“The word property has no passport to cross the frontiers of the collectivist state.”1 So it seemed in the early thirties to those who took seriously the claims of the radicals then in authority in Soviet Russia. State ownership, the original slogan of the Proletarian Revolution, was being superseded by the new slogan: Planning. Planning meant ultimately the end of all ownership, the end of all law, the introduction of a new social order in which the state itself would “wither away.” So taught the leading Soviet economists and so taught their colleagues in law.

But in 1936 and 1937, with the official announcement of the achievement of Socialism (the first stage of classless Communism), not the state, not law, but instead the radicals who had so predicted and urged, withered away. Planning was by no means abolished; but Law was restored to an equal place beside it. Not only “state ownership” but also “personal ownership” and “socialized ownership” (i.e., ownership by collective farms and cooperative organizations) were given new dignity. Property was presented with full citizenship, not merely a passport. And under the impact of the resurgence of Law, Plan itself underwent modification.

Developments in Soviet law and Soviet planning during the past decade—during what is now officially recognized as “the second phase of development of the Soviet State”2—compel a revision of popular conceptions of what Russia stands for. Particularly important is a clarification of the role of law and the role of plan in regard to the institution of property, whose sacredness in our own national tradition ranks with that of life and liberty, and whose infringement abroad is therefore a serious cause of ideological conflict.

The “settling down” of the Russian Revolution, the new emphasis on stability, on decentralization, on recognition of rights, on due process of law, has been largely overlooked both by the extreme right and the

† LL.B., 1947, Yale University; Assistant Professor of Law, Stanford University School of Law. Author: Soviet Family Law in the Light of Russian History and Marxist Theory, 56 YALE L. J. 26 (1946); Principles of Soviet Criminal Law, 56 YALE L. J. 803 (1947); Commercial Contracts in Soviet Law, 35 CALIF. L. REV. 191 (1947).

1. Walton Hamilton and Irene Till, Property, VI Enc. Soc. Sci. 528 (last sentence of the article).
extreme left. And the in-betweens who wish neither blindly to accept nor blindly to reject the implications of the Revolution, but rather to get some insight from them, have been left with very little to go on.

I

We are concerned with what has happened to "property" under Soviet Socialism. To say that there is state ownership tells us little; for what the state owns, no one owns. Where the state owns, the question is: who possesses? who uses? who disposes? Moreover, the state cannot own everything; and Marx and Engels themselves were most scornful of those who proposed that it should.8

Of ownership as developed in Soviet law since 1936,4 it may be said that: (1) personal ownership of certain kinds of things is recognized; (2) a special customary ownership is vested in the peasant household; (3) collective farms, consumers' and producers' cooperatives, and various public organizations exercise a "socialized" ownership of their belongings; (4) certain property rights in state-owned means of production have been recognized to exist in the business enterprises administering such means of production; (5) these rights of persons, of peasant households, of collectives, cooperatives, and public organizations, and of state business enterprises are judicially protected.

(1) Private citizens may own: savings in money or government bonds,5 household furniture, books, works of art, radio sets, automobiles, and other articles of consumption;6 houses;7 a certain amount of livestock, poultry, and agricultural implements.8 Royalties may be obtained from literary and artistic works and scientific inventions.9

5. Interest on savings and on government bonds is at three to four per cent. Such savings and bonds are tax exempt and may be disposed of freely by will. Saving is greatly encouraged, and large fortunes may thus be built up. See Lipetsker, Russia's Private Incomes, 81 TRUSTS AND ESTATES 97, 99 (1945).
6. The Constitution guarantees "the rights of citizens to personal ownership of their incomes from work and of their savings, of their dwelling-houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens." U. S. S. R. Const. Art. X (1936).
7. See infra note 52.
8. "In addition to its basic income from the public collective farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural artel." U. S. S. R. Const. Art. VII (1936).
Inheritance of all objects of personal ownership is permitted. The recognition of personal ownership and inheritance is part of the movement of the last decade to encourage personal initiative and a sense of personal responsibility—a movement associated with incentive payments in industry (Stakhanovism), profits and bonuses, and family benefits.

