

**CONSTITUTION
Of O'Brien Post 177
Of The American Legion
Department of Missouri
(Revised 1994, Amended 2000)**

ARTICLE I

Section 1. The name of this organization shall be O'Brien Post 177, The American Legion, Department of Missouri.

**ARTICLE II
Objects**

Section 1. The objects and purposes of this post shall be to promote the principles and policies as set forth in the foregoing Preamble, and the National and Departmental Constitutions of The American Legion.

**ARTICLE III
Nature**

Section 1. This post is a civilian organization and membership therein does not affect or increase liability for military or police service.

Section 2. This organization shall be absolutely non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. Rank does not exist in The American Legion; no member shall be addressed by his military or naval title in any meeting of this post.

**ARTICLE IV
Membership**

Section 1. Eligibility to membership in this post shall be as prescribed by the National Constitution of The American Legion.

Section 2. Application for membership shall be made in writing under such regulations as may from time to time be prescribed by the Post Executive Committee.

Section 3. All applications for membership shall be acted upon at the next Post meeting following the making of such application, and shall at such meeting, be accepted, rejected or referred for further investigation and consideration. If three or more members cast their vote against the acceptance of said application, then such application shall be recorded as rejected. A rejected application shall not again be considered until after the expiration of six (6) months from the date of such rejection. If accepted, the applicant shall be notified in writing by the Post Adjutant, requesting that he attend the next regular meeting of the Post, or as soon as possible thereafter. If rejected, applicant shall be notified in writing of his rejection and also that he may again apply for membership six months after the rejection date.

Section 4. Application for membership at the time at which they are presented, shall be accompanied by a payment of the current dues of which one half shall be dues for the remainder of the year in which the applicant applies for membership and is accepted, and one half for initiation fees. The Post Commander will present the member, at the first meeting he may attend after his acceptance, his American Legion Cap. This Cap to be provided by the Post.

Section 5. A member in good standing in another post may ask for a transfer to this post, and retain continuous membership. If accepted, without payment of any other dues. A member who has resigned from another post may apply for application in this post as a new member, in which event the continuity of his Legion membership is broken. A member of a Headquarters Post will complete an application for membership along with a request for transfer.

Section 6. Any member of this post may be expelled for cause by a two-thirds vote of the Executive Committee after charges are preferred under oath in writing, and a fair trial had upon the same. Said fair trial will be conducted as prescribed in the By-Laws of this organization.

Section 7. A member who has been expelled or suspended from this Post for any cause may be reinstated to membership by a two-thirds vote of approval of the membership present at the meeting at which the application for reinstatement is made; provided, however, that he shall make payment of any arrears in dues at the time of his expulsion or suspension, and also, other regular dues which may have become due and payable in the interval between this expulsion or suspension and his reinstatement. No application for reinstatement shall be made or considered until the expiration of three (3) months from the date of such expulsion or suspension.

Section 8. No person who has been expelled by a post shall be admitted to membership in this post, without the consent of the expelling post, except that where such consent has been asked for and denied by such post, he may then appeal to the state Executive Committee of the Department of the expelling post for permission to apply for membership in this post, and shall be ineligible for membership until such permission is granted. An applicant for membership in this Post, who has been suspended or expelled from another Post in The American Legion, shall not be admitted to membership in this Post until a thorough investigation has been made by the Post Executive Committee and then only with their recommendation that he be accepted as a member of this Post.

Section 9. Dues for membership in this Post shall be set at the April meeting for the following year, and shall become due AND payable on the 20th day of October. Membership status shall be determined according to the following dates as pertains to the payment of dues.

Delinquent - If not paid by January 1st
Suspended - If not paid by February 1st
Forfeited - If not paid by June 30th

A member that has been suspended or who has forfeited membership for the nonpayment of dues may be reinstated by vote of the Post and the payment of dues for the year in which reinstatement occurs. Any reinstated member may maintain his continuity in The American Legion by paying dues for the years not a member providing that no more than two (2) years have elapsed. After two (2) years, continuity will begin with reinstatement.

ARTICLE V Officers

Section 1. The administrative affairs of this Post of The American Legion shall, except as may be otherwise provided by the By-Laws, be under the supervision of an Executive Committee which shall consist of the Junior Past Commander and all current elected officers of the Post. The term of office of members of the Executive Committee shall be for one year. This Post, by its By-Laws, may provide for such other standing committees as the business of the organization may require.

