

Government Documents - Germany

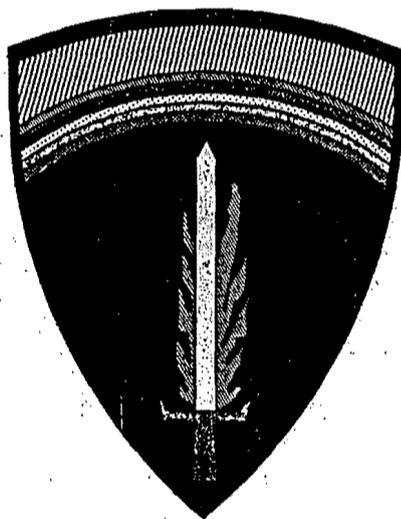
Germany

Germany (Territory under U.S. Occupation, 1945 - U.S. zone). Military Governor

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

PC 4

→ PROPERTY CONTROL
IN THE U.S.-OCCUPIED AREA OF GERMANY
1945 - 1949



SPECIAL REPORT OF THE
MILITARY GOVERNOR

JULY 1949



106833

Stanford University, Stanford CA

PROPERTY CONTROL

SUMMARY

The initial phase of the Property Control Program entailed the locating and placing under control of various specified categories of properties in order that they might be properly safeguarded and administered. Such control also served as an anti-inflation measure inasmuch as speculation in such property was not encouraged. The balance of the Property Control Program was devoted to policy determinations providing for the release of properties to the rightful persons.

In line with Military Government policy of transferring greater responsibility to German governmental authorities, Property Control responsibility for custody and administration, as provided for in Military Government Regulation Title 17, was transferred to German Land (state) governments during the latter half of 1946. ^{1/} Special safeguards were provided for properties of United Nations and neutral owners and those properties in the "duress" categories. The German agencies were under the direct supervision of Military Government authorities.

The magnitude of the task performed by Property Control is best illustrated by a few statistics. During the entire Property Control Program 153,759 properties, with an estimated value of RM 13,745 million, were taken into custody; 115,501 properties, valued at RM 11,304 million, have gradually been returned to their rightful owners or successors in interest. The peak was reached on 28 February 1948 when 107,146 properties, valued at RM 11,667 million, were held under control. Custodian cash balances and Property Control cash accounts amounted to approximately RM 1,500 million as of 31 August 1946. These figures do not include installations used by occupation forces, works of art and cultural objects, foreign exchange assets, and other properties which were blocked but not under Property Control. As of 1 July 1949, there remained under control 38,258 properties valued at RM 2,441 million, which for the most part cannot be released from control until a final determination has been made, either by the denazification tribunals with respect to the 3,391 properties belonging to Nazis, or by the Restitution authorities under Military Government Law No. 59 with respect to the 30,333 properties in the "duress" category.

In June 1947 the emphasis changed from the first phase (that of locating and adequately protecting properties) to implementing and carrying out the second phase (release of properties from control). In June 1947 a program was announced providing for the decontrol of properties belonging to citizens of United Nations and neutral nations (except Spain and Portugal). This program was later extended to former enemy nations with whom peace treaties have been signed.

Control Council Directive No. 50 and Military Government Law No. 58 have established the procedures whereby property of Nazi organizations are being transferred to Land governments or to certain democratic organizations. The properties of individual Nazis are being released from control in accordance with existing denazification procedures. Properties of the Reich were disposed of in accordance with provisions of Military Government Law No. 19. "Duress" properties will be held pen

^{1/} In the early part of 1946 the Military Government Property Control organization consisted of 298 U.S. personnel, supported by 2,176 German civilians. With the transfer of certain responsibilities to German authorities, Military Government personnel was gradually reduced and a large part of the burden was assumed by the German Property Control offices at Land level, which consisted of 4 ICAH ((German) Land Civilian Agency) offices and 240 German Kreis (county) Property Control agencies employing 3,600 German civilians. These figures do not, of course, include the 80,000 odd Property Control custodians. As of 1 July 1949, the German agencies had in their employ approximately 2,500 people. As of 1 July 1949, there were 40 U.S. civilians engaged in Property Control activities, assisted by approximately 300 German civilians.

JULY, 1949

PROPERTY CONTROL

ing final adjudication of the case as provided for in Military Government Law No. 59. Properties taken under control as "duress" properties for which no claim has been filed will be released from control pursuant to Military Government directives to be issued in the future.

On 1 July 1949 Military Government Property Control Offices were completely liquidated. Residual Property Control duties were in large part transferred to a Central German Property Control Coordinating Committee composed of the four LCAHs. Those Property Control functions which could not be transferred to the Central Committee were made the responsibility of the Military Governor's Economics Adviser.

PROPERTY CONTROL

INTRODUCTION

In August 1944 there was established in England an organization known as the United States Group Control Council (USGCC). It was composed of various divisions corresponding to the divisions of Military Government and the purpose was to plan the functions of the occupation of Germany. Within the USGCC was a division called "Reparations, Deliveries and Restitutions (RD&R)" which included the functions assumed later by Property Control. After the capitulation of Germany, RD&R Division was split into the Restitution Branch, the Reparation Branch, and Property Control, which was first formed as a special branch of the Economics Division, but which was later taken over by the Finance Division. In March 1948, the Finance Division was dissolved, and the Property Control Branch became a branch of a new division known as the Property Division.

Property Control measures were aimed at the implementation of denazification and demilitarization measures in Germany. Property Control custody was used to remove designated persons and organizations from positions of importance and power to further the democratization of Germany. Custody was necessary to protect certain properties pending ultimate disposition.

The basic authority for the control of property in Germany is contained in JCS (Joint Chiefs of Staff) 1067/6 (para 48 e) 1/ which directs the Zone Commander to "impound or block" certain specified categories of property. They include the properties of the following persons and organizations:

The German Reich and its political subdivisions, agencies, or instrumentalities;
The Nazi Party and its affiliated organizations, its officials, leading members, and supporters;

Absentee owners of non-German nationality, including United Nations and neutral governments and Germans outside of Germany.

The Zone Commander was also required to block all property which was transferred under duress or wrongful acts of confiscation, disposition, or spoliation, and works of art or cultural material of value or importance, regardless of ownership.

As the U.S. Army entered Germany, Military Government Law No. 52-2/ was issued. The provisions of this law were substantially the same as the provisions of JCS 1067/6. It declares subject to seizure or possession of title, direction, management, supervision, or otherwise, all categories of properties enumerated in JCS 1067/6. Law No. 52 does not require Military Government to take control over the property. It simply establishes the right of Military Government to do so. The only law which requires that control be established over any such property is Control Council Law No. 2, 3/ which is similar in terms to the provisions of JCS 1067/6 (para 6 d), which directs that all property owned or controlled by the Nazi Party, its formations, affiliated associations, and supervising organizations be taken under Military Government control pending a decision by the Control Council or higher authority as to its ultimate disposition.

Property Control in the U.S. occupied Area of Germany became effective with the posting of Military Government Law No. 52 as the armies moved through Germany, starting in Aachen on 18 September 1944. Property Control was, at that time, fully administered by the Military. As stated in USFET (U.S. Forces, European Theater) Directive of 7 July 1945, 4/ which later served as basis for Military Government

1/ See Annex II, p. 46.

2/ "Blocking and Control of Property;" see Annex IX, p. 65.

3/ "Providing for the Termination and Liquidation of the Nazi Organizations;" see Annex XVI, p. 85.

4/ "Administration of Military Government in the U.S. Zone of Germany;" see Annex III, p.

JULY 1949

PROPERTY CONTROL

Regulation Title 17 (MER 17), 1/ all properties subject to control were blocked and frozen as a necessary step toward the enforcement of the policy of denazification, the principles of demilitarization and deindustrialization, and the program of restitution and reparations.

The operating procedure and mechanics of Property Control were stated in the Handbook for Military Government (Rev. 1, 20 December 1944). Pertinent sections are:

(384.) In exercising Property Control functions, the role of the Military Government officer is that of a Military Government official, not that of a receiver or trustee in the British or American sense. He should do what is reasonable in the circumstances. No personal liability will attach to any Military Government officer for acts which are performed, permitted, or omitted, in good faith, relative to the control or administration of property.

(385.) Military Government officers are not authorized to submit to the jurisdiction of the local courts in proceedings in which Military Government or Military Government officers are, in effect, defendants. Further instructions will be issued in regard to this matter.

(386.) Military Government officers will arrange for the receipt of reports and returns required from local officials, organizations, and persons relating to property under control.

(387.) Military Government officers will at all times gather and forward to the deputy chief Property Control officer all local information relevant to the classes of property subject to Property Control. Of particular interest will be reports of cloaking activities used to disguise property acquired through duress or wrongful acts of dispossession or spoliation, or to conceal holdings of the Nazi Party and prominent members and supporters thereof.

(388.) In the event it is necessary to use force to take possession of any property or to exclude any person from it, and sufficient assistance from Military Government Public Safety officers cannot be obtained, a request should be made for the necessary aid to the appropriate Military Commander.

(389.) In the administration and operation of property taken under control, Military Government officers should not, except after consultation with the appropriate Property Control officer, lease or repair such property, nor employ agents and fix and pay compensation for any of the foregoing.

(390.) Military Government does not ordinarily take title to property taken into control. Sales may be made on behalf of the owner only if specially ordered or in cases of perishables.

(391.) Military Government officers will not enter into a contract for a term in excess of 90 days without approval from the chief Property Control officer.

(392.) Property should be entered on the Property Record (MG/PC/2) as soon as taken into control. The Record of Property Transactions (MG/PC/3) will be maintained by Military Government officers or Military Government detachments and will recite all facts and transactions that affect the property, its condition and history. Until property is entered on the Property Record by the Military Government officer and the Notice of Custody (MG/PC/1) is filed, it is not completely taken into control. It may therefore be released to its owner or his representatives without formality even though protective notices have been posted on it or have been delivered to its occupants.

1/3 Property Control; see Annex VI, p. 52.

JULY 1949

PROPERTY CONTROL

(393.) When a going concern is taken over, Military Government officers should consult with any Military Government functional specialist officers interested in the functioning of such concern. When a going concern is taken over, Military Government officers will give to the person or persons in charge Property Control Letter of Instruction No. 1.

(394.) Operating agents and custodians shall be instructed to keep proper and appropriate accounts so that reports and accounts may be rendered to owners or to higher authorities. Where Military Government takes control of any business or undertaking which already has a satisfactory accounting system in operation, the existing accounting system will be continued. If the Military Government officer finds an inadequate accounting system in an undertaking under control, a report thereof will be made to the appropriate Property Control officer.

(395.) Funds received or produced by the operation of the property may be retained in such accounts or depositories as are maintained on its behalf, subject to directions of the appropriate Property Control officer. Large accumulations of funds by such undertakings will be reported to the appropriate Property Control officer.

(396.) Custodians appointed to operate any property shall have no power, without the consent of higher authority, to alter the nature of a business, or to sell, liquidate, encumber, or obligate the property or any part of it beyond the ordinary course of business.

(397.) Fees paid to custodians, and allowances made to owners or their dependents, out of such properties may be continued, but may not be reduced or increased without prior approval from the chief Property Control officer. When paid they shall stand as a charge against the property and its owner.

(398.) Under no circumstances will persons who have been removed from any office or position because of the Supreme Commander's policy of removal of active Nazis and ardent Nazi sympathizers be employed or used in any other way in connection with the Property Control Program of Military Government.

The report which follows is a brief history of the Property Control Program of the U.S. Military Government as administered in the U.S.-occupied Area of Germany. It indicates the policies, procedures, and practices followed, and the special steps taken to protect the properties under control and return them to their rightful owners, or ultimate recipients. In the annexes are cited the basic authorities and pertinent legislation which formed the basis of the Property Control Program.

PROPERTY CONTROL

FUNCTIONING OF PROPERTY CONTROL

In occupations prior to World War II, Property Control was generally limited to enemy war materials confiscated as booty, and certain other limited responsibilities with respect to purely public properties. There was, therefore, little or no precedent for exercising controls over all kinds of property in Germany.

"Property Control," as it is known today, has a special meaning in Military Government. It denotes the establishment and maintenance of control, pending ultimate disposition, over specified categories of property of persons and organizations described and defined in Military Government Law No. 52 1/ and the organizations set forth in the Appendix to Control Council Law No. 2. 2/ The control exercised in a given case varies; it includes use, possession, custody, occupancy, protection, maintenance, conservation, and supervision.

The major categories of properties are:

- Properties of United Nations, neutral, and other absentee owners;
- Properties of the former German Reich, German states, etc.;
- Properties of NSDAP members (Nazi Party members);
- Properties of former Nazi Party organizations;
- Properties of I.G. Farben;
- Properties claimed by persons who lost the property under duress.

The mission of Property Control was to locate properties of certain categories indicated in Military Government Law No. 52, take them into custody, preserve them, operate them in most instances, and dispose of them in accordance with existing Military Government regulations, laws, directives, and other measures.

LOCATING PROPERTIES TO BE TAKEN INTO CUSTODY

Properties falling into the categories specified in Military Government Law No. 52 have only one thing in common—they are all located in Germany.

Properties were taken into custody on the basis of information obtained by exploitation of numerous records, lists, etc. and also on the basis of decisions made by Property Control officers in the field.

Use of U.S. Treasury Department Records in Locating Properties

The Foreign Funds Control Division, U.S. Treasury Department, made available to Property Control summaries of reports of U.S.-owned or -controlled property within Germany. These lists served as "check lists" in connection with the Property Control Program.

Lists Forwarded by American Consulate General

The American Consulate General sent lists of hundreds of persons who owned or claimed properties, and whose "requests for investigations of properties in Germany" were forwarded to the property controllers in the field for investigation, reporting, and taking into custody, if warranted.

Direct Inquiries from Owners

Inquiries were received at Property Control offices at the rate of between 500 and 1,000 per month from owners of German property from all parts of the world.

1/ See Annex IX, p. 65.

2/ See Annex XVI, p. 85.

JULY 1949

PROPERTY CONTROL

requesting information concerning the status of their properties and requesting protection of their personal and real property located in the U.S.-occupied Area of Germany. Such letters were acknowledged, field investigations made, Property Control action taken where warranted, and reports were submitted to the owners.

Use of German Officials

Property Control officers in the field instructed German district officials to draw up lists of persons who came under Military Government Law No. 52. These lists were then checked and Property Control action taken where appropriate. The services of suitable and politically acceptable German officials or civilians were also obtained to furnish technical aid in performing the Property Control function. These Germans were closely supervised by Military Government officers or Property Control officers, and their work included locating all Grundbuecher (Land Registers), Handelsregister (Commerce Registers), Einkommensteuerakten (income tax files), and other property records in the Kreis (county). It was the duty of these German officials to search out and trace title in records above listed and to aid in making comprehensive searches and surveys on all properties of interest to Property Control.

Micro-film records of the Reichskommissar's Office also proved extremely valuable in locating properties of United Nations' nationals.

German Control of Enemy Property -- The Reichskommissar's Office 1/

During the war years, 1939 to 1945, the German Government controlled the property of enemy aliens through the Reich Commissioner for the Handling of Enemy Property (Reichskommissar fuer die Behandlung Feindlichen Vermoegens). In the definition of enemy alien property the word "enemy" was construed to mean enemy states, nationals thereof (either natural persons or legal entities) having either their domicile or main branch in the territory of any enemy state or incorporated under the laws of an enemy state, persons having their habitual residence in an enemy state, and all persons other than those previously mentioned in respect to any enterprise which they may have conducted from an enemy state.

The Reichskommissar's Office attempted to operate within the framework of the German law, and there appeared to be a strict interpretation of the German Alien Property Law. The Reichskommissar apparently took the position that he was a trustee for the property of the enemy alien -- that he must administer it for the benefit of the owner -- that at the termination of the war, or sometime thereafter, he would relinquish control and the property would be returned to the owner with a proper accounting.

A custodian (Verwalter) of an individual property or business could be appointed by the Reichskommissar, of which there was one at each Oberlandesgericht (appellate court). There was no regular pool or register of available custodians; however, the type of man usually chosen was a German director or manager of the firm, a lawyer, or other responsible individual. The custodian, after appointment, made a report to the Reichskommissar once every six months. On the appointment of a custodian by the Reichskommissar, his name was entered in the Handelsregister. No entry, however, was usually made in the Grundbuch with respect to properties placed under a custodian, as his appointment was only considered temporary.

