

Mr. Brian LAMB
C-SPAN
400 North Capital Street NW \$650
Washington, D.C. 20001

22 April, 1993

Dear Mr. LAMB:

I am one of those C-Span junkies that feels that you are the best non-political, unbiased and fair host on television. I am a faithful watcher of C-Span.

Mr. LAMB, [REDACTED]
[REDACTED]
[REDACTED]

My reason for writing this letter is because I have observed some of the young journalists who appear on C-Span having very little knowledge of the U.S. Military, and what they seem to know they were educated by watching television dramas or some of that military trash that is portrayed in Hollywood movies. They seem to be completely unaware as to the rules that the armed forces operate under and it's nitch under the United States Constitution. Quite a bit of military life that is portrayed, is anti-military in nature and they tend to ignore the Uniform Code of Military Justice in the relationships between individuals.

In order to give you some feel for the rules and regulations that a military person is subject to 24 hours a day, seven days a week, on duty or off, I have copied some of the rules and regulations for your perusal.

1. Code of Conduct. This code was instituted because of the reaction to the reported behavior of American Prisoners of War during the Korean War. No one is prosecuted under this code, that is the perview of the Uniform Code of Military Justice.

2. The Uniform Code of Military Justice. This is the basic document that is used to administer military justice in the U.S. Military forces.

3. Navy Regulations. The principle purpose of the Navy Regulations is to communicate to the Department of the Navy, the rules under which it shall operate. The articles that I have included are those that apply to the duties of individuals. These regulations are supplemental in nature to the Uniform Code of Military Justice.

4. Some of the rules as they apply to saluting.

Mr. LAMB my feelings about President CLINTON and his lack of military experience, is, that particular experience is not a requirement to become President of the United States. The only requirements spelled out in the U.S. Constitution is that he be a natural born citizen of the United States of America, and be at least 35 years of age. Of course he has to have the electoral votes to win the office.

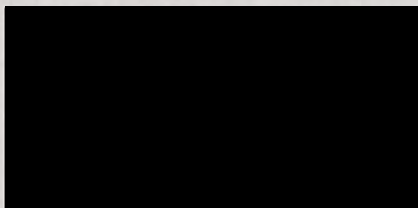
What bothers me about CLINTON is his actions during the late 1960's while the Viet Nam War was going on. It disturbs me that after receiving his draft notice, he used political influence to have it recended. The reported attitude that he had higher things to do, than to serve his country and finally his reported contempt for the U.S. Military, which has cropped up in the White House since he has become president. The Viet Nam War was a foreign policy decision of the current Presidents of the time.

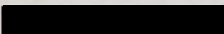
President CLINTON, by virtue of his position as the Chief Executive and Commander in Chief of the Armed Forces, has the legal authority to use the military to pursue his foreign policy positions, but I feel that he does not have the moral right to place them in harms way, EXCEPT to defend the United States if some one would dare to do that thing to their peril... attack our country.

However, after making the above statement, if I was to be called back on active duty, I would go and serve under him to the best of my abilities, even to the ultimate sacrifice.

I am also including a copy of the letter that I sent to President CLINTON concerning my position with the homosexual situation. Sexual morals are a very important part of the military lifestyle and need to be a concern of military authorities because when the forces are in other lands, it is very important that our people are controlled. . . I give you Bosnia (a few weeks ago). Those soldiers were not diciplined and definitely un-principled.

Sincerely,



Memphis, Tn 38128

THE CODE OF CONDUCT (The U.S. Fighting Man's Code)

I

I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

II

I will never surrender of my own free will. If in command, I will never surrender my men while they still have the means to resist.

III

If I am captured I will continue to resist by all means available. I will make every effort to escape, and aid others to escape. I will accept neither parole nor special favor from the enemy.

IV

If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

V

When questioned, should I become a prisoner of war, I am bound to give only name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

VI

I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

UNIFORM CODE OF MILITARY JUSTICE

The Uniform Code of Military Justice was passed by congress and signed by President Truman on 5 May, 1950. It became effective on 21 May 1951.

By Act of 10 August 1956, the original 1950 law, as amended, was repealed and reenacted, without substantial change, as Chapter 47 of Title 10 of the United States Code, Chapter 47 is entitled "Uniform Code of Military Justice" and contains, As Sections 801-940 (10 USC 801-940), the 140 articles of the code. An Act of 7 September, 1962 revised article 15 of the code, increasing the authority of commanding officers to impose nonjudicial punishment in order to enhance the effectiveness of military justice and lessen the resort to court-martial.

Everyone in the Armed Forces must be familiar with the code. The code itself (in article 137) requires that certain articles of the code be explained periodically to all enlisted men.

Art. 137. Articles to be explained.

"Articles 2, 3, 7 through 15, 25, 27, 31, 37, 38, 55, 77 through 134, and 137 through 139 of this code shall be carefully explained to each enlisted member at the time of his entrance on active duty, or within six days thereafter. They shall be explained again after he has completed six months of active duty, and again at the time when he reenlists. A complete text of the Uniform Code of Military Justice and the regulations prescribed by the President thereunder shall be made available to any person on active duty, upon his request, for his personal examination."

The 'regulations prescribed by the President' are contained in the Manual for Courts-Martial, with implementing regulations included in U. S. Navy Regulations and the Manual of the Judge Advocate. Article 0714(3) of Navy Regulations provides that the text of the designated articles of the code required by Article 137 be posted in a conspicuous place, readily accessible to personnel of the command.

The following articles are as specified under Article 137, included, where appropriate, explanations. The notes are based on the Manual of Courts-Martial, which should be consulted for more complete information on the provisions of the code.

Art. 2. Persons subject to this code.

"The following persons are subject to this code:

"(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by terms of the call or order to obey it.

"(2) Cadets, aviation cadets, and midshipmen.

"(3) Members of a reserve component while they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this code.

"(4) Retired members of a regular component of the armed forces who are entitled to pay.

"(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

"(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

"(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

"(8) Members of the Coast and Geodetic Survey, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

"(9) Prisoners of war in custody of the armed forces.

"(10) In time of war, persons serving with or accompanying an armed force in the field.

"(11) Subject to any treaty or agreement to which the United States is or may be party or to any accepted rule of international law, persons serving with, employed by, or accompanying the

"(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside of the United States and outside of the following; Canal Zone, Puerto Rico, Guam, and the Virgin Islands."

The following provisions of article 2 should be noted particularly:

1. Any person serving a sentence imposed by a court-martial remains subject to the code. Thus a prisoner who is serving a court-martial sentence may be tried for a crime he commits while a prisoner, even though his term of enlistment had expired at the time of commission of the crime.

2. A Reservist on inactive duty training is subject to the code when (a) the training is authorized by written orders; (b) the orders are voluntarily accepted by him; and (c) the orders specify that the Reservist is subject to the code.

3. A Reservist ordered into the active military service is subject to the code from the date he is required by his orders to report for active duty.

The Supreme Court of the United States has declared unconstitutional and thereby invalidated certain portions of article 2 providing for court martial jurisdiction over persons who are not in the military service but, in peacetime, serve with, are employed by, or accompany the Armed Forces outside the United States.

Art. 3 Jurisdiction to try certain personnel.

"(a) Subject to article 43,¹ no person charged with having committed, while in a status in which he was subject to this code, an offense against this code, punishable by confinement of five years or more and for which the person cannot be tried in the courts of the United States or of a State, A Territory, or the District of Columbia, may be relieved from amenability to trial by court-martial by reason of the termination of that status.

