain, the approval, allowance, or payment of any claim  
13 against the United States or any officer thereof, makes, or  
14 procures or advises the making of, any oath to any fact or  
15 to any writing or other paper, knowing such oath to be false;

16       “Fifth. Or, for the purpose of obtaining, or aiding others  
17 to obtain, the approval, allowances, or payment of any claim  
18 against the United States or any officer thereof, forges or  
19 counterfeits, or procures or advises the forging or counter-  
20 feiting of, any signature upon any writing or other paper,  
21 or uses, or procures or advises the use of, any such signa-  
22 ture, knowing the same to be forged or counterfeited;

23       “Sixth. Or having charge, possession, custody, or con-  
24 trol of any money or other property of the United States,  
25 furnished or intended for the naval service thereof, knowingly

1 delivers, or causes to be delivered, to any person having  
2 authority to receive the same, any amount thereof less than  
3 that for which he receives a certificate or receipt;

4 "Seventh. Or, being authorized to make or deliver any  
5 paper certifying the receipt of any money or other property  
6 of the United States, furnished or intended for the naval  
7 service thereof, makes, or delivers to any person, such  
8 writing, without having full knowledge of the truth of the  
9 statements therein contained, and with intent to defraud the  
10 United States;

11 "Eighth. Or steals, embezzles, knowingly and willfully  
12 misappropriates, applies to his own use or benefit, or wrong-  
13 fully and knowingly sells or disposes of any ordnance, arms,  
14 equipments, ammunition, clothing, subsistence stores, money,  
15 or other property of the United States, furnished or intended  
16 for the military or naval service thereof;

17 "Ninth. Or knowingly purchases, or receives in pledge  
18 for any obligation or indebtedness, from any other person  
19 who is a part of or employed in the military or naval service,  
20 any ordnance, arms, equipment, ammunition, clothing,  
21 subsistence stores, or other property of the United States,  
22 such other person not having lawful right to sell or pledge  
23 the same;

24 "Tenth. Or executes, attempts, or countenances any  
25 other fraud against the United States;

1       “Eleventh. Or is guilty of profane swearing, falsehood,  
2 or gambling;

3       “Twelfth. Or is guilty of cruelty toward, or oppression  
4 or maltreatment of, any person subject to his orders;

5       “Thirteenth. Or uses provoking or reproachful words or  
6 gestures toward any person in the naval service, or strikes,  
7 threatens to strike, or assaults any person;

8       “Fourteenth. Or endeavors to foment quarrels between  
9 other persons in the naval service;

10       “Fifteenth. Or sends or accepts a challenge to fight a  
11 duel or acts as a second in a duel;

12       “Sixteenth. Or treats his superior officer with contempt,  
13 or is disrespectful to him in language or deportment, while  
14 such superior officer is in the execution of his office;

15       “Seventeenth. Or joins in or abets any combination to  
16 weaken the lawful authority of, or lessen the respect due to,  
17 his commanding officer;

18       “Eighteenth. Or utters any seditious or mutinous words;

19       “Nineteenth. Or is negligent or careless in obeying  
20 orders, or culpably inefficient in the performance of duty;

21       “Twentieth. Or unlawfully sets on fire, or otherwise un-  
22 lawfully destroys, any public property not at the time in  
23 possession of an enemy, pirate, or rebel, or does not use  
24 his best exertions to prevent the unlawful destruction of  
25 such public property by others;

1       “Twenty-first. Or, through inattention or negligence suf-  
2 fers any vessel or aircraft of the naval service to be  
3 stranded, or run upon a rock or shoal, or hazarded;

4       “Twenty-second. Or, when attached to any vessel ap-  
5 pointed as escort to any merchant or other vessel, fails  
6 diligently to perform his duty, or demands or exacts any  
7 compensation for his services, or maltreats the officers or  
8 crews of such merchant or other vessel;

9       “Twenty-third. Or takes, receives, or permits to be re-  
10 ceived, on board the vessel or aircraft to which he is  
11 attached or assigned, any goods or merchandise, for freight,  
12 sale, or traffic, except gold, silver, or jewels, for freight  
13 or safekeeping; or demands or receives any compensation  
14 for the receipt or transportation of any other article than  
15 gold, silver, or jewels without authority from the President  
16 or Secretary of the Navy;

17       “Twenty-fourth. Or knowingly makes or signs, or aids,  
18 abets, directs, or procures the making or signing of, any false  
19 muster;

20       “Twenty-fifth. Or wastes any ammunition, provisions, or  
21 other public property, or having power to prevent it, know-  
22 ingly permits such waste;

23       “Twenty-sixth. Or, when on shore, plunders, abuses, or  
24 maltreats any inhabitant;

1       “Twenty-seventh. Or refuses, or fails to use, his utmost  
2 exertions to detect, apprehend, and bring to punishment all  
3 offenders, or to aid all persons appointed for that purpose;

4       “Twenty-eighth. Or, having a duty to receive or guard  
5 prisoners, refuses to receive such prisoners as may be com-  
6 mitted to his charge, or, having received them, suffers them  
7 to escape, or dismisses them without orders from the proper  
8 authority;

9       “Twenty-ninth. Or is absent without authority from his  
10 place of duty;

11       “Thirtieth. Or violates or refuses obedience to any law-  
12 ful general order or regulation issued by the Secretary of the  
13 Navy;

14       “Thirty-first. Or, in time of peace, deserts or attempts  
15 to desert, or aids and entices others to desert;

16       “Thirty-second. Or receives or entertains any deserter  
17 from the military or naval service, knowing him to be such,  
18 and does not, without delay, give notice of such deserter to  
19 his commanding officer or higher authority in the chain of  
20 command;

21       “Thirty-third. Or unlawfully receives any message or  
22 letter from an enemy or rebel, or, being aware of the un-  
23 lawful reception of such message or letter, fails to take the  
24 earliest opportunity to inform his superior or commanding  
25 officer thereof;

1 "Thirty-fourth. Or fraudulently enlists in the naval  
2 service and receives any pay or allowance thereunder, or  
3 fraudulently obtains his discharge from the naval service;

4 "Thirty-fifth. Or is guilty of any irreverent or unbecom-  
5 ing behavior during divine service;

6 "Thirty-sixth. Or strips off the clothes of, or pillages, or  
7 in any manner maltreats, any person taken on board a prize;

8 "Thirty-seventh. Or takes out of a prize, or vessel or  
9 aircraft seized as a prize, any money, plate, goods, or  
10 any part of the equipment thereof, unless it be for the  
11 better preservation thereof, or unless such articles are  
12 absolutely needed for the use of any of the vessels, air-  
13 craft, or armed forces of the United States or its allies,  
14 before the same is condemned as a lawful prize;

