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Mr. Chairman:

When this body first considered the Uniform Code of Military Justice, it approved the establishment of the Court of Military Appeals as the Supreme Court of the Military Services, and provided that the judges should hold office during good behavior. That provision was made for we understood the enormity of the judicial burdens the judges of that court, particularly the judges first appointed, would be called upon to shoulder. We knew they would be required to establish a judicial system within the Armed Services in faithful conformity with the Uniform Code of Military Justice -- the most revolutionary change in the courts-martial system this country has ever contemplated. Our purpose was to give the American public a military-judicial system in which it could have confidence. Our aim was, as well, to guarantee the American serviceman caught up in the law's toils, as fair a trial as was available in any of the courts of the United States. Because the Constitution charges us, the Congress, with the power to declare war, to raise and support armies, to provide and maintain a Navy, and to make rules for the Government and regulation of the land and naval forces, we were mindful of the possible adverse effect too radical a change might have. After all, we felt of what profit is confidence, of what worth is justice, of what use is judicial excellence if those attributes are purchased at the price of discipline of the forces

raised for our own protection, and for the protection of our institutions. We were satisfied that the Uniform Code, so skillfully woven by the Armed Services Committee, could accomplish all of our stated purposes without sacrificing any of our essential needs. This balance, we were sure, could be struck by dedicated, mature, judicious minds applying, interpreting and explaining the law.

However, when the Senate, doubtlessly mindful of unfortunate experiences with other legislative courts, born of no less exalted hopes, asked us to apply the brakes of caution to the momentum of our enthusiasm, we acceded, and joined that body in converting the terms of the judges to periods of fifteen years.

But, Mr. Chairman, the burdens we asked these judges to shoulder remain unchanged; the purpose of reassuring the general public, and the aim of guaranteeing the serviceman a fair trial, remain unaltered.

This tribunal heads a judicial system which currently administers approximately one-ninth of the criminal trials of the entire nation. On the basis of prior experience, it may be predicted with certainty that under total mobilization the military system will administer one-third of such trials. From its inception in 1951 through July 5, 1963, the Court has reviewed approximately 17,000 cases and has published one thousand nine hundred and fifty-one opinions. As the report of the

Committee on Armed Services has pointed out, despite this staggering workload, the Court's docket is maintained on a current basis, and there is no backlog of unfinished business.

All Federal judges laboring under responsibilities even remotely comparable to those resting on the members of the United States Court of Military Appeals hold office during good behavior. From the earliest days of this Nation, such a tenure of office has been regarded as the soundest method of assuring judicial independence, and of relieving judges from the danger of political and other pressures -- the inescapable perils of a term system.

With all these reasons, and with many more as well, I have long been familiar, for you will recall I have introduced in every Congress since 1952 bills with substantially the same objectives as that currently under consideration. But I am pleased beyond description, Mr. Chairman, with the principal reason the Committee on Armed Services advances in favor of this Bill. It declares that the change of tenure is in "recognition of the effectiveness of the U. S. Court of Military Appeals as the civilian overseer of the system of courts-martial contemplated by the Uniform Code of Military Justice." Mr. Vinson, the respected Chairman of that Committee, has further particularized that effectiveness and has informed you that it is the result of the Court's instence upon high professional

performance by all personnel involved in the court-martial system, and upon strict compliance with the Uniform Code. I share the great pride he expressed in the effectiveness of the Uniform Code, particularly because I believed from the outset that the original version as it came from that great Committee, would accomplish the required results, and would safely avoid the dangers to discipline pessimistically forecast by some of its critics. Let me remind this House of another fact of controlling significance. The provisions of the Uniform Code became operative during the Korean War and their introduction neither disrupted the court-martial system in the slightest degree, nor did it impair military discipline or effectiveness. On the subject of discipline under the Uniform Code, General Lyman L. Lemnitzer, a former Chairman of the Joint Chiefs of Staff, had this to say on October 7, 1959:

> "I believe that the Army and the American people can take pride in the positive strides that have been made in the administration and application of military law under the Uniform Code of Military Justice. The Army today has achieved the highest state of discipline and good order in its history."

One year later, General George H. Decker, Chief of Staff, United States Army, declared:

> "Today our Army has the highest state of discipline and of personal conduct in our history. We have never had better morale within the Army."