"(b) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to article 43, subject to trial by court-martial on that charge and is after apprehension subject to this code while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this code committed before the fraudulent discharge.

"(c) No person who has deserted from the armed forces may be relieved from amenability to the jurisdiction of this code by virtue of a separation from any later period of service."

The Supreme Court of the United States has declared unconstitutional and thereby invalidated article 3(a) insofar as that provision would place under court-martial jurisdiction of a civilian exserviceman who no longer has remaining military status.

¹Concerns statutes of limitations

Art. 7 Apprehension. of the United States has declared unconstitutional and thereby invalidated

"(a) Apprehension is the taking of a person into custody. ~~court-martial jurisdiction of a civilian~~

"(b) Any person authorized under regulations governing the armed forces to apprehend persons subject to this code or to trial thereunder may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

"(c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part thereto.

An apprehension is effected by clearly notifying the offender that he is thereby taken into custody. The order may be oral or written.

There is a clear distinction between the authority to apprehend and the authority to arrest or confine (article 9). However, any person empowered to apprehend an offender is authorized to secure the custody of an alleged offender until proper authority may be notified, notwithstanding limitations on his power to arrest or confine.

Art. 8 Apprehension of deserters.

"Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces."

When a military service sends out a description of a deserter, with a request for his apprehension and the offer of a reward or payment of expenses incurred in his apprehension or delivery, the notice is sufficient authority for the apprehension of a deserter by a private citizen.

Even if a person who apprehends and delivers a deserter was not authorized to do so, that fact is not legal ground for the discharge of the deserter from military custody.

Art. 9. Imposition of restraint.

"(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

"(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code. A Commanding Officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

"(c) A commissioned officer, a warrant officer, or a civilian subject to this code or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

"(d) No person may be ordered into arrest or confinement except for probable cause.

"(e) Nothing in this article limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified."

Art. 10. Restraint of persons charged with offenses.

"Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him."

While confinement should not ordinarily be ordered for a person charged only with an offense normally tried by a summary court-martial, this provision is not mandatory. Its exercise rests within the discretion of the person vested with the power to arrest or confine.

Art. 11. Reports and receiving of prisoners.

"(a) No provost marshal, commander of a guard, or master at arms may refuse to receive or keep any prisoner committed to his charge by a commissioned officer of the armed forces, when the committing officer furnishes a statement, signed by him, of the offense charged against the prisoner.

"(b) Every commander of a guard or master at arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is received from guard, report to the commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment."

Art. 12. Confinement with enemy prisoners prohibited.

"No member of the armed forces be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces."

Art. 13. Punishment prohibited before trial.

"Subject to article 57, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline."

Art. 14. Delivery of offenders to civil authorities.

"(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

"(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence."

Art. 15 Commanding Officer's nonjudicial punishment.

"(a) Under such regulations as the President may prescribe, and under such additional regulations as may be prescribed by the Secretary concerned, limitations may be placed on the powers granted by this article with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of this article to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, except in the case of a member attached to or embarked in a vessel, punishment may not be imposed upon any member of the armed forces under this article if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishment authorized hereunder. If authorized by regulations of the Secretary concerned, a commanding officer exercising general court-martial jurisdiction or an officer of general or flag rank in command may delegate his powers under this article to a principal assistant.

"(b) Subject to subsection (a) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial-

"(1) Upon officers of his command-

(A) restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days.

(B) If imposed by an officer exercising general court-martial jurisdiction or an officer of general or flag rank in command-

(i) arrest in quarters for not more than 30 consecutive days.

(ii) forfeiture of not more than one-half of one month's pay per month for two months;

(iii) restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

(iv) detention of not more than one-half of one month's pay per month for three months.

"(2) upon other personnel of his command-

"(A) if imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days;

"(B) correctional custody for not more than seven consecutive days;

"(C) forfeiture of not more than seven days pay;

"(D) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

"(E) Extra duties, including fatigue or other duties, for not more than 14 consecutive days;

"(F) restriction to certain specified limits, with or without suspension from duty, for not more than 14 consecutive days;

"(G) detention of not more than 14 days' pay;

"(H) if imposed by an officer of the grade of major or lieutenant commander, or above-

"(i) the punishment authorized under subsection (b)(2)(A);

"(ii) correctional custody for not more than 30 consecutive days;

"(iii) forfeiture of not more than one-half of one month's pay per month for two months;

"(iv) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

"(v) extra duties, including fatigue or other duties, for not more than 45 consecutive days;

"(vi) restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;

"(vii) detention of not more than one-half of one month's pay per month for three months.

(c) An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized under subsection (b) (2)(A)-(G) as the Secretary concerned may specifically prescribe by regulation.

"(d) The officer who imposes the punishment authorized in subsection (b), or his successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (b), whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating-

"(1) arrest in quarters to restriction;

"(2) confinement on bread and water or diminished rations to correctional custody;

"(3) correctional custody or confinement on bread and water or diminished rations to extra duties or restriction, or both; or

"(4) extra duties to restriction;

"(e) A person punished under this article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (d) by the officer who imposed the punishment. Before acting on an appeal from a punishment of-

"(1) arrest in quarters for more than seven days;

"(2) correctional custody for more than seven days;

"(3) forfeiture of more than seven days pay;

"(4) reduction of one or more pay grades from the fourth or a higher pay grade;

"(5) extra duties for more than 14 days;

"(6) restriction for more than 14 days;

or

"(7) detention of more than 14 days' pay;

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

"(g) The Secretary concerned may, by regulation, prescribe the form of records to be kept of proceedings under this article and may also prescribe that certain categories of those proceedings shall be in writing."

Art. 25. Who may serve on courts-martial.

"(a) Any commissioned officer on active duty is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

"(b) Any warrant officer on active duty is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

"(c) Any enlisted member of an armed force on active duty who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted person of an armed force who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted persons serve on it. After such a request, the accused may not be tried by a general or special courts-martial the membership of which does not include enlisted persons in a number comprising at least one-third of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

"(1) In this article, the word "unit" means any regularly organized body as defined by the Secretary concerned, but in no case may it be a body larger than a company, squadron, ship's crew, or body corresponding to one of them.

"(d) (1) When it can be avoided, no member of an armed force may be tried by a court-martial any member of which is junior to him in rank or grade.

"(2) When convening a court-martial, the convening authority shall detail as members thereof such persons as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case."

Art. 27. Detail of trial counsel and defense counsel.

"(a) For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, law officer, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

"(b) Trial counsel or defense counsel detailed for a general court-martial-

"(1) Must be a judge advocate of the Army or the Air Force, or a law specialist of the Navy or Coast Guard, who is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; or must be a member of the bar of a Federal court or of the highest court of a State; and

"(2) must be certified as competent to perform such duties by the Judge Advocate General of the armed forces of which he is a member.

"(c) In the case of a special court-martial- -

"(1) if the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

"(2) if the trial counsel is a judge advocate, or a law specialist, or a member of the bar of a Federal court or the highest court of a State, the defense counsel detailed by the convening authority must be one of the foregoing."

Art. 31. Compulsory self-incrimination prohibited.

"(a) No person subject to this code may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

"(b) No person subject to this code may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

"(c) No person subject to this code may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

"(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial."

