

THE
MILITARY LAW
DICTIONARY

RICHARD C. DAHL
and
JOHN F. WHELAN



D09132.8-6

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RICHARD C. DAHL, B.L.S., LL.B.

Law Librarian

OFFICE OF THE JUDGE ADVOCATE GENERAL
U. S. DEPARTMENT OF THE NAVY

AND

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NEW YORK
OCEANA PUBLICATIONS, INC.

1960

For
MRS. J. R. SAUL
and
MRS. R. A. WHELAN

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Library of Congress Catalog Number: 60-10208

PRINTED IN THE UNITED STATES OF AMERICA

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Foreword

THIS VOLUME is intended to be a useful handbook for anyone interested in Military Law. We have tried to make it concise and practical. Military law, when broadly defined, encompasses so many fields that a multi-volumed dictionary could have been compiled. It is our opinion, however that a compact volume with short, clear definitions is more likely to answer the needs of the military lawyer. Thus the definitions selected were those the editors believed to be most useful.

These definitions were selected from a wide variety of sources. We have resisted the temptation to include definitions of our own. Our aim was to collect the important definitions currently used in military, legal, medical and allied fields. This dictionary was not intended to supplant the many fine dictionaries in these fields. Instead its purpose is to bring together all those definitions, and many of the abbreviations, most likely to be used by the military lawyer.

Some of our sources were the official dictionaries and publications of the Armed Services. Many definitions were found in leading legal treatises. Others came from various glossaries, dictionaries, articles, etc. Very often several sources would turn up the same or similar definitions, making our task of selection much easier.

As with most dictionaries there were far too many sources for individual acknowledgment. We have, therefore, included a list of references that indicate some of the works that were checked for terms. Works of this nature should be consulted for larger definitions and definitions of more obscure and less used words.

In the field of law, definitions are particularly important and require careful use. Entire books have been written about a single word or phrase such as "hearsay," "proximate cause," and "res ipsa loquitur." There are several important multi-volume dictionaries and one set of judicial definitions that runs to 60 volumes. THE MILITARY LAW DICTIONARY is designed to be a working tool that supplements and is in no way a substitute for those more ambitious works.

Like most dictionaries, ours was compiled on cards over a long period of time. This card file was kept, used, and tested in the Army Library and the Navy JAG Law Library. It has proven useful in these libraries and it is hoped that it will be equally useful in the field and elsewhere.

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A

- ABANDON.** To relinquish, give up, desert, or leave in disregard of a duty with respect thereto.
- ABANDONMENT:** The surrender, relinquishing, disclaimer, of property or of rights.
- ABATE:** To terminate; to decrease. Quash, beat down, or destroy.
- ABATEMENT:** Reduction or termination.
- ABDUCTION:** The taking away of a person surreptitiously by force. Commonly it means the act of taking away a woman against her will, or, if she is a minor, against the will of her parents or some other person having lawful control over her.
- ABET:** To encourage or set another on to comit a crime.
- AB INITIO:** From the beginning.
- ABJURE:** To renounce upon oath.
- ABLE SEAMAN:** A grade of merchant seamen.
- ABORTIFACIENT:** A chemical which will produce an abortion.
- ABORTION:** The premature expulsion of the foetus of a pregnant woman.
- ABORTIONIST:** One who criminally produces abortions.
- ABROGATION:** The destruction or annulling of a former law by an act of the legislative power, by constitutional authority, or by usage.
- ABSCOND:** Avoiding the process of the court by hiding or leaving the jurisdiction.
- ABSENCE:** Non-appearance, state of being absent or away from one's domicile, or usual place of residence.
- ABSENCE WITHOUT LEAVE:** Any member of the armed forces who, without proper authority (1) fails to go to his appointed place of duty at the time prescribed; or (2) goes from that place; or (3) absents himself or remains absent from his unit, organization, or other place of duty at which his required to be at the time prescribed, is absent without leave.
- ABSENTE REA:** In the absence of the defendant.
- ABSOLVE:** To set free, or release, as from obligation, debt, responsibility, or penalty.
- ABSTRACT OF TITLE:** Brief history of title to a piece of real estate.
- ABUSE:** To make excessive, ill-use, or improper use of a thing, or to employ it in a manner contrary to the natural or legal rules for its use.
- ACCESSORIES AFTER THE FACT:** An accessory after the fact is one who receives, relieves, comforts, or assists another personally, with knowledge that he has committed a felony. To constitute one an accessory after the fact—1. A felony must have been committed, and it must have been complete at the time of the relief or assistance. 2. The accused must know that the felony has been

Accessories . . .**Accretion**

committed by the person received, relieved, or assisted. 3. The assistance must be rendered to the felon personally.

