

AN ACT FOR MAKING FURTHER AND MORE EFFECTUAL PROVISION FOR THE NATIONAL DEFENSE BY ESTABLISHING A SYSTEM OF MILITARY JUSTICE FOR PERSONS SUBJECT TO MILITARY LAW.

Commonwealth Act No. 408, September 14, 1938

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Be it enacted by the National Assembly of the Philippines:

SECTION 1. The following articles shall be known as the Articles of War and shall at all times and in all places govern the Army of the Philippines:

TITLE I.—Preliminary Provisions

ARTICLE 1. Definitions.—The following words when used in these articles shall be construed in the sense indicated in this article, unless the context shows that a different sense is intended, namely:

- The word "officer" shall be construed to refer to a commissioned officer;
- The word "soldier" shall be construed as including a non-commissioned officer, a private, or any other enlisted man;
- The word "company" shall be understood as including a troop or battery;
- The word "battalion" shall be understood as including a squadron.

ART. 2. Persons subject to Military Law.—The following persons are subject to these articles and shall be understood as included in the term "any person subject to military law" or "persons subject to military law," whenever used in these articles:

- All officers, members of the Nurse Corps and soldiers belonging to the Regular Force of the Philippine Army; all reservists; from the dates of their call to active duty and while on such active duty; all trainees undergoing military instructions; 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;
- Cadets, flying cadets, and probationary third lieutenants;
- All retainers to the camp and all persons accompanying or serving with the Army of the Philippines in the field in time of war or when martial law is declared though not otherwise subject to these articles;
- All persons under sentence adjudged by courts-martial.

TITLE II.—Courts-Martial

ART. 3. Courts-martial classified.—Courts-martial shall be of three kinds, namely: First, General Courts-Martial; Second, Special Courts-Martial; and Third, Summary Courts-Martial.

A. COMPOSITION

ART. 4. Who may serve on courts-martial.—All officers in active duty in the Army shall be competent to serve on

courts-martial for the trial of any person who may lawfully be brought before such courts for trial. When appointing courts-martial, the appointing authority shall detail as members thereof those officers of the command who, in his opinion, are best qualified for the duty by reason of age, training, experience, and judicial temper-ament ; and officers 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 the minority membership thereof.

ART. 5. General Courts-Martial.—General courts-martial may consist of any number of officers not less than five.

ART. 6. Special Courts-Martial.—Special courts-martial j may consist of any number of officers not less than three.

ART. 7. Summary Courts-Martial.—A summary court-martial shall consist of one officer.

B. BY WHOM APPOINTED

ART. 8. General Courts-Martial.—The President of the Philippines, the Chief of Staff of the Philippine Army, and, when empowered by the President, the Provost Marshal General, the Commanding Officer of a Division, the District Commander, the Superintendent of the Military Academy, the Commanding Officer of a separate brigade 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 no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution or for the defense.

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 Service, except that when an officer of that service is not-available for the purpose the appointing authority, shall detail instead an officer of some other branch of the service selected by the appointing authority as specially qualified to perform the duties of law member. The law member, in addition to his duties as a member, shall perform such other duties as the President may by regulations prescribe.

ART. 9. Special Courts-Martial.—The commanding officer of a district and when empowered by the President, the commanding officer of a garrison, fort, camp, brigade, regiment, detached battalion, or other detached command 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; and no officer shall-be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution or for-the defense.

ART. 10. Summary Courts-Martial.—The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial; but such summary courts-martial may in any case be appointed by superior authority when by the latter deemed desirable: Provided, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him.

ART. 11. Appointments of trial judge advocates and counsel.—For each general or special courts-martial, the authority appointing the court shall appoint a trial judge advocate and a defense counsel, and for each general courts-martial, one or more assistant trial judge advocates and one or more assistant defense counsel when necessary: Provided,. however, That no officer who has acted as member, trial judge advocate, assistant trial judge advocate, defense counsel, or assistant defense counsel in any case shall subsequently act as staff judge advocate to the reviewing or confirming authority upon the same case.

C. JURISDICTION

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 no officer shall be brought[^] trial before a general courts-martial appointed by the Superintendent of the Military Academy: Provided, further, That the officer competent to appoint a general court-martial for the trial of any particular case may, when in his judgment the interest of the service' shall so require, cause any case to be tried by a special court-martial notwithstanding the limitations upon the jurisdiction of the special courts-martial as to offenses set out in article 13; but the limitations upon jurisdiction as to persons and upon punishing power set out in said article shall be observed.

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 President may, by regulations, except from the jurisdiction of special courts-martial any class or classes of persons subject to Military Law. Special courts-martial shall not have power to adjudge' 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.

ART. 14. Summary Courts-Martial.—Summary courts-martial shall have power to try any person subject to military law, except an officer, a member of the Nurse Corps, a cadet, a flying cadet or probationary third lieutenant, for any crime or offense not capital made punishable by these articles: Provided, That non-commissioned 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 general 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.

ART. 15. Jurisdiction not exclusive.—The provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving other military tribunals of concurrent jurisdiction in respect of offenders or offenses that by statute or by the law of war may be triable by such military tribunals.

ART. 16. Officers, how triable.—Officers shall be triable ;only by general and special courts-martial, and in no case shall an officer, when it can be avoided, be tried by officers inferior to him in rank.

D. PROCEDURE

ART. 17. Trial judge advocate to prosecute; counsel to defend.—The trial judge advocate of a general or special .court-martial shall prosecute in the name of the People of the Philippines and shall, under the direction of the court, prepare the record of its proceedings. The accused shall have the right to be represented in his defense before the court by counsel of his own selection, civil counsel if he so provides, or military if such counsel be reasonably available, otherwise by the defense counsel duly appointed for the court pursuant to article eleven. Should the accused have counsel of his own selection, the defense counsel and assistant defense counsel, if any, of the court, shall, if the accused so desires, act as his associate counsel.

ART. 18. Challenges.—Members of a general or special court-martial may be challenged by the accused or the trial judge advocate for cause stated to the court. The court shall determine the relevancy and validity thereof, and shall not deceive a challenge to more than on member at a time Challenges by the trial judge advocate N&hall ordinarily be presented an decided before those by the-accused are offered.

