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[PUBLIC LAW 759—80TH CONGRESS]

[CHAPTER 625—2D SESSION]

[S. 2655]

AN ACT

To provide for the common defense by increasing the strength of the armed forces of the United States, including the reserve components thereof, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I

SECTION 1. (a) This Act may be cited as the "Selective Service Act of 1948".

(b) The Congress hereby declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.

(c) The Congress further declares that in a free society the obligations and privileges of serving in the armed forces and the reserve components thereof should be shared generally, in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

(d) The Congress further declares, in accordance with our traditional military policy as expressed in the National Defense Act of 1916, as amended, that it is essential that the strength and organization of the National Guard, both Ground and Air, as an integral part of the first line defenses of this Nation, be at all times maintained and assured.

To this end, it is the intent of the Congress that whenever Congress shall determine that units and organizations are needed for the national security in excess of those of the Regular components of the Ground Forces and the Air Forces, and those in active service under this title, the National Guard of the United States, both Ground and Air, or such part thereof as may be necessary, together with such units of the Reserve components as are necessary for a balanced force, shall be ordered to active Federal service and continued therein so long as such necessity exists.

(e) The Congress further declares that adequate provision for national security requires maximum effort in the fields of scientific research and development, and the fullest possible utilization of the Nation's technological, scientific, and other critical manpower resources.

AUTHORIZED PERSONNEL STRENGTHS

SEC. 2. Notwithstanding any other provision of law, the authorized active duty personnel strength of the armed forces, exclusive of personnel of the reserve components on active duty for training purposes only, officer candidates, personnel of the armed forces employed in

the Selective Service System, and persons paid under the appropriations for the Naval Reserve and the Marine Corps Reserve, is hereby established as follows: (1) Of the Army of the United States, eight hundred thirty-seven thousand plus one hundred ten thousand one-year enlistees; (2) of the Navy, including the Marine Corps, the present authorized statutory strength of six hundred sixty-six thousand, eight hundred and eighty-two, plus thirty-six thousand one-year enlistees; and (3) of the Air Force of the United States, five hundred two thousand plus fifteen thousand one-year enlistees. The strength herein established for each of the armed forces shall mean the daily average number of persons on active duty therein during the fiscal year.

#### REGISTRATION

SEC. 3. Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder.

#### TRAINING AND SERVICE

SEC. 4. (a) Except as otherwise provided in this title, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of nineteen and twenty-six, at the time fixed for his registration, or who attains the age of nineteen after having been required to register pursuant to section 3 of this title, shall be liable for training and service in the armed forces of the United States. Any citizen of a foreign country, who is not deferrable or exempt from training and service under the provisions of this title (other than this subsection), shall be relieved from liability for training and service under this title if, prior to his induction into the armed forces, he has made application to be relieved from such liability in the manner prescribed by and in accordance with rules and regulations prescribed by the President; but any person who makes such application shall thereafter be debarred from becoming a citizen of the United States. The President is authorized from time to time, whether or not a state of war exists, to select and induct into the armed forces of the United States for training and service in the manner provided in this title such number of persons as may be required to provide and maintain the personnel strengths (other than one-year enlistee personnel strengths) of the respective armed forces authorized by section 2 of this title.

No person shall be inducted for training and service under this title unless and until he is acceptable to the armed forces for such training and service and his physical and mental fitness for such training and service has been satisfactorily determined under standards prescribed by the Secretary of Defense.

No persons shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical

care, and hospital accommodations, for such persons, as may be determined by the Secretary of Defense to be essential to public and personal health.

The persons inducted into the armed forces for training and service under this title shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title shall be deemed to be members of the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title shall be deemed to be members of the United States Navy or the United States Marine Corps, as appropriate; and persons inducted into the air forces of the United States pursuant to this title shall be deemed to be members of the Air Force of the United States.

No person, without his consent, shall be inducted for training and service under this title, except as otherwise provided herein, after he has attained the twenty-sixth anniversary of the day of his birth.

(b) Each person inducted under the provisions of subsection (a) shall serve in the armed forces for a period of twenty-one consecutive months, unless sooner discharged in accordance with standards and procedures prescribed by the Secretary of Defense.

(c) (1) Under the provisions of applicable laws and regulations any person between the ages of nineteen and twenty-six shall be offered an opportunity to enlist in the Regular Army for a period of service equal to that prescribed in subsection (b) of this section.

(2) Any enlisted member of any reserve component of the Armed Forces may, during the effective period of this Act, apply for a period of service equal to that prescribed in subsection (b) of this section and his application shall be accepted: *Provided*, That his services can be effectively utilized and that his physical and mental fitness for such service meet the standards prescribed by the head of department concerned: *And provided further*, That active service performed pursuant to this section shall not prejudice his status as such member of such reserve component.

(3) The passing requirement for the General Classification Test shall be fixed at seventy points.

(d) (1) Each person who hereafter is inducted, enlisted, or appointed (except a person enlisted under subsection (g) of this section) and serves for a period of less than three years in one of the armed forces and meets the qualifications for enlistment or appointment in a reserve component of the armed force in which he serves, shall be transferred to a reserve component of such armed force, and until the expiration of a period of five years after such transfer, or until he is discharged from such reserve component, whichever occurs first, shall be deemed to be a member of such reserve component and shall be subject to such additional training and service as may now or hereafter be prescribed by law for such reserve component: *Provided*, That any such person who completes at least twenty-one months of service in the armed forces and who thereafter serves satisfactorily (1) on active duty in the armed forces under a voluntary extension for a period of at least one year, which extension is hereby authorized, or (2) in an organized unit of any reserve component of any of the armed forces for a period of at least thirty-six consecutive months, shall, except in time of war or national emergency declared by the

Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces.

(2) Each person who hereafter is enlisted under the provisions of subsection (g) of this section and who meets the qualifications for enlistment or appointment in a reserve component of the armed forces shall, upon discharge from such enlistment under honorable conditions, be transferred to a reserve component of the armed forces of the United States and shall serve therein for a period of six years or until sooner discharged. Each such person shall, so long as he is a member of such reserve component, be liable to be ordered to active duty, but except in time of war or national emergency declared by the Congress no such person shall be ordered to active duty, without his consent and except as hereinafter provided, for more than one month in any year. In case the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can without undue hardship be filled by, any such person, it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to, such organized unit or officers' training program and to serve satisfactorily therein for a period of four years. Any such person who fails or refuses to perform such duty may be ordered to active duty, without his consent, for an additional period of not more than twelve consecutive months. Any such person who enlists or accepts appointment in any such organized unit and serves satisfactorily therein for a period of four years shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces. The Secretary of Defense is authorized to prescribe regulations governing the transfer of such persons within and between reserve components of the armed forces and determining, for the purpose of the requirements of the foregoing provisions of this paragraph, the credit to be allowed any person so transferring for his previous service in one or more reserve components.

(e) With respect to the persons inducted for training and service under this title there shall be paid, allowed, and extended the same pay, allowances, pensions, disability and death compensation, and other benefits as are provided by law in the case of other enlisted men of like grades and length of service of that component of the armed forces to which they are assigned. Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), is hereby amended by deleting therefrom the following: "Act of March 7, 1942 (56 Stat. 143-148, ch. 166), as amended". The Act of March 7, 1942 (56 Stat. 143-148), as amended, is hereby made applicable to persons inducted into the armed forces pursuant to this title.

(f) Nothing contained in this or any other Act shall be construed

as forbidding the payment of compensation by any person, firm, or corporation to persons inducted into the armed forces of the United States for training and service under this title, or to members of reserve components of such forces now or hereafter on any type of active duty, who, prior to their induction or order to active duty, were receiving compensation from such person, firm, or corporation.

(g) Subject to the authorized one-year enlistee active duty personnel strengths established by section 2 of this title for the respective armed forces, the Secretaries of the Army, the Navy, and the Air Force are authorized and directed to accept enlistments for periods of one year in the Army of the United States, the United States Navy or the United States Marine Corps, and the Air Force of the United States, respectively, from among qualified male persons between the ages of eighteen and nineteen.

(h) No person who is enlisted in the Army of the United States under the provisions of subsection (g) shall be permanently assigned to duty at any place outside of the continental limits of the United States; and no person who is enlisted under the provisions of such subsection in the United States Navy, the United States Marine Corps, or the Air Force of the United States shall be assigned to duty at any naval or air force installation which is located on land outside of the continental limits of the United States.

#### SELECTION

SEC. 5. (a) The selection of persons for training and service under section 4 shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the persons who are liable for such training and service and who at the time of selection are registered and classified, but not deferred or exempted: *Provided*, That in the selection of persons for training and service under this title, and in the interpretation and execution of the provisions of this title, there shall be no discrimination against any person on account of race or color: *Provided further*, That in the classification of registrants within the jurisdiction of any local board, the registrants of any particular registration may be classified, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after the registrants of any prior registration or registrations; and in the selection for induction of persons within the jurisdiction of any local board and within any particular classification, persons who were registered at any particular registration may be selected, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after persons who were registered at any prior registration or registrations.

(b) Quotas of men to be inducted for training and service under this title shall be determined for each State, Territory, possession, and the District of Columbia, and for subdivisions thereof, on the basis of the actual number of men in the several States, Territories, possessions, and the District of Columbia, and the subdivisions thereof, who are liable for such training and service but who are not deferred after classification, except that credits shall be given in fixing such quotas for residents of such subdivisions who are in the armed forces of the United States on the date fixed for determining such quotas. After such quotas

are fixed, credits shall be given in filling such quotas for residents of such subdivisions who subsequently become members of such forces. Until the actual numbers necessary for determining the quotas are known, the quotas may be based on estimates, and subsequent adjustments therein shall be made when such actual numbers are known. All computations under this subsection shall be made in accordance with such rules and regulations as the President may prescribe.

#### DEFERMENT AND EXEMPTIONS

SEC. 6. (a) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service; cadets, United States Military Academy; midshipmen, United States Navy; cadets, United States Coast Guard Academy; members of the reserve components of the armed forces, the Coast Guard, and the Public Health Service, while on active duty; and foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President, residing in the United States, and who have not declared their intention to become citizens of the United States, shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4 (b).