Section 2. The officers of this Post shall be Commander, 1st Vice Commander, 2nd Vice Commander, an Adjutant, Finance Officer, Post Historian, Chaplain, Service Officer, Sergeant-At-Arms, and a Judge Advocate, and such other officers as may be deemed necessary by this organization, who shall be nominated from the floor at the meeting preceding the annual election.

Section 3. All officers and Executive Committeemen shall be elected annually and they shall hold office until their successors are duly installed or as otherwise provided. Any officer or Executive Committeeman may be removed for inefficiency by the Executive Committee, a two-thirds vote of said committee being necessary to effect such removal.

Section 4. Every member of this Post in good standing shall be eligible to hold office in this Post.

Section 5. The duties of officers and the Executive Committeemen shall be those usually appertaining to such officers or committeemen and as further provided in the By-Laws.

Section 6. A member may not hold more than one elected office. A member may be nominated for more than one office; however, if elected to more than one, the member must choose immediately in which office he will serve. The remaining office will be filled by appointment of the Commander with the approval of the Executive Board.

ARTICLE VI Finance

Section 1. The revenue of this Post shall be derived from membership or initiation fees, from annual membership dues and from such other sources as may be approved by the Post Executive Committee.

Section 2. The amount of such membership or initiation fees and the amount of such annual Post dues shall be fixed and determined by this Post.

Section 3. The Post shall pay to Department Headquarters the National and Departmental annual membership dues for every member of this Post.

ARTICLE VII Charter Members

Section 1. Members who joined this Post prior to November 11, 1919, or members who joined this Post prior to the issuance of the Charter, shall be known as Charter Members.

ARTICLE VIII

American Legion Auxiliary

Section 1. This Post recognizes an auxiliary organization to be known as the Auxiliary Unit of O'Brien Post 177, The American Legion, Department of Missouri.

Section 2. Membership in the Auxiliary Unit shall be as prescribed by the National Constitution of The American Legion Auxiliary.

ARTICLE IX

O'Brien Post Building Association (Incorporated)

Section 1. This Post recognizes the Corporation known as "O'Brien Post Building Association".

Section 2. This corporation shall be located in the County of St. Louis and in the State of Missouri.

Section 3. This corporation shall have perpetual existence.

Section 4. The object and purposes of this corporation is to execute any trust and to perform all other acts necessary to provide and maintain a building, grounds, furnishings and equipment for the use and occupancy by the O'Brien Post 177, The American Legion, Department of Missouri (an incorporated organization whose object is set forth in its Preamble to its Constitution), and further set forth in Article IV of the Pro Forma Decree of Incorporation of the O'Brien Post Building Association (Incorporated).

Section 5. The corporation shall consist of nine (9) Directors, three of whom shall be elected to membership in said corporation each year by the O'Brien Post 177, The American Legion, Department of Missouri, an incorporated association located in St. Louis County, Missouri, and the Directors so elected shall serve as such for a term of three (3) years each and until successors are duly elected and qualified in the manner herein provided.

Section 6. Qualification of Directors. No person shall be qualified to be elected a Director of this corporation unless:

- (a) All dues and assessments in said Post are fully paid and receipted for the past three (3) consecutive years.

Section 7. Election of Directors. The annual election of said corporation shall be held by the O'Brien Post 177 at the first regular meeting in June of each year to take office in September. The vote shall be by secret ballot and a majority of the Quorum of said Post, as established by its By-Laws, shall be required to elect.

Section 8. A qualified member, or members, shall be elected to fill the vacancy, or vacancies, by an election at the next regular Post meeting. The election shall be as prescribed in Section 7.

ARTICLE X Unauthorized Indebtedness

Section 1. This Post shall not be responsible for any unauthorized indebtedness incurred by an Officer, Committee Member or Member of this Post in the name of O'Brien Post 177, The American Legion, Department of Missouri.

Amendments

Section 1. This Constitution is adopted subject to the provisions of the National Constitution of The American Legion and of the Department Constitution of the Department of Missouri, The American Legion. Any amendment to said National Constitution or Department Constitution which is in conflict with any provisions hereof shall be regarded as automatically repealing or modifying the provisions of this Constitution to the extent of such conflict.

Section 2. This Constitution may be amended at any regular Post meeting by vote of two-thirds of the members of said Post attending such regular meeting, providing that the proposed amendment shall have been submitted in writing and read at the next preceding regular meeting of said Post, and providing, further, that written notice shall have been given to all members at least five (5) days in advance of the date when such amendment is to be voted upon, notifying said members that at such meeting a proposal to amend the Constitution is to be voted upon.