15 "Thirty-eighth. Or, being an officer, knowingly and  
16 without specific authority enlists in the naval service any  
17 person who has deserted in time of war from the naval  
18 or military service of the United States, or any insane or  
19 intoxicated person, or any minor between the ages of fourteen  
20 and eighteen years, without the consent of his parents  
21 or guardian, or any minor under the age of fourteen years;

22 "Thirty-ninth. Or is guilty of forgery, uttering a for-  
23 gery, burglary, housebreaking, seduction, or sodomy or  
24 any other unnatural sexual act;

1       “Fortieth. Or knowingly commits any lascivious or  
2 indecent act, or procures another to do so;

3       “Forty-first. Or embezzles, or willfully or maliciously  
4 injures or destroys, private property not his own;

5       “Forty-second. Or is guilty of extortion or blackmail;

6       “Forty-third. Or obtains any property not his own by  
7 any false pretense, expressed or implied, reasonably calcu-  
8 lated to deceive the person to whom the pretense is made  
9 as to any existing or past fact, knowingly made with intent  
10 to defraud, and with intent permanently to deprive the owner  
11 thereof of said property;

12       “Forty-fourth. Or maliciously publishes any writing, pic-  
13 ture, sign, or other representation which tends to defame any  
14 person in the armed services of the United States, or slanders  
15 or threatens any person in the armed services of the United  
16 States;

17       “Forty-fifth. Or corruptly, or by threat or force, or by  
18 any threatening communication, endeavors to influence, in-  
19 timidate, or impede any witness in any disciplinary proceed-  
20 ing in the naval service, or injures any witness in his person  
21 or property on account of the witness attending or having  
22 attended such disciplinary proceeding, or on account of the  
23 witness testifying or having testified to any matter therein;

24       “Forty-sixth. Or willfully and corruptly takes any false  
25 oath to any material matter, or procures another to do so;

1       “Forty-seventh. Or is contemptuous or disrespectful in  
2 language or deportment to or concerning the President, Vice  
3 President, the Congress of the United States, the Secretary  
4 of the Navy, or the governor or legislature of any State,  
5 Territory, or other possession of the United States in which  
6 he is on duty or present;

7       “Forty-eighth. Or divulges information of a secret or  
8 confidential nature to any person not entitled to receive the  
9 same;

10       “Forty-ninth. Or negligently endangers the life of  
11 another;

12       “Fiftieth. Or resists arrest by or disobeys the lawful  
13 order of proper authority, or breaks arrest, restriction, or  
14 quarantine;

15       “Fifty-first. Or unlawfully detains another person;

16       “Fifty-second. Or uses a vehicle not his own without  
17 authority;

18       “Fifty-third. Or, while under the influence of alcoholic  
19 liquors or narcotic drugs, operates any vehicle;

20       “Fifty-fourth. Or operates any vehicle in a reckless or  
21 wanton manner;

22       “Fifty-fifth. Or is incapacitated for the proper per-  
23 formance of duty by the use of, or previous indulgence in,  
24 alcoholic liquors or narcotic drugs, or by self-injury inflicted  
25 with intent to incapacitate, or by refusing to submit to

1 medical or surgical treatment with intent to remain unfit  
2 for duty;

3 "Fifty-sixth. Or feigns sickness or any physical dis-  
4 ablement or mental lapse or derangement, for the purpose  
5 of escaping work or duty;

6 "Fifty-seventh. Or, without authority, deliberately and  
7 willfully misses his ship or mobile unit;

8 "Fifty-eighth. Or exhibits a deliberate indifference to  
9 his just financial obligations;

10 "Fifty-ninth. Or, in any way other than specifically pro-  
11 vided against herein, being an officer, so seriously offends  
12 against law, justice, morality, or decorum as to expose the  
13 offender, socially as a man or woman, to disgrace, and at  
14 the same time to bring, through the nature of the act or the  
15 circumstances under which it was committed, dishonor or  
16 disrepute upon the naval profession;

17 "Sixtieth. Or fails to comply with or violates any pro-  
18 vision of articles 1, 3, 12 and 13 of these Articles;

19 "Sixty-first. Or is guilty of any disorder or neglect to  
20 the prejudice of good order and discipline or any conduct of  
21 a nature to bring discredit upon the naval service other than  
22 any disorder or neglect or conduct mentioned in these  
23 Articles;

24 "Sixty-second. Or is guilty of an attempt, or of a con-

1 spiracy, or of a solicitation, to commit any offense against  
2 these Articles;

3 "Sixty-third. Or is guilty of any violation which is an  
4 offense against the Articles for the Government of the Navy  
5 under article 5 (d)."

6 SEC. 12. Articles 16, 17, 18, and 19 are repealed.

7 SEC. 13. Article 20 is renumbered as article 3 and  
8 amended to read as follows:

9 "ART. 3. Officers and all others in authority in the naval  
10 service shall take all necessary and proper measures, under  
11 the laws, regulations, and customs of the naval service to  
12 promote and safeguard the morale, the physical well-being,  
13 and the general welfare of the officers and enlisted persons  
14 under their command or charge."

15 SEC. 14. Article 21 is renumbered as article 4 and  
16 amended to read as follows:

17 "ART. 4. When the crew of any vessel or aircraft of  
18 the United States are separated from their vessel or aircraft  
19 by means of its wreck, loss, or destruction, all the command  
20 and authority given to the officers of such vessel or aircraft  
21 shall remain in full force until such crew shall be regularly  
22 discharged from or ordered again into service, or until a  
23 court martial or court of inquiry shall be held to inquire into  
24 the loss of said vessel or aircraft."

1        SEC. 15. Articles 22 and 23 are repealed.

2        SEC. 16. Article 24 is renumbered as article 14 and  
3 amended to read as follows:

4        "ART. 14. (a) No commander of a vessel shall inflict  
5 upon a commissioned or warrant officer any other punishment  
6 than private reprimand, suspension from duty, arrest, or  
7 confinement, and such suspension, arrest or confinement shall  
8 not continue longer than ten days unless a further period is  
9 necessary to bring the offender to trial by a court martial;  
10 nor shall he inflict, or cause to be inflicted, upon any enlisted  
11 person, for a single offense, or at any one time, any other  
12 than one of the following punishments, namely:

13        "First. Reduction to the next inferior rank or rating;

14        "Second. Solitary confinement on bread and water not  
15 exceeding five days, to run consecutively;

16        "Third. Confinement not exceeding ten days, to run  
17 consecutively, unless further confinement be necessary, in  
18 the case of a prisoner to be tried by court martial;

19        "Fourth. Deprivation of liberty on shore for a period  
20 not exceeding one month;

21        "Fifth. Extra duties not exceeding one month;

22 No other punishment shall be permitted on board of vessels  
23 belonging to the Navy, except by sentence of a court martial.

24 All punishments inflicted by the commander, or by his order,  
25 except reprimands, shall be fully entered upon the ship's log.