ART. 19. Oaths.—The trial judge advocate of a general" or special court-martial shall administer to the members

of the court, before they proceed upon any trial, the following oath or affirmation: "You, A. B. do swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you, between the People, of the Philippines and the person to be tried, and that you will duly administer justice, without partiality, favor, or affection according to the provisions of the rules and articles for the government of the army of the Philippines, and if any doubt should arise, not explained by said rules and articles, then according to your conscience, the best of your understanding, and the custom of war in like cases and you do further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be published by the proper authority or duly announced by the court, except to the trial judge advocate and assistant trial judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial upon a challenge or upon the findings or sentence, unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God."

When the oath of affirmation has been administered to the members of a general or special court-martial, the president of the court shall administer to the trial judge advocate and to each assistant trial judge advocate, if any, an oath or affirmation in the following form: "You, A. B. do swear (or affirm) that you will faithfully and impartially perform the duties of a trial judge advocate, and will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed. So help you God."

All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: "You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth and nothing but the truth. So help you God."

Every reporter of the proceedings of a court-martial shall, before entering upon his duties, take oath or affirmation in the following form: "You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God."

Every interpreter in the trial of any case before a court-martial shall, before entering upon his duties, take oath or affirmation in the following form: "You swear (or affirm) that you will truly interpret in the case now in hearing. So help you God."

In case of affirmation the closing sentence of adjuration will be omitted.

ART. 20. Continuances.—A court-martial may, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just.

ART. 21. Refusal or failure to plead.—When an accused arraigned before a court-martial fails or refuses to plead, or answers foreign to the purpose, or after a plea of guilty makes a statement inconsistent with the plea, or when it appears to the court that he entered a plea of guilty improvidently or through lack of understanding of its meaning and effect, the court shall proceed to trial and judgment as if he had pleaded not guilty.

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 Philippines, having criminal jurisdiction, may lawfully issue.

ART. 23. Refusal to appear or testify.—Every person not subject to military law who, being duly subpoenaed to appear as a witness before any military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to- be read in evidence before such court, commission, court of inquiry, or board, willfully neglects or refuses to appear, or refuses to qualify as a witness, or testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of contempt, for which such person shall be punished on information in the Court of First Instance of the Province

or city where the subpoena is issued, jurisdiction being hereby conferred upon such courts for such purpose and it shall be the duty of the city fiscal or city attorney or provincial fiscal, on the certification of the facts to him by the military court, commission, court of inquiry, or board, to file an information against and prosecute the person so offending in the manner provided in sections two hundred and thirty-three and following of Act Numbered One hundred and ninety, and the punishment of such person, on conviction, shall be that provided in sections two hundred and thirty-six and two hundred and thirty-seven of the aforesaid Act: *Prowled*, That reasonable traveling expenses be allowed to indigent witnesses, such amounts to be paid out of the appropriation of the Army.

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 not material to the issue when such answer might tend to degrade him.

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 outside of the Philippines, or beyond the distance of one hundred and fifty kilometers from the place of trial or hearing, and will probably continue absent when the testimony is required, 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 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.

ART. 26. Depositions—Before whom taken.—Depositions -to be read in evidence before military courts, commissions, courts of inquiry, or military boards, or for other use in military administration, may be taken before and authenticated by any officer, military or civil, authorized by the laws of the Philippines or by the laws of the place where the deposition is taken to administer oaths.

ART. 27. Courts of inquiry—Records of, when admissible.—The records of the proceedings of a court of inquiry -may, with the consent of the accused, be read in evidence before any court-martial or military commission in any case not capital nor extending to the dismissal of an officer, and may also be read in evidence in any proceeding before a court of inquiry or a military board: *Provided*, That such evidence may be adduced by the defense in capital cases or cases extending to the dismissal of an officer.

ART. 28. Court to announce action.—Whenever the court -has acquitted the accused upon all specifications and charges, the court shall at once announce such result in open court. Under such regulations as the President may prescribe, the findings and sentence in other cases may be similarly announced.

ART. 29. Closed sessions.—Whenever a general or special court-martial shall sit in closed session, the trial judge advocate and the assistant trial judge advocate, if any, shall withdraw; and when their assistance in referring to the recorded evidence is required, it shall be obtained in open court, and in the presence of the accused and of his counsel, if there be any.

ART. 30. Method of voting.—Voting by members of a general or special court-martial upon question 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 will forthwith- announce the result of the ballot to the members of the court. The law member of the court, if any, or if there be no law member of the court, then the president may 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 the court 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 if any such Ruling be made by the law member of the court upon any interlocutory question other than an objection to the admissibility of evidence offered during the trial, and any member object to the ruling, the court shall likewise be cleared and closed and the question decided by a majority vote, viva voce, beginning with the junior in rank: Provided further, however, That the phrase, "objection to the admissibility of evidence offered during the trial," as used in the next preceding proviso hereof, shall not be construed to include questions 4s to the order of the introduction of witnesses or other evidence, nor of the recall of witnesses for further examination, nor as to whether the expert witnesses shall be admitted or called upon any question, nor as to whether the court shall view the premises where an offense is alleged to have been committed, nor as to the competency of witnesses, as, for instance, of children, witnesses alleged to be mentally incompetent, and the like, nor as to the insanity of accused, or whether the existence of mental disease or mental derangement on the part of the accused has become an issue in the trial, or accused required to submit to physical examination, nor whether any argument or statement of counsel for the accused or of the trial judge advocate is improper, nor any ruling in a case involving military strategy or tactics or correct military action; but, upon all these questions arising on the trial, if any member object to any ruling of the law member, the court shall be cleared and closed and the question decided by majority vote of the members in the manner aforesaid.

ART. 31. Contempts.—A military tribunal may. punish as for contempt any person who disturbs its proceedings by any riot or disorder: Provided, That such punishment shall in no case exceed ten days' confinement, or a fine riot exceeding two hundred pesos, or both.

Art. 32. Records—General Courts-Martial.—Each general court-martial shall keep a separate record of its proceedings in the trial of each case brought before it, and such record shall be authenticated by the signature of the president and the trial judge advocate; but in case the record cannot be authenticated by the president and the trial judge advocate, by reason of the death, disability, or absence of either or both of them, it shall be signed by a member in lieu of the President and by an assistant trial judge advocate, if there be one, in lieu of the trial judge advocate; otherwise by another member of the court.