The Curia-Absentis Law

The Curia-Absentis Law is an old law which provides for the appointment by the Amtsgerichtsrat (district court official) of a Pfleger (custodian) of a property or concern of which the owner is absent. Once appointed, the Pfleger, like the Verwalter, in the case of enemy property, was permitted to carry on all normal transactions in connection with the property. Periodical reports (usually every six

1/ German Alien Property Custodian Office.

PROPERTY CONTROL

months) were made to the Amtsgericht (district court). Where a firm or company was involved, the name of the Pfleger was entered in the Handelsregister.

Powers of Custodians to Charge Property

Neither the Verwalter nor the Pfleger were permitted to mortgage landed property on their own initiative, but with the approval of the Reichskommissar (in the case of the Verwalter), he could execute a mortgage; in the case of a Pfleger, the consent of the Amtsgericht was necessary (e.g., to secure a mortgage from a bank required to finance essential repairs), and such mortgages were then registered against the property in the Grundbuch.

The Reich Ministry of Economics (Reichswirtschaftsministerium), on the other hand, representing the Nazi Party interests, took the attitude that enemy alien property was forfeited to the state, and, through the agencies of the SD (Sicherheitsdienst, Security Service) and the Gestapo, much property was seized and confiscated which should have, under German law, been administered by the Reichskommissar. Investigations disclosed that the Reichskommissar's Office made an attempt to appoint trained, competent, and honest administrators for alien property. However, the Security Police were charged with screening the prospective administrators for their "political reliability," and no appointment could be made without approval from that office.

The property of enemy aliens was uncovered by returns from local tax-gathering agencies. It made no difference whether or not the Reichskommissar took formal custody of the property; the property was listed in the Reichskommissar's Office files, and it was subject to custody at any time. Records as to properties taken into custody and as to those in which "enemy" interest was insufficient to justify appointment of a custodian were centralized into two main divisions of the Reichskommissar's Office. Real property, patents, and shipping were in one division, while the records as to all other properties, such as industrial and financial enterprises, were in another division. No attempt was made in either division to exercise direction over the operation of any properties other than to formulate policy, nominate custodians, and direct the removal of custodians unsatisfactory for any reason.

By 1 March 1945, the Reichskommissar's Office had taken under administration property in excess of RM 3,500 million.

Status of American-Owned Property in Germany As of 1 March 1945

Type	Million RM	
	Administered by German Reichs- Kommissar's Office a/	Not Administered by German Reichs- Kommissar's Office a/
TOTAL	1,211.4	266.5
Industry and Commerce	884.4	126.1
Banking and Insurance	92.2	0.1
Miscellaneous	159.8	128.0
Real Estate	75.0	12.3

a/ German alien property custodian.

Ordinarily, movables were not taken into custody unless they were of exceptional value or were associated with other property under custody. In the case of real estate, the minimum value was first set at RM 10,000 before custody would be taken, but because of

JULY 1949

PROPERTY CONTROL

the pressure of work in the Reichskommissar's Office the minimum valuation was later set at RM 60,000. In general, business enterprises in which the enemy interest was less than 50 percent would not be taken into custody. However, in many cases where the business was large or important the 50 percent interest rule was disregarded.

Use of Reichskommissar's Records by U.S. Property Control Authorities

From the above, it can be seen how important it was to scrutinize carefully the records of the Reichskommissar's Office. From these records, lists of properties were prepared for distribution to Property Control officers to assist them in the location of actual properties. First priority was given to the preparation of lists of properties in which United Nations' interest exceeded 50 percent. This was followed by the assembly of all minority interests in German property. A more difficult task was that of tracing properties which had been transferred under questionable circumstances.

During the early period of Property Control operations, letters of inquiry from nationals of United Nations and neutral nations continued to pour in. On the basis of these letters and other information, properties in this category were taken into custody.

TAKING PROPERTIES INTO CUSTODY -- GENERAL PLAN

Property Control officers were assigned to perform certain supervisory, advisory, and local functions in connection with Property Control. In the initial period, Property Control officers were assigned to areas to act as advisers and consultants to Military Government officers. Where sufficient PCO's were available in this early period, they were also immediately assigned to Stadtkreise to perform local Property Control functions. Where possible, PCO's were assigned to take over all local Property Control functions exercised by Military Government officers in the initial period. During the initial period all records, reports, etc., were forwarded by Property Control officers to the deputy chief, Property Control officer, who maintained centralized files of property and essential accounting records.

Properties were taken into custody when necessary to safeguard the property. In other cases, where properties were not taken into custody, it was made clear to any interested persons that properties subject to Military Government Law No. 52, 1/ whether or not taken into custody, were blocked by virtue of Military Government Law No. 52, Article I. Properties were also taken into custody to assure the continued operation of the property. This was of particular importance where certain properties were employed in the production of articles useful to the Armed Forces of the United Nations, or essential for civilian consumption. Continued operation was, in many cases, also desirable to prevent increased unemployment.

Whenever it was necessary to establish control over property, Property Control Letter of Instruction No. 1 was issued and posted. This letter read in part as follows:

"TO:

... and all officials and employees of said business enterprise.

1. This business enterprise is one of those taken into control by Military Government pursuant to the Blocking and Control of Property Law (No. 52), which has been published and is again called to your attention. You are, of course, obliged to obey all other laws and orders or instructions having the effect of law, both of Military Government and Germany, applicable to the conduct of this business.

See Annex IX, pp. 65.

JULY 1949

PROPERTY CONTROL

2. Unless otherwise directed or prohibited, transactions ordinarily incidental to the normal conduct of business activity in Germany may be engaged in by this enterprise. The responsibility for the conduct and operation of such business enterprise rests entirely in it and all officials and employees connected with it. No responsibility for operations as a going concern attaches to Military Government by reason of the inclusion of this business enterprise as one of those taken into control by Military Government."

Inventories of movable items were taken, followed later by a more complete inventory and investigation, in order to facilitate subsequent reporting pertaining to the property.

Appointment of Custodians

When custody was taken, a custodian (approved by Military Government) was appointed and made responsible for operating and preserving the assets of the property. Numerous difficulties were experienced in the early days of Property Control in getting suitable custodians for operating businesses. Custodians were, for the most part, appointed from a list selected by the Buergermeister (mayor), and only appointed after being certified by the U.S. Counter Intelligence Corps. Owners of properties were, in many instances, asked to recommend custodians. Where such recommendations were made, the individuals were immediately checked and approved if clear of Nazi affiliations. In the latter part of 1946, when responsibility for custody and administration of properties was transferred to German authorities, the responsibility, in the first instance, for the appointment of custodians was also transferred to said authorities.

Appointment of Zonal Custodians

Whenever it appeared that the centralized administration of an operating property having several branches throughout the U.S.-occupied Area would result in greater over-all efficiency, it was made the responsibility of the Land Property Control chief (in the case of the United Nations and neutral properties) in whose Land the main office or most important unit was located, to take the necessary steps in consultation with other Land Property Control chiefs, to appoint a zonal custodian for the entire enterprise. The zonal custodian had the same authority with respect to the enterprise as any other custodian appointed pursuant to Military Government Law No. 52. He was considered the "general manager." He could not, however, remove or hire sub-custodians without the concurrence of the appropriate Land Property Control chief. Zonal custodians were furnished copies of: Military Government regulations, Title 17; Property Control accounting and auditing procedures, pertinent Property Control circulars, etc. and instructed to administer the property accordingly. Necessary explanations and instructions to zonal custodians were given by responsible Land Military Government Property Control officials. The zonal custodian rendered consolidated reports for the entire enterprise. To a very limited degree, a similar procedure was used in a case of German properties under control. In such instances, however, recommendations of the German Land Civilian Agency heads also required approval of Military Government Decartelization authorities.

Appointment of Inter-Zonal Custodians

The desirability of having inter-zonal custodians appointed for United Nations and neutral properties having branches in more than one zone soon became apparent. A procedure was established by the U.S. and U.K. Military Governments whereby such custodians could be appointed with respect to properties lying in the combined US/UK Zones. It was agreed that there would be a zonal custodian in each of the two zones and that the zonal custodian in the zone having the main office would act as inter-zonal custodian. In the absence of the main office being located in either zone, the zonal custodian of the zone having the most important unit of the enterprise became the inter-zonal custodian. Custodians were appointed by local Property Control officers for the branches or subsidiaries of the parent firm. Where branches existed in more than one Land in the zone and the need for a zonal custodian was apparent, such custodians were appointed. Individual reports of custodians were not required where a zonal

JULY 1949

PROPERTY CONTROL

custodian existed. Zonal custodians consolidated the reports in their zone and then forwarded said zonal report through the offices of the appropriate Military Government to the inter-zonal custodian for further consolidation. With respect to management policies, zonal custodians were permitted to communicate with each other. However, no major action could be taken by zonal custodians on instructions from the inter-zonal custodian without first obtaining the approval of the appropriate Military Government Property Control authorities. The inter-zonal custodian had to be approved by both the U.S. and U.K. senior Property Control authorities. By this procedure a more uniform and efficient management was obtained.

In a few instances, similar arrangements were made with French Property Control officials.

Use of German Property Control Officials as Custodians

As a rule, German Property Control officials were not permitted to act as custodians. This rule, however, was later modified in special cases where necessity for modification was proven and approval of the appropriate Military Government Land Property Control chief obtained. The only exceptions made were in cases where numerous small properties were under control in a particular Kreis, the properties did not require the services of a full-time custodian, and were not large enough to pay for such services. In such instances, the CAH (Civilian Agency head) was appointed custodian for a group of small properties and paid a minimum fee.

Removal of Custodians

As indicated in the foregoing pages, custodians had to be impartial, politically acceptable, efficient, honest, and cooperative. Once they were appointed, it was the policy of Military Government not to remove them providing they had the above mentioned qualifications. Whenever it was discovered that custodians did not measure up to the standards indicated above, they could be removed for cause; in the case of United Nations and neutral properties, on instructions and approval of the Military Government Land Property Control chief; in the case of German properties, upon recommendation of the German Land Property Control authorities.

SUPERVISION OF PROPERTIES UNDER CONTROL

After the property was located and taken into custody, it was necessary to establish a system of accounts and audits so that supervising authorities would be in a position to measure the efficiency of operations by various custodians and to take prompt and effective remedial action where required. This was all, of course, in the interest of preserving the property until it could be transferred to the ultimate recipient without substantial depletion of assets.

Property Control Accounting System

During September 1945, the Property Control accounting system was changed from a decentralized to a centralized system, and all Property Control records were consolidated in one office, namely, that of the chief Property Control officer, OMCUS.

It became apparent early in 1946, however, that the centralized system of accounting was administratively unworkable, cumbersome, and impractical. The time lag between preparation of reports in the field and receipt by OMCUS was in many instances as much as six months. Since Property Control responsibilities were to be transferred to German authorities in the latter half of 1946, a program was instituted providing for the decentralization of the accounting function to Land level. Each Land Property Control chief was instructed to set up an accounting section and to take steps to train German employees so that the transfer of authority could be accomplished with a minimum of delay.

1/ Office of Military Government for Germany (U.S.).

PROPERTY CONTROL

minimum of confusion. After transfer of responsibility to German authorities, the accounting function became the joint responsibility of the Land Property Control chief and the German Land Civilian Agency heads. The benefits of this change became immediately apparent; more reports were received during shorter intervals.

From July 1945 until early 1946, no effective auditing program was in operation. In July 1946, a standard form for reporting receipts and disbursements of properties, other than business enterprises, was devised and distributed. In October 1946, standard profit and loss statement and balance sheet forms were devised for trading and manufacturing enterprises, and directives which prescribed the use, disposition, and review of these standard forms were promulgated. In general, German Land Civilian Agency heads were made responsible for the reviewing of financial statements on German properties, with over-all supervision remaining the function of the Land Property Control chiefs. The detailed review of financial statements pertaining to properties of United Nations and neutral nationals, however, remained the responsibility of the Land Property Control chiefs.

To promote efficiency the requirement for monthly statements from custodians was discontinued; quarterly and semi-annual statements were substituted. Due to the shortage of independent public accountants in the various Laender, the timely submission of annual certified statements was extremely difficult. In addition to the fact that numerous public accountants were disqualified because of political unreliability, additional difficulties arose from the fact that public accountants must spot check inventories at the year end in order to be able to certify their statements. Most business enterprises have a fiscal period coinciding with the calendar year with the result that the limited number of qualified accountants could not prepare the necessary number of statements on time. Therefore it was decided to instruct all available public accountants to make spot checks of the inventory at the earliest possible time and that unaudited annual statements were to be submitted on the prescribed date. Audited statements for the same year were to be submitted during the following six months. This procedure permitted available accountants to spread their work out and proved most satisfactory.

To facilitate the review of operating statements submitted, instructions were issued to the Land Property Control offices to determine speedily those properties operating at a loss and those properties operating at a profit. A large volume of reports was rendered. However, by this device all reports pertaining to property operating at a loss were segregated and given highest priority. Such statements were reviewed and analyzed. Civilian Agency heads were called upon to explain the causes for the losses and were instructed to take remedial action. Where required, recommendations were made by the office of the chief Property Control officer. In this manner, approximately 25,000 financial reports of individual properties were received and checked during the latter half of 1946 by the accounts and audit section, office of the chief, Property Control Branch, OMGUS. This does not take into account a much greater volume handled by the various Land Military Government and German Property Control agencies. Copies of many of these reports were forwarded to owners in Allied and neutral countries.

Inspections of Properties Under Control

In addition to reviewing financial statements currently, Land Property Control chiefs and Land Civilian Agency heads were required to make an inspection, at least once a year, of each property under control. The scope of such inspection depended upon such factors as whether it was a business enterprise, whether it submitted correct financial statements currently, whether the property was operating at a loss, etc. As a result of approximately 3,500 formal inspections of property by field representatives during the first three months of 1948, 54 custodians were recommended for removal. The most prevalent grounds for removal of custodians were: inefficiency, black market activities, political unreliability as indicated by falsification of fragebogen, failure to comply with Military Government directives, embezzlement, il-

JULY 1949

PROPERTY CONTROL

legal sale of assets, and gross negligence. In many instances prosecution of custodians for violations listed above resulted in large fines and prison sentences. It was felt that the inspection program of properties under control was most effective and that actual visitation and physical audit was an excellent means of ascertaining proper management and operation. A routine inspection in Augsburg, for example, indicated that the custodian permitted the owner of the firm to withdraw RM 50,000 from the firm. This, of course, was contrary to Military Government directives. In addition, it was found that the custodian made a loan of RM 30,000 to himself, with which he established another business. Fortunately, the property controller was able to have the RM 50,000 returned to the firm, the business purchased with the RM 30,000 was taken into custody on the "following the assets theory," and the custodian was removed and replaced by an impartial person.

Inspection of German Civilian Agency Offices

German Civilian Agency offices were examined by OMGUS Property Control officials to determine whether the properties under control were properly managed and that records were available, giving adequate details pertaining to operating properties, and whether a systematic inspection of such properties was being made. Business analysts were called upon to submit formal reports pointing out discrepancies, weaknesses, etc. and to make suggestions for corrective action. As a general rule, it was found that the Civilian Agency head offices were efficiently managed and that standard operating procedures pertaining to routing of mail, reports, checking of financial statements, etc. were being followed. It also appeared that all CAH offices maintained complete records pertaining to custodians. Considering the handicaps under which the Civilian Agency offices operated, an excellent job was done. Many CAH offices lacked essential office equipment. In addition, in the winters of 1946 and 1947 many offices had no heat, and work could be performed only on a part-time basis. During these two years many CAH offices had no electrical fixtures, and employees worked in overcrowded quarters.

Land Property Control chiefs were also instructed to make periodic inspections of all German Civilian Agency offices of which there were approximately 240 (one in each Kreis). These inspections proved extremely helpful. Such questions as sufficiency of properly trained personnel, adequacy of office equipment and space, and review of administrative policies and procedures were discussed; files pertaining to custodians were reviewed; CAH accounting procedures were checked to ascertain that proper tickler systems were being used to assure timely submission of reports; files were checked to see if proper approvals were obtained before extraordinary expenditures were incurred by custodians.