BY – LAWS

ARTICLE I

Section 1. The Post existing under these By-Laws is to be known as O'Brien Post 177, The American Legion, Department of Missouri.

Section 2. The objects of this Post are as set forth in the Constitution.

ARTICLE II Management

Section 1. The government and management of the Post is entrusted to an Executive Committee.

Section 2. The Executive Committee shall consist of the Junior Past Commander and all current elected officers of the Post to be elected annually at the regular meeting in the month of June. All elected officers shall take office at the meeting next following that of the annual installation of Officers of the Post. The date of the installation of officers will be determined by the incoming Commander, however, this installation of officers shall not be before the Department Convention or later than October 20th. All elections of officers shall be by ballot and the candidate or candidates receiving the highest number of votes shall be elected to the respective office for which they are a candidate.

Section 3. All vacancies existing in the Executive Committee, or in any office of the Post from any cause other than the expiration of the term, shall be filled by a majority vote of the remaining members of the committee, and a person so appointed shall hold office for the unexpired term of the member of the committee or officer whom he succeeds. A vacancy shall exist when a member of officer is absent from his post for a continuous period considered detrimental to the interest of the Post by the Executive Committee. Proper presentation of facts, by persons concerned, shall be presented to the Executive Committee and by a two-thirds vote of approval; the Executive Committee shall declare the committee post vacant.

Section 4. The Post Adjutant shall cause notice of the annual election of Officers to be given at least seven (7) days prior thereto.

Section 5. If, during the nomination and election of Officers of this Post, only one (1) nomination is received for election to any office, and after the Post Commander or Officer presiding has made certain that no other nominations for that office are intended, then the Officer presiding shall announce that candidate's election to that office, by acclamation, and shall call for voice vote of approval, of the members present.

ARTICLE III Post Executive Committee

Section 1. The Post Executive Committee shall meet for organization and such other business as may come before it at the call of the Post Commander within 10 days after the installation of the new officers. Thereafter the Post Executive Committee shall meet at the call of the Commander as often as said Commander may deem necessary. Three (3) days notice, in advance of such meeting, shall be given to all members of the Committee. The Commander shall call a meeting of the Post Executive Committee upon the joint written request of six (6) or more members of said Post Executive Committee; six (6) members of the committee shall constitute a quorum thereof.

Section 2. The Post Executive Committee shall hire such employees as may be necessary; shall authorize and approve all expenditures; shall require adequate bonds from all persons having the custody of post funds; shall hear the reports of post committee chairmen; and generally, shall have charge of and be responsible for the management of the affairs of this Post.

ARTICLE IV Duties of Officers

Section 1. *Duties of Post Commander.* It shall be the duty of the Post Commander to preside at all meetings of the Post and to have general supervision over the business affairs of the Post, and such officer shall be the chief executive officer of the Post. He shall approve all orders directing the disbursement of funds and shall make an annual report covering the business of the Post for the year, and recommendations for the ensuing year, which shall be read at the regular meeting in June and a copy thereof immediately forwarded to the Department Adjutant. He shall perform such other duties as directed by the Post.

Section 2. Duties of 1st Vice Commander. The 1st Vice Commander shall assume and discharge the duties of the Commander in the absence or disability of, or when called upon, by the Commander. He shall be in charge of membership, collection of dues of present members, shall have the responsibility of increasing membership and, in general, shall perform such duties as may be directed by the Post Commander.

Section 3. Duties of 2nd Vice Commander. The 2nd Vice Commander shall assume and discharge the duties of the Commander, in the absence or disability of the Commander and the 1st Vice Commander, or when called upon by the Commander. He shall be in charge of Post Activities and Entertainment and, in general, shall perform such other duties as may be directed by the Post Commander.

Section 4. Duties of Post Adjutant. The Adjutant shall have charge of and keep a full and correct record of all proceedings of all meetings, keep such records as the Department and National organizations may require, render reports of membership annually or when called upon at a meeting, and under direction of the Commander handle all correspondence of the Post.

Section 5. Duties of the Finance Officer. The Finance Officer of the Post shall have charge of all finances and see that they are safely deposited in some local bank or banks and shall report once a month to the membership the condition of the finances of the Post, with such recommendations as he may deem expedient or necessary for raising funds with which to carry on the activities of the Post. He shall sign all checks disbursing the monies of the Post. He shall furnish surety bonds in such sum as shall be fixed by the Post Executive Committee and to be paid by the Post.