ART. 33. Records—Special and Summary Courts-Martial.—Each special court-martial and each summary court-martial shall keep a record of its proceedings, separate for each case which record shall contain such matter and be authenticated in such manner as may be required by regulations which the President may from time to time prescribe.

ART. 34. Disposition of records—General and Special Courts-Martial.—The trial judge advocate of each general or special court-martial shall, with such expedition as circumstances may permit, forward, to the appointing authority or to his successor in command the original record of the proceedings of such court in the trial of each case. All records of such proceedings shall, after having been acted upon, be transferred to the Judge Advocate General of the Army.

ART. 35. Disposition of records—Summary Courts-Martial— After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, a report of each trial by summary courts-martial shall be transmitted to such general headquarters as the President may designate in regulations, there to be filed in the office of the judge advocate. When no longer of use, records of summary courts-martial may be destroyed.

ART. 36. Irregularities—Effect of.—The proceedings of a court-martial shall not be held invalid, nor the findings or sentence disapproved in any case on the ground of improper admission or rejection of evidence or for any error as

to any matter of pleading or procedure unless in the opinion of the reviewing or confirming authority, after an examination of the entire proceedings, it shall appear that the error complained of has injuriously affected the substantial rights of an accused: Provided, That the act or omission upon which the accused has been tried constitutes an offense denounced and made punishable by one or more of these articles: Provided further, That the omission of the words "hard labor" in any sentence of a court-martial adjudging imprisonment or confinement shall not be construed as depriving the authorities executing such sentence of imprisonment or confinement of the power to require hard labor as a part of the punishment in any case where it is authorized by the Executive Order prescribing maximum punishments.

ART. 37. 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, in so far as he shall deem practicable, apply the rules of evidence generally recognized in the trial of criminal cases in the courts of justice of the Philippines: Provided, That nothing contrary to or inconsistent with these articles shall be so prescribed.

E. LIMITATIONS UPON PROSECUTIONS

ART. 38. As to time.—Except for desertion or murder committed in time of war, or for mutiny, 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 the arraignment of such person: Provide, That for desertion in time of peace or for any crime or offense punishable under articles ninety-four and ninety-five of these articles, the period of limitations upon trial and punishment by courts-martial shall be three years: Provided further, That the period pi any absence of the accused/from the jurisdiction of the Philippines, and also any period during which by reason of some manifest impediment the" accused shall not have been amenable to military justice, shall be exclude in computing the aforesaid periods of limitation: And 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.

ART. 39. As to number.—No person shall, without his consent, be tried a second time for the same offense; but no proceeding in which an accused has been found guilty by a court-martial upon any charge or specification shall be held to be a trial in the sense of this article until the reviewing and, if there be one, the confirming authority shall have taken final action upon the case.

No authority shall return a record of trial to any court-martial for reconsideration of—

- An acquittal; or
- A finding of not guilty of any specification; or
- A finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some Article of War; or
- The sentence originally imposed, with a view to increasing its severity, unless such sentence is less than the mandatory sentence fixed by law for the offense or offenses upon which a conviction has been had.

And no court-martial in any proceedings on revision, shall reconsider its findings or sentence in any particular in which a return of the record of trial for such reconsideration is herein before prohibited.

F. PUNISHMENTS

ART. 40. Cruel and unusual 'punishments prohibited.— " Cruel and unusual punishments of every kind are prohibited.

ART. 41. Place of confinement —When lawful.—Except for desertion in time of war, repeated desertion in time of peace, and mutiny, no person shall, under the sentence of a court-martial, be punished by confinement in a penitentiary unless an act or omission of which he is convicted is recognized as an offense of a civil nature and so punishable by penitentiary confinement for more than one year by some statute of the Philippines, or by way of commutation of a death sentence, and unless, also the period of confinement authorized and adjudged by such court-martial is more than one year: Provided, That when a sentence of confinement is adjudged by a court-martial upon conviction of two or more acts or omissions, any one of which is punishable under these articles by confinement in a penitentiary, the entire sentence of confinement may be executed in a penitentiary: Provided further, That penitentiary confinement hereby authorized may be served in any penitentiary under the jurisdiction of the Philippines: Provided, further, That persons sentenced to dishonorable discharge and to confinement, not in a penitentiary shall be confined in disciplinary barracks or elsewhere as the President or the reviewing authority may direct, but not in a penitentiary.

ART. 42. Death sentence—When lawful—No person shall, by general court-martial, be convicted of any 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 of the members present at the time the vote is taken. All other convictions and sentences, 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.

ART. 43. Cowardice; fraud—Accessory penalty.—When an officer is dismissed from the service for cowardice or fraud, the crime, punishment, name, and place of abode of the delinquent shall be published in the newspapers in and about the camp and in the province or city from which the offender came or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

ART. 44. Maximum limits. Whenever the punishment for a crime or offense made punishable by these articles is left to the discretion of the court-martial, the punishment shall not exceed such limit or limits as the President may from time to time prescribe: Provided, That in time of peace the period of confinement in a penitentiary shall in no case exceed the maximum period prescribed by law which, under article forty-one of these articles, permits confinement in a penitentiary, unless in addition to the offense so punishable under such law the accused shall have been convicted at the same time of one or more other offenses.

G. ACTION BY APPOINTING OR SUPERIOR AUTHORITY

ART. 45. Action by convening authority.—Under such regulations as may be prescribed by the President, every record of trial by general or special court-martial or military commission received by a reviewing or confirming authority shall be referred by him, before he acts hereon, to his staff judge advocate or to the Judge Advocate General. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being.

ART. 46. Powers incident to power to approve.—The power to approve the sentence of a court-martial shall be held to include:

- The power to approve or disapprove a finding 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 when, in the opinion of the authority having power to approve, the evidence of record requires a finding of only the lesser degree of guilt; and

- The power to approve or disapprove the whole or any part of the sentence.
- The power to remand a case for rehearing, under the provisions of article fifty.