ACCESSORIES BEFORE THE FACT: An accessory before the fact is one who procures, commands, or counsels, the commission of a felony by another, but who is not present, either actually or constructively, when the felony is committed. To constitute one an accessory before the fact—1. There must be a guilty principal in the first degree. 2. The accessory must be neither actually nor constructively present when the offense is committed. 3. There must be some participation by way of procurement, command, or counsel. Mere knowledge that the offense is to be committed, or even mental approval, is not enough.

ACCOMPANYING: One may be considered to be "accompanying" an armed force although he is not directly employed by such force or by the Government but works for a contractor engaged on a military project or serves on a merchant ship carrying war supplies or troops.

ACCOMPLICE: Includes all "partners-in-crime" whether they are considered in strict legal propriety as principals in the first or second degree, or merely accessories before or after the fact.

ACCORD AND SATISFACTION: An accord consists of an agreement between contracting parties whereby one of them is to do something different from that called for by the contract. This accord is satisfied when the terms of the new agreement are fully performed. Both accord and satisfaction must take place before the old obligation is discharged, unless the new agreement expressly states that it is being substituted for the old.

ACCOUNTABILITY: The obligation imposed by law or lawful order or regulation on an officer or other person for keeping accurate record of property or funds. The person having this obligation may or may not have actual possession of the property or funds. Accountability is concerned primarily with records, while responsibility is concerned primarily with custody, care and safe keeping. See **Responsibility**.

ACCOUNTABLE: 1. Having accountability (individuals have accountability). 2. Requiring accountability (property or funds require accountability).

ACCOUNTABLE DISBURSING OFFICER: Any commissioned officer who receives and disburses public money in his own name. He is responsible for the funds so received and for their proper expenditure for the purposes specified by law and is required to account for them in accordance with law and regulations.

ACCOUNTABLE OFFICER: Individual required to maintain accounting, including records thereof, of property and funds, whether public or quasi public. The accountable officer may or may not have physical possession of the property or funds.

ACCOUNTABLE PROPERTY OFFICER'S BOND: A bond executed by an individual who is charged with the responsibility of protecting and maintaining Government property or keeping records for such property.

ACCRETION: Gradual and imperceptible accumulation of land by natural causes, as out of the sea or a river.

Accumulated Leave

Active List

ACCUMULATED LEAVE: The earned leave credit of an officer, enlisted man, or civil service employee that may be carried over from one leave year to another.

ACCUSATION: The charge that one has been guilty of a crime or misdemeanor, made to a proper officer.

ACCUSE: Formally charging a person with the commission of a crime.

ACCUSED: The generic term for the defendant in a criminal case.

ACCUSER: Art. 1(11), UCMJ, provides that the term "accuser" shall be construed to refer: 1. To a person who signs and swears to charges, or 2. To any person who directs that charges nominally be signed or 3. To any other person who has an interest other than an official interest in the prosecution of the accused.

ACKNOWLEDGMENT: An "acknowledged" deed or other instrument is one to which is attached a certificate of a notary public, commissioner of deeds, or other officer designated by statute that the person purporting to have executed the said instrument appeared personally before the said officer and acknowledged that he executed it.

ACQUIESCENCE: Implies consent, and consent cures error.

ACQUITTAL: A person being duly charged with some crime and put upon trial and found not guilty.

ACQUITTANCE: An acquittance is, in general terms, a release or a discharge from obligation.

ACT: The common meaning of the word "act" is "that which is done or doing, a performance, a deed, a movement," as distinguished from remaining at rest. In the criminal law it is impossible to give an inclusive definition of the word in short space because, as is also true, in lesser degree, of intent, its character varies with each crime. Thus in homicide cases the act is the killing of a human being; in larceny, it is the taking and carrying away of personal property; in arson, it is the burning of a house; in rape, it is the having of sexual intercourse.

ACTING WITHIN THE SCOPE OF HIS OFFICE OR EMPLOYMENT: As applied to the members of the military or naval forces of the United States is "acting in the line of duty."

ACTION: A proceeding in court which if completed will result in a judgment.

ACTIONABLE: Furnishing legal ground for action.

ACTION IN REM: An action which has for its object a judgment against property to determine status.