(b) (1) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of twelve months or more, or between December 7, 1941, and September 2, 1945, for a period in excess of ninety days, in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(2) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of ninety days or more but less than twelve months in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title, if—

(A) the local board determines that he is regularly enlisted or commissioned in any organized unit of a reserve component of the armed force (or the Coast Guard) in which he served, provided such unit is reasonably accessible to such person without unduly interrupting his normal pursuits and activities (including attendance at a college or university in which he is regularly enrolled), or in a reserve component (other than in an organized unit) of such armed force or the Coast Guard in any case in which enlistment or commission in an organized unit of a reserve component

of such armed force or the Coast Guard is not available to him; or

(B) the local board determines that enlistment or commission in a reserve component of such armed force or the Coast Guard is not available to him or that he has voluntarily enlisted or accepted appointment in an organized unit of a reserve component of an armed force other than the armed force in which he served or in the Coast Guard.

Nothing in this paragraph shall be deemed to be applicable to any person to whom paragraph (1) of this subsection is applicable.

(3) No person who after the date of enactment of this title is honorably discharged upon the completion of a period of three years or more of active duty in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(4) No person who is honorably discharged upon the completion of an enlistment pursuant to section 4 (c) or section 4 (g) shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(5) For the purposes of computation of the periods of active duty referred to in paragraphs (1), (2), or (3) of this subsection, no credit shall be allowed for—

(A) periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes;

(B) periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(C) periods of active duty as a cadet at the United States Military Academy or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies; or

(D) periods of active duty in any of the armed forces while being processed for entry into or separation from any educational program or institution referred to in paragraphs (B) or (C).

(c) (1) Persons who, on the effective date of this title, were members of organized units of the federally recognized National Guard, the federally recognized Air National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, or the Public Health Service Reserve, shall, so long as they continue to be such members and satisfactorily participate in scheduled drills and training periods as prescribed by the Secretary of Defense, be exempt from training and service by induction under the provisions of this title, but shall not be exempt from registration unless on active duty.

(2) (A) In any case in which the Governor of any State determines and issues a proclamation to the effect that the authorized strength of

any organized unit of the National Guard of his State cannot be maintained by the enlistment or appointment of persons referred to in subsection 6 (b) (2) or persons who are not liable for training and service under this title, any person who prior to attaining the age of eighteen years and six months enlists or accepts appointment in any such organized unit shall be deferred from training and service under this title so long as he continues to serve satisfactorily as a member of such organized unit.

(B) Except as provided in subsection (b) or clause (A) of this paragraph, no person who shall become a member of a reserve component after the effective date of this title shall thereby be exempt from registration or training and service by induction under the provisions of this title.

(d) (1) Any person who, on the effective date of this title, is enrolled in the advanced course, senior division, Reserve Officers' Training Corps or the Air Reserve Officers' Training Corps, or is a member of the Naval Reserve Officers' Training Corps and has entered upon the junior or senior year, or is a midshipman, United States Naval Reserve, shall be deferred from induction for training and service under this title until the completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration.

(2) Within such number as may be prescribed by the Secretary of Defense any person who, (A) on or after the effective date of this title, is selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or who, on or after the effective date of this title, is appointed a midshipman, United States Naval Reserve, and (B) agrees, in writing, to accept a commission if tendered and to serve, subject to call by the Secretary of the Army, the Secretary of the Air Force, or the Secretary of the Navy, respectively, not less than two years on active duty after receipt of a commission, shall be deferred from induction for training and service under this title until after completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration.

(e) Fully qualified and accepted aviation cadet applicants of the Army, Navy, or Air Force who have signed an agreement of service shall, in such numbers as may be designated by the Secretary of Defense, be deferred, during the period covered by the agreement but not to exceed four months, from induction for training and service under this title but shall not be exempt from registration.

(f) The Vice President of the United States; the governors of the several States, Territories, and possessions, and all other officials chosen by the voters of the entire State, Territory, or possession; members of the legislative bodies of the United States and of the several States, Territories, and possessions; judges of the courts of record of the United States and of the several States, Territories, possessions, and the District of Columbia shall, while holding such offices, be deferred from training and service under this title in the armed forces of the United States.

(g) Regular or duly ordained ministers of religion, as defined in this title, and students preparing for the ministry under the direction of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been preenrolled, shall be exempt from training and service (but not from registration) under this title.

(h) The President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title in the armed forces of the United States of any or all categories of persons whose employment in industry, agriculture, or other occupations or employment, or whose continued service in an office (other than an office described in subsection (f)) under the United States or any State, Territory, or possession, or the District of Columbia, or whose activity in study, research, or medical, scientific, or other endeavors is found to be necessary to the maintenance of the national health, safety, or interest: *Provided*, That no person within any such category shall be deferred except upon the basis of his individual status. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title in the armed forces of the United States (1) of any or all categories of persons in a status with respect to persons dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those persons found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of any person is advisable, because of his status with respect to persons dependent upon him for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the armed forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the ground for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title in the armed forces of the United States of any or all categories of persons who have wives or children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service shall be made in the case of any individual except upon the basis of the status of such individual. There shall be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those persons who have been classified by such local board.

(i) (1) Any person who, while satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning, is ordered to report for induction under this title prior to his graduation from such school or institution, shall, upon the facts being presented to the local board, have his induction under this title

postponed (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest. The induction of any such person shall not be postponed under this paragraph beyond the date so determined.

(2) Any person who, while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning, is ordered to report for induction under this title, shall, upon the facts being presented to the local board, have his induction under this title postponed (A) until the end of such academic year or (B) until he ceases satisfactorily to pursue such course of instruction, whichever is the earlier. Nothing in this paragraph shall be deemed to preclude the President from providing, by regulations prescribed under subsection (h) of this section, for the deferment from training and service of any category or categories of students for such periods of time as he may deem appropriate.

(j) Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the armed forces under this title, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, be deferred. Any person claiming exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board. Upon the filing of such appeal, the appeal board shall refer any such claim to the Department of Justice for inquiry and hearing. The Department of Justice, after appropriate inquiry, shall hold a hearing with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. The Department of Justice shall, after such hearing, if the objections are found to be sustained, recommend to the appeal board that (1) if the objector is inducted into the armed forces under this title, he shall be assigned to noncombatant service as defined by the President, or (2) if the objector is found to be conscientiously opposed to participation in such noncombatant service, he shall be deferred. If after such hearing the Department of Justice finds that his objections are not sustained, it shall recommend to the appeal board that such objections be not sustained. The appeal board shall, in making its decision, give consideration to, but shall not be bound to follow, the recommendation of the Department of Justice together with the record on appeal from the local board. Each person whose claim for exemption from combatant training and service because of conscientious objections is sustained shall be listed by the local board on a register of conscientious objectors.

(k) No exception from registration, or exemption or deferment from training and service, under this title, shall continue after the cause therefor ceases to exist.

(l) Notwithstanding any other provisions of law, no person between the ages of eighteen and twenty-one shall be discharged from service in the armed forces of the United States while this title is in effect because such person entered such service without the consent of his parent or guardian.

(m) No person shall be relieved from training and service under this title by reason of conviction of a criminal offense, except where the offense of which he has been convicted may be punished by death, or by imprisonment for a term exceeding one year.

(n) In the case of any registrant whose principal place of employment is located outside the appeal board area in which the local board having jurisdiction over the registrant is located, any occupational deferment made under subsection (h) of this section may, within five days after such deferment is made, be submitted for review and decision to the appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant. Such decision of the appeal board shall be final unless modified or changed by the President, and such decision shall be made public.

(o) Where one or more sons or daughters of a family were killed in action or died in line of duty while serving in the armed forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service, the sole surviving son of such family shall not be inducted for service under the terms of this title.

#### ACTIVE DUTY FOR CERTAIN MEMBERS OF RESERVE COMPONENTS

SEC. 7. Notwithstanding any other provision of law or of this title, the President is hereby authorized to order into the active service of the armed forces of the United States, without their consent and for a period not to exceed twenty-one consecutive months each, members (other than those exempted or deferred from training and service under the provisions of section 6 (c) of any or all reserve components of the armed forces of the United States who shall have had less than ninety days' continuous active service in the armed forces of the United States, exclusive of periods of active training duty. No member of the National Guard of any State, Territory, or the District of Columbia shall be ordered into the active service of the armed forces of the United States under this section unless the governor of such State or Territory, or the Commanding General of the District of Columbia National Guard in the case of a member of the District of Columbia National Guard, has consented to the ordering into active service of the armed forces of the United States of members of the National Guard of his State, Territory, or District, as the case may be, in accordance with such program or programs as may have been mutually agreed upon. Nothing in this section shall be construed to repeal or abridge any existing law which authorizes the ordering of members of reserve components of the armed forces into active service.

#### BOUNTIES; SUBSTITUTES; PURCHASES OF RELEASE

SEC. 8. No bounty shall be paid to induce any person to enlist in or be inducted into the armed forces of the United States: *Provided*,

That the clothing or enlistment allowances authorized by law shall not be regarded as bounties within the meaning of this section. No person liable for training and service in such forces shall be permitted or allowed to furnish a substitute for such training and service; no substitute as such shall be received, enlisted, enrolled, or inducted into the armed forces of the United States; and no person liable for training and service in such forces under section 4 shall be permitted to escape such training and service or be discharged therefrom prior to the expiration of his period of such training and service by the payment of money or any other valuable thing whatsoever as consideration for his release from such training and service or liability therefor.

SEPARATION FROM SERVICE; REEMPLOYMENT RIGHTS

SEC. 9. (a) Any person inducted into the armed forces under this title for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 4 (b) shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. In addition, each such person who is inducted into the armed forces under this title for training and service shall be given a physical examination at the beginning of such training and service, and upon the completion of his period of training and service under this title, each such person shall be given another physical examination and, upon his written request, shall be given a statement of physical condition by the Secretary concerned: *Provided*, That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains.

(b) In the case of any such person who, in order to perform such training and service, has left or leaves a position (other than a temporary position) in the employ of any employer and who (1) receives such certificate, and (2) makes application for reemployment within ninety days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its Territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

(B) if such position was in the employ of a private employer, such person shall—

(i) if still qualified to perform the duties of such position,

be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case,

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so;

(C) if such position was in the employ of any State or political subdivision thereof, it is hereby declared to be the sense of the Congress that such person should—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(c) (1) Any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) shall be considered as having been on furlough or leave of absence during his period of training and service in the armed forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) should be so restored in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

(d) In case any private employer fails or refuses to comply with the provisions of subsection (b) or subsection (c) (1), the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action: *Provided*, That any such compensa-

tion shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States district attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States district attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions: *Provided*, That no fees or court costs shall be taxed against any person who may apply for such benefits: *Provided further*, That only the employer shall be deemed a necessary party respondent to any such action.