Section 6. Duties of Post Historian. The Post Historian shall be charged with the individual records and incidents of the Post and Post members, and shall perform such other duties as may properly pertain to the office as may be determined by the Post or the Executive Committee.

Section 7. Duties of Post Chaplain. The Post Chaplain shall be charged with the spiritual welfare of the Post Comrades and will offer divine but non-sectarian service in the event of dedications, funerals, public functions, etc., adhere to such ceremonial rituals as are recommended by the National or Department headquarters from time to time.

Section 8. Duties of Sergeant-At-Arms. The Sergeant-At-Arms shall preserve order at all meetings and shall perform such other duties as may be from time to time assigned to him by the Post Executive Committee. He shall have charge of all Post property.

Section 9. *Duties of Service Officer.* The Post Service Officer shall be charged with the supervision of all matters pertaining to service to comrades in the prosecution of all claims against the United States or State Government and employment, relief, etc. and community welfare matters. He shall be responsible for bringing to the attention of the members and their dependents, all of the rights and benefits granted to them by state and national laws.

Section 10. *Duties of the Judge Advocate.* The Post Judge Advocate is to supply professional advice in the conduct of the Post business or to procure proper counsel. He is the guardian of constitutional form of Post government. The Judge Advocate and the Legal Committee will audit the Post financial accounts February of each year.

Section 11. Other elected officers, as may be needed for the efficient operation of this Post, may be established by the addition to and the amendment of these By-Laws.

ARTICLE V Delegates

Section 1. Delegates and alternates to a Department Convention shall be elected by ballot by the Post at a regular meeting of the Post to be held at least 20 days prior to the date of such convention.

ARTICLE VI Appointments

Section 1. The Post Commander, immediately upon taking office each year, shall appoint the following standing committees: Americanism (consisting of sub-committees: Boys State, Children & Youth, Oratorical, S.A.L., and Baseball), Entertainment & Post Activities, Finance, Legal, Life Membership, Membership, Public Relations (including Legislative Affairs), Uniformed Groups, Veterans Affairs & Rehabilitation, and Visiting. Such standing committees shall consist of such members, and the chairman thereof, as shall be designated by the Post Commander. The Post Commander, Adjutant, and Junior Past Commander shall be ex-officio members of all committees. The Post Adjutant will advise the Committee Chairman as to the purpose and duties of his committee and also, date of completion and presentation of report to the members of the Post, if the Committee be so instructed. The Post Commander may at any time declare any Committee appointed by him to be inoperative and may discharge such Committee.

Section 2. *Americanism Committee.* The Americanism Committee shall be charged with the inspiration of patriotism and good citizenship by arrangements for proper observance of patriotic occasions; encouragement of patriotic and civic phases of instruction in schools; Americanization of aliens; combating anti-American propaganda by education of the general public in American ideals through public forums, etc., and activities for community and civic betterment. The Children and Youth Sub-Committee shall be charged with aid and service to children of veterans, cooperating with other established agencies in the community laboring for the betterment of child conditions and in coordinating services and agencies in the community for the above purposes. To act as intermediary for the needy child of a veteran in obtaining the fulfillment of the Legion's pledge that "no child of a war veteran shall be in need of the necessities of life": and "a square deal for every child". The Sons of The American Legion Sub-Committee shall have supervision over the operations of the Post's Squadron of the Sons of The American Legion.

Section 3. *Entertainment & Post Activities.* The Entertainment and Post Activities Committee shall be charged with the promotion of club advantages and arrangement for social activities.

Section 4. *Finance Committee.* The Finance Committee shall be charged with the administration of the financial policy, preparation of budget recommendations and supervision of receiving, disbursing and accounting of all Post funds.

Section 5. *Legal Committee.* The Legal Committee shall provide or obtain legal advice for the Post or any of its committees and shall be charged with the auditing of the Post financial accounts annually, and provide recommendations to the membership for changes of the Post Constitution and By-Laws.

Section 6. *Life Membership.* The Life Membership Committee shall provide candidates to the membership for Life Membership awarded by the Post and shall be consisted of all current Life Members.

Section 7. *Membership Committee.* The Membership Committee shall have charge of all matters pertaining to the membership of the Post, including the procuring of new members, reinstatements and eligibility of members.

