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U.S. ARMY AND NAVY MANUAL OF MILITARY
GOVERNMENT AND CIVIL AFFAIRS.
FM 27-5.







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MILITARY GOVERNMENT
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ARMY-NAVY MANUAL OF MILITARY GOVERNMENT AND CIVIL AFFAIRS

(War Department Field Manual 27-5)

(Navy Department OpNav 50E-3)

WASHINGTON 25, D. C., 22 December 1943.

Military necessity in the conduct of operations as well as the obligation upon invading forces under international law requires that such forces institute military government in occupied areas.

This manual states the principles which serve as a general guide for the War Department, the Navy Department, theater commanders, and their subordinates in planning and exercising military government and control of civil affairs in territory occupied by forces of the United States. It is for the use of the Army and the Navy, whether they are acting alone, jointly, or in concert with forces of allied countries. Such terms as "commanding officer," "military," and "forces" have reference to either or both branches of the service.

The principles and basic policies laid down in this manual should be followed in their broad lines unless special circumstances dictate otherwise. As to minor policies and details of execution, however, commanding officers are not only permitted but expected to depart from what is directed herein, so far as may be necessary in order that the plan of military government in any area may suit the people, the country, the time, and be integrated with military operations.

For restraints on the discretion of the theater commander in dealing with persons and property in occupied territory, see War Department Field Manual 27-10 (Rules of Land Warfare).

22 December 1943.

This manual, War Department Field Manual 27-5 and Navy Department OpNav 50E-3, supersedes War Department Field Manual 27-5, 30 July 1940.

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SECTION I

GENERAL

I. MILITARY GOVERNMENT—CIVIL AFFAIRS.

a. Military Government. The term "military government" is used in this manual to describe the supreme authority exercised by an armed force over the lands, property, and the inhabitants of enemy territory, or allied or domestic territory recovered from enemy occupation, or from rebels treated as belligerents. It is exercised when an armed force has occupied such territory, whether by force or by agreement, and has substituted its authority for that of the sovereign or a previous government. Sovereignty is not transferred by reason of occupation, but the right of control passes to the occupying force, limited only by international law and custom. The theater commander bears full responsibility for military government. He is, therefore, usually designated as military governor, but may delegate both his authority and title to a subordinate commander.

b. Occupied Territory. The term "occupied territory" is used to mean any area in which military government is exercised by an armed force. It does not include territory in which an armed force is located but has not assumed supreme authority.

c. Civil Affairs. The term "civil affairs" is used to describe the activities of the government of the occupied area and of the inhabitants of such an area except those of an organized military character. "Civil affairs control" describes the supervision of the activities of civilians by an armed force, by military government, or otherwise. The term "civil affairs officers" designates the military officers, who, under the military governor, are engaged in the control of civilians.

2. MILITARY CONTROL BY AGREEMENT OR CONVENTION.

An armed force may exercise control over civilians to a lesser degree than under military government through grant of, or agreement with, the recognized government of the territory in which the force is located, usually made prior to entering the territory, but subject to modification by the government and the military commander as circumstances require. In such cases military necessity has not required the assumption of supreme authority by the armed forces, but limited control over civilians is exercised in accord with these grants or agreements and the territory is not considered "occupied." While this manual is primarily intended as a guide to military government, some of the principles set forth may be applied in these other situations as circumstances indicate.

3. OCCASION FOR MILITARY GOVERNMENT.

Military government must be established either by reason of military necessity as a right under international law, or as an obligation under international law. In this connection, attention should be given to the following considerations:

a. Military necessity may require an armed force to establish military government to assist in the accomplishment of its military objective. The right in such cases is recognized by international law.

b. As the military occupation of enemy territory suspends the operation of the enemy's civil government, it is an obligation under international law for the occupying force to exercise the functions of civil government in the restoration and maintenance of public order. Military government is the organization which exercises these functions. An armed force in territory other than that of an enemy likewise has the duty of establishing military government when the government thereof is absent or unable to maintain order.

c. These reasons, concurrently as well as singly, may dictate the establishment of military government.

d. Military government is not confined to belligerent occupation. Military necessity may require its establish-

ment in such areas as the following, with or without the consent of the existing or a prior government:

(1) Allied or neutral territory which has been dominated or occupied by the enemy.

(2) Technically neutral or allied territory actually unfriendly or hostile.

(3) Genuinely allied or neutral territory, the occupation of which is essential to a military operation.

(4) Domestic territory recovered from enemy occupation or from rebels treated as belligerents.

4. OBJECT OF CONTROL. The object of civil affairs control through military government is to assist military operations, to further national policies, and to fulfill the obligation of the occupying forces under international law. This assistance is rendered by maintaining order, promoting security of the occupying forces, preventing interference with military operations, reducing active or passive sabotage, relieving combat troops of civil administration, and mobilizing local resources in aid of military objectives and carrying out governmental policies of the United States which usually are predetermined. Further, the efficient conduct of a military government as a part of one military operation will promote military and political objectives in connection with future operations.

5. DEGREE OF CONTROL. The occupant may demand and enforce from the inhabitants of the occupied area such obedience as may be necessary for the purposes of war, the maintenance of law and order, and the proper administration of the area under the unusual circumstances of hostile occupation. In return for such obedience, the inhabitants should be granted freedom from all unnecessary or unwarranted interference with their individual liberty and property rights. Under military government the degree of control maintained by the occupying forces varies greatly according to the relations which have previously existed between the government of the occupying forces and the government of the territory occupied, the

existing attitude of officials and inhabitants, the projected military operations, and current military, political, economic and other pertinent circumstances. In the territory of an enemy, rigid control of civil affairs is necessary if the objectives of military government are to be achieved. In neutral, allied, or domestic territory, sufficient cooperation from the officials and inhabitants may be obtained to permit greater latitude for action by local officials under broad policies and general supervision of the occupying forces, particularly in those governmental fields least important to the military forces in current or pending operations. In any territory, as conditions approach normal, the control exercised by a military government will be relaxed, the supervision of the occupying force will become less direct, and supreme authority will finally be released to a recognized sovereign power.

6. PERIOD OF CONTROL. The period of time during which military government or civil affairs control is maintained will vary, depending on whether military operations are continuing, the use or nonuse of the area as a base for future operations, whether the territory is belligerent or otherwise, the degree of cooperation of the inhabitants, the national policy regarding the future position of the territory, and other military and political considerations. As long as military operations continue, some degree of control will be necessary. Military government may extend beyond such operations until it achieves the ends of national policy toward which the operations are directed.

7. AUTHORITY FOR CONTROL. Military government is exercised by virtue of and in accordance with rules of international law. Authority for the exercise of such control is derived from the mere fact of occupation or from some form of agreement such as an armistice, a convention, or a treaty. The more important of these rules are set forth in the military manuals of the leading civilized countries and in international treaties, such as the Hague Convention No. IV, 1907 (Annex Sec. III). The rules

which govern the armed forces of the United States are set forth in the War Department manual FM 27-10. While the Hague rules apply legally only to enemy territory, as a matter of policy they are generally applied to other territories occupied by United States forces.

8. EXERCISE OF CONTROL A COMMAND RESPONSIBILITY. The exercise of civil affairs control is a command responsibility. In occupied territory the commander, by virtue of his position, has supreme legislative, executive, and judicial authority, limited only by the laws and customs of war and by directives from higher authority.

9. GENERAL PRINCIPLES AND POLICIES IN THE CONDUCT OF CIVIL AFFAIRS.

a. Military Necessity. The first consideration at all times is the prosecution of the military operation to a successful conclusion. Military necessity is the primary underlying principle for the conduct of military government. So long as the operation continues, it is the duty of the commanding officer to exercise such control and to take such steps in relation to the civil population as will attain the paramount objective.

b. Supremacy of Commanding Officer. It follows from the basic principle of military necessity that the theater commander must always have full responsibility for military government.

c. Civil Affairs Jurisdiction. The paramount interest of the combat officer is in military operations. The paramount interest of the civil affairs officer is in dealing with civilian relationships of concern to the commander. Such interest will be expressed in restoring law and order and in returning to the civilian population certain facilities or services and restoring living conditions to normal, insofar as such activities will not tend to interfere with military operations. Whether interference with military operations will result shall be determined by the commanding officer after giving consideration to the recommendations of his combat and civil affairs officers.

d. Economy of Personnel. Since efficient control of the civilian population and mobilization of local civilian manpower will lessen the need for garrison forces, adequate civil affairs personnel will in the long run prove an economy. The stimulation and supervision of production and use of local resources will likewise make savings in shipping and supply. All plans and practices of military government should be adopted with this in view and at least the minimum necessary number of Army and Navy personnel trained in civil affairs be provided. The duties of civil affairs officers should be confined wherever possible to supervision.

e. Flexibility. The administration of civil affairs will vary widely in different areas depending upon many factors, including the military forces present and their disposition, the structure of the native government, the geography of the area, the economic instructions, the characteristics of the people and their officials, the degree of control which may be necessary, the presence or absence of civilian officials, the degree of destruction of local resources, the personnel available, and the basic policies to be followed, including the contemplated post-war position of the territory. It will probably vary widely even in the same territory from one time to another as when the threat of combat declines or ceases. It follows that the utmost flexibility must be provided in the plans and in the conduct of civil affairs.

f. Continuity of Policy. The administration of civil affairs in occupied territory should be so planned and conducted that a reasonable degree of continuity of policy and personnel will result. Frequent changes of policies and orders will injure the effectiveness and prestige of the administration, while frequent changes of personnel will deprive the occupying forces of the services of officers when they have become of greatest value.

g. Treatment of Population. (1) International law requires and military necessity dictates just and reasonable treatment of the inhabitants of occupied territory to minimize their belligerency and obtain their cooperation. The

cooperation of the inhabitants, where it can be secured, is of direct advantage to the occupying forces in maintaining public order and accomplishing the objective of military government. While the welfare of the inhabitants should be considered also for humane reasons and should be safeguarded as far as military requirements permit, the primary purposes of just treatment are to facilitate the military operations and to meet obligations imposed by law. Proper treatment will be of direct benefit to the occupying forces in preventing chaos, promoting order, and in the procurement of labor, services, and supplies. It will have a favorable influence upon the present and future attitude of the population toward the United States and its allies. It will provide incentive to populations of other territories to accept our future occupation. Such a policy, however, should not affect the imposition of such restrictive or punitive measures as may be necessary to accomplish the objectives of military government in any area, but especially in one in which the population is aggressively hostile and engages in active and passive sabotage.

(2) The treatment of the population of any occupied territory will vary, depending upon the attitudes of the people toward the occupying forces; their degree of cooperation with these forces; the degree of their industrial, economic, political and moral development; and the political, diplomatic, and military policy of our government toward the government of the territory occupied. The civil affairs officers should become fully informed concerning the local population and their customs, institutions and attitudes, and should direct military control in the light of the local situation and requirements. In considering the treatment of populations in occupied areas, the following factors should be taken into account:

(a) Generally, less restrictive measures will be necessary in dealing with nationals of friendly or nonhostile countries than with nationals of enemy countries.

