

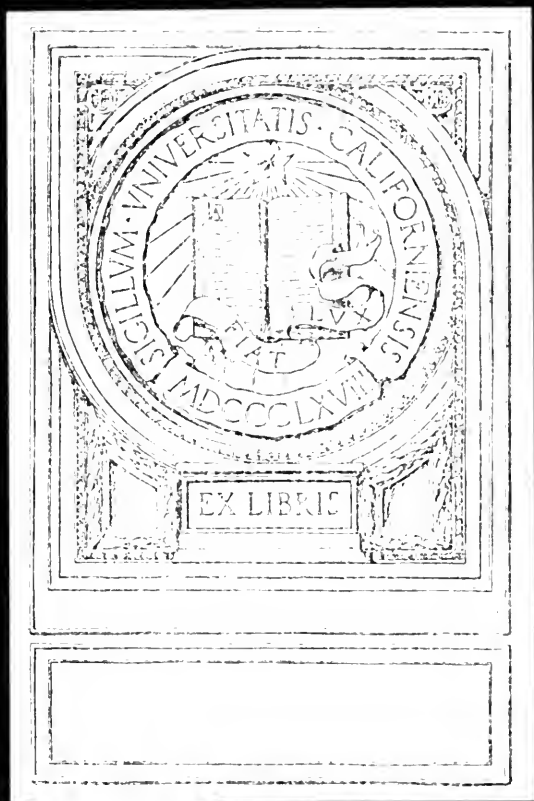
D

659
F8N3

UC-NRLF



\$C 180 924



LAWS OF FRANCE

1919

TOWN PLANNING
AND
REPARATION OF DAMAGES
CAUSED BY THE EVENTS OF THE WAR

TRANSLATION BY
ROSCOE POUND, Ph. D., LL.D.
DEAN, HARVARD LAW SCHOOL

October, 1919



Copyright, 1919
THE NATIONAL CIVIC FEDERATION
METROPOLITAN TOWER
NEW YORK CITY

II 659
7'2 N 3



B. H. TYRREL
206-8 FULTON STREET
NEW YORK CITY

TO MISS
ALBON LAD

FOREWORD

In the belief that the French laws on town planning and the reparation of recent war damage, both of which became effective last spring, would be of direct interest and value to considerable numbers of American citizens, we have concluded to publish separately as addenda to the Report of our Foreign Commission on Industrial Inquiry* translations of these two laws by Dr. Roscoe Pound, Dean of the Harvard Law School. These translations, expressed as far as possible in American legal phraseology, should prove of direct value to any Americans who are interested in the general subject of town planning or who have a desire or intention to participate in any way in the rehabilitation of French industries and homes. We take this opportunity to extend our sincere thanks to Dean Pound for his generous and expert assistance.

CHARLES MAYER, *Chairman.*

ANDREW PARKER NEVIN.

JAMES W. SULLIVAN.

ALBERT FARWELL BEMIS.

E. A. QUARLES, *Secretary.*

* This publication, in book form and consisting of approximately 400 pages, will be off the press of Messrs. E. P. Dutton & Company about October 15. Orders should be addressed to The National Civic Federation, 1 Madison Avenue, New York City.

437177

Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

I.

TOWN PLANNING LAW

ENACTED MARCH 14, 1919.

ARTICLE 1. Without prejudice to the general plan of street and building lines and levels imposed upon all communes by Article 136, Par. 13 of the Statute of April 5, 1884, every city of 10,000 inhabitants and upwards is required to have a *projet* for relaying, improvement and extension [that is, of streets, ways, squares, etc.]

This *projet*, which must be drawn up within not less than three years from the promulgation of the present statute, is to include:

1. A plan fixing the direction, the size and the character of the ways to be laid out or modified, determining the site, the extent and the arrangement of squares, public gardens, playgrounds, parks and different open spaces, and indicating the reserved woodlands to be left in their natural condition as well as the sites intended for monuments and public buildings;

2. A programme fixing the restrictions hygienic, archaeological and aesthetic, as well as the other conditions relating thereto, and particularly the open spaces to be reserved, the height of buildings, as well as the provisions with respect to distribution of drinking water, the system of drains, the disposition of garbage, and if required the drainage of the soil;

3. An order of confirmation by the Mayor with the advice of the Municipal Council governing the conditions of application of the measures prescribed in the plan and the programme.

The same duties are imposed:

1. On all the communes of the Department of the Seine;
2. On towns of less than 10,000 inhabitants and more than 5,000 inhabitants, the population of which has increased more

than 10 per cent. in the interval between two consecutive quinquennial censuses;

3. Upon bathing resorts, seaside resorts, watering places, health resorts and other pleasure resorts, the population of which, which gives them their importance, increases 50 per cent. or more at certain periods of the year;

4. Upon settlements [literally groups of houses—that is, small neighborhood places] the importance of which is in their picturesque or artistic or historic character, which are officially entered on a list required to be drawn up by the departmental commissions of natural sites and monuments provided for by the statute of April 21, 1906 [this law provides for a commission on historic, picturesque and artistic sites in each department of France];

5. Upon groups of houses or lodging places built up or developed by associations, companies or individuals [that is, where any company or association or individual erects a group of houses or lodgings for the workmen in some enterprise which it or he is conducting].

ARTICLE 2. When a settlement whatever the number of its population has been wholly or partially destroyed by the events of war, by fire, by earthquake or by any other catastrophe, the municipality is bound to cause to be drawn up within three months a general plan of street and building lines and levels for the parts which are to be rebuilt as provided for by the statute of April 5, 1884, together with a summary sketch of the *projet* of relaying, improvement and extension provided for in the first article of the present statute.

An order of the prefect made with the advice of the commission constituted by article 4 of the present statute shall decide whether the settlement shall be restored according to the lines on which it was formerly laid out, and shall fix the period of grade [that is before the new lines are to be adhered to].

Until the plan of street and building lines and levels has been approved no building except provisional shelters shall be effectual to give the builder legal rights without the authority of the prefect given upon the advice of the commission constituted under article 4 of this statute.

ARTICLE 3. The cost of the plans and *projets* provided for by the preceding articles are to be a state charge with respect

to the communes referred to within the purview of article 2 above, notwithstanding the principle laid down by article 136, par. 13, of the statute with respect to municipalities of April 5, 1884.

The same rule shall apply to settlements within the purview of paragraph numbered 4 of the enumeration contained in article 1 of the present statute.

In the case of other communes subventions may be granted by the decision of the Minister of the Interior rendered upon application of the prefect of the department and charged upon the credits entered under this item in the budget of the Minister of the Interior. They are to be made in a proportion to be fixed by a decree made in the form prescribed for regulations of public administration. [This refers to administrative decrees prescribing rules and regulations such as we are becoming familiar with in this country and which have long been known in France.]

ARTICLE 4. In the prefecture of each department a commission to be presided over by the prefect or his representative is hereby constituted which shall be styled "The departmental commission for relaying and extension of cities and villages." The commission shall be composed of the departmental council of hygiene, of the departmental commission of natural sites and monuments, of the departmental commission of civil buildings and of four mayors appointed by the general council.

This commission shall give hearings to the delegates of societies of architecture, of art, of archaeology, of history, of agriculture, of commerce, of industry and of sport, and to representatives of transportation companies in the department as well as the mayors of cities or communes interested and the representatives of different public services of the state which it thinks ought to be brought together for the purpose or who request an opportunity to present their views. It may add to its number secretaries who shall have a deliberative voice in the affairs which they report. [I have used the word "secretary" here for "*rapporteurs*" because of the analogy of the secretary of commissions and boards in this country. No English word will give exactly the idea. Persons with special information in particular lines who can make reports to the commission with respect to

those lines are to be added in the discretion of the commission and are to have a voice in the deliberations of the commission when the subjects in question are before it. Perhaps "expert" might be better but there is no requirement that these rapporteurs be experts. I should suspect that it would be best to use the word "*rapporteur*" and then put in an explanation of what is meant by way of commentary.]

Each commission shall bring together all the necessary documents required to facilitate the commune in the preparation of their *projets* and to guide them.

It shall give its advice:

1. With respect to the *projets* drawn up by the municipalities;

2. With respect to the departures from the principles laid down by the superior commission instituted under article 5 of this law which may be required because of special difficulties or local needs.

3. With respect to the aesthetic or hygienic servitudes resulting from the *projets* which are submitted to it. [That is, as we should say, the easements to which property in the municipality ought to be subjected on aesthetic or hygienic grounds in carrying out the *projets*.]

4. With respect to all matters which the prefect considers it useful to submit thereto.

ARTICLE 5. A superior commission on relaying, improvement and extension of cities under the presidency of the Minister, or of his delegate, and the vice-presidency of the Minister in charge of liberated regions, or his delegate, is hereby constituted in the Ministry of the Interior and is to be made up as follows:

Two senators elected by the Senate;

Four deputies elected by the Chamber of Deputies;

Two Councillors of State in the ordinary service designated by their colleagues;

Four Mayors of whom three are to be designated by the Minister of the Interior and one by the Minister in charge of liberated regions, of whom two shall represent communes of from 20,000 to 50,000 inhabitants and two communes of more than 50,000 inhabitants;

The director of the departmental and communal administration in the Ministry of the Interior;

The director of public aid and hygiene in the Ministry of the Interior;

Four members of the superior council of public hygiene designated by their colleagues;

Four members of the superior council of the fine arts designated by their colleagues;

Four members of the superior council of civil buildings designated by their colleagues;

Four members chosen from city planners, architects and other persons particularly qualified, to be designated two by the Minister in charge of liberated regions and two by the Minister of the Interior.

The commission may add to its number secretaries who shall have a deliberative voice in the affairs which they report.

