

FOR GOD AND COUNTRY

**THE AMERICAN LEGION
DEPARTMENT OF OKLAHOMA**



TRIAL MANUAL

2006

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TRIAL MANUAL - 2006

The American Legion Department of Oklahoma

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TRIAL MANUAL

The American Legion

Department of Oklahoma

TITLE I. Disciplinary Matters-Trials-Procedure

Basis of Charges

(a) Posts of The American Legion shall have disciplinary jurisdiction over their respective members, and each Post shall hold the trial of its own members, except in cases where the Department Executive Committee has been given power to order otherwise, or trial has been ordered before a Board pursuant to Title IV hereof. Charges against a member shall be based upon disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion. Upon being convicted of a charge in the manner herein provided, a member of The American Legion may be expelled, suspended or reprimanded; provided, however, in trials before a Post the execution of such sentence may be suspended for such time and upon such conditions as the Post trying the matter may determine upon a two-thirds vote taken for that purpose at any regular meeting thereof or at any special meeting called for the purpose of considering the same.

Upon the filing of formal charges as outlined herein, and upon a finding of exigent and extraordinary circumstances by both the Judge Advocate and Commander of The Department of Oklahoma (i.e. the safety and/or security of American Legion members, American Legion assets and/or the public at large) the membership rights of the accused may be immediately suspended, pending review upon appeal by the Department Executive Committee.

Form of Charges

(b) When any member of The American Legion shall be accused of any of the charges set forth in paragraph (a) of this article, such accusation must be made under oath, in writing, and signed by the accuser. Such charge itself shall be a general one of conduct unbecoming a Legionnaire but further described in a specification or specifications to follow, setting forth with clearness and precision the offense or offenses complained of and giving time, place and all necessary particulars relating thereto as distinctly as possible, so that the accused may have full knowledge of all that he may be called upon to explain, disprove or justify. All charges shall be deemed denied by the accused except those expressly admitted by him.

Filing of Charges, Notices, Fixing Date of Trial, Continuances

(c) In all trials conducted by a Post the charges shall be filed with the Commander of such Post. In all trials before a board pursuant to Title IV hereof the charges shall be filed with the Commander of the District in which said trial shall be held and within ten days of receipt of said charges he shall set the time and place of trial. A copy of the charges, together with a notice from the Post Adjutant, or if trial is to be by Board, then District Adjutant, that on a date stated the trial shall take place, shall be served personally upon the accused at least fifteen (15) days before the date set for the trial. The date on which the trial will take place shall be fixed by the Post at the first regular thereof, following the date on which the charges are filed. At the time fixed for the trial if either the accuser or the accused shows cause why a continuance is necessary, the Commander of the Post, or the person presiding at that meeting, shall grant a reasonable continuance and shall declare the case continued to a subsequent date. Other necessary continuances may be made in the same manner but only with the consent of the Post; provided, however, after the trial has commenced, if it is not finished at one session, the same may be continued from time to time by the presiding officer until the completion thereof. If either the accuser or the accused is not present at the time a continuance is granted, the Adjutant of the Post shall forthwith notify him thereof by a registered letter mailed to his last-known place of residence.

Judge Advocate and Counsel

(d) In all Posts having a Judge Advocate, it shall be his duty whenever called on by the Commander or Acting Commander of the Post, to handle the prosecution of the accused. In Posts not having a Judge Advocate, any member of the Post may be designated by the Commander or Acting Commander of the Post to handle the prosecution of the accused. At the trial the accused may be represented by counsel if he desires, or it shall be at the

discretion of the Commander of the Post or other officer presiding at the trial to designate a member of the Post to act as counsel for the accused, even though the accused may not request the same. If at the time set for the trial or the date to which the same has been continued the accused shall not be present, and providing the notices hereinbefore mentioned have been given, the trial shall nevertheless proceed, and the verdict or decision shall be rendered on the evidence introduced and the penalty, if any, shall be fixed in the same manner as if the accused were present. The Commander of the Post, or in his absence, disability or disqualification, one of the Vice Commanders, in the order of their preference, shall preside at the trial.