(b) The taking of hostages, the imposition of collective fines, or the carrying out of reprisals become military necessities in some situations though such measures should only

be taken as an unavoidable last resort to induce a hostile population to desist from unlawful practices. Such actions are usually an indication of weakness of the occupying forces and of ineffective control of the inhabitants. Careful consideration should be given to the question of determining whether such devices will serve as a deterrent or aggravate an already difficult situation. (See FM 27-10.)

(c) Force may be used to the extent necessary to subdue those who resist the authority of military government or to prevent the escape of prisoners or persons suspected of crime. Persons accused are entitled to a fair trial before the imposition of punishment. The theater commander has the power to provide immediate trial, when an example is necessary. Sentences of military courts should be proportionate to the offense and the need for a deterrent effect. The maximum punishment should not be awarded automatically. The nature of sentences to be imposed and whether they should be carried out in public, depends in part upon the customs and habits of the population and the types of punishment which have been found most effective in the particular locality.

h. Retention of Existing Laws, Customs, and Political Subdivisions. Local officials and inhabitants of an occupied territory are familiar with its laws, customs, and institutions. To avoid confusion and to promote simplicity of administration, it is advisable that local laws, customs, and institutions of government be retained, except where they conflict with the aims of military government or are inimical to its best interests. In general, it is unwise to impose upon occupied territory the laws and customs of another people. Any attempted changes or reforms contrary to local custom may result in development of active or passive resistance and thereby handicap the operation of military government. For similar reasons it is advisable, if possible, to retain existing territorial divisions and subdivisions. Laws and customs in one political division of a country may differ widely from those in another and the inhabitants therefore may be accustomed to the decentrali-

zation of governmental authority which usually parallels such divisions.

i. Retention of Local Government Departments and Officials. (1) Offices which are unnecessary or detrimental to military government will be temporarily discontinued or suspended by the military commander as military governor. In some areas this may be the case with entire departments or bureaus of the government.

(2) Such legislative bodies as are still in existence will usually be suspended. Supreme legislative power is vested in the commanding officer in the theater of operations.

(3) Usually it will be necessary to remove high ranking political officials from office. This action will include the removal of the nominal and actual heads of the national government, cabinet ministers, and the heads of principal political divisions. No permanent appointments to such positions should be made by the military governor without approval of higher authority because of the political implications of such appointments. While membership in unfriendly partisan organizations or political parties may not by itself be cause for removal, such officials as have been active leaders of such organizations will ordinarily not be retained in office, nor will other officials who prove to be unreliable or untrustworthy. Willful failure of retained local officials to perform their duties satisfactorily should be regarded as a serious offense against the military government.

(4) So far as practicable, subordinate officials and employees of the local government should be retained in their offices and made responsible for the proper discharge of their duties, subject to the direction and supervision of civil affairs personnel.

(5) In some areas the native population may have had very limited participation in government because of the domination of a foreign power. In such areas civil officials may have fled when invasion takes place, or it may be inexpedient or unsafe for them to continue in office, even if they remain. In territories of this sort it may become

necessary for military government to train native personnel to take over certain positions.

(6) Civil affairs personnel should as far as practicable deal with the inhabitants of occupied territory through such officers and employees of the local government as are retained or appointed. When an official is removed, a replacement should be sought from among the inhabitants who by training and experience is qualified to take over the duties of the office. In the selection of officials, careful consideration should be given to their reliability, their willingness to cooperate with the military government, their positions in the community, as well as their other qualifications for the particular position. Appointments from a political faction or clique, regardless of their friendly sentiment, should be avoided, except in unusual circumstances. In some circumstances it may be determined that the duties of the position can better be performed by a representative of the military government.

(7) Neither local political personalities nor organized political groups, however sound in sentiment, should have any part in determining the policies of the military government. Civil affairs officers should avoid any commitments to, or negotiations with, any local political elements except by directions from higher authority.

(8) So far as possible, civil affairs officers should confine themselves to supervision and avoid assumption of the duties of the operating head of a political subdivision or of a department of government.

(9) It may be advisable to provide protection for persons who continue in, or are assigned to, local public office. They may be accused of disloyalty by some inhabitants of the area. Their persons and property may be threatened or endangered.

(10) Civil affairs officers and personnel, as representatives of the United States government, should keep their relations with local officials and inhabitants on a strictly official basis, avoiding unofficial social relationships. All personal favors or gifts which may be offered by civilians are to be refused unless authorized by higher authority.

j. Political Prisoners. Persons imprisoned by the previous government, for political or racial reasons only, should be released after investigation, unless directed otherwise by higher authority, with warning that political activity on their part, during the period of military government, will not be tolerated.

k. Economics. The basic economic policy of United States military government is twofold: first, to revive economic life and stimulate production in order to reduce to a minimum the needs of the area for United States and allied assistance and to develop the area as a source of supply for further operations, and second, to use available goods and services as efficiently as possible for the satisfaction of military and civilian needs. Corollaries of this basic policy include the following:

(1) An equitable distribution of necessities, such as food, fuel, medicine, and clothing, should be instituted as quickly as possible. To this end it will be necessary to reestablish, to some degree at least, public utilities, transportation, communications, and trade. It will often be necessary to enforce controls, which may or may not be the same as those in effect before occupation, over various aspects of economic life, including prices; over marketing by rationing, by measures to bring hoarded goods out of hiding, and by suppression of black markets; over imports and exports; over money and banking. The reestablishment of communications will normally require the instituting of censorship. At times military governments will have to engage actively in some types of economic activity in order to assure that the armed forces and the population receive at least a minimum of necessary goods and services.

(2) Such plans as may be practicable should be laid in advance for the resumption of production, especially in agriculture, fishing, and manufacture, but also in mining, forestry and the service trades. Preliminary decisions must be reached as to which types of economic activity are most important. Where military occupation is effected these plans must be carefully checked to determine what modifications are necessary especially in view of damage done to

facilities. In most cases it will be necessary to make rapid surveys of usable facilities and of undeveloped resources before rehabilitation plans can be completed.

(3) Steps must be taken to put into immediate effect plans for the rehabilitation of production. In order to provide minimum military and civilian supplies it may be necessary to provide farmers and manufacturers with essential equipment and materials. Labor supply must be provided for necessary activities. It will be necessary to prevent abnormal wage increases, insure regular and adequate hours of work and control labor organizations. Steps should be taken to meet the most pressing needs, in some cases by making available United States or allied material immediately upon occupation. Priorities should be established for the use of scarce items, and in some cases to allocate particular material to specific uses. Most industries will need supervision, and some may need assistance in management, especially in the early days. In enemy territory it may be advisable to provide skilled managers to replace those who may have fled or who do not cooperate sufficiently with the occupying forces.

l. Health. Protection of the health of the occupying forces as well as humanitarian reasons determine the policy of safeguarding and improving the health of the population in occupied territory. Dead must be buried; sanitary disposal of sewage, garbage and refuse organized; water supply kept from pollution; food inspection established; necessary insect control instituted and other steps taken to provide precautions against the spread of disease. Such medical care for civilians as may be practicable should be provided.

m. Respect for Religious Customs and Organizations. International law requires that religious convictions and practices be respected. Therefore, places of religious worship should not be closed unless necessary as a security or sanitary measure.

n. Discriminatory Laws. Laws which discriminate on the basis of race, color, creed, or political opinions should be annulled as the situation permits. However, the prac-

tice of such customs or the observance of such traditions as do not outrage civilized concepts may be permitted.

o. Speech and Press. To the extent that military interests are not prejudiced, freedom of speech and press should be maintained or instituted.

p. Archives and Records. Archives and records, both current and historical, of all branches of the government of the occupied territory are of immediate and continuing use to military government. It is therefore essential to seize and protect such archives and records.

q. Mail and Documents. Mail and documents in large quantities will often be found in post offices or other central communications points. As this represents a source of valuable intelligence information it should be the policy to seize and protect such material as well as to expedite its delivery to proper censorship examination stations.

r. Shrines and Art. It is the policy of the United States, except where military necessity makes it impossible, to preserve all historical and cultural monuments and works, religious shrines and objects of art.

SECTION II

CIVIL AFFAIRS RESPONSIBILITIES

10. DIVISION OF RESPONSIBILITY BETWEEN ARMY AND NAVY. Responsibility of the Army and Navy for the control of civil affairs in occupied areas will be determined by the Joint Chiefs of Staff of the United States Army and Navy or by the Combined Chiefs of Staff of the United States and one or more of its allies, depending upon the nature of the operation. In general, it is expected that the responsibility in continental areas will be with the Army, while the control of civil affairs in island areas and in some ports and other areas contiguous to the sea will be delegated to the Navy. This is not a fixed rule or principle as it may be advisable to assign to the Army the control of certain island areas and ports. In such areas naval civil affairs officers may be assigned to the staffs of army commanders, either to assist in civil affairs control or

to act as liaison between the two branches of the service. The Navy may control, temporarily at least, island areas which present many of the complexities of the larger land areas, or it may participate in land occupations through its operations in ports or on inland waterways. Where there is naval control of civil affairs, army officers may serve with naval commanders in order to facilitate an ultimate transfer of the area from the Navy to the Army. When available, qualified naval civil affairs officers should be assigned to regular civil affairs duties with army civil affairs organizations.

11. CONDITIONS LIKELY TO BE MET IN OCCUPIED TERRITORIES.

The many and varied tasks involved in civil affairs control may have to be performed under the most difficult circumstances. In most occupied territories one or more of the following conditions may exist in varying degrees. Civil administration may have broken down wholly or in part. Officials may have fled or have been deposed or be unreliable. There may be rioting, looting, or other forms of disorder, particularly if the local police force has disintegrated. Agriculture and industry may have been prostrated or wrecked. Economic life may have been reshaped to serve a "new order" or disrupted by the "scorched earth" policy of a retreating enemy. There may be serious shortages of foodstuffs and other essential materials. If the area has been fought over or bombed, widespread destruction of buildings and other installations, public utilities, transportation and communication facilities, and harbors may be anticipated. Large numbers of people may be homeless. Many will be unemployed and without means of support until orderly processes are restored. The enemy may have brought in large numbers of forced laborers from distant areas, who will desperately seek repatriation. There may be acute shortages of professional personnel, such as doctors, lawyers, engineers, and other specialists. Hospitals and other institutions may have been destroyed. The wounded may have received little or no attention. The dead may remain unburied. Water sup-

plies may have been polluted. Medical supplies may have been reduced to the vanishing point. The health and morale of the population may have been undermined. There may be few facilities to prevent the spread of pestilence from cities and concentration camps.