(e) (1) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the armed forces, by any agency in the executive branch of the Government or by any Territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored by such agency or the successor to its functions, or by such Territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed immediately before entering the armed forces by any agency in the executive branch of the Government or by the District of Columbia, the United States Civil Service Commission finds that—

(A) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(B) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia,

the Commission shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the government of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be restored to such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Commission is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be restored under the last sentence of paragraph (2) of this subsection. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules and regulations and orders issued by the Commission pursuant to this subsection. The Commission is authorized and directed whenever it finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District

of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by him through other employment, unemployment compensation, or readjustment allowances: *Provided*, That any such compensation ordered to be paid by the Commission shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this paragraph, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government.

(2) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the armed forces, in the legislative branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces. In any case in which it is not possible for any such person to be restored to a position in the legislative branch of the Government and he is otherwise eligible to acquire a status for transfer to a position in the classified (competitive) civil service in accordance with section 2 (b) of the Act of November 26, 1940 (54 Stat. 1212), the United States Civil Service Commission shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which he is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position such person shall be restored to such position by the agency in which such position exists.

(3) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the armed forces, in the judicial branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces.

(f) In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any other law relating to similar reemployment benefits left the same position in order to enter the armed forces, the person who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(g) (1) Any person who, subsequent to the date of enactment of this title and while it is in effect, enlists in the armed forces of the United States (other than in a reserve component) or the Coast Guard (other than in a reserve component) for not more than three years shall, if such enlistment is his first enlistment in the armed forces or the Coast Guard subsequent to the date of enactment of this title, be

entitled, upon the expiration of his enlistment (including any extension thereof by law but not including any voluntary extension thereof) or upon his discharge under honorable conditions prior to the expiration thereof, to all the reemployment rights and other benefits provided for by this section in the case of inductees.

(2) Any person who, subsequent to the effective date of this title and while it is in effect, enters upon active duty in the armed forces of the United States, the Coast Guard, or the Public Health Service in response to an order or call to active duty shall, upon his relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided by this section in the case of inductees, if he is relieved from active duty not later than three years after the date of entering upon active duty or as soon after the expiration of such three years as he is able to obtain orders relieving him from active duty.

(h) The Secretary of Labor, through the Bureau of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions of persons who have satisfactorily completed any period of active duty in the armed forces of the United States, the Coast Guard, or the Public Health Service. In rendering such aid, the Secretary shall use the then existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

(i) Any person inducted into the armed forces for training and service under this title shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in the State of which he is a resident, whether he is within or outside such State at the time of such election, if under the laws of such State he is otherwise entitled so to vote in such election; but nothing in this subsection shall be construed to require granting to any such person a leave of absence or furlough for longer than one day in order to permit him to vote in person in any such election. No person inducted into, or enlisted in, the armed forces for training and service under this title shall, during the period of such service, as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member of the House of Representatives, be required to pay any poll tax or other tax or make any other payment to any State or political subdivision thereof.

(j) The Secretaries of Army, Navy, or Air Force shall furnish to the Selective Service System hereafter established a report of separation for each person separated from active duty.

#### THE SELECTIVE SERVICE SYSTEM; CONSTRUCTION; CIVILIAN EMPLOYEES

SEC. 10. (a) (1) There is hereby established in the executive branch of the Government an agency to be known as the Selective Service System, and a Director of Selective Service who shall be the head thereof.

(2) The Selective Service System shall include a national headquarters, at least one State headquarters in each State, Territory, and possession of the United States, and in the District of Columbia, and the local boards, appeal boards, and other agencies provided for in subsection (b) (3) of this section.

(3) The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,500 per year.

(4) The functions of the Office of Selective Service Records (established by the Act of March 31, 1947) and of the Director of the Office of Selective Service Records are hereby transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are hereby transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking of effect of the provisions of this title: *Provided*, That, effective upon the termination of this title and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is hereby reestablished on the same basis and with the same functions as obtained prior to the effective date of this title, (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.

(b) The President is authorized—

(1) to prescribe the necessary rules and regulations to carry out the provisions of this title;

(2) to appoint, upon recommendation of the respective governor or comparable executive official, a State director of the Selective Service System for each headquarters in each State, Territory, and possession of the United States and for the District of Columbia, who shall represent the governor and be in immediate charge of the State headquarters of the Selective Service System; to employ such number of civilians, and to order to active duty with their consent and to assign to the Selective Service System such officers of the selective-service section of the State headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several State headquarters of the Selective Service System;

(3) to create and establish within the Selective Service System civilian local boards, civilian appeal boards, and such other civilian agencies, including agencies of appeal, as may be necessary to carry out its functions with respect to the registration, examination, classification, selection, assignment, delivery for induction, and maintenance of records of persons registered under this title. He shall create and establish one or more local boards in each county or political subdivision corresponding thereto of each State, Territory, and possession of the United States, and in the District of Columbia. Each local board shall consist of three or more members to be appointed by the President from

recommendations made by the respective governors or comparable executive officials: *Provided*, That an intercounty local board consisting of at least one member from each component county or corresponding subdivision may be established for an area not exceeding five counties or political subdivisions corresponding thereto within a State or comparable jurisdiction when the President determines, after considering the public interest involved and the recommendation of the governor or comparable executive official or officials, that the establishment of such local board area will result in a more efficient and economical operation. Any such intercounty local board shall have within its area the same power and jurisdiction as a local board has in its area. No member of any local board shall be a member of the armed forces of the United States, but each member of any local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction, and each intercounty local board shall have at least one member from each county or political subdivision corresponding thereto included within the intercounty local board area. Such local boards, under rules and regulations prescribed by the President, shall have the power within their respective jurisdictions to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title, of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be final, except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe. There shall be at least one appeal board for each State. Appeal boards within the Selective Service System shall be composed of civilians who are citizens of the United States and who are not members of the armed forces. The decision of such appeal boards shall be final in cases before them on appeal unless modified or changed by the President. The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final. No person who is a civilian officer, member, agent, or employee of the Office of Selective Service Records, or the Selective Service System, or of any local board or appeal board or other agency of such Office or System, shall be excepted from registration or deferred or exempted from training and service, as provided for in this title, by reason of his status as such civilian officer, member, agent, or employee;

(4) to appoint, and to fix, in accordance with the Classification Act of 1923, as amended, the compensation of, such officers, agents, and employees as he may deem necessary to carry out the provisions of this title: *Provided*, That the compensation of employees of local boards and appeal boards may be fixed without regard to the Classification Act of 1923, as amended: *Provided further*, That any officer on the active or retired list of the armed forces, or any reserve component thereof with his consent, or any officer or

employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out the provisions of this title (except to offices or positions on local boards or appeal boards established or created pursuant to section 10 (b) (3)) may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer in the armed forces or reserve component thereof, or as such officer or employee in any department or agency of the United States;

(5) to utilize the services of any or all departments and any and all officers or agents of the United States, and to accept the services of all officers and agents of the several States, Territories, and possessions, and subdivisions thereof, and the District of Columbia, and of private welfare organizations, in the execution of this title;

(6) to purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended, and to obtain by purchase, loan, or gift such equipment and supplies for the Selective Service System, as he may deem necessary to carry out the provisions of this title, with or without advertising or formal contract;

(7) to prescribe eligibility, rules, and regulations governing the parole for service in the armed forces, or for any other special service established pursuant to this title, of any person convicted of a violation of any of the provisions of this title;

(8) subject to the availability of funds appropriated for such purpose, to procure such space as he may deem necessary to carry out the provisions of this title and Public Law 26, Eightieth Congress, approved March 31, 1947, by lease pursuant to existing statutes, except that the provisions of the Act of June 30, 1932 (47 Stat. 412), as amended by section 15 of the Act of March 3, 1933 (47 Stat. 1517; 40 U. S. C. 278a), shall not apply to any lease entered into under the authority of this title;

(9) subject to the availability of funds appropriated for such purposes, to determine the location of such additional temporary installations as he may deem essential; to utilize and enlarge such existing installations; to construct, install, and equip, and to complete the construction, installation, and equipment of such buildings, structures, utilities, and appurtenances (including the necessary grading and removal, repair or remodeling of existing structures and installations), as may be necessary to carry out the provisions of this title; and, in order to accomplish the purpose of this title, to acquire lands, and rights pertaining thereto, or other interests therein, for temporary use thereof, by donation or lease, and to prosecute construction thereon prior to the approval of the title by the Attorney General as required by section 355, Revised Statutes, as amended;

(10) subject to the availability of funds appropriated for such purposes, to utilize, in order to provide and furnish such services as may be deemed necessary or expedient to accomplish the purposes of this title, such personnel of the armed forces and of Reserve components thereof with their consent, and such civilian

personnel, as may be necessary. For the purposes of this title, the provisions of section 14 of the Federal Employees' Pay Act of 1946 (Public Law 390, Seventy-ninth Congress) with respect to the maximum limitations as to the number of civilian employees shall not be applicable to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) The President is authorized to delegate any authority vested in him under this title, and to provide for the subdelegation of any such authority.

(d) In the administration of this title, gifts of supplies, equipment, and voluntary services may be accepted.

(e) The Chief of Finance, United States Army, is authorized to act as the fiscal, disbursing, and accounting agent of the Director in carrying out the provisions of this title.

(f) The Director is authorized to make final settlement of individual claims, for amounts not exceeding \$50, for travel and other expenses of uncompensated personnel of the Office of Selective Service Records, or the Selective Service System, incurred while in the performance of official duties, without regard to other provisions of law governing the travel of civilian employees of the Federal Government.

#### EMERGENCY MEDICAL CARE

SEC. 11. Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation, and burial, of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title, but such burial expenses shall not exceed \$150 in any one case.

#### PENALTIES

SEC. 12. (a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said title, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title, or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this title, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title, or rules, regulations, or directions made

pursuant to this title, or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title unless such person has been actually inducted for the training and service prescribed under this title or unless he is subject to trial by court martial under laws in force prior to the enactment of this title. Precedence shall be given by courts to the trial of cases arising under this title, and such cases shall, upon request of the Attorney General, be advanced on the docket for immediate hearing.

(b) Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title, or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, or in any manner changes any such certificate or any notation duly and validly inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this title, or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any of the provisions of this title or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed \$10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.