Section 8. *Nominating Committee.* The Nominating Committee shall provide the Post membership with a choice of well qualified candidates for the various offices of the Post. All Past Commanders of the Post are members of this committee with the Junior Past Commander as Chairperson.

Section 9. *Public Relations Committee.* The Public Relations Committee shall be charged with the promotion of public support of the Legion's program by the establishment of proper contact with The American Legions Magazine, Department and National Legion news service and by local publicity of Post

programs and activities. The Legislative Sub-Committee needs to have a knowledge of what is going on in Congress – what we favor or oppose, and should be ready to initiate action in support of our position when requested by the National or Department organization.

Section 10. *Uniformed Groups.* The Uniformed Groups shall be charged with organization, training, promotion and supervision of a Color Guard Unit and Firing Squad.

Section 11. *Veterans Affairs and Rehabilitation Committee.* The Veterans Affairs and Rehabilitation Committee shall supervise all matters pertaining to service to comrades in the prosecution of all just claims against the United States or state government, employment, relief, etc.

Section 12. *Visiting Committee.* This committee is charged with the visiting and comforting of members and their families when sick or bereaved and with visiting ex-servicemen in nearby hospitals.

ARTICLE VII Resolutions

Section 1. All resolutions of State or National scope presented to this Post by a member or reported to this Post by a committee shall merely embody the opinion of this Post on the subject and copy of same shall be forwarded to the Department headquarters for its approval before any publicity is given or action other than mere passage by the Post is taken.

ARTICLE VII Meetings

Section 1. The regular meeting of the Post shall be held at the Post Home on the first Thursday of each month, at which may be transacted such business as may properly be brought up for action; such meeting may be converted into entertainment meetings, as may be deemed advisable by the officers of the Post.

Section 2. The Post Commander or a majority of the Executive Committee shall have power to call a special meeting of the Post at any time, giving at least three (3) days notice to all members of such meeting.

Section 3. Upon the written request of five (5) members, the Executive Committee shall call a special meeting of the Post, giving all members at least three (3) days notice of such meeting.

Section 4. Seven (7) members shall constitute a quorum, and all business properly brought before any meeting, regular or special, at which a quorum is present, shall be recorded as official business.

ARTICLE IX Notices

Section 1. Every member shall furnish the Post Adjutant with his or her address for mailing purposes.

Section 2. The Post Adjutant shall cause notice of the annual election to be given at least two weeks prior thereto.

ARTICLE X Practice and Procedure in the Expulsion or Suspension of a Member of The American Legion

- A -

Section 2 of Article IV of the By-Laws of The American Legion is as follows:

“Members may be suspended or expelled from the Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion. All charges must be made under oath in writing by the accusers, and no member in good standing shall lose his membership until given a fair trial in such manner and form as the Department By-Laws and Department Executive Committee shall prescribe.”

Section 1. *Process.* The first process in all actions of expulsion or suspension against a member of the Post in good standing shall be by filing with the Adjutant written charges in triplicate, properly verified by affidavit of the accuser or accusers.

Section 2. *Writ – When Returnable When Written Charges Are Filed.* The Adjutant shall issue a writ dated upon the day it shall be issued and signed with his name, directed to the Sergeant-At-Arms (or some other member of the Post in good standing), commanding him to summon the accused to appear at the Post meeting place at the next regular meeting (providing 15 days have intervened), to show cause why he should not be suspended or expelled (as the case may be).

Section 3. *Service – Return.* It shall be the duty of the Sergeant-At-Arms, or the member appointed in his place, to serve the writ so issued, by reading it to the accused and at the same time delivering to him a verified copy of the charges filed. He shall endorse upon said writ the time and manner of serving it and immediately thereafter file the same with the Post Adjutant.

Section 4. *Alias Writ.* Whenever it shall appear by the return that the accused is not found fifteen (15) days, or more, previous to the regular Post meeting, the Adjutant, at the request of the accuser, shall issue another writ and son on until service is had.

Section 5. *Failure to Make Return.* If the Sergeant-At-Arms, or the member to who a summons is delivered, shall neglect or refuse to make return of same within the time required in Section 4, another summons shall be issued directed to some member in good standing for service as herein above set forth.