12. FUNCTIONS OF CIVIL AFFAIRS OFFICERS. The chief function of the civil affairs officers during hostilities is to further the mission of the combat forces in every way possible. As areas are successively occupied he will assist by controlling the civil population so that it will not interfere with military operations. He will help reconstitute civil administration so that local resources in manpower and in strategic material may be utilized to further military operations as authorized by the laws of war. His task may embrace a wide variety of activities, since the responsibilities of his commanding officer may range all the way from controlling a few simple functions of government in a small isolated rural region or a primitive island or group of islands, to controlling the many and complex functions of government in a large, densely populated, industrialized, continental area. In the occupation of such territories for a considerable period of time, the civil affairs officer will in most cases be concerned with the following and other activities:

a. Political Government and Administration. The supervision, or even, in rare instances, the actual administration of the chief political offices of the government, such as, for example, the offices of the chief executive, ministers, cabinet officers, secretariats, and other high ranking executive or administrative officials on the national, provincial, or municipal levels.

b. Maintenance of Law and Order. The preparation, issuance, and enforcement of proclamations and ordinances regulating the conduct of the inhabitants; re-establishment of the old police force or the creation of a new one, supplemented by military police, marines or shore patrol; prevention, detection and prosecution of crime; maintenance of public order and security of persons and property; regulation of relations between our forces

and the inhabitants; administration of prisons; control of liquor and narcotics; control of traffic; and prevention and control of fire.

c. Courts and Law. The establishment and administration of military commissions and provost courts and the determination of their jurisdiction and procedure; supervision and control, or closing, of local criminal and civil courts; supervision of the local bar; decisions as to modification or suspension of local criminal and civil laws; acceptance, investigation, and reports of claims, and, in some cases, the operation of claims commissions; general legal advice on all aspects of civil affairs. Local courts concerned with litigation and other legal matters among civilians are under the supervision of civil affairs officers. Such matters involving civilians and members of the armed forces are also of primary concern to the civil affairs officers. Matters within the jurisdiction of courts martial are of no concern to civil affairs officers.

d. Civilian Defense. The supervision and strengthening of existing local organizations, or the creation of new ones, for civilian defense so as to provide for air-raid warnings, blackouts, shelters, fire fighting, casualty services, emergency medical care for civilians, evacuation, demolition, rehabilitation, and other activities to relieve the occupying forces of as much responsibility for civilians as possible in the event of bombing, shell fire, or other military operations.

e. Civilian Supply. Arrangements for emergency relief, directed through accepted channels, such as food, clothing, shelter, and medical aid, to meet minimum subsistence standards, preserve order among the inhabitants, and enable them to carry on with their agricultural, industrial, commercial, and other activities which may be of direct benefit to the occupying forces; establish local organization to administer any emergency relief programs; provide for other essential civilian goods which may be necessary to the reestablishment of law and order.

f. Public Health and Sanitation. Such activities concerning the control, prevention, and treatment of dis-

ease; the supervision and rehabilitation of hospitals; the furnishing of medical and sanitation supplies; the protection of food and water supplies; the disposal of sewage and waste; and the promulgation of such other medical and sanitation measures as will improve or preserve the state of public health and protect the occupying forces.

g. Censorship. Censorship of civilian communications is effected in order to accomplish two objectives; the protection of security, both military and civilian; and the obtaining of intelligence information. It will normally be established in the very earliest phases and continue throughout the period of occupation. Thus, its operation by civil affairs will require close liaison with the military intelligence staff for the area from whom censorship policies and directives emanate.

h. Communications. Cooperation with signal or communication officers in the use of civilian communication systems by the occupying forces; reestablishment, at the proper time, of civilian communication facilities; control, supervision of all civilian radio, telephone, telegraph, cable, and postal communication and activity. Although civil affairs agencies responsible for supervising communications will not operate censorship they will be required to cooperate with its enforcement.

i. Transportation. Cooperation with appropriate arms and services in connection with military use of private or state-owned railroads, trucks, busses, vehicles, roads, waterways, and airfields; reestablishment at the proper time of all essential civilian transport facilities; control or supervision of all such facilities.

j. Port Duties. Assistance to port directors; control of civilian movements in port areas, including civilians who live in houseboats and small harbor craft; procurement and control of necessary labor; handling and routing of supplies ashore and inland; liaison between naval authorities afloat and ashore and civil affairs organizations ashore.

k. Public Utilities. Cooperation with appropriate arms and services in procuring, restoring, and controlling public utilities for military and civilian use.

l. Money and Banking. Closing, if necessary, and guarding of banks, bank funds, safe deposit boxes, securities and records; providing interim banking and credit needs; liquidation, reorganization, and reopening of banks at appropriate times; regulation and supervision of credit cooperatives and other financial agencies and organizations; execution of policies on currency fixed by higher authority, such as the designation of types of currency to be used and rates of exchange; supervision of the issue and use of all types of money and credit; declaration of debt moratoria; prevention of financial transactions with enemy occupied or enemy territory.

m. Public Finance. Supervision and audit of the budget, revenues, and expenditures; supervision of tax collection, fines, assessments, and the handling of public funds, including revenues from government monopolies and investments; provision for necessary financial facilities for civil administration; levying of contributions.

n. Commodity Control, Prices, and Rationing. Supervision of the distribution of food and other supplies; control of prices; rationing; prevention of hoarding and black markets; regulation of exports and imports; allocation of imports for local distribution; regulation of military requisitions and purchase; establishment of policies to be followed in stimulating local production.

o. Agriculture. Encourage agricultural production and the establishment and administration of programs for developing self-sufficiency.

p. Industry and Manufacture. Development and supervision of such industrial and manufacturing facilities, including lumbering, mining, petroleum production, and fishing as may be indicated to further allied interests and satisfy the immediate needs of the civilian population.

q. Commerce and Trade. Stimulation of wholesale and retail trade in order to restore normal movement of essential civilian goods from producer to consumer and thus further economic stabilization.

r. Labor. Procurement of labor to assist any service in the occupying forces, procurement of labor for rehabilita-

tion and reconstruction in the occupied territory, the prevention of abnormal wage increases, insurance of regular and adequate hours of work, and other conditions of employment; control of labor organizations and the handling of other labor relations problems.

s. Custody and Administration of Property. Custody and administration of all property and enterprises owned wholly or in part by an enemy government, or enemy nationals of countries other than that occupied; custody and administration of all property and enterprises owned wholly or in part by other governments, if taken over by the occupying forces; custody and administration of private property susceptible of direct military use and not in the custody of another branch of the armed services such as transportation and communication facilities, arms, ammunition and other implements of war; custody and administration of privately owned, abandoned or other property, if taken over by the military government.

t. Information. Subject to the directives of the theater commander, interpretation to inhabitants of occupied territory of the purposes of the occupation, counter propaganda, preparation of press, radio, motion picture and other releases, both for internal and external consumption; general advice and assistance in various matters involving the inhabitants in which carefully planned action will either avoid offense or improve relations between the occupying forces and the inhabitants and their attitude toward the United States and its allies.

u. Disposition, Repatriation, or Relocation of Displaced Persons and Enemy Nationals. Control and disposition of allied prisoners of war, civilian internees and forced laborers; political prisoners; displaced nationals of the occupied area including demobilized members of the enemy armed forces; and civilian nationals of other enemy countries.

v. Education. Supervising educational system; opening of schools and prevention of subversive or harmful instruction.

w. Public Welfare. Supervising public and private institutions for the care of children, the poor, the handicapped and the aged, and the encouragement of necessary local organizations to operate such institutions.

x. Records. Keeping full and complete records for the military commander of everything that is done by him or under his authority in any of the above or other fields of military government so that he may render an accurate accounting. Such records will be essential at peace conferences, before claims commissions, for investigatory bodies and for historical purposes.

y. Miscellaneous. (1) In addition, the civil affairs officer will be concerned with such other civilian activities as may in any way affect the occupying forces or the war effort of the United States and its allies. Cutting across all of the foregoing activities will be problems common to most or all of them, such as the selection and use of local officials and personnel, matters of coordination and priority and the obtaining of information and intelligence.

(2) **Theater of Operations.** Within each staff, many problems will arise which will require coordination between civil affairs officers and other sections whether the operations be single, joint or combined. Members of the civil affairs section of a staff will have relations with other staff sections, in connection with mutual problems, such as the following, illustrated from Army organization:

(a) For coordination and supervision—

1. G-1. Procurement, classification, reclassification, assignment, pay, promotion, transfer, retirement, discharge, decorations, citations, honors, awards, leaves of absence, furloughs, rewards, and punishment of civil affairs personnel; internal arrangements of headquarters, personnel statistics; sanitation, burials.
2. G-2. Collection and transmittal of information relating to the enemy population by, and transmittal of intelligence to, the civil affairs section; requisitions for maps; regulation of

ensorship and other measures to preserve secrecy; countersubversive activities.

3. *G-3*. Organization, equipment, and employment of military police units; training of civil affairs personnel, use of signal communications.
4. *G-4*. Procurement of supplies in enemy territory; distribution of supplies to civil affairs groups; control of transportation; construction and maintenance of roads, docks, and utilities; traffic control; evacuation and hospitalization; salvage; property and funds; procurement of shelter and facilities; employment of native labor; preparation of civil affairs annex to the administrative order.

(b) For special staff functions—

1. *Antiaircraft officer*. Passive defense measures.
2. *Chemical officer*. Collective protective measures.
3. *Engineer*. Construction and maintenance of roads, docks, and utilities; distribution of maps.
4. *Headquarters commandant*. Detail of orderlies and messengers; messing and quartering of civil affairs personnel; office space.
5. *Provost Marshal*. Employment of military police on civil affairs duty; control of conduct of troops in relation to the civil population.
6. *Signal officer*. Use of military and commercial signal communications for civil affairs purposes.
7. *Surgeon*. Health and sanitation; use of civilian hospitals for military purposes; allocation of medical supplies to the civil population.
8. *Adjutant General*. Distribution of routine orders; classification, reclassification, assignment, promotion, transfer, replacement, discharge, decorations, citations, honors, awards, leaves of absence, and furloughs; supply of publications; operation of office procedure.
9. *Judge advocate*. Reviews of the records of military commissions.

10. *Quartermaster.* Distribution of quartermaster equipment and supplies; allocation of food and quartermaster supplies to the civil population.
11. *Transport officer.* Use of transportation by civil affairs personnel; use of railroads for civil affairs purposes.
12. *Public relations officer.* Press, radio, motion picture, and similar releases.

(3) Personal Relations. Not only is it necessary for members of civil affairs sections to know the functions of the various sections of the general and special staff, but it is desirable that they cultivate cordial personal relations with the officers thereof. Teamwork between staff sections is essential. It is assured not only by staff conferences but by individual personal contact.

SECTION III

ORGANIZATION

13. GENERAL. In military occupations carried on by the Army, general control over military government is exercised by the Chief of Staff for the Secretary of War through the commanding officer in the theater of operations. In military occupations carried on by the Navy the same general control is exercised by the Commander in Chief, United States Fleet and Chief of Naval Operations for the Secretary of the Navy through the fleet or force commander in the theater of operations.

a. Planning and formulation of policies for military government are carried out under the direction of the Joint Chiefs of Staff in operations in which both the United States Army and Navy participate.

b. When the operation is carried out by the combined forces of the United States and one or more of its allies, civil affairs planning and operations are executed under the direction of the Combined Chiefs of Staff of the two governments.

14. WAR AND NAVY DEPARTMENT ORGANIZATION. The military agencies designated by the Secretaries of War and Navy to plan and formulate policy are the Civil Affairs Division of the War Department and the Office for Occupied Areas of the Navy Department.

a. The Civil Affairs Division, in the Office of the Chief of Staff, informs and advises the Secretary of War on all matters within the purview of the War Department other than those of a strictly military nature in areas occupied as a result of military operations. This Division has as its responsibility the formulation of broad War Department policies with regard to military government, and the planning and coordination of civil affairs in areas occupied as a result of joint Army and Navy operations. Under general policies formulated by the Civil Affairs Division of the War Department, the selection and training of personnel for civil affairs is conducted under the supervision of the Provost Marshal General.

b. The Office for Occupied Areas, part of the Office of the Chief of Naval Operations, is charged with the planning, training of personnel, and preparation of materials for military government in areas of paramount naval interest, and in coordination with the War Department in areas of joint interest.