ART. 47. Confirmation—When required.—In addition to the approval required by article forty-five, confirmation by the President is required in the following cases before the sentence of a court-martial is carried into execution, namely:

- Any sentence respecting a general officer;
- Any sentence extending to the dismissal of an officer, except that in time of war a sentence extending to the dismissal of an officer below the grade of "brigadier general may be carried into execution upon confirmation by the commanding general of the Army in the field.
- Any sentence extending to the suspension or dismissal of a cadet, flying cadet, probationary third lieutenant, and
- Any sentence of death, except in the cases of person's convicted in time of war, of murder, mutiny, desertion, or as spies, and in such excepted cases a sentence of death may be carried into execution, subject to the provisions of article 50, upon confirmation by the commanding general of the Army in the field.

When the authority competent to confirm the sentence has already acted as the approving authority no additional confirmation by him is necessary.

ART. 48. Power incident to power to confirm.—The power to confirm the sentence of a court-martial shall be held to include:

- The power to confirm or disapprove a finding, and to confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to confirm, the evidence of record requires a finding of only the lesser degree of guilt;
- The power to confirm or disapprove the whole or any part of the sentence: and
- The power to remand a case for rehearing, under the provisions of article 50.

ART. 49. Mitigation or remission of sentence.—The power to order the execution of the sentence adjudged by a court-martial shall be held to include, inter alia, the power to mitigate or remit the whole or any part of the sentence.

Any unexecuted portion of a sentence adjudged by a court-martial may be mitigated or remitted by the military authority competent to appoint, for the command, exclusive of penitentiaries and Philippine Army Disciplinary Barracks, in which the person under sentence is held, a court of the kind that imposed the sentence, and the same power may be exercised by superior military authority; but no sentence approved or confirmed by the President shall be remitted or mitigated by any other authority, and no approved sentence of loss of files by an officer shall be remitted or mitigated by any authority inferior to the President, except as provided in article 52.

When empowered by the President so to do, the commanding general of the Army in the field or the district commander may approve or confirm and commute (but not approve or confirm without commuting), mitigate, or remit and then order executed as commuted, mitigated, or remitted any sentence which under these articles requires the confirmation of the President before the same may be executed.

ART. 50. Review—Rehearing.—The Judge Advocate General shall constitute, in his office, a board of review consisting of one or more officers of the Judge Advocate Service.

Before any record of trial in which there has been adjudged a sentence requiring approval or confirmation by the

President under the provisions of article 45, article 47 or article 51, is submitted to the President, such record shall be examined by the board of review. The board shall submit its opinion in writing to the Judge Advocate General, who shall, except as herein otherwise provided, transmit the record and the board's opinion, with his recommendations, to the Chief of Staff for the action of the President.

Except as herein provided, no authority shall order the execution of any other sentence of a general court-martial involving the penalty of death, dismissal not suspended, dishonorable discharge not suspended, or confinement in a penitentiary, unless and until the board of review shall, with the approval of the Judge Advocate General, have held the record of trial upon which such sentence is based legally sufficient to support the sentence; except that the proper reviewing or confirming authority may upon his approval of a sentence involving dishonorable discharge or confinement in a penitentiary order its execution if it is based solely upon findings of guilty of a charge or charges and a specification or specifications to which the accused has pleaded guilty. When the board of review, with the approval of the Judge Advocate General, holds the record in a case in which the order of execution has been withheld under the provisions of this paragraph legally sufficient to support the findings and sentence, the Judge Advocate General shall so advise the reviewing or confirming authority from whom the record was received, who may thereupon order the execution of the sentence. When in a case . in which the order of execution has been withheld under the provisions of this paragraph, the board of review holds the record of trial legally insufficient to support the finding or sentence, either in/whole or in part, or that errors of law have been committed injuriously affecting the substantial rights of the accused, and the Judge Advocate General concurs in such holding of the board of review, such findings and sentence shall be vacated in whole or in part in accord with such holding and the recommendations of the Judge Advocate General thereon, and the record shall be transmitted through the proper channels to the convening authority for a rehearing or such other action as may be proper. In the event that the Judge Advocate General shall not concur in the holding of the board of review, the Judge Advocate General shall forward all the papers in the case, including the opinion of the board of review and his own dissent therefrom, directly to the Chief of Staff for the Action of the President, who may confirm the action of the reviewing authority or confirming authority below, in whole or in part, with or without remission, mitigation, or commutation, or may disapprove, in whole or in part, any finding of guilty, and may disapprove or vacate the sentence, in whole or in part.

When the President or any reviewing or confirming authority disapproves or vacates a sentence the execution of which has not heretofore been duly ordered, he may authorize or direct a rehearing. Such rehearing shall take place before a court composed of officers not members of the court 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, 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: Provided, That such rehearing shall be had in all cases where a finding and sentence have been vacated by reason of the action of the board of review approved by the Judge Advocate General holding the record of trial legally insufficient to support the findings or sentence or errors of law have been committed injuriously affecting the substantial rights of the accused, unless in accord with such action, and the recommendations of the Judge Advocate General thereon, the findings or sentence are approved in part only, or the record is returned for revision, or unless the case is dismissed' by order of the reviewing or confirming authority. After any such rehearing had on the order of the President, the record of trial shall, after examination by the board of review, be transmitted by the Judge Advocate General, with the board's opinion and his recommendations, to the Chief of Staff for the action of the President.

Every record of trial by general court-martial, examination of which by the board of review is not herein before in this article provided for, shall nevertheless be examined in the Judge Advocate General's Office; and if found

legally insufficient to support the findings and sentence, in whole or in part, shall be examined by the board of review, and the board, if it also finds that such record is legally insufficient to support the findings and sentence, in whole or in part, shall, in writing, submit its opinion to the Judge Advocate General, who shall transmit the record and the board's opinion, with his recommendation, to the Chief of Staff for the action of the President. In any such case the President may approve, disapprove or vacate in whole or in part, any findings of guilty, or confirm, mitigate, commute, remit, or vacate any sentence, in whole or in part, and direct the execution of the sentence as confirmed or modified, and he may restore, the accused to all rights affected by the findings and sentence, or part thereof held to be invalid; and the President's necessary orders to this end shall be binding upon all departments and officers of the Government.

Whenever necessary, the Judge Advocate General may constitute two or more boards of review in his office, with equal powers and duties.

ART. 51. Suspension of sentence of dismissal or death.— The authority competent to order the execution of a sentence of dismissal of an officer or a sentence of death may suspend such sentence until the pleasure of the President be known, and in case of such suspension a copy of the order of suspension, together with a copy of the record of trial, shall immediately be transmitted to the President.