1       “(b) All officers who are empowered to convene  
2 summary courts martial shall have the same authority as  
3 that of a commander of a vessel to inflict punishments for  
4 minor offenses committed by persons regularly or tempo-  
5 rarily under their command: *Provided*, That such officers  
6 may delegate to their subordinate officers on separate or  
7 detached duty the authority to inflict the punishments set  
8 forth in article 14 (a).

9       “(c) As an alternative to a punishment provided for  
10 in this article, loss of pay, not exceeding one-half of one  
11 month’s pay, may, in time of war or national emergency or,  
12 when specifically authorized by the Secretary of the Navy,  
13 in time of peace, be inflicted as a punishment, for a single  
14 offense, or at any one time.

15               “(1) upon any officer by an officer having authority  
16 to convene a general court martial for the trial of the  
17 offender,

18               “(2) upon any enlisted person by an officer having  
19 authority to convene a summary court martial for the  
20 trial of the offender:

21 *Provided*, That a full report be made of the infliction under  
22 this article of any punishment involving loss of pay,

23               “(1) to the Secretary of the Navy by the officer  
24 inflicting this punishment upon an officer,

1           “(2) to the next senior officer in the chain of com-  
2           mand by an officer inflicting this punishment upon an  
3           enlisted person.

4           “(d) No officer who may command by accident, or in  
5           the absence of the commanding officer, except when such  
6           commanding officer is absent for a time by leave, shall inflict  
7           any other punishments than confinement or suspension from  
8           duty.

9           SEC. 17. Article 25 is repealed.

10          SEC. 18. Article 26 is renumbered as article 17 and  
11          amended to read as follows:

12          “ART. 17. Commanding officers of naval vessels and such  
13          other officers in command or in charge of naval forces or  
14          activities as may be designated by the Secretary of the  
15          Navy may convene summary courts martial for the trial  
16          of enlisted persons regularly or temporarily under their  
17          command or charge for alleged offenses deemed deserving  
18          of greater punishment than he is authorized to inflict, but  
19          not sufficient to require trial by general court martial.”

20          SEC. 19. Article 27 is renumbered as article 18 and  
21          amended to read as follows:

22          “ART. 18. (a) A summary court martial shall con-  
23          sist of three commissioned officers.

24          “(b) For every summary court martial, the conven-  
25          ing authority shall appoint a prosecutor and a defense

1 counsel, who shall be persons qualified to perform such  
2 duties. This shall not affect the right of the accused to  
3 counsel of his own choice.

4 “(c) It shall be the duty of the prosecutor, under such  
5 rules of practice, pleading, and procedure as the Secretary  
6 of the Navy may prescribe, (1) to summon all witnesses  
7 and (2) to keep the record of proceedings.”

8 SEC. 20. Article 28 is renumbered as article 19 and  
9 amended to read as follows:

10 “ART. 19. The senior member of the summary court  
11 martial shall administer the following oath or affirmation to  
12 the prosecutor: ‘I, A. B., do swear (or affirm) that I will  
13 keep a true record of the evidence which shall be given before  
14 this court and of the proceedings thereof.’ This oath or  
15 affirmation being duly administered, each member of the  
16 court, before proceeding to trial, shall take the following  
17 oath or affirmation, which shall be administered by the  
18 prosecutor: ‘I, A. B., do swear (or affirm) that I will truly  
19 try, without prejudice or partiality, the case(s) now de-  
20 pending, according to the evidence which shall be adduced,  
21 the laws for the government of the Navy, and my own  
22 conscience; and that I will not at any time divulge or dis-  
23 close the vote or opinion of any particular member of the  
24 court, unless required so to do, before a court of justice in  
25 due course of law.’ These oaths shall not be required if

1 the accused was present when such oaths were previously  
2 administered: *Provided*, That the right of an accused to  
3 challenge any member of the court shall not thereby be  
4 prejudiced."

5 SEC. 21. Article 29 is repealed.

6 SEC. 22. Article 30 is renumbered as article 20 and  
7 amended to read as follows:

8 "ART. 20. (a) A summary court martial shall have  
9 power to impose either a part or the whole of any one of  
10 the following punishments:

11 "First. Discharge with a bad-conduct discharge;

12 "Second. Reduction to the next inferior rank or rating;

13 "Third. Solitary confinement on bread and water with  
14 full ration every third day for a period not exceeding thirty  
15 days, to run consecutively;

16 "Fourth. Confinement, or restriction within stated limits,  
17 for a period not exceeding six months, to run consecutively;

18 "Fifth. Deprivation of liberty on shore for a period not  
19 exceeding three months, to run consecutively;

20 "Sixth. Loss of pay not to exceed six months' pay.

21 "(b) Confinement for a period not exceeding three  
22 months, to run consecutively, and loss of pay not to exceed  
23 three months' pay may be imposed in addition to a bad con-  
24 duct discharge; and loss of pay not to exceed six months'  
25 pay may be imposed in addition to any one of the punish-

1 ments enumerated under (Third), (Fourth), and (Fifth)  
2 of section (a) of this article.”

3 SEC. 23. Articles 31, 32, and 33 are repealed.

4 SEC. 24. Article 34 is renumbered as article 21 and  
5 amended to read as follows:

6 “ART. 21. The records of proceedings of all courts  
7 martial shall be transmitted to the Navy Department to  
8 be kept on file: *Provided*, That the records of summary  
9 and deck courts martial may be destroyed in the discretion  
10 of the Secretary of the Navy at such time as their retention  
11 will serve no useful purpose.”

12 SEC. 25. Article 35 is renumbered as article 30.

13 SEC. 26. Article 36 is renumbered as article 40 and  
14 amended to read as follows:

15 “ART. 40. No officer shall be dismissed from the naval  
16 service except by sentence of a general court martial, or  
17 in mitigation or commutation thereof, or, in time of war,  
18 by order of the President: *Provided*, That the President  
19 is authorized to drop from the rolls of the Navy or Marine  
20 Corps any officer thereof who is absent without authority  
21 from his place of duty for a period of three months or  
22 more, or who, having been found guilty by the civil author-  
23 ities of any offense, is finally sentenced to confinement in  
24 a State or Federal penitentiary: *Provided further*, That  
25 no officer so dropped shall be eligible for reappointment.”

1       SEC. 27. Article 37 is renumbered as article 41, and  
2 amended by deleting the words "since 3rd, March 1865,".

3       SEC. 28. Article 38 is renumbered as article 22.

4       SEC. 29. Article 39 is renumbered as article 24 and  
5 amended to read as follows:

6       "ART. 24. (a) A general court martial shall consist of  
7 not less than five commissioned officers as members. In no  
8 case, where it can be avoided without injury to the service,  
9 shall more than one-half, exclusive of the President, be junior  
10 to the person to be tried. The senior officer shall always  
11 preside and the others shall take place according to their  
12 rank.