#### NONAPPLICABILITY OF CERTAIN LAWS

SEC. 13. (a) Nothing in section 109 or 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203), in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99), in section 19 (e) of the Contract Settlement Act of 1944 (U. S. C., title 41, sec. 119 (e)), or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled "An Act to prevent pernicious political activities", as amended, shall be deemed to apply to any person because

of his appointment under authority of this title or the regulations made pursuant thereto, as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections.

(b) All functions performed under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 of such Act.

(c) In computing the lump-sum payments made to Air Force reserve officers under the provisions of section 2 of the Act of June 16, 1936, as amended (U. S. C., title 10, sec. 300a), and to reserve officers of the Navy or to their beneficiaries under section 12 of the Act of August 4, 1942, as amended (U. S. C., title 34, sec. 850k), no credit shall be allowed for any period of active service performed from the effective date of this title to the date on which this title shall cease to be effective. Each such lump-sum payment shall be prorated for a fractional part of a year of active service in the case of any reserve officer subject to the provisions of either such section, if such reserve officer performs continuous active service for one or more years (inclusive of such service performed during the period in which this title is effective) and such active service includes a fractional part of a year immediately prior to the effective date of this title, or immediately following the date on which this title shall cease to be effective, or both.

#### CIVIL RELIEF

SEC. 14. Notwithstanding the provisions of section 604 of the Act of October 17, 1940 (54 Stat. 1191), and the provisions of section 4 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), all of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, including specifically article IV thereof, shall be applicable to all persons in the armed forces of the United States, including all persons inducted into the armed forces pursuant to this title, the Coast Guard, or the Public Health Service, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is repealed or otherwise terminated by subsequent Act of the Congress: *Provided*, That, with respect to persons inducted into the armed forces while this title is in effect, wherever under any section or provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed while such Act is in force, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.

#### NOTICE OF TITLE; VOLUNTARY ENLISTMENTS

SEC. 15. (a) Every person shall be deemed to have notice of the requirements of this title upon publication by the President of a proclamation or other public notice fixing a time for any registration under section 3.

(b) It shall be the duty of every registrant to keep his local board informed as to his current address and changes in status as required by such rules and regulations as may be prescribed by the President.

(c) If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(d) Except as provided in section 4 (c) or section 4 (g), nothing contained in this title shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the armed forces of the United States, including the reserve components thereof, except that no person shall be accepted for enlistment after he has received orders to report for induction and except that, whenever the Congress or the President has declared that the national interest is imperiled, voluntary enlistment or reenlistment in such forces, and their reserve components, may be suspended by the President to such extent as he may deem necessary in the interest of national defense.

#### DEFINITIONS

SEC. 16. When used in this title—

(a) The term "between the ages of eighteen and twenty-six" shall refer to men who have attained the eighteenth anniversary of the day of their birth and who have not attained the twenty-sixth anniversary of the day of their birth; and other terms designating different age groups shall be construed in a similar manner.

(b) The term "United States", when used in a geographical sense, shall be deemed to mean the several States, the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(c) The term "armed forces" shall be deemed to include the Army, the Navy, the Marine Corps, and the Air Force.

(d) The term "district court of the United States" shall be deemed to include the courts of the United States for the Territories and possessions of the United States.

(e) The term "local board" shall be deemed to include an inter-county local board in the case of any registrant who is subject to the jurisdiction of an intercounty local board.

(f) The term "Director" shall be deemed to mean the Director of the Selective Service System.

(g) (1) The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include a person who irregularly or incidentally preaches and

teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly, as a vocation, teach and preach the principles of religion and administer the ordinances of public worship as embodied in the creed or principles of his church, sect, or organization.

(h) The term "organized unit", when used with respect to a reserve component, shall be deemed to mean a unit in which the members thereof are required satisfactorily to participate in scheduled drills and training periods as prescribed by the Secretary of Defense.

(i) The term "reserve components of the armed forces" shall, unless the context otherwise requires, be deemed to include the federally recognized National Guard of the United States, the federally recognized Air National Guard of the United States, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, and the Marine Corps Reserve, and shall include, in addition to the foregoing, the Coast Guard Reserve and the Public Health Service Reserve when serving with the armed forces.

#### TERMINATION OF TITLE

SEC. 17. (a) Except as provided in this title, all laws and parts of laws in conflict with the provisions of this title are hereby suspended to the extent of such conflict for the period in which this title shall be in force.

(b) All of the provisions of this title, except the provisions of section 2, the second sentence of section 4 (a), section 4 (b), sections 4 (d), 4 (e), 4 (f), 9, 10 (a) (4), 10 (b) (10), 13 (c), 14, and 17 (b), shall become inoperative and cease to apply on the second anniversary of the date of enactment of this title or on such earlier date as may be specified in a joint resolution of the two Houses of Congress for that purpose, except as to offenses committed prior to such date.

(c) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title.

#### UTILIZATION OF INDUSTRY

SEC. 18. (a) Whenever the President after consultation with and receiving advice from the National Security Resources Board determines that it is in the interest of the national security for the Government to obtain prompt delivery of any articles or materials the procurement of which has been authorized by the Congress exclusively for the use of the armed forces of the United States, or for the use of the Atomic Energy Commission, he is authorized, through the head of any Government agency, to place with any person operating a plant, mine, or other facility capable of producing such articles or materials an order for such quantity of such articles or materials as the President deems appropriate. Any person with whom an order is placed pursuant to the provisions of this section shall be advised that such order is placed pursuant to the provisions of this section. Under any such program of national procurement, the President shall recognize the valid claim of American small business to participate

in such contracts, in such manufactures, and in such distribution of materials, and small business shall be granted a fair share of the orders placed, exclusively for the use of the armed forces or for other Federal agencies now or hereafter designated in this section. For the purposes of this section, a business enterprise shall be determined to be "small business" if (1) its position in the trade or industry of which it is a part is not dominant, (2) the number of its employees does not exceed 500, and (3) it is independently owned and operated.

(b) It shall be the duty of any person with whom an order is placed pursuant to the provisions of subsection (a), (1) to give such order such precedence with respect to all other orders (Government or private) theretofore or thereafter placed with such person as the President may prescribe, and (2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible.

(c) In case any person with whom an order is placed pursuant to the provisions of subsection (a) refuses or fails—

(1) to give such order such precedence with respect to all other orders (Government or private) theretofore or thereafter placed with such person as the President may have prescribed;

(2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible as determined by the President;

(3) to produce the kind or quality of articles or materials ordered; or

(4) to furnish the quantity, kind, and quality of articles or materials ordered at such price as shall be negotiated between such person and the Government agency concerned; or in the event of failure to negotiate a price, to furnish the quantity, kind, and quality of articles or materials ordered at such price as he may subsequently be determined to be entitled to receive under subsection (d);

the President is authorized to take immediate possession of any plant, mine, or other facility of such person and to operate it, through any Government agency, for the production of such articles or materials as may be required by the Government.

(d) Fair and just compensation shall be paid by the United States (1) for any articles or materials furnished pursuant to an order placed under subsection (a), or (2) as rental for any plant, mine, or other facility of which possession is taken under subsection (c).

(e) Nothing contained in this section shall be deemed to render inapplicable to any plant, mine, or facility of which possession is taken pursuant to subsection (c) any State or Federal laws concerning the health, safety, security, or employment standards of employees.

(f) Any person, or any officer of any person as defined in this section, who willfully fails or refuses to carry out any duty imposed upon him by subsection (b) of this section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than three years, or by a fine of not more than \$50,000, or by both such imprisonment and fine.

(g) (1) As used in this section—

(A) The term "person" means any individual, firm, company, association, corporation, or other form of business organization.

(B) The term "Government agency" means any department, agency, independent establishment, or corporation in the Executive branch of the United States Government.

(2) For the purposes of this section, a plant, mine, or other facility shall be deemed capable of producing any articles or materials if it is then producing or furnishing such articles or materials or if the President after consultation with and receiving advice from the National Security Resources Board determines that it can be readily converted to the production or furnishing of such articles or materials.

(h) (1) The President is empowered, through the Secretary of Defense, to require all producers of steel in the United States to make available, to individuals, firms, associations, companies, corporations, or organized manufacturing industries having orders for steel products or steel materials required by the armed forces, such percentages of the steel production of such producers, in equal proportion deemed necessary for the expeditious execution of orders for such products or materials. Compliance with such requirement shall be obligatory on all such producers of steel and such requirement shall take precedence over all orders and contracts theretofore placed with such producers. If any such producer of steel or the responsible head or heads thereof refuses to comply with such requirement, the President, through the Secretary of Defense, is authorized to take immediate possession of the plant or plants of such producer and, through the appropriate branch, bureau, or department of the armed forces, to insure compliance with such requirement. Any such producer of steel or the responsible head or heads thereof refusing to comply with such requirement shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than three years and a fine not exceeding \$50,000.

(2) The President shall report to the Congress on the final day of each six-month period following the date of enactment of this Act the percentage figure, or if such information is not available, the approximate percentage figure, of the total steel production in the United States required to be made available during such period for the execution of orders for steel products and steel materials required by the armed forces, if such percentage figure is in excess of 10 per centum.

#### SAVING PROVISION

SEC. 19. Nothing in this title shall be deemed to amend any provision of the National Security Act of 1947 (61 Stat. 495).

#### EFFECTIVE DATE

SEC. 20. This title shall become effective immediately; except that unless the President, or the Congress by concurrent resolution, declares a national emergency after the date of enactment of this Act, no person shall be inducted or ordered into active service without his consent under this title within ninety days after the date of its enactment. The Secretary of the Army, for the Army and the Air Force, and the Secretary of the Navy, for the Navy and Marine Corps, are hereby authorized and directed to initiate and carry forward an intensified voluntary enlistment campaign in an effort to obtain the required personnel strengths.

## TITLE II

SEC. 201. The Articles of War (41 Stat. 787 to 811, as amended) are hereby amended as follows:

Article 1 is amended to read as follows:

“(a) The word ‘officer’ shall be construed to refer to a commissioned officer.

“(b) The word ‘soldier’ shall be construed as including a noncommissioned officer, a private, or any other enlisted man or woman.

“(c) The word ‘company’ shall be construed as including a troop, battery, or corresponding unit of the ground or air forces.

“(d) The word ‘battalion’ shall be construed as including a squadron or corresponding unit of the ground or air forces.

“(e) The word ‘cadet’ shall be construed to refer to a cadet of the United States Military Academy.”

