**135. Summoning Witnesses.** —(1) The convening officer, the presiding officer. of a court-martial,[or courts of inquiry]1, the judge advocate or the commanding officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power,the summons shall describe it with reasonable precision.

## *NOTES*

*1. As to privilege from arrest under civil or revenue process of a witness summoned to attend before a court-martial, see* [*AA.s.30*](file:///F:\work_on_nlp\CHAPTER-05\130.htm#AA30)*.*

*2. When an application has been made for a court-martial, no military witness will be allowed to leave the station without the sanction of the convening authority nor will witnesses disperse after trial without the previous sanction of such, authority. See* [*Regs. Army para 455*](file:///F:\DSR_VOLUME_1\CHAPTER_10\163.htm#455)*.*

*3. For form of summons, see Appendix III (Part III) to AR.*

*4. See also* [*ARs 22(1)*](file:///F:\THE_ARMY_RULES,1954_WITH_APPENDICES_AND_NOTE\CHAPTER~5\272.htm#AR22)*,* [*137*](file:///F:\THE_ARMY_RULES,1954_WITH_APPENDICES_AND_NOTE\CHAPTER~5\335.htm#AR137) *and notes thereto.,*

*5. Sub-sec (1). —(a) Under this sub-sec, a civilian witness can be required to attend before a CO and at the taking of the summary of evidence or a court-martial; but see* [*AR 23(5)*](file:///F:\THE_ARMY_RULES,1954_WITH_APPENDICES_AND_NOTE\CHAPTER_5\273.htm#AR23)*. They cannot, however, be compelled to attend before a court of inquiry.*

*(b) 'Under his hand'. —Such summons be signed by the officer specified in this sub-sec; but see* [*AR 5*](file:///F:\THE_ARMY_RULES,1954_WITH_APPENDICES_AND_NOTE\CHAPTER~1\253.htm#AR5)*.*

*6. Sub-sec( 2).—Witnesses who are subject to AA should be ordered by the proper authority to attend without the issue of a formal summons. If no summons has been issued, the witness cannot be dealt with under* [*AA.s.59*](file:///F:\work_on_nlp\CHAPTER-06\166.htm#AA59) *for making default in attending, but he may be dealt with under* [*AA.s.41*](file:///F:\work_on_nlp\CHAPTER-06\148.htm#AA41) *or* [*63*](file:///F:\work_on_nlp\CHAPTER-06\169.htm#AA63)*, as the case may be.*

*7. Sub-sec (3). —For action where a civilian witness, who has been duly summoned and whose expenses have been tendered, makes default in attending, see* [*AR150(3)*](file:///F:\THE_ARMY_RULES,1954_WITH_APPENDICES_AND_NOTE\CHAPTER~5\342.htm#AR105-3) *and notes thereto. A civilian witness is not deemed to be duly summoned unless the summons is, served on him through a magistrate as required under this sub-sec.*

*8. Sub-sec (4).—When a witness is directed by summons to produce a document etc., which is in his possession or power he must bring it to court, not with standing 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;* [*IEA.s.162*](file:///F:\MML_VOLUME_3\CHAPTER__10\551.htm#IEA162)*. Also see,* [*Regs. Army para 320*](file:///F:\DSR_VOLUME_1\CHAPTER_08\105.htm#ARP320)*.*

*9. A witness summoned merely to produce a document shall be deemed to have complied with the summons if he causes it to be produced instead of attending personally to produce the same.*