

**SMALL WARS MANUAL**  
**UNITED STATES MARINE CORPS**  
**1940**

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**CHAPTER XIII**  
**MILITARY GOVERNMENT**



**RESTRICTED**

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**CHAPTER XIII**

**MILITARY GOVERNMENT**

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13-1. **Scope of chapter.**—*a.* The features of the subject of military government herein discussed relate to the powers, duties, and needs of an officer detailed to command a force on a mission involving intervention into the affairs of a foreign country under conditions which are deemed to warrant the establishment of complete military control over the area occupied by the intervening force. While the form of military control known as military government is designed principally to meet the conditions arising during a state of war, it has been resorted to, by the United States in numerous instances, where the inhabitants of the country were not characterized as enemies and where war was neither declared nor contemplated.

*b.* Military government being founded on the laws of war, many questions arise with regard to the method to be used in the application of these laws in situations requiring the establishment of such a government where no state of war exists. It is the purpose of this chapter to outline the general principles involved in the exercise of authority and functions of military government and to indicate how those principles are applied in the various situations with which the marine or naval officer may be confronted.

13-2. **Definitions.**—*a. Military government.*—Military government is the exercise of military jurisdiction by a military commander, under the direction of the President, with the express or implied sanction of Congress, superseding as far as may be deemed expedient, the local law. This form of jurisdiction ordinarily exists only in time of war, and not only applies to the occupied territory of a foreign enemy but likewise to the territory of the United States in cases of insurrection or rebellion of such magnitude that the rebels are treated as belligerents.

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*b. Martial law.*—Martial law is that form of military rule called into action by Congress, or temporarily by the President when the action of Congress cannot be invited, in the case of justifying or excusing peril, in time of insurrection or invasion, or of civil or foreign war, within districts or localities whose ordinary law no longer adequately secures public safety and private rights.

*c. Distinctions.*—The most important distinction between military government and martial law is, that the former is a real government exercised for a more or less extended period by a military commander over the belligerents or other inhabitants of an enemy's country in war, foreign or civil; martial law, on the other hand, is military authority called into action, when and to the extent that public danger requires it, in localities or districts of the home country which still maintain adhesion to the general government. The subjects of military government are the belligerents or other inhabitants of occupied territory, those of martial law are the inhabitants of our own territory who, though perhaps disaffected or in sympathy with a public enemy, are not themselves belligerents or enemies. The occasion for military government is usually war; that for martial law is simply public exigency which, though more commonly growing out of pending war, may nevertheless be invoked in time of peace in great calamities such as earthquakes and mob uprisings at home.

**13-3. Authority for exercise of military government.**—Military government usually applies to territory over which the Constitution and laws of the United States have no operation. Its exercise is sanctioned because the powers of sovereignty have passed into the hands of the commander of the occupying forces and the local authority is unable to maintain order and protect life and property in the immediate theater of military operations. The duty of such protection passes to the occupying forces, they having deprived the people of the protection which the former government afforded. It is decidedly to the military advantage of the occupying forces to establish a strong and just government, such as will preserve order and, as far as possible, pacify the inhabitants.

**13-4. Functions of military government in general.**—As to its function, military government founded on actual occupation is an exercise of sovereignty, and as such dominates the country which is its theater in all branches of administration whether administered by officers of the occupying forces or by civilians left in office. It is the government of and for all the inhabitants, native or foreign, wholly superseding the local law and civil authority except insofar

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as the same may be permitted to exist. Civil functionaries who are retained will be protected in the performance of their duties. The local laws and ordinances may be left in force, and in general should be subject, however, to their being in whole or in part suspended and others substituted in their stead, in the discretion of the governing authority.