The privilege against making a statement regarding an offense charged or suspected under article 31(b) applies to any person so charged or suspected regardless of whether he would incriminate himself by making the statement. The privilege against compulsory self-incrimination under article 31(a) applies to any self-incrimination whether or not material to the issue; it may be invoked by a witness and is not limited to one charged or suspected of an offense. A witness may be compelled to answer, although his answer might appear to incriminate him, if he could successfully object to being tried therefor because of the running of the statute of limitations (article 43) or for any other reason. The privilege against compulsory self-degradation applies only to matters not material to the issue.

The prohibition against compelling a person to give evidence against himself relates to the use of compulsion, not only in obtaining from him a verbal or other communication in which he expresses his knowledge of a matter, but also in inducing him to perform acts wherein the exercise of his mental or physical faculties will be employed to assist in his identification. Consequently, it is not a violation of the prohibition to order a person (including an accused) to expose his body for examination by the court or by a physician who will later testify as to the result of his examination. Upon refusal to obey the order, the person's clothing may be removed by force. Also the prohibition is not violated by requiring a person (including the accused) to try on clothing or shoes, to place his feet in tracks, to grow a beard or shave, or to submit to having his fingerprints taken.

On the other hand, the results of tests of blood or urine taken from the accused, for other than clinical purposes, by force or over his objection, or against his will, are not admissible in evidence. All the requirements of article 31(b) apply and are to be complied with before an accused or suspect is asked to identify his property, provide handwriting exemplars, or speak of the purpose of voice identification; any lack of compliance or any compulsion renders the act inadmissible.

Bargaining with an accused with the offer of lighter punishment in return for a statement is forbidden, and any statement obtained thereby is not admissible in evidence.

The provisions of article 31 apply equally to all official investigations as well as to courts-martial.

Art. 37. Unlawfully influencing action of court.

"No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, law officer, or counsel thereof with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceedings. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts."

Article 37 is designed to insure that every court, its members and officers, shall be completely free to fulfill its functions without fear of reprisal from the convening or any other authority. Violation of this article, knowingly and intentionally, is punishable under article 98.

Art. 38. Duties of trial counsel and defense counsel.

"(a) The trial counsel of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of the proceedings.

"(b) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or military counsel of his own selection if reasonably available, or by the defense counsel detailed under article 27. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

"(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

"(d) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by article 27, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

"(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by article 27, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused."

Art. 55. Cruel and unusual punishments prohibited.

"Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this code. The use of irons, single or double, except for purpose of safe custody, is prohibited."

Art. 77. Principals.

"Any person punishable under this code who-

(1) commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission; or

"(2) causes an act to be done which if directly performed by him would be punishable by this code; is a principal."

Art. 78. Accessory after the fact.

"Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment, shall be punished as a court-martial may direct."

One who, knowing that a prisoner has escaped from confinement, voluntarily provides him with transportation, clothing, money, or other necessities to enable him to avoid his pursuers becomes an accessory after the fact to the escape of the prisoner.

A person who knows that a crime has been committed, and assists and aids in concealing or suppressing evidence thereof, is an accessory after the fact. Mere failure to report a known offense does not constitute one an accessory after the fact, although a related offense is punishable as a violation of Article 1217 of Navy Regulations, which provides that any person in the naval service having knowledge of a felony shall promptly report it to either civil or military authority.

Art. 79. Conviction of lesser included offense.

"An accused may be found guilty of an offense necessarily included in the offense charged or an attempt either the offense charged or of an offense necessarily included therein."

Art. 80. Attempts.

"(a) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

"(b) Any person subject to this code, who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct; unless otherwise specifically prescribed.

"(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated."

Art. 81. Conspiracy.

"Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct."

Art. 82. Solicitation.

"(a) Any person subject to this code who solicits or advises another or others to desert in violation of article 85 or mutiny in violation of article 94 shall, if the offense solicited or advised is attempted or committed, be punished with punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

"(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of article 99 or sedition in violation of article 94 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct."

Art. 83. Fraudulent enlistment, appointment, or separation.

"Any person who—

"(1) Procures his own enlistment or appointment in the armed forces by knowingly false representation or deliberate concealment as to his qualifications for such enlistment or appointment and receives pay or allowances thereunder; or

"(2) Procures his own separation from the armed forces by means of knowingly false representation or deliberate concealment as to his eligibility for that separation; shall be punished as a court-martial may direct."

An essential element of the offense of fraudulent enlistment or appointment is that the accused shall have received pay or allowances thereunder. Acceptance of food, clothing, shelter, or transportation from the Government constitutes receipt of allowances.

Art. 84. Unlawful enlistment, appointment, or separation.

"Any person subject to this code who effects an enlistment or appointment in or a separation from the armed forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct."

Art. 85. Desertion.

"(a) Any member of the armed forces who-

"(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

"(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

"(3) without being regularly separated from one of the armed forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States; is guilty of desertion.

"(b) any commissioned officer of the armed forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

"(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct."

Both absence without authority and the intent to remain away permanently are essential elements of a charge of desertion under subsection (a)(1) of article 85.

"Hazardous duty" or "important service" may include such service as duty in a combat or other dangerous area, embarkation for foreign duty or for sea duty, movement to a port of embarkation, etc. Drill, target practice, maneuvers, and practice marches are not ordinarily regarded as included.

Art. 86. Absence without leave.

"Any member of the armed forces who, with authority-

"(1) fails to go to his appointed place of duty at the time prescribed;

"(2) goes from that place; or

"(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed; shall be punished as a court-martial may direct."

Art. 87. Missing movement.

"Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct."

The word "movement" as used here does not include minor changes in location of ships, aircraft, or units, as when a ship is shifted from one berth to another.

To be guilty of the offense, the accused must have had actual knowledge of the prospective movement which he is alleged to have missed. Knowledge of the exact hour or even of the exact date of the scheduled movement is not required. It is sufficient if the approximate date is known to the accused.

Art. 88. Contempt toward officials.

"Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct."

"Congress" as used here, does not include a member as an individual; "legislature" does not include its members individually; nor does "governor" include a "lieutenant governor."

Adverse criticism of one of the officials or groups named in the article, in the course of a political discussion, even though emphatically expressed, if not personally contemptuous, may not be charged as a violation of this article. Similarly, expressions of opinion made in a purely private conversation are not ordinarily a basis for a court-martial charge.

It is immaterial whether contemptuous words are used against an official in his official or private capacity. Truth or falsity of the statement may be immaterial; the gist of the offense is the contemptuous character of the language and the malice with which it is used.

Art. 89. Disrespect toward superior commissioned officer.

"Any person subject to this code who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct."

A "superior commissioned officer" is a commissioned officer who is superior in grade or command. A commissioned officer of another Armed Force must have been placed in the chain of command over a member of the Navy to be, within the meaning of this article, "his superior commissioned officer." A commissioned officer of the Navy who is superior in grade (but not inferior in command) to a member of the Navy is "his superior commissioned officer" even if he is not in the same chain of command. A commissioned officer may be inferior in grade to another commissioned officer of the same branch of the Armed Forces, yet be the superior commissioned officer because of his command. For instance, a line officer, though inferior in rank, may be the commanding officer, and thus the superior, of a staff officer in the organization, such as the medical officer. Disrespect toward an officer of another branch of the Armed Forces constitutes an offense in violation of article 134.

Disrespect by words may be conveyed by opprobrious epithets or other contentuous or denunciatory language, Disrespect by acts may be exhibited in a variety of modes-- as by neglecting the customary salute, by a marked disdain, indifference, insolence, impertinence, undue familiarity or other rudeness in the presence of the superior officer. That an accused did not know that a commissioned officer was his superior commissioned officer is a defense.