(2) The peasant household, a unique institution surviving from pre-revolutionary times, is defined by the Land Code as “a family-labor association of persons jointly engaged in agriculture.” It may consist of a considerable number of persons, related by blood or adoption, linked by a joint domestic economy as well as joint agricultural property. The peasant household exercises a customary ownership, limited by ancient usages, over its dwelling house and farm buildings, livestock and poultry, agricultural implements and machines, crops sown and orchards planted on its land, crops gathered from its land, food, fodder and seed stocks, furniture and utensils used in common, and the like. It holds its land in perpetuity. The management, use and disposal of the household property are in the members as a whole; in the absence of unanimity, a majority vote of the adult members is decisive. The members select a head of the household to administer it and to represent it in external relations; such head may be deposed by the members and another appointed in his place. Members may voluntarily leave the association and thereupon claim an appropriate share of the joint property, though when a member leaves to join another household (as through marriage), he is not entitled to a share but acquires full rights in the new household. In the event of the death of a member, his share remains the joint property of the household.

(3) A collective farm, consumers’ or producers’ cooperative, labor union, political, educational, scientific, sports or similar association—has rights of ownership distinct from those of the state.

11. Stakhanovism is in essence a piece-work system plus rewards for ideas on efficiency. Named for a worker (Stakhanov) who in the mid-1930’s achieved phenomenal production feats, the movement involves more than money rewards; the worker who exceeds his quota receives respect, prestige, decorations, special privileges, etc.
12. Bonuses for industrial workers come out of the Director’s Fund established in each enterprise. The Director’s Fund is established from profits. Profits are planned, and profits beyond plan are greatly encouraged.
14. Lipetsker, op. cit. supra note 4, 42 et seq.
16. “Socialist ownership in the U. S. R. exists either in the form of state ownership (the wealth of the whole people), or in the form of co-operative and collective-farm ownership (ownership of a collective farm or ownership of a co-operative association).” U. S. S. R. Const. Art. V (1936).
"No government body or official may interfere in the use or disposal of the property of collective farms or cooperative bodies, or give orders as to what they should produce or not produce, apart from the assignments laid down in the national-economic plan." 17 Such organizations own their livestock and agricultural implements, buildings, the products of their enterprise, the contributions of their members in entrance fees and share purchases. The land of a collective farm is granted to it for use in perpetuity. 18

(4) State business enterprises and organizations do not own the property which is at their disposal, but administer it in behalf of the state; nevertheless, the movement toward "business accountability" and operative autonomy which has continually accelerated during the past decade has resulted in the attachment of corporate personality to such enterprises and organizations, and particularly in the recognition of certain property rights—rights of possession, of use, of disposition—correlative to the responsibilities of fulfilling the tasks imposed on them by the state. 19 The basic capital of an enterprise (its buildings, machinery, tools and other productive equipment, means of transport, and so forth), while furnished by the state, is said to be at the enterprise's "full and exclusive disposal;" 20 and although such disposal must operate under strict controls, nevertheless the enterprise may sometimes loan or lease such basic capital, and may even sell it to a cooperative or public organization (where it is transferred to another state business enterprise, the value of the property is simply written off the capital of the first enterprise and on to the capital of the second). However, the basic capital may not be mortgaged or pledged as collateral security, nor can it be attached by creditors. If the enterprise is wound up, its basic capital reverts to the higher administrative organs to which the enterprise was subordinated.

The state business enterprise receives its land from the local city or village council under an "Act of Perpetual Use." However, it must pay ground rent on the land. The working capital of a state business enterprise (stocks of raw material, fuel, partly-finished goods, finished goods, cash, etc.) may be employed by it "in any way it deems fit for the fulfillment of its plan; it may sell it, pledge it, or acquire other working capital; no special sanction from the higher authorities is

17. Lipetsker, op. cit. supra note 4, at 29.
18. This is done by a grant or deed (akt) "of perpetual use." Land may not be withdrawn from the collective farm for any purpose except by express decision of the Council of Ministers of U. S. S. R.
required for such transactions." 21 This means that Soviet business enterprises exercise a freedom of contract of purchase and sale—within general limits set by plan. 22

(5) The rights and duties arising from personal, peasant household, and collective or cooperative ownership, and from the possession, use and disposition of state-owned property, are judicially enforced. Disputes arising over property relations are decided by a system of courts in accordance with codes, statutes, plans, and previous judicial interpretations thereof. Regular courts hear suits involving the rights of bona fide purchasers, questions of title, claims for damages, disputes over wills and rights of intestate succession, and the other typical problems centering around property law. Where members of a peasant household cannot agree as to the apportionment of the share of joint property to be assigned to members quitting the household, the court will settle the dispute in accordance with the customs and practices traditionally observed in such cases in the given locality. Even in suits between state business enterprises, which are heard in a special "economic court," decisions are rendered not merely in terms of the fulfillment of plan but also in terms of offer and acceptance, unjust enrichment, fraud, damages, and other familiar legal categories. 23