ART. 52. Suspension of sentence.—The authority competent to order the execution of the sentence of a court-martial may, at the time of the approval of such sentence, suspend the execution, in whole or in part, of any such sentence as does not extend to death, and may restore the person under sentence to duty during such suspension; and the Chief of Staff or the commanding officer holding general court-martial jurisdiction over any such offender, may at any time thereafter, while the sentence is being served, suspend the execution, in whole or in part, of the balance of such sentence and restore the person under sentence to duty during such suspension. A sentence, or any part thereof, which has been so suspended may be remitted, in whole or in part, by the officer who suspended the same except in cases of person confined in the penitentiaries, by his successor in office, or by any officer exercising appropriate court-martial jurisdiction over the command in which the person under sentence may be serving at the time, and subject to the foregoing exceptions, the same authority" may vacate the order of suspension at any time and offer the execution of the sentence or the suspended part thereof in so far as the same shall not have been previously remitted, subject to like power of suspension. 5The death or honorable discharge of a person under a suspended sentence shall operate as a complete remission of any unexecuted or unremitted part of such sentence.

ART. 53. Execution or remission—Confinement in penitentiaries.—When a sentence of dishonorable discharge has been suspended until the soldier's release from confinement, the execution or remission of any part of his sentence shall, if the soldier be confined in the penitentiaries, or any branch thereof, be directed by the President.

TITLE III.—Punitive Articles

A. ENLISTMENT; MUSTER; RETURNS

ART. 54. Fraudulent enlistment.—Any person who shall -procure himself to be enlisted in the military service of the Philippines by means of willful misrepresentation or concealment as to his qualifications for enlistment, and shall receive pay or allowance under such enlistment, shall be punished as a court-martial may direct.

ART. 55. Officer making unlawful enlistment;—Any officer -who knowingly enlists or musters into the military service if any person whose enlistment or muster in is prohibited by law, regulations, or orders shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

ART. 56. False muster.—Any officer who knowingly makes a false muster of a man or animal, or who signs or

directs or allows the signing of any muster roll knowing the same to contain a false muster or false statement as to the absence or pay of an officer or soldier, or who wrongfully takes money or other consideration on mustering in a regiment, company, or other organization, or on signing muster rolls, or who knowingly musters as an officer or soldier a person who is not such officer or soldier, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

ART. 57. False returns—Omission to render returns.—Every officer whose duty it is to render to Army Headquarters or other superior authority a return of the state of the troops under his command, or of the arms, ammunition, clothing, funds, or other property thereunto belonging, who knowing makes a false return thereof shall be dismissed from the service and suffer such other punishment as a court-martial may direct. And any officer who, through neglect or design, omits to render such return shall be punished as a court-martial may direct.

B. DESERTION; ABSENCE WITHOUT LEAVE

ART. 58. Certain acts to constitute desertion.—Any officer, who, having tendered his resignation and prior to due notice of the acceptance of the same, quits his post or proper duties without leave and with intent to absent himself permanently therefrom shall be deemed a deserter.

Any soldier who, without having first received a regular discharge, again enlists in the Army of the Philippines, or in the Army or Navy of the United States, or in any foreign Army, shall be deemed to have deserted the service of the Philippines and where the enlistment is in the Army of the Philippines to have fraudulently enlisted therein.

Any person subject to military law who quits his organization or place of duty with the intent to avoid hazardous duty or to shirk important service shall be deemed a deserter.

ART. 59. Desertion. Any person subject to military law who deserts or attempts to desert the service of the Philippine Army shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct.

ART. 60. Advising or aiding another to desert.—Any person subject to military law who advises or persuades or knowingly assists another to desert the service of the Philippine Army shall, if the offense be committed in the time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct.

ART. 61. Entertaining a deserter.—Any officer who, after having discovered that a soldier in his command is a deserter from the military service retains such deserter in his command without informing superior authority or the commander of the organization to which the deserter belongs, shall be punished as a court-martial may direct.

ART. 62. Absence without leave.—Any person subject to military law who fails to repair at the fixed time to the properly appointed place of duty, or goes from the same without proper leave, or absents himself from his command, guard, quarters, station, or camp without proper leave, shall be punished as a court-martial may direct.

C. DISRESPECT; INSUBORDINATION; MUTINY

ART. 63. Disrespect toward the President, Vice-President, National Assembly.—Any officer who uses contemptuous or disrespectful words against the president, Vice-President or the National Assembly, shall be dismissed from the service or suffer such other punishment as a court-martial may direct. Any other person subject to military law who so offends shall be punished as a court-martial may direct.

ART. 64. Disrespect toward superior officer.—Any person subject to military law who behaves himself with disrespect toward his superior officer shall be punished as a court-martial may direct.

ART. 65. Assaulting or willfully disobeying superior officer.—Any person subject to military law who, on any pretense whatsoever, strikes his superior officer or draws or lifts up any weapon or offers any violence against him being in the execution of his office, or willfully disobeys any lawful command of his superior officer, shall suffer death or such other punishment as a court-martial may direct.

ART. 66. Insubordinate conduct toward non-commissioned officer.—Any soldier who strikes or assaults, or who attempts or threatens to strike or assault or willfully disobeys the lawful order of a non-commissioned officer while in the execution of his office, or uses threatening or insulting language, or behaves in an insubordinate or disrespectful manner toward a non-commissioned officer while in the execution of his office, shall be punished as a court-martial may direct.

ART. 67. Mutiny or sedition.—Any person subject to military law who attempts to create or who begins, excites, causes, or joins in any mutiny or sedition in any company, party, post, camp, detachment, guard, or other command shall suffer death or such other punishment as a court-martial may direct.

ART. 68. Failure to suppress mutiny or sedition.—Any officer or soldier, who being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or, knowing or having reason to believe that a mutiny or sedition is to take place, does not without delay give information thereof to his commanding officer shall suffer death or such other punishment as a court-martial may direct.

ART. 69. Quarrels; frays; disorders.—All officers, members of the Nurse Corps and non-commissioned officers have ' power to part and quell all quarrels, frays, and disorders among persons subject to military law and to order officers who take part in the same into arrest, and other persons subject to military law who take part in the same into arrest or confinement, as circumstances may require, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer, member of the Nurse Corps or non-commissioned officer, or draws a weapon upon or otherwise threatens or does violence to him, shall be punished as a court-martial may direct.