Art. 90. Assaulting or willfully disobeying superior commissioned officer.

"Any person subject to this code who--

"(1) strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

"(2) willfully disobeys a lawful command of his superior commissioned officer; shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

A person cannot be convicted under this article if the order was illegal; but an order requiring the performance of a military duty or act is presumed to be lawful and is disobeyed at the peril of the subordinate. Acts involved in the disobedience of an illegal order might under some circumstances be charged as insubordination under article 134.

Assaulting or striking an officer of another branch of the Armed Forces constitutes an offense in violation of article 134.

Art. 91. Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.

"Any warrant officer or enlisted person who--

"(1) strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

"(2) willfully disobeys the lawful orders of a warrant officer, noncommissioned officer, or petty officer; or

"(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer while that officer is in the execution of his office; shall be punished as a court-martial may direct."

Art. 92. Failure to obey order or regulation.

"Any person subject to this code who--

"(1) violates or fails to obey any lawful general order or regulation;

"(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

"(3) is derelict in the performance of his duties; shall be punished as a court-martial may direct."

Art. 93. Cruelty and maltreatment.

"Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct."

Art. 94. Mutiny or sedition.

"(a) Any person subject to this code who-

"(1) with intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

"(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

"(3) fails to do his utmost to prevent and suppress mutiny or sedition being committed on his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

"(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished by death or such other punishment as a court-martial may direct."

Sedition differs from mutiny in that it implies a resistance to civil power, as distinguished from military power.

Persons subject to the code must take such measures to prevent or suppress acts of sedition or mutiny being committed in their presence as may properly be called for by the circumstances, having in mind the grade and responsibilities or the employment of the individual concerned. However, the use of more force than is reasonable necessary is an offense.

Art. 95. Resistance, breach of arrest, and escape.

"Any person subject to this code who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct."

The distinction between arrest and custody or confinement lies in the difference between the kinds of restraint imposed. Arrest is moral restraint imposed by orders fixing the limits of arrest. Custody and confinement include some physical restraint. Arrest, custody, or confinement officially imposed is presumed to be legal.

Art. 96. Releasing prisoner without proper authority.

"Any person subject to this code, who, without proper authority, releases any prisoner committed to his charge, or who through neglect of design suffers any such prisoner to escape, shall be punished as a court-martial may direct whether or not the prisoner was committed in strict compliance with law."

Art. 97. Unlawful detention.

"Any person subject to this code who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct."

Any unlawful restraint of another's freedom of locomotion will result in a violation of this article, whether or not such action is taken under color of authority. The offense may be committed by one who, being duly authorized to apprehend, arrest, or confine others, exercises such authority unlawfully, or by one not so authorized who effects the restraint of another unlawfully. The apprehension, arrest, or confinement must be against the will of the person restrained.

Art. 98. Noncompliance with procedural rules.

"Any person subject to this code who-

"(1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or

"(2) knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused. shall be punished as a court-martial may direct."

The purpose of this article is to insure the expeditious disposition of cases of persons accused of offenses under the code and to punish deliberate and intentional failure to enforce or comply with the provisions of the code regulating the proceedings before, during and after trial.

Art. 99. Misbehavior before the enemy.

"Any member of the armed forces who before or in the presence of the enemy-

"(1) runs away;

"(2) shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

"(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

"(4) casts away his arms or ammunition;

"(5) is guilty of cowardly conduct.

"(6) quits his place of duty to plunder or pillage,

"(7) causes false alarms in any command, unit, or place under control of the armed forces;

"(8) willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or

"(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies when engaged in battle; shall be punished by death or such other punishment as a court-martial may direct.

Art. 100. Subordinate compelling surrender.

"Any person subject to this code who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished by death or such other punishment as a court-martial may direct."

Art. 101. Improper use of countersign.

"Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished by death or such other punishment as a court-martial may direct."

Art. 102. Forcing a safeguard.

"Any person subject to this code who forces a safeguard shall suffer death or such other punishment as a court-martial may direct."

A safeguard is a detachment, guard, or detail posted by a commander for the protection of persons, places, or property of the enemy, or of a neutral affected by the relationship of belligerent forces in their prosecution of war or during circumstances amounting to a state of belligerency.

Art. 103. Captured or abandoned property.

"(a) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

"(b) Any person subject to this code who-

(1) fails to carry out the duties prescribed in subsection (a);

"(2) buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

"(3) engages in looting or pillaging; shall be punished as a court-martial may direct."

Immediately upon its capture from the enemy, public property becomes the property of the United States.

Every person subject to military law has an immediate duty to take such steps as are within his powers and functions to secure such property to the service of the United States and to protect it from destruction or loss.

Art. 104. Aiding the Enemy. "Any person who-

"(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

"(2) without proper authority, knowingly harbors, or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly; shall suffer death or such other punishment as a court-martial or military commission may direct."

Article 104 applies to all persons, whether or not they are otherwise subject to military law. "Enemy" denotes citizens as well as members of military organizations, for all the citizens of one belligerent are enemies of the government and of all the citizens of the other.

Art. 105. Misconduct as a prisoner.

"Any person subject to this code who, while in the hands of the enemy in time of war-

"(1) for the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

"(2) while in a position of authority over such persons maltreats them without justifiable cause; shall be punished as a court-martial may direct."

Art. 106. Spies.

"Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death."

The words "any person" bring within the jurisdiction of courts-martial and military commissions all persons of whatever nationality or status who commit the offense of spying.

Art. 107. False official statements.

"Any person subject to this code who, with intent to deceive, signs any false-record, return, regulation, order or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct."

The false representation must be made officially with the intent to deceive, and it must be one which the accused does not believe to be true. The expectation of material gain is not an essential element of the offense.

Art. 108. Military property of the United States-loss, damage, destruction, or wrongful disposition.

"Any person subject to this code who, without proper authority-

"(1) sells or otherwise disposes of;

"(2) willfully or through neglect damages, destroys, or loses; or

"(3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of: any military property of the United States, shall be punished as a court-martial may direct."

Art. 109. Property other than military property of United States-Waste, spoilage, or destruction.

"Any person subject to this code who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct."

Art/ 110. Improper hazarding of vessel.

"(a) Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces shall suffer death or such other punishment as a court-martial may direct..

"(b) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces shall be punished as a court-martial may direct."

Art. 111. Drunken or Reckless Driving.

"Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct."

Art. 112. Drunk on Duty.

"Any person subject to this code, other than a sentinel or lookout, who is found drunk on duty, shall be punished as a court-martial may direct."

Art. 113. Misbehavior of sentinel.

"Any sentiinel or lookout who is found drunk or sleeping upon his post, or leaves it before he is regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment other than death as a court-martial may direct."

Art. 114. Dueling.

"Any person subject to this code who fights or promotes, or is concerned in ir 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 be punished as a court-martial may direct."

A duel is a prearranged deadly combat between two persons for private reasons, Urging or taunting another to challange or acceptance, or otherwise furthering or contributing toward the fighting of a duel are examples of promoting a duel.

Art. 115 Malingering.

"Any person subject to this code who for the purpose of avoiding work, duty, or service -

"(1) feigns illness, physical disablement, mental lapse or derangement; or

"(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct."

Art. 116. Riot or breach of Peace.

"Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct."