Frivolous Charges

(e) Upon presentation of such charges the Commander of the Post, or, in his absence, disability or disqualification, one of the Vice-Commanders in the order of their preference, together with the Executive Committee of the Post, shall carefully examine the charge and specifications and if they are evidently frivolous, or if the act or acts with which the accused is charged is or are clearly such as do not constitute an offense unbecoming a Legionnaire, he or they may refuse to entertain them. But should it appear otherwise and it is known to him or them that the accuser is a person of good standing, he shall file the charges with the Post Adjutant, with instructions to give the notices hereinabove provided for.

Trial Committee and Trial

(f) At the meeting of the Post at which the time for the trial is set, a Committee of 7, 9, or 11 (the number to be fixed by the Commander or Acting Commander of the Post), shall be elected by ballot. Neither the accuser, a witness, nor one who acted as a Committeeman at a first trial, nor one who cannot fairly try the matter, is qualified to act on such Committee. Nor is a Post Commander or Acting Commander qualified to preside who would be disqualified to act on such Committee for any reason other than because of his acting as such at a first trial. The Committee so elected shall be the sole judge of the facts proven and shall have power to render a verdict thereon. The Commander or Acting Commander shall preside over the trial and shall decide all questions of Legion law which may arise during the same, but shall have no vote in the final decision of the case by the Committee. The Adjutant or in his absence some other member of the Post appointed for the purpose by the Commander or Acting Commander, shall attend the Committee to keep a full and correct record of the proceedings and of the verdict, under the supervision of the Committee. When trial is before a trial board pursuant to Title IV said board shall take jurisdiction and try the case in the place and stead of the committee of 7, 9, or 11 referred to above.

Evidence

(g) Evidence shall be produced and received in the manner the same is produced and received in the courts of the land as nearly as possible but technical objections as to form shall not be permitted. Depositions taken without notice cannot be received. Hearsay evidence is not admissible. Admissions or confessions of the accused in courts of the land or before the Committee at that or a previous trial are admissible. The records and reporter's transcripts of testimony made in courts of the land when properly authenticated may be allowed in evidence. No witness may be examined or any testimony taken without an opportunity given the accuser and accused to be present.

Summoning Witnesses

(h) The accuser and the accused shall furnish the Post Adjutant with a list of the witnesses which each desires to be summoned for the trial. The Post Commander or the Post Judge Advocate shall also have the right to summon witnesses for such trial on their own account. Summons may be served personally or by mail. Such service shall be made at least five (5) days before the date of trial. Any person attending the trial without summons may be called on to testify thereat. It shall be the duty of all Legionnaires when summoned to such trial to attend and to testify according to the knowledge of the respective witnesses as to the facts, provided, however, no witness shall be requested to travel more than fifty (50) miles to attend such trial. When a witness, whose testimony is desired, lives more than fifty (50) miles from the place of trial, his testimony may be produced by deposition, taken either upon oral interrogatories or upon written interrogatories, as the person desiring to take such deposition shall specify in a notice for the taking thereof, which notice and copy of interrogatories shall be given to the Judge Advocate of the Post, and the accuser, if such is to be taken by or on behalf of the accused, and to the accused and the accuser by the Judge Advocate, if such is to be taken on behalf of the prosecution, and to the Judge Advocate and the accused if the same is to be taken on behalf of the accuser. Such notice shall be given at least five (5) days prior to the time fixed in the notice for the taking of such deposition. Written interrogatories shall accompany such notice if such deposition is to be taken upon such interrogatories. Such deposition may be taken before any Commander or Judge Advocate

of any Post of The American Legion in good standing, or before any officer authorized by governmental authority to administer oaths.

Stenographic Reporter

(i) The Commander or Acting Commander of the Post may authorize the employment of a stenographic reporter for the purpose of taking a stenographic report of the proceedings had at the trial. In the event that the Post Commander shall not authorize such stenographic reporter and the accused shall request the same, he shall make his request in writing to and deposit with the Post Adjutant one-half of the estimated cost of the services of such reporter, otherwise such request may be disregarded.