Section 6. *Service by Publication.* Whenever the accuser shall file with the Adjutant of the Post an affidavit showing that the accused has gone out of the state or on due inquiry cannot be found or is concealed within the state so that process cannot be served upon him, and stating the place of residence of such accused, if known, or that upon diligent inquiry his place of residence cannot be ascertained, the Adjutant of the Post shall cause publication to be made in the county where the Post is located and if there be no newspapers published in said county, then in the nearest newspaper published in the state containing notice of the pendency of such charges before said Post, the names of the accused and the accuser, and the time and place of the hearing of said charges. Within two days of the first publication of such notice the Adjutant shall send a copy thereof by mail addressed to the accused if his place of residence is stated in said affidavit; said notice shall be published at least once each week for three successive weeks.

Section 7. *Charges.* The accuser or accusers must be members of the Post and shall set forth the charges of disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion in terms of simplicity and understanding in order that the accused may properly prepare a defense.

Section 8. *Accused to Enter His Appearance In Writing.* Before the accused defends in his own proper person, or through his counsel, he shall enter his appearance by filing an answer to said charges on or before the date of the regular meeting to which he has been summoned to appear.

Section 9. *Failure to Answer.* If the accused fails to answer the charges, in manner and form as herein last set forth, the charges and matters and things therein stated shall be taken as confessed and the prayer for expulsion or suspension granted.

Section 10. *Date of Trial.* Whenever the accused enters his appearance by filing an answer to the charges preferred, the entire proceedings shall automatically be continued until the next regular Post meeting, at which time the trial shall be had.

Section 11. *Continuance.* Either party may apply for a continuance before the day set for trial, however, it shall be accompanied by a written motion, support by affidavit, of the party so applying. Good and substantial cause must exist before said motion is granted. The presiding Judge Advocate shall pass on said motion.

Section 12. *Trial – Post Judge Advocate to Preside.* The Post Judge Advocate shall preside at the trial. He shall have power and authority to pass upon the materiality and relevancy of all the evidence presented and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial.

Section 13. *Post Judge Advocate Vacancy.* In case of death, removal, vacancy, resignation or disability of the Post Judge Advocate, it shall be the duty of the Department Commander, when duly notified by the Post Adjutant, to appoint a special Judge Advocate in the Department to fill the vacancy, such special Judge Advocate so appointed shall have the authority, right and powers of a duly elected Post Judge Advocate. The Post shall bear the expense of any special Judge Advocate.

Section 14. *Post Officers and Executive Committee to Act as Jurors.* The Post officers and the Post Executive Committee are hereby selected as jurors to ascertain under the guidance of the Judge Advocate the truth of the charges preferred. Their province is strictly limited to questions of fact, and within that province they are still further restricted to the exclusive consideration of the matters that have been proven by evidence of the interested parties in the course of the trial. Their decision shall be reduced to writing and filed with the Post Adjutant, who, in turn, shall enter the same in the Post records.

Section 15. *Causes of Challenge.* If any Post officer or any member of the Executive Committee, or any other member selected as juror, shall state that he cannot fairly and impartially render a verdict therein in accordance with the evidence, and the presiding Judge Advocate shall be satisfied of the truth of such statement, said member or members shall be challenged for cause.

Section 16. *Peremptory Challenge.* Each party shall be entitled to challenge of two jurors without showing cause for such challenge.

Section 17. *Duty of Sergeant-At-Arms.* If any member is challenged peremptorily or for cause, or if any Post officer or member of the Executive Committee shall be absent from said trial the presiding Judge Advocate shall direct the Sergeant-At-Arms to summon a sufficient number of members of the Post to sit as jurors in their place.

Section 18. *If Sergeant-At-Arms Not Present, etc.* If the Sergeant-At-Arms is not present at said trial or upon objection of either party to the cause to the Sergeant-At-Arms summoning a sufficient number to fill the vacancies, the presiding Judge Advocate shall appoint a special Sergeant-At-Arms to summon the necessary persons to act as jurors.

Section 19. *Members Insufficient to Fill Panel.* When the membership of the Post, through cause or otherwise, is insufficient in number to make a full panel for jury service, the trial shall be continued until the next regular Post meeting. The Post Adjutant, within five (5) days thereafter, shall transmit such information to the Department Commander, who shall, before the next regular meeting of the Post, cause the Sergeant-At-Arms of said Post to summon a sufficient number of members of The American Legion from the body of the county in which the Post is located to fill the vacancies.

Section 20. *Amendments.* At any time before a final decision is made by the jury upon the trial of a member upon expulsion or suspension, amendments maybe allowed by the presiding Judge Advocate upon such terms as are just and reasonable.

