

DISPOSITION OF APPEALS BY COURT MARTIAL  
APPEAL BOARD.

Powers.

**191.** (1) Upon the hearing of an appeal respecting the legality of a finding of guilty on any charge, the Court Martial Appeal Board, if it allows the appeal, shall

(a) set aside the finding and direct a finding of not guilty to be recorded in respect of that charge; or 5

(b) direct a new trial on that charge, in which case the appellants shall be tried again as if no trial on that charge had been held.

Effect of setting aside finding of guilty.

(2) Where the Court Martial Appeal Board has set aside a finding of guilty and no other finding of guilty remains, 10 the whole of the sentence shall cease to have force and effect.

Punishment where finding set aside.

(3) Where the Court Martial Appeal Board has set aside a finding of guilty but another finding of guilty remains, the Board shall forthwith refer the proceedings to the 15 Minister, or to such other authority as he may prescribe or appoint for that purpose, who shall, subject to section one hundred and seventy-five, substitute for the punishment imposed by the court martial such new punishment or punishments as he considers appropriate and every 20 punishment comprised in the sentence passed by the court martial shall thereupon cease to have force and effect; and section one hundred and seventy-six shall apply to the new punishment or punishments.

Substitution of new punishment where illegal punishment set aside.

**192.** Upon the hearing of an appeal respecting the 25 legality of a sentence passed by a court martial, the Court Martial Appeal Board, if it allows the appeal, shall forthwith refer the proceedings to the Minister, or to such other authority as the Minister may prescribe or appoint for that purpose, who shall, subject to section one hundred and seventy-five, substitute for the punishment imposed 30 by the court martial such new punishment or punishments as he considers appropriate and every punishment comprised in the sentence passed by the court martial shall thereupon cease to have force and effect; and section one hundred and seventy-six shall apply to the new punishment 35 or punishments.

Special power to disallow appeal.

**193.** Notwithstanding anything in this Part, the Court Martial Appeal Board may disallow an appeal if, in the opinion of the Board, to be expressed in writing, there has been no substantial miscarriage of justice. 40

Power of service authorities preserved.

**194.** Where a punishment included in a sentence has been dealt with pursuant to subsection three of section one hundred and ninety-one or section one hundred and ninety-two, the new punishment shall be subject to mitigation, commutation, remission or suspension in the same 45 manner and to the same extent as if it had been passed by the court martial that tried the appellants.