Procedure for Verdict

(j) After all the testimony shall have been received at such trial and the Judge Advocate and counsel for the accused have concluded their respective arguments, the Committee shall proceed to deliberate upon their verdict with none present save themselves, the Commander, or Acting Commander of the Post and the Post Adjutant. The Commander or Acting Commander of the Post and the Adjutant shall have no vote in the proceedings for the verdict, and only those Committeemen acting who have participated in the entire trial shall vote for the verdict. After sufficient consultation and deliberation a vote for "guilty" or "not guilty" by ballot shall be taken upon each specification, and each such vote shall be recorded. A majority vote of the Committee is requisite to a verdict of guilty. The verdict as arrived at shall be returned to the Adjutant of the Post to be reported by him to the Post at its next regular meeting following such verdict.

A copy of the verdict, certified by the Post Commander and Post Adjutant, shall forthwith be forwarded to the Department Adjutant.

Penalty

(k) In the event that the verdict is one of guilty of any one or more of the specifications, the penalty therefore shall be fixed by the Post by a majority vote and in the same manner the execution of such penalty shall be provided for.

Entry of Result—New Trial

(l) The result of the trial and the penalty, if any, shall be written in the minutes of the Post by the Adjutant prior to the next regular meeting thereof. If such trial is held by a Post other than that of which the accused is a member, the Adjutant of the trial Post shall communicate to the Post of which the accused is a member, the result of such trial. No trial shall be considered a bar to a future trial, on the same evidence, unless the accused is found not guilty. Any matter not specifically covered herein concerning the manner and form of trials and procedure leading thereto shall be as prescribed by the Department Executive Committee.

(m) Wherever in Title I hereof references are made to Post Commander, Post Adjutant or Post Judge Advocate and trial by District Trial Board be ordered pursuant to Title IV then said references shall be District Commander, District Adjutant and District Judge Advocate respectively.

(n) Any matter not specifically covered herein concerning the form and manner of trials and procedure and trial be ordered before any District Trial Board or other Board, such matter shall be as prescribed in Title IV herein and the rules of procedure prescribed by the Department Board of Review by authority of Title IV herein.

TITLE II

Trials—Procedure Before Executive Committee

Disciplinary Jurisdiction

(a) Disciplinary jurisdiction over members of The American Legion of this Department shall be vested in the Posts thereof, each Post having such jurisdiction over its own members, excepting, if in the opinion of the Executive Committee of this Department the welfare of The American Legion or justice to the accused or to a Post requires it, such member may be ordered by the Executive Committee to be tried by another Post or to be tried before the Executive Committee of this Department, or to be tried before a District Trial Board pursuant to Title IV hereof. The matter of ordering a trial by a Post other than by the Post of which the accused is a member shall rest solely in the discretion of the Executive Committee.

Procedure Before Executive Committee

(b) The procedure for a trial before the Executive Committee shall be the same as that for a trial before a Post subject to such rules as the Executive Committee may from time to time adopt not in conflict herewith.

Judge Advocate and Counsel

(c) The Judge Advocate of the Post trying the accused shall handle the prosecution at such trial subject to the right of the Department Judge Advocate to designate other counsel to handle or assist in handling the prosecution. The accused shall have the same right as to counsel as if tried before his own Post.

New Trial

(d) There shall be no appeal from a trial held before the Executive Committee. In the event the accused is found guilty by such Committee, he may at the next following meeting thereof move for a new trial on the grounds of:

1. Newly discovered evidence which he could not with reasonable diligence have discovered and produced at the trial.
2. Insufficiency of the evidence to justify the verdict.
3. Accident or surprise occurring at the trial which ordinary prudence could not have guarded against.
4. That the offense charged does not constitute a charge unbecoming to a Legionnaire.

In granting a new trial the Department Executive Committee may limit the new trial to particular issues of the case as it may see fit.