Section 21. *Number Necessary to Expel or Suspend.* To expel or suspend a member of The American Legion in good standing, two-thirds of the members selected to sit as jurors shall vote in the affirmative.

– B –

Section 3 of Article IV of the By-Laws of The American Legion is as follows:

“Any member who has been suspended or expelled has the right of appeal to his Department Executive Committee, or to the Department convention, according to the provisions in the By-Laws of the Department. The decision of the Department shall be final.”

Section 1. *Time for Appeal.* Within forty (40) days after judgment of expulsion or suspension is made and recorded, the accused ONLY may take an appeal in manner and form as set forth in Section 3 of Article IV of the By-Laws last mentioned.

Section 2. *Stenographic Report.* Either party demanding a stenographic report of the trial shall pay for the same, and when said report is completed, it shall be the duty of the presiding Judge Advocate, on appeal, to examine the same and if correct, officially certify to the correctness of such report, and the same shall be immediately filed with the Department Adjutant, who, in turn, shall present the same to the Department Executive Committee or the Department convention officials, according to the By-Laws of the Department. All matters and things contained in such stenographic report shall become a part of the record and shall be considered in the final decision by the Department. In addition to the stenographic report, all interested parties shall have the further right of appearing in person, or by counsel, and present further evidence and arguments upon such final hearing.

Section 3. *Notice by Department Adjutant Upon Request.* When an appeal is taken by accused, in compliance with Section 3 of Article IV of the By-Laws of The American Legion, it shall be the duty of the accused to obtain from the Department Adjutant the date of the Executive Committee meeting or Department convention and the exact time and place of such hearing on appeal. This notice should be given if possible at least ten (10) days before the meeting or convention.

Section 4. *Appeal – Department Judge Advocate to Preside.* Upon appeal the Department Judge Advocate shall preside at the trial. He shall have power and authority to grant a continuance to either party if he deems it for the best interest of the Legion; to pass upon the materiality and relevance of all the evidence presented and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial.

Section 5. *No Further Appeal.* The decision reached by the Department Executive Committee or Department convention shall be final.

Section 6. *Effect of Decision.* Where an appeal is taken by the accused and the Department Executive Committee or Department convention sustains the appeal, the expelled member automatically becomes a member in good standing of said Post, and it is mandatory that the Adjutant reinstate said member upon the Post membership roll. Any Post failing to comply with this provision is subject to have its charter suspended or revoked.

ARTICLE XI Rules of Order

Section 1. All proceedings of this Post shall be conducted under and pursuant to Roberts' Rules of Order, except as herein otherwise provided.

ARTICLE XII Limitations of Liabilities

Section 1. This Post shall incur, or cause to be incurred, no liability nor obligations whatever which shall subject to liability any other Post, subdivision, group of men, members of The American Legion, the American Legion Auxiliary, or other individuals, corporations or organizations.

ARTICLE XIII Amendments

Section 1. These By-Laws may be amended at any regular Post meeting by a two-thirds vote of approval of the members of the Post attending such meeting, provided that the proposed amendment shall have been submitted, in writing, to the Post Commander and read at the next preceding regular meeting of said Post, and provided further that written notice shall have been given of such meeting, to all members at least five (5) days in advance of the date of such meeting when such amendment is to be voted upon, notifying said members that at such meeting a proposal to amend these By-Laws is to be voted upon.

This Constitution and By-Laws of the O'Brien Post 177, The American Legion, Department of Missouri, was revised and adopted this 3rd day of March, 1994.

/s/
Kenneth O. Allison, Sr.
Post Commander

/s/
Timothy R. Hodge
Acting Post Adjutant

AMENDMENTS

10/5/2000

Article 5, Section 2. To read:

The officers of this Post shall be Commander, 1st Vice Commander, 2nd Vice Commander, Adjutant, Finance Officer, Post Historian, Chaplain, Service Officer, Sergeant-At-Arms, and such other officers as may be deemed necessary by this organization, who shall be nominated from the floor at the meeting preceding the annual election.

Article IV, Duties of Officers, Section 10. To read:

The Post Judge Advocate will be appointed by the incoming Commander. He is to supply professional advice in the conduct of the Post business or to procure proper counsel. He is the guardian of constitutional form of Post government. The Judge Advocate and the Legal Committee will audit the Post financial accounts February of each year.