13-5. **By whom exercised.**—Military government may be said to be exercised by the military commander, under the direction of the President, with the express or implied sanction of Congress. The President cannot, of course, personally administer all the details, so he is regarded as having delegated to the commander of the occupying forces the requisite authority. Such commander may legally do whatever the President might do if he were personally present. It follows that the commander of the occupying force is the representative of his country and should be guided in his actions by its foreign policy, the sense of justice inherent in its people, and the principles of justice as recognized by civilized nations. A single misuse of power, even in a matter that seems of little importance, may injure his country and its citizens. Foreign, official, commercial, and social relations depend in a great measure upon the friendliness of other countries and their people. Acts of injustice by a force commander jeopardize this friendliness, especially in neighboring countries, or in those whose people have racial or other ties in common with the people of the occupied country.

13-6. **How proclaimed.**—In a strict legal sense no proclamation of military occupation is necessary. Military government proclaims itself; a formal proclamation, although not required, is invariably issued and is essential in a practical way as announcing to the people that military government has been established and advising them in general as to the conduct that is expected of them. It should be remembered that the inhabitants do not owe the military government allegiance; but they do owe it obedience. A sample form for a proclamation may be found in the current issue of Naval Courts and Boards.

## SECTION II

ESTABLISHMENT AND ADMINISTRATION OF MILITARY  
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13-7. **Importance of organization.**—The efficient administration of a military government requires that the officers chosen for the administration of various departments should be particularly qualified for such office.

13-8. **Plans.**—*a.* Whenever it becomes known or can be foreseen that territory is to be occupied, the commander of the military forces that are to occupy it will no doubt be called upon to formulate beforehand his plans for administering the military government. These detailed plans are prepared by him under the policies prescribed by higher authority pursuant to such general plans or policies as may previously have been prepared, announced, or approved by the Navy Department. They will always depend upon the military situation, and will be influenced by the political, economic, and psychological factors which may prevail in the area to be governed.

*b.* The actual preparation of the main plan or plans is primarily a function of that section of the commander's staff which will later take part in the administration of the military government. The commander of the occupying forces should ordinarily organize a separate

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and additional staff for the administration of civil affairs. However, the plan as determined upon by the commander of the occupying force requires coordinated study and assistance of the several staff officers. F-1 provides the data as to personnel; F-2 the data as to the situation in the territory to be occupied; and F-3 the data for coordination between the tactical plan and the military government plan.

c. Too much emphasis cannot be placed on the necessity for having the military government under a separate staff section, thus avoiding the interference with the military functions of the usual staff sections, and yet coordinating the whole under the supervision of the force commander. The chief of this separate staff is designated as Officer in Charge of Civil Affairs. An outline of the organization of this staff showing the various subdivisions, along with the duties assigned to each is set forth in the following outline which is intended as a guide only, there being no hard and fast rule prescribed for organizing this staff:

*The military governor and civil affairs staff*

Rank	Title	Outline of duties
Major general.....	Military governor.....	Acts under the authority and by the direction of the President of the United States. Exercises military law applicable to the occupation. Issues proclamations and supplemental regulations. Assumes the duties of the President and Congress of the occupied territory. Continues in effect the laws not conflicting with the objects of, or regulations issued by, the occupation. Supervises and controls officials. Supervises the collection of revenue and controls its expenditure. Establishes military tribunals. Respects personal and property rights.
Colonel.....	Officer in charge of civil affairs.	Acts as officer in charge of civil affairs. Promulgates the orders of the Military Governor and supervises their execution. Assumes the duties of the Secretary of State (Foreign Relations).
Commander (CEC), U. S. Navy or lieutenant colonel, U. S. Marine Corps.	Officer in charge of public works and utilities.	Assumes the duties pertaining to the Department of Public Works. Conducts the public business of this department in accordance with the laws and Constitution of the occupied territory. Supervises public works of all kinds, public utilities, public building, mining, agriculture, forestry, and fisheries.
Lieutenant Colonel (PM or QM).	Officer in charge of fiscal affairs.	Assumes the duties pertaining to the Department of the Treasury and Public Credit. Conducts the public business of this department in accordance with the laws and Constitution of the occupied territory. Has general supervision of public finances, taxes, excises, banking, postal service, state insurance, foreign commerce, and customs service.
Commander (M. C.), United States Navy. Major.....	Officer in charge of sanitation and public health.	As indicated by name. Includes quarantine service.
Major.....	Officer in charge of schools and charitable institutions.	Assumes the duties pertaining to the Department of Education, as indicated by name. Includes religious societies and activities.
Major.....	Officer in charge of the legal department.	Assumes the duties pertaining to the Department of Justice, supervises courts, prisons, provost courts, and military commissions. Gives legal advice and opinions.
Colonel or Lieutenant Colonel.	Officer in charge of the constabulary.	Assumes the duties pertaining to law enforcement through a native force organized as a constabulary.