13       "(b) For every general court martial, the convening  
14 authority shall appoint: (1) a prosecutor and a defense  
15 counsel, who shall be certified by the Judge Advocate Gen-  
16 eral as persons qualified to perform such duties, but the  
17 appointment of such defense counsel shall not affect the right  
18 of the person accused to counsel of his own choice; and (2) a  
19 judge advocate, whose duties it shall be (1) to advise the  
20 court on all matters of law arising during the trial of the  
21 case; (2) to rule on interlocutory questions, except chal-  
22 lenges; (3) in open court, to instruct the court upon the law  
23 of the case; and (4) to perform such other duties as the  
24 Secretary of the Navy may prescribe: *Provided*, That the  
25 judge advocate may be overruled by a majority vote of the

1 court, in which case the reasons therefor shall be spread upon  
2 the record: *Provided further*, That the judge advocate shall  
3 be an officer certified by the Judge Advocate General as  
4 qualified to perform the duties herein prescribed and who  
5 shall be responsible to the Judge Advocate General for the  
6 performance thereof: *And provided further*, That the judge  
7 advocate shall be subject to challenge."

8 SEC. 30. Article 40 is renumbered as article 25 and  
9 amended to read as follows:

10 "ART. 25. The president of the general court martial  
11 shall administer the following oath or affirmation to the  
12 judge advocate: 'I, A. B., do swear (or affirm) that I will  
13 discharge all my duties as judge advocate of this court with-  
14 out prejudice or partiality or fear of disfavor.' This oath  
15 or affirmation being duly administered, each member of the  
16 court, before proceeding to trial, shall take the following  
17 oath or affirmation, which shall be administered by the judge  
18 advocate: 'I, A. B., do swear (or affirm) that I will truly  
19 try without prejudice or partiality, the case (s) now depend-  
20 ing, according to the evidence which shall come before the  
21 court, the rules for the government of the Navy, and my  
22 own conscience; and that I will not at any time divulge  
23 or disclose the vote or opinion of any particular member  
24 of the court, unless required so to do before a court of  
25 justice in due course of law.' These oaths shall not be

1 required if the accused was present when such oaths were  
2 previously administered: *Provided*, That the right of an  
3 accused to challenge any member of the court or the judge  
4 advocate shall not thereby be prejudiced.”

5 SEC. 31. Article 41 is renumbered as article 26 and  
6 amended to read as follows:

7 “ART. 26. An oath or affirmation in the following form  
8 shall be administered to all witnesses, before any court mar-  
9 tial, by the president or senior member thereof: ‘You do  
10 solemnly swear (or affirm) that the evidence you shall give  
11 in the case now before this court shall be the truth, the whole  
12 truth, and nothing but the truth. So help you God (or “this  
13 you do under the pains and penalties of perjury”)’.”

14 SEC. 32. Article 42 is renumbered as article 35 and  
15 amended to read as follows:

16 “ART. 35. (a) A general court martial, a summary  
17 court martial, and a court of inquiry shall have power to issue  
18 like process to compel witnesses to appear and testify which  
19 United States courts of criminal jurisdiction within the State,  
20 Territory, District, or possession where such naval court shall  
21 be ordered to sit may lawfully issue. Such process shall  
22 run to any part of the United States, its Territories, and  
23 possessions.

24 “(b) Any person, not subject to the Articles for the  
25 Government of the Navy, duly subpoenaed to appear as a

1 witness before a general court martial, summary court martial,  
2 or court of inquiry, who fails to appear or refuses to qualify  
3 as a witness or to testify or produce documentary evidence,  
4 which such person may have been legally subpoenaed to  
5 produce, or who refuses to give his evidence or to give it in  
6 the manner provided by these Articles, or behaves with  
7 contempt to the court, shall be deemed guilty of a misde-  
8 meanor, for which such person shall be punished on infor-  
9 mation in the district court of the United States; and it shall  
10 be the duty of the United States district attorney, on the  
11 certification of the facts to him by such naval court, to file  
12 an information against and prosecute the person so offending,  
13 and the punishment of such person, on conviction, shall be a  
14 fine of not more than \$500 or imprisonment not to exceed  
15 six months, or both, at the discretion of the court: *Pro-*  
16 *vided*, That the fees of such witness and his mileage in the  
17 rates provided for witnesses in the United States district court  
18 for said State, Territory, District, or possession shall be duly  
19 paid or tendered said witness, such amounts to be paid by  
20 the Navy Department out of the appropriations made  
21 therefor.

22       “(c) Whenever any person, subject to the Articles for  
23 the Government of the Navy, refuses to give his evidence  
24 before a general or summary court martial or court of

1 inquiry or to give it in the manner provided by these Articles,  
2 or behaves with contempt to the court, it shall be lawful  
3 for the court to imprison him for any time not exceeding two  
4 months.”

5 SEC. 33. Articles 43, 44, 45, and 46 are repealed.

6 SEC. 34. Article 47 is renumbered as article 27 and  
7 amended to read as follows:

8 “ART. 27. Whenever a general court martial is reduced  
9 below five members the reduced court may, with the con-  
10 sent of the accused, proceed to a final determination of the  
11 case being tried: *Provided*, That if the accused does not  
12 give his consent the convening authority may appoint new  
13 members sufficient in number to provide not less than five  
14 members, such new members to be subject to challenge:  
15 *And provided further*, That upon the new members taking  
16 their seats, the trial may proceed after the recorded testi-  
17 mony of each witness previously examined has been read  
18 to the witness in open court and verified by him and after  
19 such further examination of the witness thereon as any  
20 new member may require.”

21 SEC. 35. Article 48 is renumbered as article 34.

22 SEC. 36. Article 49 is renumbered as article 31 and  
23 amended to read as follows:

24 “ART. 31. In no case shall punishment by flogging,  
25 or by branding, marking, or tattooing on the body be ad-

1 judged by any court martial or be inflicted upon any  
2 person in the naval service. The use of irons, single or  
3 double, is abolished, except for the purpose of safe custody."

4 SEC. 37. Articles 50 and 51 are repealed.

5 SEC. 38. Article 52 is renumbered as article 29 and  
6 amended to read as follows:

7 "ART. 29. The record of every general court martial  
8 shall be authenticated by the signatures of the President and  
9 of the Judge Advocate; but in case the record cannot be  
10 authenticated by the President and the Judge Advocate, by  
11 reason of death, disability, or absence of either or both of  
12 them, it shall be signed by a member in lieu of the President  
13 and by another member in lieu of the Judge Advocate."

14 SEC. 39. Article 53 is renumbered as article 39 and  
15 amended to read as follows:

16 "ART. 39. (a) Every punishment, except death, dis-  
17 missal, discharge, or reduction in rank or rating, imposed  
18 by the sentence of a general court martial shall be executed  
19 upon announcement of the sentence by the court: *Provided,*  
20 That reduction in rank or rating shall be effective upon the  
21 date of the forwarding of the record of proceedings by the  
22 convening authority to the Navy Department without having  
23 remitted or suspended the reduction in rank or rating: *Pro-*  
24 *vided further,* That a discharge shall be executed only after  
25 confirmation by the Secretary of the Navy or of other au-

1 thority duly appointed by him; that a dismissal shall be  
2 executed only after confirmation by the President or, when  
3 empowered by the President, by the Secretary of the Navy;  
4 and that a punishment of death shall be executed only after  
5 confirmation by the President.