"Riot" denotes a breach of the peace committed by three or more persons, with a common purpose to execute concerted action against any one who may oppose them.

A "breach of the peace" is an unlawful disturbance of the peace by an outward demonstration of a violent and turbulent nature.

Engaging in an affray, unlawful discharge of firearms in a public street, and the use of vile or abusive words to another in a public place are a few instances of the type of conduct which may constitute a breach of the peace.

Art. 117. Provoking speeches or gestures.

"Any person subject to this code who uses provoking or reproachful words or gestures towards any other person subject to this code shall be punished as a court-martial may direct."

"provoking" and "reproachful" describe those words or gestures that are used in the presence of the person to whom they are directed and that tend to induce breaches of the peace. They do not comprehend reprimands, censures, reproofs, and the like, which may properly be administered to the interests of training, efficiency, or discipline in the Armed Forces.

Art. 118. Murder.

"Any person subject to this code who, without justification or excuse, unlawfully kills a human being, when he-

"(1) has a premeditated design to kill;

"(2) intends to kill or inflict great bodily harm;

"(3) is engaged in an act which is inherently dangerous to others and evinces a wanton disregard of human life; or

"(4) Is engaged in the perpetration or attempted perpetration of bukrglary, sodomy, rape, robber, or aggravated ars is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under paragraph (1) or (4), he shall suffer death or imprisonment for life as a court-martial maydirect."

A homicide committed in the proper performance of a legal duty is justifiable.

The general rule is that the acts of a subordinate, done in good faith in compliance with his supposed duty or orders, are justifiable.

Art. 119 Manslaughter.

"(a) Any person subject to this code who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct.

"(b) Any person subject to this code who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being -

"(1) by culpable negligence; or

"(2) while perpetrating or attempting to perpetrate an offense, other than those named in clause 4 of article 118, directly affecting the person; is guilty of involuntary manslaughter and shall be punished as a court-martial may direct."

Art. 120. Rape and carnal knowledge.

"(a) Any person subject to this code who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this code who, under circumstances not amounting to rape, commits an act not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

"(c) Penetration, however slight, is sufficient to complete these offenses."

Art. 121. Larceny and wrongful appropriation.

"(a) Any person subject to this code who wrongfully takes, obtains or withholds by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind-

"(1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

"(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

"(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct."

"(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct."

Art. 122. Robbery.

"Any person subject to this code who, with intent to steal, takes any thing of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct."

Art. 123. Forgery.

"Any person subject to this code who, with intent to defraud-

"(1) falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or

"(2) utters, offers, issues, or transfers such a writing, known by him to be so made or altered; is guilty of forgery and shall be punished as a court-martial may direct."

Art. 123a. Making, drawing, or uttering check, draft, or order without sufficient funds.

"Any person subject to this code who-

"(1) for the procurement of any article or thing of value, with intent to defraud; or

"(2) for the payment of any past due obligation, or for any other purpose, with intent to deceive; makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct.

The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his intent to defraud or deceive and of his knowledge or insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment. In this section, the word "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order."

Art. 124. Maiming.

"Any person subject to this code who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which-

"(1) seriously disfigures his person by any mutilation thereof;

"(2) destroys or disables any member or organ of his body; or

"(3) seriously diminishes his physical vigor by the injury of any member or organ; is guilty of maiming and shall be punished as a court-martial may direct."

Art. 125 Sodomy.

"(a) Any person subject to this code who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

"(b) Any person found guilty of sodomy shall be punished as a court-martial may direct."

Any unnatural method of carnal copulation is prohibited by this article. Any penetration, however slight, is sufficient to complete the offense and emission is not necessary.

Art. 126. Arson.

"(a) Any person subject to this code who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

"(b) Any person subject to this code who willfully and maliciously burns or sets fire to the property of another, except as provided in subdivision (a) of this article, is guilty of simple arson and shall be punished as a court-martial may direct."

Art. 127. Extortion.

"Any person subject to this code who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct."

Art. 128. Assault.

"(a) Any person subject to this code who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

"(b) Any person subject to this code who-

"(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

"(2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon; is guilty of aggravated assault and shall be punished as a court-martial may direct."

Art. 129. Burglary.

"Any person subject to this code who, with intent to commit an offense punishable under articles 118 through 128, breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct."

To constitute burglary, the house must be the dwelling house of another, there must be a breaking into and entry in the nighttime, and the act must be with the intent of committing the offense of murder, manslaughter, rape, or carnal knowledge, larceny or wrongful appropriation, robbery, forgery, maiming, sodomy, arson, extortion, or assault.

Art. 130. Housebreaking.

"Any person subject to this code who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct."

Article 130 defines housebreaking as unlawfully entering the building or structure of another with intent to commit a criminal offense therein. The initial entering must amount to trespass; this article is not violated if the accused entered the building or structure lawfully, even though he had the intent to commit an offense therein. This offense is broader than burglary in that the place entered need not be a dwelling house; it is not necessary that the place be occupied; it is not essential that there be breaking; the entry may be either in the night or in the daytime; and the criminal intent is not limited to those offenses punishable under articles 118 through 128.

Art. 131. Perjury.

"Any person subject to this code who in a judicial proceeding or course of justice willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct."

Art. 132. Frauds against the government.

"Any person subject to this code-

"Any person subject to this code-

"(1) Who, knowing it to be false or fraudulent-

"(A) makes any claim against the United States or any officer thereof; or

"(B) presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof;

"(2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof-

"(A) makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

"(B) makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

"(C) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

"(3) who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the armed forces thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

"(4) who, being authorized to make or deliver any proper certifying the receipt of any property of the United States furnished or intended for the armed forces thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States,

shall, upon conviction, be punished as a court-martial may direct."

Art. 133. Conduct unbecoming an officer and a gentleman.

"Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct."

Conduct that violates this article is action or behavior in an official capacity which, in dishonoring or disgracing the individual as an officer, seriously compromises his character as a gentleman; or action or behavior in an unofficial or private capacity, which, in dishonoring or disgracing the individual personally, seriously compromises his standing as an officer.

Instances of violation of this article are: dishonorable failure to pay debts; opening and reading the letters of another without authority; being grossly drunk and conspicuously disorderly in a public place, committing or attempting to commit a crime involving moral turpitude.

This article includes acts made punishable by any other article, provided such acts amount to conduct unbecoming an officer and a gentleman.

Art. 134. General Article.

"Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court."

The disorders and neglects punishable under article 134 includes acts or omissions not specifically mentioned in other articles, such as wearing an improper uniform, abusive use of a military vehicle, the careless discharge of a firearm, impersonating an officer, offenses involving official passes, permits, and certificates, and the wrongful possession of a habit-forming narcotic drug. In the naval service, however, the last ordinarily would be charged under article 92 as violation of Navy Regulations, which specifically prohibits possession or use of narcotics substances except as authorized for medicinal purposes.

"Discredit" as used in this article means "to injure the reputation of." Examples of this conduct include acts in violation of local (state or foreign) law, or one's attitude toward his private indebtedness or his creditors such as to reflect discredit upon the service.

Crimes and offenses not capital include those acts or omissions, not made punishable by another article, which are denounced as crimes or offenses by enactments of Congress, or under authority of Congress and made triable in the Federal civil courts. Certain of such offenses are made punishable wherever committed; others are punishable only if committed within geographical boundaries of the areas in which they are applicable.

Art. 138. Complaints of wrongs.

"Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon."