This commission is charged with drawing up general rules to guide municipalities in the application of the present statute, and shall give its advice upon all questions and all *projets* which are referred to it by the Minister of the Interior or the Minister in charge of liberated regions, either of their own motion or at the request of the commission itself upon a statement setting forth the reasons for the request.

ARTICLE 6. If the *projet* affects only a single commune, and except in the case provided for in the 5th paragraph of the first article (which is governed by article 8 hereinafter with respect to groups of buildings) the municipal council at the instance of the mayor shall designate an artist or a society to which it shall give in charge preparation of the sketch hereinbefore provided for and the preparation of plans and *projets*.

If within two months from the promulgation of the present statute such designation has not been made the prefect shall notify the municipal council to proceed within one month to make the designation, and at the expiration of that period shall make the necessary designation himself on his own motion.

If the plan has not been drawn up within the time provided for by articles 1 and 2 above the prefect shall proceed of his own motion to carry out this requirement at the expense of the commune, and the commune shall forfeit its right to the subvention provided for in article 3, par. 3, of the present law.

ARTICLE 7. When the plan, programme and confirmation thereof provided for in Article 1 have been drawn up they shall be submitted, after taking the opinion of the Bureau of Hygiene, and in default thereof, the opinion of the Sanitary Commission of the district:

1. To examination by the municipal council;
2. To an inquiry under the conditions of the ordinance of August 23, 1835;
3. To examination by the commission provided for in Article 4.

The municipal council is required to give its definite opinion.

If the municipal council refuses or neglects to examine the plan the prefect shall notify it that it is in default and prescribe a period of not more than one month within which it is to act, at the expiration whereof he shall examine the plan himself.

The same rule shall apply in case the municipal council refuses or neglects to give its definite opinion.

The prefect shall transmit the documents, together with his opinion stating the grounds thereof, to the Minister of the Interior who shall consult the superior commission if he thinks it necessary, and the work which is required to be done in the application of the plan shall be decreed to be of public utility by decree of the council of state. In every case of a settlement within the purview of article 2 of this statute the declaration of public utility shall be made by a decision of the prefect upon the advice of the commission constituted by article 4, except so far as concerns settlements enumerated in article 1, for which a decree of the council of state shall always be necessary.

ARTICLE 8. Associations, companies and individuals who undertake the erection or development of groups of buildings are required to deposit in the office of the Mayor a plan of laying them out which shall include a plan for adjusting them to the public ways and if necessary to the conduits of drinking water and the sewers of the commune.

Within twenty days after depositing this plan it shall be submitted to examination by the Bureau of Hygiene, or in default thereof, the Sanitary Commission of the district, then to the municipal council and afterwards to an inquiry in accordance with

the forms prescribed by the circular of the Minister of the Interior of August 20, 1825.

If the proprietor has served a duly attested notice upon the Mayor and no action has been taken within one month thereafter the prefect may order the inquiry.

The plan shall then be submitted to the commission provided by Article 4 above and shall be approved if there is occasion by a decision of the prefect.

The decision of the prefect is to be made within one month after the inquiry. In default of a decision within that time the plan shall be taken to be approved.

If the plan is approved no building shall be built without a permit from the Mayor according to the conditions provided for by Article 11 of the Statute of February 15, 1902.

ARTICLE 9. In case the *projet* for reconstruction, laying out, improvement and extension is such as to affect several communes of a department the prefect may require a sketch of the *projet* as a whole from the municipalities affected and may direct even on his own motion intercommunal conferences according to the organization of the communes and in conformity with the requirements of Articles 116 and 169 of the Statute of April 5, 1884.

The *projet* shall be examined and declared a public utility according to the forms provided by Articles 6 and 7 of this statute.

ARTICLE 10. If it is expedient that the plan go beyond the limits of the department it shall be reviewed by the inter-departmental conference according to the provisions of Articles 89, 90 and 91 of the Statute of August 10, 1871, and thereafter shall be submitted in each commune to the formalities provided for by Articles 6 and 7 of this statute.

It shall be declared a public utility by a statute which shall determine the measures necessary for its application.

ARTICLE 11. From the publication of the official action declaring a plan of reconstruction, relaying, improvement and extension to be a public utility, or from the decision of the prefect approving plans with respect to groups of buildings within the purview of Article 8, the proprietor of land adjacent to the ways

and squares projected must conform to the rules prescribed by the law relating to building lines and shall not do any new building without first obtaining a building permit from the Mayor. No new building shall be done adjacent to the ways and squares laid out upon the *projet* except in conformity to the building lines fixed thereon.

To insure this no building shall be built without a building permit from the Mayor.

II.

STATUTE WITH RESPECT TO THE REPARATION OF DAMAGES CAUSED BY THE EVENTS OF THE WAR

ENACTED APRIL 18, 1919.

TITLE I. GENERAL PROVISIONS.

ARTICLE 1. The Republic proclaims as a principle that all Frenchmen are to bear equally the expenses of the war. [The word "*solidarité*" used in this connection may be best explained by referring to the contrast between the *obligatio in solidum* of the Roman law, and the joint and several obligation in our law. In our law where there is a plurality of creditors they are always joint creditors, whereas a plurality of debtors may be either joint or several. In the civil law the obligation may be solidary both with respect to the creditors and with respect to the debtors—that is, there may be joint and several debtors as well as joint and several creditors. All Frenchmen in their capacity of sufferers are joint and several creditors, and all Frenchman in their capacity of taxpayers are joint and several debtors to repair the damage. It is almost impossible to put such a conception into English because we have no occasion for a word to express such an idea.]

ARTICLE 2. Certain, material and direct damage in France or in Algiers to immovable or movable property caused by the events of the war shall give rise to the right for the specific reparation provided by Article 12 of the Statute of December 26, 1914, without prejudice to the right of the French government to make claim for payment therefor from the enemy.

In particular the following shall be regarded as damages resulting from the events of the war :

1. All requisitions levied by enemy authorities or troops, levies in kind in whatever form made, even if under the form of occupation, billeting or cantonment, as well as imposts, contributions of war, and penalties whether exacted from individuals or from collectivities. [French juristic theory thinks of a corporation as a case of collective ownership, that is to say, what we should call the property of the corporation is thought of as property devoted to collective purposes. So corporations, municipal corporations, associations, and all manner of groups which have property devoted to a common or group purpose would be referred to as a collectivity. We have no such idea and in consequence no such word.]

2. The removal of objects such as crops, animals, trees and wood, raw material, merchandise, furniture, household goods, securities and commercial paper; deterioration or destruction, total or partial, of crops, merchandise, and all manner of movables, no matter who may have caused these removals, deteriorations or destructions; the loss of movable property whether in France or abroad in the course of evacuations or repatriations. [Perhaps I need not say that in the civil law property is divided into movable and immovable, a distinction not exactly corresponding to our distinction of realty and personalty. Movables could be very nearly translated by chattels, but it seems preferable to use a term which will not involve any of the historical anomalies connoted by the word chattel.]

3. Deteriorations of land, whether built upon or not built upon, including woods and forests; partial or total destruction of buildings; deterioration or destruction total or partial of improvements, accessories and animals appurtenant to the commercial, industrial, or agricultural use of the land, which for the purposes of the present statute shall be considered as immovable by destination, whether they belong to the operator or to the proprietor of the land, without inquiry as to who were the authors of the damage referred to in this paragraph. [This paragraph refers to a peculiar French doctrine of what are called "movables immovable by destination." The Roman law of *pertinentia* was substantially the same as our law of fixtures. In the French feudal law certain things brought upon large feudal estates for the use of the estate were regarded as becoming appurtenant to

the estate through the purpose of the owner to use them upon the land for the purpose of operating it as an agricultural enterprise. The French civil code, articles 517, 524 and 525 took over this doctrine and it can also be found in the Louisiana Code, article 468. According to the French code agricultural implements, seed furnished to a tenant by the landlord, pigeons in a pigeon house, rabbits in rabbit warrens, beehives, fish in fish ponds, presses, boilers, stills, vats and barrels, the tools, implements and machines necessary for iron works, paper works and other like industrial enterprises, straw and manure, and all movable property which the owner had shown he intended to use permanently in connection with the land are immovable by destination. The provision in the present law extends this principle to everything which was upon the land for the purpose of operating it in a commercial, industrial or agricultural enterprise.]

4. All damages within the purview of the preceding paragraphs caused within the zone of frontier defence as well as in the neighborhood of fortifications and intrenched places, and those who have rights under this provision shall not be subject to any defence based upon the statutes and decrees with reference to military servitudes. In every case in fixing the amount of indemnity the commissions of valuation shall take account of the permissive character of constructions built in military zones in contravention of the statutes and administrative regulations or by virtue of authorizations subject to a promise to take out upon request. [Military servitudes above could be translated, if we had such a thing in our law, military easements—that is restrictions upon the rights of owners by way, as it were, of the easements of the state to do certain things thereon for military purposes. I suppose we have no such conception. Either we should take by eminent domain or we should say that there is a license, as it were, by operation of law. *Précaire* means substantially what we mean by permissive when we speak of a permissive user of land. Literally a *precarium* is a holding at will. I translate *engagement*, promise. It is a somewhat stronger term. It means a legally binding promise.]

5. All damage done to boats equipped for fishing. An ad-

ministrative regulation shall determine the procedure to be followed in proof and appraisal of the damage.

Damages within the purview of the preceding paragraphs shall include those caused by the French or allied armies, whether by reason of measures in preparation for attack, preventive measures for defence, the necessities of battle and of evacuation of threatened points, or by reason of the requirements of occupation in those parts of the territory comprised in the zone of the armies and in particular requisitions, billets and cantonments; and power is reserved to the claimant at his election to avail himself of the provisions of the statutes of July 10, 1791, and July 3, 1877 and of the decrees of August 2, 1877, November 23, 1886, and December 27, 1914.

