

EXHIBIT No. 3352

(16)



MILITARY COURT MARTIAL LAW

(EXCERPTS)

Martial Law #85, April 26, the 10th year of Taisho (1921)

Revised: law 8, the 16th year of Showa (1941)

law 78, the 17th year of Showa (1942)

Part 1. Court Martial

Chapter 1. The right of trial by Court Martial

Article 1. The court martial has the right to try the undermentioned for the alleged crimes committed by them.

1. Those who are mentioned in the 1st to 3rd inclusive, paragraph, latter part of the fourth and the 5th paragraph of Art. No. 8 and also Art. No. 9 of the army Criminal Code.
2. The crew of the army transports.
3. Those belonging to and accompanying the army other than mentioned in the previous two items.
4. Prisoners of war.

When it is necessary to specially exempt those mentioned in the previous items 2 and 3, it should be decided by order.

Article 2. The court martial also has the right to try those who are mentioned in the previous article for alleged crimes committed prior to the time their status was acquired.



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The court martial has the right to try those who are mentioned in the previous articles, although they are no longer in one of the above mentioned categories if they are arrested, imprisoned, detained or reported for search, while still retaining their status.

Article 3. The court martial has the right to try those who are mentioned in the first part of paragraph four of article 8 of the Army Criminal Code for their alleged crimes in violation of the army code.

The regulation of the second item of the previous article applies to the crimes mentioned in the previous item.

#### Chapter 2. Jurisdiction of Court Martial

Article 8. The court martials which shall be established are as follows:

1. The General court martial
2. The Army court martial
3. The Division court martial
4. The Encircled Locality court martial
5. The Temporary court martial

Article 9. The General court martial, the Army court martial and the Division court martial shall be permanently established. The Encircled Locality court martial, in case where "Kaigen" (TN: a kind of military administration) is proclaimed, shall be specially established. The Temporary court martial shall be



pecially established as needed by the army organized in the event of war or an incident.

Article 10. The Minister of War shall be appointed the Chief of the General court martial.

The Army Commander shall be appointed the Chief of the Army court martial.

The Division Commander shall be appointed the Chief of the Division court martial.

The Commander of a unit or of the area who establishes the court martial shall be appointed the Chief of the pecially established court martial.

Article 16. The Temporary court martial is vested with jurisdiction over the following cases:

(1) Cases against those who are under the command of or under the control of the commander of the unit which establishes the Temporary court martial except in cases where the court martial is established in units under his jurisdiction and those who are under the command of or under the control of the commanders of these units shall not be included.

(2) Cases against those in areas of operations, control or defence of the unit in whose area the Temporary court martial is established, or those prescribed in Articles 1 and 3 who have committed alleged crimes in the said areas; this shall be limited to those cases where the units of the accused do not



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have a court martial in the said areas.

(3) Cases against those prescribed in Article 6 who are stationed in areas of operations, control or defence of the unit where the Temporary court martial is established.

#### Chapter 4, Organs of Trial

Article 47. The trials shall be carried on by the council consisting of five judges of the court martial.

The judges of the court martial shall be selected from judges and judicial officers, with the senior judge as its president.

In case of the <sup>specially</sup> established court martial, the judges shall be reduced by two excluding the senior judge and judicial officers. The same will hold true in the case of the permanent court martials except the higher ones in case of emergencies.

Article 48. With the exception of the higher court martial, the bench of court martials shall be composed of four judges and one judicial officer.

The judges in the preceding clause shall consist of.

(1) One field officer and three company officers or two field officers and two company officers in case the accused is a private or non-commissioned officer.

(2) Two field officers and two company officers, in case the accused is a company officer or warrant officer.



(3) One general and three field officers, or two generals and two field officers, in case the accused is a field officer.

(4) Four generals in case the accused is a general.

The judges in the preceding clause shall not be lower in rank than the accused.

In case the court martial is located in an area cut off from communication, the judges of the court martial may be selected from judges ranking higher or equal to the accused.

#### Part 2. Procedure of trial

##### Chapter 2. Opening of trial

Article 399. The decision to dismiss the accusation shall be given in the following cases:

1. When the accusation is cancelled.
2. When the accused is dead.
3. When the case shall not be tried under the provisions of Article 24 or Article 25.

Article 400. When the decision is given to dismiss the accusation by reason of the cancellation of the accusation, no one shall institute an accusation nor demand a preliminary trial again.

Article 403. In case the accused is found not guilty or there is no evidence to prove his crime, he shall be given the verdict of "not guilty".



Article 404. The decision to dismiss the case shall be given in the following cases:

1. When final judgment has been rendered.
2. When the punishment to be assessed is abolished in accordance with the law or ordinance enacted after the crime was committed.
3. When the accused should be exempt from punishment.
4. When an amnesty is proclaimed.
5. When the case is barred by limitation

Article 410. When the accused is found not guilty or is to be acquitted, or placed on probation, or the prosecution is dismissed by the court, or is not within the jurisdiction of the court martial, or the accused is fined, the accused who is detained in the case shall be released.

When the court martial declares the dismissal of the accusation or non-jurisdiction, the court may preserve the warrant of detention it has already issued, or may issue a new one.

When the prosecutor fails, within three days, to institute an accusation on the case for which he preserves or issues a new warrant of detention, or to send the case to the prosecutors of the competent court martial, he shall at once release the accused. The same shall hold good when the prosecutor who has received the case fails to institute an accusation within five days.



A P P E N D I X

The date on which this law will be put in force shall be regulated by an Imperial ordinance (it has been enforced since 1 April 1942 in accordance with Imperial ordinance No. 296, 1942)....



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CERTIFICATE OF SOURCE AND AUTHENTICITY

I, Miyama, Yozo, who occupy the post of Chief of the Archive Section, 1st Demobilization Bureau, hereby certify that the document hereto attached, written in Japanese, consisting of 11 pages and entitled "Military Court Martial Law", effective as of July 28, 1942 is an exact and authorized excerpt from an official document in the custody of Japanese Government (1st Demobilization Bureau).

certified at Tokyo,

on this 25th day of September, 1947

/S/ MIYAMA, Yozo (seal)

I hereby certify that the above signature and seal were affixed hereto in the presence of the Witness.

at the same place,

on this same date

Witness: /S/ MIYATA, Nobuo (seal)