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The Department of War and Navy will be abolished during the occupation.

*d.* The plan of the commander for the administration of the military government should give expression to his decisions and instructions on the following points:

(1) The distribution and territorial assignment of his military forces in the occupied territory.

(2) The immediate changes, if any, to be made in the local governmental system.

(3) The extent to which the more important local civil officials are to be displaced and officers appointed to fill their places.

(4) The relationship which is to exist between the civil and military administrations, especially the extent to which tactical subdivisions are to be used as units of control of the civil administration.

*e.* The following form illustrates a guide which might be utilized by the commander of the forces in drawing up the general instructions set forth above. Annexes to this plan will be prepared showing the proclamation to be issued, the supplemental regulations to be published at the beginning, and proposed staff organization for administering the military government.

MILITARY GOVERNMENT PLAN

Distribution and territorial assignment of the occupying forces:

General distribution.

(1) Number of areas into which the occupied territory is to be divided for administrative purposes.

(2) General policy of the commander in respect to the distribution and administration of the military government.

Territorial assignment of units.

Unit	Headquarters	Area
List task groups.....	Designate city.....	Give political area to be occupied by the task group noting any extraordinary mission.

NOTE.—Within their respective areas, commanders will assign districts and subdistricts conforming to political subdivisions when practicable.

Immediate changes to be made in the governmental system:

(1) Powers to be exercised by the Military Governor in his administration of the occupied territory.

(2) Immediate changes to be made in the existing governmental system as a whole.

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Extent to which more important civil officials\* are to be displaced:

- (1) Status of Chief Executive and his cabinet under the military government.
- (2) Status of the Congress under the military government.
- (3) Status of the Governors and other civil officers of the several provinces.
- (4) Status of the customs and tax collectors.

Relationship between the civil and military administrations:

- (1) Military commanders assigned to various areas—will they perform civil administrative duties or act purely in an advisory capacity?
- (2) Local laws and ordinances—will they be adopted, amended, or abrogated?
- (3) Internal judicial system—to what extent will it function?
- (4) Will a strict or liberal policy in relations with officials and inhabitants be pursued?

13-9. **The proclamation.**—*a.* The proclamation of the commander to the inhabitants of the occupied territory should be prepared beforehand, should above all be brief, and should cover the following points:

- (1) Announcement as to the exact territory occupied.
- (2) The extent to which the local laws and governmental system are to be continued in force, including a statement that the local criminal courts have no jurisdiction in cases of offenses committed by or against members of the occupying forces.
- (3) Warning that strict obedience of the orders of the commander of the occupying forces is to be expected of all, and that those who disobey such orders or regulations, or commit acts of hostility against the occupying forces, will be severely punished; but those who cheerfully accept the new sovereignty and abide by its orders will be protected.
- (4) A statement that the occupying forces come not to make war upon the inhabitants but to help them reestablish themselves in the ways of peace and to enable them to resume their ordinary occupations.
- (5) In conclusion, the proclamation should make reference to supplemental regulations to be issued containing more detailed instructions.

*b.* The proclamation should be published in English and in the national language of the occupied territory. The conditions which might call for such proclamations are varied, and in each case the

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particular circumstances must control. (For form for a proclamation see current edition of Naval Courts and Boards.)

13-10. **Supplemental regulations.**—*a.* The military government, being supreme, can lawfully demand the absolute obedience of the inhabitants of the area over which it is exercised. There should, therefore, always be prepared and ready for issue contemporaneously with the proclamation, or as soon thereafter as practicable, a supplementary order giving definite expression to regulations and detailed instructions on a variety of subjects in order that the inhabitants may be fully informed from the first as to the conduct that is expected of them.