This article provides for redress of wrongs inflicted by a commanding officer on his subordinates to apply for such redress.

Art. 139. Redress of injuries to property.

"(a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers, and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damage sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

"(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approval findings of the board."

NAVY REGULATIONS

The regulations governing naval personnel are those of the 1948 edition of Navy Regulations. This loose-leaf volume is issued by the Secretary of the Navy and approved by the President of the United States.

The principle purpose of the publication is to communicate to the Department of the Navy the rules under which it shall operate. Among these rules are found the answers to almost all problems of principle. These regulations set forth duty, responsibility, authority, distinction, and relation of the various bureaus, offices, and individual officers, each to the other.

Significant changes to Navy Regulations are published in the form of loose-leaf insert pages. The Chief of Naval Operations refers proposed changes to the heads of all Navy bureaus, the Navy Judge Advocate general, and to the Commandant of the Marine Corps. All written comments are brought to the attention of the Secretary of the Navy at the time a suggested change is submitted to him. The President approves all changes before their implementation.

Duties of individuals

Section 2 of chapter 12 covers a multitude of duties, general and specific, ranging from language reflecting upon a superior to the wearing of identification tags.

1209. Duties Relative to Laws, Regulations, and others.

Every officer in the naval service shall acquaint himself with, obey, and so far as his authority extends, enforce the laws, regulation, and orders relating to the Naval Establishment. In the absence of instructions he shall act in accordance with the public interest and in conformity with the customs of the service.

1210. Conduct of Persons in the Naval Service.

All persons in the naval service shall show in themselves a good example of subordination, courage, zeal, sobriety, neatness, and attention to duty. They shall aid to the utmost of their ability, and to the extent of their authority, in maintaining good order and discipline, and in all that concerns the efficiency of the command.

1211. Compliance with Lawful Orders.

1. All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

2. Orders issued by the Secretary of the Navy, the Under Secretary of the Navy, or the Assistant Secretaries of the Navy direct to any officer shall be promptly executed, and any bureau or senior officer concerned shall be notified immediately by the officer receiving the order.

1212. Language Reflecting Upon a Superior.

No person in the naval service shall use language which may tend to diminish the confidence in or respect due to his superior officer. It is the duty of every person in the naval service who hears such language to endeavor to check it and to report the same immediately to his superior.

1213. Exchange of Duty.

No person in the naval service shall exchange an assigned duty with another without permission from his commanding officer or other superior.

1214. Relations with Foreign Nations.

All persons in the naval service, in their relations with foreign nations, and with the governments or agents thereof, shall conform to international law and to the precedents established by the United States in such relations.

1215. Foreign Religious institutions.

The religious institutions and customs of foreign countries visited by persons in the naval service shall be respected.

1216. Obligation to Report Offenses.

All persons in the naval service shall report to the proper authority all offenses committed by persons in the naval service which may come under their observation.

217. Report of Crimes.

Any person in the naval service having knowledge of the actual commission of a felony cognizable by a court of the United States, shall promptly make known the same to some one of the judges or other persons in civil or military authority under the United States.

1218. Report of Fraud.

If any person in the Naval Establishment has knowledge of any fraud, collusion, or improper conduct on the part of any purchasing or other agent or contractor or on the part of any person employed in superintending repairs, receiving or receipting for supplies, or has knowledge of any fraud, collusion, or improper conduct in any matters connected with the Naval Establishment, he shall report the same immediately in writing over his signature to the proper authority, specifying the particular act or acts of misconduct, fraud, neglect, or collusion, and the means of proving the same.

1219. Report of Deficit or Excess of Public Money or Property.

Any person in the naval service who has knowledge of a deficit or excess of public money or public property shall take prompt and appropriate action to bring the matter to the attention of his commanding officer.

1220. Use and Expenditure of Equipage and Supplies.

All persons in the naval service shall insure that equipage and supplies in their charge are properly cared for, preserved, and economically used. They shall avoid any unnecessary expenditure of public money. To the extent of their authority, they shall prevent infractions of this regulation by others.

1221. Return of Government Property on Release from Active Service.

When a person is released from active service, he shall return all Government property in his possession to his commanding officer or other competent authority, and he shall report the fact in writing to such authority.

1223. Capture by an Enemy.

1. A person in the Naval service who is captured by the enemy shall not disclose any information other than his name, grade or rate, file or service number, and date of birth.

2. A person in the naval service and a person accompanying or serving with naval forces and subject to naval jurisdiction shall, if captured by the enemy, endeavor to communicate promptly his name, rank, service number, date of birth, prison address, and state of health to the Central Prisoners of War Agency, normally the International Committee of the Red Cross, Geneva, Switzerland.

1224. Unavoidable Separation from a Command.

Any person in the Naval service who is separated from his ship, station, or unit due to shipwreck, disaster, or other unavoidable circumstances, shall proceed as soon as possible to the nearest naval activity and report to the commanding officer thereof. Failure to do so shall be considered as absence without leave, or as desertion, as the case may be unless such person proves to the satisfaction of naval authorities that he was prevented from taking such action by circumstances beyond his control.

1225. Report of Communicable Diseases.

All persons in the naval service shall report promptly to the medical officer the existence or suspicion of communicable disease in persons with whom they are living or otherwise come in contact.

1226. Report of Disability.

1. When a person in the naval service incurs a disease or injury while on leave or on duty where naval medical attendance is not available, he shall furnish the Bureau of Medicine and Surgery with a full report of the disability for entry in his medical record.

2. A commander in chief, a sea frontier commander, a commandant, or an officer who is on detached or independent service, shall, in the event of his disability for a period of two weeks, report the fact to the Chief of Naval Operations or other immediate supervisor by dispatch.

1227. Immunization.

Persons in the naval service shall permit such action to be taken to immunize them against disease as is prescribed by competent authority.

1228. Identification Tags.

Identification tags shall be worn by all persons in the naval service in time of war or emergency, in accordance with instructions contained in the Bureau of Naval Personnel Manual or the Marine Corps Manual.

1229. Action upon Receipt of Orders.

1. An order from competent authority to an officer requiring such officer to report for duty at a place, or to proceed to any point and report for duty, but fixing no date and not expressing haste, shall be obeyed by reporting within four days, exclusive of travel time, after its receipt for execution. If the order read "without delay," the officer shall report within forty-eight hours, exclusive of travel time, after its receipt for execution; and if "immediately," within twelve hours, exclusive of travel time, after its receipt for execution. Officers receiving "proceed without delay" and "proceed immediately" orders shall endorse on their orders the date and hour of their receipt for execution. Any delay in carrying out orders granted by competent authority is in addition to the time allowed by this article.

2. The time allowed by this article may be taken any time between the time for detachment from the officer's original station and the time of reporting at the new permanent duty station. It may, however, be taken only once regardless of whether the officer avails himself at the time of all or part of the proceed time.

3. An application for the revocation or modification of orders will not justify any delay in their execution, if the officer ordered is able to travel.

4. Proceed time for enlisted personnel will be as prescribed by the Chief of Naval Personnel or the Commandant of the Marine Corps.

1230. Action upon Reporting for Duty and From Leave.

1. When a person in the naval service reports in accordance with written orders, he shall present such orders to the officer to whom he reports.

2. Officers shall endorse upon the orders of those who report to them the time, date, and place of reporting.

3. Every individual to whom leave is granted shall promptly report his return therefrom to the officer who granted it. The commanding officer shall make such report as may be required by the Chief of Naval Personnel or the Commandant of the Marine Corps.

