

AN ACT TO AMEND CERTAIN PROVISIONS OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND EIGHT, OTHERWISE KNOWN AS THE ARTICLES OF WAR.

REPUBLIC ACT NO. 242, June 12, 1948

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f18461e5d918/>

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"SECTION 1. The following articles shall be known as the Articles of War and shall at all times and in all places govern the Armed Forces of the Philippines and the Philippine Constabulary."

SEC. 2. Article two of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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:

"(a) All officers, members of the Nurse Corps and soldiers in the active service of the Armed Forces of the Philippines or of the Philippine Constabulary; all members of the reserve force, 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;

"(b) Cadets, flying cadets, and probationary second lieutenants;

"(c) All retainers to the camp and all persons accompanying or serving with the Armed Forces of the Philippines in the field in time of war or when martial law is declared though not otherwise subject to these articles;

"(d) All persons under sentence adjudged by courts-martial."

SEC. 3. Article four of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 4. Who may Serve on Courts-Martial—All officers in active duty in the Armed Forces of the Philippines or in the Philippine Constabulary 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 temperament; 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."

SEC. 4. Article eight of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 8. General Courts-Martial—The President of the Philippines, the Chief of Staff of the Armed Forces of the Philippines, the Chief of Constabulary and, when empowered by the President, the Commanding Officer of

a major command or task force, the Commanding Officer of a Division, the Commanding Officer of a military area, 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 General's 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."

SEC. 5. Article nine of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 9. Special Courts-Martial.—The commanding officer of a major command, task force, military area, or division and when empowered by the President, the commanding officer of a garrison, fort, camp, brigade, regiment, detached battalion or squadron, or other detached command or place, zone or commissioned vessel where troops are on duty 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."

SEC. 6. Article fourteen of Commonwealth Act Numbered Four hundred and eight is hereby 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 member of the Nurse corps, a cadet, a flying cadet or probationary second lieutenant, 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 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."

SEC. 7. Article eighteen of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 18. Challenges.—Members of general or special courts-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 receive a challenge to more than one member at a time. Challenges by the trial judge advocate shall ordinarily be presented and decided before those by the accused are offered. Each side shall be entitled to the peremptory challenge, but the law member of the court shall not be challenged except for cause,"

SEC. 8. Article nineteen of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 19. Oath.—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 Armed Forces of the Philippines and of the Philippine Constabulary 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 or 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 its 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."

SEC. 9. Article twenty-three of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 officer appointed to conduct an investigation under the provisions of Article seventy-one, 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, or officer appointed to conduct an investigation under the provisions of Article seventy-one, to file an information against and prosecute the person so offending in the manner provided in sections four and five, Rule sixty-four of the Rules of Court, and the punishment of such person, on conviction, shall be that provided in sections six and seven of the aforesaid Rule sixty-four: Provided, That such fees as the Chief of Staff may prescribe, and traveling expenses in the amount of ten centavos per kilometer of travel shall be duly paid or tendered to witnesses, such amounts to be paid out of the appropriations of the Armed Forces of the Philippines or Philippine Constabulary."

SEC. 10. Article thirty-one of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 81. Contempts.—A military tribunal may punish any person who commits direct contempt as defined in rules of court: Provided, That such punishment shall in case exceed ten days confinement, or a fine not exceeding two hundred pesos, or both."

SEC. 11. Article thirty-four of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 appointment 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 Armed Forces of the Philippines."

SEC. 12. Article thirty-eight of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 38. As to Time.—Except for desertion or murder committed in time of war, or for mutiny or for war offenses, 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: Provided, That 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 of 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 excluded in computing the aforesaid periods of limitations: 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."

SEC. 13. Article forty-seven of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

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:

"(a) Any sentence respecting a general officer;

"(b) 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.

"(c) Any sentence extending to the suspension or dismissal of a cadet, flying cadet, probationary second lieutenant, and

"(d) Any sentence of death, except in the cases of persons convicted in time of war, of murder, mutiny, desertion, or as spies, and in such excepted cases of 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."

SEC. 14. Article forty-nine of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Disciplinary Barracks of the Armed Forces of the Philippines or Philippine Constabulary, 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 area 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 those articles requires the confirmation of the President before the same may be executed."

SEC. 15. The first and fourth paragraphs of Article fifty of Commonwealth Act Numbered Four hundred and eight, are hereby amended to read, respectively as follows:

"ART. 50. Review-Rehearing.—The Judge Advocate General of the Armed Forces of the Philippines shall constitute, in his office, a board of review consisting of one or more officers of the Judge Advocate General's Service."

"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 imposed unless the sentence be based upon a finding of guilty of an offense not considered upon the merits in the original proceedings: 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."