The damages shall be approved and appraised and the indemnity fixed with respect to each person injured according to categories following the classification hereafter provided and in conformity with the provisions of the present statute. The injured person shall have the power to assert at the same time claims for the different categories of damage to which he has been subjected.

ARTICLE 3. Individuals and their heirs, associations, public establishments or establishments of public utility, communes and departments, shall be admitted to exercise the right hereinafter defined. [With us the property of charitable institutions, schools, hospitals, museums and the like is owned by trustees, or else such institutions are incorporated. In the civil law it is customary to devote certain property to ends of public utility of the sort and to treat and think of the property much as we should think of a corporation. In other words, the property devoted to such a purpose is administered through agents, whereas we should say there is a corporation owning the property and acting through agents.]

Corporations and partnerships a part of whose capital was withheld by citizens of enemy powers after the 1st of August, 1914 shall be reimbursed by the state by stoppage of the dividends declared to holders of securities under the jurisdiction of enemy powers or by other stoppages imposed upon such holders in order to cast upon them the share of the indemnity which the capital detained by such enemies would have produced. [*So-*

ciété in French law includes both partnerships and what the English would call companies and we should call corporations.]

An administrative regulation shall determine the conditions under which the preceding paragraph is to be applied.

The right of reparation shall belong to foreigners in France and to naturalized persons who have recovered the condition of Frenchmen, under the conditions determined by treaties to be concluded between France and the nation under whose jurisdiction these foreigners or these naturalized persons are or have been. Simply for the purpose of preserving their rights foreigners shall be admitted to make proof and have appraisalment of the damages which they may have suffered.

A special statute shall determine the conditions under which concessionaries of means of communication of general interest may be admitted to the benefit of the present statute. [Concession in the civil law means much the same as franchise with us. The French divide "matters of general interest" into *travaux publics* (carried on by departments and communes and public establishments—that is, public charitable foundations) and enterprises carried on by concessionaries subject to administrative control.]

TITLE II. ON INDEMNITY.

ARTICLE 4. With respect to immovables the indemnity shall include the amount of loss undergone appraised as of the day before the mobilization and the amount of additional expense necessary for restoring immovables damaged or destroyed. The grant of these two elements of indemnity is subject to the condition that the claimant effectively resumes the use of the property according to the provisions of the articles following.

In case use of the property is not resumed the injured person shall receive only the amount of the loss undergone. [As I understand this the two elements are, first, the diminution in the value of the land as such found by comparing the value of the land today with the value which it had the day before mobilization, and, second, the additional amount necessary to rebuild and repair actual waste due to the rise in wages and materials during and since the war. The second item is conditioned upon resumption of use of the land.]

ARTICLE 5. The amount of the loss undergone and the amount of additional expense required to restore immovables shall be valued separately by the commissions constituted by articles 20 and following of the present statute.

In case of buildings and immovables by destination the amount of loss undergone shall be appraised by taking for the basis the cost of construction installation or reparation on the day before mobilization, deducting for depreciation, for age and decay, and in case of immovables rebuilt or repaired after mobilization the cost on the day when they were repaired or rebuilt.

In case use is not resumed, if the immovable was transferred more than ten years before the outbreak of hostilities and the transfer was attested officially as of a date certain, the price set forth in the instrument of transfer shall be taken account of in appraising the loss undergone if that price is less than the appraisal provided for in the preceding paragraph. The amount of loss undergone shall not be permitted to exceed the sale value of the immovable on the day before mobilization.

With respect to immovables referred to in the second paragraph of the present article the additional cost shall be taken to be the difference between the cost of construction, installation or reparation on the day before mobilization and that of reconstruction of the same sort of immovables on the day of the appraisal.

Subject to the condition of resumption of use a sum corresponding to the depreciation resulting from age and decay will be allowed to the claimant with respect to each piece of property up to the amount of frs. 10,000, and for the remainder the amount of the depreciation may be advanced by the state at the request of the claimant to be repaid by him to the state in 25 years from the date of the last payment with 3 per cent. interest.

Subject to the same condition the depreciation for age and decay shall not exceed 20 per cent. of the cost of construction on the day before mobilization in case of lands admitting only of use in agriculture. For the repayment of these advances the state shall have a lien which shall stand in the first class of the liens governed by article 2103 of the civil code. [Article 2103 of the French Civil Code provides who shall have liens upon land by operation of law as distinguished from liens created by legal transactions. Such persons are, first, vendors (compare the ven-

dor's lien in our law), second, persons who have advanced the money for the purchase of lands (compare the resulting trust in our law), third, co-heirs with respect to the money due them to equalize the lands awarded upon partition (compare the equitable charge in like case in our law), fourth, architects, contractors, masons and workmen employed in building, etc. (compare the mechanic's lien in our law), fifth, persons who have lent money to pay workmen in such cases.]

In case the immovables destroyed were used for industrial, commercial or agricultural purposes the resumption of use may take the form of the like use of immovables in the commune where the damage was done or within a radius of 50 kilometers provided it is within the devastated zone. In every case of expropriation or repurchase of lands by the state the resumption of use may be made by a use of land for agriculture within the devastated regions.

Buildings shall be rebuilt in conformity with the provisions prescribed by the statutes and administrative regulations as to public hygiene.

Within 15 days following the promulgation of the present statute a regulation of public administration may with the advice of the Superior Council on Hygiene determine the rules to be applied to the reconstruction of buildings and groups of buildings.

The resumption of use will be considered as complete if the claimant has rebuilt the buildings destroyed, or has spent in rebuilding a sum equal to the amount of indemnity due to him with respect to each property.

If the resumption of use is only partial the claimant shall only receive the proportion of the additional expense which corresponds to the amount expended.

In the case of land not built upon the amount of loss undergone will be appraised by taking account of the depreciation of the soil, the depreciation or destruction of fences, of trees of all sorts, of vines, plantations, shrubs and underbrush and forest trees. In case of resumption of use the claimant in addition to the amount of additional expense necessitated for putting the land into its former condition of use and productivity shall be entitled to the amount required for rebuilding fences, the removal of stumps, for new plantations and for reforestation.

Claimants shall be entitled to pool their rights to indemnity or to put them into partnerships or corporations for the purpose of rebuilding immovables or resuming agricultural, commercial or industrial enterprises according to the conditions and within the limits provided for in the preceding paragraphs.

In case of such pooling or partnership or corporation they shall not be entitled to have their rights registered for more than the value which they had before the war.

[That is if several persons who claim damage enter into a corporation or limited company for the purpose of resumption of use in reckoning the capital of the company their rights shall not be put in for more than the value which they had prior to the war.]

In case of public service companies, departments, communes and public enterprises or enterprises of public utility, the indemnity shall not exceed the amount of the cost of reconstruction of the immovable subject to prior encumbrances.

With respect to concessionaries of mines the grant of indemnity provided for by the present article is subject to the condition of resumption of use unless the impossibility of resuming is duly established in which case the indemnity shall be only the amount of loss undergone.

ARTICLE 6. The reconstruction of a building or resumption of use in any case may be forbidden on its own motion by the tribunal for ascertaining damages resulting from the war if it is found to be impossible or contrary to economic necessity or contrary to the public health.

ARTICLE 7. In case resumption of use does not take place the indemnity shall still be reckoned by taking account of the amount of loss undergone and the additional expense. The person injured shall receive the amount of loss undergone.

The additional expense of reconstruction shall be turned into a general fund under conditions determined by the statutes with respect to finances in order to be employed for the advantage of injured regions.

ARTICLE 8. If resumption of use does not take place the payment of loss undergone shall be made by turning over to the person injured a bond representing the amount due him and bearing interest at 5 per cent.

These bonds shall be non-transferable for 5 years from date of their delivery to the claimant; during this period they may be assigned by the authority of the tribunal stating the grounds thereof, such authority to be given by the court in *banc* after hearing a representative of the public. There may be an appeal from the decision of the tribunal of first instance to a court which shall decide the matter in *banc* in accordance with the procedure appropriate to its summary jurisdiction.

Every transfer in violation of the preceding provisions shall be void; a judgment of nullity may be pronounced at the request of the minister of finance.

After 5 years the payment of the bond shall be made in cash in ten equal annual instalments, the first of which may be demanded at the expiration of 6 months and the following in successive periods of 12 months.

Claimants who shall enter into an undertaking under the conditions provided for by articles 9, 44 and 45 of the present statute to resume use or to reinvest their indemnity shall be paid in cash according to the provisions of said articles.

ARTICLE 9. The claimant shall have a period of 2 years from the decision which definitely fixes the amount of indemnity to which he is entitled within which to consent to the conditions of resumption of use. As the basis of his undertaking and to facilitate calculations of the amount of additional expense he shall furnish a plan of the work to be done and an estimate of the materials required to carry it out.

ARTICLE 10. In case of co-owners of property if the majority in number and value declare their intention of resuming use their will shall prevail; the condition of undivided ownership shall then be prolonged for a maximum period of 5 years from the reconstruction of the thing destroyed at the request of the co-owners who have declared their intention to resume use. In case of partition resumption of use shall be a matter of right. [In French law in many cases property owned in common is required for a certain period or under certain circumstances to remain in a condition of "indivision." The foregoing paragraph provides an additional case in which partition is not to be allowed. The last clause forbids restrictions on resumption of use in case of partition.]

In case of a partnership or a company the resumption of use shall be a matter of right if it is decided upon under the conditions with respect to pooling provided for by law.