1231. Visits to a Command.

As officer visiting a command in the performance of any official duty connected therewith shall report to the commanding officer, and, when the duty is of such nature that the presence of the visiting officer should be known by other commanders in the area, appropriate reports shall be made to them by him.

Rights and Restrictions

Section 3 of the chapter on general regulations deals with the rights and restrictions of all persons subject to the authority of Navy Regulations.

1243. Oppression or Other Misconduct of a Superior.

1. If any person in the naval service considers himself oppressed by his superiors, or observes in him any misconduct, he shall not fail in his respectful bearing towards such superior, but shall report such oppression or misconduct to the proper authority. Such person will be held accountable if his report is found to be vexatious, frivolous, or false.

2. A report of oppression by, or misconduct of, a superior shall be made to the immediate commanding officer of the person making the report unless the commanding officer is himself the subject of the report, or is the subordinate of the officer who is the subject of the report.

3. If the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded to the superior who exercises general court-martial jurisdiction over the commanding officer reported on, through the immediate commanding officer and any other officers who may be in the chain of command. If the immediate commanding officer reported on or if any superior in the chain of command not having general court-martial jurisdiction shall refuse or fail within a reasonable time to forward the report may complain to any officer superior to himself, and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the immediate commanding officer.

4. If a superior of the immediate commanding officer is the subject of the report, the report shall be in writing and shall be forwarded through the immediate commanding officer and the officer who is the subject of the report, and any other officers who may be in the chain of command, to the immediate superior exercising general court-martial jurisdiction over the officer reported on. If any officer through whom the report is forwarded refuses or fails to forward the report within a reasonable time, the person making the report may complain to any officer superior to himself, and such officer shall forward the complaint directly to the immediate superior exercising general court-martial jurisdiction over the officer reported on.

5. Any officer exercising general court-martial jurisdiction over a person reported on shall, upon receiving a report of oppression or misconduct, examine into the matter, and take such action in conformity with the Uniform Code of Military Justice and these regulations as may be proper to redress wrong, if any, complained of; and he shall, as soon as may be practicable, transmit to the Secretary of the Navy a true statement of the report and any proceedings had in connection therewith.

1247. Combinations for Certain Purposes Forbidden.

Combinations of persons in the naval service for the purpose of influencing legislation, remonstrating against orders or details to duty, complaining of particulars of duty, or procuring preferences are forbidden.

1248. Communications to the Congress.

1. All petitions, remonstrances, memorials, and communications of any person or persons in the naval service, whether on the active or retired list, addressed to the Congress, or to either house thereof, or to any committee thereof, on any subject of legislation relating to the Naval Establishment, whether pending, proposed, or suggested, shall be forwarded through, or as authorized by, the Secretary of the Navy.

1256. Incurring Debts.

1. No person in the naval service shall at any time or place contract debts without a reasonable expectation of being able to discharge them.

2. Persons who fail to discharge their just indebtedness by every reasonable means shall be held to have brought discredit upon the naval service.

1257. Gratuities from Contractors.

Except as authorized by the Secretary of the Navy, no person in the naval service on active service and no civilian employee of the Naval Establishment shall take or receive, directly or indirectly, any emolument or gratuity from any contractor or other person engaged in furnishing supplies to the United States for the use of the Naval Establishment or act as an agent or attorney for such person.

1258. Making of Gifts or Presents.

1. No person in the Naval Establishment shall at any time solicit contributions from other persons in the naval service or from other officers, clerk, or employees in the Government service for a gift or present to persons in superior official positions; nor shall any persons in such superior official positions receive any gift or present offered or presented them as a contribution from persons in Government employ (including persons in the naval service) receiving a less rate of pay than themselves, nor shall any of said persons make any donation as a gift or present to any such official superiors.

2. No person in the naval establishment shall solicit subscriptions for the purpose of making a gift to a member of the immediate family of a person in a superior official position.

1269. Alcoholic Liquors.

Except as may be authorized by the Secretary of the Navy, the introduction, possession, or use of alcoholic liquors for beverage purposes on board any ship, craft, or aircraft of the Department of the Navy is prohibited.

AUTHORITY AND COMMAND

The major aspects of authority and command as practiced in the Navy are given a detailed explanation in Navy Regulations.

1316: Exercise of Authority.

1. All persons in the Naval service, on active service, on furlough, on the retired list with pay, and transferred members of the Fleet Reserve and the Fleet Marine Corps Reserve, are at all times subject to Naval authority. While on active service they may, if not on leave of absence (except as noted below) on the sick list, taken into custody, under arrest, suspended from duty, in confinement, or otherwise incapable of discharging their duties, exercise authority over all persons who are subordinate to them.

2. A person in the naval service, although on leave, may exercise authority:

(a) When in a naval vessel or aircraft and placed on duty by the commanding officer.

(b) When in a naval vessel or aircraft of the armed services of the United States, other than a naval vessel or aircraft, as the commanding officer of naval personnel embarked, or when placed on duty by such officer.

(c) When senior officer at the scene of a riot or other emergency, or when placed on duty by such officer.

An officer is sometimes faced with contradicting or conflicting orders from superiors and is uncertain as to the proper step to take. This problem is covered in paragraph 2 of article 1320.

1320.2 If an officer receives an order which annuls, suspends, or modifies one received from another superior, or one contrary to instructions or orders from the Secretary of the Navy, he shall exhibit his first orders, unless he has been instructed not to do so, and represent the facts in writing to the superior from whom the last order was received. If, after such representation, the latter shall insist upon the execution of his order, it shall be obeyed, and the officer receiving and executing it shall report the circumstances to the superior from whom he received the original order.

1407. Refusal to Return to Duty.

No person in the naval service shall persist in considering himself in custody or under restriction, arrest, or confinement, after he has been released by proper authority, nor shall he refuse to return to duty.

The behavior of naval personnel when in foreign lands directly bears on our friendly relations with these countries. Navy Regulations is specific in delineating the conduct demanded of Navy men and in pointing out their duties when visiting other countries.

0623. Dealings with Foreigners.

The senior officer present shall uphold the prestige of the United States. HE shall impress upon officers and men that when in foreign ports it is their duty to avoid all possible causes of offense to the authorities or inhabitants; that due deference must be shown by them to the local laws, customs, ceremonies, and regulations; that in all dealings with foreigners, moderation and courtesy should be displayed; and that a feeling of good will and mutual respect should be cultivated.

THE SALUTE

One of the essentials of military courtesy is the salute. Far from being a servile gesture, the salute is a gesture of respect and a democratic sign of comradeship among service personnel. Accordingly, it is a uniform gesture; that is, the highest admiral returns the salute in the same form in which it is rendered to him by the seaman.

The custom of saluting is a time-honored demonstration of courtesy among military men of the world over. Exchanged between officers and men, it expresses mutual respect and pride in the service. By saluting first, the officer or man implies that he is junior, not inferior, to the senior whom he salutes.

PROPER MANNER OF SALUTING

Except when walking, one should always be at attention when saluting. The right hand is raised smartly until the tip of the forefinger touches the lower part of the headgear or forehead above and slightly to the right of the right eye. Thumb and fingers are extended and joined. The palm is turned slightly inward until the person saluting can just see its surface from the corner of his right eye. The upper arm is parallel to the ground, the elbow slightly in front of the body. The forearm is inclined at a 45-degree and the hand and wrist are in a straight line.