Treatment of Surplus Cash

An additional safeguard was provided in the treatment of cash held by various custodians in excess of their normal needs. Instructions were issued providing that all custodians were to transfer to central cash accounts under the direction of the Land Property Control chief (LPCC) (in cases of United Nations and neutral properties) and the Land Civilian Agency head (LCAH) (in cases of German properties) all cash exceeding six months normal cash needs of the business. The provision was also made that, in the event that the custodian required such cash for exceptional expenditures, application was to be made to either the LPCC or the LCAH.

Installation of Machine Accounting System in LCAH Offices

To assist in the timely reporting of Property Control transactions, a machine accounting system was installed in the various LCAH offices. This system was invaluable in the speedy compilation of lists of properties under control. The advantages of such a system in the saving of time and expense are obvious.

RECOMMENDATIONS OF THE PROPERTY DISPOSITION BOARD

On 26 March 1946, a report was issued by a previously appointed Military Government Property Disposition Board, which surveyed the entire situation and made

JULY 1949

PROPERTY CONTROL

numerous specific proposals for the orderly disposition of properties under control. The report of the Property Disposition Board was concerned with ultimate disposition of categories of properties, regardless of the agency responsible for operational control. The properties included industrial plants, housing projects, bank accounts, gold bullion, jewels, paintings, insurance companies, radio stations, newspapers, publishing houses, and income derived from some of these units. With the minor exception stated elsewhere, Military Government regulations existing in March 1946 did not authorize the release of any property from control except on account of reparations and restitutions, for use by the occupying powers, or by order of higher headquarters under limited licensing provisions.

After a careful study of the problem, Military Government directed the Laenderrat 1/ to develop plans for assuming custody and supervision of most of the property under Military Government control (excluding, however, properties of the Reichsbahn, the Reichspost, and the Reichsbank, external assets, foreign exchange assets, and I.G. Farben holdings). These plans were completed, approved by Military Government, and put into effect by the middle of June 1946, when most properties under control were transferred to German authorities for custody and administration, subject to Military Government for policy direction. Properties belonging to any United Nations and neutral nationals were still subject to special control measures and supervision by Military Government authorities to insure full protection of such countries' interests in Germany.

It was the policy of the occupation to maintain necessary controls and at the same time to place responsibility upon the German people and approved German agencies and institutions to the greatest extent possible.

The problem was mainly one of interim custody pending the time when the individual owners or ultimate recipients would be able to manage their properties. In the case of U.S. nationals, the U.S. "Trading with the Enemy Act" and, with respect to all absentee owners, the existing travel and communications restrictions presented obstacles. The Property Disposition Board recommended that responsibility for protecting the property should be placed upon the Laender, that they should be required to maintain complete records of such properties, and that Military Government should provide the necessary inspection and supervisory machinery. Pending the formation of a central German government, it was felt that Military Government must continue to reply to United Nations nationals who requested information pertaining to the condition of their property in the U.S. Zone.

TRANSFER OF PROPERTY CONTROL RESPONSIBILITY TO GERMAN AUTHORITIES

Ever since 1 November 1945, Property Control officials had been working on a plan providing for the transfer of certain property control responsibilities to German authorities. In line with Military Government policy and the recommendation of the Property Disposition Board, the first step was taken under a directive dated 17 May 1946 and entitled "Transfer of Property Control Responsibilities in Greater Hesse and Querttemberg-Baden to Land Ministers President." This directive authorized and directed the transfer to the respective Ministers President of responsibility for custody and administration of all property under control as provided for in MGR Title 17.2/ In addition, responsibility for the program of taking into custody and the administration of property, at that time performed by Military Government under MGR Title 17, was also to be assumed by German authorities.

It should be pointed out that this program relates only to custody and administration, disposition of property, except as authorized by Title 17, also had to await Military Government authority. In addition, safeguards and certain responsibilities were retained by Military Government Land offices and the office of the

1/ Council of States, composed of the Ministers President of the U.S. Zone Laender.
2/ See Annex VI, p. 52.

PROPERTY CONTROL

chief, Property Control Branch, in matters pertaining to properties of United Nations and neutral owners and those properties in the duress category. For example, leases, custodian contracts, certain extraordinary expenditures, required the approval of the Land Property Control chief.

In the latter months of 1946, similar responsibility was transferred to German Property Control authorities in Bavaria and Bremen.

The task of transferring the numerous files from Military Government custody to the various Land offices was completed in April 1947. Likewise, the final step was taken in the program of decentralization of the Property Control accounting functions. After April 1947, the only accounting records of properties under control which continued to be maintained by the office of the chief of the Property Control Branch were those of properties under control in the U.S. Sector of Berlin.

Another step in line with the policy of decentralization of the Property Control functions and as a result of the transfer of Property Control responsibility to German authorities was the method of handling cash belonging to properties under control. Under the centralized control in effect prior to May 1946, i.e., before transfer of operational responsibility to German civilian agencies, all surplus cash of properties was transferred to the Frankfurt account under the control of the chief, Property Control Branch. All such cash was returned early in 1947 to the Laender in which such funds originated. It was deposited, under the decentralization program, in central cash accounts under the control of the Land Civilian Agency heads (German authority) and Land Property Control chiefs (U.S. Property Control authorities), depending upon whether the cash originated from German properties or United Nations and neutral properties, respectively. The amount of cash returned to the Laender early in 1947 was in excess of RM 60 million.

LIQUIDATION PROGRAM

On 26 June 1948, a program was approved providing for the complete liquidation by 1 July 1949 of the Property Control and External Assets Branch, Property Division, OMGUS, and the Land Property Control offices.

On 1 June 1948, there were 93,496 units of property under control with an estimated value of RM 10,675 million. Included in these figures were 27,711 units of duress properties with an estimated value of RM 1,234 million. With respect to duress properties final disposition could not be made until final adjudication of the case pending before the Restitution authorities as provided for under Military Government Law No. 59.^{1/} It was, therefore, the primary purpose of the Liquidation Program to release from control and return to the German economy, during the one year period, all other properties, namely, 65,785 units with an estimated value of approximately RM 9,500 million. The program briefly provided for an all-out effort and accelerated pace under existing programs providing for disposition of the various categories of property and the devising and promulgation of new programs where required.

^{1/} "Restitution of Identifiable Property;" see Annex XIII, p. 72.

JULY 1949

PROPERTY CONTROL

Properties Subject to Disposition Under the Liquidation Program

Reason for Control	Total 1 June 1948		Total 1 July 1949	
	Number of Units	Estimated Value - RM	Number of Units	Estimated Value - RM
TOTAL	65,785	9,441,114,228	7,925	1,455,169,615
NSDAP (Nazi Party) Members	39,789	2,627,930,687	3,391	991,595,570
Absentee Owners	14,530	1,678,633,416	3,048	229,230,092
External Loot	1,431	25,052,821	598	16,778,605
NSDAP Organizations	4,553	642,505,158	346	268,926,219
German State	3,987	3,127,140,884	137	289,732,947
Former IG Farben	69	350,160,961	-	-
Miscellaneous	1,426	474,394,188	405	214,743,012
Unclassified in Law 52	a/	515,296,113	a/	50,157,170

a/ Units not listed as they are included in above figures.

The Liquidation Program also provided that numerous responsibilities of the Property Control and External Assets Branch, Property Division, OMGUS, be transferred to a central German Property Control agency. Such an agency has been established in Munich; the directorate is composed of the four ICAH's in the U.S. Zone. It is their responsibility to promote uniformity of practice in the four Länder, to make recommendations to Military Government, and, in general, to continue existing Property Control policies as indicated in MGR Title 17. Requests for information pertaining to properties under control, or which were under control, are to be addressed to this organization. Military Government Property Control offices at OMGUS and Land levels have been liquidated. A small group of property specialists, as of 1 July 1949, is attached to the Office of the Economic Adviser. It is the responsibility of this group generally to supervise the Internal Restitution Program and to review recommendations pertaining to Property Control matters made by the German zonal agency.

MANAGEMENT OF PROPERTIES UNDER CONTROL

With certain exceptions, business enterprises under control were permitted to engage in all transactions ordinarily incidental to the normal conduct of business within Occupied Germany. Duly appointed custodians were responsible for the management of such properties.

Payment of Pre-Surrender Debts and Taxes by Enterprises under Control

Immediately subsequent to the posting of Military Government Law No. 52 ^{1/} and Control Council Laws No. 2 ^{2/} and 9, ^{3/} the question arose as to whether or not pre-surrender debts of enterprises under Military Government control should be paid. In the early phases of the occupation various uncertainties existed such as the existence or non-existence of bank accounts, the loss of records and general uncertainty as to solvency, the lack of safeguards against assets being siphoned out of enterprises through the payment of illegitimate debts. These conditions made the policy of deferments of payments a practical necessity.

^{1/} See Annex IX, p. 65.

^{2/} See Annex XVI, p. 85.

^{3/} Providing for the Seizure of Property Owned by I.G. Farbenindustrie and the Control Thereof; see Annex XVIII, p. 87.

PROPERTY CONTROL

After more than one year from the beginning of the occupation, it became increasingly apparent that non-payment of pre-surrender debts, and in some instances taxes, contributed to economic stagnation. Numerous creditors were particularly hard hit through their inability to collect what would normally be current receivables. Municipalities, in many instances, were deprived of large tax payments. Most of the reasons for the deferment of debt payments no longer existed in June 1946. It was now possible to determine the status of cash and bank accounts, determine the financial condition of enterprises, block payments and funds where required, and establish the validity of certain claims and debts. The reason no longer existed for the freezing of legitimate debts due by solvent debtors.

There was also an increased tendency among the German population to refuse as legal tender, currency (the Reichsmark, Allied Military mark notes, Rentenbank notes) in satisfaction of debts or as consideration for transactions. To dispel all doubts, Amendment No. 1 to Military Government Law No. 51, "Currency," was issued. This provided that debts, etc. could be satisfied "upon falling due, by payment mark for mark," and that the creditor is, in all cases, bound to accept such currency at its face value in discharge of obligations. In June 1946, therefore, instructions were issued permitting custodians to pay debts which were incurred legally in the normal course of business providing there were funds available without substantially impairing working capital of operating businesses or encumbering non-operating properties. Payments to a creditor whose property was subject to Law No. 52 were to be made by direct bank transfer to the blocked account of such creditor.

The payment of pre-surrender debts of properties confiscated under Control Council Law No. 2 was prohibited. It was felt that confiscation of these properties did not necessarily involve assumption of debts. However, current obligations of such properties which were operated under the authority of Military Government were so operated, not under Article 4 of MG Law No. 52, but under Articles II and III of MG Law No. 52, which provides for the removal of the restrictions of MG Law No. 52 "when otherwise authorized" by Military Government. The use of such properties was restricted by virtue of their confiscation under Control Council Law No. 2. Military Government authorized the normal operation of many of such properties in order to meet the minimum needs of the German economy.

Control Council Law No. 9 vests title of the I.G. Farben properties in the Control Council and operation of said enterprise was under the control of the I.G. Farben Control Committee. Therefore, instructions were issued that no debts of this organization were to be paid, regardless of when incurred, out of funds of properties confiscated under Control Council Law No. 9, except on order of the I.G. Farben Control Committee.

In general, Military Government regulations in the British, French, and Soviet Zones of Occupation would not permit the payment of debts to residents of their respective zones or the U.S. Zone incurred prior to 8 May 1945. In some instances, however, exceptions were made by British authorities and such debts could be paid with appropriate approvals, if the debt was not incurred as the result of war contracts. The Soviets, however, made no exceptions and only permitted certain payments to be made for goods furnished after the beginning of the occupation. All transfers to the Soviet Zone were screened at the Berlin Stadtkontor Bank and were made through Reichsbank accounts. All such payments had to be routed through the accounts which the Berlin Stadtkontor maintained with the main Reichsbank offices in Bavaria, Hesse, and Wurttemberg-Baden.

In those instances where a firm located in the Soviet Zone had branches in the U.S.-occupied Area, payments were permitted within the U.S. Zone to a duly authorized representative of the creditor. All questions of doubt were referred to the office of the chief of Property Control Branch, OMGUS. Laws adopted in certain Laender in the Soviet Zone provided for the nationalization of certain industries. In some instances, such enterprises also had branches in other zones. Inasmuch as it was not known whether such nationalization or socialization would be recognized in the U.S.-occupied Area, no payments to such creditors were permitted pending clarification of this issue.

JULY 1949

PROPERTY CONTROL

Boards of Supervisors

The appointment of Boards of Supervisors (Aufsichtsrat) for German firms under control was permitted. German law required joint stock companies (AG's 1/) and cooperative associations to have a Board of Supervisors. In the case of limited liability companies (GmbH 2/), a Board of Supervisors is not required by law, but had to be formed where the Articles of Association so provided. There are certain fundamental distinctions between the powers, duties, and authority of property custodians and supervising boards. Custodians of Property Control were required under Article III, 4 (a) (II), of Military Government Law No. 52 to preserve, maintain, and safeguard seized property, and under MGR 17-815 (as of March 1947) they had full powers of management and direction of seized properties. The Board of Supervisors of AG's, on the other hand, represent the companies in their relationship to the management and could be called upon to conduct lawsuits on their own behalf or on behalf of stockholders. They cannot exercise managerial functions. With very few exceptions, the relations between custodians and boards were very good, and conflicts were few.

Extraordinary Expenditures

As a general rule, extraordinary or unusual expenditures were prohibited. If warranted, however, after a complete survey of the situation, such expenditures were permitted after approval by the LPOC or LCAH. Requests for clearance of extraordinary expenditures incident to render rehabilitation and repairs, erection of new facilities, purchase of new equipment and machinery, etc., were checked by the LPOC or LCAH for basic soundness. Details of the proposed maximum improvements, together with estimated production after the improvement was completed, were then forwarded to Industry Branch, Economics Division, Land level, where it was determined whether or not the proposed improvement conformed to establish over-all policies on industrial production. If the Economics Division approved of the proposed improvement, the LPOC (and at a later date the LCAH) was authorized to approve such requests.

Status of Unexpired Leases

Almost all leases entered into pertaining to properties under control provided that said leases could be terminated by Military Government at any time. It was a policy of Military Government to cancel such leases if requested by the owner when such properties were either decontrolled or, in a case of properties of Nazi Party members, after exoneration by denazification tribunals. The date of termination was fixed as one year from the date on which such notice was given to the lessee. This period of time was considered adequate to permit the lessee to make other lease arrangements. In exceptional cases the period was extended for another six month interval. The owner was called upon to assume the payment of unamortized portions of all costs of repairs and improvements incurred by the lessee. Leases were, of course, not terminated where the owner agreed to the lease or was a party to it. Leases involving information control newspaper licensees were not subject to the foregoing procedure and were not terminated except on specific instructions of Information Control officials.

Taxation of Property Under Control

Payments of real estate and other taxes were made where possible. In many instances, however, the properties did not produce sufficient income to pay the taxes. In such instances, local Property Control authorities were instructed to make arrangements with the local German government for the payment of these expenses, together with other necessary expenses required to prevent further deterioration of the property. The local German authorities kept accurate records of such expenditures paid. The accumulated expenditures constitute a lien against the property until such property was either returned to the rightful owner or otherwise disposed of, at which time the liability was liquidated.

1/ AG -- Aktiengesellschaft (joint stock company).

2/ GmbH -- Gesellschaft mit beschränkter Haftung (limited company).

PROPERTY CONTROL

In many instances, it was found that taxes on real estate were being paid on prewar assessed values, in spite of the fact that such properties were considerably damaged by bombing, etc. Custodians were instructed, in such instances, to apply to property tax authorities for a reduction in the tax/proportionate to the damage sustained. Although some relief was obtained, local German authorities were extremely slow in making re-assessments and adjustments.