SEC. 202. Article 2, subparagraph (a), is amended to read as follows:

“(a) All officers, warrant officers, and soldiers belonging to the Regular Army of the United States; all volunteers, from the dates of their muster or acceptance into the military service of the United States; and all other persons lawfully called, drafted, or ordered into, or to duty or for training in, the said service, from the dates they are required by the terms of the call, draft, or order to obey the same;”

SEC. 203. Article 4 is amended to read as follows:

“ART. 4. WHO MAY SERVE ON COURTS-MARTIAL.—All officers in the military service of the United States, and officers of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on courts-martial for the trial of any persons who may lawfully be brought before such courts for trial.

“All warrant officers in the active military service of the United States and warrant officers in the active military service of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on general and special courts martial for the trial of warrant officers and enlisted persons, and persons in this category, shall be detailed for such service when deemed proper by the appointing authority.

“Enlisted persons in the active military service of the United States or in the active military service of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on general and special courts martial for the trial of enlisted persons when requested in writing by the accused at any time prior to the convening of the court. When so requested, no enlisted person shall, without his consent, be tried by a court the membership of which does not include enlisted persons to the number of at least one third of the total membership of the court.

“When appointing courts-martial the appointing authority shall detail as members thereof those officers of the command and when eligible those enlisted persons of the command who, in his opinion, are best qualified for the duty by reason of age, training, experience, and judicial temperament; and officers and enlisted persons having less than two years’ service shall not, if it can be avoided without manifest injury to the service, be appointed as members of courts-martial in excess of minority membership thereof. No person shall be eligible to

sit as a member of a general or special court-martial when he is the accuser or a witness for the prosecution.”

SEC. 204. Article 5 is amended to read as follows:

“ART. 5. GENERAL COURTS-MARTIAL.—General courts-martial may consist of any number of members not less than five.”

SEC. 205. Article 6 is amended to read as follows:

“ART. 6. SPECIAL COURTS-MARTIAL.—Special courts-martial may consist of any number of members not less than three.”

SEC. 206. Article 8 is amended to read as follows:

“ART. 8. GENERAL COURTS-MARTIAL.—The President of the United States, the commanding officer of a Territorial department, the Superintendent of the Military Academy, the commanding officer of an Army group, an Army, an Army corps, a division, a separate brigade, or corresponding unit of the Ground or Air Forces, or any command to which a member of the Judge Advocate General’s Department is assigned as staff judge advocate, as prescribed in article 47, and, when empowered by the President, the commanding officer of any district or of any force or body of troops may appoint general courts-martial; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority, and may in any case be appointed by superior authority when by the latter deemed desirable.

“The authority appointing a general court-martial shall detail as one of the members thereof a law member who shall be an officer of the Judge Advocate General’s Department or an officer who is a member of the bar of a Federal court or of the highest court of a State of the United States and certified by the Judge Advocate General to be qualified for such detail: *Provided*, That no general court-martial shall receive evidence or vote upon its findings or sentence in the absence of the law member regularly detailed. The law member, in addition to his duties as a member, shall perform the duties prescribed in article 31 hereof and such other duties as the President may by regulations prescribe.”

SEC. 207. Article 9 is amended to read as follows:

“ART. 9. SPECIAL COURTS-MARTIAL.—The commanding officer of a district, garrison, fort, camp, station, or other place where troops are on duty, and the commanding officer of an Army group, an Army, an Army corps, a division, brigade, regiment, detached battalion, or corresponding unit of Ground or Air Forces, and the commanding officer of any other detached command or group of detached units placed under a single commander for this purpose may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable.”

SEC. 208. Article 11 is amended to read as follows:

“ART. 11. APPOINTMENT OF TRIAL JUDGE ADVOCATES AND COUNSEL.—For each general or special court-martial the authority appointing the court shall appoint a trial judge advocate and a defense counsel, and one or more assistant trial judge advocates and one or more assistant defense counsel when necessary: *Provided*, That the trial judge advocate and defense counsel of each general court-martial shall, if available, be members of the Judge Advocate General’s Department or

officers who are members of the bar of a Federal court or of the highest court of a State of the United States: *Provided further*, That in all cases in which the officer appointed as trial judge advocate shall be a member of the Judge Advocate General's Department, or an officer who is a member of the bar of a Federal court or of the highest court of a State, the officer appointed as defense counsel shall likewise be a member of the Judge Advocate General's Department or an officer who is a member of the bar of a Federal court or of the highest court of a State of the United States: *Provided further*, That when the accused is represented by counsel of his own selection and does not desire the presence of the regularly appointed defense counsel or assistant defense counsel, the latter may be excused by the president of the court: *Provided further*, That no person who has acted as member, trial judge advocate, assistant trial judge advocate or investigating officer in any case shall subsequently act in the same case as defense counsel or assistant defense counsel unless expressly requested by the accused: *Provided further*, That no person who has acted as member, defense counsel, assistant defense counsel, or investigating officer in any case shall subsequently act in the same case as a member of the prosecution: *Provided further*, That no person who has acted as member, trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, or investigating officer in any case shall subsequently act as a staff judge advocate to the reviewing or confirming authority upon the same case."

SEC. 209. Article 12 is amended to read as follows:

"ART. 12. GENERAL COURTS-MARTIAL.—General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, and any other person who by the law of war is subject to trial by military tribunals: *Provided*, That general courts-martial shall have power to adjudge any punishment authorized by law or the custom of the service including a bad-conduct discharge."

SEC. 210. Article 13 is amended to read as follows:

"ART. 13. SPECIAL COURTS-MARTIAL.—Special courts-martial shall have power to try any person subject to military law for any crime or offense not capital made punishable by these articles: *Provided*, That the officer competent to appoint a general court-martial for the trial of any particular case may, when in his judgment the interests of the service so require, cause any case to be tried by a special court-martial notwithstanding the limitations upon the jurisdiction of the special court-martial as to offenses herein prescribed.

"Special courts-martial shall not have power to adjudge dishonorable discharge or dismissal, or confinement in excess of six months, nor to adjudge forfeiture of more than two-thirds pay per month for a period of not exceeding six months: *Provided*, That subject to approval of the sentence by an officer exercising general court-martial jurisdiction and subject to appellate review by The Judge Advocate General and appellate agencies in his office, a special court-martial may adjudge a bad-conduct discharge in addition to other authorized punishment: *Provided further*, That a bad-conduct discharge shall not be adjudged by a special court-martial unless a complete record of the proceedings of and testimony taken by the court is taken in the case."

SEC. 211. Article 14 is amended to read as follows:

"ART. 14. SUMMARY COURTS-MARTIAL.—Summary courts-martial shall have power to try any person subject to military law, except an officer, a warrant officer, or a cadet, for any crime or offense not capital made punishable by these articles: *Provided*, That noncommissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a special court-martial: *Provided further*, That the President may, by regulations, except from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

"Summary courts-martial shall not have power to adjudge confinement in excess of one month, restriction to limits for more than three months, or forfeiture or detention of more than two-thirds of one month's pay."

SEC. 212. Article 16 is amended to read as follows:

"ART. 16. PERSONS IN THE MILITARY SERVICE—HOW TRIABLE.—Officers shall be triable only by general and special courts-martial and in no case shall a person in the military service, when it can be avoided, be tried by persons inferior to him in rank. No enlisted person may sit as a member of a court-martial for the trial of another enlisted person who is assigned to the same company or corresponding military unit.

"No person subject to military law shall be confined with enemy prisoners or any other foreign nationals outside of the continental limits of the United States, nor shall any defendant awaiting trial be made subject to punishment or penalties other than confinement prior to sentence on charges against him."

SEC. 213. Article 22 is amended to read as follows:

"ART. 22. PROCESS TO OBTAIN WITNESSES.—Every trial judge advocate of a general or special court-martial and every summary court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of the United States having criminal jurisdiction may lawfully issue; but such process shall run to any part of the United States, its Territories, and possessions. Witnesses for the defense shall be subpoenaed, upon request by the defense counsel, through process issued by the trial judge advocate, in the same manner as witnesses for the prosecution."

SEC. 214. Article 24 is amended to read as follows:

"ART. 24. COMPULSORY SELF-INCRIMINATION PROHIBITED.—No witness before a military court, commission, court of inquiry, or board, or before any officer conducting an investigation, or before any officer, military or civil, designated to take a deposition to be read in evidence before a military court, commission, court of inquiry, or board, or before an officer conducting an investigation, shall be compelled to incriminate himself or to answer any question the answer to which may tend to incriminate him or to answer any question not material to the issue or when such answer might tend to degrade him.

"The use of coercion or unlawful influence in any manner whatsoever by any person to obtain any statement, admission or confession from any accused person or witness, shall be deemed to be conduct to the prejudice of good order and military discipline, and no such statement, admission, or confession shall be received in evidence by any court-martial. It shall be the duty of any person in obtaining any

statement from an accused to advise him that he does not have to make any statement at all regarding the offense of which he is accused or being investigated, and that any statement by the accused may be used as evidence against him in a trial by court-martial."

SEC. 215. Article 25 is amended to read as follows:

"ART. 25. DEPOSITIONS—WHEN ADMISSIBLE.—A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, if such deposition be taken when the witness resides, is found, or is about to go beyond the State, Territory, or district in which the court, commission, or board is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing, or when it appears to the satisfaction of the court, commission, board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to, or, in foreign places, because of nonamenability to process, refuses to, appear and testify in person at the place of trial or hearing: *Provided*, That testimony by deposition may be adduced for the defense in capital cases: *Provided further*, That a deposition may be read in evidence in any case in which the death penalty is authorized by law but is not mandatory, whenever the appointing authority shall have directed that the case be treated as not capital, and in such a case a sentence of death may not be adjudged by the court-martial: *And provided further*, That at any time after charges have been signed as provided in article 46, and before the charges have been referred for trial, any authority competent to appoint a court-martial for the trial of such charges may designate officers to represent the prosecution and the defense and may authorize such officers, upon due notice, to take the deposition of any witness, and such deposition may subsequently be received in evidence as in other cases."