It is important that the head and eyes be turned toward the person saluted. One completes the salute (after it is returned) by dropping the arm to its normal position in one sharp, clean motion, at the same time turning the head and eyes to the front.

The first position of the hand salute is executed when six paces from the person saluted, or at the nearest point of approach. The first position should be held until the person saluted has passed or the salute is returned.

WHEN TO SALUTE

In the Navy, as in practically every military service in the world, everybody salutes-- from the bottom to the top and down again. Enlisted men salute all officers and every officer salutes his seniors. Salutes are returned by all who are saluted. When uncovered, the person saluted usually acknowledges a salute by an appropriate oral greeting or nod of the head.

All civilians who are entitled by reason of their position to gun salutes or other honors are also entitled by custom to the hand salute.

Enlisted men salute officers and junior officers salute senior when meeting, passing near, when addressing or being addressed.

When overtaking a senior, the salute shall be given when abreast, with "by your leave sir".

Sentries at ganways salute all officers going or coming over side, passing close aboard.

When officer meets detail, man in charge salutes for the detail.

On first daily meeting enlisted men salute all officers, junior officers salute senior.

When officer passes near boat, officer or petty officer in charge salutes; if none present men do.

When several officers are saluted, all shall return it.

Men and officers salute all senior U.S. and allied officers.

Officers rise and salute when a senior enters or leaves a boat.

In form, the salute is simple and dignified, but there is great significance in that gesture.

The privilege of saluting is generally denied a man who is a prisoner, since his status is that of one unworthy of the fellowship of military men.

(I would remind you that when General Eisenhower became President of the United States, I do not recall him saluting in civilian dress . . . this was started by President Reagan)

President Clinton
President of the United States
White House
Washington, D.C.

Dear Mr. President:

The Military Code of Conduct, Article I states: I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

Mr. President, [REDACTED] I was prepared for that moment and hoping that if it came, I would be able to measure up to the highest traditions of the U.S. Navy. [REDACTED]
[REDACTED]

[REDACTED] no one was ask about their sexual orientation; we did not have a pogram to root out homosexuals from the U. S. Navy, we did however have a program which was expressed by instruction from BUPERS, in support of Article 125 UCMJ and was used to process those individuals out of the U. S. Navy who had been actually involved in homosexual behavior. I remember that Category I was the active or aggressive member and Categor II was the passive member. The Navy discharged them rather than going through a court martial. The only time a person with homosexual tendercies would have to be concerned with the military was when he was in violation of Article 125, UCMJ. As long as they performed their duties satisfactory and kept their sexual orientation to themselves just as everyone else did then there was no problem.

President Clinton, the U.S. Navy and Coast Guard are unique in that ships are not land bases, and can have close quarters with no privacy. I am very aware of the berthing compartments aboard ship because I served on eight (8) navy ships during my career and I can tell you that the bunks in those compartments are very close; rows stacked three high, head to foot and the rows are approximately three and a half feet apart or slightly more. If you had a lower bunk, you had the problem of other people sitting on it because of the lack of space for just sitting around and "jawing". You do not have enough room to keep all of your clothing because of the lack of space in your lockers, so you stored your things by the season. The other clothing was stored away in ships storage spaces that were provided. I was a little more lucky than some of the other men because I was a Personnelman and I would use the ship's office in my off duty hours, but even there, there was little privacy because if a light was seen under the door, a ship mate would come by and want you to help them in a personnel matter . . . and you usually did.

In civil life Mr. President, whether you are a police officer, President or in any other civil position, you can go home when you are off duty to your own little private corner, collect your own thoughts, write a letter or just "rack" out. Aboard ship privacy is a very dear thing for ship's company. In civilian life you can choose your compartment mates... but not in the military.

Mr. President there is only ONE status for an individual in the U.S. Navy, that is to live up to the oath that was freely taken by that individual. The following articles in Navy Regulations do apply to all persons in naval service: Art. 1200. Duties Relative to laws, Regulations, and Others Every officer in the naval service shall acquaint himself with, obey, and so far as his authority extends, enforce the laws, regulations, and orders relating to the naval establishment. In the absense of instructions he shall act in accordance with the public interest and in conformity with the customs of the service.

Art. 1210. Conduct of Persons in the Naval Service. All persons in the naval service shall show in themselves a good example of subordination, courage, zeal, sobriety, neatness, and attention to duty. They shall aid to the utmost of their ability, and to the extent of their authority, in maintaining good order and discipline, and in all that concerns the efficiency of the command.

Art. 1211. Compliance with Lawful Orders. All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

Art. 1216 Obligation to Report Offenses. All persons in the naval service shall report to the proper authority all offenses committed by persons in the naval service which may come under their observation.

The Constitution of the United States admonishes the President to "take care that the laws be faithfully executed". Article II, Section 1: before he enters in the execution of his office, shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States. Article II, Section 2: The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several states, when called in to active service of the United States.

Mr. President, the Constitution gives the office of the President certain military powers. The Constitution grants to him the position of Commander in Chief of the military forces; however he does not have the authority to make the rules and regulations that are used by the military forces; that responsibility, according to the Constitution, is given to the Congress. The President's responsibility under the constitution is that he is charged with the use and command of those forces. Again he does not make the rules and regulations for which they operate under.

Article 1, Section 8: Congress shall have power to lay and collect taxes, duties, imports and excises, to pay the debts and provide for the common defense and general welfare of the United States: To declare war, grant letters of Marque and reprisal and make rules concerning capture on land and water; To raise and support armies, but no appropriation of money to the use shall be got s longer term than two years; To provide and maintain a Navy;
To make rules for the Government and regulation of the land and Naval Forces;
To make all laws which shall be necessary and proper for carrying into executing the foregoing powers, and all powers, and all other powers vested by this Constitution in the government of the United States or in any Department or officer thereof.

The Uniform Code of Military Justice was passed by Congress and signed by President Truman on 5 May, 1950, it became effective on 30 May, 1951, It is Chapter 47 of Title 10 of the United States Code.

I quote UCMJ, Art. 92 because of Article 1216, Navy Regulations, Obligation to report offenses.
UCMJ, Art. 92, Failure to obey order or regulations. Any person subject to this code who:

- (1) violates or fails to obey any lawful general order or regulations.
- (2) Having knowledge of any other lawful order issued by a member of the Armed Forces, which it is his duty to obey, fails to obey the order, or
- (3) Is derelict in the performance of his duties; shall be punished as a court-martial may direct.

UCMJ, Art. 125, Sodomy.

- (a) Any person subject to this code who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.
- (b) Any person found guilty of sodomy shall be punished as a court-martial may direct.

UCMJ, Art. 134. General Articles. "Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon armed forces, and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court."

Mr. President the question as to sexual orientation which has been asked by recruiters of new recruits into the armed forces was not asked during my active duty in the U.S. Navy. Mr. President I prefer the position that Senator Sam Nunn of Georgia has taken. Although I hear newspeople stating that this is a compromise, it is only a return to the policy before it was changed in the early 1980's, that policy did not ask a person's sexual orientation. Only his behavior which violated the UCMJ was considered.

Mr. President, if these people are allowed to openly enlist, there will be more problems that will, for some, disastrously. In addition Mr. President, you may issue an Executive Order to lift the ban on "gays", that will not keep them from being in violation of the UCMJ Art. 125 if they persist in homosexual behavior. A military service member is subject to the Uniform code of Military Justice 24 hours of the day, no matter where he is located. They will be court-martialed for this behavior.

Sincerely



Memphis, TN 38128