In no case shall the duration of the partnership or company be modified except in conformity with the rules provided for by law. [In other words, the state of indivision may go on and yet the condition of partnership may come to an end unless the partners themselves provide otherwise in the manner provided by law.]

Resumption of use shall be a matter of right whether the intention to resume is declared by the holder of the bare legal title or by a usufructuary or an emphyteuticary or by the purchaser in a contract for sale. [*Nu propriétaire*, bare legal owner, refers to one who has simply a reversionary right after the usufruct or emphyteusis. Usufruct is more or less equivalent to our estate for life or estate for years. Emphyteusis is a perpetual lease—in France, however, limited now to 99 years and is very like the ground rent of the law of Pennsylvania and Maryland.]

During the duration of the usufruct or emphyteuticary lease, the repayment of the annual instalments due to the state under the conditions provided for by paragraph 5 of article 5 is to be charged, one half to the holder of the bare legal title, and one half to the usufructuary or emphyteuticary.

Creditors who have liens upon the land by way of mortgage or otherwise cannot object to the resumption of use nor exact the payment of their debts in money except at the expiration of the time fixed by the original contract with deduction without expense of a period corresponding to the interruption of enjoyment of the land.

Creditors having liens upon the property by way of mortgage or otherwise, usufructuaries, emphyteuticaries, owners of real rights of use or habitation and purchasers in a contract of sale shall have their rights in the reconstructed property fixed subject to the lien given to the state by paragraph 7 of article 5. [The real right of use and habitation is a limited usufruct, it is a right of pure personal use of land or purely personal use of a building. In the case of a usufruct the usufructuary may assign his right to enjoy the property as a lessee may assign his lease in our law. In the case of use and habitation no such assign-

ment can be made. For an American to understand this provision perhaps it would be enough to say, creditors who have liens, lessees and purchasers in land contracts.]

In case of non-resumption of use creditors secured by liens, by way of mortgage, or otherwise, as well as creditors secured by bonds and purchasers under contracts of sale, may be subrogated to the position of the debtor with respect to the rights given to the latter under the present law, for the purpose of securing their rights, upon obtaining authorization from the civil tribunal given by the court in *banc* after hearing a representative of the public and hearing the debtor and upon subscribing to the conditions of resumption of use.

Creditors cannot exercise the right given them above except within two months from default by the debtor. In case a claim is made under this provision the persons in interest shall be notified by the clerk of the cantonal commission.

In case of non-resumption of use the indemnity shall belong to lien holders by mortgage or otherwise in their order and to purchasers in contracts of sale without need of an express power of attorney, and under the conditions provided for in article 43.

Objections to payment shall be drawn up and assignments and powers of attorney with respect to indemnities shall be acknowledged before the treasurers and receivers of public monies of the departments within a month following the final ascertainment of the indemnity. Within eight days under penalty of being void otherwise they shall be entered upon a registry kept by the clerk of the tribunal for ascertaining the damage caused by the war. After this period has elapsed payments shall be valid. [In each department of France there is an official administrative officer called the *trésorier-payeur général*. He has not only the duties of treasurer but to some extent those of auditor and certain magisterial administrative functions also.]

In case of a usufruct it will be noted in registering the bond delivered to the claimant. [In other words, if the claimant has a usufruct for life and so would be entitled to the use of the property for life the bond delivered to him will have a note upon it and there will be a note also in the registry that he is the usufructuary so at his death the owner may claim the principal and the income remaining unpaid.]

If the land is subject to rights of use or habitation or to ease-

ments the indemnity is to be divided between the owner and the holders of these rights according to the value of their respective rights in proportion and upon conditions established by the administrative officers in charge of registration of rights upon succession to property. [That is, the administrative rules established in case of succession to estates shall govern in this respect also. Succession in the French law involves both succession by will and succession upon intestacy.]

ARTICLE 11. In case the person immediately entitled under this statute does not resume the use of the property, interested owners may form associations under the forms and conditions fixed by the statutes of June 21, 1865, and December 22, 1888, to carry on works of collective utility. In case the commune is not one of the owners presumed to be interested the Mayor may nevertheless take part in the meeting of the association but simply in an advisory capacity.

[The French law authorizes all manner of "*associations syndicales*"—that is associations of persons who act through agents. These associations may be entered into for all kinds of purposes varying from churches to trade unions and bar associations.]

ARTICLE 12. In case of civil buildings or church buildings the indemnity shall consist of the amount necessary to rebuild an edifice of the same sort with the same importance for the same purpose and with the same permanence as the building destroyed.

[Civil buildings means buildings existing for general public purposes like academies of science, natural history societies and the sort.]

On the request of persons interested or on its own motion the special commission hereinafter constituted shall determine the importance of the building and the guaranties of its permanence.

In case of dispute this shall be determined by the tribunal for ascertaining the damages caused by the war.

The minister of public instruction and of the fine arts shall order, after obtaining a favorable opinion from the Commission, with respect to the preservation and consolidation of ruins and with respect to rebuilding and putting in their former condition monuments of historical or artistic value. Subventions for this purpose shall be provided for in the budget of the minister of public instruction and of fine arts.

If reconstruction is not authorized the indemnity shall include the amount necessary for the acquisition of new land.

The Commission above referred to shall be composed of two senators elected by the Senate, of three deputies elected by the Chamber, of two members of the French Academy, of two members of the council of instruction and belles lettres and two members of the Academy of Fine Arts appointed by their associates, of a member of the Superior Council of Fine Arts, of a member of the General Council of Civil Buildings, of two members of the Commission on Historical Monuments elected by their colleagues, of a representative of the Minister of Public Instruction and Fine Arts, of a representative of the Minister of Finance, of a representative of the Minister of the Interior, of a representative of the Minister of Labor, of a representative of the minister charged with the reconstruction of liberated regions of a representative of each religious denomination interested in the rebuilding of buildings, who shall be appointed by the Minister of the Interior, and of six artists appointed by the Ministry of Public Instruction and Fine Arts.

After a month from the promulgation of the present statute a regulation of public administration shall determine the mode of procedure and the duties of this Commission and it shall be the duty of the Commission to consult the municipal councils and communities which are interested.

ARTICLE 13. Damage done to movables shall be repaired to the extent of the loss undergone appraised as of date of June 30, 1914, with respect to movables other than agricultural products and with respect to the latter as of the date of harvest. In each case with respect to movables purchased or produced after June 30, 1914, the appraisalment of loss undergone shall be made according to the purchase price or the cost of production if they can be established.

Movable goods of no industrial, commercial, agricultural, professional, or domestic utility, cannot in any case be given a higher value than the value attributed to them in the contracts of sale or inventories, declarations of succession or other instruments in which they have been appraised provided that these instruments are not more than 10 years old. In default of such instrument the appraisalment shall be made in conformity with the first paragraph. [The French law requires an heir, a donee, or a

legatee to sign a declaration setting forth all the property which has come to him by way of succession. Even if the succession does not include a single article nevertheless he is required to subscribe to what is called a negative declaration. In other words, instead of the inventory of the estate by an executor or administrator as in our law the successor testamentary or on intestacy makes out such an inventory himself.]

The indemnity provided for reparation of damages done to raw materials or to industrial stocks shall be paid in the manner provided by article 8 whenever the claimant, if he has undergone damage to land, has not consented to conditions of resuming use and whenever resumption of use has not been prohibited.

An allowance for additional expense to the extent of the difference between the loss undergone and the value of replacing (to be reckoned by taking account either of the cost of replacing if the article has been replaced, or the value of an article necessary to replace it at the date of appraisal if replacement has not yet taken place) shall also be awarded in case of movables comprised in the following categories:

1. Raw materials and stocks indispensable for an industrial enterprise to the extent of the amount necessary to resume the ordinary course of manufacture for a period of three months as well as manufactured products in course of manufacture and property suitable for the exercise of a profession;

2. In case of land used for agriculture, animals, so far as they are not considered immovable by destination, as well as manure, seed, harvested crops and different products necessary for resuming cultivation, for fertilizing land and for feeding stock until the next harvest. [As to immovables by destination see the explanation in connection with the provisions of article 2, par. 3.]

3. Implements or apparatus serving for use of land, in commerce, or the exercise of a profession, as well as the goods and merchandise necessary to ensure the carrying on of commerce or industry for a period of three months;

4. Furniture, household goods, bedding, linen, personal effects; ornaments the value whereof in each case shall not exceed 3,000 frs. at the date of the declaration of war.

ARTICLE 14. Damage due to the destruction of bonds or cou-

pons of the French government shall be repaired by awarding bonds or coupons of the same nature in their place. In case of French bonds or coupons other than those issued by the state, or of foreign bonds or coupons the restoration whereof cannot be obtained in France by legal means, the damage shall be repaired to the extent of the loss undergone appraised as of the last quoted market price before the date of fixing the indemnity or in default of market quotation by a government appraisalment, the French government being subrogated to the rights of the claimant in order to seek restitution of the bonds and coupons and preserving in every case the power of releasing itself by delivering bonds or coupons of the same nature.

ARTICLE 15. Immediate, direct and certain damages as a result of the war suffered by public officers and administrative employees shall be repaired to the extent of the loss undergone measured by the difference between the value of the office at the date of mobilization and its value at the date of appraisalment.

The claims shall be presented within two years after the date of cessation of hostilities fixed by proclamation.

The appraisalment shall be made by the tribunal for ascertaining the damages caused by war upon advice of the chamber of administrative or professional discipline, and of a court of appeal or civil tribunal.

The state shall recover the sums paid out in reparation of damage caused to offices by a deduction of half of the excess value established by an appraisalment made ten years later over the value fixed by the appraisalment for the purpose of ascertaining the damage.