The impact of the judicial process upon the planning and administration of property in Soviet Russia is to compel the recognition of initiative and responsibility in persons and business enterprises—to compel the planning process to take those factors into consideration. Owing in part to the exaggerated demands made by the supporters of planning in the first stages of the Revolution, it has been thought necessary to protect such initiative and responsibility by traditional judicial methods. A recent law emphasizes once more the reliance on "law" rather than "plan" in the protection of personal ownership—by increasing the criminal sanction against thefts of personal property. 24

21. Id. at 27.
23. Id. at 209 et seq.
24. By decree of the Presidium of the Supreme Soviet of the U. S. S. R., June 4, 1947, "On strengthening the defense of personal ownership of citizens," secret taking of another's property (krasha) was made punishable by confinement in a corrective-labor camp for five to six years, and, in case of a repeated offense or one committed by a gang, six to ten years; for open taking (razboi) the penalty was fixed at ten to fifteen years, with confiscation of property, and, in case of a repeated offense, one committed by a gang, or one committed by means of an assault dangerous to life or health, fifteen to twenty years with confiscation of property. Previously, the penalty for secret taking was three months, and for open taking five years. Golikov, On Strengthening the Defense of State, Social and Personal Ownership, 7 Soviet State and Law 1 (1947) (in Russian). The new law apparently changes the Russian "common" law distinctions hitherto made in regard to criminal asportation, in which open taking
This is not to say that the extensive jurisdiction of Soviet courts in any way minimizes the importance of planning; on the contrary, it is stated unequivocally that personal ownership of certain property is in the interest of a planned economy, and that every dispute between state business enterprises must be decided in the general interests of the state, i.e., in the direction of realizing the planned tasks set by the state. But the subordination of all courts (including those with jurisdiction over property disputes between state business enterprises) to civil law, the necessity for procedural correctness, the protection of the legal rights and interests of the parties, are now proclaimed essential to the life of Plan itself. "The defense of the interests of the state, of socialist ownership, is achieved by means of the defense of individual enterprises and organizations representing that ownership." 

"The protection of their operative independence and property rights, that is, the thorough carrying out of business accountability, creates the most suitable conditions for fulfillment of the plans issued for their activity. . . . Conversely, disdain for the operative independence of the individual organizations, for their rights to property, depersonalizes the responsibility for maintaining that property, creates fissures and breaches in the legal position of the business organizations. . . ." Thus, whereas previously economic plan was hailed as the ultimate criterion for the decision of disputes, it is now accepted that the judicial protection of certain property rights without reference to plan is itself expedient. In this way the judicial process complements the planning process, giving it a measure of stability and at the same time of flexibility which it might otherwise lack.

II

The Soviet restoration of law since 1936 marks a partial reconciliation of revolutionary principles and traditional legal values. The impact of this restoration of law on the process of planning is interesting from the point of view of a proper understanding of Soviet Russia; but equally important is the impact of planning on the property law thus restored. Particularly, it is important to recognize the specific innovations in property law which the Russian Revolution, taken in its whole development, has made. These may be summarized as: (1) the nationalization, and hence removal from private commerce, of land and the means of production; (2) the elaboration of a system


25. Venediktov, supra note 19, at 75.

of property rights based not on ownership but on economic administration; and (3) the legal classification of property, and especially land, according to its social-economic function.

(1) Article 6 of the Soviet Constitution declares that: "The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, post, telegraph and telephones, large state-organized agricultural enterprises (state farms, machine and tractor stations, and the like) as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities comprise state ownership, that is, belong to the whole people." The effect of this nationalization of land and the means of production is to remove from private commerce that property in which the whole people have a vital interest. Only by collective action, through the organs of state, can such property be purchased or sold or otherwise transferred; and only its administration, not its ownership, can be thereby affected. By removal of ownership in land and the means of production from private individuals to the whole people, a legal foundation is laid for the planning of the national economy.