*b.* The drafting of these regulations, usually at a headquarters far removed from the theater of operations, is by no means an easy task. If they are more harsh than is necessary for the preservation of order and the proper decorum and respect, the force commander and his government are bound to stand in disrepute before the civilized world.

*c.* One of the principal aims should be to so administer the military government that upon conclusion of the occupation, the transition to the new state of affairs may be accomplished without radical change in the mode of life of the inhabitants or undue strain in the return to, or setting in motion of, the machinery of their own laws and institutions. Yet, restrictions must be placed upon assemblages, notwithstanding that the people, looking to the future, will want to gather together and discuss platforms of political parties or campaigns for supremacy in their national affairs. Parades and gatherings in celebration of national holidays, and even religious processions on church holidays, may have to be restricted. The problem of reconciling these conflicting features is one of the most difficult and delicate with which the military government will have to deal.

*d.* The principal restrictions included in the supplemental order relate to unlawful assembly, circulation, identification, possession of arms and ammunition, policy as to manufacture and sale of alcoholic beverages, and offenses in general against the personnel, establishments, installations, and material of the forces of occupation.

*e.* Consideration should be given to the following matters:

(1) The force and effect of the instructions, rules, and regulations contained in the order.

(2) The fact that existing civil laws shall remain in effect, and be enforced by the local officials except those laws of political nature, and except that the civil laws shall not apply to members of the occupying force.

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(3) A list of additional rules and regulations imposed by the military authority, and to be enforced by military tribunals, declaring it to be unlawful:

- To act as a spy or to supply information to the opposing forces.
- To cause damage to railway property; war materials, and other public utility.
- To impair sources of water supply.
- To destroy, damage, or secrete any kinds of supplies or materials useful to the occupying forces.
- To aid prisoners to escape, or to willing assist the opposing forces.
- To harm or injure members of the occupying forces.
- To attempt to influence members of the occupying forces to fail or be derelict in the performance of their duties.
- To damage or alter military signs or notices.
- To circulate propaganda against the interests of the occupying forces.
- To recruit troops, or to cause desertion by members of the occupying forces.
- To commit any act of war, treason, or to violate the laws of war.
- To utter seditious language.
- To spread alarmist reports.
- To overcharge for merchandise sold to members of the occupying forces.
- To interfere with troops in formation.
- To commit arson or to unlawfully convert property to the injury of the occupying forces.
- To circulate newspapers or publications of a seditious nature.
- To signal or communicate with the opposing forces by any means.
- To sketch or photograph places or materials used by the occupying forces.
- To escape or attempt escape from imprisonment.
- To swear falsely.
- To forge, alter, or tamper with passes or other documents issued by the occupying forces.
- To interfere with or refuse to comply with requisitions.
- To perform any act in substantial obstruction to the military government.
- To show disrespect to the flag or colors of the United States.
- To print, post, circulate, or publish anything antagonistic or detrimental to the Military Government or the Forces of Occupation. (Publications may be suspended or censored for cause.)
- To violate any proclamation or regulation issued by the occupying forces.
- To conspire, attempt to do so, or aid and abet anyone violating the foregoing regulations.

*f.* It is important to have beforehand a thorough knowledge of the customs of the country to be occupied, for the enforcement of regulations which run counter to long-established customs is always extremely difficult. It is not likely that much difficulty will be encountered in the enforcement of purely military regulations, but where the customary daily life of the civilian population is circum-

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scribed by many restrictions and inconveniences, the tendency is towards frequent or continual violations. Desirable as such restrictions may seem from an idealistic standpoint, they will not be conducive to success unless they are so framed as to harmonize to the fullest possible extent with the psychology of the population which they are expected to govern.