New Trial—Method of Applying

(e) Application for such new trial shall be in writing filed in triplicate with the Department Adjutant at least ten (10) days before the date of the meeting at which the Department Executive Committee is to consider the same and shall be accompanied by an affidavit of the accused or his counsel, setting forth in detail the newly discovered evidence, the insufficiency of the evidence, the circumstances of accident and surprise, or in what respect the charge fails to state an offense unbecoming a Legionnaire, whichever ground or grounds the application is based upon. Failure to file such affidavit shall require a denial of such application. Failure of the Department Executive Committee to dispose of an application for a new trial within one (1) year after the filing of the application therefore, shall operate as a grant of such new trial.

TITLE III Appellate Jurisdiction

Appellate Jurisdiction and Appeals

(a) The appellate jurisdiction of this Department shall be vested in and be exercised by the Department Executive Committee except as set forth in Title IV hereof. Any member of The American Legion tried before a Post of this Department who has been suspended or expelled, shall have the right to appeal to the Department Executive Committee from any verdict and/or sentence rendered or assessed against him as a result of such trial. Such appeal shall be taken by filing with the Department Adjutant a notice in writing signed by the accused or his counsel, stating in effect that the accused appeals from the decision of the trial Post to said Executive Committee and by serving a copy of said notice on the trial Judge Advocate. No appeal shall be considered unless the notice above provided for is filed within forty (40) days after the judgment or decision of the Post is entered in the minutes of the trial Post by the Post Adjutant.

(b) Wherever in this Trial Manual reference is made to the exercise of appellate jurisdiction by the Department Executive Committee, such committee may by majority vote name the Department Board of Review to hear an appeal or otherwise exercise such appellate jurisdiction and when so named the Department Board of Review shall have the full power of the Department Executive Committee. This power to refer matters to the Board of Review exists regardless of whether the members of The American Legion on the Board of Review are or are not at the time also members of the Department Executive Committee. Record on Appeal Stenographic Report

(c) In the event that a stenographic report of such trial was had, the Post of which the accused was a member, at its expense, shall furnish the Executive Committee with a type written copy of such transcript, provided, however,

that the Commander or Acting Commander of the Post required to furnish such transcript may require the accused to specify in writing the grounds of his appeal.

Record on Appeal Without Stenographic Report

(d) In the event there was no stenographic report had of such trial, the accused or his counsel shall prepare a statement of the evidence he desires to be considered on appeal, together with a statement of his grounds of appeal. A copy of this statement so prepared by or for the accused shall be delivered to the Judge Advocate or other counsel that handled the prosecution of such trial. Such Judge Advocate or counsel may thereupon prepare a statement of the evidence he desires considered on such appeal, together with any amendments or corrections he desires to be included in the statement prepared on behalf of the accused. The statement prepared by the accused shall be filed with the Department Judge Advocate at the time his notice of appeal is filed. Counsel handling the prosecution shall file his prepared statement with the Department Judge Advocate within ten (10) days after receiving a copy of the statement of the accused. Both parties shall furnish a copy of their respective statements to the Post Commander trying said matter, who shall have the right to furnish the Department Executive Committee with a statement of the evidence he desires to be considered by said Executive Committee, together with any corrections or amendments he desires to be made, in the statement made on behalf of the accused or the statement made by the prosecution.

Statement of Grounds of Appeal

(e) At the hearing of such appeal the accused or his counsel shall state orally or in writing the ground of his appeal, whereupon said Committee shall be obligated to consider no other matters except those so stated.

Disposition of Appeal

(f) A majority of the Executive Committee shall dispose of such appeal. Said Committee shall have the power to make all rules for its procedure in the matter of hearing and disposing of such appeal not in conflict herewith. In disposing of such appeals said Committee shall have the power to affirm in whole or in part the decision and/or sentence of the trial Post, or may affirm the decision and reduce the sentence, or said Committee may reverse said decision with a direction for a re-trial of said matter in whole or in part, or may reverse the decision of said Post with a direction to acquit the accused. The Executive Committee shall have the right at the hearing of such appeal to take further evidence relating thereto upon such rules and conditions as it may from time to time adopt. The decision of the Department Executive Committee shall be final.