D. ARREST; CONFINEMENT

ART. 70. Arrest or confinement.—Any person subject to military law charged with crime or with a serious offense under these articles shall be placed in confinement or in arrest, as circumstances may require; but when charged with a minor offense only, such person shall not ordinarily be placed in confinement. Any person placed in arrest under the provisions of this article shall thereby be restricted to his barracks, quarters, or tent, unless such limits shall be enlarged by proper authority. Any officer or cadet who breaks his arrest or who escapes from confinement, whether before or after trial or sentence and before he is set at liberty by proper authority, shall be dismissed from the service or suffer such other punishment as a court-martial may direct, and any other person subject to military law who escapes from confinement or who breaks his arrest, whether before or after trial or sentence and before he is set at liberty by proper authority, shall be punished as a court-martial may direct.

ART. 71. Charges: action upon.—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.

No charge will be referred 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. 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.

Before directing the trial of any charge by general court-martial the appointing authority will refer it to his staff judge advocate for consideration and advice.

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. When a person is held for a trial by general court-martial, the commanding officer, 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 herein before 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.

ART. 72. Refusal to receive and keep prisoners.—No provost marshal or commander of a guard shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the Philippine Army provided the officer committing shall, at the time, deliver an account in writing, signed by himself, of the crime or offense, charged against the prisoner. Any officer or soldier so refusing shall be punished as a court-martial may direct.

ART. 73. Report of prisoners received.—Every commander of a guard to whose charge a prisoner is committed shall, within twenty-four hours after such confinement, or as soon as he is relieved from his guard, report in writing to the commanding officer the name of such prisoner, the offense charged against him, and the name of the officer committing him; and if he fails to make such report, he shall be punished as a court-martial may direct.

ART. 74. Releasing prisoner without proper authority.— Any person subject to military law, who, without proper authority, releases any prisoner duly committed to his charge, or who through neglect or design suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

ART. 75. Delivery of offenders to civil authorities.—When any person subject to military law, except one who is held by the military authorities to answer, or who is awaiting trial or result of trial, or who is undergoing sentence for a crime or offense punishable under these articles, is accused of a crime or offense committed and punishable by law or by ordinance the commanding officer is required, except in time of war, upon application duly made, to use his utmost endeavor to deliver over such accused person to the civil authorities, or to aid the officers of justice in apprehending and securing him, in order that he may be brought to trial. Any commanding officer who upon such application refuses or willfully neglects, except in time of war, to deliver over such accused person to the civil authorities or to aid officer of justice in apprehending and securing him shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

When, under the provisions of this article, delivery is made to the civil authorities of an offender undergoing sentence of a court-martial, such delivery, if followed by conviction, shall be held to interrupt the execution of the sentence of the court-martial, and the offender shall be returned to military custody, after having answered to the civil authorities for his offense, for the completion of the said court-martial sentence.

E. WAR OFFENSES

ART. 76. Misbehaviour before the enemy.—Any officer or soldier who, before the enemy, misbehaves himself, runs away, or shamefully abandons or delivers up or by any misconduct, disobedience, or neglect endangers the safety of any fort, post, camp, guard, or other command which it is his duty to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, or by any means whatsoever occasions false alarms in camp, garrison, or quarters, shall suffer death or such other punishment as a court-martial may direct.

ART. 77. Subordinates compelling commander to surrender.—Any person subject to military law who compels or attempts to compel any commander of any garrison, fort, post, camp, guard, or other command, to give it up to the enemy or to abandon it shall be punishable with death or such other punishment as a court-martial may direct.

ART. 78. Improper use of countersign— Any person subject to military law who makes known the parole or countersign to any person not entitled to receive it according to the rules and discipline of war, or gives a parole or countersign different from that which he received, shall, if the offense be committed in time of war, or serious disturbance of the peace, suffer death or such other punishment as a court-martial may direct.

ART. 79. Forcing a safeguard.—Any person subject to the military law who, in time of war, or serious disturbance of the peace, forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

ART. 80. Captured property to be secured for public service.—All public property taken from the enemy is the property of the Government of the Commonwealth of the Philippines and shall be secured for the service thereof, and any person subject to military law who neglects to secure such property or is guilty of wrongful appropriation thereof shall be punished as a court-martial may direct.

ART. 81. Dealing in captured or abandoned property.— Any person subject to military law who buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect any profit, benefit, or advantage to himself or to any other person directly or indirectly connected with himself or who fails whenever such property comes into his possession or custody or within his control to give notice thereof to the proper authority and to turn over such property to the proper authority without delay, shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial, military commission, or other military tribunal may adjudge, or by any or all of said penalties.

ART. 82. Relieving, corresponding with, or aiding the enemy.—Whosoever relieves or attempts to relieve the enemy with arms, ammunition, supplies, money, or other things, or knowingly harbors or protects or holds correspondence with or gives intelligence to the enemy, either directly or indirectly, shall suffer death or such other punishment as a court-martial or military commission may direct.

ART. 83. Spies.—Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters, or encampment of the Army of the Philippines or elsewhere shall be tried by a general court-martial or by a military commission, and shall, on conviction thereof, suffer death.

P. MISCELLANEOUS CRIMES AND OFFENSES

ART. 84. Military property—Willful or negligent loss, damage or wrongful disposition.—Any person subject to military law who willfully, or through neglect, suffers to be lost, spoiled, damaged, or wrongfully disposed of, any military property belonging to the Philippines shall make good the loss or damage and suffer such punishment as a court-martial may direct.

ART. 85. Waste or unlawful disposition of military property issued to soldiers.—Any soldier who sells or

wrongfully disposes of or willfully or through neglect injures or loses any horse, arms, ammunition, accouterments, equipment, clothing, or other property issued for use in the military service, shall be punished as a court-martial may direct.

ART. 86. Drunk on duty.—Any officer who is found drunk on duty shall, if the offense be committed in time of war, be dismissed from the service and suffer such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall be punished as a court-martial may direct. Any person subject to military law, except an officer who is found drunk on duty, shall be punished as a court-martial may direct.

