

[EXECUTIVE ORDER NO. 68, July 29, 1947]

**ESTABLISHING A NATIONAL WAR CRIMES OFFICE AND
PRESCRIBING RULES AND REGULATIONS GOVERNING THE
TRIAL OF ACCUSED WAR CRIMINALS.**

I, Manuel Roxas, President of the Philippines, by virtue of the powers vested in me by the Constitution and laws of the Philippines do hereby establish a National War Crimes Office charged with the responsibility of accomplishing the speedy trial of all Japanese accused of war crimes committed in the Philippines, and prescribe the rules and regulations governing such trial.

The National War Crimes Office is established within the Office of the Judge Advocate General of the Army of the Philippines and shall function under the direction, supervision and control of the Judge Advocate General. It shall proceed to collect from all available sources evidence of war crimes committed in the Philippines from the commencement of hostilities by Japan in December, 1941, maintain a record thereof, and bring about the prompt trial of the accused.

The National War Crimes Office shall maintain direct liaison with the Legal Section, General Headquarters, Supreme Commander for the Allied Powers, and shall exchange with the said office information and evidence of war crimes.

The following rules and regulations shall govern the trial of persons accused as war criminals:

I. ESTABLISHMENT OF MILITARY COMMISSIONS:

a. General.- Persons accused as war criminals shall be tried by military commissions to be convened by, or under the authority of, the President of the Philippines.

II. JURISDICTION:

a. Over Persons. – The military commissions appointed hereunder shall have jurisdiction over all persons charged with war crimes who are in the custody of the convening authority at the time of the trial.

b. Over Offenses. – The military commissions established hereunder shall have jurisdiction over all offenses including, but not limited to, the following:

(1) The planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:

(2) Violations of the laws or customs of war. Such violations shall include, but not limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory; murder or ill-treatment of prisoners of war or internees or persons on the seas or elsewhere; improper treatment of hostages; plunder of public or private property; wanton destruction of cities, towns or villages; or devastation not justified by military necessity.

(3) Murder, extermination, enslavement, deportation and other inhuman acts committed against civilian populations before or during the war, or persecutions on political, racial or religious grounds in execution of, or in connection with, any crime defined herein, whether or not in violation of the local laws.

III. MEMBERSHIP OF COMMISSIONS:

a. Appointment. The members of each military commission shall be appointed by the President of the Philippines, or under authority delegated by him. Alternates may be appointed by the convening authority. Such alternates shall attend all sessions of the commission, and in case of illness or other incapacity of any principal member, an alternate shall take the place of that member. Any vacancy among the members or alternates, occurring after a trial has begun, may be filled by the convening authority, but the substance of all proceedings had an evidence taken in that case shall be made known to the said new members or alternate. This fact shall be announced by the president of the commission in open court.

b. Number of Members. Each commission shall consist of not less than three (3) members.

c. Qualifications. The convening authority shall appoint to the commission persons whom he determines to be competent to perform the duties involved and not disqualified by personal interest or prejudice, provided that no person shall be appointed to hear a case in which he personally investigated, or wherein his presence as a witness is required. One specially qualified member shall be designated as the law member whose ruling is final insofar as concerns the commission on an objection to the admissibility of evidence offered during the trial.

d. Voting. Except as the admissibility of evidence, all rulings and findings of the Commission shall be by majority vote, except that conviction and sentence shall be by the affirmative vote of not less than two-thirds (2/3) of the members present.

e. Presiding Member. In the event of that the convening authority does not name one of the members as the presiding member; the senior officer among the members of the Commission present shall preside.

IV. PROSECUTORS:

a. Appointment. The convening authority shall designate one or more persons to conduct the prosecution before each commission.

b. Duties. The duties of the prosecutors are:

(1) To prepare and present charges and specifications for reference to a commission.

(2) To prepare cases for trial and to conduct the prosecution before the commission of all cases referred for trial.

V. POWERS AND PROCEDURE OF COMMISSIONS:

a. Conduct of the Trial. A Commission shall:

(1) Confine each trial strictly to a fair and expeditious hearing on the issues raised by the charges, excluding irrelevant issues or evidence and preventing any unnecessary delay or interference.

(2) Deal summarily with any contumacy or contempt, imposing any appropriate punishment therefore.

(3) Hold public sessions except when otherwise decided by the commission.

(4) Hold each session at such time and place as it shall determine, or as may be directed by the convening authority.

b. Rights of the Accused. The accused shall be entitled:

(1) To have in advance of the trial a copy of the charges and specifications clearly worded so as to apprise the accused of each offense charged.

(2) To be represented, prior to during trial, by counsel appointed by the convening authority or counsel of his own choice, or to conduct his own defense.

(3) To testify in his own behalf and have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each

adverse witness who personally appears before the commission.

(4) To have the substance of the charges and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

c. Witnesses. The Commission shall have power:

(1) To summon witness and require their attendance and testimony; to administer oaths or affirmations to witnesses and other persons and to question witnesses.

(2) To require the production of documents and other evidentiary material.

(3) To delegate to the Prosecutors appointed by the convening authority the powers and duties set forth in (1) and (2) above.

(4) To have evidence taken by a special commissioner appointed by the commissioner of the commission.

d. Evidence.

(1) The Commission shall admit such evidence as in its opinion shall be of assistance in proving or disproving the charge, or such as in the commission's opinion would have probative value in the mind of a reasonable man. The commission shall apply the rules of evidence and pleading set forth herein with the greatest liberality to achieve expeditious procedure. In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

(a) Any document, irrespective of its classification, which appears to the commission to have been signed or issued by any officer, department, agency or member of the armed forces of any Government without proof of the signature of the issuance of the document.

(b) Any report which appears to the commission to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or a member of any medical service personnel, or by any investigator