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Military Law by Daniel Walker

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The reader should bear in mind that modern psychology is the core of the author's system of office management and that the work at times may seem to be expanded beyond the needs of the particular reader, but he will find it interesting and well worth while.

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MILITARY LAW. By Daniel Walker, New York: Prentice-Hall. 1954.
Pp. xiv, 748. \$9.75.

With more than three million persons now actively serving in the armed forces of the United States and therefore subject to statutes governing members of the military establishment, the increasing importance of military law cannot be overemphasized. Indeed, the growth of a body of case law pertaining to trial by courts-martial has been phenomenal in the last four years. It is therefore fitting, perhaps even necessary, that law schools and their students devote more than cursory attention to the legal aspects of military life.

Although several texts relating to the field of military jurisprudence have been published, the work under scrutiny represents the most successful attempt to treat the subject of military law in case-book form. If for no other reason, then, the author should be commended for his foresight in arranging the material in a manner suitable for instructional use. The editing and arranging of cases, however, is not the only contribution made by the author—as the remainder of this review is intended to illustrate.

The volume opens appropriately with a chapter devoted to the nature and sources of military law. Here, leading Supreme Court cases such as *Hirabayashi v. United States* and *Ex Parte Milligan* are collected to demonstrate—as the author puts it—"the basic conflict between military necessity and the need for limitations upon the exercise of military authority." In the reviewer's opinion, this observation crystallizes into one sentence the philosophical divergence most civilians must bridge to understand the nature of military law. A close reading of Chapter 1, however, may serve to explain those situations in which the demands of the military must override what would normally be regarded as an individual right.

In Chapter 2 the author presents cases concerned with the organizations to which military law applies—that is, the "Armed Forces." Primarily, the chapter purports to familiarize the reader with lesser

known components such as the National Guard, the militia and the reserve units, all of which become a part of the armed forces in certain instances, and with the legal problems created by the passage of the Selective Service Act.

Beginning with Chapter 3 the book contains a wealth of text material, references, cases and hypothetical problems under the heading "Military Criminal Law." It is in this section that the edited cases should be of maximum benefit to both professor and student, for the author correctly places great emphasis on the decisions of the United States Court of Military Appeals. For the information of those unfamiliar with recent developments in military criminal law it is not amiss to point out that in 1950 Congress completed an overhauling of the laws pertaining to and governing trial by courts-martial. The result was the Uniform Code of Military Justice, promulgated by Congress to meet the clamor for reform which followed the disclosure of many injustices that had occurred in military trials conducted during and subsequent to World War II. Article 67 of the Code established the United States Court of Military Appeals, composed of three eminently qualified civilian judges, to safeguard the individual protections guaranteed to service personnel by the statute. It is gratifying to note that the casebook places the opinions of this court at the proper level in the federal judicial hierarchy, i.e., on a par with the Circuit Courts of Appeals. In fact, the Court of Military Appeals is for practical purposes the "Supreme Court" of the military legal system, for—as the author observes—there is apparently no direct appeal from that body to the Supreme Court of the United States.

Since they decide only questions of criminal law arising from trials by courts-martial, the judges of the Court of Military Appeals are specialists without peer. Consequently, their pronouncements concerning offenses under military law, the nature and personnel of courts-martial, jurisdiction of courts-martial, pre-trial and trial procedure, rules of evidence and review are of primary significance. The author seems to have selected, with one or two exceptions, the leading decisions of this court which involve the above named topics. Certainly, a careful study of these cases alone would be of considerable worth to a law student hoping to embark either temporarily or permanently upon a military career as a legal officer.

Chapters 11-19 cover a wide range of subjects such as martial law, military government, the law of war and the status of officers and enlisted men. Of special interest are the cases dealing with the civil rights and liabilities of servicemen, and illustrating the multitude of legal problems that inevitably arise when a civilian dons a uniform.

Although a detailed summary of each chapter is not permitted by the scope of this review, particular attention should be given to the chapter entitled "Courts-Martial Review in Federal Courts." Many of the current military criminal law problems facing the federal courts and the Supreme Court will undoubtedly be resolved in accordance with the leading decisions found in that section.

In a brief preface Mr. Walker indicates that his book should be utilized in the main as a guide for class instruction. In that respect, "Military Law" is an excellent work. Some supplementation would be necessary, of course, but that is true whenever reliance is placed on the student's analysis of selected cases. Nevertheless, a professor, fortified with the more recent decisions of the Court of Military Appeals and a Manual for Courts-Martial, would be well-advised to assign this volume as required reading in any course covering the subject of military law.

To the practising civilian attorney or the experienced military lawyer few, if any, casebooks are of value. Usually, such works do not contain text material which is sufficiently detailed or documented to serve either as a reference or as an entry for research purposes. "Military Law" is no exception to this general rule. In fairness, however, it must be said that the author recognizes this limitation and has conscientiously listed, wherever possible, many of the existing textbooks on similar subjects.

In summary, this casebook marks another forward step for judicial thinking in terms of military justice, courts-martial and the like. The cases collected therein are well-selected, edited with care and presented in an orderly sequence. Sufficient narrative material is included to explain concepts which may be familiar to the military lawyer but alien to his civilian counterpart; numerous problems are raised to invite discussion. In an era when the casebook method of teaching has gained wide approval among most legal institutions and military law has become one of the most rapidly developing members of the jurisprudential family, Mr. Walker's effort is a welcome response to the need for more instruction in the field.

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