June 1954

**Military Law (Daniel Walker, 1954)**

Mandell Glicksberg  
*University of Florida*

Follow this and additional works at: [https://scholarship.law.ufl.edu/flr](https://scholarship.law.ufl.edu/flr)

**Recommended Citation**  
Available at: [https://scholarship.law.ufl.edu/flr/vol7/iss2/13](https://scholarship.law.ufl.edu/flr/vol7/iss2/13)

This Book Review is brought to you for free and open access by UF Law Scholarship Repository. It has been accepted for inclusion in Florida Law Review by an authorized editor of UF Law Scholarship Repository. For more information, please contact rachel@law.ufl.edu.

The people of the United States have become extremely conscious of all aspects of military life as the result of World War II, the Korean conflict, and the state of armed preparedness which our country has maintained and undoubtedly will continue to maintain for years to come. The people, problems, and programs of the armed forces now constitute an integral part of our everyday existence. In line with these views, many law schools throughout the country are offering courses in military law. Such courses are an answer to the demand of law students for training in this vital and important field. An up-to-date, authoritative, and comprehensive casebook, such as Military Law, is therefore most welcome.

Just as the armed forces have affected our civilian life, recent developments in military law reflect the influence of civilian ideas. Military criminal law, commonly known by the term "military justice," recently underwent a thorough housecleaning, culminating in congressional enactment of the Uniform Code of Military Justice, effective on May 31, 1951. This marked the beginning of a new era in military law, an era in which military jurisprudence undoubtedly will become a full-fledged, important, and distinguished member of our legal system. Many notable changes in military criminal proceedings are provided by this code. Every effort has been made to safeguard the rights of accused persons and to insure fair and prompt trials. Perhaps the most far-reaching step was the establishment of the Court of Military Appeals, the court of last resort in the military judicial system. It is composed of three civilian judges, presently men of the highest caliber, who have demonstrated an ableness and willingness to create and maintain a spirit of dignity, scholarship, and well-tempered justice in a field that has at times been the victim of severe adverse criticism.

An outstanding feature of this book is the generous use of decisions of the Court of Military Appeals in the section dealing with military justice. This is probably the first casebook to contain such opinions. Furthermore, at the end of each chapter having to do with military criminal law the author has set forth problems designed to stimulate interest and provide a basis for classroom discussion. The problems

*Editors' Note: Although it is not the policy of the University of Florida Law Review to review casebooks, it is thought that in view of the current emphasis on military affairs this book is worthy of review.

constitute an excellent springboard for research based upon decisions of the Court of Military Appeals and the various service boards of review. These cases are now easily accessible, being reported in a series known as Court-Martial Reports.  

Although primary emphasis in the casebook is placed quite properly upon military justice, legal problems dealing with matters other than military criminal law are covered. Adequate treatment is accorded such topics as the nature and sources of military law; organization and composition of the armed forces; the law of war, martial law and military government; law relating to status of officers, enlistments, discharges, and civil relief acts; and several other interesting and important military legal subjects. Liberal use is made of leading federal and state court cases in these fields.  

Under the title Military Law Mr. Walker chose to treat not only that law which is by its very nature peculiar to the military but also certain aspects of purely civilian law that might be termed military because a serviceman is involved. The book includes, for example, cases arising under the Federal Tort Claims Act concerning claims of service personnel based on injuries sustained incident to service. There is certainly no objection to such a treatment. In fact, it is helpful in presenting the many facets of the change in legal status which one undergoes upon entering military service.  

All of the chapters contain textual material, briefly presented and of a general nature, designed to give the reader a broad view of the subject matter. There is no attempt to go into detail, the primary function being to connect and co-ordinate the various divisions of the book. Because of the excellent selection of cases and the numerous references to source material, including many law review articles, the book can be used as a reference work as well as for teaching purposes. The index to the volume, however, although adequate, is not broken down into complete detail. Several interesting and informative points cannot be located by reference to the index.  

The author recommends that whenever the book is used for teaching purposes the Manual for Courts-Martial, United States, 1951, should be used as supplementary material. He further states, however, that the book contains sufficient excerpts from the manual to make its actual use unnecessary to a basic understanding of the court-martial system. Although this is true, it is the opinion of the reviewer that most of the lengthy quotations from the manual could have been
omitted and the material contained in them more profitably presented by means of summaries, together with documented explanatory material. This could oftentimes have been done in less space than it took to reprint the excerpts from the manual. Most courses in military jurisprudence should and undoubtedly do make use of the manual, copies of which are easily obtainable. It would seem, therefore, that the space in the casebook could be put to a use better than that of extensive quotation from the manual. Along similar lines, it was noted that the author reproduced certain articles of the Uniform Code of Military Justice in the text, although the code is set forth verbatim at the end of the volume. This duplication could have been avoided by a brief summary of the pertinent article and a reference to the code.

In the words of the author, "only samplings from a very broad field" are provided. Whether the book will prove useful as a teaching tool depends, therefore, upon the approach adopted by the teacher. If he approaches the course from a broad aspect, attempting to give the student a sweeping picture of the entire field and to acquaint him with various fundamental concepts, such as those underlying the conflict between democratic principles and military expediency, then this casebook should admirably suit his needs. If, however, it is desired to give an intensive course in the details of, for example, military justice, this book, although helpful, was not designed for and would not adequately serve such a purpose. The better approach in so far as a law school course in military law is concerned would seem to be the one advocated by the author. This would serve not only to prepare law students for legal tasks in the armed forces but would also provide a background for handling the various problems of a military nature that may come to their attention as civilian practitioners. Mr. Walker has provided a much needed and welcome addition to a field that is at the threshold of what promise to be its most significant years.

Mandell Glicksberg
Assistant Professor of Law
University of Florida