13-11. **Digest of information.**—In addition to the study of the theater of operations, the commander should be furnished with a digest, prepared by the Law Officer, utilizing all information at the disposition of the Second Section, and such other pertinent information which would be of value to the commander in administering the military government. A sample form for such a digest follows:

**DIGEST OF MILITARY, POLITICAL, ECONOMIC, AND PSYCHOLOGIC INFORMATION**

1. **MILITARY SITUATION** (omitted).

2. **POLITICAL SITUATION.**

*a. National government.*

- (1) **Executive power.**
  - (a) In whom vested.
  - (b) Method of accession.
  - (c) Term of office.
  - (d) Cabinet and advisers.
- (2) **Legislative power.**
  - (a) Composition of legislative body.
  - (b) How chosen.
  - (c) Term of office.
  - (d) Legislative procedure.
- (3) **Judicial department.**
  - (a) Existing system.
  - (b) Efficiency of existing courts.

*b. Local government.*

- (1) Description of political divisions of country.
- (2) Administration of political subdivisions.
- (3) Administration of municipalities.

*c. Political parties.*

- (1) Principal parties.
- (2) Leaders.
- (3) Sphere of influence.
- (4) Political tenets.
- (5) Political background prior to establishment of military government.

*d. Treaties and conventions.*

- (1) Existing and pending.

*e. Franchise.*

- (1) To whom granted.
- (2) How exercised.

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## 3. ECONOMIC SITUATION.

*a. Geography.*

- (1) Area.
- (2) Climate and rainfall.

*b. Population.*

- (1) Entire country.
- (2) Important cities and ports.
- (3) Distribution of population.
- (4) Percentage and distribution of foreigners.

*c. Production and industry.*

- (1) Chief industries and resources.
- (2) Location.
- (3) Exports and imports.
- (4) Ships and shipping.
- (5) Mines and quarries.

*d. Finance.*

- (1) Monetary system.
- (2) Financial condition of country.
- (3) Sources of revenue.
- (4) Customs administration.

*e. Communications.*

- (1) Railroads.
  - (a) Extent and condition.
  - (b) Ownership.
- (2) Roads and trails—extent and condition.
- (3) Waterways and harbors—extent and navigability.
- (4) Telephone, telegraph, radio and cables.
  - (a) Extent, equipment, and possibilities.
  - (b) Ownership.
- (5) Air transportation.
  - (a) Extent, equipment.
  - (b) Ownership.
- (6) Postal service.

*f. Public utilities.*

- (1) Extent.
- (2) Control and supervision.

*g. Labor conditions.*

- (1) Unemployment situation.
- (2) Wages, and hours.
- (3) Presence and effect of labor organizations.
- (4) Social conditions of laboring class.

*h. Sanitation.*

## 4. PSYCHOLOGIC SITUATION.

*a. General racial characteristics.*

- (1) Type: superstitious—vacillating—susceptible to propaganda—excitable.
- (2) Degree of corruption in politics.
- (3) Fighting ability.
- (4) Language and dialects.

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## 4. PSYCHOLOGIC SITUATION—Continued.

*b. Education.*

- (1) Percentage of illiteracy.
- (2) Compulsory or voluntary.
- (3) Outline of school system.
- (4) Location of important universities.

*c. Religion.*

- (1) Prevailing form.
- (2) Effect of religion on life of people.
- (3) Location of religious centers.

*d. Attitude toward other peoples.*

- (1) Foreigners in general.
- (2) Members of the occupation.

13-12. **Attitude toward local officials and inhabitants.**—*a.* Considering the data obtained with regard to the political situation, decision must be made as to immediate changes to be effected in the local government. Civil control must be subordinated to military control. All the functions of the government—executive, legislative, or administrative—whether of a general, provincial, or local character, cease under military occupation, or continue only with the sanction, or if deemed necessary, the participation of the occupier.

*b.* The functions of the collectors of customs at all important ports should be assumed, and officers of the naval service appointed to fill their places. No other civil officials should be displaced except as may be necessary by way of removal on account of incompetency or misconduct in office. The policy should be to retain the latter in their official positions and hold them responsible to the military officers in charge of the various areas within which their jurisdiction lies; the idea of this responsibility should be emphasized from the beginning of the occupation.