The recovery provided for in the preceding paragraph shall take effect at the time of the transfer following the decennial appraisalment; but it shall bear interest at the legal rate which shall obtain at the time of the latter appraisalment and shall be payable annually.

If in any case no transfer of the office takes place at the latest within five years following the decennial appraisalment the repayments of excess value shall take place in annual instalments of one-fifth, of which the first shall be due six months after the expiration of the five years without prejudice to an immediate

exaction of the whole in case of a transfer before the whole has been paid.

During the same period of two years an administrative officer who has been seriously injured may request the abolition of his office; also the administrative chancellery may abolish any ministerial office which has been the subject of a claim of indemnity at the request of a public ministry after taking the opinion in each case of the chamber of administrative or professional discipline and of the court of appeal or of the tribunal having to do with such cases, the court in each case sitting in *banc*.

The person entitled to the office suppressed or those succeeding to his rights shall receive the value of the office at the date of mobilization ascertained by the chancellery by reckoning the present worth at the rate of interest current at the time of declaration of war on the mean revenue of the office during the five years preceding mobilization.

In case of suppression of an office the indemnity paid by the state shall in whole or in part be charged by a decision of the custodian of the seals to the ministerial officers benefited thereby in the proportion indicated by the court or the tribunal with the advice of the chamber of administrative and professional discipline and after the comparative value before and after the war of the offices charged with this repayment shall have been established.

The recovery of sums charged to ministerial officers benefited by suppression of an office shall not exceed half of the excess value of their office.

This recovery shall be had according to the methods prescribed by the 4th, 5th and 6th paragraphs of the present article.

The decennial appraisements shall be made by a commission composed of a judge of the court of appeal, or a presiding member of the civil tribunal designated by the first president of the court of appeal and by an administrative officer of the department of direct taxation, an administrative officer of the enrolling department appointed by the Minister of Finance, two members of the chamber of administrative and professional discipline, if there is one, to be designated by the court or the tribunal. There shall be added to this commission as secretary a clerk chosen from among those exercising the office who have held such office for ten years.

All claims of the state for recovery of excess values of offices shall be secured by a special lien. This lien shall be registered upon a special registry kept by the Bureau of Ministerial Offices in the Ministry of Justice.

In case of suppression of the office of a notary no account shall be taken of the provision of article 32 of the law of 25 Ventose, year XI. A decree shall indicate the notaries who shall have the right to officiate in all the cantons in which the notarial office has been suppressed.

[In explanation of this article it should be noted that in France clerks, notaries and other administrative officers in the judicial and executive departments have to undergo a special training somewhat analogous to the education required by us for admission to the bar. Having prepared specially for these positions and been appointed to the positions for which they have prepared themselves, the incumbents are thought of as having a property in their offices. Thus a notary with respect to his office is thought of very much as we should think of a member of the bar who has an established local practice, or a physician who has an established local practice. The "chambers of administrative and professional discipline" referred to might perhaps be put better "committees of administrative or professional discipline." These chambers are very like the grievance committees of an American Bar Association, only they have an official status whereas with us such committees have no legal powers.]

ARTICLE 16. The provisions of article 10 with respect to preservation of real rights shall apply also to movables whether objects of replacement or the indemnity awarded in their place.

ARTICLE 17. When measures have been taken to avoid or prevent damage whether in case of land or movables or to prevent aggravation of damage, an indemnity shall be awarded to reimburse justifiable expense in so doing.

ARTICLE 18. Indemnities awarded under the provisions of this title shall not be added to any other indemnity received by reason of the same facts except in case of sums which the French state may have recovered from the enemy by virtue of conventions or treaties with respect to damages of every sort which are not provided for or are only partially provided for by the present statute.

The sums awarded for the construction of temporary shelters for persons, animals, or property shall not be deducted in reckoning indemnity.

In case the claimant has taken out insurance against the risks of war the indemnity shall be reckoned by deducting sums due from the insurer but account shall be taken of premiums paid. An insurance company shall not in any case have recourse against the state.

ARTICLE 19. For the purpose of a provisional building and under the conditions in the present statute the claimant may obtain an allowance not exceeding one-third of the indemnity. In that case the treasurer shall capitalize the remainder of the indemnity at 5 per cent. from the initial credit at the request of the person interested and the sum so obtained shall be turned over to the claimant according to the provisions of the present statute as to payment upon condition of erection of the buildings.

TITLE III. JURISDICTION.

ARTICLE 20. Damages within the purview of the present statute shall be approved and appraised by cantonal commissions for this purpose formed in accordance with the following provisions:

In each department interested, decisions of the prefect shall fix: the period within which cantonal commissions shall be established, the number of these commissions for each canton, the seat of office and jurisdiction of each one of them, and the date from which each shall begin its functions.

If the situation or condition of certain communes so demands the seat of office of a commission may be fixed in a commune of a neighboring department by a decision of the ministry of liberated regions.

When the place where the damage has taken place is not known, and when for other reasons it is not possible to proceed to prove the damage within the jurisdiction of a cantonal commission already constituted, the proof and appraisal of the damage shall be made by a special commission the composition whereof shall be the same as that of the cantonal commissions which have their seat of office at Paris.

The tribunal for establishing damages caused by war in the

Department of the Seine shall have jurisdiction to pass upon appeals taken from decisions of these commissions.

If the subject of the damage extends over several cantons jurisdiction shall belong to the commission of the canton in which the principal portion of the damage took place.

A special commission having its seat in Paris in the ministry of public works is established for the ascertainment and appraisal of damage caused by war to ferries and towing and water transportation enterprises. If the place of damage is known and the damage can be proved the cantonal commission in the place where the damage took place shall proceed to take the proof in the presence of the person interested if he shall so request. A transcript of the proof shall be drawn up and this transcript shall be transmitted within 8 days to the president of the special commission charged with appraising the damage. Appeals from decisions of this special commission shall be brought before the tribunal for ascertaining damage caused by the war in the Department of the Seine.

ARTICLE 21. The cantonal commission shall be composed of five members:

One, a president chosen in the jurisdiction of the court of appeal by the presiding judge thereof, or in default of such appointment outside of the jurisdiction by the minister of justice from among the judges of civil tribunals or justices of the peace or former magistrates of civil tribunals or tribunals of commerce who have served ten years or more, advocates who have been in practice at least ten years, retired solicitors and retired notaries who have served as such for the same period of time, or have exercised continuously for ten years the profession of advocate, or administrative officer or magisterial functions; second, a representative designated by the ministers of finance and of liberated regions; third, an architect, contractor or engineer; fourth, an official appraiser, clerk or retired clerk, dealer in furniture, or other person having special competence for valuing furniture and movable property; fifth, a farmer, person engaged in industry or merchant or craftsman, according to the case and the nature of the damages to be appraised.

The members of the commission other than the president and the representative of the minister of finance shall be designated

by the civil tribunal sitting in *banc* which shall designate at the same time one or more alternates in each category.

The tribunal shall name as clerk for each commission a secretary chosen from among the clerks of court or retired clerks of court, city clerks or retired city clerks, or in default thereof, other persons who may appear qualified.

The commission can make no valid decision unless the president and three regular members or alternates are present at the sitting.

ARTICLE 22. In case of damages to mining enterprises or quarries, to woods and forests, or to fish ponds, the commission shall be composed as follows: A president chosen in accordance with the preceding article, a representative of the minister of finance, two members chosen by lot from persons engaged in mining, in forestry, or in the management of fish ponds, and an agent of the department of public works, or the department of waters and ferries designated by the ministers interested, and an additional member according to the nature of the damages to be appraised.

In case of damage to ferries, water transportation and towing enterprises, the commission shall be composed as follows: A president designated by the presiding judge of the court at Paris according to the preceding article, a representative of the minister of finance, a representative of the minister of public works, a shipbuilder or a boatman. The two last members shall be designated by the advisory committee of internal navigation which shall at the same time appoint one or more alternates in each category.

ARTICLE 23. A technical committee is hereby constituted in each department to draw up or cause to be drawn up by competent persons or associations tables of prices with respect to movables in order to facilitate calculations of loss undergone and calculations of additional expense of reconstruction and replacement values.

This committee shall be organized under the direction of the prefect at least a month before the organization of each cantonal commission. It shall include besides the prefect or his representative a representative of the minister of public works, a representative of the minister of liberated regions, the presidents and

vice-presidents of commercial tribunals and chambers of commerce, of agricultural societies and committees, and of the councils of experts within the department; a member of the departmental council of civil buildings designated by this council, and a member of each one of the societies of architects and of engineers existing in the department

The tables of prices shall be put at the disposition of the commissions of appraisal and of tribunals having jurisdiction with respect thereto to be used by them in appraising damages and fixing indemnities.

ARTICLE 24. After the publication of the decision of the prefect proclaiming that commissions have entered upon their functions persons interested may file their claims and documents in support thereof with the clerk of the cantonal commission having jurisdiction and he shall deliver receipts therefor.

Claimants may also file their claims in the office of the Mayor, in the office of the prefect or deputy prefect of the arrondissement where the damage took place. In such case the documents shall be examined in the office of the prefect and transmitted with an opinion on the case to the clerk of the cantonal commission within 15 days.

The claimants shall indicate, if there are such, the names and residences of creditors, mortgagees, lien holders, persons having rights of use and habitation, and persons entitled to easements in the property damaged as well as purchasers in contracts for the sale thereof.

These creditors shall be informed of the claim by the clerk and shall be permitted to present their case before the cantonal commission and the tribunal for ascertaining damage caused by the war within 15 days from notice.