TITLE IV. District Trial Boards and Department Board of Review

Section 1. In each district there shall be a District Trial Board consisting of three members. Each member of such board shall serve for a term of three years and until his successor is appointed, provided, however, that, upon the adoption of this Article, the members of said boards shall be appointed, one for a one-year term, one for a two-year term and one for a three-year term. The members of the District Trial Boards shall be appointed by the Department Commander upon recommendation of the respective District Commanders. Each District Commander, within thirty days after the close of the annual Department Convention, shall recommend in writing to the Department Commander three men who are members of Posts in his District, no two of whom shall be from any one Post, one of whom must be appointed by the Department Commander as a member of the District Trial Board from such District, provided, however, that upon the adoption of this Article each District Commander shall submit nine names of members of Posts in his District within said thirty-day period, three of whom shall be selected as members of said board. In the event that any District Commander fails to make recommendation as required above the Department Commander shall make the necessary appointments promptly from within said District.

Section 2. Except as hereinafter provided in Section 5 of this Article, the District Trial Board shall have original concurrent jurisdiction to hear and determine all charges preferred against an individual member of a Post in the District. The judgment of the District Trial Board on charges preferred against a member shall become final thirty days after the judgment is entered in the records of the District Trial Board, unless an appeal is taken from said judgment within said thirty-day period.

Section 3. There is hereby created a Department Board of Review, consisting of three members appointed by the Department Commander with the approval of the Department Executive Committee. Each member of said board shall serve for a term of three years, and until his successor is appointed; provided, however, that on the adoption of this Article, the members of the Department Board of Review shall be appointed, one for a term of one year, one for a term of two years and one for a term of three years.

Section 4. The Department Board of Review shall have appellate jurisdiction of all judgments rendered by the District Trial Boards. The Department Board of Review may affirm, reverse or modify the judgment of the District Trial Board and may direct the proper judgment or order to be entered or direct a new trial in whole or in part, or that further proceedings be had not inconsistent with the decision of the Department Board of Review, provided, however, that no error committed by the District Trial Board, which in the opinion of the Department Board of Review did not affect the substantial rights of the accused, shall be ground for a reversal or modification of a judgment of the District Trial Board. The judgment of the Department Board of Review shall become final thirty (30) days after the same is filed in the office of Department Headquarters unless a petition for a review of such decision shall be filed by the accused within said period. The Department Adjutant shall be ex-officio clerk of the Department Board of Review and the Department Sergeant-at-Arms shall be the ex-officio bailiff for said board.

Section 5. In the event the judgment of a District Trial Board shall provide that the member accused shall be suspended or expelled and such judgment on appeal to the Department Board of Review shall have been affirmed or modified, and as modified shall provide for suspension, the member accused shall have the right to petition the Department Executive Committee for a review of said judgment. A petition for such review shall be filed with the Department Adjutant by the accused or on his behalf, setting forth in clear and concise form the grounds for such review. The record, together with the said petition, shall be presented to the Department Executive Committee for its consideration at its next regular or special meeting. No other or further evidence shall be offered. In the event, after an examination of said record and petition, the Department Executive Committee deems that there has been a miscarriage of justice it shall render such judgment as it deems fit and proper. The judgment as rendered shall be entered in the minutes of the Executive Committee. If the judgment is ordered reversed, or a new trial or further proceedings ordered, they shall be held before the District Trial Board from which the judgment originated. In the event the said Executive Committee shall deem that there has been no miscarriage of justice, it shall deny the petition for review. A majority vote of those present and voting shall be sufficient to constitute a decision of the Department Executive Committee. The decision of the Department Executive Committee shall be final.

Section 6. The trial of all charges preferred against a Department Officer or a Department Executive Committeeman shall be held in the first instance before the Department Board of Review. The findings and judgment of the Department Board of Review when adverse to the person accused shall be submitted to the Department Executive Committee at its next meeting for review. The Executive Committee may affirm, reverse or modify said judgment and may direct the proper judgment or order a new trial in whole or in part or that further proceedings be had not inconsistent with the decision of the Department Executive Committee. If the judgment is reversed or a new trial ordered or further proceedings ordered, they shall be held before the Department Board of Review.