Fire Insurance

Every effort was made to see that properties under control were adequately covered by fire and other hazard insurance. An investigation indicated that many properties, even though completely destroyed, were still covered by fire insurance. Property Control authorities were instructed to establish the necessary procedures to determine the type and amount of insurance necessary for adequate protection of all properties under control. In those cases where insurance was not required, the policies were to be canceled immediately. In many instances, the only insurance required in the cases of vacant land, etc., was liability insurance.

U.S. Businessmen in Germany

Numerous properties owned by U.S. nationals were taken into Property Control and custodians appointed to manage said properties. These custodians could not, however, under the "Trading with the Enemy Act" receive directions with respect to the conduct of the business (transactional communications) from their owners. They were permitted to send and receive the business information only, such as balance sheets and operating statements, through OMGUS and State Department channels, and such communications were called "non-transactional business communications."

When U.S. businessmen were allowed to enter Germany to look after their property, under the "Trading with the Enemy Act," they could look but not act, they could listen but make no decisions. In June 1946, the Treasury Department issued standard form Treasury License No. W-2857, which relaxed to a considerable extent certain provisions of the "Trading with the Enemy Act" with respect to businessmen in Germany having a military permit. The license did not extend to a U.S. owner outside of Germany who wished to communicate a business decision to the custodian of a German property. Such a communication would have been a breach of the "Trading with the Enemy Act". Treasury License No. 2857, although of great assistance as it permitted businessmen to "confer with military authorities with respect to the restitution, maintenance, preservation, and operation of such properties," did not go far enough in permitting businessmen actively to assume managerial direction of their properties.

Lawsuits

As a general rule, properties under control were not permitted to be sued without proper authorization from Military Government Property Control authorities. Suits in German courts involving any of the United Nations were expressly withdrawn from jurisdiction of German courts by Article I, Section 10 b (1) of Military Government Law No. 2, as amended by Amendment No. 2.

JULY 1949

PROPERTY CONTROL

ANNEX VI

TITLE 17
PROPERTY CONTROL

17-1

Scope of Property Control. — Property Control concerns the establishment of control over the properties of persons and organizations set forth in MG Law No. 52, as amended, and of organizations set in the Appendix to Control Council Law No. 2, and such properties as may from time to time be specified in directives. Property Control is considered an interim measure pending ultimate disposition.

(Nothing in this Title will be interpreted to abrogate directives of USEF/EUCOM, relative to the control of property of United Nations Displaced Persons and those assimilated to them in status (UNDP's) within the U. S. Zone of Occupation in Germany.)

PART I
GENERAL

SECTION A

17-100

Objectives and General Policies of Property Control.

17-100.1

General. — The objective of Property Control is to ensure that pending ultimate disposition of property taken into custody, such property will be safeguarded and maintained without substantial depreciation in value of assets.

17-100.2

Objectives of Property Control. — The control of property is a necessary step in accomplishing important ultimate objectives of the occupation, including denazification, demilitarization, concomitant deindustrialization, restitution, reparations, and relief. In carrying out denazification, demilitarization, and deindustrialization, control is taken to remove designated persons and organizations from positions of power and influence. In accomplishing restitution, reparations, and relief, control is taken to provide ultimate aid to Nations and individuals who were victims of Nazi oppression.

17-101

Purpose of Title. — This Title sets forth the objectives and policies and prescribes the rules and procedures which will be followed by MG officers in the U. S. Zone in the supervision of and the control of property. It will also govern the German authorities in regard to custody and operational management of properties for which they are to be made responsible.

17-102

Scope of Title.

a. Under directives of 17 May 1946, "Transfer of Property Control Responsibilities in Greater-Hesse and Württemberg-Baden to Land Minister Presidents", C/S, OMGUS, 7 June 1946, "Transfer of Property Control Responsibilities in Greater-Hesse to Land Minister President", C/S, OMGUS, 11 September 1946, "Transfer of Property Control Responsibilities in Bavaria to Land Minister President", C/S, OMGUS, 11 September 1946, "Transfer of Property Control Responsibilities in Bremen to the Oberfinanzpräsident", C/S, OMGUS, responsibility for custody and administration of all property under MG control was transferred to the various Länder of the US Zone. This program of transfer of responsibility relates to custody and administration only; disposition of property being retained as an MG responsibility subject to the regulations set forth in this Title.

b. Insofar as custody and administration of property is concerned the regulations set forth in this Title shall apply only until such time as German authorities promulgate their own regulations for custody and administration of property and said regulations are approved by Military Government. At that time parts of this Title concerned with the above subject matter will be deleted from the Title.

SECTION B

DEFINITIONS AND ABBREVIATIONS

17-110

Chief, Property Control Branch. — The Chief, Property Control Branch (CPCB), is the senior Property Control Officer in the U. S. Zone.

17-111

Deputy Chief, Property Control Branch. — The Deputy Chief, Property Control Branch (DCPCB), is the second senior Property Control Officer in the U. S. Zone.

17-112

Land Property Control Chief. — The Land Property Control Chief (LPCC) is the senior MG Property Control Officer at Land level.

17-113

Land Property Control Assistant Chief. — The Land Property Control Assistant Chief (LPCAC) is the second senior Property Control Officer at Land level.

17-114

Property Controller. — The Property Controller is the field representative of the LPCC.

17-115

German Property Control Agencies.

17-115.1

Land Civilian Agency Head. — Land Civilian Agency Head (LCAH) is the head of the German Property Control Office at Land level.

17-115.2

Regierungsbezirk Civilian Agency Head. — Regierungsbezirk Civilian Agency Head (RCAH), if established, is the head of the German Property Control Office at Regierungsbezirk level.

17-115.3

Civilian Agency Head. — Civilian Agency Head (CAH) is the head of the German Property Control Office at Kreis level.

17-117

Definitions under MG Law No. 52.

17-117.1

"Persons" shall mean any natural persons, collective persons, juristic persons under public or private law, and any government including all political sub-divisions, public corporations, agencies, and instrumentalities thereof.

17-117.2

"Business enterprise" shall mean any person as above defined engaged in commercial, business, or public welfare activities.

17-117.3

A **"national"** of a state or government shall mean a subject, citizen, or partnership and any corporation or other juristic person existing under the laws of, or having a principal office in the territory of, such state or government.

17-117.4

"Germany" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.

17-118

Property Funds. — Property funds are funds received as a result of exercising Property Control functions. Property funds do not include bank or other accounts existing as separate entities (i. e. accounts wholly unrelated to properties under control) which are blocked or frozen by MG officers exercising financial functions. Only bank or other accounts belonging to a property or individuals whose property is taken into Property Control custody are considered as property funds.

17-119

Properties Defined.

a. An **"operating property"** is any manufacturing, sales or service enterprise under Property Control which utilizes raw materials, inventories, labor, and/or skilled or professional services in its normal business operations, and such activities constitute the source of the major portion of its gross income. The term **"operating property"** also includes any inactive business enterprises of the categories described in the preceding definition which are potentially operative. In the case of United Nations and Neutrals property, the property is to be operated only after proper clearance with the Director, Finance Division, through the CPCB, under the supervision of a duly appointed custodian.

Examples:

- (1) Manufacturing: Steel mills, canning factories.
- (2) Sales: Wholesalers, retailers.
- (3) Service: Banks, insurance companies, public accounting firms, etc.

b. **"Other income producing properties"** will include rentable properties, securities, patents, trademarks and other aspects of a similar nature. All income producing properties other than those included under par. a above will be included in this category. A rentable property is one whose income is derived from leasing fixed assets. A property not presently income producing because of the necessity of reasonable repairs or because of the temporary lack of a suitable tenant, but which is potentially income producing under the preceding definition will also be classified as an **"other income producing property"**.

c. A **"non-income producing property"** is any property under control which due to its nature or condition cannot be expected to be used in business or produce either rental income or other income of any description.

Examples:

- (1) Business establishments, apartment houses, or dwelling houses which are damaged beyond recovery.
- (2) All other property not classifiable as operating or other income producing.

SECTION C

MEANING OF "PROPERTY CONTROL"

17-120

Property Control. — The term **"Property Control"** denotes the establishment and maintenance of control in and over specified categories of property of persons and organizations described and defined in MG Law No. 52 (see MGR 23-333), the organizations set forth in the appendix to Control Council Law No. 2 (see MGR 23-121.2), General Order No. 1 and supplements thereto issued pursuant to MG Law No. 52 (see MGR 23-332, through 23-332.5), and such other properties as may be made subject to control from time to time by competent authority.

17-121

What Property Control Includes. — Property Control may include use, possession, custody, occupancy, protection, title, maintenance, conservation, supervision and may be operated through custodians duly appointed by the LCAH in the case of German property and through custodians duly appointed by him and approved by the LPCC, as to property of United Nations and Neutrals.

17-122

Taking Title. — Property Control does not normally include taking title to property.

17-123

Type of Control. — As to United Nations and Neutrals properties, the type of control imposed at any time is a matter within the discretion of the LPCC unless otherwise specifically indicated by a higher authority.

As to German properties, the type of control imposed at any time is a matter within the discretion of the LCAH unless otherwise specifically indicated by Military Government.

In either case, local determination is desirable because the control to be exercised may vary according to the nature and circumstances of each case.

JULY 1949

PROPERTY CONTROL

17-124

Primary Doctrine. — Property Control will not be exercised over properties not embraced in MGR 17-300 below unless specifically authorized by the CPCB or directed otherwise in the Regulations herein. Property control will not apply under any circumstances with respect to properties which are primarily of concern to the U.S. Army or Navy or branches of Military Government having sole jurisdiction over properties vested in said branches. Control will not be exercised over enemy war installations or material unless not wanted by authorized branches of the Army or Navy, nor over any properties desired for use or operation by other authorized branches and agencies of the U.S. occupational forces and Military Government, even though such properties would otherwise come within the scope of MGR 17-300.

However, formal control and custody may be taken when property is released by the Army, Navy or other branches of Military Government, it being understood that such property may be derequisitioned and returned to the German economy without placing such properties under Property Control.

17-125

Application of Doctrine to Certain Situations. — In the absence of instructions from the Director, Finance Division, the functions of Property Control do not apply to the following:

- a. Operation of railroads by Transportation Corps;
- b. Operation of PIT equipment by Signal Corps;
- c. Operation of docks by Navy;
- d. Use of buildings by U.S. agencies or personnel for offices and billets; and
- e. Control over foreign exchange transactions, the blocking of deposits in banks or other financial institutions, or the blocking of negotiable instruments such as securities, bonds, etc. which are not associated with real properties or other properties normally taken into Property Control custody and which are adequately safeguarded and no practical gain is achieved through taking them into control.

SECTION D

GENERAL PLAN OF ADMINISTRATION AND SUPERVISION PURSUANT TO TRANSFER TO GERMAN AUTHORITIES.

17-126

Transfer to German Administration: Authority and responsibility for administration of the Property Control program has been transferred to German authorities subject to observation and inspection by and reports to the Property Control Branch to assure proper attainment of MG objectives. Authority over substantive rules governing property control has not been transferred to the German authorities. The German government in each Land in the U.S. zone shall have the responsibility for administration subject to such substantive rules as are or may be established by Military Government and to compliance with Military Government in respect to inspection and reports.

As part of the transfer of administrative responsibility to the German governments, they are authorized to develop their own plans for administrative organization and operation to be submitted to the Property Control Branch for approval to determine its adequacy to accomplish MG objectives. Pending the submission of such plans, it is necessary to provide an administrative system, and those sections in this chapter which deal with administrative details of organization and operation are continued in effect pending acceptance of a modification thereto or a substitute plan originating with a Land government.

17-127

German Property Control Offices and Officials. — There is established in each Kreis a German Property Control Office under the direction of a CAH and in each Land a German Property Control Office under the direction of a LCAH. There is also authorized, when required, a German Property Control Office at Regierungsbezirk level under the direction of an RCAH.

17-128

Line of Responsibility of German Authorities. — The CAH is responsible to and receives orders from the LCAH. Such responsibility may run directly or through the offices of the RCAH, who transmits orders of the LCAH and exercises certain additional authority as delegated by the LCAH. The LCAH is responsible to the Ministerpräsident of each Land. No other German officials shall have authority in Property Control functions.

17-129

General Manner of Supervision of German Authorities. — All MG policies, directives, and instructions on Property Control subjects, which originate at OMGUS or Land level, will be transmitted through the Land Director of OMG to the Ministerpräsident, or by the LPCC to the LCAH, their respective duly authorized agents.

17-130

All Basic Existing Laws, Directives, and Policies Unchanged. — Transfer of the Property Control program was administrative not substantive in nature, effecting merely a change of persons and offices performing particular duties. All substantive rules governing Property Control remain unaffected.

17-131

Responsibilities of Ministerpräsident. — The LCAH under the Ministerpräsident of each Land shall be responsible for the safeguarding of property under control and for the general administration of the Property Control program. He will be subject to such supervision, restrictions, audits and submittal of reports as may be required by Military Government.

17-132

Duties of LCAH. — The duties of the LCAH and his office shall include the following:

- a. **General Responsibility for Property Control Administration.** — The LCAH shall be primarily responsible for proper organization to ensure effective functioning of all offices and officials in the administration of the Property Control program.

b. **Focal Point for Field Operations.** —

The LCAH will coordinate Property Control operations in the field. He will be responsible for primary instruction of personnel, with assistance of the MG field staff, and for disseminating to RCAH's and CAH's, regulations, orders, instructions and information generally, and implementing such advices as necessary. The LCAH will also approve custodian contracts, leases and releases of property, and sales of perishable property, within existing authority and subject to any general restrictions in these Regulations.

c. **Files.** —

The office of the LCAH will maintain files of prescribed MG/PC forms, custodian contracts, property ledgers, cash ledgers, audits, reports, correspondence, investigations, field liaison matters, and any other pertinent records or documents.

d. **Accounting Section.** —

The office of the LCAH will include a section, and the facilities therefor, wherein necessary auditing and accounting work may be performed.

e. **Special Provision for Protection of Property of Allied Nations and Neutrals.** —

The office of the LCAH shall also provide special facilities for necessary protection and control of property of Allied Nations and Neutrals and their nationals.

f. **Liaison with LPCC.** —

The office of the LCAH will be considered the liaison office through which Military Government at Land level will exercise such supervision of Property Control administration as may be necessary.

17-129.2

Duties of RCAH. — In general, the RCAH, if created, shall supervise and coordinate operations of each Kreis agency and all CAH's in the Regierungsbezirk. He shall also have such additional authority, duties, and responsibilities as may, within the general limitations and requirements herein, be delegated to him by the LCAH.

17-134.3

Duties of the CAH. — The duties of the CAH and his office include the following:

- a. Deciding initially which properties are subject to control and whether they should be taken under control;
- b. Taking properties under control;
- c. Appointing and removing custodians;
- d. Preparing and executing custodian contracts and fixing fees and other terms thereof, all subject to approval by the LCAH;
- e. Deciding initially questions relating to custodians, business under control, and particular operations or transactions;
- f. Administering and supervising the office of the CAH and all its functions;
- g. Signing and forwarding all necessary reports;
- h. Recording appropriately all transactions, as required on MG/PC forms. Unreported transactions will be voidable at the discretion of the LPCC;
- i. Actively assisting and cooperating with Property Controllers or other representatives of the LPCC in any inspection or audit of his office or records or any investigation relating to Property Control in his Kreis;
- j. Cooperating with Kreis MG Security and Liaison Detachments and Occupational Security Units;
- k. Carrying out any special instructions or orders transmitted to him by or through the LCAH or RCAH.

17-135

Duties of the LPCC. — The LPCC has general supervisory authority over the Property Control program in the particular Land and is responsible for its proper administration by German officials. He will ensure that his field staff accomplishes its functions of inspection, investigation, and the giving of assistance to German authorities. He will assure that Property Controllers are properly reporting matters requiring corrective or remedial action in order that he may prescribe to German officials the action to be taken.