ART. 87. Misbeliaviour of sentinel.—Any sentinel who is found drunk or sleeping upon his post, or who leaves it before he is regularly relieved, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall suffer any punishment, except death, that a court-martial may direct.

ART. 88. Personal interest in sale of provisions.—Any officer commanding in any garrison, fort, barracks, camp, or other place where troops of the Philippines may be serving who, for his private advantage, lays any duty or imposition upon or is interested, directly or indirectly, in the sale of any victuals or other necessities of life brought into such garrison, fort, barracks, camp, or other place for the use of troops, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

ART. 89. Intimidation of persons bringing provisions.— Any person subject to military law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing provisions, supplies, or other necessities to the camp, garrison, or quarters of the forces of the Philippines shall suffer such punishment as a court-martial may direct.

ART. 90. 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 spoiling, or willfully destroys any property whatsoever (unless by order of his commanding officer) , 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, in so far as the offender's pay shall go toward such reparation as provided for in article 106, shall be dismissed from the .service, or otherwise punished as a court-martial may direct. es ART. 91. Provoking speeches or gestures.—No person subject to military law shall use any reproachful or provoking speeches or gestures to another and any person subject to military law who offends against the provisions of this article shall be punished as a court-martial may direct.

ART. 92. Dueling.—Any person subject to military law who fights or promotes or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall, if an officer, be dismissed from the service or suffer such other punishment as a court-martial may direct; and if any other person subject to military law, shall suffer such punishment as a court-martial may direct.

ART. 93. Murder.—Any person subject to military law who commits murder in time of war shall suffer death or imprisonment for life, as a court-martial may direct.

ART. 94. Various crimes.—Any person subject to military law who commits any crime, breach of law or violation of municipal ordinance, which is recognized as an offense of a penal nature and is punishable under the penal laws of the Philippines or under municipal ordinances, on a Philippine Army reservation, shall be punished as a court-martial may direct; Provided, That officers and enlisted men of the Philippine Constabulary shall not be

triable by courts-martial for any crime, breach of law or violation of municipal ordinance committed under this article. In imposing the penalties for offenses falling within this article, the penalties for such offenses provided in the penal laws of the Philippines or in such municipal ordinances shall be taken into consideration.

ART. 95. Frauds against the Government affecting matters and equipments.—Any person subject to military law who, having charge, possession, custody, or control of any money or other property of the Commonwealth of the Philippines, 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 Commonwealth of the Philippines 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 Philippines; 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, equipments, ammunition, clothing, subsistence stores, money, or , other property of the Commonwealth of the Philippines furnished or intended for the military service thereof; 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 Commonwealth of the Philippines, such soldier, officer, or other person not having lawful right to sell or pledge the same; 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. And if any person, being guilty of any of the offenses aforesaid while in the military service of the Philippines, received his discharge or is dismissed 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 received such discharge nor been dismissed. And if any officer, being guilty, while in the military service of the Philippines of embezzlement of ration savings, post exchange, company, or other like funds, or of embezzlement of money or other property intrusted to his charge by an enlisted man or men, receives his discharge, or is dismissed, or is dropped from the rolls, 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 discharged,-' dismissed, or dropped from the rolls.

ART. 96. Conduct unbecoming an officer and gentleman.— _ Any officer, member of the Nurse Corps, cadet, flying cadet, or probationary third lieutenant, who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

ART. 97. General article.—Though not mentioned in these . articles, all disorders and neglects to the prejudice of good order and military discipline and all conduct of a nature to bring discredit upon the military service shall be taken cognizance of by a general or special or summary court-martial according to the nature and degree of the offense, and punished at the discretion of such court.

TITLE IV.—Courts of Inquiry

ART. 98. When and by whom ordered.—A court of inquiry to examine into the nature of any transaction of or ° accusation or imputation against any officer or soldier may be ordered by the President, the Chief of Staff or by any commanding officer; but a court of inquiry shall not be ordered by any commanding officer except upon the request of the officer or soldier whose conduct is to be inquired into.

ART. 99. Composition.—A court of inquiry shall consist of three or more officers. For each court of inquiry the authority appointing the court shall appoint a recorder.

ART. 100. Challenges.—Members of a court of inquiry may be challenged by the party whose conduct is to be inquired into, but only for cause stated to the court. The court shall determine the relevancy and validity of any challenge, and shall not receive a challenge to more than one member at a time. The party whose conduct is being inquired into shall have the right to be represented before the court by counsel of his own selection, if such counsel be reasonably available.

ART. 101. Oath of members of recorders.—The recorder of a court of inquiry shall administer to the members the following oath: "You, A. B., do swear (or affirm) that you will well and truly examine and inquire, according to the evidence, into the matter now before you without partiality, favor, affection, prejudice, or hope of reward. So help you God." After which the president of the court shall administer to the recorder the following oath: "You, A. B., do swear (or affirm) that you will according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God."

In case of affirmation the closing sentence of adjuration will be omitted.

ART. 102. Powers; procedure.—A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the trial judge advocate thereof. Such witnesses shall take the same oath or affirmation that is taken by witnesses before courts-martial. A reporter or an interpreter for a court of inquiry shall, before entering upon his duties, take the oath or affirmation required of a reporter or an interpreter for a court-martial. The party whose conduct is being inquired into or his counsel, if any, shall be permitted to examine and cross-examine witnesses so as fully to investigate the circumstances in question.

ART. 103. Opinion of merits of case.—A court of inquiry shall not give an opinion on the merits of the case inquired into unless specially ordered to do so.

ART. 104. Record of proceedings —How authenticated.— Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signature of the President and the recorder thereof, and be forwarded to the convening authority. In case the record cannot be authenticated by the recorder, by reason of his death, disability, or absence, it shall be signed by the President and by one other member of the court.

TITLE V.—Miscellaneous Provisions

ART. 105. 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, reprimand, withholding of privileges for not exceeding one week, extra fatigue for not exceeding one week, restriction to certain specified limits for not exceeding one week, but shall not include forfeiture of pay or confinement under guard; except that in time of war or grave public emergency a commanding officer of the grade of brigadier general or of higher grade may, under the provisions of his article, also impose upon an officer of his command of the grade of a major a forfeiture of not more than one half of such officer's monthly pay for one month.