15. ORGANIZATION IN THEATERS OF OPERATIONS. The theater commander is responsible for detailed planning and operation of military government under the general directives and plans received from higher authority. The theater organization for civil affairs planning and control depends on the mission of the theater commander, on the organization of the military forces in the area, on the military situation, on the structure of the existing government, on the geography of the area, on the economy and characteristics of the people, on the powers and characteristics of their officials, and on other relevant circumstances.

16. TYPES OF ORGANIZATION. Generally speaking, there are two types of civil affairs organization—operational and territorial.

a. In the operational type, commanders of combat units or of military administrative areas are responsible for civil affairs within their respective zones of operation or areas; and the relationship of civil affairs officers of one echelon to civil affairs officers of a higher or lower echelon are those prescribed for staff officers in the appropriate manuals. The chain of civil affairs control conforms to the operational or administrative chain of command.

b. In the territorial form, a separate civil affairs organization is created under the direct command of the theater commander, or under a subordinate commander. Under this form, the chief civil affairs officer of a territory is responsible to the military governor for the military government throughout the area, and has command of subordinate civil affairs officers assigned to political subdivisions within the territory. The line of communication within the organization is direct from higher to lower civil affairs officers. Local civil affairs officers are not responsible to operational unit commanders stationed in the area with regard to the administration of civil affairs, but report directly to higher civil affairs officers. It is a function of command to determine the type of organization to be utilized at any particular time and place. The system adopted may often involve features of each type. In many cases the occupation will be progressive, and one type of organization will predominate in one portion of a theater, while the other type predominates in another portion. Under settled conditions in continental areas the territorial form will usually prevail.

17. ADVANTAGES AND DISADVANTAGES OF EACH TYPE.

a. Control through Operational Unit and Military Administrative Area Commanders. (1) Advantage.

The advantage of control through operational and military administrative area commanders is that authority for all activities, civil as well as military, is concentrated in the hands of the commander who is responsible for operations, supply, and evacuation. This insures that all activities,

including relations between troops and inhabitants, within the given zone of operations or military administrative area, will be coordinated in support of the operation for which the commander is responsible. It obviates possible friction and misunderstandings which are likely to arise when two mutually independent officers with overlapping responsibilities are present.

(2) Disadvantages. The disadvantages of control through operational unit and military administrative area commanders are:

(a) Such commanders, concerned with combat training and operations, supply and evacuation, are apt to overlook the importance of civil affairs duty to operations, as well as to diplomatic and economic objectives.

(b) Combat units are generally subject to frequent movement, resulting in repeated changes in the personnel assigned to exercise control over local officials, with consequent variations in policy. Only to a limited extent can this disadvantage be minimized by the retention in the area, and attachment to incoming units, of civil affairs officers formerly on the staff of the outgoing unit.

(c) Combat units will necessarily be disposed according to strategical and operational requirements, and only by chance according to local boundaries. Consequently, the territory assigned as the zone of operation of a combat unit will usually embrace parts of the territory of numerous political subdivisions. To a lesser degree, this may also be true of the territory assigned as the area of a military administrative unit. In such cases, the same set of local officials may receive orders from the commanders of all the operational or administrative units whose zone of operations or areas lie within or partly within the political subdivision. The headquarters of the unit may not be located at the seat of the local governmental authority. In such case, in order to provide effective control over civilian officials, the civil affairs section of the staff of the unit may have to be divided into two echelons, one at the military headquarters and the other at the seat of government, with consequent loss of efficiency. Even after the cessation of

hostilities, when forces are used as garrisons, conformity of their areas to political boundaries may not always be possible. On the other hand, the commander of any operational unit or military administrative area may have to supervise the civil officials of several political subdivisions. For these reasons, control through operational and administrative unit commanders is likely to be wasteful of manpower.

(d) Combat commanders and their staffs are usually untrained in civil affairs work. Only to a limited extent can this disadvantage be minimized by the assignment of trained civil affairs officers to such staffs.

(e) So long as hostilities are in progress or are only temporarily suspended by an armistice, the control of civil affairs by military commanders takes their attention from the training of their men for combat, from leadership in combat, and from other strictly military duties, which should engage their whole time and energy.

(f) The imposition upon operating units of duties of military government or control of civil affairs ties such units to the area in which they are stationed and makes it very difficult to move them promptly when military situations, which should be paramount, make such a move advisable.

b. Control Through a Civil Affairs Chain of Command. The advantages and disadvantages of a civil affairs chain of command under the commanding officer of a higher echelon are generally the opposite of those listed above for a civil affairs organization under operational units or military administrative area commanders. A civil affairs organization, established after an area becomes settled, will usually make a more effective and economical use of manpower than would an operating organization during such period. It would provide for greater continuity of policy and personnel, and facilitate the use of specially selected and trained civil affairs officers. On the other hand, since the local civil affairs officers under this organization are independent of the commanders operating or garrisoned in their areas, or of commanders exercising

administrative command for other military purposes in the same area, unity of command at the lower level is not established.

18. COMBAT AREAS.

a. Initial Organization. Military government usually begins in the combat zone, as soon as the area comes within control of the occupying force. In the forward areas organization of military government is necessarily limited to the most essential elements of control in conformity with the military situation. Public officials may have fled, or be in hiding; consequently control must often be exercised directly by the military forces on individuals. In rear areas, a greater degree of control and organization will usually be possible and desirable. Regiments or small naval combat units should be relieved of civil affairs control as far as possible.

b. Type of Organization. In the combat zone, control on the principle of unity of command is paramount. Commanders control the civil population within their zones of operation, without regard to political boundaries. The civil affairs officers are either staff officers of the commander of the unit to which they are attached or members of groups assigned to control captured areas. Orders concerning the control of civil affairs are issued through the military chain of command. The employment of military police or shore patrol or marine units on civil affairs duties is provided for in the administrative or operation order, or in an annex thereto.

c. Civil Affairs Personnel for Reinforcement. When the need is foreseen, as when a city or other populous area is about to be occupied, the theater commander directs that additional civil affairs personnel be sent forward to reinforce control of the area. Such personnel are attached to the command within whose zone of operations the city, port, island, or other area will fall, but are under orders to pass to the control of the succeeding commander when combat units move forward. Eventually, if the forward movement continues, they pass to the control of the commanding officer of a rear area or to control of the next

higher civil affairs echelon under a civil affairs chain of command. While in the combat zone, reinforcing civil affairs personnel may be placed under the orders of the chief of the civil affairs section of the staff of the unit to which they are attached. Reinforcing personnel should be selected with a view to their subsequent retention on civil affairs duty in the same area.

19. ARMY COMMUNICATIONS OR NAVAL ADVANCED BASE ZONE.

a. Amount of Organization. As territory falls within the communications zone or naval advanced base zone, a greater amount of civil affairs organization becomes possible. Every effort is made to restore the normal functioning of the local government, subject, however, to civil affairs control in all echelons. Public officials are confirmed in their functions, or replaced, except as to offices whose functions are suspended.

b. Type of Organization. (1) In the communications or naval advanced base zone, considerations of unity of command usually require that the zone and subordinate military administrative area commanders be given control of civil affairs within their areas. The absence of zones of operation assigned to tactical unit commanders makes the assignment of civil affairs control to such unit commanders as may be present unnecessary, and the disadvantages of control by such commanders make such assignment undesirable.

(2) If the communications or naval advanced base zone is not subdivided for purposes of military administration into sections or otherwise, the commanding officer of the zone (or the commanding officer service forces of the theater, if he is charged with the duties of a commander of the zone), creates a civil affairs command, and designates the chief of the civil affairs section of his staff as civil affairs commander.

(3) If the communications or naval advanced base zone is subdivided for purposes of military administration into sections or otherwise, the commanding officer of the zone

exercises civil affairs control through section or other military administrative area commanders, who in turn control civil affairs officers of the highest territorial political echelon through the chiefs of the civil affairs sections of their respective staffs, designated as civil affairs commanders.

(4) If the occupied territory includes more than one country or island group or is divided into other territorial political subdivisions, it will generally be advisable to detail a civil affairs group for each of the subdivisions in the highest political echelon, with sufficient personnel to supervise the government of such subdivision, and to make available sufficient personnel for suballotment to subdivisions in lower political echelons, including cities. Usually personnel will not be available for the direct supervision of political subdivisions of less degree than that corresponding to an American county, or of small cities. These can be supervised by frequent visits of personnel stationed at places of greater importance.

(5) Chiefs of civil affairs groups detailed to the military government of a territorial political subdivision command similar groups detailed to lesser territorial political subdivisions included therein.

(6) The commander of a combat unit stationed in or passing through a locality in the communications zone where no civil affairs officer is present, may make arrests in cases in which immediate restraint is necessary; and, if so empowered by the theater commander, may appoint provost courts to try inhabitants for offenses against the security of his command or against individuals thereof, sending the records of such trials, together with convicted defendants, to the civil affairs officer in charge of the area. Otherwise, except in emergencies justifying assumption of civil affairs command by the senior officer present, commanders of such units exercise no control over civil affairs.

(7) When the forward boundary of a zone or section is about to be advanced, the commander, unless civil affairs personnel who are to pass to his control are already in the new area, should arrange to have the necessary civil affairs personnel report to the proper commander forward, to

be in readiness to assume control immediately when the boundary is advanced.

20. TASK FORCE. A task force commander operating in a theater of operations exercises civil affairs control within his zone of operations in the same manner as a theater commander.

21. THEATER OF OPERATIONS.

a. During Campaign. (1) While the theater is subdivided into a combat zone and a communications or naval advanced base zone, the theater commander exercises civil affairs control over the combat zone through the commanding officers of field armies or the naval fleet or task force commanders and over the communications or naval advanced base zone through its commanding officer.

(2) If, however, the theater is subdivided into zones of operations assigned to separate task forces, each of which has its own communications or naval advanced base zone, the theater commander exercises control through task force commanders.

(3) Control over the central civil administration of the occupied area is ordinarily exercised directly by the theater commander through the civil affairs section of his staff. If the theater headquarters is not at the capital, it may be necessary to divide the theater civil affairs staff section into two echelons, and to station a portion of it at the headquarters and a portion at the capital. If under such circumstances the capital is in the combat zone, the echelon of the civil affairs section of the theater staff stationed thereat may be attached to the field army or naval task force whose zone of operations includes the capital, and the commanding officer thereof may be charged with temporary responsibility for supervision of the civil service at the capital.

b. After Cessation of Hostilities. After fighting has ceased, in consequence of an armistice or protocol which renders the resumption of serious hostilities improbable, or if for any reason an occupied country is no longer within a combat or communications base zone, the theater com-

mander, or other supreme commander in the occupied country, so long as military government continues, may exercise control either through commanders of combat units, within existing political subdivisions or within military districts consisting of a number of such political subdivisions, or he may exercise control through civil affairs groups detailed directly to territorial political subdivisions. If the situation warrants, a combination of these two systems may be utilized, commanders of the larger combat units being placed in control of the higher echelons of military government, with civil affairs groups, independent of commanders of the smaller combat units, being detailed by them to exercise military government functions in the lower echelons.