6 “(b) The convening authority of any court martial  
7 shall have the power to remit or mitigate, but not to com-  
8 mute, the punishment imposed by the sentence of any court  
9 martial convened by him.

10 “(c) Every punishment imposed by the sentence of a  
11 summary court martial, except discharge or reduction in  
12 rank or rating, or of a deck court martial, except reduction  
13 in rank or rating, shall be executed upon announcement of  
14 the sentence by the court: *Provided*, That a discharge shall  
15 be executed only after confirmation by the Secretary of the  
16 Navy or of other authority duly appointed by him: *Provided*  
17 *further*, That reduction in rank or rating shall be executed  
18 upon the date of forwarding of the record of proceedings by  
19 the authority exercising the power of legal review to the  
20 Navy Department without having remitted or suspended  
21 the reduction in rank or rating.

22 “(d) The officer empowered to convene general courts  
23 martial who is next senior in the chain of command to any  
24 convening authority of summary or deck courts martial shall

1 be the reviewing authority as to legality of the proceedings,  
2 findings, and sentences thereof, if such reviewing authority  
3 be present or found by the convening authority to be reason-  
4 ably available: *Provided*, That if such reviewing authority  
5 be not present or found to be so available, the convening  
6 authority shall review the records of such courts as to  
7 legality: *Provided further*, That the reviewing authority  
8 shall have the power to set aside the proceedings, findings,  
9 and sentence or to remit or mitigate, but not to commute,  
10 the punishment imposed by the sentence of any such  
11 summary or deck court martial: *And provided further*, That  
12 the power to set aside shall include the power to approve  
13 only so much of a finding of guilty of a particular offense as  
14 involves a finding of guilty of an offense of which the accused  
15 might have been convicted under article 28 (a) (2).

16       “(e) The proceedings, findings, and sentence of every  
17 general court martial shall, and of any other court martial  
18 may, be reviewed as to legality in the Office of the Judge  
19 Advocate General of the Navy: *Provided*, That the Judge  
20 Advocate General of the Navy shall have the power to  
21 set aside the proceedings, findings, and sentence of any  
22 court martial: *Provided further*, That the power to set aside  
23 shall include the power to approve only so much of a finding  
24 of guilty of a particular offense as involves a finding of

1 guilty of an offense of which the accused might have been  
2 convicted under article 28 (a) (2).

3       “(f) The sentence of every general court martial and  
4 of such other courts martial as may be designated by the  
5 Secretary of the Navy, shall, under such regulations as  
6 the Secretary of the Navy may prescribe, be reviewed by  
7 a clemency board appointed by the Secretary of the Navy:  
8 *Provided*, That such clemency boards shall have the power  
9 to remit, mitigate or commute the sentence, in whole or in  
10 part, imposed by any naval court martial except a court  
11 martial convened by the Secretary of the Navy or by the  
12 President, in which case like power shall repose in the  
13 convening authority.

14       “(g) The proceedings, findings, and sentence of every  
15 court martial shall upon request by the convicted person  
16 made within one year after such person has been informed  
17 that the review of his case has been completed and under such  
18 regulations as the Secretary of the Navy may prescribe, be  
19 reviewed by a board of appeals appointed by the Secretary  
20 of the Navy to serve in his office: *Provided*, That such boards  
21 of appeals shall have the power to take any action which  
22 could have been taken by the Judge Advocate General under  
23 section (e) of this article and by a clemency board under  
24 section (f) of this article: *Provided further*, That any officer  
25 dismissed shall, upon the setting aside or remission of the

1 dismissal on such subsequent review, be restored, without  
2 further appointment or confirmation and without regard to  
3 the number of officers authorized or appropriated for, to the  
4 rank and precedence to which he would be entitled if he had  
5 not been dismissed; but no pay or allowances shall be held  
6 to have accrued from the date of his dismissal to the date of  
7 his restoration.

8       “(h) The Secretary of the Navy shall have the power  
9 to set aside the proceedings, findings, and sentence, or to re-  
10 mit, or mitigate, or commute the sentence, in whole or in  
11 part, imposed by any naval court martial except a court  
12 martial convened by the President, in which case like power  
13 shall repose in the President: *Provided*, That upon the re-  
14 quest provided for in section (g) of this article, in cases  
15 convened by the Secretary of the Navy or by the President,  
16 the convening authority shall have the power to revoke his  
17 former action and to take any action which he could have  
18 taken at the time the case was first presented for confirma-  
19 tion: *Provided further*, That the effect of the remission of  
20 a dismissal shall have the same effect as provided in the last  
21 proviso of section (g) of this article.

22       “(i) No record of proceedings of a court martial shall  
23 be returned to the court for the purpose of reconsidering a  
24 finding of ‘not proved’ or ‘not guilty’ or for reconsideration of  
25 a sentence with a view to increasing its severity.

1       “(j) The Secretary of the Navy is authorized and  
2 directed to issue such regulations as may be necessary to  
3 assure that the members of every court martial shall be free  
4 to perform their sworn duties without any coercion or  
5 influence, directly or indirectly, on the part of any person  
6 in the naval service.”

7       SEC. 40. Article 54 is repealed.

8       SEC. 41. Article 55 is renumbered as article 42 and  
9 amended to read as follows:

10       “ART. 42. (a) Courts of inquiry may be convened by  
11 any person authorized to convene general courts martial.  
12 A court of inquiry shall consist of three or more commissioned  
13 officers.

14       “(b) Boards of investigation composed of two or more  
15 officers and investigations conducted by one officer may  
16 be convened by any person authorized to convene courts  
17 of inquiry, and by such other officers as the Secretary of  
18 the Navy may designate.

19       “(c) For every court of inquiry and board of investiga-  
20 tion, the convening authority shall appoint a counsel to assist  
21 the court or board in its duties.

22       “(d) Any person subject to these articles, or in the  
23 employ of the naval service, whose conduct shall be the  
24 subject of inquiry, or his counsel, shall have the right to  
25 cross-examine all the witnesses.

1       “(e) Any person subject to these articles, or in the  
2 employ of the naval service, who has an interest in the  
3 subject of inquiry, shall have the right to be present and to  
4 be represented by counsel of his own choice.”

5       SEC. 42. Article 56 is repealed.

6       SEC. 43. Article 57 is renumbered as article 43 and  
7 amended as follows:

8       “ART. 43. Courts of inquiry, and, when empowered by  
9 the convening authority, boards of investigation and investi-  
10 gations conducted by one officer shall have power to ad-  
11 minister oaths. They shall make findings of fact, and when  
12 required so to do, express opinions and make recommenda-  
13 tions.”