ACTIVE DUTY: Refers to the status of being in the active Federal service of any of the armed forces under a competent appointment or enlistment or pursuant to a competent muster, order, call, or induction.

ACTIVE LIST: A list of all regular officers on active duty; A list of constituted units assigned to a major command for activation, and those which have been activated and are already serving in an active status.

Active Service

Adjutant

ACTIVE SERVICE: Active duty; The status of a piece of equipment that is being used continuously.

ACTIVATE: To make a constituted or reconstituted unit active by assigning personnel to it.

ACTIVITY: 1. A unit, organization, or installation performing a function or mission, e.g., reception center, redistribution center, naval station, naval shipyard. 2. A function or mission, e.g., recruiting, schooling.

ACT OF GOD: Under the term "Act of God" are comprehended all misfortunes and accidents arising from inevitable necessity, which human prudence could not foresee or prevent.

ACTUAL KNOWLEDGE: When the order is conveyed directly to the accused.

ADAMISM: A form of exhibitionism in which the subject exhibits himself in the nude.

AD CURIAM: Before the court.

ADDENDA: Attachments.

ADDICT: "The term 'addict' means any person who habitually uses any habit-forming narcotic drug as defined in this chapter so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction."—Section 221, Title 21, Foods and Drugs. The Code of Laws of the United States of America.

ADDITIONAL CHARGES: New and separate charges preferred after others have been preferred are known in military law as "additional charges."

ADDRESSEE: The individual or activity to whom a message is directed for information or action.

ADHESION: The entrance of another state into an existing treaty with respect to only specifically agreed parts.

AD HOC: For this special purpose.

AD ITERIM: In the meantime.

ADJECTIVE LAW: The law of procedure, and court organizations, as distinguished from substantive law, which determines rights and duties.

ADJOURNMENT: This halts the proceedings for overnight or longer than one day.

ADJUDICATE: To settle by a judicial action.

ADJUDICATION: The giving or pronouncing of a judgment or decree; also the judgment given.

ADJUTANT: A staff officer common to most staff organizations, charged with duties that vary from one command to another, but normally responsible to his commander for all official correspondence (except combat commanders), personnel and other records, standardization of forms, distribution of orders, and other specified administrative duties.

AD LITEM: While the action is pending.

ADMINISTRATIVE ADMONITION: An admonition given a person but not issued under the Uniform Code of Military Justice.

ADMINISTRATIVE DEMOTION: A nonpunitive demotion for inefficiency given an enlisted man by administrative action.

ADMINISTRATIVE DISCHARGE: A discharge given by administrative action, as distinguished from a discharge given as a result of a court-martial.

ADMINISTRATIVE LAW: The rules and regulations framed by an administrative body created by a state legislature or by Congress to carry out a specific statute.

ADMINISTRATIVE LEAVE: The status of an employee who is absent from his regular place of duty, but in attendance at a nonfederal meeting, such as that of a learned society, without, however, the benefit of per diem.

ADMINISTRATIVE OFFICER: An officer of the executive department of government.

ADMINISTRATIVE ORDER: One of the formal statements issued in connection with carrying out a specific combat operation or maneuver, which sets forth a plan for the logistical and administrative support of the operation; Loosely a routine order.

ADMINISTRATIVE REMEDY: A remedy that is not judicial, but provided by commission or board created by legislative power.

ADMINISTRATIVE REPRIMAND: A reprimand given a person but not issued under the UCMJ.

ADMINISTRATIVE RESTRICTION: A form of command restraint that a commanding officer may, within his discretion and without imposing arrest, restrict an accused person administratively to specified areas of a military command with the further provision that he will participate in all military duties and activities of his organization while under such restraint. Violations of such administrative restrictions are punishable as are breaches of punitive restriction.

ADMINISTRATIVE SEGREGATION: The close confinement of prisoners separate from the main prisoner group for purposes of control, safekeeping, prevention of injuries to the prisoners, or for other administrative purposes.

ADMINISTRATOR: Court appointed person who administers the estate of decedent.

ADMIRAL: A commissioned rank or person in the US Navy, corresponding to general; Used as a title for Navy officers above the rank of captain, or for Coast Guard officers above the rank of commodore.

ADMIRALTY: 1. A court which has jurisdiction of maritime causes, civil and criminal, controversies arising out of acts done upon or relating to the sea, or within tidal waters, and questions of prize. 2. The system of jurisprudence relating to the jurisdiction and practice of the admiralty courts.