22. CIVIL AFFAIRS STAFF SECTION.

a. Creation of Section. In advance of the entry of United States forces into territory to be occupied, the theater commander creates a civil affairs section of his staff. Such sections are also provided for the staffs of subordinate commanders who are assigned broad responsibility for civil affairs planning and command.

b. Duties of Chief of Section. The duties of the chief of a civil affairs section are—

(1) To assist the commander in all matters of organization, supervision, and control of military government in the area occupied, and to furnish him with full information on the character of the people, the nature of the government, and the specific problems likely to be faced in that territory.

(2) To be responsible for the preparation of detailed plans for military government in each area to be occupied, including general designations of the numbers and types of civil affairs personnel needed, to keep such plans current and to obtain the commander's approval of them.

(3) To be responsible for the preparation in appropriate languages of such proclamations, ordinances, and orders to be issued in the name of the commander as have not already been prepared.

(4) To prepare for issuance by the commander to subordinate civil affairs officers such information on strategic and tactical developments and on the plans for military government of specific areas as will be necessary to keep them constantly up to date.

(5) To correlate and analyze information received through the commander from civil affairs officers and from intelligence and censorship personnel and to utilize it as a basis for further planning.

(6) To maintain constant liaison with combat, security, supply, medical, engineering, and other officers on the commander's staff, in order that planning may be total and coordinate between all branches of the service.

(7) To be responsible under the command and in accordance with specific directives issued for particular areas, for the supervision and coordination of the work of civilian agencies of the United States and its allies participating in the later phases of military government when the theater commander has authorized their participation.

(8) To supervise execution of civil affairs orders and, where designated as chief civil affairs officer, to command all civil affairs groups placed under him.

23. ORGANIZATION OF CIVIL AFFAIRS SECTION.

a. General. The magnitude and character of the tasks of a civil affairs staff section will vary greatly from one territory to another. Each section will need to be manned to do the particular job at hand, and the staff assignments will necessarily depend on the particular situation and the personnel available. A large degree of versatility in personnel and flexibility in staff assignments will be essential, particularly in the early periods when the nature and degree of the supervision to be exercised over local officials is uncertain.

b. Internal Organization. The chief of every civil affairs section will need to make provision for the following activities, but in a small staff several of these activities may be performed by a single officer, particularly in isolated and sparsely populated territories or in island areas of interest primarily to the Navy:

(1) Administrative Officers.

(a) Deputy. A large section will require a deputy, who will assist the chief of the staff and act for him in his absence.

(b) Executive Officer. The chief of the staff except in small sections, will require an executive officer to coordinate the management of the office and to handle special assignments.

(c) Staff Assistants. Every chief of a civil affairs section should have one or more general assistants. They should not be given fixed assignments, but should be assigned to investigate any problem which arises; to collect information; to see persons whom their chief cannot take the time to see; to visit lower echelons; to prepare plans, policies, or decisions for consideration of their chief; to prepare orders to carry out such decisions; and to see to it that the orders are transmitted to the proper persons and are carried out.

(d) Internal Administrative Officers. Officers will be needed to perform the duties of army adjutant or navy executive officer and supply officer. These matters of internal administration are of vital importance to the functioning of the civil affairs section, and should be assigned to experienced and qualified officers. In a large civil affairs section, several officers may be needed to perform these functions.

(2) Functional Officers. Depending upon the complexity of the duties to be performed, the civil affairs section may require a number of functional officers, such as medical, legal, fiscal, intelligence, and others. For a detailed description of the functions to be performed by civil affairs officers see paragraph 12.

(3) Civil Affairs Officers from Other Services. In joint operations, the commander should include in the civil affairs section one or more civil affairs officers from the other service. It is necessary that close liaison exist between army and navy civil affairs officers. If the occupation is primarily an army operation, a naval civil affairs officer should be attached to the army civil affairs staff for

liaison and to assist in port control and other civil affairs duties. If it is a naval operation, and particularly if later control is to be taken over by the army, it is essential that army civil affairs officers be attached to the naval civil affairs staff.

(4) Civil Affairs Officers of Other Nations. In any combined operations involving the forces of the United States and its allies, civil affairs officers of the nations participating should be assigned to duty in number and to posts as directed by the theater commander or his designated subordinate.

24. CIVIL AFFAIRS COMMANDS. Whenever a civil affairs section officer is designated as chief of civil affairs, he exercises the usual functions of command over civil affairs groups detailed to territorial political subdivisions within the geographic limits under his supervision, while at the same time continuing to serve as a staff officer to his commander.

25. CIVIL AFFAIRS GROUPS.

a. General. A civil affairs group detailed to a territorial political subdivision should consist of such officers, warrant officers, and enlisted personnel as may be necessary, with due regard to the structure and functions of the governmental unit to be controlled, the number of subordinate territorial political subdivisions within the subdivision to which the group is detailed, the ease of communication within the area, and the size and character of the population. To avoid complications arising from death or illness at least two officers should be assigned to each group. The personnel of the group should be assigned to such duties as its chief may direct. Except in large cities, ordinarily the lower the political echelon the less is the need for specialization; and where the group is small, specialization is impossible. A large civil affairs group may be organized in a manner similar to a civil affairs staff section. (See par. 21.)

b. Required Categories. In order to complete a well-balanced group for civil affairs duties, the following categories of personnel may be required:

(1) Executive and administrative personnel with special training in military government and liaison.

(2) Technical specialists with special training in the characteristics of the area to which assigned.

(3) Junior assistants.

(4) Secretarial, clerical, and similar personnel.

(5) Interpreters.

(6) Military police; shore patrol, or marine detachment.

(7) Officer and enlisted personnel for operation of motor vehicles, patrol vessels and airplanes assigned to civil affairs units.

26. MILITARY POLICE, MARINES, AND SHORE PATROL.

a. Necessity. (1) The chief of each civil affairs group, in territory in which United States forces are exercising military government, will need sufficient force at his command to insure execution of his orders; to arrest offenders against the military government; to seize firearms, explosives and other contraband articles; to seize and guard funds; to seize and seal records and archives; to control, reinforce, or supplant the local police in the maintenance of public order; and to prevent or suppress espionage, sabotage, and rioting. Such forces will also be needed by combat unit commanders who are vested with civil affairs control.

(2) The use of combat units for this purpose, at least until a definite cessation of hostilities, is undesirable, though at times it may be necessary. Not only are such units diverted from their combat mission and immobilized but their armament is unnecessarily powerful for ordinary civil affairs duty.

(3) Organic military police units of armies, corps, divisions, and marine or shore patrols of fleet units, will not ordinarily be available in the communications zone or naval advanced base; furthermore, their armament is not well adapted to use in civilian control. While they will be available in the forward area, they can seldom be spared from other duties in sufficient numbers to control the population of a city, port, or congested area.

(4) Where local civil police forces or constabularies are trustworthy and adequate they shall be used to the maximum extent.

(5) Where local civil police forces are inadequate or cannot be relied upon, military police, marines, or shore patrol should be provided, organized, and equipped similarly to rear area military police units. Units which may have to be sent rapidly from their station to control outlying areas should be wholly or partially motorized or, in the case of island areas, provided with patrol vessels and airplanes. The use of women members of the armed forces may be practicable, for technical and clerical duties.

b. Assignment and Command. (1) Military police, marines, or shore patrol units for the enforcement of civil affairs control outside the forward area should be assigned to cities and to political subdivisions as the situation warrants. They should be placed under the command of the officer in charge of civil affairs in the city or other political subdivision. This is a matter wholly within the discretion of the zone or theater commander.

(2) When there is need therefor, the theater commander may direct that reinforcing military police, marines, or shore patrol units be sent into the forward area for the enforcement of civil affairs control in cities or other congested areas. Such units will be attached to the combat unit in whose area of operations they are to be stationed, but with orders to pass to the control of succeeding commanders when combat units move forward. Eventually, if the forward movement continues, they pass to the control of the commanding officer, communication zone or naval advanced base, or of the commander of a section thereof, and by him are placed under the command of the proper civil affairs officer. While within the zone of operations of a combat unit, they may, by the commander thereof, be placed, according to circumstances, under the command of a civil affairs officer of the unit, or otherwise assigned. They should be selected with a view to their retention, wholly or in part, on similar duty in the same area.

c. Authority to Make Arrests. Subject to the orders of higher authority, military police, whether on or off duty, have authority to arrest inhabitants of territory under military government who offend against, or are suspected of offending against, the ordinances or other orders of United States military authority or against local law, or who are in any way disturbing the public peace or acting in a manner hostile to United States forces. When immediate restraint is necessary, they also have authority to arrest persons subject to military law; such persons should, however, be turned over to the appropriate commander as soon as practicable.

SECTION IV

PERSONNEL

27. PLANNING AND PROCUREMENT.

a. Responsibility of Theater Commander. The theater commander is responsible that careful estimates of civil affairs personnel requirements—officer, warrant officer, and enlisted personnel—be made well ahead of any planned occupation, and that such personnel are requisitioned. The personnel furnished under the requisition will be assembled in the theater under the direction of the theater commander. They will be given the necessary further training, organized, and assigned to duty in numbers and with qualifications sufficient to meet anticipated needs. As a rule, except for commanders of large units who may be given responsibility for civil affairs, personnel of combat units will not be assigned functions of specially trained civil affairs officers. Nevertheless, if they are needed in the early phases or when hostilities have ceased and military government is expanded, combat personnel with previous experience in some aspects of civil government may well be transferred to duty with civil affairs. When so assigned, they should be detached from other duties and their work confined to affairs of civil administration.

b. Responsibility of Officers of Lower Echelons.

Each officer charged with civil affairs control is responsible for the allotment of civil affairs personnel to the next lower echelon to meet its anticipated needs and those of further subordinated echelons. The chief of a civil affairs section or group should be consulted as to the selection of his subordinates.

28. TYPES AND QUALIFICATIONS.

a. General. The conduct of civil affairs will require personnel drawn from various professions or callings. The chief administrative personnel for military government should have executive or administrative experience and an understanding of the management of men and affairs. It is desirable that they should also have an intimate knowledge of the territory concerned, and its people and language. To assist them, persons with special or professional training in the several fields of civilian activity, or with particular knowledge of the area occupied, may be needed.

b. Chief or Deputy of Large Civil Affairs Staff Section of Field Group. These officers should have broad executive experience, military or civilian, and exceptional qualifications of character, judgment, and ability. They should be thoroughly trained in civil affairs work, and also be well informed concerning the territory occupied. Knowledge of the language or languages in use in the territory is desirable.

c. Chiefs of Small Civil Affairs Sections and Field Groups, and Executive Officers. These officers should have the same high personal qualities as required in **b** above but will usually be less experienced. They should be thoroughly trained in civil affairs work and, if possible, in the language of the territory.

d. Staff Assistants. They should have had executive or administrative experience, particularly in staff work. Some staff posts will also require an intimate knowledge of the country, its people, and its language. They should be thoroughly trained in civil affairs duty.

e. Administrative Services Personnel. These services will have to be conducted under difficult circumstances,

at times in situations where the customary services of the Army and Navy are not available. The officer and enlisted personnel should be experienced in the duties which they are to perform and familiar with the practices and procedures of the Army and Navy. While desirable, it is not vital that they have training or experience in civil affairs.

f. Functional Officers. Functional staff assistants and specialists should have both professional training and operating experience in their particular field, such as public health, public utilities, transportation, and others. Those assigned to theater staffs and other high echelons should be trained in civil affairs and in the characteristics of the territory. In lower echelons while training in civil affairs is desirable it needs not be more than a minimum.