(2) But the legal problems involved in a planned economy are not thereby solved. "State ownership" gives a legal foundation to planning, but does not give legal expression to the planning process. Such legal expression was not deemed necessary in the first twenty years of the Revolution; on the contrary, the planning process was gradually to be freed from all restraints, freed both from economic and from political laws. But with the new emphasis on "stability of laws," on "democratic centralism" ("centralization of planning, decentralization of operations"), on "business accountability" —Soviet jurists and courts have been impelled to enunciate legal doctrines expressive of the actual property relations that have developed under the Five-Year Plans. The property law thus elaborated is distinguished by the fact that the rights of possession, use and disposition assigned to state business enterprises are derived not from ownership but from economic administration.

It is clear that the property rights of state business enterprises cannot affect ownership, since ownership here is in the state alone. Moreover, it is clear that the rights exercised by a state business enterprise in property entrusted to it are strongly conditioned by law, plan, and directives of superior organs. In addition to restrictions on the right to sell, the right to rent, and other similar rights, the state business enterprises have to share their possession, use and disposition

27. For discussion of these terms and their significance, see Berman, supra note 22, at 192, 195 et seq., 200 et seq.
with all superior organs, beginning with the Supreme Council of the U.S.S.R. and the Council of Ministers, and ending with the local city councils and their branches. Their rights are only part of a total process of production and distribution carried on under plan. "It is impossible to analyze the contract of purchase and sale of a product between two state enterprises apart from the whole process of socialist production and distribution."  

It is, however, the very fact that the property rights referred to are conditioned by plan and by total policy that gives them their character. Soviet jurists, in adopting the Roman Law categories of *jus possidendi*, *jus utendi*, and *jus disponendi*, and in divorcing them from the Roman *dominium*, have made it clear that Soviet property rights—in state-owned property, at least—exist not to protect ownership but rather to protect and direct the administration of the property in behalf of the socialist economy and "the whole process of socialist production and distribution." Thus the contract of purchase and sale is explained in property law as the transfer of state property from the administration of one state organ to the administration of another state organ.

Administration (*upravlenie*), in the Soviet sense, is not merely direction and conduct, but involves all aspects of control including the realization of that control; it is thus something less than ownership, but something more than giving orders. It is the economic exploitation of property, its utilization under economic plan. It is clear, therefore, that the property rights acquired by state business enterprises inhere in the functions of economic administration imposed upon the property-holder by the state.

(3) A third feature of Soviet property law is its classification of property in terms of social function. This follows from the frank recognition by Soviet jurists that it is the purpose of law to express accurately the actual social relations which exist in the community as a whole.

The first distinction in Soviet property is that between means of production (including land) and articles of consumption. These two classes are reflected legally as socialist ownership and personal ownership. Within socialist ownership, a division is made between industry and agriculture, the city and the countryside. Thus industrial and municipal business enterprises—factories, municipal trading organiza-

28. VENEDIKTOV, op. cit. supra note 19, at 103.
29. Id. at 110.
30. Id. at 112-113.
31. *Upravlenie* has the connotation of government; the root "pray" is the same as that in "pravo," meaning law (and "pravda," meaning truth). In addition there is a word "administratsie," which signifies administration in a restricted sense, the actual conduct or management. "Administrative law" is *Administrativnoe Pravo*. 

tions, and the like—are state-owned; while collective farms and the consumers' and producers' cooperatives which exist largely in the small villages are treated separately under the heading "socialized ownership." While there is some overlapping (since labor unions, for example, are treated as cooperative rather than state organs, and are thus analogized in law to collective farms and other cooperatives), there are, nevertheless fundamental economic and social differences underlying the legal distinctions.

Particularly in respect to land, Soviet jurists and law-makers have been willing to make distinctions based on differences. Thus property law for state farms differs from property law for collective farms, and the law governing individual peasant farmers is in its own category. Likewise railroad land has been treated as a distinct legal class. Municipal land is governed by different legal norms from those which govern forest land.

Not only will different norms, different remedies, and different procedure be applicable in many cases to these different types of property, but their administration will be carried on by different administrative bodies which are thus free to deal with them in terms of their own problems.

III

Perhaps the most daring innovations in Soviet property law and administration have been made in the sphere of municipal land. A preliminary description of the basic policies underlying Soviet municipal land utilization, and of the conditions under which these policies are being pursued, is a necessary background for discussion of the legislative, administrative and judicial controls in this field.