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 crime or offense growing out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trials and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

ART. 106. Injuries to property—Redress of.—Whenever complaint is made to any commanding officer that damage has been done to the property of any person or that his property has been wrongfully taken by persons subject to military law, such complaint shall be investigated by a board consisting of any number of officers from one to three, which board shall be convened by the commanding officer and shall have, for the purpose of such investigation, power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by such board shall be subject to the approval of the commanding officer, and in amount approved by him shall be stopped against the pay of the offenders. And the order of such commanding officer directing stoppages herein authorized shall be conclusive on any disbursing officer for the payment by him to the injured parties of the stoppages so ordered.

When the offenders cannot be ascertained, but the organization or detachment to which they belong is known, stoppages to the amount of damages inflicted may be made and assessed in such proportion as may be deemed just upon the individual members thereof who are shown to have been present with such organization or detachment at the time the damages complained of were inflicted as determined by the approved findings of the board.

ART. 107. Arrest of deserters by civil officials.—It shall be lawful for any civil officer having authority under the laws of the Philippines to arrest, summarily to arrest a deserter from the military service of the Philippines and deliver him into the custody of the military authorities.

ART. 108. Soldiers to make good time lost.—Every soldier or trainee who in an existing or subsequent enlistment or training period deserts the service of the Philippines Army or without proper authority absents himself from his organization, station, or duty for more than one day, or who is confined for more than one day under sentence! or while awaiting trial and disposition of his case, if the trial results in conviction, or through the intemperate use of drugs or alcoholic liquor, or through disease or injury the result of his own misconduct, renders himself unable for more than one day to perform duty, shall be liable to serve, after his return to a full-duty status, for such period as shall, with the time he may have served prior to such desertion, unauthorized absence, confinement or inability to perform duty, amount to the full term of that part of his enlistment or training period which he is required to serve with his organization before being furloughed to the Army reserve.

ART. 109. Soldiers— Separation from the service.—No enlisted man, lawfully inducted into the military service of the Philippines shall be discharged from said service without a certificate of discharge, signed by a field officer of the regiment or other organization to which the enlisted man belongs or by the commanding officer when no such field officer is present; and no enlisted man shall be discharged from said service before his term of service has expired, except by order of the President, the Chief of Staff, or by sentence of a general court-martial.

ART. 110. Oath of enlistment.—At the time of his enlistment every soldier shall take the following oath or affirmation: "I..... do solemnly swear (or affirm) that I will bear true faith and allegiance to the Commonwealth of the Philippines; that I will serve it honestly and faithfully against all its enemies whomsoever; that I will support and defend the Constitution of the Philippines ; that I will obey the

orders of the President of the Philippines and the orders of the officers appointed over me, according to the rules and articles of war; and I hereby declare that I recognize and accept the supreme authority of the United States of America in the Philippines, and will maintain true faith and allegiance thereto; and that I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion. So HELP ME God." This oath or affirmation may be taken before any officer.

ART. 111. Certain articles to be read and explained.— Articles 1, 2 and 28, 54 to 97, inclusive, and 105 to 110, inclusive, shall be read and explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read and explained once every six months to the soldiers of every garrison, regiment, or company in the service of the Philippines.

ART. 112. Copy of record of trial.—Every person tried by a general court-martial shall, on demand therefor, made by himself or by any person in his behalf, be entitled to a copy of the record of the trial.

ART. 113. Inquests.—When at any post, fort, camp, or other place garrisoned by the military forces of the Philippines any person shall have been found dead under circumstances which appear to require investigation, the commanding officer will designate and direct a summary court-martial to investigate the circumstances attending the death; and, for this purpose, such summary court-martial shall have power to summon witnesses and examine them upon oath or affirmation. He shall promptly transmit to the post or other commander a report of his investigation and of his findings as to the cause of the death.

ART. 114. Authority to administer oaths.—Any judge advocate or acting judge advocate, the president of a general or special courts-martial, any summary courts-martial, the trial judge advocate or any assistant trial judge advocate of a general or special court-martial, the president or the recorder of a court of inquiry or of a military board, any officer designated to take a deposition, any officer detailed to conduct an investigation, and the adjutant of any command shall have power to administer oaths for the purposes of the administration of military justice and for other purposes of military administration.

ART. 115. Appointment of reporters and interpreters.— Under such regulations as the President of the Philippines may from time to time prescribe, the president of a court-martial or military commission or a court of inquiry shall have power to appoint a reporter, who shall record the proceedings of and testimony taken before such court or commission and may set down the same, in the first instance, in shorthand. Under like regulations the president of a court-martial or military commission, or court of inquiry, or a summary court, may appoint an interpreter, who shall interpret for the court or commission.

ART. 116. Powers of assistant trial judge advocate and of assistant defense counsel.—An assistant trial judge advocate of a general 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.

ART. 117. Officers, separation from service.—No officer shall be discharged or dismissed from the service except by order of the President or by sentence of a general court-martial; and in time of peace no officer shall be dismissed except in pursuance of the sentence of a general court-martial or in mitigation thereof; but the President may at any time drop from the rolls of the Army any officer who has been absent from duty three months without leave or who has been absent in confinement in a prison or penitentiary for three months after final conviction by a court of competent jurisdiction.

ART. 118. Rank and precedence among regulars and reserves.—In time of war or public danger, when two or more

officers of the same grade are on duty in the same field, or command, or of organizations thereof, the President may assign the command of the forces of such field, or command, or of any organization thereof, without regard to seniority of rank in the same grade.

ART. 119. Command when different corps or commands happen to join.—When different corps or commands of the military forces of the Philippines happen to join or do duty together, the officer highest in rank of the line of the Regular Army," or Reserve Force shall, subject to the provisions of the last preceding article, command the whole and give orders for what is needful in the service, unless otherwise directed by the President.

ART. 120. 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 District Commander or general commanding in the locality where the officer against whom the complaint is made is stationed. The general shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall as soon as possible, transmit to Army Headquarters a true statement of said complaint, with the proceedings had thereof.

SEC. 2. All offenses committed prior to the date of effectiveness of this Act shall be punished in accordance with the laws and regulations in force at the time of their com-mission.

SEC. 3. All laws and parts of laws in so far as they are inconsistent with this Act are hereby repealed.

SEC. 4. This Act shall take effect upon its approval.

Approved, September 14, 1938.

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