29. TRAINING.

a. In the United States. Training of administrative and specialist personnel is conducted in schools of military government of the Army and the Navy. Military police schools for civil affairs training also are conducted by the Army.

b. In Theater of Operations. In the theater of operations, training for civil affairs duties is a function of command. Civil affairs personnel assigned to a particular territory in advance of the occupation should receive further intensive training. Such training should include, especially, instruction in the background of the particular area, the language and characteristics of the people, and in the civil affairs plans and orders for military government as they are made and issued. Insofar as practicable, the training should be given by officers having an intimate knowledge of the area and by the civil affairs staff drafting the plans and orders. Current Army and Navy intelligence and censorship reports should be made available and the assigned civil affairs personnel should be kept posted on necessary military aspects of the occupation plans. The military commander should take steps to assure that civil affairs officers receive all classified information pertinent to their duties.

SECTION V

PLANNING

30. GENERAL. Planning for the control of civil affairs in occupied areas is a responsibility of commanders assigned to the planning of military operations. Civil affairs planning, as a part of the planning of military operations, should be integrated with operational plans and integrated with the situation and problems to be met. These problems in civil affairs should be anticipated and provided for by plans and alternatives, flexible and subject to continuous change and adaptation during operations. Careful planning will lead the commander to issue the specific civil affairs orders suited to the expected situation. Planning will also reveal requirements for officers, enlisted personnel and materials, requisitions for which should be forwarded in ample time.

31. BASIS OF PLANNING. Information required for preliminary planning of military government will be furnished by the War, Navy, and other departments of the United States or allied governments. Information for later planning in the theater of operations will be supplied by the intelligence and civil affairs branches of the various services. Such information will include, in addition to such parts of the military plan as may be necessary to civil affairs planning, the following concerning the area to be occupied:

- a. The recent history of the country.
- b. The theory and actual operation of its government including the titles, functions, backgrounds and names of officials in a position to help or hinder the mission of the occupying force.
- c. All facts which may affect the mission, such as political parties, factions and cleavages, unofficial persons wielding political or other power both in the central government and in political subdivisions.
- d. Geography, including location, area, topography, climate, and natural resources.
- e. Characteristics of the inhabitants of the country such

as numbers and proportions by race, religion, and political or other affiliation, and factors indicating probable attitudes toward the presence of the occupying force.

f. Local customs and traditions, sensitive points, taboos, and national or religious observances such as holidays and sacred or forbidden places.

g. Standards of living including health and dietary habits which might affect the occupying forces.

h. Administration of justice, including tribal customs and traditions.

i. Forms of social courtesy towards different ranks among the inhabitants.

j. Character of the population as to orderliness and obedience to law.

k. Character of the police force and fire departments.

l. Regulations and conditions as to sales of liquor and narcotics.

m. Existence of subversive or enemy groups, potential saboteurs and spies.

n. Organization and reliability of the civil courts in which offenses by civilians might be tried.

o. The degree of development of agriculture and forests, industry, mining, labor conditions, particularly as they will affect material, labor, and other supplies for the task force.

p. Financial situation, including banks, condition of banks of issue and commercial banks, rates of exchange, amount and soundness of currency in use.

q. Current economic situation, amounts of goods available for purchase, and the probable effect of the presence of a well-paid occupying force.

r. Food supplies, including their sufficiency for the population and for the occupying force.

s. The availability and adequacy of institutions, facilities, materials, services, equipment and labor, likely to affect the mission of the force or to be required by it, such as the capacity and condition of public works and utilities, including railroads, canals, harbors and docks, highways, bridges, rolling stock, motor vehicles, gas, electricity, water works, and sewerage.

t. Extent, location, and condition of the postal telegraph, telephone, and radio services.

u. Public health, including sanitary condition prevalence and control of disease, protection of food, milk and water supplies.

v. **Civilian Defense.** See paragraph 12d.

32. RESPONSIBILITY FOR PLANS.

a. **War and Navy Departments.** The Civil Affairs Division in the War Department and the Office for Occupied Areas of the Navy Department, subject to the direction of the Joint or Combined Chiefs of Staff, are responsible for the integration of the civil affairs plan with the strategic and logistical plans for military operations and for liaison with civilian agencies of the United States government. The civil affairs plan of the War and Navy Departments, usually brief and general, is transmitted to the theater commander in the form of a directive. It contains the broad political and economic policies to be observed.

b. **Theater of Operations.** Civil affairs planning for his command is a responsibility of every officer charged with civil affairs control, whether he be the theater commander, the commander of a task force, a tactical unit, or a military administrative area, or the chief of a civil affairs group. The duty of actual preparation of the plan in accordance with the directive of the commander, usually devolves on the chief of the civil affairs section of the staff. According to circumstances, the commander approves the plan, with or without modification, before it is translated into orders, or approves the civil affairs order which results from the planning. It is desirable that civil affairs plans of theater and task force commanders be transmitted to the Joint or Combined Chiefs of Staff for confirmation.

33. FORM OF CIVIL AFFAIRS ORDERS.

a. **Of Theater and Task Force Commanders.** These commanders may, according to circumstances issue civil affairs orders as annexes to administrative or operation orders for military operations, or as routine orders when there is no direct connection with an operation.

b. Of Military Administrative Area Commanders.

These commanders do not ordinarily issue field, administrative, or operation orders, and their civil affairs orders will ordinarily be issued independently of operations. Consequently civil affairs matters will usually appear in routine orders.

c. Of Operational Unit Commanders. Civil affairs orders issued by operational unit commanders usually appear in a civil affairs annex to the administrative order which accompanies a field or operation order; in such case it is referred to in the administrative order. If short, it may be included in the final paragraph of the administrative order, instead of in an annex. When new administrative orders are issued, a new annex is also issued if necessary; if not, the final paragraph of the administrative order may include the statement; "Civil affairs, no change." The annex is signed by the chief of staff, the executive officer, or the appropriate naval staff officer.

d. Of Chief Civil Affairs Officers. These officers ordinarily issue routine orders.

e. Distribution of Civil Affairs Orders. Civil affairs orders should be distributed to all subordinate commanders and chiefs of civil affairs groups to whom missions are assigned therein, to the commanders of all units in whose zones of operations civil affairs missions will be carried out, to the chief of the civil affairs section of the staff of the issuing unit, to the general staff sections thereof, to such special staff sections as are affected, and to such other persons as the commander may direct.

34. CONTENT OF CIVIL AFFAIRS ORDERS.

a. General. An order should direct subordinates what to do and when and where to do it, furnish adequate personnel and materials according to plan. Subordinates will be held responsible for execution.

b. In Detail. Some or all of the following may appear in a civil affairs order, according to circumstances (the list is not exhaustive) :

(1) Information needed in order to insure intelligent execution of the field or operation order, if not already

known to the subordinate or included in an accompanying field or operation order. This may include information of enemy forces, of the enemy population, and any available support from agencies not under the command of the issuing officer.

(2) The general plan of the commander, except so far as it is already known or is included in an accompanying order.

(3) Subordinate officers charged with civil affairs control; creation of civil affairs command or civil affairs groups; attachments and detachments, with time and place of each, including military police, marines, or shore patrol; missions of each.

(4) General instructions governing all subordinates; such as—

(a) Security measures to be taken.

(b) Controls to be established over civilian supply.

(c) Measures to be taken to restore public order.

(d) Records to be impounded and their disposition.

(e) Directions as to control or disposition of public funds.

(f) Directions as to authority to make requisitions.

(g) Directions as to handling of enemy-owned property.

(h) Currency to be used and rate of exchange.

(i) Treatment of, or conduct toward, enemy nationals and local population and officials.

(j) Special measures to be taken with regard to public institutions; banks, industry, commerce, labor, and other activities.

(k) Authority to appoint military courts, and to approve and execute sentences; rules as to procedure; limits of punishments.

(l) Authority to appoint and remove local officials.

(m) Proclamations and general ordinances to be published. (These may appear as an appendix to the civil affairs annex or routine order).

(n) Authority to issue ordinances of local application.

(o) Reports to be made; when and where.

(p) Location of the issuing commander.

SECTION VI

PROCLAMATIONS, ORDINANCES, ORDERS, AND INSTRUCTIONS

35. INITIAL PROCLAMATION.

a. Issuance. While not mandatory under international law, as soon as practicable after commencement of an occupation, the theater commander, or an authorized subordinate, should issue to the inhabitants of the occupied territory a proclamation informing them of the fact of occupation, the extent of territory affected, and the obligations, liabilities, duties, and rights of the population under military government. Generally, this proclamation will have been prepared in advance and in accordance with directives from higher authority. Where occupation of a large area is proceeding by stages, it is proper to state that the proclamation will be applicable in adjacent areas as they are occupied.

b. Form and Character. (1) The proclamation should be brief and in simple terms. It should be published as widely as possible in English and in the languages of the occupied area. Any translation should be idiomatic, clear, and concise.

(2) The tone and character of the proclamation will vary in different territories and will depend upon a number of factors. Among them will be: the military and political objectives to be attained in the occupied and other territories; the strategic situations; the existence or nonexistence of a recognized government on the ground or in exile; the composition and disposition of the occupying forces whether American or allied; the attitude of the inhabitants; historical and psychological considerations; and the extent to which control over civil affairs must be exercised in the particular territory. It is probably advisable to address the people of a major enemy firmly and bluntly, but the language should not be vindictive or needlessly offensive. In other territories, inhabited by a nonhostile population which is being freed from enemy domination, the procla-

mation will be more friendly in character and may emphasize deliverance from a common enemy.

(3) In occupations of neutral or allied territory, lately held by an enemy, a manifesto may also be issued by the legitimate government supporting the occupation and calling upon officials and inhabitants to cooperate and to obey the rules laid down by the commanders of such forces. Such manifestos are not legally necessary, but are issued to promote cooperation of the population with the occupying forces. In occupations of this type, the theater commander will usually clear such manifestos with the Joint or Combined Chiefs of Staff.

c. Contents. The initial proclamation will vary in content according to the circumstances of the occupation. The important items to be covered are the state of affairs which exists, a definition of the area and peoples to which the proclamation applies, the extent to which the civil administration will be affected, the manner in which the inhabitants are to conduct themselves, and the measures which will be resorted to by the military government. It is impracticable to outline the contents of proclamations for all types of occupations. In definitely hostile territory the proclamation should, in general, cover the following points:

(1) Declaration of the Occupation. This is formal notice of the fact of occupation and of the territory in general over which the military government assumes jurisdiction.

(2) Purpose and Policy of the Occupation. It may be advisable to include a statement as to the purpose and policy of the occupation. Political objectives should be included only pursuant to instructions from higher authority.

(3) Supremacy of Military Authority of Occupying Forces. This is an essential prerequisite to the administration of any military government. It should be announced that a military governor has been appointed and that political ties with and obligations to the enemy government, if any, are suspended. It should be announced

that inhabitants will be required to obey orders of the theater commander and his subordinates and to abstain from all acts or words of hostility or disrespect to the occupying forces.