SEC. 16. Article fifty of Commonwealth Act Numbered Four hundred and eight is hereby further amended; by adding a new paragraph after the last paragraph thereof which shall read as follows:

"The President is hereby empowered to establish a system of review, separate from that prescribed in this article, for cases wherein the accused is a member of the Philippine Constabulary: Provided, That until the President directs otherwise, the records of trial in such cases shall remain subject to the requirements and procedure fixed by this article."

SEC. 17. Article fifty-four of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 54. Fraudulent Enlistment.—Any person who shall procure himself to be enlisted in the military service of the Philippines or in the Philippine Constabulary 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."

SEC. 18. Article fifty-five of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 55. Officer Making Unlawful Enlistment.—Any officer who knowingly enlists or musters into the military service or in the Philippine Constabulary 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."

SEC. 19. Article fifty-seven of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 57. False Return-Omission to Render Returns.—Every officer whose duty it is to render to Headquarters, Armed Forces of the Philippines or the Philippine Constabulary or other superior authority a return of the state of the troops under his command, or of the arms, ammunitions, clothing, funds, or other property thereunto belonging, who knowingly makes a false return thereof shall be dismissed from the service and suffer such other punishment as a court-martial may direct. Any officer who, through neglect or design, omits to render such return shall be punished as a court-martial may direct."

SEC. 20. Article fifty-eight of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Armed Forces of the Philippines or Philippine Constabulary or in the armed forces of any foreign country shall be deemed to have deserted the service of the Philippines and where the enlistment is in the Armed Forces of the Philippines or the Philippine Constabulary 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."

SEC. 21. Article fifty-nine of Commonwealth Act Numbered Four hundred and eighty is hereby amended to read as follows:

"ART. 59. Desertion.—Any person subject to military law who deserts or attempts to desert the service of the Armed Forces of the Philippines or Philippine Constabulary 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."

SEC. 22. Article sixty of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Armed Forces of the Philippines or Philippine Constabulary 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."

SEC. 23. Article sixty-one of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

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

SEC. 24. Article sixty-three of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 63. Disrespect toward the President, Vice-President, Congress of the Philippines, or Secretary of National Defense.—Any officer who uses contemptuous or disrespectful words against the President, Vice-President, the Congress of the Philippines, or Secretary of National Defense, 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."

SEC. 25. Article seventy-one of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 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. 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 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. 26. Article seventy-two of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Armed Forces of the Philippines or the Philippine Constabulary, 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."

SEC. 27. Article eighty of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 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."

SEC. 28. Article eighty-three of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 encampments of the Armed Forces 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."

SEC. 29. Article ninety-three of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

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

SEC. 30. Article ninety-four of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 94. Various Crimes.—Any person subject to military law who commits any felony, 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, (A) inside a reservation of the Armed Forces of the Philippines, or (B) outside any such reservation when the offended party (and each one of the offended parties if there be more than one) is a person subject to military law, shall be punished as a court-martial may direct: Provided, That, in time of peace, officers and enlisted men of the Philippine Constabulary shall not be triable by courts-martial for any felony, crime, breach of law or violation of municipal ordinances committed under this article. In imposing the penalties for offenses falling within this article, the penalties for offenses provided in the penal laws of the Philippines or in such municipal ordinances shall be taken into consideration."

SEC. 31. Article ninety-five of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 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 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 dispose of any ordnances, arms, equipments, ammunition, clothing, subsistence stores, money, or other property 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 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 service of the Armed Forces of the Philippines or of the Philippine Constabulary 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 service of the Armed Forces of the Philippines or of the Philippine Constabulary of embezzlement of ration savings, post exchange, company, or other like funds, or of embezzlement of money or other property in trusted 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."

SEC. 32. Article ninety-six of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

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

SEC. 33. Article one hundred five of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 105. Disciplinary Powers of Commanding Officers.—Under such regulations as the President may prescribe, the commanding officer of any detachment, company, squadron, commissioned vessel, 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 and hard labor without confinement 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 this article, also impose upon an officer of his command below 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 the 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 trial, and when so shown shall be considered in determining the measures of punishment to be adjudged in the event of a finding of guilty."

SEC. 34. Article one hundred and seven of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 offenders, summarily to arrest a deserter and deliver him into the

custody of the authorities concerned."

SEC. 35. Article one hundred and eight of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Armed Forces of the Philippines or the Philippine Constabulary 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."

SEC. 36. Article one hundred and nine of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 109. Soldiers-Separation from the Service.—No enlisted man, in the military service of the Philippines or in the Philippine Constabulary 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, the Chief of Constabulary or by sentence of a general court-martial."