SEC. 216. Article 31 is amended to read as follows:

"ART. 31. METHOD OF VOTING.—Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes, which count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court. The law member of a general court-martial or the president of a special court-martial, shall rule in open court upon interlocutory questions, other than challenge, arising during the proceedings: *Provided*, That unless such ruling be made by the law member of a general court-martial, if any member object thereto, the court shall be cleared and closed and the question decided by a majority vote, viva voce, beginning with the junior in rank: *And provided further*, That any such ruling made by the law member of a general court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of accused's sanity, shall be final and shall constitute the ruling of the court; but the law member may in any case consult with the court, in closed session, before making a ruling, and may change any ruling made at any time during the trial. It shall be the duty of the law member of a general or the president of a special court-martial before a vote is taken to advise the court that the accused must

be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt, and that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in the accused's favor and he shall be acquitted; if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no such doubt; that the burden of proof to establish the guilt of the accused is upon the Government."

SEC. 217. Article 36 is amended to read as follows:

"ART. 36. DISPOSITION OF RECORDS—SPECIAL AND SUMMARY COURTS-MARTIAL.—After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, the record of each trial by special court-martial and a report of each trial by summary court-martial shall be transmitted to the headquarters of the officer exercising general court-martial jurisdiction over the command, there to be filed in the office of the staff judge advocate: *Provided*, however, That each record of trial by special court-martial in which the sentence, as approved by the appointing authority, includes a bad-conduct discharge, shall, if approved by the officer exercising general court-martial jurisdiction under the provisions of article 47, be forwarded by him to The Judge Advocate General for review as hereinafter in these articles provided. When no longer of use, records of summary courts-martial may be destroyed as provided by law governing destruction of Government records."

SEC. 218. Article 38 is amended to read as follows:

"ART. 38. PRESIDENT MAY PRESCRIBE RULES.—The President may, by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals, which regulations shall, insofar as he shall deem practicable, apply the principles of law and rules of evidence generally recognized in the trial of criminal cases in the district courts of the United States: *Provided*, That nothing contrary to or inconsistent with these articles shall be so prescribed: *Provided further*, That all rules and regulations made in pursuance of this Article shall be laid before the Congress."

SEC. 219. Article 39 is amended to read as follows:

"ART. 39. AS TO TIME.—Except for desertion or absence without leave committed in time of war, or for mutiny or murder, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before arraignment of such person: *Provided*, That for desertion in time of peace, rape or for any crime or offense punishable under articles 93 and 94 of this code the period of limitations upon trial and punishment by court-martial shall be three years: *Provided further*, That the period of any absence of the accused from the jurisdiction of the United States, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation: *Provided further*, That this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law: *And provided further*, That in the case of any offense the trial of which in time of war shall be certified by the Secretary of the Department of the Army to

be detrimental to the prosecution of the war or inimical to the Nation's security, the period of limitations herein provided for the trial of the said offense shall be extended to the duration of the war and six months thereafter."

SEC. 220. Article 43 is amended to read as follows:

"ART. 43. DEATH SENTENCE—WHEN LAWFUL; VOTE ON FINDINGS AND SENTENCE.—No person shall, by general court martial, be convicted of an offense for which the death penalty is made mandatory by law, nor sentenced to suffer death, except by the concurrence of all the members of said court martial present at the time the vote is taken, and for an offense in these articles expressly made punishable by death; nor sentenced to life imprisonment, nor to confinement for more than ten years, except by the concurrence of three-fourths of all the members present at the time the vote is taken. Conviction of any offense for which the death sentence is not mandatory and any sentence to confinement not in excess of ten years, whether by general or special court martial, may be determined by a two-thirds vote of those members present at the time the vote is taken. All other questions shall be determined by a majority vote."

SEC. 221. Article 44 is amended to read as follows:

"ART. 44. OFFICERS—REDUCTION TO RANKS.—When a sentence to dismissal may lawfully be adjudged in the case of an officer the sentence may in time of war, under such regulations as the President may prescribe, adjudge in lieu thereof reduction to the grade of private."

SEC. 222. Article 46 is amended to read as follows:

"ART. 46. CHARGES; ACTION UPON.—

"a. SIGNATURE; OATH.—Charges and specifications must be signed by a person subject to military law, and under oath either that he has personal knowledge of, or has investigated, the matters set forth therein and that the same are true in fact, to the best of his knowledge and belief.

"b. INVESTIGATION.—No charge will be referred to a general court-martial for trial until after a thorough and impartial investigation thereof shall have been made. This investigation will include inquiries as to the truth of the matter set forth in said charges, form of charges, and what disposition of the case should be made in the interest of justice and discipline. The accused shall be permitted, upon his request, to be represented at such investigation by counsel of his own selection, civil counsel if he so provides, or military if such counsel be reasonably available, otherwise by counsel appointed by the officer exercising general courts martial jurisdiction over the command. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation they shall be accompanied by a statement of the substance of the testimony taken on both sides.

"c. FORWARDING CHARGES; DELAYS; SERVICE OF CHARGES.—When a person is held for trial by general court-martial, the commanding officer will, within eight days after the accused is arrested or confined, if practicable, forward the charges to the officer exercising general

court-martial jurisdiction and furnish the accused a copy of such charges. If the same be not practicable, he will report to superior authority the reasons for delay. The trial judge advocate will cause to be served upon the accused a copy of the charges upon which trial is to be had, and a failure so to serve such charges will be ground for a continuance unless the trial be had on the charges furnished the accused as hereinbefore provided. In time of peace no person shall, against his objection, be brought to trial before a general court-martial within a period of five days subsequent to the service of charges upon him."

SEC. 223. Article 47 is amended to read as follows:

"ART. 47. ACTION BY CONVENING AUTHORITY.—

"a. ASSIGNMENT OF JUDGE ADVOCATES; CHANNELS OF COMMUNICATION.—All members of the Judge Advocate General's Department will be assigned as prescribed by The Judge Advocate General after appropriate consultations with commanders on whose staffs they may serve; and The Judge Advocate General or senior members of his staff will make frequent inspections in the field in supervision of the administration of military justice. Convening authorities will at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; and the staff judge advocate of any command is authorized to communicate directly with the staff judge advocate of a superior or subordinate command, or with The Judge Advocate General.

"b. REFERENCE FOR TRIAL.—Before directing the trial of any charge by general court-martial the convening authority will refer it to his staff judge advocate for consideration and advice; and no charge will be referred to a general court-martial for trial unless it has been found that a thorough and impartial investigation thereof has been made as prescribed in the preceding article, that such charge is legally sufficient to allege an offense under these articles, and is sustained by evidence indicated in the report of investigation.

"c. ACTION ON RECORD OF TRIAL.—Before acting upon a record of trial by general court-martial or military commission, or a record of trial by special court-martial in which a bad-conduct discharge has been adjudged and approved by the authority appointing the court, the reviewing authority will refer it to his staff judge advocate or to The Judge Advocate General for review and advice; and no sentence shall be approved unless upon conviction established beyond reasonable doubt of an offense made punishable by these articles, and unless the record of trial has been found legally sufficient to support it.

"d. APPROVAL.—No sentence of a court-martial shall be carried into execution until the same shall have been approved by the convening authority: *Provided*, That no sentence of a special court-martial including a bad-conduct discharge shall be carried into execution until in addition to the approval of the convening authority the same shall have been approved by an officer authorized to appoint a general court-martial.

"e. WHO MAY EXERCISE.—Action by the convening authority may be taken by an officer commanding for the time being, by a successor in command, or by any officer exercising general court-martial jurisdiction.

"f. **POWERS INCIDENT TO POWER TO APPROVE.**—The power to approve the sentence of a court-martial shall include—

"(1) the power to approve or disapprove a finding of guilty and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense;

"(2) the power to approve or disapprove the whole or any part of the sentence; and

"(3) the power to remand a case for rehearing under the provisions of article 52."

SEC. 224. Article 48 is amended to read as follows:

"ART. 48. **CONFIRMATION.**—In addition to the approval required by article 47, confirmation is required as follows before the sentence of a court-martial may be carried into execution, namely:—

"a. By the President with respect to any sentence—

"(1) of death, or

"(2) involving a general officer;

*Provided*, That when the President has already acted as approving authority, no additional confirmation by him is necessary;

"b. By the Secretary of the Department of the Army with respect to any sentence not requiring approval or confirmation by the President, when The Judge Advocate General does not concur in the action of the Judicial Council;

"c. By the Judicial Council, with the concurrence of The Judge Advocate General, with respect to any sentence—

"(1) when the confirming action of the Judicial Council is not unanimous, or when by direction of The Judge Advocate General his participation in the confirming action is required, or

"(2) involving imprisonment for life, or

"(3) involving the dismissal of an officer other than a general officer, or

"(4) involving the dismissal or suspension of a cadet;

"d. By the Judicial Council with respect to any sentence in a case transmitted to the Judicial Council under the provisions of article 50 for confirming action."

SEC. 225. Article 49 is amended to read as follows:

"ART. 49. **POWERS INCIDENT TO POWER TO CONFIRM.**—The power to confirm the sentence of a court-martial shall be held to include—

"a. The power to approve, confirm, or disapprove a finding of guilty, and to approve or confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense:

"b. The power to confirm, disapprove, vacate, commute, or reduce to legal limits the whole or any part of the sentence;

"c. The power to restore all rights, privileges, and property affected by any finding or sentence disapproved or vacated;

"d. The power to order the sentence to be carried into execution;

"e. The power to remand the case for a rehearing under the provisions of article 52."

SEC. 226. Article 50 is amended to read as follows:

"ART. 50. **APPELLATE REVIEW.**—

"a. **BOARD OF REVIEW; JUDICIAL COUNCIL.**—The Judge Advocate General shall constitute, in his office, a Board of Review composed of not less than three officers of the Judge Advocate General's Department,

He shall also constitute, in his office, a Judicial Council composed of three general officers of the Judge Advocate General's Department: *Provided*, That the Judge Advocate General may, under exigent circumstances, detail as members of the Judicial Council, for periods not in excess of sixty days, officers of the Judge Advocate General's Department of grades below that of general officer.

"b. ADDITIONAL BOARDS OF REVIEW AND JUDICIAL COUNCILS.—Whenever necessary, the Judge Advocate General may constitute two or more Boards of Review and Judicial Councils in his office, with equal powers and duties, composed as provided in the first paragraph of this article.

"c. BRANCH OFFICES.—Whenever the President deems such action necessary, he may direct The Judge Advocate General to establish a branch office, under an Assistant Judge Advocate General who shall be a general officer of The Judge Advocate General's Department, with any distant command, and to establish in such branch office one or more Boards of Review and Judicial Councils composed as provided in the first paragraph of this article. Such Assistant Judge Advocate General and such Board of Review and Judicial Council shall be empowered to perform for that command under the general supervision of The Judge Advocate General, the duties which The Judge Advocate General and the Board of Review and Judicial Council in his office would otherwise be required to perform in respect of all cases involving sentences not requiring approval or confirmation by the President: *Provided*, That the power of mitigation and remission shall not be exercised by such Assistant Judge Advocate General or by agencies in his office, but any case in which such action is deemed desirable shall be forwarded to The Judge Advocate General with appropriate recommendations.