14       SEC. 44. Articles 58 and 59 are repealed.

15       SEC. 45. Article 60 is renumbered as article 44 and  
16 amended to read as follows:

17       “ART. 44. The proceedings of courts of inquiry shall  
18 be authenticated by the signatures of the president of the  
19 court and of the counsel for the court; but in case the pro-  
20 ceedings cannot be authenticated by the signatures of the  
21 president and of the counsel, by reason of death, disability, or  
22 absence of either or both of them, they shall be signed by  
23 a member in lieu of the president and by another member  
24 in lieu of the counsel. The sworn testimony, contained in  
25 the duly authenticated record of proceedings of a court of

1 inquiry, of a person whose oral testimony cannot be ob-  
2 tained, shall be evidence before a court martial of a de-  
3 fendant before said court of inquiry: *Provided*, That where  
4 such testimony is used in evidence against the accused per-  
5 son, other than under the general rules of evidence, the  
6 punishment imposed shall not extend to death."

7       SEC. 46. Articles 61, 62, and 63 are repealed.

8       SEC. 47. "Art. 5. (a) The following persons shall be  
9 subject to the Articles for the Government of the Navy:

10       "First. Except as provided in Articles 6 and 7, all  
11 persons on active duty in the naval service, including those,  
12 not unlawfully detained, awaiting discharge after expiration  
13 of their terms of enlistment, and any such person alleged to  
14 have committed any offense against these Articles during a  
15 prior period of service: *Provided*, That any person who  
16 deserted and subsequently reentered and was discharged  
17 from the naval service shall continue to be subject to the  
18 Articles for any offense committed during the period of  
19 service from which he deserted.

20       "Second. All reserve personnel of the naval service  
21 when employed on authorized training or drill duty, with  
22 or without pay, or other equivalent instruction or duty,  
23 or when employed in authorized travel to or from such duty,  
24 or appropriate duty, drill or instruction, or during such  
25 time as they may by law be required to perform active duty,

1 or while wearing a uniform prescribed for reserve personnel  
2 of the naval service: *Provided*, That release from such duty  
3 status shall not terminate jurisdiction for offenses thereto-  
4 fore committed; and in such cases, reserve personnel of the  
5 naval service may be retained on or returned to a duty  
6 status without their consent, but not for a longer period of  
7 time than may be required therefor.

8 "Third. All retired naval personnel entitled to receive  
9 pay.

10 "Fourth. All persons discharged from the naval service  
11 subsequently charged with having fraudulently obtained said  
12 discharge: *Provided*, That upon conviction of this offense,  
13 said discharge shall be null and void ab initio.

14 "Fifth. All persons in naval custody serving a sentence  
15 adjudged by a court martial.

16 "Sixth. All former officers of the naval service dismissed  
17 by order of the President who make written application for  
18 trial, setting forth under oath that they have been wrong-  
19 fully dismissed.

20 "Seventh. Personnel of the Coast Guard, Coast and  
21 Geodetic Survey, Public Health Service, and other organiza-  
22 tions, when actively serving under the Navy Department,  
23 pursuant to law, as a part of the naval forces of the United  
24 States.

25 In time of war or national emergency, in addition to the

1 foregoing, the following persons shall be subject to the  
2 Articles for the Government of the Navy:

3 "Eighth. Prisoners of war in naval custody.

4 "Ninth. All persons alleged to be spies or saboteurs,  
5 or to have brought or delivered, or to have attempted to  
6 bring or deliver, any seducing letter or message from an  
7 enemy or rebel, or to have endeavored to corrupt any person  
8 subject to these Articles to betray his trust.

9 "Tenth. All persons, other than persons in the military  
10 service of the United States, outside the continental limits  
11 of the United States accompanying or serving with the  
12 United States Navy, the Marine Corps, or the Coast Guard  
13 when serving as a part of the Navy, including but not lim-  
14 ited to persons employed by the Government directly, or by  
15 contractors or subcontractors engaged in naval projects, and  
16 all persons, other than persons in the military service of the  
17 United States, within an area leased by the United States  
18 which is without the territorial jurisdiction thereof and which  
19 is under the control of the Secretary of the Navy: *Provided,*  
20 That the jurisdiction herein conferred shall not extend to  
21 Alaska, the Canal Zone, the Hawaiian Islands, Puerto Rico,  
22 or the Virgin Islands, except the Islands of Palmyra, Mid-  
23 way, Johnston, and that part of the Aleutian Islands west  
24 of longitude one hundred and seventy-two degrees west.

25 "(b) Except for desertion in time of war or absence

1 from place of duty without authority in time of war, or for  
2 mutiny or murder, no person subject to these Articles shall  
3 be tried or punished by a court martial for any offense com-  
4 mitted more than two years before the signing of charges and  
5 specifications to be preferred against him: *Provided*, That  
6 nothing in this section of this Article shall extend to any  
7 person fleeing from justice or in the custody of civil authori-  
8 ties or shall be construed to affect the provisions of the Act of  
9 August 24, 1942 (ch. 555, sec. 1, 56 Stat. 747), as amended  
10 by the Acts of July 1, 1944 (ch. 358, sec. 19 (b), 58 Stat.  
11 667), and October 3, 1944 (ch. 479, sec. 28, 58 Stat. 781) :  
12 *Provided further*, That before evidence is received on the  
13 general issue in any case involving any offense enumerated  
14 in this section of this article the judge advocate or, if the  
15 trial is before a deck or summary court martial, the court will  
16 cause to be noted in the record of proceedings whether the  
17 accused desires the court to plead the limitations on prose-  
18 cution prescribed in this section in bar of any offense of which  
19 he might be convicted under article 28 (a) (2).

20 “(c) The Articles for the Government of the Navy shall  
21 extend to all places.

22 “(d) The following shall be offenses against the Articles  
23 for the Government of the Navy:

24 “First. Violations of the criminal laws of the United  
25 States, whenever enacted, during the time such laws are in

1 force; and any limitation as to Territorial jurisdiction shall  
2 not apply.

3 "Second. Violations of the treaties or conventions of the  
4 United States, whenever adopted, during the time such trea-  
5 ties or conventions are in force.

6 "Third. Violations of such criminal laws of a State, Ter-  
7 ritory, District, or possession of the United States, or any  
8 political subdivision thereof, in which the acts or omissions  
9 occurred, as are in force at the date of the passage of this Act  
10 and at the time they occurred.

11 "Fourth. Violations of the laws, orders, regulations, or  
12 customs of the naval service.

13 "Fifth. Violations of the law of war.

14 "(e) Whoever aids, abets, counsels, commands, induces,  
15 or procures the commission of any offense by another is  
16 a principal.

17 "(f) The provisions of these Articles conferring juris-  
18 diction upon courts martial shall not be construed as  
19 affecting the jurisdiction of extraordinary military tribunals.