(4) Retention of Laws and Officials. It should be announced that, unless the military authority directs otherwise, local laws and customs will continue in force, local officials will continue in office, and officer and employees of all transportation and communication systems and of public utilities and other essential services will carry on with their regular tasks.

(5) Treatment of Inhabitants. Assurance should be given that persons who obey the instructions of the military authority have nothing to fear and will be duly protected in their persons, property, family rights, religion, and occupation; and that those who commit offenses will be severely punished.

(6) Resumption of Usual Occupations. Inhabitants should be instructed that they must continue or resume their usual occupations, unless specifically directed to the contrary. This will assist in the maintenance of law and order and restoration of normal economic conditions.

(7) Detailed Rules of Conduct. It is advisable to put the population on notice that further proclamations or ordinances will specify in detail what is required of the inhabitants and what is forbidden them to do.

(8) Miscellaneous. Other matters may be covered, if circumstances warrant. Proclamations published by previous military governments may also serve as useful guides.

d. Publication. Proclamations may be published by posting, publication in newspapers, broadcasting, or any other practicable method available in the particular territory. It may be advisable to publish them in the same manner as legal notices are published in the occupied area, or to create a new official publication devoted exclusively to actions of the military government and to provide that proclamations and ordinances become effective when they appear in such publication.

36. FURTHER PROCLAMATIONS AND ORDINANCES.

a. Issuance. As soon as practicable after the publication of the initial proclamation, the theater commander, or his authorized subordinate, will issue a detailed set of rules regulating the conduct of the population. These rules may appear as a proclamation, numbered in sequence with other proclamations, or as ordinances. As far as possible these rules will have been prepared in advance and in accordance with directives issued to the theater commander. Careful study should be made of the local laws, in order that necessary rules or ordinances, and only these, may be prepared, and in order that their full ramifications and effects may be understood.

b. Form and Character. The people of the occupied territory should be informed as to what they are required to do, what acts are forbidden, and in what courts they may be tried if they are charged with offenses. In general they should be warned of the penalties which may be imposed for disobedience. Offenses should be clearly and simply defined. These further proclamations or ordinances should be published in English and in the languages of the occupied area. Translations should be simple and clear. It may be necessary to have a general prohibition against all hostile or subversive acts to cover offenses not specifically mentioned. Great care must be exercised in connection with such regulation as it will mean very little to the population and will be subject to great variations of interpretation by the courts. As soon as several convictions for a similar offense under such regulation have been approved by the reviewing authority, that type of offense should be made the subject of a clearly defined proclamation or ordinance. In this way all forbidden acts which could reasonably be foreseen, or which have been pointed up by experience, will be clearly set forth as a guide to the courts and population.

c. Contents. Contents of further proclamations or ordinances will depend upon the stage of development of the people, their laws, customs, and institutions, and upon the military and political situation at the time of the occu-

pation. The rules laid down in the initial proclamations and ordinances are concerned primarily with the maintenance of law and order and the security of the occupying forces and their lines of communication. Additional rules or ordinances will be issued as necessary to cover a wide variety of subjects. Proclamations or ordinances may be amended or replaced, in accordance with experience. Frequent changes are to be avoided, as they may be interpreted by the inhabitants as indications of vacillations and weakness. In general, it is sound policy to be strict at the beginning of an occupation and gradually relax the requirements. Proclamations or ordinances should contain no provisions which it is not planned or not possible to enforce.

d. Delegation of Authority. Theater commanders may delegate their powers to issue proclamations or ordinances to subordinate commanders or civil affairs officers, placing such limitations upon the exercise of delegated authority as they see fit. It is generally advisable that considerable authority be delegated either to unit commanders or civil affairs officers who are actually located in the occupied territory. All ordinances of local application only will be signed in the name of the military governor.

e. Publication. Publication may be made as in the case of initial proclamations.

37. ORDERS AND INSTRUCTIONS. Authority to issue detailed orders and instructions to local officials should be delegated to unit commanders or civil affairs officers on the spot. Insofar as possible such orders and instructions should be in writing and copies retained. Oral orders and instructions may be given through interpreters or in the local language. A record should be kept of important ones. Except in emergencies, only the officer responsible for civil affairs control in a particular area, or his authorized subordinates, should issue orders or instructions to local officials. If an officer from a higher civil affairs echelon is sent into an area on a mission requiring contact with local officials, he should consult with, act through, the officer charged with local civil affairs control. Where efficient administration requires that high ranking local

civilian officials be permitted to continue a practice of transmitting orders directly to subordinate officials, some procedure should be established whereby the civil affairs officer immediately concerned is informed of such orders and is empowered to interfere and countermand when he believes such action to be necessary.

SECTION VII

MILITARY COMMISSIONS, PROVOST COURTS, AND CLAIMS

38. ESTABLISHMENT. When an area is occupied and placed under military government, the commanding officer in the theater of operations should establish military commissions and provost courts to try inhabitants for offenses affecting the military administration. These courts in general will not be circumscribed by the statutory and other rules governing courts martial; and their number, types, jurisdiction and procedure will be determined by the theater commander, subject to instructions from higher authority. The term "military courts," as used in this manual does not include "courts martial."

39. TYPES.

a. Customary Types. (1) It has been customary for forces of the United States to provide for at least two types of military courts for the trial of civilians—military commissions and provost courts. The former deals with the most serious offenses, for which punishment by death or by long prison terms and heavy fines have been prescribed, while the latter deals with less serious cases.

(2) Military commissions may be appointed or convened to try specific cases, or as standing tribunals to hear all such cases. Their number and location will depend upon the volume of cases to be tried, the availability of officers to sit on such courts, the necessity for travel, the availability of witnesses, and the efficient administration of justice.

(3) Provost courts may also be appointed or convened to try specific cases, or as standing tribunals to hear various classes of lesser cases. Generally, a single type of provost court will be sufficient, although circumstances may warrant the creation of superior and inferior provost courts. Where there are a sufficient number of minor offenses in any locality to occupy the full time of one court, and enough of the more serious offenses cognizable by provost courts to occupy at least the part time of another court, it may be advisable to create two types of provost courts, in order to expedite the disposition of the large volume of minor cases. The number, types, and location of provost courts will depend, as with military commissions, upon such factors as the volume of cases, the availability of officers, the question of travel, the whereabouts of witnesses, and the speed and effectiveness with which justice can be administered. Therefore, for efficiency, a civil affairs officer exercising control over a particular area should delegate the power to bring to trial with expedition the majority of cases. A table of maximum punishments for specific offenses, as well as the power of remission vested in reviewing officers, should counteract any tendency toward inequality of punishments meted out by provost courts in different localities.

b. Other Types. If local conditions warrant, special military courts may be established for the trial of vagrants, prostitutes, juveniles, traffic violators, or other classes of offenders, or for civil cases (par. 42).

40. COMPOSITION.

a. Military Commissions. In providing for military commissions, which may consist of any number of officers, the commander will appoint not less than three except in extraordinary circumstances. In general, the rules for army or navy general courts martial will serve as a guide in determining the compositions of military commissions, including the designation of law members, trial judge advocates, and necessary assistants. The provision for a law member, with powers and duties similar to those of a law member of an army general court martial, promotes sound

decisions on matters of law and speed in procedure, and is recommended for such military commissions for both the army and the navy.

b. Provost Courts. A provost court will ordinarily consist of one officer who should, if possible, have legal training and experience. When it is necessary to create two types of provost courts, it may be advisable in more serious cases to appoint three members to superior provost courts. Provision may be made for standing special judge advocates or defense counsel, depending upon the type and volume of cases which are tried before these courts.

c. Other Types. The purposes for which other types of military courts are created, as well as the kinds and the volume of cases heard by them, will determine their composition and the need for such special court personnel as judge advocates, defense counsel, provost marshals and clerks. Ordinarily such courts will be constituted as provost courts.

d. Personnel. It is customary and usually advisable to appoint commissioned officers as members of military courts and as judge advocates and defense counsel. In general, where an army officer is the theater commander, he will appoint or authorize the appointment of army officers as members of such military courts; and where a naval officer is the theater commander, he will appoint or authorize the appointment of naval officers as members of such courts. There is no rule, however, which prohibits a theater commander from appointing officers from both branches of the service, either to sit on the same court or to sit on separate courts, within the theater under his command.

41. APPOINTING AUTHORITIES. Military commissions and provost courts may be appointed or convened by the officer in command in the theater of operations. He may delegate this power to subordinate commanders or civil affairs officers. In forward areas, in order to avoid delay, the extended confinement of prisoners, or the loss of witnesses especially in cases where immediate example is necessary, it is advisable to delegate such authority to

division, force or other unit commanders in forward areas and to civil affairs officers in both forward and rear areas. Whenever subordinate officers appoint or convene military courts, the orders establishing such courts should, but need not, recite the source of their authority.

42. JURISDICTION.

a. General. Military courts have jurisdiction only over such cases or classes of cases as are referred to them by the appointing or convening authority.

b. Over Persons. Military courts have jurisdiction over all persons within the occupied territory except those having diplomatic immunity, and except prisoners of war; but, unless there are cogent reasons to the contrary in a particular case, persons subject to military or naval law of the United States or its allies should be tried by court martial.

c. Over Offenses Directly Affecting Military Government. Military courts have jurisdiction over the following types of offenses:

(1) Offenses against the laws and usages of war.

(2) Violations of the proclamations, ordinances, regulations or orders promulgated by the theater commander or by his authorized subordinates.

d. Over Offenses Against Local Criminal Laws. If the criminal courts of the occupied territory are open and functioning satisfactorily, they should ordinarily be permitted to try persons charged with offenses against local criminal laws, not involving the rights, interests, or property of the United States or other person serving with the occupying forces and subject to military or naval law of the United States or of countries allied with the United States. The theater commander or his authorized subordinate may suspend proceedings in such local courts in any case or class of cases or may direct that such case or class of cases be tried by military courts. Such power should be exercised with respect to any prosecution inimical to the interests of the United States.

e. Over Civil Cases. If the civil courts of the occupied territory are open and functioning satisfactorily, they should

ordinarily be permitted to hear and determine civil cases, except claims or suits brought against the occupying force or its government over which they have no jurisdiction. If such courts are not functioning, and military occupation is likely to be brief, it will probably be unnecessary to make any provision at all for the disposition of civil cases. However, at his discretion, the theater commander may confer jurisdiction upon military commissions or provost courts to hear and determine civil cases or may establish separate courts for such cases, and may issue such regulations as to them and as to the execution of their judgments and decrees as he may deem proper. The law to be followed in civil cases is that of the occupied territory, with such modifications as the theater commander has been compelled to make.

43. BAIL. Admission to bail, and release without bail but with summons to appear for trial, are matters of discretion and not right. Admission to bail is uncommon in many parts of the world. If the commanding officer in the theater of operations deems it advisable, he may issue orders announcing in what cases, under what conditions, and by whom, persons awaiting trial by military courts may be admitted to bail, or released without bail but with a summons to appear for trial.