Section 7. The Department Board of Review shall prescribe all rules of procedure governing the filing of charges, the trial thereof and appeals in connection therewith, changes of venue and the substitution of members of a Trial Board who are disqualified, the time and manner in which all proceedings affecting charges and their determination and appeals shall be conducted not inconsistent with the provisions hereof and may, from time to time, modify, change, repeal and add to such rules. All such rules, before becoming effective, shall be approved at a regular or special meeting of the Department Executive Committee and until so approved the rules applicable to trial by the Post shall apply.

Section 8. Upon receipt at the Department Headquarters of written charges by any member of The American Legion against any other member of The American Legion together with indication in writing of willingness to sign under oath said accusation, if not already under oath, trial by the District Trial Board of the District in the Department in which the accused is a member may be ordered at the discretion of the Department Commander. Similarly such trial may be ordered upon receipt of request from any accused together with copy of any accusations against him whether or not said accusation be under oath. Said order shall be by mail, original to the District Commander, copy to the accuser, copy to the accused, copy to the Post Commander of Post to which accused belongs and a copy to each member of the District Trial Board in said District. Said order may be made at any time up to the time of trial by the Post and upon receipt by said Post Commander of such order all proceedings in the proposed trial by the Post, if any there be, are stayed pending completion of trial by the District Trial Board.

Section 9. The Executive Committee of the Department can by majority vote order trial by District Trial Board under the same circumstances and in the same manner as the Department Commander. Such vote of the Executive Committee may be taken at regular or special meeting or by mail.

TITLE V. Trials-Posts

(This title has been superseded by the Uniform Code of Procedure adopted by the National Executive Committee which follows.)

Uniform Code of Procedure for the Revocation, Cancellation, or
Suspension of Post Charters (Adopted by the National Executive Committee of
The American Legion, May 1 and 2, 1941, Indianapolis, Indiana.)

I. Charges

Section 1. A charge that any Post should, for any good and sufficient cause, have its charter cancelled, suspended or revoked, may be initiated by any intermediate body between the Post and the Department, or by any three Posts of the Department in which the Post accused is located. A charge may be withdrawn only with the consent of the Department Commander.

Section 2. Such charge shall be filed with the Department Commander at Department Headquarters.

Section 3. Such charge shall be in writing, and signed by the respective Commanders and Adjutants of the intermediate bodies or Posts, as the case may be, and sworn to before any officer authorized to administer oaths.

Section 4. Three additional copies of such charge shall be filed with the original. The Department Commander shall forthwith cause one copy of such charge to be served on the defendant Post by delivering a true copy thereof to the Adjutant of said Post, as hereinafter provided. Section 5. Such charge shall include the following:

- (a) A certified or attested copy of the resolution authorizing the filing of such charge.
- (b) The full name and address of the Post against which the charge is made, as well as the full name and address of the Commander and Adjutant of such Post.
- (c) A clear, concise and detailed statement of the facts upon which the charge is based.
- (d) The section or sections of the National and Department Constitutions and By-Laws alleged to have been violated.
- (e) Affidavits or documents substantiating the charge may be attached.

Section 6. After a charge has been filed, the Department Commander shall forthwith cause a full investigation of the facts to be made. After such investigation, the Department Commander shall file a report and recommendation with the Department Executive Committee for its action thereon at its next meeting.

Section 7. Proceedings relating to the cancellation, suspension or revocation of a Post Charter may also originate with either the Department Commander or the Department Executive Committee.

Section 8. The action of the Department Executive Committee in rejecting any charge or charges against a Post shall be final.

II. Resolution of Department Executive Committee

Section 1. Should the Department Executive Committee determine by a majority vote that the Post should surrender its charter, said Department Executive Committee shall direct the defendant Post to surrender its charter for cancellation, and shall pass a resolution that unless the charter is so surrendered, prior to the date therein specified, a hearing and trial be held to determine whether the Post charter should be cancelled, suspended or revoked, and said resolution shall include the following:

- (a) A statement that the Department Executive Committee has determined that a hearing and trial is warranted.
- (b) Authorization and direction to the Department Commander and Department Adjutant to sign a formal complaint.
- (c) The names and addresses of the members of the subcommittee before which the hearing and the trial is to be

held.