17-136

Duties of Property Controllers. — The Property Controller is not an intermediate officer but is a field representative of the LPCC. His duties include the following:

- a. Furnishing information in particular cases and explaining important provisions of laws, regulations, and established policy;
- b. Assuring that basic rules, limitations and policy are being correctly observed and that procedure is proper and uniform;
- c. Checking on general administrative adequacy, recording, accounting and auditing;
- d. Conducting inspections and investigations, either by order of the LPCC or on his own initiative, with or without notice to the offices, officials, other persons or businesses investigated;
- e. Guarding against any
 - (1) Improper, irregular, or fraudulent transactions such as unauthorized use or disposition of assets or
 - (2) Favoritism or discrimination contrary to MG objectives;
- f. The Property Controller will cooperate with and assist the CAH in the effective implementation of Property Control functions at the Kreis level. He will act as an inspector and advise the CAH of any irregularities or procedures that are not in accord with MG policies. He will inform the CAH of all deficiencies noted; those that are not corrected locally will be reported to the LPCC. In the latter case remedial action will be initiated at Land level and appropriate instructions issued by the LCAH through German channels. In urgent cases or emergencies (e.g. to safeguard assets) Property Controllers may act immediately as circumstances require, in the name of the LPCC, but will report the facts in writing to the LPCC within 48 hours.

106854

JULY 1949

PROPERTY CONTROL

17-237

Restrictions on and Reservations of Authority by Military Government. — Restrictions imposed on German officials and powers reserved to and retained by MG officials are as follows:

a. **Property used by U. S. occupational forces of Military Government.** — German authorities shall have no jurisdiction over property now or hereafter occupied or used by U. S. occupational forces of Military Government during the period of such occupancy or use.

b. **Property of United Nations and Neutrals.** — With respect to property of United Nations and of Neutrals and their nationals, custodians may not be appointed or removed, contracts of custodians may not be consummated or cancelled, and property may not be released from control, without prior approval of the LPCC. The CAH may suspend custodians of such properties pending final action by the LPCC but any such suspension must be reported within two days to the Property Controller.

c. **Reservation of General Authority of Supervision.** — German officials at Land and lower levels will be subject to general supervision by the LPCC.

PART 2

OPERATIONAL PLAN FOR PROPERTY CONTROL

SECTION A

RELATION BETWEEN BLOCKING CONTROL AND PROPERTY CONTROL

17-238

Responsibility for Blocking Control. — Properties subject to MG Law No. 52 not actually taken under control will continue to be subject to Blocking Control under the provisions of Title 18, MGR. Such properties as are taken into custody by Property Control will no longer be subject to blocking control and will be administered entirely by Property Control. This includes blocked bank accounts which may belong to such property.

SECTION B

PROPERTY CONTROL PROCEDURE

17-239

Procedure of Establishing Control. — Whenever it is necessary to establish control over a property the following two basic steps will be taken:

a. **Post or deliver Notice of Custody** — Form MG/PC 1; and
b. **Enter property on Property Records** — Form MG/PC 2, and dispose of the form as directed in OMGUS, AG letter 010.8 (FD), 26 Feb. 47, subject: Property Control Accounting and Auditing Procedure, and Legal Form.

Posting the Notice of Custody does not in itself constitute taking control. Notices may be posted pending final determination as to advisability of taking control, and Notices may be removed within a reasonable period. Such preliminary postings may be resorted to in exceptional circumstances, e.g., giving temporary protection to property subject to the initial jurisdiction of other branches of Military Government. If temporary custody is to be taken, the word "Temporary" will be inserted in the title of the Notice before "custody" and in the second line of the Notice "temporarily" will be inserted after "declared".

17-240

Procedure for Maintaining Control. —

17-241

Recording Matters Affecting Control. — When control has been established, recording of all pertinent matters affecting the exercise of control over such property will be made. This will be done by preparing the Report of Property Transactions (Form MG/PC 3) if the property is an operating property, or other income producing property which is permitted to continue operating its business; the following will be done:

a. **Deliver Property Control Letter of Instructions** No. 1 — Form MG/PC/IBS/1; and
b. **Secure financial statement** of recent date and periodical financial statements.

17-242

Operation of Business Enterprises. — Unless otherwise directed and subject to such further limitations as may be imposed by Military Government, any business enterprise under Property Control may engage in all transactions ordinarily incidental to the normal conduct of its business activities within occupied Germany provided that such business enterprise may not engage in any transaction which directly or indirectly, substantially diminishes or impairs the assets of such enterprise or otherwise prejudicially affects its financial position.

17-243

Control through Custodians. — Property Control will normally be exercised through custodians. Acceptable custodians, managers, and operating agents of controlled properties will be authorized to engage in necessary and desirable transactions with respect thereto, subject to the following overall prohibitions which may be removed in particular cases by obtaining the approval of the CPGB in the case of Allied Nations and Neutrals properties and the LPCC in the case of other properties:
a. **Controlled properties will not be sold or otherwise disposed of** and
b. **Controlled properties will not be altered in character** unless the change has been approved as incidental to the normal conduct of business and does not result in a substantial increase of business and operating expenses. In no case shall the maximum allowances for actual living expenses to be received by the families of the owners exceed amounts specified in General License No. 1 (Form MG/L-1).

SECTION C

COORDINATION OF PROPERTY CONTROL PROGRAM WITH LAW FOR LIBERATION FROM NATIONAL SOCIALISM AND MILITARISM (MGR 24-500)

17-235

General Property Control Policy Respecting the Law for Liberation. — To accomplish Property Control objectives, Property Control procedures must be closely coordinated with the program outlined under the Law for Liberation. This coordination will entail assumption of control of property as soon as grounds appear and the retention thereof until a final decision is rendered. When an individual's status is determined by final decision of a tribunal, such decision will be respected with relation to his or her property.

17-235.1

Definition of Final Decision. — Final decision means a decision from which no appeal can be taken and which determines the status of an individual and disposition of his or her property pursuant to the Law for Liberation (MGR 24-500).

17-235.2

Policy Prior to Final Decision. — Until final decisions under the Law for Liberation, German Property Control officials will take property under control as soon as any grounds appear therefor (see MG Law No. 52 and supplement thereto and the Law for Liberation from National Socialism and Militarism), and will release property only when clearly justified by corroborated facts. In accordance with this policy of conserving property, preliminary classification, whereby individuals are placed in Class 1 or 2 by public prosecutors, will be fully and promptly respected by taking all the individual's property under control pending final decision. This permits German officials to take control or to retain control already taken, notwithstanding a decision of a tribunal which has not yet become final and which does not order confiscation.

17-235.3

Policy after Final Decision. — Final decision of tribunals will be fully respected and followed. After any final decision which does not order property confiscation, any property of the individual already under control will be released unless grounds other than political or militaristic incrimination exist for retaining control (i.e., duress property owned by an individual exonerated under the Law for Liberation). Any property of the individual not already under control will not be taken into control on grounds of political or militaristic incrimination of said individual so long as said decision remains effective.

17-235.4

Effective Actions taken after Final Decision. — Where any case is re-opened for any reason whatsoever, the case will be considered as reverting to its status before final decision. When the Minister for Political Liberation pardons an individual or vacates or modifies a final decision without ordering final disposition of the individual property, the case will also be considered as reverting to its status before final decision until the LCAH has been instructed in writing by the Minister of Political Liberation, if release of the individual property is intended.

17-236

Procedure and Steps to be taken by German Officials to Effectuate Confiscation Orders.

17-236.1

Assignment of Personnel in Office of CAH to coordinate Operation with the Law for Liberation. — The LCAH will assign one or more individuals (depending on number of acting tribunals) in the office of the CAH to effect continuous liaison with public prosecutors. These individuals, to be called Liaison officers, will be available to testify, ask questions, and offer suggestions regarding property during the proceedings.

17-236.2

Procedure Prior to Adjudication. — The following steps will be taken by the CAH prior to adjudication:

- a. Liaison officers will be ordered to secure classification lists of Class 1 and 2 offenders and deliver them to the CAH who will take prompt action to place property under control;
- b. Liaison officers will be ordered to familiarize themselves generally with information available to the public prosecutor's office and to report such information to the CAH in order to facilitate action by the CAH at the proper time.

17-236.3

Procedure after Final Decision. — The following steps will be taken by the CAH after final decision:

- a. A written copy of the final decision will be filed in the office of the CAH;
- b. If confiscation is not ordered, and if no other grounds exist for retaining control, any property of said individual then under control shall be promptly released;
- c. If the decision orders confiscation, the CAH shall act promptly in accordance therewith.

SECTION D

RELEASING PROPERTY FROM CONTROL

17-244

Occasions for Release. — LCAH's will release property from custody under the following conditions:

- a. Whenever the CPGB directs the turning over of the property to a designated person; and
 - b. Whenever it is determined that the property was taken into custody in error.
- Upon the return of an absentee owner, where control of the property was taken under Section 1 (f) of Article 1 of MG Law No. 52, and upon submission of acceptable proof of ownership, of citizenship, and of political reliability.

106355

PROPERTY CONTROL

d. Whenever the owner has been cleared, or has satisfied the sanctions, if any, imposed on him under the Law for Liberation from National Socialism and Militarism;

e. Whenever the owner of the property, under Section 1 (d) of MG Law No. 52, has been released from detention or any other type of custody by Military Government, and the property is not otherwise within the scope of MGR 17-300 below;

Whenever a turn-over award, order or instruction is received from Reparations Section or Restitutions Control Branch of Military Government (approval must be obtained in advance from the Restitutions Control Branch, OMGUS (Near), APO 787, Frankfurt-Hoechst, before Property Control officials may release any property that was removed from any one of the following occupied countries:

- | | |
|----------------|-------------|
| Albania | Hungary |
| Austria | Italy |
| Belgium | Luxembourg |
| Bulgaria | Netherlands |
| Czechoslovakia | Norway |
| Denmark | Poland |
| Finland | Roumania |
| France | U.S.S.R. |
| Greece | Yugoslavia |

Whenever the property is requisitioned for use, operation, or other purpose by the occupational forces or other branches of Military Government;

Upon recommendation of the Ministerpräsident of the Land, or the appropriate civil authorities in the case of Berlin Sector, with the approval of the CPCB;

Whenever directed by the LPCC to release to Lander governments upon appropriate receipt, under the provisions of MGR 17-311.1.

17-311

Release of Property to U.S. Occupational Forces and other Branches. — Property actually taken under control may thereafter be requisitioned by or turned over to the occupational forces and other branches of Military Government. In this case the LCAH will, by order of the LPCC, release the property concerned from the Property Control books by entering proper notation on the Report of Property Transactions (Form MG/PCS). Such notation will include designation of unit or branch, name of commanding officer, date of release, statement of condition at time of release, and any other relevant information. If the property in question belongs to a United Nations Government or National thereof, such fact will be called to the attention of the commanding officer of the unit or branch to which the property is released.

17-312

Property Subject to Instructions and Orders of LCAH. — The LCAH in all cases will take the following steps whenever it is necessary to release any property, including funds, from control:

- a. In case of United Nations and Neutrals properties written approval of LPCC will be obtained (see MGR 17-137 b);
- b. The proper notation will be entered on the Report of Property Transactions (MG/PCS). Such notation will include:
 - (1) Name and address of releasee;
 - (2) Release date;
 - (3) Reason and/or authority for release;
 - (4) Any other information pertaining to release;
 - (5) Signature of LCAH.

A written certificate will be secured in triplicate from the releasee in case of German etc. properties and from quadruplicate in case of United Nations and Neutrals properties containing the following information:

- (1) Property serial number, description and location of the property; and
- (2) Acknowledgement of receipt of property.

In the case of properties of United Nations and Neutrals, the signed original will be attached to the MG/PCS reporting the release and forwarded to the CPCB. The duplicate, triplicate, and quadruplicate copies will be retained by the LPCC, the LCAH, and CAH, respectively. In all other cases the signed original will be attached to the MG/PCS reporting the release and forwarded to the LCAH. The duplicate and triplicate will be retained by the LPCC and CAH, respectively.

PART 3

PROPERTIES TO BE CONTROLLED

SECTION A

GENERAL

17-300 General Rule. — As soon as grounds therefor appear, LCAH's will establish and maintain Property Control over all properties as defined in MGR 17-130 and 17-131, owned or controlled, directly or indirectly, in whole or in part, by the various categories of persons and organizations described in Article 1 of MG Law No. 52 (except as superseded by MG Law No. 54 with respect to certain categories of property), the appendix to Control Council Law No. 1, General Order No. 1 and supplements thereto, listed pursuant to Law No. 11; the organizations described by MG Law No. 54, MG Law No. 17, and 19; Control Council Law No. 9 and 10, subject to the limitations and exceptions stated in Title 17, MGR Control of Property will also be assumed as provided in the Law for Liberation (MGR 14-500 and MGR 17-238) as soon as grounds appear, and such control will be retained until a final decision is rendered.

SECTION B

PROPERTIES OF THE GERMAN REICH, LANDER, PROVINCES, AND POLITICAL SUBDIVISIONS THEREOF. — **ARTICLE 1**

PART 3 (a) OF MG LAW NO. 52

17-310

Taking Control Dependent on Dissolution of Using Agency. — LCAH's will take control over properties in this class after the German governmental agency or instrumentality concerned is no longer in existence. LCAH's will not exercise control when the properties are used to house or to facilitate normal functions of government or public services permitted by Military Government, e. g., property occupied by ministries and other departments of government and property used as fire stations, police stations, prisons, public schools, and hospitals.

17-311

Doctrine of Primary Concern Applicable. — Initially the properties described in Article 1, par. 1a, of MG Law No. 52, are the primary concern of the U.S. Army, Navy, or other branches of Military Government. Hence, LCAH's will take no action with respect to such properties except with special authorization of the Ministerpräsident concerned. Unless specifically instructed herein relative to particular types of property, LCAH's will establish control in these cases only when:

- a. Directed by the Ministerpräsident concerned, or in the case of zonal agencies by the Länderrat or by Military Government;
- b. The agency having primary concern has completed its mission or task in connection therewith and has so indicated in writing to the LCAH;
- c. The agency having primary concern has indicated that its interest in the property has ceased; or
- d. The agency having primary concern has released the property, or has arranged for its transfer to Property Control.

17-312

Specified Property is to be Considered within this Class. — In addition to the specific classes of property described in Article 1, par. 1a of MG Law No. 52, the following properties are to be considered within this class and taken into control only when the provisions of MGR 17-310 and MGR 17-311 are satisfied:

- a. The Reichsbahn and other transport facilities belonging to or controlled by the Reich or any of its political subdivisions or municipalities;
- b. The post, telegraph, and telephone properties of the Reich;
- c. Castles, museums, libraries and archives;
- d. Utilities, monopolies, public undertakings and public corporations; and
- e. Public forests.

17-313

Jurisdiction of Lander over Wehrmacht Property. —

17-313.1

General. — MG Law No. 54 grants to the Land the right to possession and use of all property, both real and personal, suitable for agricultural purposes or required for accommodation or settlement of Germans and others, title to which was held by any of the following:

- a. The Supreme Command of the German Armed Forces, the German Army, Navy and Air Forces;
- b. The SA (Sturmabteilungen), NSKK (NS-Kraftfahrkorps), NSFK (NS-Fliegerkorps), SS (Schutzstaffeln) and SD (Sicherheitsdienst);
- c. The German Reich, its departments or agencies, for or in the interest of organizations listed in subpara. a. and b. above;
- d. Any officer of organizations listed under subpara. a. and b. above, in his official capacity; and
- e. Any other organization or person, for or in the interest of organizations or persons listed under subpara. a., b., and c. above.

17-313.2

Control Already Taken Over Wehrmacht Property to Continue. — MG Law No. 54 conveys to the Lander the possession and use of such property described in MGR 17-313.1 above, as is suitable for agricultural purposes or required for accommodation or settlement of Germans or others. The Law does not apply, however, to property of this nature which is now or hereafter used, occupied, or in the custody of the U.S. occupational forces or Military Government. LCAH's will continue control already taken over barracks, buildings, and other properties of the Wehrmacht.

17-313.3

Control of Additional Wehrmacht, Kriegsmarine, and Luftwaffe Properties. — All Wehrmacht, Kriegsmarine, and Luftwaffe properties, real or personal, not suitable for agricultural purposes, or for accommodation or settlement under the provisions of MG Law No. 54 will be taken into custody by LCAH's subject to the following exceptions:

- a. Property held or being used by the U. S. occupational forces; and
- b. Property held or being used by other branches or divisions of Military Government.