In case of property belonging to communes, if the Mayor does not act within three months any listed taxpayer in the commune may make a claim for reparation of the damage done to the property of the commune.

ARTICLE 25. In cases in which married women, persons under disability, or non-residents are interested, and generally in every case where the law provides for administration of property by a guardian, receiver or sequestrator, as well as in all cases of succession, the exercise of the rights and prosecution of the actions

provided for by the present law shall be governed by the general rules of law subject to the exceptions hereinafter set forth :

1. Guardians of minors and interdicted lunatics and prodigals, and guardians of the property of emancipated minors shall only be required to produce before the competent tribunal a statement of the family council of the person under disability stating the reasons thereof. [That is, such a statement from the family council of the incapacitated persons shall be sufficient to show the power of the representative to act in the premises. The family council is an institution entirely unknown to our law. It is a sort of domestic tribunal made up of a justice of the peace and six near relatives of the incapacitated person, which must be consulted in all matters of guardianship and the like.]

2. Proof before the competent tribunal that it is impossible for the husband to assist his wife, or that he refuses to do so, shall make the tribunal competent even with respect to dowry or community property for all proceedings herein provided for, as well as for the carrying out of its decisions. [In French law the disabilities of married women are still considerable. Also under the French matrimonial property régime community property is thought of as property of the husband and wife, as a sort of collectivity, administered, however, by the husband. It is almost as if husband and wife were a corporation owning the community property and the husband was in the position of the directors of the corporation.]

In each case the proceedings had must respect the marital usufruct of the husband resulting from the matrimonial régime. [This is a very free translation to bring out the idea. In French law the husband has a right of use and enjoyment of the property under the matrimonial régime and this right is protected by the present clause.]

3. Persons charged by law or judicial appointment with the administration of the property of others, such as fathers with respect to the property of children, receivers or curators of the property of absent persons, as well as persons entitled to the property of inheritances shall be relieved from the requirement of making formal proofs of their authority to act. [*Hériter bénéficiaire* is not easy to translate. In the French law the estate of a deceased person devolves upon an heir or heirs who may be charged with the payment of legacies or with holding the whole

estate for, or turning it over to, a beneficiary of the inheritance. In such case the situation is very like that of the residuary legatee who takes an estate charged with payment of legacies in our law.]

In cases within the purview of the third paragraph preceding as well as in case of damage done to inalienable settled property, even if the wife is authorized to act by her husband, the decision of the commissions having jurisdiction shall always be submitted to the tribunal for ascertaining damage caused by war which shall make a decision. [In French law a wife cannot act without a formal instrument of authority from the husband. The phrase translated inalienable settled property is *bien dotal inaliénable*. Its nearest equivalent in our law is property settled upon the wife by a marriage settlement with provisions against alienation.]

ARTICLE 26. If the person injured shows that he is not in a position to proceed to an appraisal except as to part of the damage to his property the commission having jurisdiction may at his request adjourn the proceeding or it may proceed to a partial proof and appraisal.

ARTICLE 27. The clerk shall summon the parties. He shall give notice of this summons to creditors, mortgagees, lien holders, holders of rights of use and habitation and of easements as well as to purchasers in contracts of sale, in each case by registered letter with requirement of receipt. The state is to be summoned through the prefect or his representative.

The president of the commission shall have power to put the papers in proper form.

The commission shall hear the parties and all others interested. It may also hear persons especially competent to appraise particular forms of damage, and may order such expert examinations and means of informing itself as may seem expedient. It may take a view of the place and for this purpose may depute two or more of its members.

The parties may be assisted or represented by a member of their household, a parent or a relative, or by a member of the bar, or administrative officer.

The dispositions of article 269 of the statute of July 12, 1905, and article 96 of the statute of July 13, 1911, are applicable to the present statute.

[These provisions provide for hearing and representation before administrative commissions.]

ARTICLE 28. The commission shall endeavor to bring the parties to an agreement, shall attest the settlement they may make if any, and shall decide whether such settlement ought to be judicially confirmed and recorded. In that case the settlement shall be final; a record setting forth the grounds thereof is to be drawn up and the appraisal shall be conclusive.

If a settlement is not arrived at the commission shall draw up a statement of the claims and contentions of the parties and the points on which they are at disagreement. It shall take proof of the existence and importance of the items of damage by categories in accordance with article 2 of the present statute and make a distinct appraisal of each of the elements going to make up the damage.

The clerk shall send to the parties by registered letter with requirement of receipt a summary statement of the decisions of the commission, and at the same time shall warn them that they have a period of one month from the receipt of the notice to file their documents with the clerk of the appellate tribunal and carry their contentions if they desire to the tribunal for ascertaining damages caused by war.

The latter tribunal shall acquire jurisdiction by a statement signed by the parties, or their agent with special power of attorney, entered upon a register kept by the clerk of the tribunal who shall deliver a receipt for the statement.

The record of the cantonal commission, the written proofs and all the documents shall then be transmitted by the clerk of the commission to the clerk of the tribunal for ascertaining damage caused by war.

ARTICLE 29. At the seat of government of each of the arrondissements in which cantonal commissions have been established a tribunal for ascertaining damage caused by war is temporarily established.

If such a tribunal cannot be established at the seat of government of an arrondissement under the circumstances it shall be provisionally set up in a neighboring arrondissement.

The tribunal shall be divided into as many divisions as its needs may require. Its business shall be distributed between the

divisions by the president of the first division; so far as possible cases from the same canton are to be referred to the same division.

Each division of the tribunal shall be made up of: first, a president designated by official decree at the instance of the minister of justice from among the judges of the courts of appeal and tribunals of first instance;

2. Of two members and two alternates designated in the same manner as the president and chosen from among the judges of the courts of appeal and judges of the tribunals of first instance and prefectural councils, former presidents of the order of advocates, professors of the faculties of law, former presidents of the order of advocates before the council of state and the court of cassation, former presidents of the society of solicitors and notaries;

3. Of two members and two alternates chosen by lot at the beginning of each session of two months from a list of 20 members designated by the general council.

The tribunal can make no valid decision unless three members are present including the president.

The tribunal shall be assisted by a clerk named by an order of the minister of justice.

ARTICLE 30. The tribunal shall decide as to the reality and importance of the damage claimed, by separate decision with respect to each category according to article 2 of the present statute, and with a distinct appraisal with respect to each of the elements of damage.

It shall pass upon all questions connected therewith and fix definitely the amount of indemnities.

If the rules prescribed by the present statute and by the decrees and administrative decisions rendered for the purpose of carrying it into execution have not been observed it may set aside irregular proceedings either on its own motion or at the request of interested parties. If a judgment setting aside a proceeding is pronounced the tribunal may according to the circumstances and the state of the record remit the case to the cantonal commission or proceed itself to appraisal of damages and ascertainment of the indemnity. The tribunal shall decide upon written arguments and summarily upon report by one of the judges.

The parties may at their request make brief oral arguments or have such arguments made for them by a member of their household, a parent or relative, by a practising advocate, by an administrative officer within his jurisdiction or by the representative of a regularly organized association of claimants.

The report shall be read and the judgment pronounced at a public sitting.

ARTICLE 31. Allowances to members of the cantonal commissions and the tribunals for ascertaining damage caused by war, as well as their clerks shall be fixed by a decision agreed to by the minister of justice, the minister of finance, and the minister of liberated regions.

ARTICLE 32. Every mode of proof even by simple presumptions shall be admissible to establish the reality and importance of damages of whatever nature within the purview of the present law.

Parents and domestic servants may be heard as witnesses.

The cantonal commission and the tribunal for ascertaining damage caused by war may order the production of transcripts of records, attested copies of deeds, copies of private or public documents, of books of account, and in general of all documents and instruments relevant to proof and appraisal of the damage.

They shall fix the period within which inquiries, expert examinations and other modes of obtaining information shall be completed.

Where experts do not act within the time fixed their power shall be revoked.

ARTICLE 33. If there is a dispute as to the legal title or legal standing of the claimant, and whenever difficulties arise not immediately connected with ascertainment of the amount of indemnity, the indemnity shall be determined independent of these controversies and difficulties, with respect to which the parties shall be relegated to their legal remedies.

ARTICLE 34. In reckoning periods of time the provisions of article 1033 of the code of civil procedure shall obtain.

ARTICLE 35. The decisions of the tribunals as well as transcripts or copies or extracts therefrom, which may be delivered to the parties, and especially of procedural instruments within

the purview of the present statute, had before cantonal commissions and before the tribunal for ascertaining damage caused by war, shall be exempted from the requirements of internal revenue and registration. They shall state upon their face that they are made pursuant to the present statute. [In France as well as in England the state derives a considerable revenue from taxation of instruments used in the course of litigation. Proceedings under the present statute are exempted therefrom.]

Wherever in support of their contentions the parties produce unregistered instruments which the laws require to be registered within a fixed period or instruments not drawn up upon stamped paper contrary to the provisions of the revenue laws, the cantonal commission or the tribunal for ascertaining damage caused by war, of its own motion, shall order the filing of these instruments before the clerk in conformity with article 16 of the statute of August 23, 1871 in order that they may be immediately registered or stamped.

ARTICLE 36. Appeal may be taken from the decisions of the tribunal for ascertaining damage caused by war to the council of state on the ground of lack of jurisdiction, excess of power or decision contrary to law. The appeal must be taken within two months from the date on which the more diligent party is notified of the decision by an officer of the court. The petition for appeal shall be filed with the clerk of the tribunal for ascertaining damage caused by war.

In case the proceedings are set aside the court shall designate a tribunal to pass *de novo* upon the claim of indemnity.

ARTICLE 37. A proceeding for reparation of damages within the purview of article 2 shall be barred by limitation two years after signature of the treaty of peace except in case of *vis major*.