44. PROCEDURE.

a. General. Provision should be made to insure uniform procedure throughout the occupied area. It is advisable that military courts, in the trial of offenses directly affecting military government, be directed to follow the rules of evidence for Army or Navy courts martial. It is not required that this be done, however, as there may be instances when it will be appropriate to disregard such rules. At variance with United States procedure, most foreign courts permit interrogation of defendants on the witness stand. It may be advisable to follow this rather than American procedure in military courts. If defendants are thus interrogated they may, under Article of War 24, refuse to answer incriminating questions, but the Article does not prevent such refusal from being commented on.

b. Military Commissions. It is generally advisable to direct that military commissions follow the procedure of general Army or Navy courts martial, except where such procedure is plainly inapplicable. The allowance of peremptory challenges should not be necessary. Any requirements of unanimous vote for a death sentence may unduly impede the authority of military government. It may be advisable to curtail the extent of preliminary investigations.

c. Provost Courts. Provost courts should in general follow the procedure of Army summary courts martial or Navy deck courts, except where such procedure is manifestly inapplicable. If it is necessary to establish inferior provost courts, procedure may be simplified.

d. Special Courts. The procedure of other types of military courts will correspond to that specified for provost courts or military commissions, as directed by the appointing authority.

e. Trials. Trials should be had and judgments entered with the utmost dispatch consistent with fair administration of justice, particularly in cases where witnesses for or against the accused are likely to disappear. Accused persons should not be tried unless they are present in person at the trial.

f. Counsel. Accused persons should be allowed to retain counsel of their own choice and at their own expense. Ordinarily military counsel should be provided only for persons tried by military commissions. However, unreasonable continuances in order to obtain counsel should be prohibited.

g. Witnesses. The attendance of military witnesses may be obtained as in Army or Navy courts martial. Military courts should be empowered to compel the attendance of civilian witnesses, and to obtain the necessary assistance therefor from local officials, military police, and shore patrol, and appropriate commanding or civil affairs officers.

h. Interpreters. Proceedings should be conducted in the language most convenient under the circumstances. Where it is necessary, interpreters should be provided, so

that the accused, his counsel, and the personnel of the court are fully informed as to the entire proceedings.

i. Reporters. If available, shorthand reporters should be employed in all cases tried before military commissions, and in such cases tried before provost courts as the appointing or convening authority shall authorize.

j. Previous Convictions. A military court may be authorized to consider, after a finding of guilty and before imposition of sentence, evidence of previous convictions and sentences by military courts (American or foreign) or civilian courts. Evidence of conviction of an offense legally punishable by imprisonment for more than 1 year should be admissible without regard to the date of commission of such offense.

45. SENTENCES.

a. General. Sentences should be limited to those prescribed by the theater commander or his authorized subordinates. These will usually be issued in the form of a prepared table of maximum punishments in terms of fines or imprisonment, or both. This table should be issued to all military courts and in the discretion of the theater commander may be made public.

b. Military Commissions. In general, the sentences which military commissions should be authorized to impose will include fines, imprisonment at hard labor, and death.

c. Provost Courts. Sentences imposed by provost courts should be limited to fines or imprisonment at hard labor, or both, with appropriate limitations, such as \$5,000 and 5 years.

d. Additional Penalties. The following punishments may be imposed in addition to or in lieu of fines and confinement.

(1) Expulsion. Military courts may be authorized, in appropriate cases, to expel convicted persons from occupied territory.

(2) Confiscation. Military courts may be authorized in cases involving the unlawful purchase, sale, possession or use of property, to order the forfeiture of such property to the military government.

(3) Padlocking. Military courts may be authorized to close houses of prostitution, places where there is unlawful traffic in intoxicating liquor or narcotics, and other places where persons are found to be engaging in unlawful activity.

e. Confinement. The theater commander should issue orders concerning the confinement of convicted persons. Such orders will specify, among other things, the manner of imprisonment, the rules of conduct to be followed, and labor to be performed. Ordinarily, convicted persons should be confined within the occupied territory. The officer empowered to approve a sentence should designate the place of confinement.

f. Fines. All monies received as court fines will be held, accounted for, and disbursed according to prescribed procedure.

46. RECORDS.

a. Charges. It is advisable that charges be preferred by a person subject to military or naval law and on a "charge sheet." The charge sheet used by the Army (W. D., A. G. O. Form No. 115) may be used, with such changes and additions as may be necessary, or appropriate forms may be adapted from those contained in Naval Courts and Boards (1937). No oath to the charges should be required.

b. Military Commissions. Military commissions should keep records similar to those of Army or Navy general courts martial.

c. Provost Courts. The theater commander should prescribe the types of records to be made of various classes of cases tried before provost courts. In certain types of cases, it may be advisable to keep full records, with a complete transcript of all testimony. In others, a summary record may be kept on the back of the charge sheet. Where it is necessary to establish the inferior type of provost court, the latter procedure will generally be followed, and oral evidence will not be recorded.

47. REVIEW.

a. General. All records of trial by military courts should be examined by the appointing or convening officer or duly authorized subordinate, for the purpose of correcting injustices. Further review in the next higher echelon may be desirable in important classes of cases, and some cases may be directed for final review to the headquarters of the theater commander. No sentence of death should be executed until it shall have been confirmed by the theater commander or by an authorized subordinate, except that if a death sentence is imposed by an exceptional military court convened under naval authority, it must also be confirmed by the Secretary of the Navy. The reviewing authorities should be empowered to disapprove or vacate, in whole or in part, any finding of guilty; to mitigate, commute, remit, or vacate the unexecuted portion of sentences, in whole or in part; and to restore the accused to all rights affected by the findings and sentence.

b. Military Commissions. No sentence of a military commission may be carried into effect until its record shall have been examined by the staff judge advocate of the officer appointing the commission or his successor (see A. W. 46); nor may the sentence of any military commission be carried into effect until it shall have been approved by the appointing officer.

c. Provost Courts. The sentences of provost courts should be executed forthwith, subsequent prompt review sufficing to correct injustices which may occur and to prevent the repetition of errors.

48. CLAIMS ARISING IN OCCUPIED TERRITORY FOR DAMAGE CAUSED BY MILITARY PERSONNEL

(not including procurement claim).

a. General. In order that there may be prompt investigation and settlement of claims, the military governor should establish in his territory a claims service, under the direction of an officer, preferably with legal training and with experience in the investigation and settlement of claims. The chief of the claims service will be responsible for the preparation of regulations governing claims pro-

cedure and the operation of the claims investigating service. Prompt awards will greatly improve the attitude of the people toward the occupying forces.

b. Investigation. It is the duty of civil affairs officers to make prompt investigation and record of all accidents and incidents which may give rise to claims. This will prevent later disputes and the presentation of stale or unjustified claims through diplomatic or other channels.

c. Settlement of Claims—Army. (1) Occupied Enemy Territory. The rules under which claims are processed depends upon whether the award will be paid from United States funds or those of the military government. Since, in most cases, practically the entire population of enemy territory occupied by United States forces will consist of enemy nationals, claims will normally be chargeable to the military government and paid from funds of the military government, not United States funds. Such claims will be processed in accordance with regulations issued by the theater commander. The provisions of the act of 2 January 1942 (55 Stat. 880; 31 U. S. C. 224d) as amended by the act of 22 April 1943 (57 Stat. 66), and AR 25-90, and the provision of the act of 3 July 1943 (Public Law 112, 78th Cong.), and AR 25-25 do not apply to claims chargeable to such military government. In case claims are to be paid from United States funds the appropriate statutes and Army Regulations apply.

(2) Occupied Allied or Neutral Territory. As for claims in occupied enemy territory, the processing of claims in occupied allied or neutral territory depends upon the source of funds for payment. It is a matter of policy whether claims in occupied allied or neutral territory are paid by funds of the military government. If so, they may be processed in accordance with regulations issued by the theater commander and the statutes and Army Regulations cited in paragraph 48c(1) above, do not apply. Any claims which it is determined shall be chargeable to United States funds will be considered and allowed and paid, or disallowed, by a foreign claims commission under the provisions of AR 25-90 and AR 25-25, as the case may be.

The claims of all persons not members of the United States or allied military forces cognizable under the provisions of AR 25-90 or AR 25-25 should be subject to suspension of payment by general or special order of the military governor for such time as he may direct.

(3) Procedure. All claims for damage to, or loss or destruction of property, or for personal injury or death, cognizable under the provisions of AR 25-90 or AR 25-25, should be fully investigated and processed in accordance with the provisions of such regulations and AR 25-20. All such claims will be submitted to a foreign claims commission, appointed under the provisions of AR 25-90. Claims chargeable to the military government may be submitted to a foreign claims commission for processing even though not payable under AR 25-90; or such claims may be submitted to a board, commission, or other agency established by the military governor, which may be composed in whole or in part of officers of the United States Army, the United States Navy, or officers of allied forces.

(4) Territory Subject to Jurisdiction of the United States Reoccupied by United States Army Forces. As to territory subject to the jurisdiction of the United States occupied by the enemy and reoccupied by United States or allied forces, claims arising therein will be processed in accordance with the provisions of AR 25-25, whether or not a military government is established.

d. Settlement of Claims—Navy. In order that there may be prompt settlement of meritorious claims, commanding officers of occupied territories shall appoint claims commissioners to consider and decide claims against the United States for injuries to property or inhabitants of occupied areas arising out of noncombat activities of United States naval forces including civilian employees. If a claimant is a national of an enemy country or of one of its allies, there must be a determination by the claims commission or by the local military commander that the claimant is friendly to the United States, before his claims may be allowed. A foreign claims commission may be appointed to consider each claim as presented, or consti-

tute a standing claims commission to consider all claims presented to it. A commission will consist of not more than three commissioned officers of either the Navy, Marine Corps, or Coast Guard. Claims of \$500 or less may be heard by a commission consisting of one officer. Claims between \$500 and \$5,000 shall be heard by a commission of three officers. Decisions involving payments of \$2,500 or less are final, while decisions involving payments of \$2,500 to \$5,000 are subject to review by the commanding officer. The Secretary of the Navy may, if he deems any claim in excess of \$5,000 to be meritorious, certify such amount as may be just and reasonable to Congress as a legal claim for payment. Claims accruing subsequent to 1 May 1943 must be filed within 1 year after the occurrence of the injury which is the basis of the complaint. The fact that the act giving rise to the claim may constitute a crime does not bar relief. Contributory negligence of the claimant has such effect in the way of defeating or reducing claimant's recovery as it would have under local law. No formal procedure is prescribed for the conduct of the hearing on claims, but the instructions in Naval Courts and Boards (1937) governing the procedure of Courts of Inquiry and Boards of Investigation should be used as a guide. The claims commission shall forward to The Judge Advocate General for review its findings and recommendations on all claims in which total damage exceed \$5,000 and where the claimant refuses to accept that amount in settlement of his claim. Claims within the jurisdiction of the Commission, but disallowed, shall also be forwarded to The Judge Advocate General. The instructions and regulations of the Secretary of the Navy concerning foreign claims commissions appearing in the 15 May 1943 issue of Navy Bulletin shall be followed by all commanding officers and their subordinates in occupied territories. An Army claims commission may handle foreign claims for the Navy if requested to do so and vice versa. With respect to claims payable from funds of the military government as distinguished from claims approved by a foreign claims commission and payable out of United States funds reference is made to paragraph 48c.

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