17-313.4

Power to Regain Possession Reserved. — Military Government reserves the power to regain possession or otherwise assume control over any properties transferred to the Lander under the Law. LPCC's will not exercise this power without the specific authority of the CPCB.

17-313.5

Reports from Lander. — The Lander government will be required to furnish the reports on all properties subject to MG Law No. 54, whether or not suitable for agricultural purposes or required for accommodation or settlement of Germans. LCAH's will forward copy of such reports to Office of Chief, Property Control Branch, Finance Division. The report will constitute the basis for directives from the CPCB authorizing LCAH's to establish control over military properties of the German Reich or the income derived from their use.

106836

PROPERTY CONTROL

SECTION C

PROPERTIES OF ENEMY STATES OTHER THAN GERMANY.
— ARTICLE I PAR. 1 (b) OF MG LAW NO. 52

17-330

General Rule. — Until further promulgations are issued by Military Government, LCAH's will only establish and maintain control over such properties described in Article I, par 1 (b), of MG Law No. 52 as are owned or controlled by the following nations or their nationals:

- a. Bulgaria,
- b. Hungary,
- c. Italy,
- d. Japan, and
- e. Rumania.

SECTION D

PROPERTIES OF NSDAP, NSDAP ORGANIZATIONS AND
NSDAP OFFICIALS AND MEMBERS — ARTICLE I
PAR. 1 (c) OF MG LAW NO. 52 AND APPENDIX TO CON-
TROL COUNCIL LAW NO. 2

17-331

NSDAP Headquarters and Local Party Offices. — LCAH's will immediately establish and maintain control over NSDAP Headquarters and local Party offices, and properties of organizations and associations controlled by the NSDAP, as described in Article I, par 1 (c), of MG Law No. 52 and the appendix to Control Council Law No. 2 to the extent not excluded by other paragraphs from the operation of LCAH's.

17-332

Property of NSDAP Officials and Members. — LCAH's will immediately establish and maintain control over property of NSDAP officials and members or supporters included in blacklists or in accordance with Law for Liberation from National Socialism and Militarism or otherwise specified by Military Government. LCAH's will not exercise control over their essential furniture, clothing, or other personal effects unless these have in fact been obtained through duress, looting, or confiscation.

17-333

Doctrine of Primary Concern Applicable to Industrial and Commercial Property of NSDAP. — The instructions stated in MGR 17-311 above will be applied in cases relating to industrial and commercial enterprises owned or controlled by the NSDAP and organizations and associations controlled by it.

17-334

DAF Property. — LCAH's will establish and maintain control over properties of the DAF (Deutsche Arbeitsfront). The DAF properties include banks, insurance companies, publishing houses, housing and building companies, theaters, shipbuilding companies, resorts, hotels, food-producing and processing plants in retail outlets, and other properties. The DAF properties were operated by huge vertical corporations. Ownership was centralized and authority emanated from a single central source.

17-335

Laissez-Faire Activity in Operation of DAF Property. — LCAH's will take control over all DAF properties located in their respective areas. They will continue the operation of all operating properties of DAF and consult from time to time with the appropriate representatives of other branches of Military Government having an interest in these properties such as Manpower, Finance, Industry, Transportation, and Trade and Commerce. If certain properties are continued in operation it is the responsibility of the LCAH to denazify the personnel and sever all connection with the former DAF.

SECTION E

PROPERTIES OF DETAINED PERSONS — ARTICLE I PAR. 1 (d)
OF MG LAW NO. 52

17-336

Detained Persons. — LCAH's, with the approval of the LPCC's, are authorized to exercise control over all property except furniture, clothing, or other personal effects of persons detained or held in custody by Military Government.

17-341

Exercise of Control a Local Determination. — Whether Property Control will be exercised depends on the circumstances in each case, such as the political character of the person detained for held in custody, nature of the charge or accusation leading to the detention, nature of the property owned or controlled by him, period of detention, and other pertinent data. In each case this determination will be made through the LCAH by the LPCC after consultation with the MG Legal officer, local CIC Detachment, Public Safety officer, or other detaining agency which will be in possession of pertinent facts.

17-344

Furniture, Clothing, and Personal Effects Partially Exempted. — LCAH's will not exercise any control over the furniture, clothing, and other personal effects most necessary for daily use of the detained person unless these have in fact been obtained through duress, looting, or confiscation.

SECTION F

PROPERTIES OF DISSOLVED OR SUSPENDED ORGAN-
IZATIONS — ARTICLE I PAR. 1 (e) OF MG LAW NO. 52

17-345

Doctrine of Primary Concern Applies. — The instruction stated in MGR 17-311 above will guide LCAH's with regard to the application of control over the funds, accounts, records and other property of any organizations or associations suspended or dissolved by Military Government.

17-351

Laws Suspending or Dissolving Various Organizations. — LCAH's will refer to General Order No. 1, MG Law No. 5, Control Council Law No. 2, and other MG laws for information concerning the organizations and associations suspended or dissolved by Military Government.

SECTION G

PROPERTIES OF ABSENTEE OWNERS — ARTICLE I PAR. 1 (f)
OF MG LAW NO. 52

17-360

Abandoned Property of German Nationals. — LCAH's will establish control over abandoned property belonging to German nationals, whether such persons are inside or outside of Germany, or where such property would otherwise come within the scope of MGR 17-300 above.

17-361

Allied Property. — LCAH's will establish control over properties owned or controlled by all Allied governments or nationals thereof, whether found abandoned or in the possession of custodians. LCAH's will consult and follow instructions of LPCC's on all pertinent matters affecting the maintenance of control over industrial and commercial properties belonging to Allied governments or their nationals.

SECTION H

ADDITIONAL PROPERTIES — ARTICLE I PAR. 1 (g) OF
MG LAW NO. 52

17-370

General Policy. — LCAH's will establish and maintain control over all properties, as directed by the LPCC, to be taken into Property Control. LCAH's are encouraged to forward recommendations to the LPCC, specifying properties not presently covered in MGR 17-300 above which they believe should be taken under control (see General Order No. 1).

17-371

Established Policy on Administration of Property Utilized in Information Control. — Certain properties used for disseminating information (such as newspaper plants, publishing houses, radio stations, theaters) are subject to particular OMGUS orders. With respect to these properties, specific instructions as to taking property under control, and particular custodians to be appointed, will be furnished by the LPCC to the LCAH. Such properties will not be released to persons exonerated under the Law for Liberation without written approval of Information Control Division.

17-373

Property of Persons Removed Under MG Law No. 2. — Such property is subject to MG Law No. 52, Article II, par. 43 of General Order No. 1 (see Section 13) which provides that property of all persons removed from public or private office or position by Military Government shall be subject to MG Law No. 52. The decision as to whether this property shall be placed under control depends on the circumstances of each case. Where deemed appropriate, the LCAH will take such property under control.

SECTION I

LOOTED PROPERTY — ARTICLE I PAR. 2 OF MG LAW NO. 52

17-380

General Rule. — Except as otherwise provided in MGR 17-381 below, LCAH's will establish and maintain control over property obtained through duress, looting, or confiscation.

17-381

Works of Art. — LCAH's will exercise control over works of art when there is reason to believe that these represent a clear case of loot or confiscation, dispossession or spoliation and where custody and control is not exercised by Monuments, Fine Arts and Archives officers, as provided under Title 18, MGR.

17-383

Foreign Exchange Depository. — Property obtained through duress, looting or confiscation, which is now or hereafter placed in the custody of the Foreign Exchange Depository, will not be subject to the provisions of this Title.

PART 4

FINANCIAL ASSETS AND OTHER SPECIAL PROPERTIES

SECTION A

FINANCIAL ASSETS

17-400

Financial Assets Defined General. — The term "financial assets" includes both German and other currencies, stocks, bonds, and other securities, certificates of deposit or receipts therefor, checks, drafts, and bills of exchange, warehouse receipts, bills of lading, bank books evidencing claims against banks, postal, giro or other money orders, letters of credit and other commercial paper, gold and silver coins, gold, silver, and platinum bullion or alloys in bullion form, and jewels.

17-401

Financial Assets in Germany Subject to MG Law No. 52 Defined (Foreign Exchange Assets). — Financial assets subject to MG Law No. 52 include the following:

- a. Currency other than German currency; bank balances outside Germany; and checks, drafts, bills of exchange or other instruments of payment drawn on or issued by persons outside Germany;
- b. Gold or silver coin, or gold, silver or platinum bullion or alloys thereof in bullion form;
- c. Any securities or other evidences of ownership or indebtedness issued by persons outside Germany, and securities or other evidence of ownership or indebtedness issued by persons in Germany if expressed or payable in currency other than German currency;
- d. Claims and any evidence thereof owned or held by:
 - (1) Any persons in Germany against any persons outside Germany whether expressed in German or other currency;
 - (2) Any person in Germany against any other person in Germany if expressed in a currency other than German currency;
 - (3) Any person outside Germany against another person outside Germany in which claim a person in Germany has any interest;

106857

JULY 1949

PROPERTY CONTROL

e. Such other property as may be determined by Military Government to be a foreign exchange asset.

17-461.1

Procedure.

a. When the properties of any person subject to MG Law No. 52 are taken into custody, those assets which are foreign exchange assets, as defined in MGR 17-401, will not be taken into Property Control custody but will be forwarded by the CAH to the LPCC through normal channels in the case of United Nations or Neutral properties and to the LCAH in the case of German properties. The LPCC or LCAH, upon receipt of foreign exchange assets, will deposit them in a safe deposit box of the nearest Land Central Bank for safekeeping. The Land Central Bank will prepare such forms as are necessary under MG Law No. 52 for this class of assets.

b. With respect to the remainder of the property taken into custody, belonging to the same individual, which is subject to MG Law No. 52 but not MG Law No. 53, the CAH will follow through with the usual procedure for taking property under control, as prescribed in para. 30 through 32, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms. For example, a CAH may take into custody a business which owns, among other assets, stocks of subsidiaries in countries other than Germany. The stocks of foreign subsidiaries in such case will be forwarded to the LPCC or LCAH for disposition prescribed by MG Law No. 52, and the remainder of the assets belonging to the business will be taken into property control custody in the usual manner.

17-462

Financial Assets not Subject to MG Law No. 52. — Financial assets not subject to MG Law No. 52 are those classes of assets specified in MGR 17-400, which do not represent foreign exchange assets as defined in MGR 17-401.1 but are subject to MG Law No. 52.

17-462.1

Procedure.

a. CAH's will determine whether or not such financial assets are being used or are capable of being used in connection with a property taken into control which is classified as an operating property, as defined in MGR 17-119a. If the financial assets are being used or are capable of being used in connection with a trade or business, they may be held at any place of safekeeping utilized by the business for similar assets, such as a safe, vault, safe deposit box, etc., and will be subject to use by the custodian.

b. If the financial assets, other than cash, are seized in connection with a property taken into control which is classified as an other income producing or a non-income producing, as defined in MGR 17-119 b and c, respectively, and are not required to be used by the custodian in connection with the operation or upkeep of the remainder of the property, such assets will be deposited by the CAH in a safe deposit box of a bank and will be subject to withdrawal by the CAH only. The rental on the safe deposit box will be paid by the custodian if there are funds in connection with the property; otherwise, payment for rental will be effected as prescribed in MGR 17-311.3. If such assets are required by the custodian in the operation or upkeep of the property, they may be held at any place of safekeeping utilized by the custodian for this class of assets. Cash taken into control in connection with such property will be governed by the procedures prescribed in para. 30 through 32, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms.

c. If property subject to MG Law 52 consists solely of financial assets, or cash and financial assets, such property will not be taken into Property Control but will be deposited in a blocked account in any banking institution. Such property will thereafter be subject to blocking control only. (See MGR 17-125(c))

17-463

Currency Abandoned by or Captured from Enemy Forces. — Currency abandoned by or captured from enemy forces generally constitutes "booty" according to rules of land warfare. CAH's will not take such currency into Property Control, but will turn it over to a U.S. Army Disbursing officer for disposition. If not acceptable by a U.S. Army Disbursing officer such currency should be delivered to the Currency Section, Foreign Exchange Depository, OMGUS (Rear), APO 757, against receipt.

17-464

Valid Currency Abandoned by Municipalities. — LPCC's or LCAH's will deposit valid currency abandoned by a municipality, or by any other governmental subdivision or body, which may come into their possession or the possession of Military Government, in the nearest branch of the Land Central Bank or approved alternate bank to the credit of the municipality.

SECTION B

DEPOSITS, SAVINGS ACCOUNTS, AND OTHER ACCOUNTS IN POST OFFICES, BANKS, AND OTHER FINANCIAL INSTITUTIONS BEARING RELATION TO PROPERTY UNDER CONTROL.

17-410

Accounts Dependent on or Related to Property under Control. — When LCAH's establish control over property they will also establish control over any and all accounts maintained in connection with the property.

17-411

Charges against Control Accounts. — Charges against control accounts for allowable expenditure may be made subject to the restrictions of MGR 17-520 through MGR 17-524.

SECTION C

FORMER ECCLESIASTICAL PROPERTY

17-426

Claims for Restitution. — LCAH's are directed to consult in these cases with the LPCC's pending the issuance of instructions from OMGUS for handling claims for restitution.

17-421

Use by Former Owner. — LCAH's may permit the use of these properties by the original ecclesiastical owners pending their ultimate disposition. LCAH's will collect rental or other compensation for the use of such properties or may, at the recommendation of the Education and Religious Affairs officer, through the LPCC, defer (but not waive) payment of compensation until ultimate disposition is made.

SECTION D

PERISHABLE PROPERTY AND PROPERTY SUBJECT TO DETERIORATION

17-430

Sale Authorized. — The LCAH will authorize or direct the custodian, manager, or operating agent to provide the sale of property:

- a. Whenever perishable property has been taken under control;
- b. After concurrence from interested branches of Military Government, whenever property taken under control is subject to deterioration or substantial depreciation, or loss of value;
- c. Whenever the cost of the upkeep or maintenance of non-income producing property will in time amount to a sum equal to the value of the property;
- d. Upon recommendation of the Land Ministerpräsident, or the appropriate civil authorities in the case of Bremen, Wesermünde and Berlin Sector, and with the approval of CPCH.

17-431

Treatment of Proceeds from Sale. — Proceeds from sales authorized in MGR 17-430, above, will be treated in the following manner. Where the property is related to a business enterprise, the CAH will deposit the funds received in such accounts and depositories as are customarily maintained on behalf of the business. Where the property is related to or represents a property other than that of a business enterprise, he will deposit the funds in the Land Central Depository in the same manner as surplus funds, as prescribed in par. 32, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms. In the latter case, he will also enter proper notation on the Record of Property Transactions (MG/PC 3), with the circumstances pertaining to the sale, and forward this form together with related correspondence to the LPCC in the case of United Nations and Neutral properties, or to the LCAH in the case of German properties, who will prepare a Receipt Voucher (MG/PC 4) in the manner prescribed in par. 34, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms.

PART 5 INSTRUCTIONS SECTION A GENERAL

17-500

Custodians. — The LCAH will not act as trustee or receiver, nor manage property except through a custodian, manager, or operating agent, without written authority from the LPCC. In general, custodians, managers, operating agents and other personnel will be retained subject to the provisions of denazification laws, regulations, and directives (see Title 24, MGR).

17-501

Application of Control Must be Reasonable. — LCAH's will do what is reasonable, depending on the circumstances of each case. They will not exercise control over properties not important or valuable enough to warrant control. The nature of the property, the necessity for control, and its condition, value, ownership, and income-producing capacity are factors to be considered in deciding whether the property is important or valuable enough to warrant control. This decision will be made by the LCAH. The LCAH will refer doubtful or border-line cases for determination by the LPCC.

17-502

Elementary Guides. — LCAH's will:

- a. Employ as many civilians as are deemed necessary to carry out Property Control function within strength authorized and fund allotments (in this regard care will be taken to comply with MG Law No. 8);
- b. Consult with functional officers and representatives of agencies interested in the operation of business enterprises taken under control;
- c. Continue existing accounting systems of operating properties if satisfactory (LCAH will change accounting system only upon written authority from the LPCC).

17-503

Coordination and Liaison with Other Agencies.