In case the commissions and the tribunal provided for by the present statute are dissolved at the time when the action is brought it shall be brought before the prefectural council subject to appeal to the council of state.

ARTICLE 38. The office of member of a tribunal for ascertaining the damage caused by war shall be incompatible with that of member of a cantonal commission, with the character of a claimant within the jurisdiction of the tribunal and with the exercise of an elective office.

ARTICLE 39. Every person who by reason of his office or profession is called upon to take part in the procedure provided for by the present statute is bound to professional secrecy under the provisions of article 378 of the penal code and punishable by the penalties provided for by that article. [§378 of the French penal code imposes a penalty of six months' imprisonment or a fine of from 100 to 500 frs. in case members of professions or administrative officers reveal secrets confided to them in the course of their office or profession.]

ARTICLE 40. Within a month from the promulgation of the present statute the details of organization and the duties of clerks before the cantonal commissions and the tribunals for ascertaining damage caused by war shall be determined by a decree rendered at the instance of the minister of justice and the minister of liberated regions.

ARTICLE 41. At the request of the claimant, within 15 days the clerk of the cantonal commission or of the tribunal for ascertaining damage caused by war shall deliver to the claimant a transcript of every decision in which he is concerned. This transcript shall set forth the name of the claimant, the category and nature of the damages, the amount of injury undergone, and if there is occasion therefor, the amount corresponding to depreciation resulting from age and decay and of additional cost of reconstruction or replacement.

Certificates that no appeal has been taken shall be delivered under the same conditions by the clerks of the cantonal commissions and the tribunals for ascertaining damage caused by war.

ARTICLE 42. During the progress of a proceeding for fixing the indemnity for damages undergone by persons holding concessions for public service from the state, from departments and from communes, at the initiative of the authority granting the concession, or of the concessionaries, modifications of the contract of concession or the tariffs of charges may be made, particularly in order to improve the conditions of the undertaking, saving the rights and interests of concessionaries in case these modifications impose burdens in excess of the original concession. In default of an agreement within three months following the decision the authority granting the concession shall have as of right a power

of repurchase. The repurchase shall be exercised under the conditions fixed by the tariff of charges if a tariff is provided, and if not upon the testimony of experts based in every case upon the results of the enterprise in the five years preceding 1914. In case of repurchase the authority granting the concession shall be subrogated as of right to all the rights of the concessionary under the present law.

TITLE IV. PAYMENT.

ARTICLE 43. When a final decision has been made upon the subject of one or more of the categories of damages provided for in article 2 or damages within the purview of article 15, each of the transcripts delivered to the claimant under article 41 may at his request be exchanged within two months, and under the supervision of the minister of finance, for a bond in the amount awarded for reparation of loss undergone. This bond is not negotiable; advances may be made upon it under conditions to be fixed by decisions of the minister of finance and the minister of liberated regions; upon authorization setting forth the reasons, given by the civil tribunal in *banc* with the advice of the state's attorney, it may be transferred in accordance with the provisions of articles 1689 and following of the civil code, or pledged in accordance with the provisions of articles 2071 and following of the civil code. [§1689 and following of the French civil code provide for assignment of choses in action by handing over the instrument by which the chose is evidenced and giving notice to the debtor thereunder, or in the alternative by an assignment drawn up before a notary. Articles 2971 ff. contain elaborate provisions as to pledges.]

A claimant who resumes use under the conditions provided for by articles 4 and 5 of the present statute, or who exercises the power reserved to him by article 9 shall receive under the same conditions a further bond indicating the amount of additional expense awarded to him.

A like additional bond shall be delivered for the excess of the value of replacement over the amount of loss undergone in the case of movables within the purview of sub-paragraphs 1 to 4 of paragraph 4 of article 13. In case of movables within the purview of the three first sub-paragraphs of said paragraph, delivery

of the additional bond is subject to the condition of beginning the undertaking.

The amounts corresponding to the depreciation resulting from age and decay shown by a transcript of a final decision shall entitle the claimant to a special instrument evidencing his right to the advance provided for by paragraph 5 of article 5 of the present statute.

In case of levies in kind, fines and contributions of war imposed by enemy authorities or enemy troops, a special bond shall within two months be exchanged for a transcript of a final decision and shall bear interest at 5 per cent. from the date of the damage. Amounts due under this head shall be paid to the claimant in specie on presentation of the bond.

ARTICLE 44. If the claimant resumes use of lands under the conditions provided for by articles 4 and 5, or of movables, or if he makes an undertaking before the cantonal commission or the tribunal for ascertaining damage caused by war to proceed to resume use or to rebuild, without making further proof, and within two months from the date of delivery of the bond, he shall have the right to a first instalment of 25 per cent. of the sum allowed for damage undergone, which instalment shall not be less than 3,000 frs. if the loss undergone is equal to or in excess of this amount, nor more than 100,000 frs. unless he proves before the tribunal for ascertaining damage caused by war, by the production of receipts, accounts, invoices, bills of lading, or accepted orders, a greater outlay or greater immediate need.

The payment of the amount of loss undergone shall be made to him by successive instalments as fast as he proves work done or purchases made under the conditions of the preceding paragraph. Each payment shall be made within two months after proof. When the payment of loss undergone has been fully made the amount of additional cost shall be paid under the same conditions upon presentation of the additional bond.

The same rule shall apply in case of the excess of cost of replacement over the amount of loss undergone with respect to movables within the purview of sub-paragraphs 1 to 4 of paragraph 4 of article 13.

The amounts allowed to the claimants for reparation of damages caused to movables within the purview of paragraph 2 of

article 13 of the present statute shall be paid after payment of all other sums due to the said claimant upon whatever account.

If after appropriation of the amount of additional expense to the reconstruction of buildings or the resumption of an enterprise, the claimant exercises the power reserved to him by paragraph 5 of article 5 the amount corresponding to depreciation resulting from age and decay shall be paid to him on the presentation of his special bond from time to time as he produces proofs of the work.

Without regard to the foregoing provisions and before any appraisalment of damage caused by war, injured persons may be allowed advances to meet their urgent necessities, the conditions whereof shall be fixed by agreement between the minister of liberated regions and the minister of finance.

ARTICLE 45. In case the claimant is entitled only to the amount of loss undergone, if within two years he makes a declaration before the cantonal commission or the tribunal for ascertaining damage caused by war of his intention to devote the indemnity to the improvement of land, to an agricultural, industrial or commercial use, or to the exercise of a profession within any part of the territory, the indemnity representing the loss undergone shall be equalized and paid to him in successive instalments upon proof of work done or purchases made.

Excepting the cases provided for by article 8, if the claimant does not devote the indemnity to improvement of land or an agricultural, industrial or commercial use, or the exercise of a profession, the payment shall be made in 10 equal annual payments, the first instalment being payable 3 months after delivery of the bond, and the following payments in successive periods of 12 months.

ARTICLE 46. With the consent of the claimant the state may make redemption as follows: With respect to land, buildings and fixtures, by giving another immovable of the same nature and of the same value situated in the canton in which the damage was done, or in a neighboring canton.

With respect to immovables by destination and movables used for industrial, commercial, agricultural, professional or domestic purposes by a similar chattel of the same value.

With respect to other movables by the delivery of movables of the same kind and the same value.

The state may also redeem in whole or in part by restoring immovables or damaged movables at its own cost or by furnishing the materials for such restoration.

It shall also have the power to acquire in whole or in part damaged or destroyed immovables. In default of an agreement the price shall be determined under the rules prescribed by the preceding title for the appraisalment of indemnity, taking account of the value of the land and all the elements provided for in case of resumption of use if the vendor shall undertake to comply with the precise conditions of article 5 of the present law. The payment shall be made according to the facts of the case in accordance with articles 44 and 45.

The state may acquire land after an attempt at agreement with the owner of the land has been depreciated through the use made of it and the cost of putting it into condition for use would exceed its value taking account, if there is occasion, of the depreciation which would result to the remainder of the land in case of a partial acquisition by the state.

In all cases and at any time the state shall have the power to exercise its right of redemption by anticipation.

If the claimant is indebted to the state on any account whatever even for payment of contributions, the amount so due shall at his request be applied upon the amount of his indemnity, and this amount shall not be exacted from him before the amount of indemnity has been determined.

ARTICLE 47. Sums due from the state for reparation of damage undergone with the exception of sums due for damages done to country houses and movables within the purview of paragraph 2 of article 13 shall bear interest at 5 per cent. per annum from November 11, 1918, which shall be payable to the claimant quarterly in cash.

In all cases of damage done to stocks of merchandise, harvested crops, stocks of provisions and raw materials which are not within the purview of paragraph 4, sub-paragraphs 1, 2 and 3 of article 13, interest shall begin to run six months after the date of damage.

In case of damage done to stocks of merchandise, harvested

crops, stocks of provisions and raw materials during the enemy occupation, interest shall run from the date of the invasion.

ARTICLE 48. Payment of indemnities, interest and advances shall be made directly by the state or under its guaranty. In case the state shall seek the co-operation of financial establishments the agreements made shall be submitted to ratification by Parliament.

TITLE V. MISCELLANEOUS PROVISIONS.

ARTICLE 49. In case of resumption of use and of reinvestment, the right to indemnity may be assigned under the conditions provided for by articles 1689 and following of the civil code upon obtaining authority stating the grounds thereof from the civil tribunal in *banc* after obtaining the opinion of the state's attorney; the instruments evidencing the assignment shall be exempt from all requirements of internal revenue and registration.

The same provision shall apply where the assignment is made to an association for loans upon land or a co-operative association or a building and loan association, where such association assumes the expense of reconstruction or if the assignment is made to a charitable society specially approved for this purpose by the minister in charge of reconstruction of liberated regions.