"d. ACTION BY BOARD OF REVIEW WHEN APPROVAL BY PRESIDENT OR CONFIRMING ACTION IS REQUIRED.—Before any record of trial in which there has been adjudged a sentence requiring approval or confirmation by the President or confirmation by any other confirming authority is submitted to the President or such other confirming authority, as the case may be, it shall be examined by the Board of Review which shall take action as follows:

"(1) In any case requiring action by the President, the Board of Review shall submit its opinion in writing, through the Judicial Council which shall also submit its opinion in writing, to the Judge Advocate General, who shall, except as herein otherwise provided, transmit the record and the Board's and Council's opinions, with his recommendations, directly to the Secretary of the Department of the Army for the action of the President: *Provided*, That the Judicial Council, with the concurrence of the Judge Advocate General shall have powers in respect to holdings of legal insufficiency equal to the powers vested in the Board of Review by subparagraph (3) of this paragraph.

"(2) In any case requiring confirming action by the Judicial Council with or without the concurrence of the Judge Advocate General, when the Board of Review is of the opinion that the record of trial is legally sufficient to support the sentence it shall submit its opinion in writing to the Judicial Council for appropriate action.

“(3) When the Board of Review is of the opinion that the record of trial in any case requiring confirming action by the President or confirming action by the Judicial Council is legally insufficient to support the findings of guilty and sentence, or the sentence, or that errors of law have been committed injuriously affecting the substantial rights of the accused, it shall submit its holding to the Judge Advocate General and when the Judge Advocate General concurs in such holding, such findings and sentence shall thereby be vacated in accord with such holding and the record shall be transmitted by the Judge Advocate General to the appropriate convening authority for a rehearing or such other action as may be proper.

“(4) In any case requiring confirming action by the President or confirming action by the Judicial Council in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, or the sentence, and the Judge Advocate General shall not concur in the holding of the Board of Review, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action or for other appropriate action in a case in which confirmation of the sentence by the President is required under article 48a.

“e. ACTION BY BOARD OF REVIEW IN CASES INVOLVING DISHONORABLE OR BAD-CONDUCT DISCHARGES OR CONFINEMENT IN PENITENTIARY.—No authority shall order the execution of any sentence of a court-martial involving dishonorable discharge not suspended, bad-conduct discharge not suspended, or confinement in a penitentiary unless and until the appellate review required by this article shall have been completed and unless and until any confirming action required shall have been completed. Every record of trial by general or special court-martial involving a sentence to dishonorable discharge or bad-conduct discharge, whether such discharges be suspended or not suspended, and every record of trial by general court-martial involving a sentence to confinement in a penitentiary, other than records of trial examination of which is required by paragraph d of this article, shall be examined by the Board of Review which shall take action as follows:

“(1) In any case in which the Board of Review holds the record of trial legally sufficient to support the findings of guilty and sentence, and confirming action is not by the Judge Advocate General or the Board of Review deemed necessary, the Judge Advocate General shall transmit the holding to the convening authority, and such holding shall be deemed final and conclusive.

“(2) In any case in which the Board of Review holds the record of trial legally sufficient to support the findings of guilty and sentence, but modification of the findings of guilty or the sentence is by the Judge Advocate General or the Board of Review deemed necessary to the ends of justice, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action.

“(3) In any case in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, in whole or in part, and the Judge Advocate General concurs in such holding, the findings and sentence shall thereby

be vacated in whole or in part in accord with such holding, and the record shall be transmitted by the Judge Advocate General to the convening authority for rehearing or such other action as may be appropriate.

"(4) In any case in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, in whole or in part, and the Judge Advocate General shall not concur in the holding of the Board of Review, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action.

"f. APPELLATE ACTION IN OTHER CASES.—Every record of trial by general court-martial the appellate review of which is not otherwise provided for by this article shall be examined in the Office of the Judge Advocate General and if found legally insufficient to support the findings of guilty and sentence, in whole or in part, shall be transmitted to the Board of Review for appropriate action in accord with paragraph e of this article.

"g. WEIGHING EVIDENCE.—In the appellate review of records of trials by courts-martial as provided in these articles the Judge Advocate General and all appellate agencies in his office shall have authority to weigh evidence, judge the credibility of witnesses, and determine controverted questions of fact.

"h. FINALITY OF COURT-MARTIAL JUDGMENTS.—The appellate review of records of trial provided by this article, the confirming action taken pursuant to articles 48 or 49, the proceedings, findings, and sentences of courts-martial as heretofore or hereafter approved, reviewed, or confirmed as required by the Articles of War and all dismissals and discharges heretofore or hereafter carried into execution pursuant to sentences by courts-martial following approval, review, or confirmation as required by the Articles of War, shall be final and conclusive, and orders publishing the proceedings of courts-martial and all action taken pursuant to such proceedings shall be binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon application for a new trial as provided in article 53."

SEC. 227. Article 50½ is rescinded.

SEC. 228. Article 51 is amended to read as follows:

"ART. 51. MITIGATION, REMISSION, AND SUSPENSION OF SENTENCES.—

"a. AT THE TIME ORDERED EXECUTED.—The power of the President, the Secretary of the Department of the Army, and any reviewing authority to order the execution of a sentence of a court-martial shall include the power to mitigate, remit, or suspend the whole or any part thereof, except that a death sentence may not be suspended. The Judge Advocate General shall have the power to mitigate, remit, or suspend the whole or any part of a sentence in any case requiring appellate review under article 50 and not requiring approval or confirmation by the President, but the power to mitigate or remit shall be exercised by the Judge Advocate General under the direction of the Secretary of the Department of the Army. The authority which suspends the execution of a sentence may restore the person under sentence to duty during such suspension; and the death or honorable discharge of a person under suspended sentence shall operate as a complete remission of any unexecuted or unremitted part of such sentence.

"b. SUBSEQUENT TO THE TIME ORDERED EXECUTED.—

"(1) Any unexecuted portion of a sentence other than a sentence of death, including all uncollected forfeitures, adjudged by court-martial may be mitigated, remitted or suspended and any order of suspension may be vacated, in whole or in part, by the military authority competent to appoint, for the command, exclusive of penitentiaries and the United States disciplinary barracks, in which the person under sentence may be, a court of the kind that imposed the sentence, and the same power may be exercised by superior military authority or by the Judge Advocate General under the direction of the Secretary of the Department of the Army: *Provided*, That no sentence approved or confirmed by the President shall be mitigated, remitted, or suspended by any authority inferior to the President: *And provided further*, That no order of suspension of a sentence to dishonorable discharge or bad conduct discharge shall be vacated unless and until confirming or appellate action on the sentence has been completed as required by articles 48 and 50.

"(2) The power to suspend a sentence shall include the power to restore the person affected to duty during such suspension.

"(3) The power to mitigate, remit or suspend the sentence or any part thereof in the case of a person confined in the United States disciplinary barracks or in a penitentiary shall be exercised by the Secretary of the Department of the Army or by the Judge Advocate General under the direction of the Secretary of the Department of the Army."

SEC. 229. Article 52 is amended to read as follows:

"ART. 52. REHEARINGS.—When any reviewing or confirming authority disapproves a sentence or when any sentence is vacated by action of the Board of Review or Judicial Council and the Judge Advocate General, the reviewing or confirming authority or the Judge Advocate General may authorize or direct a rehearing. Such rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence shall be enforced unless the sentence be based upon a finding of guilty of an offense not considered upon the merits in the original proceeding."

SEC. 230. Article 53 is amended to read as follows:

"ART. 53. PETITION FOR NEW TRIAL.—Under such regulations as the President may prescribe, the Judge Advocate General is authorized, upon application of an accused person, and upon good cause shown, in his discretion to grant a new trial, or to vacate a sentence, restore rights, privileges, and property affected by such sentence, and substitute for a dismissal, dishonorable discharge, or bad conduct discharge previously executed a form of discharge authorized for administrative issuance, in any court-martial case in which application is made within one year after final disposition of the case upon initial appellate review: *Provided*, That with regard to cases involving offenses committed during World War II, the application for a new trial may be made within one year after termination of the war, or after its final disposition upon initial appellate review as herein provided, which-

ever is the later: *Provided*, That only one such application for a new trial may be entertained with regard to any one case: *And provided further*, That all action by the Judge Advocate General pursuant to this article, and all proceedings, findings, and sentences on new trials under this article, as approved, reviewed, or confirmed under articles 47, 48, 49, and 50, and all dismissals and discharges carried into execution pursuant to sentences adjudged on new trials and approved, reviewed, or confirmed, shall be final and conclusive and orders publishing the action of the Judge Advocate General or the proceedings on new trial and all action taken pursuant to such proceedings, shall be binding upon all departments, courts, agencies, and officers of the United States."

SEC. 231. Article 70 is amended to read as follows:

"ART. 70. CHARGES; ACTION UPON, UNNECESSARY DELAY.—When any person subject to military law is placed in arrest or confinement immediate steps will be taken to try the person accused or to dismiss the charge and release him. Any officer who is responsible for unnecessary delay in investigating or carrying the case to a final conclusion shall be punished as a court-martial may direct."

SEC. 232. Article 85 is amended to read as follows:

"ART. 85. DRUNK ON DUTY.—Any person subject to military law, who is found drunk on duty, shall be punished as a court-martial may direct."

SEC. 233. Article 88 is amended to read as follows:

"ART. 88. UNLAWFULLY INFLUENCING ACTION OF COURT.—No authority appointing a general, special, or summary court-martial nor any other commanding officer, shall censure, reprimand, or admonish such court, or any member thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise, by such court or any member thereof, of its or his judicial responsibility. No person subject to military law shall attempt to coerce or unlawfully influence the action of a court-martial or any military court or commission, or any member thereof, in reaching the findings or sentence in any case, or the action of an appointing or reviewing or confirming authority with respect to his judicial acts."