*c.* The following general rules should guide the commander of the occupying force in his dealings with the local government machinery to the extent that the latter is functioning:

(1) Acts of the legislature should not become effective until approved by the military governor.

(2) The acts of city and minor councils should likewise not become effective until approved by the military commanders having immediate jurisdiction of the political subdivisions concerned.

(3) In general, a liberal policy should be preserved in all relations with the inhabitants and the greatest latitude permitted in public and private affairs, consistent with the rights and security of the military forces and the termination of the occupation.

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(4) More specifically, all local laws should be permitted to remain in full force and effect, except as specifically provided by the military governor.

(5) All local civil officials, except those duly removed or suspended from office by the military governor or by the military commander having immediate jurisdiction over said officials, should be encouraged to remain at their posts and be protected in the performance of their official duties. They should be required to take an oath to faithfully perform their duties. This oath is not an oath of allegiance.

(6) Vacancies among local civil officials by death, flight, or removal from office should be filled as follows:

(a) Where the local law provides for their selection by the President or by the head of a department, or for their popular election—by the military governor.

(b) Where the local law provides for their selection by a subordinate civil official or minor legislative body—by the military commander having immediate jurisdiction over the said official or legislative body.

(7) An official of the hostile government who has accepted service under the occupant should be permitted to resign and should not be punished for exercising such privilege. Such official should not be forced to exercise his functions against his will.

(8) Any civil official found guilty of acts subversive of the occupying power should be subject to trial and punishment by military commission.

**13-13. Law enforcement agencies and public services.**—The proclamation of the commander of the force announces the extent to which the local law and governmental system are to be continued. It should request the inhabitants to resume their usual occupations. Public services and utilities should continue or resume operations under the direction and control of military authorities. The administration of justice should be given special attention. All courts, unless specifically excepted by the commander of the force, should be permitted to function and their decisions enforced except that:

(1) No person in the service of the naval forces and subject to naval law will be subject to any process of the local courts. However, writs of subpoena may be served with permission from the local commanding officer.

(2) Persons charged with violations of military orders, or with offenses against persons or property of members of the occupying forces, or against the laws of war are to be tried by military tribunal.

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(3) Persons employed by or in the service of the occupying forces should be subject exclusively to the military law and jurisdiction of such forces.

13-14. **Exceptional military courts.**—Since a naval court martial is a court of limited jurisdiction restricted by law to the trial of officers and men of the naval service, it is apparent that, in order to exercise the power conferred upon the force commander when his duty is such as to place under him a wider jurisdiction in accordance with the principles of this chapter, it is necessary to employ tribunals other than those used in connection with the administration of naval law. Such tribunals have been referred to by the Navy Department as exceptional military courts, and include the military commission, the superior provost court, and the provost court. At such time as the proclamation and supplemental regulations are issued, an order establishing military tribunals and defining their jurisdiction and procedure should be published. For a discussion of these courts and their procedure, see Naval Courts and Boards.

13-15. **Control of civil and military administration.**—*a.* The greatest efficiency of government will be acquired by centralization of policy and decentralization of execution. In order to accomplish this, it is necessary that the actual administration of the military government be decentralized by means of a special organization of military personnel. This special organization should be designed to facilitate the military supervision necessary within the territorial subdistricts into which the occupied area has been divided for the purpose of governmental control.

*b.* In subdividing the area for the purpose of administering the military government, the preexisting political subdivisions, such as counties, townships, municipalities, etc., should be considered, and overlapping and mixture of these subdivisions should be avoided as far as possible. The subdivision should also be made so as to lend itself to geographic unity; that is, no district or area should be separated from one of its parts by a range of mountains; each should have adequate means of communication and a fair share thereof; each should have a reasonable proportion of ports of entry and egress; and, each should have a reasonable proportion of the population, industries, etc. The principal feature of the organization should be that each territorial district or subdistrict will be placed under the control of a tactical commander, and that each tactical commander charged with duties pertaining to the supervision of civil affairs will

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have his staff increased by personnel to be organized as a staff section similar to that previously referred to.

