

**59. Offences relating to Court-Martial.** —Any person subject to this Act who commits any of the following offences, that is to say, —

- (a) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or
- (b) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or
- (c) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or
- (d) refuses when a witness to answer any question which he is by law bound to answer; or
- (e) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court; shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less, punishment as is in this Act mentioned.

#### NOTES

1. An offence under this section should not be dealt with summarily under [AA.ss.80, 83](#) or [84](#).
2. (a) There is no restriction, debarring a court-martial from trying any of the offences specified in this section when committed in respect of itself. In all cases reported by court-martial under [AR 150](#), and in many other cases the members are, however, individually disqualified, under [AR 39](#), from sitting at the second trial so that the result is practically the same. A CO cannot, except with the sanction of superior authority, of in a grave emergency, try by SCM an offence under this section committed against his own authority when sitting at another trial. See [AA.s.120\(2\)](#).  
(b) If a person subject to AA is tried for any of the offences specified in this section when committed in respect of a court-martial other than a court-martial held under AA, the charge should be framed under [AA.s.63](#); as such a court is not a court-martial for the purposes of AA; see [AA.s.3\(vii\)](#).
3. See [AR.150](#) and notes for manner of dealing with similar offences when committed by civilians or persons amenable to naval or air force law,
4. As a rule, courts should accept an apology sufficient to vindicate their dignity without resorting to extreme measures.
5. Clause (a). —'Duly summoned or ordered': see [AA.s.135](#). A person subject to AA. who fails to attend the taking of summary of evidence when ordered to do so can be tried under [AA.s.41](#) or [63](#) and not under this section, which deals with court-martial.
6. (a) Wilfully or without reasonable excuse: for definition see [note2to AA.s.49](#).  
(b) For special finding, see [AA.s.139\(7\)](#).
7. Clause (b). —(a) A person who for reasons of sincerity of which the court is satisfied, refuses to take an oath, must be given the opportunity of making an affirmation; see [AA.s.131\(2\)](#) and [AR 140](#). The offence is not complete unless there is proof of a refusal both to take the oath and to make an affirmation provided option so to do is given to the accused. The charges of refusing to take an oath legally required by a court-martial to be taken and refusing to make an affirmation legally required by a court-martial to be made; may, therefore, be properly drawn in the alternative.
8. Clause (c). — See [IEA.s.123-124](#) which deal with privilege of official documents. Also see [IEAs.162](#).  
When a witness is directed by summons to produce a document which is in his possession or power, he must bring it to court, notwithstanding any objection that he may have with regard to its production or admissibility. After this has been done it rests solely with the court to hear the objection or the claim as to privilege, and to decide whether it should be allowed.
9. Clause (d). — Because a person is competent to give evidence, he cannot be compelled to answer every question he may be asked when giving evidence and which is relevant to the matter in issue. For instance, on an incriminating question being put to a witness, he is entitled to ask to be excused from answering it, and if after he has asked to be excused, the court compels him to answer (as they are entitled to do) his answer can not be proved against him at any criminal proceedings except a prosecution for giving false evidence by such answer; see [IEA.s.132](#).

10. *Clause (e). —A court-martial begins to sit from the time the members take their seats for the purposes of trial, even before they are sworn/affirmed, and anything which would be a contempt after the court was sworn/affirmed would be a contempt once the members have so taken their seats.*
11. See also [note 2](#) above.