SEC. 234. Article 89 is amended to read as follows:

"ART. 89. GOOD ORDER TO BE MAINTAINED AND WRONGS REDRESSED.—All persons subject to military law are to behave themselves orderly in quarters, garrison, camp, and on the march; and any person subject to military law who commits any waste or spoil, or wrongfully destroys any property whatsoever or commits any kind of depredation or riot, shall be punished as a court-martial may direct. Any commanding officer who, upon complaint made to him refuses or omits to see reparation made to the party injured, insofar as the offender's pay shall go toward such reparation, as provided for in article 105, shall be dismissed from the service, or otherwise punished, as a court-martial may direct."

SEC. 235. Article 92 is amended to read as follows:

"ART. 92. MURDER—RAPE.—Any person subject to military law found guilty of murder shall suffer death or imprisonment for life, as a court-martial may direct; but if found guilty of murder not premeditated, he shall be punished as a court-martial may direct. Any person subject to military law who is found guilty of rape shall suffer

death or such other punishment as a court-martial may direct: *Provided*, That no person shall be tried by court-martial for murder or rape committed within the geographical limits of the States of the Union and the District of Columbia in time of peace."

SEC. 236. Article 93 is amended to read as follows:

"ART. 93. VARIOUS CRIMES.—Any person subject to military law who commits manslaughter, mayhem, arson, burglary, housebreaking, robbery, larceny, perjury, forgery, sodomy, assault with intent to commit any felony, assault with intent to do bodily harm with a dangerous weapon, instrument, or other thing, or assault with intent to do bodily harm, shall be punished as a court-martial may direct: *Provided*, That any person subject to military law who commits larceny or embezzlement shall be guilty of larceny within the meaning of this article."

SEC. 237. Article 94 is amended to read as follows:

"ART. 94. FRAUDS AGAINST THE GOVERNMENT.—Any person subject to military law who makes or causes to be made any claim against the United States or any officer thereof, knowing such claim to be false or fraudulent; or

"Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

"Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

"Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures, or advises the making or use of, any writing or other paper knowing the same to contain any false or fraudulent statements; or

"Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes or procures, or advises the making of, any oath to any fact or to any writing or other paper knowing such oath to be false; or

"Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures, or advises the forging or counterfeiting of any signature upon any writing or other paper, or uses, or procures, or advises the use of any such signature, knowing the same to be forged or counterfeited; or

"Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

"Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States; or

"Who steals, embezzles, knowingly and willfully misappropriates,

applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipment, ammunition, clothing, subsistence stores, money, or other property of the United States furnished or intended for the military service thereof: *Provided*, That any person, subject to military law, who commits larceny or embezzlement with respect to property of the United States, furnished or intended for the military service thereof, or with respect to other property within the purview of this article, steals said property within the meaning of this article; or

“Who knowingly purchases or receives in pledge for any obligation or indebtedness from any soldier, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipment, ammunition, clothing, subsistence stores, or other property of the United States, such soldier, officer, or other person not having lawful right to sell or pledge the same; or

“Who enters into any agreement or conspires to commit any of the offenses aforesaid;

“Shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court martial may adjudge, or by any or all of said penalties. If any person, being guilty of any of the offenses aforesaid or who steals or fails properly to account for any money or other property held in trust by him for enlisted persons or as its official custodian while in the military service of the United States, receives his discharge or is dismissed or otherwise separated from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court martial in the same manner and to the same extent as if he had not been so separated therefrom.”

SEC. 238. Article 104 is amended to read as follows:

“ART. 104. DISCIPLINARY POWERS OF COMMANDING OFFICERS.— Under such regulations as the President may prescribe, the commanding officer of any detachment, company, or higher command, may, for minor offenses, impose disciplinary punishments upon persons of his command without the intervention of a court-martial, unless the accused demands trial by court-martial.

“The disciplinary punishments authorized by this article may include admonition or reprimand, or the withholding of privileges, or extra fatigue, or restriction to certain specified limits, or hard labor without confinement or any combination of such punishments for not exceeding one week from the date imposed; but shall not include forfeiture of pay or confinement under guard; except that any officer exercising general court-martial jurisdiction may, under the provisions of this article, also impose upon a warrant officer or officer of his command below the rank of brigadier general a forfeiture of not more than one-half of his pay per month for three months.

“A person punished under authority of this article, who deems his punishment unjust or disproportionate to the offense, may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The commanding officer who imposes the punishment, his successor in command, and superior authority shall have power to mitigate or remit any unexecuted portion of the punishment. The imposition and enforcement of disciplinary punishment under authority of this article for any act or omission shall not be a bar to trial by court-martial

for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty."

SEC. 239. Article 108 is amended to read as follows:

"ART. 108. SOLDIERS—SEPARATION FROM THE SERVICE.—No enlisted person, lawfully inducted into the military service of the United States, shall be discharged from said service without a certificate of discharge, and no enlisted person shall be discharged from said service before his term of service has expired, except in the manner prescribed by the Secretary of the Department of the Army, or by sentence of a general or special court-martial."

SEC. 240. Article 110 is amended to read as follows:

"ART. 110. CERTAIN ARTICLES OF WAR TO BE READ OR EXPLAINED.—Articles 1, 2, 24, 28, 29, 54 to 97, inclusive, 104 to 109, inclusive, and 121 shall be read or carefully explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read or explained once every six months to the soldiers of every garrison, regiment, or company in the service of the United States. And a complete text of the Articles of War and of the Manual for Courts-Martial shall be made available to any soldier, upon his request, for his personal examination."

SEC. 241. Article 116 is amended to read as follows:

"ART. 116. POWERS OF ASSISTANT TRIAL JUDGE ADVOCATE AND OF ASSISTANT DEFENSE COUNSEL.—An assistant trial judge advocate of a general or special court-martial shall be competent to perform any duty devolved by law, regulation, or the custom of the service upon the trial judge advocate of the court. An assistant defense counsel shall be competent likewise to perform any duty devolved by law, regulation, or the custom of the service upon counsel for the accused."

SEC. 242. Article 117 is amended to read as follows:

"ART. 117. REMOVAL OF CIVIL SUITS.—When any civil or criminal prosecution is commenced in any court of a State of the United States against any officer, soldier, or other person in the military service of the United States on account of any act done under color of his office or status, or in respect to which he claims any right, title, or authority under any law of the United States respecting the military forces thereof, or under the law of war, such suit or prosecution may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States in the district where the same is pending in the manner prescribed by law, and the cause shall thereupon be entered on the docket of such district court, which shall proceed as if the cause had been originally commenced therein and shall have full power to hear and determine said cause."

SEC. 243. Section 1 of article 121 is amended to read as follows:

"ART. 121. COMPLAINTS OF WRONGS.—Any officer or soldier who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the officer exercising general court-martial jurisdiction over the officer against whom the complaint is made. That officer shall examine into said complaint and take proper measures for redressing the wrong

complained of; and he shall, as soon as possible, transmit to the Department of the Army a true statement of such complaint, with the proceedings had thereon."

SEC. 244. This title shall become effective on the first day of the eighth calendar month after approval of this title.

SEC. 245. All offenses committed and all penalties, forfeitures, fines, or liabilities incurred prior to the effective date of this title, under any law embraced in or modified, changed or repealed by this title, may be prosecuted, punished, and enforced in the same manner and with the same effect as if this title had not been passed.

SEC. 246. Section 8 of the National Defense Act, as amended (10 U. S. C. 61), is amended to read as follows:

"SEC. 8. JUDGE ADVOCATE GENERAL'S CORPS.—The Judge Advocate General's Corps shall consist of one Judge Advocate General with the rank of major general, one assistant with the rank of major general, three officers with the rank of brigadier general, and an active list commissioned officer strength to be determined by the Secretary of the Department of the Army, but such strength shall not be less than 1½ per centum of the authorized active list commissioned officer strength of the Armed Services of the National Military Establishment who are subject to the Articles of War, and in addition warrant officers and enlisted men in such numbers as the Secretary of the Department of the Army shall determine."

SEC. 247. Regular Army officers shall be permanently appointed by the President, by and with the advice and consent of the Senate, in the Judge Advocate General's Corps in the commissioned officer grades of major general, brigadier general, colonel, lieutenant colonel, major, captain, and first lieutenant. The names of commissioned officers of the Judge Advocate General's Corps below the grade of brigadier general shall be carried on the Judge Advocate's promotion list. The Judge Advocate's promotion list shall be established by entering thereon the names of the officers concerned without change in their order of precedence on the existing promotion list. The authorized numbers in each of the several grades in the Judge Advocate's promotion list shall be prescribed by the Secretary of the Department of the Army, but the numbers thus authorized shall not exceed the following percentages of the total strength authorized for that list: 8 per centum in the grade of colonel; 14 per centum in the grade of lieutenant colonel; 19 per centum in the grade of major; 23 per centum in the grade of captain; and 36 per centum in the grade of first lieutenant: *Provided*, That numbers may be authorized for any grade in lieu of authorization in higher grades: *Provided further*, That this provision shall not operate to require a reduction in permanent grade of any officer now holding permanent appointment.

Officers whose names are carried on the Judge Advocate's promotion list shall be promoted to the several grades as now or hereafter prescribed for promotion of promotion-list officers generally and the authorized numbers in grades below colonel on such list shall be temporarily increased from time to time in order to give effect to the promotion system now or hereafter prescribed by law for promotion-list officers.

Within the authorized strength of the Judge Advocate General's Corps additional officers may be appointed by transfer of qualified

officers from other branches of the Army, by appointment of Reserve judge advocates or qualified civilian graduates of accredited law schools. Those originally appointed in the Regular Army in the Judge Advocate General's Corps shall be credited with an amount of service for the purpose of determining grade, position on promotion list, permanent-grade seniority, and eligibility for promotion as now or hereafter prescribed by law.

SEC. 248. The Judge Advocate General shall, in addition to such other duties as may be prescribed by law, be the legal adviser of the Secretary of the Department of the Army and of all officers and agencies of the Department of the Army; and all members of the Judge Advocate General's Corps shall perform their duties under the direction of the Judge Advocate General.

SEC. 249. Notwithstanding any other provisions of law, the Judge Advocate General, the Assistant Judge Advocate General and general officers of the Judge Advocate General's Corps shall be appointed by the President, by and with the advice and consent of the Senate, from among officers of the Judge Advocate General's Corps who are recommended for such positions by the Secretary of the Department of the Army. Upon the appointment of an officer to be the Judge Advocate General or Assistant Judge Advocate General with the rank of major general, he shall at the same time if not then holding permanent appointment in such grade be appointed a permanent major general of the Regular Army.

Approved June 24, 1948.

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