*c.* The principle of making the military commands coextensive with the political subdivisions of the occupied territory tends to subordinate tactical considerations to the necessities of civil administration. However, the relationship between the civil and military administrations should be such that should it become necessary for the military forces to move on to a continuation or renewal of hostilities, the civil affairs section of the staff may, with a minimum of interference with the military administration, remain in the area and be capable of extending its sphere of activity to include additional territory that may be occupied. So long as a tactical unit remains in a particular sub-district, its commander will exercise the usual functions of command through the agencies normally at his disposal. He will exercise his special functions relative to civil affairs through the staff which has been organized especially for that purpose. The Officer in Charge of Civil Affairs in each area or district, together with his staff, should be subject to supervision and coordination in technical and routine matters by the Officer in Charge of Civil Affairs next higher in the hierarchy of military government, but all orders involving announcements or changes in policy, or affecting personnel should come through the military commander in the usual way.

13-16. **Public utilities.**—*a.* Municipal water works, light and power plants should be permitted to remain open and function as in normal times, but should be supervised by the officer on the civil affairs staff having jurisdiction over public works. Payments for public services should be made in the usual manner, while appeals in the matter of rates, wages, etc., should be referred to the military governor. Wilful damage to, or interference with, any public utility should be considered as an offense against the occupying force. Railways, bus lines, and other public carriers needed for military purposes may be seized and operated by the public works officer of the military governor's staff. This officer is also responsible for the upkeep of the highways.

*b.* All telegraph and telephone lines, cable terminals, and radio stations, together with their equipment, may be taken over and conducted under the supervision of the force communication officer. He should prescribe which will be operated by the occupying forces, which closed, and which will continue to be operated by civilian companies; and, in case of the latter, may requisition the services of the personnel, whether individually or as an organization, as may be

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deemed advisable. The use by civilians of telegraph, telephone, and cable lines and of radio systems should be permitted only under regulations issued by the force commander.

13-17. **Trade relationship.**—*a.* Ships and shipping should be treated according to the rules of war. The normal port service should be interfered with as little as possible. The port regulations in effect should so remain as long as they are consistent with the orders issued by the military governor. The occupying force may take over any ferry or water transportation regarded as necessary to supplement other transportation lines.

*b.* The general policy of the military government should be to encourage, foster, and protect all citizens of the occupied territory in the energetic pursuit of legitimate interior and exterior trade relationship. It should be unlawful for inhabitants of the occupied territory to engage in any form of traffic with the enemies of the occupying forces, or to engage in commerce with foreign states in contraband articles of war, or to export money, gold, silver, jewelry, or other similar valuables for the time being.

13-18. **Mines and quarries.**—Mines and quarries should be permitted to operate as in peace except that all explosives on hand should be reported to the local military representative. The manager of a mine or quarry should be held responsible and the explosives are used only for proper purposes. Where the stock is large, a guard therefor should be furnished by the local military commander. Requisitions of local military commanders should be given priority over all orders at mines and quarries. Quarries of road material in areas or districts may be exploited by the local military commander.

13-19. **Public revenues.**—Generally, the policy of the military government should be to divert no public revenues from their normal uses except to defray the legitimate expenses of the military government. Taxes, excises, and custom duties collected at the current legal rate by agencies already operating, or otherwise provided for in orders issued by the military governor, should be turned over to the military government for accounting and disbursement according to law. Supplies for the forces of occupation, and the carriers of same while employed as such, should be exempt from taxes or other public revenue charges of any nature.

13-20. **Requisitions and contributions.**—*a.* Requisitions for supplies required by the occupying forces should be issued under the supervision of the military commander. They should be made upon the officials of the locality rather than upon individuals; they must

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be reasonable in proportion to the resources of the country so as to avoid unnecessary distress among the inhabitants. They should be paid for in cash, if possible. Otherwise, receipts should be given.

*b.* Contributions may lawfully be levied against the inhabitants by authority of the military governor or the commander of the occupying force (but not by a subordinate), for the following purposes:

(1) To pay the cost of the military government during the occupation.