SEC. 37. Article one hundred and ten of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"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 Republic 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 that I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion. So help toe God.' This oath or affirmation may be taken before any officer."

SEC. 38. Commonwealth Act Numbered Four hundred and eight is hereby amended by inserting after article one hundred and thirteen a new article to be known as article hundred and thirteen-A, which shall read as follows:

"ART. 113-A. Effects of deceased persons: disposition of.—In case of the death of any person subject to military law the commanding officer of the place or command will permit the legal representative or widow of the deceased, if present, to take possession of all his effects then in camp or quarters; and if no legal representative or widow be present, the commanding officer shall direct a summary court officer to secure all such effects, and said officer shall have authority to collect and receive any debts due decedent's estate by local debtors and to pay the undisputed local creditors of decedent in so far as any money belonging to the deceased which may come into said summary court officer's possession under this Article will permit, taking receipts therefor for file with said officer's final report of his transactions to the Chief of Staff of the Armed Forces of the Philippines or the Chief of Constabulary: Provided, That wills or other papers involving property-rights shall be promptly transmitted to the Judge Advocate General, Armed Forces of the Philippines, who shall commence appropriate proceedings with regards thereto in] the Court of First Instance of the province where the deceased died. As soon as practicable after the collection of such effects and the deceased left no will, said

summary court officer shall transmit such effects and any money collected, through the Quartermaster Service, at government expense, to the widow or legal representative of the deceased, if such be found by said officer, or to the son, daughter, father, provided the father has not abandoned the support of his family, mother, brother, sister, or the next of kin in the order named, if such be found by said officer. Said officer shall thereupon make to the Chief of Staff or the Chief of Constabulary a full report of his transactions; but if there be none of the persons hereinabove named, or such persons or their addresses are not known to or readily ascertainable, said officer shall transmit within twenty days to the Chief of Quartermaster Service after the death of the deceased, all effects of deceased including sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, together with an inventory of the effects secured by said summary court officer and a full account of his transactions, to the Chief of Staff or the Chief of Constabulary for transmission to the Judge Advocate General for action as hereinbelow authorized in the settlement of accounts of deceased officers and enlisted men of the Armed Forces of the Philippines or Philippine Constabulary, subject to the provisions of the Rules of Court and the civil law, in so far as they do not conflict with these provisions.

"The Judge Advocate General of the Armed Forces of the Philippines is hereby empowered to administer the disposition of the effects of persons who, at the time of their death are subject to military law. If the heirs or legal representatives of the deceased person could not be ascertained, the remaining effects shall be retained in the Quartermaster Service until two years shall have expired from the death of the person on whose behalf they were received for the purpose of delivering them to the widow or her legal representative, or the heirs of the deceased in the order of intestate succession established by the Civil Code unless the deceased left a will in which case the remaining effects shall be distributed in accordance therewith after its probate. After the expiration of two years from the death of said deceased, and upon notification by the Judge Advocate General, the Chief of Quartermaster Service shall sell at public sale or in any manner deemed most advantageous, all or any of such effects to which a right thereto shall not have been established on behalf of said deceased, his heirs, or legal representative provided, that decorations, medals and citations shall not be sold but shall be disposed of in such manner as in the interest of the public it deems most fitting, helpful, and appropriate, either by permanent retention thereof, distribution to museums or other government institutions, or their destruction, if in the opinion of the Chief of Staff or the Chief of Constabulary they no longer possess any value.

"The net proceeds from the sale shall be deposited with the National Treasury for the account of the Armed Forces of the Philippines or of the Philippine Constabulary depending on which organization the deceased belong, and shall be withdrawn only by authority of the Judge Advocate General who is hereby authorized to disburse and pay from said fund all such claims which may be established to his satisfaction under existing law; provided that any claim not filed with the Judge Advocate General within five (5) years from the death of such deceased, shall forever be barred. All proceeds remaining after the payment of such claims as herein provided shall form part of the general fund of the Armed Forces of the Philippines or of the Philippine Constabulary and may be expended at the discretion of the Chief of Staff or the Chief of Constabulary for such purpose which is deemed best for the general benefit of the organization to which the deceased belong'."

SEC. 39. Article one hundred and twenty of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ART. 120. Complaints of Wrongs.—Any member of the Armed Forces of the Philippines or Philippine Constabulary who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the area or zone commander or the next superior officer in the area or zone where the officer against whom the complaint is made is stationed. The area or zone commander or next superior 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 Headquarters, Armed Forces of the Philippines, a true statement of said complaint, with the proceedings had thereon."

SEC. 40. This Act shall take effect upon its approval.

Approved, June 12, 1948.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.