17-503.1

Necessity for Coordination. — It will be noted that a relationship exists between certain Property Control activity and the work of the U.S. occupational forces and other branches of Military Government. The exercise of control over certain properties may affect the operation of specialist officers and agencies in other fields, and to that extent have an interest in the manner in which Property Control deals with such properties. Many times the successful maintenance of control over property depends on the assistance of outside officers and agencies.

17-503.2

Relationships Concerned. — LPCC's will maintain necessary liaison and coordination with the following, and other officers and agencies concerned:

JULY 1949

106858

PROPERTY CONTROL

17-603. Notar. — In all cases where a Notar drafted a deed or any paper affecting title to real estate, he has retained a copy of the Grundakten. It will be possible to draw conclusions on title from the files of the local Notar in many cases where the Grundbuch and Grundakten are missing or have been destroyed. The Notar also drafted contracts and instruments conveying interests in personalty and commercial property.

17-604. Handelsregister. — The Handelsregister (Trade Register) will usually be found at the Amtsgericht in an office separate from the Grundbuch. This record is an official register on commercial transactions, primarily containing articles of incorporation and formation, data on partnerships, associations, and other combinations for trade and industry. It also contains references to the appointment of administrators for enemy-owned undertakings.

Handelakammer. — The Handelakammer (local chambers of industry and commerce) which enjoy an official status in Germany, often have information concerning documents affecting title to commercial and industrial properties.

17-606. Reichskommissar für die Behandlung feindlichen Vermögens. —

17-606.1. Administration of Certain Enemy Property. — Many properties belonging to Allied governments and nationals thereof were placed under the supervision of the Reichskommissar für die Behandlung feindlichen Vermögens (The Reichs Commissar for handling Enemy Property). The office of the Reichskommissar was concerned primarily with enemy realty, industrial enterprises, patents and copyrights, ships and shipping companies.

17-606.2. Recorded in Oberlandesgericht. — Such property was recorded in the Reichskommissar's office (located in the Reich Ministry of Justice in Berlin) and also in the files of the Oberlandesgericht having jurisdiction over the property.

17-606.3. Administrators. — Such property was administered by Verwalter (special administrators) whose duties included the preparation of inventories, investigation of bank accounts, and the maintenance of books. The Verwalter also submitted periodical reports, financial statements and Annual Final Reports to the Reichskommissar and the Oberlandesgericht.

17-606.4. Jurisdiction of Oberlandesgericht. — The Oberlandesgericht having jurisdiction over the property appointed the Verwalter, fixed their fees, defined their powers and dismissed them when so required. The Oberlandesgericht also rendered judgements in cases instituted for the confiscation of religious and charitable property.

17-606.5. Use of Prepared Lists. — Property Control Offices have received prepared lists of all property known to have been under the German/Allied Property Custodian. It is assumed that these lists comprise the majority of property of this type. However, in case any additional property of this type is uncovered at lower levels, Property Control will immediately take the property into custody as authorized by MG Law No. 52.

17-607. Administration of Enemy Property by Abwesenheitspfleger. — Movables belonging to Allied governments and nationals thereof, and other Allied property not requiring constant direction and supervision, e.g., primarily interests in business enterprises, and realty of low value, were often placed under the administration of Abwesenheitspfleger appointed by the Abteilung für Vormundschaftsangelegenheiten. Such property was recorded in the files of the appropriate Amtsgericht. The Landgericht and Oberlandesgericht also have jurisdiction in guardianship matters.

SECTION B COURTS

17-611. Amtsgericht. — The Amtsgericht is the lowest court of records. The Abteilung für Vormundschaftsachen, a section of this court, has limited jurisdiction over the administration of movables and realty of low value belonging to absentee owners. The Amtsgericht is also the depository for the Grundbuch and the Handelsregister.

17-612. Landgericht. — The Landgericht is the intermediate court between the Amtsgericht and the Oberlandesgericht. It is a court of original jurisdiction and also a court of appeals for the Amtsgericht. It may exercise the functions of the Oberlandesgericht in those Regierungsbezirke where the latter court does not sit.

17-613. Oberlandesgericht. —

17-613.1. Jurisdiction of Enemy Property. — The Oberlandesgericht is the highest court of original jurisdiction in the Länder. The Abteilung für Vormundschaftsachen, a section of this court, exercises exclusive jurisdiction over the administration of property belonging to enemy countries and nationals thereof. It could appoint Verwalter and Treuhänder (Trustees), fix their salaries, revoke appointments, change the powers of administration and issue other pertinent orders. The Oberlandesgericht is the depository for records filed in connection with enemy properties placed under control of the Reichskommissar.

17-613.2. Authority to Use German Courts. — LPCC's will not submit themselves to the jurisdiction of the German courts in any capacity other than as witnesses except upon written approval of the CPCL.

17-616. Spruchkammer. — The law for Liberation from National Socialism and Militarism provides for the establishment of tribunals which shall decide the classification of the responsible persons and the sanctions to be imposed. Trial tribunals have been established in urban and rural districts.

17-616.1. Berufungskammer. — Berufungskammer (Appellate tribunals) exist for the review of decisions.

17-616.2. Ankläger. — An Ankläger (Public Prosecutor) is assigned to each of the tribunals.

SECTION C SUGGESTED USE OF LEGAL FORMS

17-620. General. — The legal forms set forth in OMGUS AG letter 0108 (FD) 25 Feb 47, subject, "Property Control Accounting and Auditing Procedures, and Legal Forms" are provided as guides for the preparation of agreements entered into by LPCC's and LCAH's, who will remember that these forms are illustrative only and that the legal personnel should be consulted in case of doubt as to the insertion of proper provisions.

17-621. Appointment of Enemy Property Custodian. — (MG/PC/L/1).

17-621.1. LCAH May Reserve Matters for his Decision. — The custodian should be given reasonably wide latitude in the performance of his duties. Yet LCAH's may deem it advisable to limit the exercise of certain powers incidental to the operation and custody of properties. In this case, LCAH's may insert provisions in the contract reserving the particular matters for his decision.

17-621.2. Contractual Powers Circumscribed by MG Regulations. — LCAH's will observe that they can not confer powers on the custodians by contract which have in fact been withheld from the LCAH's by these Regulations or by orders of the LPCC. For instance, MGR 17-320 through MGR 17-324 forbid extraordinary expenditures and authorize LCAH's to permit custodians to make normal expenditures. Consequently, paragraph C1 of the legal form will be inserted in every contract made with custodians.

17-621.3. Fees of Custodians. — LCAH's will determine compensation for services rendered by custodians in accordance with instructions set forth in MGR 17-810. In the contract, compensation may be expressed in terms of a lump sum payable monthly or in terms of a sum measured by a percentage of the monthly cash receipts, care being taken that each property is charged directly for its custodian's fees. LCAH's may find the first method of expressing compensation more suitable for contracts relating to custodians of business enterprise. Paragraph D of the legal forms incorporates both methods of stating compensation and LCAH's will disregard the inapplicable portion of the paragraph.

17-621.4. Disposition of Contract Copies. — Copies of the agreement with the custodian will be furnished to the LPCC, LCAH, CAH and the custodian. Custodians will be directed to file copies of said agreement with the Grundbuch, Handelsregister or other depository specified by German law (see MGR 17-600 to MGR 17-607).

17-622. Lease of Realty (MG/PC/L/1).

17-622.1. Special Provisions Based on Custom May be Inserted. — It is contemplated that special provisions based on local customs may be required for leases of real property. These provisions may be inserted in contracts for the lease of realty by the LCAH.

17-622.2. Repairs by Lessee. — If extensive repairs are required, it will be necessary to provide some compensation for the lessee in case of termination of the lease prior to its expiration. Generally, the allocation of the cost of repairs over the term of the lease will provide a fair measure of the damage suffered by the lessee in such an event (see para. C 4 and D 1 of the legal form).

17-622.3. Taxes and Insurance. — LCAH's may omit or modify the tax and insurance provisions of paragraphs C 2 and C 3 of the legal form. However, LCAH's will observe that tax and insurance must be paid out of income from the property and that the rental price will consequently be higher in those cases where the cost of taxes and insurance is born by the lessor.

17-622.4. Disposition of Lease Copies. — Copies of the lease will be delivered to the LCAH, LPCC and CAH, and the parties to the lease. Copies thereof will be deposited for file in customary depositories specified by German law (see MGR 17-600 to MGR 17-607).

17-623. Hire of Goods (MG/PC/L/1). — The instructions set forth in MGR 17-622 through MGR 17-623 are pertinent to contracts for hire of personal property under control. Where the property would not be replaceable if damaged, it may be necessary to require a deposit by the lessee in order to guarantee the payment of damages to the lessor in case of accident or loss.

106860

PROPERTY CONTROL

PART 7
PROPERTY CONTROL ACCOUNTING AND AUDITING PROCEDURE, AND LEGAL FORMS

17-700

Decentralization of Accounting Functions. — Property Control accounting functions are decentralized to, and are the responsibility of, the LCAH of Bavaria, Bremen, Hesse, and Württemberg/Baden. These agencies will maintain complete accounting systems with full information on all properties under their control. Detailed instructions relating to the various accounting processes, including submission of reports, are set forth in letter, OMGUS AG 010.8 (FD), subject: "Property Control Accounting and Auditing

Procedures, and Legal Forms", dated 25 Feb. 1947. Property Control accounting for OMG-Berlin Sector, will remain the responsibility of the CFCB.

17-701

Decentralization of Auditing Functions. — The auditing function, both in relation to individual properties and to organizational procedures, is decentralized to, and is the responsibility of LPCC's and LCAH's of Bavaria, Bremen, Hesse, and Württemberg/Baden, and the Property Control Chief, OMG-Berlin Sector. The minimum general audit program is prescribed in letter, OMGUS AG 010.8 (FD), subject: "Property Control Accounting and Auditing Procedures, and Legal Forms", dated 25 Feb. 1947.

ANNEX VII

MILITARY GOVERNMENT LAW NO. 5

Dissolution of the Nazi Party

(Excerpt)

This Law dissolves the Nazi Party and provides as follows:

- "5. All funds, property, equipment, accounts, and records of any organization mentioned in this Law shall be preserved intact and shall be delivered or transferred as required by Military Government. Pending delivery or transfer, all property, accounts and records shall be subject to inspection. Officers and others in charge thereof and administrative officials will remain at their posts until otherwise directed, and will be responsible to the Military Government for taking all steps to preserve intact and undamaged all such funds, property, equipment, accounts, and records, and for complying with the orders of Military Government regarding blocking and control of property."

106861

JULY 1949

PROPERTY CONTROL

ly 8,000, were carefully investigated by the Property Control field staff. Every effort was made to locate the claimed properties and place them under control. Information concerning ownership, origin, and present location was compiled and forwarded to the Restitution Branch, OMGUS, for decision as to whether or not the property was eligible to leave Germany. Where the property was located, a custodian was appointed to safeguard it against theft and deterioration.

In general, however, the work of locating the properties and making shipment proved extremely slow. To expedite the External Restitution Program, six American personnel from OMGUS were assigned to temporary duty in the field, beginning 1 July 1948, for the purpose of winding up the External Restitution Program by 31 December 1948. It was their mission to assist German Property Control authorities and Military Government representatives in the accurate and speedy location and identification of claims, and to screen and spot check all reports from German Property Control authorities. By 31 December 1948, all property connected with outstanding restitution claims had either been placed in custody or the claims had been dropped. To make an equitable disposition of all dropped claims, a policy was formulated for determining ownership before the property was returned to the person who held it at the time of custody. This involved further investigation on the part of the Property Control field staff, but insured that the properties were returned to their rightful owners.

As of 30 June 1949, there remained under control 598 units awaiting shipment. Until a final determination is made by the State Department as to policy pertaining to such shipments of properties belonging to Hungarian, Lithuanian, Latvian, etc., owners, such properties must remain in control. All other properties in this category which could have been shipped under existing Military Government policy have been shipped. As of 30 June 1949, the External Restitution Program, insofar as it affects Property Control, may be considered complete. After that date, such properties taken under control will be limited to "meritorious" 1/ claims and will only be taken under custody at the request of Restitution authorities.

MISCELLANEOUS

Disposition of Captured Enemy Material and Funds Derived from the Sale Thereof

Since the inception of the Property Control Program, considerable quantities of captured enemy material and funds derived from the sale thereof had been held in Property Control custody. No action could be taken to correct this situation until a statement of policy was received from the Department of the Army as to what items are to be considered as captured enemy material.

The statement of policy from the Department of the Army, 2/ as supplemented by decision of Military Government, 3/ indicates that, in order to be considered

- 1/ Meritorious claims are claims for items which can be proved by the claimant nation to have been concealed by conspiracy on the part of the holder.
- 2/ Following is an excerpt from pertinent AGWAR (Adjutant General, War Department) cable WX-81794: "Subject is captured enemy property." "As matter of policy you will treat as captured enemy material only property which was owned or held for direct military use by enemy military forces."
- 3/ Early in 1947 Military Government policy (MGR 11-422) provided as follows: "All captured enemy material (CEM) under the control of the U.S. Forces, except such as is to be retained by the U.S. Army, is to be transferred against quantitative receipt to the German economy through Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH or such bilateral successor agency as may be established. All CEM and funds derived therefrom, now subject to the control of Military Government, or which may come into its possession or under its control, will be turned over to the above-mentioned German corporation. CEM is defined as all movable property owned or held for direct military use by enemy military forces, which has been acquired by the U.S. Army (in most cases not later than 8 May 1945, but in no case later than 5 June 1945) and seized by the U.S. Army and reduced to firm possession." The term 'firm possession' is deemed to require a manifestation or intention to seize the particular property and exercise some type of custody or possession thereof."

JULY 1949

PROPERTY CONTROL

captured enemy material, the property involved must meet the following conditions:

- a. It must have been movable property owned or held for direct military use by enemy military forces.
- b. It must have been acquired by the U.S. Army in most cases not later than 8 May 1945 but in no case later than 5 June 1945.
- c. It must have been seized by the U.S. Army and reduced to "firm possession." The term "firm possession" is considered to require a manifestation of intention to seize the particular property and to exercise some type of custody or possession thereof.

Sale of Goods into the German Economy Through STEG 1/

To assist the German economy, a plan was devised early in 1947 whereby captured enemy material (CEM) would be turned over to a German corporation organized by the Laender governments.

To expedite the program of transferring captured enemy material, the Land Property Control chiefs were requested to make a complete survey of all CEM and funds derived from the sale thereof and to make the necessary preparations for a speedy transfer to STEG. 1/ All such property has now been transferred to the appropriate German agency.

In October 1948, Property Control Circular No. 7 was promulgated and provided, in part, for complete release to STEG of "war materials" as defined and enumerated in Control Council Law No. 43. All items under Property Control which were mentioned in Schedules A and B of said law were transferred to STEG for disposal into the German economy.

In some instances, movable properties which were subject to rapid deterioration, belonging to United Nations and absentee owners, were also transferred to STEG for the purpose of utilization in the German economy. In such instances, however, the proceeds of the sale, less selling expenses (in no event exceeding 20%) were placed in a blocked account for the benefit of the absentee owner. Property Control authorities reserved the right to scrutinize overhead charged or selling expenses deducted by STEG from the proceeds of sales.

TREATMENT OF DURESS PROPERTIES

Introduction

Among the most important categories of properties over which property control has been exercised from the very beginning are so-called "duress" properties. Even prior to the surrender of Germany, it was the announced policy of the United States Government to take appropriate steps for the safeguarding of properties which had been expropriated by National Socialist persecution from their former owners.

Control Council Proclamation No. 2 on "Certain Additional Requirements Imposed on Germany," 2/ provides in Section XI, paragraph 42 (b), as follows:

"The German authorities will comply with such directions as the Allied representatives may issue regarding the property, assets, rights, title, and interests of persons affected by legislation involving discrimination on grounds of race, color, language, or political opinions."

1/ Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH. (State Collection Agency for Surplus War Goods)

2/ See Annex IV, p. 84.