20 "ART. 6. The Marine Corps shall, at all times, be  
21 subject to the laws and regulations established for the gov-  
22 ernment of the Navy, except when detached for service  
23 with the Army by order of the President; and when so  
24 detached they shall be subject to the rules and Articles of  
25 War prescribed for the government of the Army: *Provided,*

1 That an officer or enlisted person of the Marine Corps  
2 when so detached may be tried by military court martial  
3 for an offense committed against the laws for the govern-  
4 ment of the naval service prior to his detachment, and for  
5 an offense committed against the Articles of War he may  
6 be tried by naval court martial after such detachment ceases.

7 "ART. 7. Officers and enlisted persons of the Medical  
8 Department of the Navy, serving with a body of marines  
9 detached for service with the Army in accordance with the  
10 provisions of article 6, shall be subject to the provisions of  
11 article 6 in the same manner as officers and enlisted persons  
12 of the Marine Corps.

13 "ART. 15. All officers who are empowered to convene  
14 summary courts martial may convene deck courts martial for  
15 the trial of enlisted persons regularly or temporarily under  
16 their command or charge for minor offenses triable by sum-  
17 mary courts martial.

18 "ART. 16. (a) Deck courts martial shall consist of one  
19 commissioned officer only, who, while serving in such  
20 capacity shall have power to administer oaths and to hear  
21 and determine cases.

22 "(b) A deck court martial shall have power to impose  
23 either a part or the whole of any one of the following  
24 punishments:

25 "First. Reduction to the next inferior rank or rating;

1       “Second. Solitary confinement on bread and water with  
2 full ration every third day for a period not exceeding twenty  
3 days, to run consecutively;

4       “Third. Confinement, or restriction within stated limits,  
5 for a period not exceeding one month;

6       “Fourth. Deprivation of liberty on shore for a period not  
7 exceeding one month;

8       “Fifth. Loss of pay not to exceed one month's pay.

9       “(c) Loss of pay not to exceed one month's pay may  
10 be imposed in addition to any one of the punishments  
11 enumerated under Second, Third, and Fourth of section (b)  
12 of this article.

13       “(d) Any person in the naval service under command  
14 of the officer by whose order a deck court martial is convened  
15 may be detailed to act as clerk thereof.

16       “(e) The record of the proceedings of deck courts  
17 martial shall contain such matters only as are necessary to  
18 enable the reviewing authorities to act thereon.

19       “(f) No person who objects thereto shall be brought to  
20 trial before a deck court martial. Where such objection is  
21 made by the person accused, trial shall be ordered by  
22 summary or general court martial, as may be appropriate.

23       “ART. 23. A general court martial shall have juris-  
24 diction to try and punish any person subject to the Articles

1 for the Government of the Navy for any offense against said  
2 Articles.

3 "ART. 28. (a) (1) Every finding shall be determined  
4 by a majority vote. A tie vote shall be a determination in  
5 favor of the accused. The court shall announce its findings in  
6 open court as soon as they have been determined.

7 "(2) A court martial may convict the accused of the  
8 offense charged, or a lesser and included offense, or an  
9 attempt of either, or of a lesser but not included offense.  
10 A lesser but not included offense shall be construed to mean  
11 an offense which is not included in the offense charged and  
12 only because of proof of criminal negligence instead of crim-  
13 inal intent.

14 "(b) It shall be the duty of a court martial, in all cases  
15 of conviction, to adjudge a punishment adequate to the nature  
16 of the offense; but the members thereof may recommend the  
17 person convicted as deserving of clemency, and state, on the  
18 record, their reasons for so doing.

19 "(c) No person shall be sentenced to death, except by  
20 the concurrence of all the members of the court martial, and  
21 then only for the offenses for which the punishment of death  
22 is expressly provided in article 8 of these Articles subject  
23 to any exceptions which the President may have prescribed  
24 under article 33 (b) of these Articles; nor sentenced to life

1 imprisonment, nor to confinement for more than ten years,  
2 except by the concurrence of three-fourths of all the members.

3 All other sentences by general or summary court martial  
4 shall be determined by a two-thirds vote of the members.

5 Every court shall announce in open court the sentence and  
6 recommendations to clemency, if any, as soon as determined.

7 "ART. 33. (a) No court martial shall adjudge a sen-  
8 tence of imprisonment upon conviction of an offense under  
9 the laws specified in article 5 (d), First, of these Articles,  
10 in excess of the period prescribed for that offense in such laws,  
11 but such limitations upon the period of imprisonment shall  
12 not affect the power to impose additional or other types of  
13 punishment authorized by these Articles.

14 "(b) The President is authorized to prescribe a limita-  
15 tion of the punishment which may be inflicted under any of  
16 these Articles; and thereafter, such limitation while in force  
17 shall not be exceeded.

18 "ART. 36. Except in trials by courts martial of offenses  
19 in which the maximum punishment is death under Article 8  
20 of these Articles and not excepted by the maximum limita-  
21 tions of punishment which the President may have pre-  
22 scribed under Article 33 (b) of the Articles, a duly  
23 authenticated deposition taken upon reasonable notice to  
24 the opposite party may be read in evidence before any naval  
25 court when it appears to the satisfaction of the judge advocate

1 of the general court martial, or the senior member of the  
2 summary court martial, or the deck court-martial officer  
3 or the president of the court of inquiry, that the witness,  
4 by reason of death, age, sickness, bodily infirmity, imprison-  
5 ment, or military necessity, is unable to, or, in foreign places,  
6 because of nonamenability to process, refuses to appear and  
7 testify in person at the place of trial or hearings: *Provided,*  
8 That the accused, or defendant, and his counsel, or a repre-  
9 sentative of the accused or defendant if so desired by the  
10 accused or defendant, shall be given an opportunity to be  
11 present and cross-examine any deponent against the accused  
12 or defendant, unless the Secretary of the Navy has, in  
13 extraordinary circumstances, expressly authorized the taking  
14 of the deposition without the granting of such opportunity.

15 "ART. 37. A court martial may, for reasonable cause,  
16 grant a continuance for such time and as often as may  
17 appear to be just. In time of peace no person shall, against  
18 his objection, be brought to trial before a general, summary,  
19 or deck court martial, within periods of five days, three  
20 days, and twenty-four hours, subsequent to the service of  
21 specifications upon him, respectively.

22 "ART. 38. In every court-martial proceeding in which  
23 the accused pleads not guilty, defense counsel, if there  
24 be one, shall, in the event of conviction, attach to the  
25 record of proceedings either a brief of such matters as

1 he feels should be considered on behalf of the accused on  
2 review or a signed statement setting forth his reasons for  
3 not so doing.