(d) The name and address of the Department Judge Advocate or special Acting Department Judge Advocate who is to assist the committee.

(e) Authorization to the subcommittee to hire such stenographic or other help as may be necessary and to incur such expense as may be necessary. That the subcommittee shall report its written findings of fact and recommendation to the Department Executive Committee at its next meeting provided, however, that if the hearing or trial is not completed, a partial report shall be made.

III. Complaint

Section 1. In all cases a formal complaint, in triplicate, shall be drawn by the Department Judge Advocate and signed by The American Legion, through its Department Commander and Department Adjutant, setting forth the following:

(a) A clear and concise statement of the facts upon which the charges are predicated.

(b) The origin of the charges.

(c) A copy of the resolution of the Department Executive Committee appointing the subcommittee and its assistants.

(d) A copy of the Uniform Code of Procedure for the revocation, cancellation, or suspension of Post charters.

(e) The time within which an appearance or answer shall be filed by the Post, which shall be not less than 20 nor more than 60 days from the date of the service of a copy of the complaint.

(f) The time and place for the hearing and trial, which shall not be more than 30 days after the date of the expiration of the time for the filing of the answer.

Section 2. Any such complaint may be amended by the subcommittee of the Department Executive Committee at its discretion at any time upon such terms as may be deemed just in the opinion of the said subcommittee.

IV. Service

Section 1. The subcommittee shall cause a true copy of the complaint to be served on the defendant Post.

Section 2. All complaints, orders and other process and papers of the subcommittee or of the Department organization of The American Legion may be served personally, or by registered mail, or by leaving a copy thereof at the principal office or headquarters of the intermediate body or Post, or place of residence of the person or officer to be served. The verified return by the individual serving the same showing service thereof in the manner herein provided, or the registry return receipt shall be proof of service.

Section 3. All notices, orders, papers or other process which are to be served on the Department Headquarters of The American Legion, or the subcommittee appointed to conduct the trial, shall be deemed served if they are served on the Department Adjutant at Department Headquarters, said service to be made as hereinabove provided.

Section 4. Witnesses may be summoned by a notice signed by either the special acting Department Judge Advocate, the Department Judge Advocate, or by a member of the subcommittee.

V. Answer

Section 1. The defendant Post shall file an answer to said complaint with the Department Judge Advocate at Department Headquarters within the time specified in the complaint. The answer shall contain a clear and concise statement of the facts which constitute its defense. Any charge or specification in the complaint which is not expressly denied or explained in the answer shall be deemed to be admitted.

Section 2. In the event that the complaint is amended during the course of the hearing or trial, the defendant shall be furnished with a copy of such amendment, and may file an amended answer to the said amended complaint within five days thereafter.

VI. Subcommittee

Section 1. The subcommittee to hear and try and make written findings of fact and recommendations with reference to the matter of the cancellation, suspension or revocation of the Post charter shall be appointed by the Department

Executive Committee and shall consist of not less than three (3) members of the Department Executive Committee. No member of the Post under investigation shall be a member of such subcommittee.

Section 2. Should no member of the subcommittee be a lawyer, opinions on questions of law may be obtained from the Department Judge Advocate.

Section 3. A majority of the members of the subcommittee shall constitute a quorum. If for any reason there is less than a quorum, the hearing shall be adjourned until a quorum is present.

Section 4. The duties of the Department Judge Advocate or special acting Department Judge Advocate shall be to see that the trial is prompt, complete and thorough, make all arrangements for the hearings, the summoning of all witnesses and the production of all papers. He shall see that all the orders of the subcommittee shall be carried out. He shall examine and cross-examine all witnesses.

VII. Hearing and Trial

Section 1. The rules of evidence prevailing in courts of law and equity shall not be controlling. The subcommittee shall decide all questions arising as to the relevancy of the evidence and the regularity of the proceedings.

