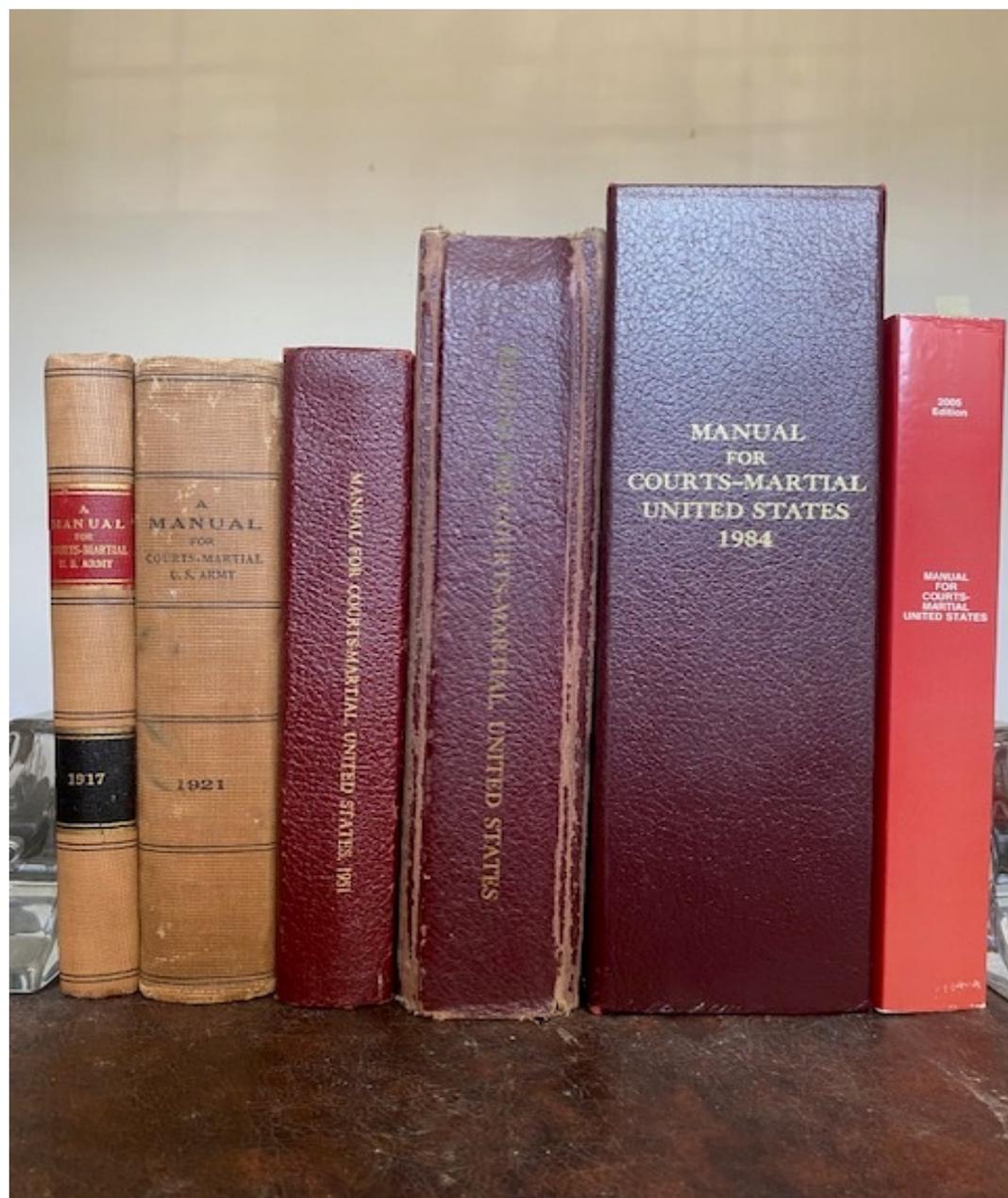


# MANUAL FOR COURTS MARTIAL



# I. Pre-UCMJ

- 19<sup>th</sup> Century
  - Regulations, promulgated pursuant to U.S. Const. Art. II, sec. 2, cl 1, and statutes
  - Treatises, e.g. Winthrop, *Military Law and Precedents*
  - “Manuals” (unofficial), e.g., A. Murray, *A Manual for Courts-Martial* (1895)
  - A Manual For Courts-Martial And Of Procedure Under Military Law (1898)

- 20<sup>th</sup> Century
  - MCM 1917
    - Articles of War 38 & 45
    - Promulgated by Secretary of War
    - Format
    - Includes rules of evidence, punishment limits

- MCM 1921
  - Promulgated by the President
  - Amended several times 1921-1949

## II. UCMJ

- MCM 1951
  - o Articles 36, 56
  - o Format
  - o COMA and the MCM,
    - See, e.g., *U.S. v. Rinehart*, 18 C.M.A. 402, 24 C.M.R. 212 (1957)

ART. 36. President may prescribe rules.

(a) The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals may be prescribed by- the President by regulations which shall, so far as he deems practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which shall not be contrary to or inconsistent with this code.

- MCM 1969
  - Military Justice Act of 1968
  - COMA and the MCM
    - *U.S v. Ware*, 1 M.J. 282 (C.M.A. 1976)
    - *U.S. v. Heard*, 3 M.J. 14 (C.M.A. 1977)
  - Military Rules of Evidence 1978
  - Article 36 amended 1979
    - Pub. L No. 96-107, Section 801(b), 93 Stat. 810, 811.

## Article 36(a). President May Prescribe Rules

Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry, may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not, except as provided in chapter 47A of this title, be contrary to or inconsistent with this chapter.

- MCM 1984
  - o Background
  - o Format

- MCMs since 1994

