law binding on all servicemen, with its own substantive laws, its own courts and procedures, and its own appeals procedure.[1549] The drafters of these congressional enactments conceived of a military justice system with application to all servicemen wherever they are, to reservists while on inactive duty training, and to certain civilians in special relationships to the military. In recent years, all these conceptions have been restricted.

Servicemen.—Although there had been extensive disagreement about the practice of court-martial trial of servicemen for nonmilitary offenses,[1550] the matter never was raised in substantial degree until the Cold War period when the United States found it essential to maintain both at home and abroad a large standing army in which great numbers of servicemen were draftees. In *O'Callahan v. Parker*,[1551] the Court held that court-martial jurisdiction was lacking to try servicemen charged with a crime that was not "service connected." The Court did not define "service connection," but among the factors it found relevant were that the crime in question was committed against a civilian in peacetime in the United States off-base while the serviceman was lawfully off duty.[1552] *O'Callahan* was overruled in *Solorio v. United States*,[1553] the Court holding that "the requirements of the Constitution are not violated where . . . a court-martial is convened to try a serviceman who was a member of the armed services at the time of the offense charged."[1554] Chief Justice Rehnquist's opinion for the Court insisted that *O'Callahan* had been based on erroneous readings of English and American history, and that "the service connection approach . . . has proved confusing and difficult for military courts to apply."[1555]

It is not clear what provisions of the Bill of Rights and other constitutional guarantees apply to court-martial trials. The Fifth Amendment expressly excepts "[c]ases arising in the land and na-

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[1549] The Uniform Code of Military Justice of 1950, 64 Stat. 107, as amended by the Military Justice Act of 1968, 82 Stat. 1335, 10 U.S.C. §§ 801 *et seq*. For prior acts, *see* 12 Stat. 736 (1863); 39 Stat. 650 (1916). *See* Loving v. United States, 517 U.S. 748 (1996) (in context of the death penalty under the UCMJ).

[1550] *Compare* Solorio v. United States, 483 U.S. 435, 441–47 (1987) (majority opinion), *with* id. at 456–61 (dissenting opinion), and O'Callahan v. Parker, 395 U.S. 258, 268–72 (1969) (majority opinion), with id. at 276–80 (Justice Harlan dissenting). *See* Duke & Vogel, *The Constitution and the Standing Army: Another Problem of Court-Martial Jurisdiction*, 13 VAND. L. REV. 435 (1960).

[1551] 395 U.S. 258 (1969).

[1552] 395 U.S. at 273–74. *See also* Relford v. Commandant, 401 U.S. 355 (1971); Gosa v. Mayden, 413 U.S. 665 (1973).

[1553] 483 U.S. 435 (1987).

[1554] 483 U.S. at 450–51.

[1555] 483 U.S. at 448. Although the Court of Military Appeals had affirmed Solorio's military-court conviction on the basis that the service-connection test had been met, the Court elected to reconsider and overrule *O'Callahan* altogether.