1. The policies underlying Soviet municipal land utilization may be deduced from accounts which have appeared in Soviet journals concerning the reconstruction of such war-devastated cities as Kishinev, Kalinin, Voronezh, Stalingrad, Kiev, Tbilisi, and dozens of others. Here objectives which are basic to Soviet conceptions of property become explicit. That every use of land in a community affects every other use, that the efficiency with which a community uses its land affects every aspect of its life, that the use of land is a means where-

32. In the case of contracts involving state-owned property, the plans issued to the enterprises will be considered, and different remedies may be granted (for example, specific performance where the plan calls for such performance). Again, collective farms may purchase state-owned property and acquire the ownership thereof, avoiding restrictions placed on state enterprises which may not own it but only possess, use and dispose of it. Again, disputes involving railroad land will be settled in accordance with the particular policies and plans and laws governing transportation, and may even reach a special railroad division of the Supreme Court of the U. S. S. R.
by definite predeterminable goals may be achieved—are propositions which clearly emerge from Soviet city planning.32a

Soviet cities are built around industries, and industries are built around natural resources. Moreover, new cities are planned, and old cities re-planned, not merely in terms of industries and natural resources, but also in terms of housing, recreation and transportation. Housing areas are laid out around parks, playgrounds and transportation facilities.

Of the plan for the reconstruction of Kishinev, capital of the Moldavian Socialist Soviet Republic, the following report is given. "As in the reconstruction of any city, the very first problem encountered is the rebuilding of the housing... For the quick restoration of housing, high-speed assembly line system is recommended, with work-teams of plasterers and roofers, e. g., on several buildings at the same time. Fortunately, Kishinev is well provided for in building materials, with ample local substitutes for brick, sheet iron for roofing, etc...."

"What will the architecture look like? The center of the city was in its time designed by St. Petersburg architects. They gave Kishinev a Russian classical character, the architecture of which it does not pay to change. The center of the city will thus remain severely classical. There will be an enclosed square; buildings of a single architectural order on their facades—similar to the Louvre of Paris—will be built on the main street facing the Cathedral. Government House and all the chief governmental buildings will be there. Also the monument to Grigori Kotovsky. On the outskirts of the city the houses are in local style, with the clear imprint of Moldavian-Wollachian style and national (ethnographic) ornamental motives. This characteristic Moldavian local color will be preserved in the suburban zone, which will be chiefly built of small houses... The lower part of the city will contain the railroad station. Lenin Street, with fine modern houses and boulevards, will be very similar to the Nevsky Prospect in Leningrad." 33

In respect to municipal utilities, Kishinev, it is stated, was one of Russia's worst cities. Moreover, its plan "does not conform to modern town building requirements. It was planned on a checkerboard pattern and has no squares or wide streets." The present plan corrects

32a. For a valuable statement of the necessity of a similar recognition in American law, see McDougal, Municipal Land Policy and Control (1946) (pamphlet).
this by including provision for squares and new diagonal and circular boulevards, new parks and green-planted avenues. A number of measures are taken to improve the water supply and sewage mains and to increase electrical power. The water supply and electricity will be furnished by the new Dubosary Hydro-electric Power Station on the Dniester River. All the key plants of the food, wood-working and metal-working industries are to be shifted outside the city precincts. Provision is made for rail and air lines, new types of industry, and increased population.

The plan for Kishinev illustrates some of the lessons that Soviet city planners have learned from experience. One of these is the superiority of small dwelling-houses to large apartment houses. "The small dwelling is the most important project of modern architecture and it is our obligation to bring this type of building up to a high technical, artistic and economical level of perfection," it was stated in 1945 at the First Conference of the State Council on Architecture.\(^3^4\) And G. Simonov, Vice-Chairman of the Council, reported\(^3^5\) that "the chief types of house in mass dwelling construction from 1946 to 1950 will be one and two-story houses. One-story wood prefabricated panel houses of light construction will be built at house-prefabrication plants. Two and four-story houses will be built by high-speed assembly line methods."