4 "ART. 45. When actively serving under the Navy  
5 Department, pursuant to law, as a part of the naval forces  
6 of the United States, commissioned officers of the Naval  
7 Reserve, Marine Corps Reserve, Coast Guard, Coast and  
8 Geodetic Survey, and Public Health Service, and other  
9 organizations serving as a part of the naval forces of the  
10 United States, shall be eligible to serve on naval courts  
11 martial and fact-finding bodies.

12 "ART. 46. When a force of marines is embarked on a  
13 naval vessel, or vessels, as a separate organization, not a  
14 part of the authorized complement thereof, the authority  
15 and powers of the officers of such separate organizations or  
16 marines shall be the same as though such organization were  
17 serving at a naval station on shore, but nothing herein shall  
18 be construed as impairing the paramount authority of the  
19 commanding officer of any vessel over the vessel under his  
20 command and all persons embarked thereon.

21 "ART. 47. (a) Such officers as may be designated by  
22 the Secretary of the Navy shall at all times have authority  
23 to administer oaths for the purpose of naval administration,  
24 including naval justice, and, shall have the general powers

1 of a notary public and of a consul of the United States,  
2 in the performance of all notarial acts.

3 “(b) No fee of any character shall be paid to or  
4 accepted by any officer for the performance of any notarial  
5 act herein authorized.

6 “(c) The signature without seal of any such officer  
7 acting as such notary public shall be prima facie evidence  
8 of his authority.

9 “ART. 48. The Secretary of the Navy is authorized to  
10 prescribe, and to modify from time to time, the rules of  
11 pleading and procedure, including modes of proof, in pro-  
12 ceedings before naval courts martial, other naval tribunals,  
13 and fact-finding bodies as will insure the enforcement of  
14 discipline and the fair and impartial administration of justice  
15 in the United States naval service: *Provided*, That, insofar  
16 as applicable, such modes of proof shall follow the law of  
17 evidence prevailing in the district courts of the United States  
18 in the trial of criminal cases: *Provided further*, That nothing  
19 contrary to or inconsistent with these Articles shall be so  
20 prescribed.”

21 SEC. 48. The following Acts, as amended, are repealed:

22 (a) That portion of the Act of March 3, 1893 (ch. 212,  
23 27 Stat. 716), relating to the punishment for fraudulent  
24 enlistment and receipt of any pay or allowance thereunder;

1 (b) Act of January 25, 1895 (ch. 45, 28 Stat. 639-  
2 640) ;

3 (c) Act of February 16, 1909 (ch. 131, secs. 1-12,  
4 16-17, 35 Stat. 621) ;

5 (d) That portion of the Act of August 29, 1916 (ch.  
6 417, 39 Stat. 586) entitled "Administration of Justice";

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

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

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

10 (h) Act of March 22, 1943 (ch. 18, 57 Stat. 41) ;

11 (i) So much of the Act of April 9, 1943 (ch. 36, 57  
12 Stat. 58), as applies to the Navy and Marine Corps.

13 SEC. 49. This Act shall become effective on January 1,  
14 1948.

15 SEC. 50. All offenses committed and all punishments, for-  
16 feitures, or liabilities imposed or incurred prior to the effective  
17 date of this Act, under any law embraced in, or amended  
18 or changed or rescinded by this Act, may be prosecuted,  
19 punished, and enforced in the same manner and with the  
20 same effect as if this Act had not been passed.

Union Calendar No. 1121

80TH CONGRESS  
2D SESSION

**H. R. 5937**

[Report No. 2263]

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**A BILL**

To provide for the administration of military justice within the United States Air Force, and for other purposes.

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By Mr. ANDREWS of New York

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MARCH 22, 1948

Referred to the Committee on Armed Services

JUNE 8, 1948

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

# Union Calendar No. 1121

80TH CONGRESS  
2D SESSION

# H. R. 5937

[Report No. 2263]

## IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 1948

Mr. ANDREWS of New York introduced the following bill; which was referred to the Committee on Armed Services

JUNE 8, 1948

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through]

## A BILL

To provide for the administration of military justice within the United States Air Force, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*  
 3 That there is hereby established in the United States Air  
 4 Force the office of The Judge Advocate General, United  
 5 States Air Force. The office of The Judge Advocate Gen-  
 6 eral, United States Air Force, shall be occupied by The  
 7 Judge Advocate General, United States Air Force, with  
 8 the rank of Major General, who shall be appointed by the  
 9 President, by and with the advice and consent of the Senate,  
 10 from among qualified officer of the United States Air  
 11 Force, for a term of four years. The Judge Advocate Gen-

1 eral, United States Air Force, shall be charged with super-  
2 vising the administration of military justice in the United  
3 States Air Force and the performance of such other legal  
4 duties as may be directed by the Chief of Staff, United  
5 States Air Force.

6       SEC. 2. The Articles of War and all other laws now in  
7 effect relating to the Judge Advocate General's Department,  
8 The Judge Advocate General of the Army, and the adminis-  
9 tration of military justice within the United States Army  
10 shall be applicable to the Department of the Air Force with  
11 respect to the personnel hereof, and all references in such  
12 laws to the Department of the Army (War), the Army of  
13 the United States and its components, the Secretary of the  
14 Army (War), The Judge Advocate General, Assistants  
15 Judge Advocate General, and officers of or assigned to the  
16 Judge Advocate General's Department shall be construed  
17 for the purposes of this Act, as referring to, and vesting like  
18 authority, duties, functions, and responsibilities in, the De-  
19 partment of the Air Force, the Air Force of the United  
20 States and its components, the Secretary of the Air Force,  
21 the Judge Advocate General, United States Air Force, and  
22 officers of the United States Air Force designated by the  
23 Chief of Staff, United States Air Force, as Judge Advocates,  
24 respectively: *Provided*, That until the expiration of the trans-  
25 fer period prescribed by section 208 (e) of the National

1 Security Act of 1947 (Public Law 253, Eightieth Con-  
2 gress), the jurisdiction conferred hereby may be exercised  
3 with respect to personnel of any component of the Depart-  
4 ment of the Army who may be under the command and  
5 authority of the Chief of Staff, United States Air Force.

6 SEC. 3. Any officer of the United States Air Force who  
7 shall have served as The Judge Advocate General, United  
8 States Air Force, shall, upon retirement, ~~or if recalled to~~  
9 ~~active duty from the retired list upon release from active~~  
10 ~~duty~~, be advanced on the retired list to the highest active  
11 duty grade held while so serving and shall receive retired  
12 pay computed upon such higher active duty grade.

13 SEC. 4. Nothing contained herein shall be construed to  
14 prevent the prosecution, punishment, mitigation, or other  
15 action, by the United States acting through appropriate  
16 officers of either the Department of the Army or the Depart-  
17 ment of the Air Force as to any offense made punishable  
18 by the Articles of War committed prior to the date of this  
19 Act by any person subject to military law, and either of  
20 those departments may enforce or mitigate any penalty,  
21 forfeiture, fine, or liability, heretofore adjudged against such  
22 person.