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HEADQUARTERS TWELFTH ARMY GROUP
APO 655

2 October 1944

MILITARY COMMISSION REGULATIONS

1. General. Authority has been given to the Commanding General, Twelfth Army Group, to appoint military commissions and to authorize commanders of United States armies, corps and divisions to appoint such commissions. No military commission will be appointed by the commander of any unit of this Army Group without specific authorization therefor. These regulations are designed to supplement such specific authorizations for appointment of military commissions.

Although military commissions are referred to in the Articles of War (AW-15-23-24-25-26-27-32-38-46-80-81-82 and 115), in general they are not governed by statute either as to jurisdiction, composition or procedure. However, their functions in every case will be performed in accordance with the universally recognized fundamental principles of humanity and honor, fairness and justice.

So far as applicable and appropriate, it generally is advisable that the procedure prescribed for general courts-martial be followed. The provisions of Field Manual 27-5, 22 December 1944; Section VII, paragraphs 38-47, are designed as a general guide in this field and will be followed except as amended by this publication or other instructions of this or higher headquarters.

2. Jurisdiction. Under the existing authorization military commissions may be appointed for the trial of persons generally subject to the jurisdiction of such commissions and who are charged with espionage or with such violations of the laws of war as threaten or impair the security of the United States forces, or the effectiveness and ability of such forces or members thereof. Because of agreements with liberated countries and for reasons of policy certain restrictions as to persons who may be tried by commissions have been and may be imposed. These restrictions will be set forth in the instrument of authorization and are not included in these general regulations.

3. Charges and specifications. Formal charge and investigation as contemplated in Article of War 70 are not necessary in proceedings before military commissions, although War Department, Adjutant General's Office Form Number 115, may be used as a charge sheet. The charge should designate the offense by its legal name or describe it in terms of international law, preferably without reference to an Article of War. The specification should set forth the details of the act charged with sufficient definiteness to show the jurisdiction of the commission and the status of the accused. The accused shall be furnished with a copy of the charges and specifications. Although no oath is necessary, the charge should be signed by a person subject to military law. At some stage prior to the trial, the charge should be investigated sufficiently to enable the appointing authority to determine that the offense merits trial by military commission. In case it appears to the appointing authority that

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charges involve the trial of an enemy agent, no announcement of the trial will be made and appropriate action will be taken to insure that the trial is heard "in camera." Before directing the trial of any charge, the appointing authority will refer the case to his staff judge advocate for consideration and advice.

4. Composition. Military commissions shall be composed of not less than three commissioned officers of the United States Army, together with a trial judge advocate and defense counsel.

5. Challenges. Members of the military commission may be challenged by the accused or the trial judge advocate for cause stated to the court. Peremptory challenges shall not be allowed.

6. Oaths. Making such changes as are necessary, the appropriate oath contained in Article of War 19 shall be administered to members of the commission as well as to the prosecution and to others connected with the trial. All witnesses will be sworn.

7. Pleas. General and special pleas of the accused should be heard and passed upon by the commission in order to insure a fair and impartial trial.

8. Fees and allowances. Fees and allowances for witnesses, court reporters and interpreters will be set as provided in Army Regulation 35-4120, 30 July 1943, or as may be published in future instructions from this or higher headquarters.

9. Interpreter for accused. The accused shall have the right to have the proceedings of the commission interpreted into his own language if he so desires.

10. Rules of procedure. Military commissions shall have power to make such rules for the conduct of their proceedings as deemed necessary for a full and fair trial of the accused, having regard for, without being bound by, the rules of procedure and evidence prescribed for general courts-martial. Such evidence shall be admitted as has, in the opinion of the president of the court, probative value to a reasonable man. The concurrence of at least two-thirds of the members of the commission present at the time of voting shall be necessary for a conviction or sentence.

11. Record of trial. Commissions shall keep a record of their proceedings conforming as nearly as practicable to that prescribed for general courts-martial. A court reporter may be detailed for this purpose. If for any cogent reason it is inexpedient to make a verbatim record of the proceedings by stenographer or in longhand, the record shall be prepared in the form prescribed for special courts-martial, preparing in such case a sufficiently complete summary of the testimony of the witnesses that the reviewing authority may properly evaluate the evidence received by the commission.

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12. Sentence. Subject to limitations imposed by superior authority, military commissions may adjudge any type of punishment referred to in paragraph 45, War Department Field Manual 27-5, Military Government and Civil Affairs, 22 December 1943. Commissions may be guided by, but are not limited to, the penalties authorized by the Manual for Courts-Martial, the laws of the United States, and of the territory in which the offense was committed or the trial is held.

13. Review. Every record of trial by military commission shall be referred by the reviewing authority to his staff judge advocate for examination before he acts thereon and no sentence of such commission shall be carried into execution until the same shall have been approved by the officer appointing the commission or by the officer commanding for the time being.

14. Confirmation of death sentences. No sentence of death shall be carried into execution until it shall have been confirmed by the Commanding General, Twelfth Army Group, who, prior to such confirmation, shall refer the record of trial to his staff judge advocate for examination.

15. Publicity. After the trial and execution, if any, of an enemy agent, an official statement will be issued by the Publicity and Psychological Warfare Section of this headquarters. This official statement will be the sole publicity release in such cases.

16. Powers incident to power to order execution of sentence. The power to order the execution of a sentence of a military commission includes the power to disapprove or vacate in whole or in part any finding of guilty, and to mitigate, remit, approve and commute, suspend or to remand for further proceedings or for rehearing before anew military commission.

17. Places of confinement. Places of confinement will be designated by the Commanding General, Twelfth Army Group.

By command of Lieutenant General BRADLEY:

LEVEN C. ALLEN
Major General, GSC, Chief of Staff

OFFICIAL:

s/s C. R. Landon
C. R. LANDON
Colonel, AGD
Adjutant General

Incl 1 - Form for order of appointment.

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R E S T R I C T E D

ORDER APPOINTING MILITARY COMMISSION
ARMY OF THE UNITED STATES

S. O. NO. _____ Headquarters, _____

Date

A Military Commission consisting of the following officers is hereby appointed to meet at the time and place designated by the President thereof for the trial of such persons as may properly be brought before it:

President

Trial Judge Advocate

Defense Counsel

In the conduct of its proceedings and Commission shall follow the provisions of Circular No 14, Headquarters, Twelfth Army Group, 2 October 1944, entitled "Military commission regulations."

By command of _____:

Signature

Grade and Organization

Official Position

OFFICIAL:

Signature

Grade and Organization

Official Position

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