Section 2. The subcommittee may hold its hearings in closed sessions or may open them to the public. The subcommittee shall hear witnesses on oath or affirmation.

Section 3. Any party to the proceeding shall have the right to appear at such hearing in person, by counsel or otherwise, subject to such reasonable restrictions as may be placed on this right by the subcommittee, and to examine and cross-examine witnesses and to introduce documentary or other evidence.

Section 4. Stipulations of fact may be introduced in evidence with respect to any issues.

Section 5. Objection to the conduct of the hearing shall be stated orally together with a short statement of the grounds of such objection and included in the stenographic report of the hearing.

Section 6. Any party to the proceedings shall be entitled to a reasonable period at the close of the hearing for oral argument, which shall not be included in the stenographic report of the hearing. Briefs may be filed by the parties within the time fixed by the subcommittee.

Section 7. In the discretion of the subcommittee, the hearings may be continued from day to day, or adjourned to a later date or to a different place by announcement thereof at the hearing by the chairman or vice-chairman of the subcommittee, or by other appropriate notice.

Section 8. A stenographic report of the trial shall be made.

VIII. Report of Subcommittee

Section 1. The subcommittee, after it has completed its hearings, shall file the complete report of the proceedings had upon the trial, together with its written findings of fact and recommendations with reference thereto with the Department Adjutant not less than five (5) days before the next meeting of the Department Executive Committee, all of which shall be open to the inspection of all members of the Department Executive Committee as well as representative or representatives of the defendant Post.

Section 2. The Department Executive Committee shall consider said report and act thereon.

Section 3. At the Department Executive Committee meeting, at which the report of the said subcommittee is to be considered, one representative of the defendant Post may, within the discretion of the Department Executive Committee, be given the privilege of the floor for not more than one hour.

Section 4. Should the subcommittee's report be a partial report, the Department Executive Committee may continue the committee and authorize it to hold further hearings and present its final report at the next meeting of the Department Executive Committee.

IX. Appeal

Section 1. Should the Department Executive Committee refuse to cancel, suspend or revoke the charter of the Post, such decision shall be final and no appeal can be taken there from.

Section 2. Should the Department Executive Committee, upon a report of its subcommittee, cancel, suspend, or revoke the charter of the defendant Post, the defendant Post and the National Adjutant shall be notified by the Department Adjutant of the decision of the Department Executive Committee, which notice shall be mailed within five (5) days after such decision has been rendered. Should the defendant Post desire to appeal from the decision of the Department Executive Committee, it shall serve its notice of appeal, signed by the Post Commander and Adjutant, on the Department Adjutant at Department Headquarters within thirty (30) days from the date of said suspension, cancellation or revocation.

Section 3. Upon receipt of said notice of appeal, the Department Commander shall immediately notify the National Commander of such appeal and shall cause the Department Judge Advocate, or acting Department Judge Advocate, and the subcommittee to submit all. The papers and the complete record of the hearings to the National Commander. Upon receipt of the notice of appeal, the National Commander shall appoint a subcommittee of not more than five (5) nor less than three (3) members of the National Executive Committee for the purpose of hearing the appeal from the action of the Department Executive Committee. (Above Section subject to revision by National Executive Committee.)

Section 4. The National Executive Committeeman, or alternate, from the Department of which the defendant Post is a part, shall not be eligible to serve on this committee.

Section 5. This subcommittee of the National Executive Committee shall meet at least one day prior to the meeting of the National Executive Committee and to this committee the National Commander shall refer the complete record, in writing, of said proceedings with such exceptions thereto as are made by the defendant Post.

Section 6. This subcommittee may make its recommendations merely from the records, or it may permit representatives of the Department or the defendant Post to appear and argue the matter before the committee, and it may, at such hearing of such appeal, take further evidence relating thereto under such rules and conditions as it may from time to time adopt.

Section 7. This subcommittee shall review the cause and recommend to the National Executive Committee the action to be taken thereon.

Section 8. The decision of the National Executive Committee, based upon the report of this subcommittee, shall be final and there shall be no appeal there from.