Admission**Affidavit**

ADMISSION: An admission is an utterance, express or implied, of any relevant and material fact, made by a party to the action, which utterance is adverse or inconsistent with his present claims. A party's admission need not have been against his interest at the time it was spoken. All that is required is that it be contrary to his present contention.

ADMISSABLE INFORMATION: That information offered to the court for its consideration which is both relevant and competent.

ADMISSIONS AGAINST INTEREST: Any voluntary statement by one accused of or suspected of crime, relating to some particular fact or circumstance and not the whole charge, which indicates a consciousness of guilt and tends to connect him with the crime charged and to incriminate him is admissible as an admission against interest.

ADMIT: To allow, take, or receive.

ADMIT TO PROBATE: To judge the validity of a will.

ADMONITION: An expression of official displeasure or censure, oral or written, addressed to an officer or enlisted man for a specific act.

ADOLESCENCE: The period commencing at 12 in females, and 14 in males, and ending at 21 years of age.

ADOPTION: 1. The act by which a person takes the child of another into his family and makes him, for all legal purposes, his own. Its force and validity depend upon the statutes of the several states. 2. The affirmation or acceptance of a contract which one is at liberty otherwise to repudiate.

AD REFERENDUM: For further consideration.

ADULTRY: Intercourse by a man, whether married or single, with another man's wife is adultery; but intercourse by a man, whether married or single, with an unmarried woman is only fornication.

AD VALOREM: According to the value.

ADVANCE PAYMENT: An advance of money, made by the Government to a contractor prior to, in anticipation of, and for the purpose of complete performance under a contract or contracts.

ADVERSE POSSESSION: A method of acquisition of title by possession for a statutory period under certain conditions.

ADVOCATE: An officer of the court who assists his clients and pleads their causes in court.

ADVOCATE-GENERAL: The adviser of the crown on questions of naval and military law. See also Judge Advocate.

AFFECT: The subjectively experienced feeling aspect of an emotion.

AFFIANT: One who makes oath to a statement.

AFFIDAVIT: An affidavit is a written declaration under oath, before a competent official, but it is made without notice to any adverse party. Because there has been no opportunity for cross-examination, affidavits are generally inadmissible as evidence on

Affidavit**Aircraft**

the grounds that they violate the Hearsay Rule. Certain exceptions to this are recognized in some states: affidavit of the loss of a document proved by copy; an affidavit of publication of a newspaper notice; affidavits used to obtain a provisional remedy as evidence in uncontested probate proceedings.

AFFINITY: Relationship by marriage between the husband and the blood relations of the husband.

AFFIRM: 1. To ratify or uphold. 2. To make a solemn religious assertion in the nature of an oath.

AFFIRMATION: An "affirmation" is a solemn and formal, external pledge, binding upon one's conscience, that the truth will be stated.

AFFRAY: At common law, an affray is the fighting of two or more persons in a public place, to the terror or alarm of the people. It is a misdemeanor. In some states the statutory definition is slightly different.

A FORTIORI: For stronger reasons.

AGENDA: Things to be done.

AGENT: A person authorized to create rights and obligations for another person, called the principal. The authority may be derived from contract made with the principal, or by appointment of the principal without contract, or may be inferred from the principal's conduct. The principal is liable not only on the contracts made for him by his agent but also for torts the agent may commit in the course of transacting the principal's business.

AGGRAVATED ARSON: The willful and malicious burning or setting on fire of an inhabited dwelling, or of any other structure, movable or immovable, wherein the knowledge the the offender there is at the time a human being.

AGGRAVATED ASSAULTS: An assault with intent to kill, to do great bodily harm, to rape, to rob, etc., is called an aggravated assault, as distinguished from a common assault, because the assault is aggravated by the concurrence of the felonious intent with which it is made. At common law aggravated assaults were punished more severely than common assaults, but they were not recognized as distinct technical offenses. All assaults were merely misdemeanors.

AGGRAVATION: That which increases the enormity of a crime or the injury of a wrong.

AIDER AND ABETTOR: One who shares the criminal intent or purpose of the perpetrator, and hence liable as a principal.

AIDING, OR ATTEMPTING TO AID, THE ENEMY: Aiding the enemy with arms, ammunition, supplies, money or other thing, or, without authority, harboring or protecting, or giving intelligence to, or communicating or correspondence with the enemy, either directly or indirectly, is punishable by death or as a court-martial or military commission may direct.

AIRCRAFT: Comprising generally the air-borne craft of the services, both heavier and lighter than air.