(2) Compensation for the protection of life and property, and the preservation of order under difficult circumstances.

(3) As a fine imposed upon the community as a whole for acts injurious to the occupying force.

*c.* Contributions should be apportioned like taxes, and receipted for. One method of exacting contributions is to take over the customs houses, thus controlling the revenues from import receipts.

**13-21. Public and private property.**—Public buildings and public property of the occupied country, except charitable institutions and those devoted to religious, literary, educational, and sanitary purposes, may be seized and used by the forces in the manner of leaseholder. Title does not pass to the occupying sovereignty. Other buildings are not to be used except in case of emergency. Private property must be respected.

**13-22. Employment of inhabitants.**—*a.* Services of the inhabitants of occupied territory may be requisitioned for the needs of the occupying force. These will include the services of professional men and tradesmen, such as surgeons, carpenters, butchers, barbers, etc., employees of gas, electric light, and water works and other public utilities. The officials and employees of railways, canals, river or coastal steamship companies, telegraph, telephone, postal and similar services may be requisitioned to perform their duties so long as the duties do not directly concern operations of war against their own country, and thereby violate the Rules of Land Warfare as recognized by the United States.

*b.* The prohibition against forcing the inhabitants to take part in operations of war against their own country precludes requisitioning their services upon works directly promoting the ends of the war, such as the construction of forts, fortifications, and entrenchments; but there is no objection to their being employed on such work voluntarily for pay, except the military reason of preventing information concerning such work from falling into the hands of the enemy.

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**13-23. Police and elections.**—The civil police force may be continued in operation in conjunction with the military forces and the members thereof may be required to shoulder the burden of enforcing certain additional police regulations imposed by the various military commanders. Elections may be suspended or held at the discretion of the military governor; and he may regulate such elections to avoid fraud, disorder, and intimidation.

## SECTION III

APPLICATIONS OF PRINCIPLES TO SITUATIONS SHORT  
OF WAR

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13-24. **General considerations.**—The history of our Government indicates that we have occupied territory and established complete military control over such territory in time of peace as well as in time of war. If war has been declared, the establishment of a military government over the territory of the enemy occupied by our forces gives rise to very few questions. However, when military government is established over a foreign sovereign state or a portion thereof, without Congress declaring war, that is, when the native inhabitants of the country occupied are not considered enemies, it brings up the question of whether or not the laws of war can be legally applied. Such situations have presented themselves in the past and will probably present themselves in the future. They arise from the policies of our Government which dictate what our attitude should be toward assisting our neighbors in maintaining peace and order and in protecting the personal and property rights of our own and other foreign nationals. When we intervene in such cases, our action will always appear to many, especially those of the country concerned, as a quasi-hostile act and they will be ready to protest and criticize the conduct of the military government in all its functions. If, as we are taught, a military governor, even in time of war, should be careful to make his government humane, liberal, and just, because of the undesirability of making a return to peace difficult, how much more this principle must apply when there is no war.

13-25. **What laws apply.**—If the commander of the force of occupation establishes a military government and there is no war, what laws can he apply? He cannot apply the laws of our own country in the occupied territory and he cannot accept and enforce on the laws of the occupied territory. Our own constitution cannot be made to apply to a foreign territory, and the existing laws in the occupied territory manifestly will contain no provisions which will guarantee

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the security of the forces of occupation, their installations and material. The fact remains that the commander must govern and he must utilize a military form of control. Therefore, he will be justified in adopting any reasonable measures necessary to carry out the task or mission that has been assigned him. Whether his government has declared war is no concern of his—that is a diplomatic and international move over which he has no control. The very nature of his mission demands that he must have absolute power—War Power. However, as a matter of policy, the more rigorous war powers should not be enforced. Contributions, requisitions, treatment of war traitors, spies, etc., should not be more rigorous than absolute necessity demands for self-protection. The commander's policy should be to enforce the laws of war but only to such extent as is absolutely necessary to accomplish his task.