JULY 1949

106863

PROPERTY CONTROL

This policy was also clearly restated in the Directive on U.S. Objectives and Basic Policies in Germany, of 15 July 1947, 1/ which states:

"It is the policy of your (i.e. American) government that persons and organizations deprived of their property as a result of National Socialist persecution should either have their property returned or be compensated therefore and that persons who suffered personal damage or injury through National Socialist persecution should receive indemnification in German currency. With respect to heirless and unclaimed property subject to internal restitution you will designate appropriate successor organizations."

Administration of Control Over Duress Properties

In execution of the above-mentioned policy, Military Government from the beginning has directed control of all properties expropriated or confiscated under circumstances indicating duress. Such control was imposed on the basis of lists of properties compiled in some cases prior to the surrender of Germany, or as disclosed by field investigations, or made known to Property Control agencies in the U.S. Zone through communications from former owners or their successors in interest. Reports required by Military Government from present owners, German governmental agencies, and financial and credit institutions, with respect to properties presumptively expropriated or confiscated under discriminatory measures of National Socialism (persecutory actions for racial or political reasons) were screened, and also resulted in Property Control action.

Property Control action was taken on the basis of Section 2, Article I of Military Government Law No. 52 (revised text, July 1945) 2/ which provided as follows:

"Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossession, or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision, or otherwise being taken into control by Military Government."

Blocking control was applied to savings bank deposits, accounts, funds, securities, and other negotiable interests on the same basis.

Custodians appointed by Military Government, or German Property Control agencies under the direct supervision of Military Government, were charged with the administration of properties under prescribed conditions and requirements for accounting and auditing reports intended to assure adequate safeguarding controls. The control and influence of present owners over the administration of the properties or enterprises were wholly excluded in most cases as a matter of principle and policy. All custodians of controlled properties were appointed on the basis of exemption or clearance under various denazification regulations which became generally applicable.

The 15 August 1945 Directive, 3/ for example, extended the denazification provisions of the 7 July 1945 Directive, "Administration of Military Government in the U.S. Zone of Germany," 4/ to influential Nazis and militarists in all walks of life and authorized control action over the properties of all persons removed or designated hostile to Allied purposes. The latter were deemed to be included in the class of persons whose properties were rendered subject to seizure or control by Military Government pursuant to General Order No. 1, issued under Military Government Law No. 52.

The Law for Liberation from National Socialism and Militarism, 5/ enacted

1/ Military Government Regulation (MGR) 29-2050

2/ See Annex II, p. 65

3/ See Annex IV, p. 50

4/ See Annex III, p. 48

5/ See Annex V, p. 50

106864

PROPERTY CONTROL

by the German Land Governments in the U.S. Zone to replace the 15 August 1945 Directive, has continued German responsibility for denazification in accordance with principles established by Control Council Directive No. 24 "Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes."

The policy of Military Government has been to retain properties of a duress nature under control pending final settlement of the case before Restitution authorities, as provided for under Military Government Law No. 59. An exception to this policy has been in the application of MGR Title 17-501, 1/ which authorizes the release of properties of insignificant value, if said properties could be adequately safeguarded by other means, i.e. blocking of transfer of title.

Promulgation of Military Government Law No. 59 2/

Upon request of Military Government, the Laenderrat, through its Property Control Committee, with the assistance of Military Government officials, prepared the draft of a law providing for the restitution of identifiable property which, for reasons of race, religion, nationality, ideology, or political opposition to National Sozialism, was a subject of transfer under duress during the Nazi regime. In March 1947, the substance of this draft was approved by the Property Disposition Board, OMGUS, in which all interested functional divisions were represented.

In submitting the law, the Laenderrat made the following comments:

- a. That a just settlement of restitution could not be achieved without enacting a uniform restitution law in all four zones, and that a law limited to one zone gave rise to serious apprehensions;
- b. That the draft law failed to allow the Restitution Tribunals such freedom of action as required to safeguard an equitable treatment of the individual cases on their merits;
- c. That the provisions of the draft law would lead to hardship for honest persons who had acquired the property in good faith;
- d. That the time limit it allows for filing of restitution claims until 31 December 1948 was too long.

Military Government submitted a paper to the Allied Control Authority in April 1947, proposing a uniform restitution law for Germany based on the Laenderrat draft. After discussions of this proposal for over seven months, it was clear that quadripartite agreement was impossible. Discussions then proceeded with a view to reaching agreement with British Military Government on a bizonal law, but it appeared that such an agreement was also not possible in the near future. To avoid further delay, it was decided to proceed with the promulgation of a restitution law for the U.S. Zone on a unilateral basis.

Because of certain agreements reached with the British Element, and in some cases with the other powers, in respect to some of the provisions of the draft law, certain changes were suggested in the Laenderrat draft which incorporated these agreements and did tend to alleviate the apprehension expressed by the Laenderrat. On 9 October 1947, the Laenderrat was asked whether the four Ministers President constituting the Laenderrat were prepared to promulgate in their respective Laender a law based on the draft submitted by the Laenderrat as modified in the manner indicated above. On 7 October 1947, the Laenderrat could not reach a unanimous decision and it appeared to Military Government observers unlikely that the Laenderrat would ever agree to approve the enactment of a restitution law which would be limited to the U.S. Zone only. Therefore, Military Government advised the Laenderrat of its intention to promulgate the restitution law as Military Government Law No. 59 on 10 November 1947.

1/ See Annex VI, p. 52.

2/ See Annex XIII, p. 72.

JULY 1949

106865

PROPERTY CONTROL

Military Government Law No. 59 is based on the original Laenderrat draft, with necessary modifications so as to correspond to agreements reached on some provisions with the other powers, and others which were necessary to remove certain technical defects from the draft law.

On the same date, 10 November 1947, the Central Filing Agency provided for in the law was established and commenced operations at Bad Nauheim (Hesse). Subsequently and successively, Bremen, Hesse, Wuerttemberg-Baden, and Bavaria passed the necessary implementing legislation establishing restitution agencies in the respective Laender of the U.S. Zone.

Military Government Law No. 59 provides for filing of petitions with the Central Filing Agency for the restitution of identifiable property. The expiration date for such filing was 31 December 1948.

With a view to securing all possible information concerning properties which had been transferred under duress circumstances, the law also provided for the submission of reports by present owners of duress properties, or by persons or financial institutions having any information concerning transfers of property under duress circumstances.

The principle that duress properties should not escheat to the state because of the lack of heirs or successors in interest was also recognized in the law which provided for the establishment and appointment of successor organizations. This was accomplished by Regulation No. 3 under the law passed on 23 June 1948. On the same date the Jewish Restitution Successor Organization, representing all leading Jewish organizations of the world interested in the establishment of an adequate restitution program, was authorized by Military Government to claim all heirless and unclaimed Jewish properties.

Organization and Administration of Restitution Program under Military Government Law No. 59

The law provides for the establishment of Restitution Agencies, initially charged with the responsibility of trying to effect amicable settlements of claims between the parties. If such settlements cannot be attained, the claims are then referred to restitution chambers which are part of the German court system. Appeals from the decisions of the restitution chambers may be taken by either party to the appellate courts (Oberlandesgerichte), and from the latter to the Board of Review, whose decisions are final.

The Board of Review, composed of four American judges assisted by experts on German law, was established pursuant to Regulation No. 4 to Military Government Law No. 59 passed on 2 August 1948. Appointments of the members of the Board of Review were made on 9 November 1948.

There are presently 20 Restitution Agencies, 13 Restitution Courts, and 6 Oberlandesgerichte (appellate courts) -- exclusive of the Board of Review -- in the U.S. Zone.

The Jewish Restitution Successor Organization, established at Nuremberg, with branches located in a number of cities in the different Laender of the U.S. Zone under previous authorization given by Military Government, commenced, in the first week of October 1948, the examination of approximately 80,000 reports affecting properties presumably transferred under duress circumstances. Information secured from these reports has provided a basis for the preparation of petitions. As a result, approximately 165,000 petitions were filed with the Central Filing Agency prior to 31 December 1948, the expiration date for the filing of petitions under Military Government Law No. 59, in connection with every Jewish property reportedly transferred between 30 January 1933 and 8 May 1945.

In the middle of November 1948 authorization was issued for similar examination of the reports on file with the Central Filing Agency by accredited representa-

JULY 1949

PROPERTY CONTROL

tives of approximately 14 Military Missions and Consulates of foreign nations.

Difficulties affecting the satisfactory perfection of claims arising from restrictions on remittances or payment of expenses or services of attorneys, the transmittal of information by air mail, and access to information contained in public records of various German governmental agencies or offices were resolved by appropriate measures and directives issued by Military Government.

Numerous requests for extension in the expiration date for the filing of petitions beyond 31 December 1948 were received by Military Government. Serious consideration has been given to these requests. It was, however, decided that any extension in the expiration date would be more detrimental to the entire program of restitution than the benefit to the comparatively few claimants would justify.

In reaching this decision, consideration was given to the many efforts of Military Government to secure publicity of the law in all the countries of the world through U.S. Consulates and Missions, and military and diplomatic missions accredited to Germany.

Other considerations were the following:

- a. Claimants had 13 months in which to file;
- b. Titles to properties which may be claimed for restitution have been in a state of uncertainty for 3 1/2 years and will remain so until the final deadline for filing claims;
- c. Modifications of the law with respect to time for filing may lead to requests from various sources to make other changes in the law;
- d. It was desired that all possible burdens and uncertainties imposed by Military Government on the German people and economy be terminated before the Occupation Statute 1/ becomes effective.

Most of the requests for an extension in the expiration date were based upon the argument that information considered essential to a claim was not available or accessible. This argument was not considered to be very strong, and Military Government consistently advised claimants that the provisions of the law are adequate, since minimum information only need be filed initially. A petition filed with the Central Filing Agency before 31 December 1948 and containing a description of the confiscated property and stating as exactly as possible the time, place, and circumstances of the confiscation and the names and addresses of all persons having, or claiming to have, an interest in the property would be sufficient to bring their claim within the statute of limitations. Any further information that might be required for settlement or adjudication of the claim could be submitted thereafter to the Restitution Agencies or Restitution Courts, as required.

For the foregoing reasons, Military Government did not extend the expiration date for the filing of claims.

A comprehensive reporting system designed to provide pertinent information as to the status and progress of every claim, and to indicate the progress made by the various Restitution authorities, was placed in operation in the early part of 1949. Supervisory authority will therefore be enabled to notice trends and to spot weaknesses or bottlenecks and be permitted to take early corrective action where required. The reporting and control system was designed to enable close supervision with a minimum of Military Government personnel.

1/ The Occupation Statute defines the powers to be retained by the Western Occupation authorities after the establishment of the Federal Republic of Germany. The document was delivered to the Parliamentary Council on 10 April 1949.

PROPERTY CONTROL

Modification of Property Control Policy Subsequent to Military Government Law No. 59

Subsequent to the enactment of Military Government Law No. 59 (10 November 1947), and after passage of a period of time considered sufficient for the dissemination of knowledge of its provisions, a further modification in policy was deemed advisable. By a directive issued 15 July 1949, Property Control action was directed thereafter only in those cases where notice of the filing of petitions under Military Government Law No. 59 with the Central Filing Agency was received. A further directive issued 9 August 1948, however, authorized exercise of Property Control action, notwithstanding the fact that no petition had been filed with the Central Filing Agency under Military Government Law No. 59, if it appeared that irreparable damage might be done to a claimant's interests unless the property were taken into control.

Pending final disposition of claims or petitions under Military Government Law No. 59, properties under control will be managed efficiently and impartially. Of the 220,551 petitions received by the Central Filing Agency, 206,279 had been forwarded as of 30 June 1949, to local Restitution authorities for final adjudication.

Status of Restitution Program -- 30 June 1949

Duress properties under control as of 30 June 1949 numbered 30,333.

Restitution Petitions Received by the Central Filing Agency U.S.-Occupied Area As of 30 June 1949

TOTAL	220,551
Complete from claimants	52,153
Incomplete from claimants	2,016
Petitions from Jewish Restitution Successor Organization (JRSO)	163,262
Petitions from public prosecutor	3,120

The progress of the cases through the Restitution Agencies and other Restitution authorities is most encouraging. As of 30 June 1949, 37,428 petitions were actually received by the various Restitution Agencies. Of these, 9,672 are available for final disposition in view of the fact that service, as required under the law, is complete. Of these cases, 2,383, or 24.6 percent of those available for final disposition, have been finally disposed of as follows:

Disposition of Restitution Petitions U.S.-Occupied Area As of 30 June 1949

TOTAL	2,383
Amicable Settlements	985
Petitions granted by Restitution Agencies and not appealed	133
Petitions dismissed by Restitution Agencies, Restitution Chambers, & Oberlandesgerichte, a/ and not appealed	512
Petitions withdrawn from Restitution Agencies, Restitution Chambers, & Oberlandesgerichte	633
Decisions of Restitution Chambers, not appealed	115
Decisions of Oberlandesgerichte, not appealed	5

a/ Appellate courts.

JULY 1949

PROPERTY CONTROL

Restitution in Berlin and British and French Zones

Military Government Law No. 59 is, at present, not applicable to the U.S. Sector of Berlin. However, on 16 February 1949, an order was issued by the Allied Kommandatura to the Oberbuergermeister of the city of Berlin, providing for the establishment of a Central Filing Agency to receive reports and claims pertaining to property located in the three Western Sectors of Berlin transferred under duress. Negotiations with British and French authorities continued, and early in July 1949 a restitution law for the three Western Sectors of Berlin was promulgated. With very few exceptions this uniform law is the same as U.S. Military Government Law No. 59.

A filing of restitution claims in the British Zone is presently covered by General Order No. 10, which provides that claimants have until 31 December 1949 to file restitution claims. British officials request that all claims be filed directly with Das Zentralamt fuer Vermoegensverwaltung (Central Office for Property Administration), British Zone, Bad Nenndorf, Lower Saxony.

Early in 1949, British Military Government authorities promulgated a restitution law in their zone almost identical with the restitution law in the U.S. Zone, and also identified by the same number, namely, British Military Government Law No. 59.

Only claims in excess of 1,000 marks will be considered under General Order No. 10. All persons who have any knowledge of property changing title under duress in excess of 1,000 marks since 30 January 1933 were required to make declaration to the administrative head (Landrat) of the rural district (Landkreis) or to the chief mayor (Oberbuergermeister) of the municipality (Stadtkreis) in which he or she resided.

In the French Zone, all claims for restitution have to be filed within 18 months of date of enactment of Ordinance No. 120, which became effective 10 November 1947. The French have established special courts in each Land to try restitution cases. These courts consist of a presiding judge and two other members, and the courts have exclusive jurisdiction over all restitution cases. Claims for real property must be filed with the court in the district in which the property is located. Claims for restitution of personal property must be filed with the court in the district where the person has his regular place of residence.

Status of Restitution under a General Claims Law

In the U.S. Zone, the Laenderrat, pursuant to request of Military Government, has prepared and submitted a General Claims Law. Said law was finally approved by Military Government.

To date no comparable action has been taken in the British Zone. In the French Zone, the redress of wrongs resulting in damages or personal injuries, not connected with claims for the restitution of identifiable property, has been charged as a German responsibility under Ordinance No. 164.

OCCUPIED AREAS OF GERMANY

WITH ZONES AND LAENDER

	U.S. AND BRITISH OCCUPIED AREAS		HEADQUARTERS, MILITARY GOVERNMENT
	OMG		OFFICE OF MILITARY GOVERNMENT (US)
	GM (FR)		GOUVERNEMENT MILITAIRE (FRANCAIS)
	SMA		SOVIET MILITARY ADMINISTRATION

<p>FRENCH SECTOR HQ, GROUPE FRANCAIS, CONSEIL DE CONTRÔLE</p> <p>BRITISH SECTOR HQ CONTROL COMMISSION FOR GERMANY (BRITISH ELEMENT)</p> <p>U.S. SECTOR COMMANDER-IN-CHIEF, EUROPEAN COMMAND HQ, OMGUS HQ, OMG BERLIN SECTOR</p>	<p>SOVIET SECTOR SOVIET MILITARY ADMINISTRATION FOR GERMANY HQ, COMMANDANT SOVIET SECTOR</p> <p>BERLIN ALLIED CONTROL AUTHORITY COORDINATING COMMITTEE ALLIED KOMMANDANTURA</p>
--	---