The testimony of these two witnesses establishes to a compelling degree the effectiveness of the Uniform Code as a sound body of law for our fighting men. The testimony of jurists of prominence, including justices of the United States Supreme Court, deans and professors of leading law schools, learned and scholarly writers of legal treatises and periodicals, officers of veterans' organizations, and many other knowledgeable individuals throughout the land, attest the soundness of the decisions of the U. S. Court of Military Appeals. On all counts, then the Committee on Armed Services is to be commended for the impressive results its arduous labors of thirteen years ago have achieved. Its efforts have once again proved that if the law is soundly conceived, and judiciously administered by able and dedicated men, the good results realized will far exceed the hopes of its most optimistic proponents.

Although we are accustomed to regarding our system as a rule of law and not of men, the Uniform Code had demonstrated the importance of the right man at the controls of that system.

At present the Court is manned by two of our former colleagues in the Congress, each of whom was instrumental in bringing the Uniform Code into being. Judge Homer Ferguson, as a Senator from Michigan, was intimately concerned with matters directly affecting members of the Armed Services and the overall National Defense Establishment,

when the Code was first considered. He was appointed by President Eisenhower as the successor of the late Judge Paul Brosman of Louisiana, one of the original members of the Court. Judge Paul J. Kilday of Texas was appointed by President Kennedy to the vacancy created by the expiration of the term of Judge George W. Latimer of Utah. For twenty-three years Paul Kilday labored earnestly and well as a member of this House. During that time he familiarized himself thoroughly with the laws applicable to the military services, and was responsible for much of the sound judgment reflected by those laws. Both Judges Ferguson and Kilday have contributed mightily to the success which today the U. S. Court of Military Appeals enjoys.

I do not in the slightest subtract from their contributions, nor from the contributions of their predecessors, when I reserve a few comments for the Chief Judge, Robert E. Quinn, whom I am proud to number among my own constituency. This pioneer of civilian supervision of military courts has established for the U. S. Court of Military Appeals its judicial tone, its orderly administration, the currency of its docket, and its faithful conformity to the spirit as well as the letter of the Uniform Code. When Judge Quinn was appointed by President Truman as the Court's first Chief Judge, he brought to that tribunal a wealth of experience which proved vital to the Court's future. Years of experience as a trial lawyer,

preeminent in his field; years of experience as a legislator in the Senate of his home state, Rhode Island; years of experience as an administrator in the offices of Lieutenant Governor and Governor of his State; many years as a trial judge on the Superior Court of Rhode Island, years, I might add which saw each and every one of his rulings and decisions in criminal cases sustained upon appeal. Finally, years of experience during two World Wars as a member of the United States Navy.

It was his decision which located the Court first as a co-tenant in the United States Court of Customs and Patent Appeals, and finally in its present location in the building which formerly housed the United States Court of Appeals for the District of Columbia. By locating the Court away from the Pentagon, where it could easily be submerged, if not smothered, by an overly attentive military hierarchy, he guaranteed for it the completely civilian character the Congress intended for it. While other courts condemned the mention of God in the classroom, he predicated his opinions upon the nature which the Almighty bequeathed to man. Here are his words, protesting the forced extraction of body fluids from a soldier for use as evidence:

> "The entire genius of our American institutions, the guarantees of the Bill of Rights, the protections of the Uniform Code of Military Justice, all combine to establish the truth of the aphorism that a man's home is his castle. A fortiori then, these inalienable rights, which are implicit in the Law of Nature, and of Nature's God, demand that the sanctity of the human body, made in the image and likeness of God -- the temple of his immortal soul -- be and remain forever sacred and inviolate."

It was he who first proclaimed applicability of the Constitution to men of the Armed Forces. Most, if not all, of his strong dissents reflecting his basic philosophy of the law have, in his 12 short years on this bench, become the law under which our soldiers, sailors and marines are secure in their basic rights as citizens as well as servicemen. You students of American legal history will recall that the Supreme Court did not achieve direction or reflect a basic philosophy until its third Chief Justice, the great John Marshall, assumed the office. The Supreme Court of the Military Services occupies its favorable position today because President Truman selected the one man best suited to the most difficult task -- the pioneering of equal justice under law for all members of the Armed Forces.

While we could talk for hours about the effectiveness of this Court and of these judges, it seems sufficient for us to know that the Uniform Code works; that able judges have made it work; and that on all the evidence the judges deserve to rank with the other judges of the United States in tenure, and in retirement. This bill will assure that aim, and I am pleased to join Chairman Vinson in urging you to enact it into law.