If the persons entitled to indemnity have assigned their right to an association for loans upon land or a co-operative association or a building and loan association, the latter may agree with them as to the advances necessary for reconstruction without being obliged to prove a rental value of one-fifth of the amount loaned or without being obliged to call for security by way of mortgage and without requiring that the borrower insure his life. [The French laws relating to loans by such associations require that the loans shall not exceed one-fifth of the rental value and that the loan be secured either by mortgage or by insurance upon the borrower's life. See the statutes of April 12, 1906 and April 10, 1908. These may also be found in the French administrative code.]

ARTICLE 50. If prior to the promulgation of the present statute the claimant has sold land upon which a building was

built, in case he undertakes to resume use he may sue before the civil tribunal sitting in bank for rescission of the sale subject to a charge for reimbursement to the purchaser of the purchase price and the legal costs of the contract.

ARTICLE 51. The tribunal for ascertaining damage caused by war shall have jurisdiction as a matter of state sovereignty and without appeal even on its own motion and notwithstanding any agreement to the contrary, to reduce the amounts charged to the claimant by agents, professional men and experts whom he has employed for the defence of his interests.

This reduction cannot be requested or adjudged by the tribunal on its own motion except within two years from the fixing of the amount of indemnity.

Amounts paid under such circumstances may be recovered by the claimant.

ARTICLE 52. The right to indemnity may be forfeited in whole or in part at any time in the following cases:

1. Any person condemned after hearing or upon default for crimes or offenses provided for by articles 204, 205, 206, 208, 238 and 239 of the code of military justice for the army, or articles 262, 263, 264, 265, 316 and 317 of the code of military justice for the navy. [These sections have to do with treason, espionage and interfering with recruiting, enlistment and similar offenses];

2. Any Frenchman or French subject who defaulted when conscripted or deserted during the war. In this last case as well as in the case of condemnation by default provided for in the foregoing paragraph, the forfeiture of the right to indemnity shall be set aside as a matter of right, if the defaulting conscript, the deserter or the defaulter ultimately obtain a judgment of acquittal for the crime or offense which entailed the forfeiture. Neither running of the statute of limitations with respect to the penalty nor running of the statute of limitations with respect to the crime shall relieve claimants from this forfeiture. [In French criminal procedure a Frenchman may be tried before a criminal tribunal in his absence and if he absconds or remains in foreign parts and defies French criminal justice a condemnation may be pronounced "for contumacy." I have translated this "by default" which is as near to our mode of procedure as we can put

it. We used to have something of the same sort in the outlawry of the old law. Setting aside a judgment of outlawry would be somewhat similar to the setting aside of the condemnation entered upon default referred to in this section.]

ARTICLE 53. The right to indemnity may be forfeited at any time in whole or in part in case :

1. The claimant shall use the money received as indemnity contrary to the conditions of resumption of use under which it was awarded ;

2. The claimant shall make an assignment thereof or contract with respect thereto contrary to the provisions of article 1321 of the civil code. [Article 1321 of the civil code has to do with what we call secret trusts and agreements in fraud of creditors and third persons, where they modify or affect the terms of recorded instruments.]

3. Any claimant who shall neglect to declare of his own motion any indemnity which he may have received by reason of insurance or shall intentionally make a false declaration.

In these three cases the sums of money paid over or received may be recovered.

ARTICLE 54. The forfeiture provided for in articles 52 and 53 shall be adjudged by the ordinary courts at the instance of the states attorney with the exception of the forfeiture provided for by paragraph numbered 1 of article 53 which shall be adjudged by the tribunal for ascertaining damage caused by war at the instance of a representative of the state.

ARTICLE 55. Where a person engaged in industry or commerce has reconstructed his establishment in whole or in part according to the conditions provided for in Title II of the present statute he shall be bound 15 days before beginning re-operation to give notice thereof to the minister of labor who shall deliver a receipt to him and take all expedient measures to bring this notice to the attention of laborers or employees whom the person engaged in industry or commerce formerly employed. Within a month following the declaration the workmen or employees may resume work in the order of their enrollment and to the extent of the needs of the enterprise.

ARTICLE 56. A right of priority in preference to all others shall be given to injured persons for the purchase and transportation of materials and raw material as well as for the hiring of labor which may be necessary to effectuate resumption of use. This right of priority shall be regulated by a decree to be made within a month after the promulgation of the present statute.

ARTICLE 57. Provisionally decisions already had by cantonal commissions under the terms of articles 3 to 8 of the decree of July 30, 1915 and by departmental commissions under the provisions of Titles II and III of the same decree may be revised and supplemented, if there is occasion, at the request of the prefect or of claimants or of persons having rights thereunder in order to bring them into accord with the provisions of the present statute. In any case objections may be made to them before the tribunal for ascertaining damage caused by war within 6 months from the promulgation of the present statute.

ARTICLE 58. If associations have been organized for the purpose of reconstructing establishments or destroyed buildings, in case of non-resumption of use by any member to whom allowance has been made, the amount of additional expense of reconstruction shall be paid to the association even without assignment from the member, instead of to the common fund provided for in paragraph 2 of article 7 of the present statute.

ARTICLE 59. The expense of re-survey, of determination of boundaries, and if there is occasion, of re-recording made necessary by the events of war shall be charged to the state.

ARTICLE 60. The expense of removing rubbish from land, of searching for and removing unexploded projectiles, shall also be at the expense of the state which can proceed to do these things of its own motion under an agreement with the municipality without the authority of owners. The state shall become owner of the material removed.

The state shall be responsible for accidents due to the explosion of unexploded projectiles.

ARTICLE 61. The cost of drawing up plans for street and building lines and levels with respect to public ways of all sorts which may require to be straightened in view of the reconstruc-

tion of buildings destroyed in communes or parts of communes injured by the events of war shall be a charge upon the state.

Subventions entered upon the budget of the minister charged with reconstruction of liberated regions may be granted to communes by the minister in order to cover the expense of immediate application of plans of street and building lines and levels so far as has to do with public ways with respect to which the ownership of the soil belongs to the commune, and to the department with respect to departmental highways.

These subventions shall be particularly applicable for acquisition of unimproved land or of buildings in an actual condition of ruin or decay, or seriously damaged, which are within the street and building lines. The price of acquisition of these lands and buildings in default of agreement shall be fixed by a jury composed of four jurors under the conditions fixed by article 16 of the statute of May 21, 1836, no matter what the character of the public way in which these lands and buildings are to be incorporated may happen to be.

Interest upon the foregoing subventions shall be determined in accordance with a table to be fixed by a decree countersigned by the minister of finance and the minister of liberated regions.

ARTICLE 62. Expense resulting from improvements in groups of buildings required by public hygiene under the regulations of public administration provided for by article 5 shall be a charge upon the state.

ARTICLE 63. Sums remaining due from communes in France upon loans contracted by them to meet the events of previous wars shall be taken over by the state from the date of the promulgation of the present law.

ARTICLE 64. A special statute shall regulate rights and obligations resulting from losses of buildings destroyed by the events of war as well as fortified places or localities the inhabitants of which evacuated them under military order.

ARTICLE 65. A special statute shall regulate the conditions under which there shall be a right to reparation of damages occasioned to commercial capital.

ARTICLE 66. A special statute shall determine the conditions

in which the right to reparation shall be exercised in the following cases:

1. Damages to the person resulting from the events of war; damages to person or property because of accidents taking place: (a) in state arsenals, munition factories and stores of munitions; (b) in private factories while doing work for the national defence when reparation cannot be obtained by recourse to the general law. The state shall be subrogated to the rights, actions and liens of the victim of the damage in order to recover advances which it may have made to him in order to meet his very urgent needs.

ARTICLE 67. For three years following the cessation of hostilities the inhabitants of regions affected by the events of war who prepare in their homes places capable of being let or sublet furnished to transient visitors shall be entitled in each commune to form a legal association under the provisions of the law of March 21, 1884. [The law of March 21, 1884 allows associations of employers, workmen or professional men to be made for the purpose of protecting interests of their trade, business or profession. As it were, it exempts them from the operation of what we should call anti-trust laws and laws against restraint of trade.]

The lodgings offered for letting or subletting shall conform to conditions prescribed by the departmental commission of hygiene and shall be subject to its control.

The list of these lodgings with the terms approved by the national bureau of tourists shall be put at the disposition of all inquirers in the office of the Mayor.

ARTICLE 68. The present statute shall apply to colonies and protectorates. A regulation of public administration shall determine the conditions of this applicaton.

Indemnities awarded for reparation of damage caused by the events of war in the colonies shall be charged upon credits to be opened in the general budget of the state.

ARTICLE 69. The first paragraph of article 4 of the statute of July 5, 1917 with respect to proof of the condition of places with respect to which claim for reparation of damages caused by war may be asserted is amended by adding thereto the following:

“Whenever a state expert has been appointed by the prefect under the conditions set forth in the first article, the report of inspection and the official description of the locus shall be filed in the office of the prefect. He shall deliver a receipt therefor.”

ARTICLE 70. The decrees of 4 February, 1915 modified by the decrees of the 8th and 27th April, 1915, of 24th March 1915 modified by the decree of 22 April, 1915, and of 20th July, 1915 as well as all other provisions contrary to the present statute are and shall remain repealed.

UNIV. OF
CALIFORNIA

**UNIVERSITY OF CALIFORNIA LIBRARY
BERKELEY**

Return to desk from which borrowed.

This book is DUE on the last date stamped below.

1950

437177

72657

F 5/13

UNIVERSITY OF CALIFORNIA LIBRARY