Another lesson that has been learned is "... the simple thesis that every city must be designed individually. ... If standard designs of dwellings and small public structures attain special significance in the gigantic building program, there is no place whatsoever on earth for 'standard cities.' The cities of our country possess their own, often ancient history, unique silhouettes, relief, composition ensembles, and their own climatical, national and domestic peculiarities. ... At the beginning of Soviet city-building practice, we designed new cities according to one type and pattern. This practice, naturally, could satisfy no one and gradually gave way to the individual approach in the design of each reconstructed city. ... In each of these plans (of Novgorod, Stalingrad, Kalinin, Voronezh), the city is designed as an individual, live organism. In close accord with this new approach to city planning is the necessity of making a 'complete study of its historical growth.'"\(^3^6\)

Thus it is stated that in Kalinin it was found necessary to use the most progressive elements of the old city plan in the new design,


\(^{35}\) Ibid.

...and, even more important, to make them the focal points of the new plan." In Stalingrad, however, an altogether different approach was taken, since high buildings screened the view of the Volga from the city and blocked its organic relationship with the river. Besides this, the central districts of the city were crossed by railroad lines which spread coal, dust and soot over the city territory.

A third principle of Soviet city planning is the priority of housing and favorable living conditions over all other considerations. Not only the type of housing, but the internal features of houses, are part of city planning. Questions of the area of corridors, store-rooms and other space, the advantages of built-in closets, questions of the size of plot, system of house-heating, the manufacture of furniture to go with the houses—these are all discussed at conferences on city planning, which are considered to be a function of architecture.

Finally, city planning is conceived in terms of the expression of basic community values in all the different institutions of the community. The city is a "living organism." Nothing about it is irrelevant. Not only questions of housing, architecture, water supply, communications, etc., but also questions of recreation, culture, and even national and political ideals (as illustrated for example in naming a particular street after Lenin, or leaving a historical monument in its place)—enter into the policies underlying the plan.

2. Soviet municipal land policy must be seen in the perspective of the gigantic growth of Soviet cities, which has been part of the process of rapid industrialization that is a condition of all Soviet planning.

Between 1926 and 1939 urban population leaped from 26.3 million (out of a total population of 147 million) to 55.9 million (out of a total of 170 million). That is, the urban population more than doubled. In certain republics—the Turkmen and Kazakh republics, for example—the city population more than tripled. Many individual cities multiplied in population, in the thirteen year period, ten times over. Prokopiev's inhabitants numbered 10,700 in 1926, 107,200 in 1939; Murmansk jumped from 8,700 to 117,000; Stalinsk from 3,800 to 169,000; Cheliabinsk from 59,300 to 273,100; Gorki from 222,300 to 644,100. Many cities of over 50,000 and 100,000 population existed in 1939 where no cities at all had existed in 1926 (e. g., Magnitogorsk, Karagand, Komsomolsk on Amur, Kirovsk, Stalinogorsk).

The mushrooming of cities was particularly striking in areas which were transformed from agricultural to industrial regions almost

overnight. On the territory of the Don River Basin, for example, where before the Revolution only six cities existed, there were, in 1939, 52 cities and 154 workers’ settlements. In the Urals, where before the Revolution there had been 20 cities and 14 workers’ settlements, by 1939 there were 47 cities and 109 workers’ settlements. The number of cities of the Kuzbas jumped during this period from five to 20, of which five have a population of more than 100,000. The total number of cities in the U. S. S. R. increased, between 1926 and 1939, from 834 to 2,370.

This development could not have taken place without planning on a national scale. The building of cities was part of the Five-Year Plans for the industrialization of the Soviet Union. In the report on the Fourth Five-Year Plan (1946-1950) delivered by the Chairman of the State Planning Commission before the Supreme Soviet of the U. S. S. R., the role of cities in the new program of industrialization is recognized. It is stated 38 that in the largest industrial cities (Moscow, Leningrad, Kiev, Kharkov, Rostov, Gorki and Sverdlovsk), the construction of industrial enterprises will be restricted, but that “the Five-Year Plan provides for the construction of industrial enterprises in new districts and towns possessing the requisite fuel, power and raw material resources.”

With the task of reconstructing cities devastated by the German invaders, and creating new cities to meet the problems of increased industrialization, city planning in the Soviet Union today is both a necessity and a challenge. “We must remember that in the following years the word ‘build’ will sound as the word ‘fight’ sounded during the heroic period of the war!”—so runs the appeal to Soviet architects and city planners. 39

3. (a) The Legislative Framework. Municipal land in Soviet Russia is treated as a distinct form of property, a special legal category. Owing to its particular function as an operational base for the construction of buildings for residential, industrial, transport, trade, administrative, cultural, social and other purposes, as well as for the construction of streets, squares, and other means of intra-city communication, municipal land presents special problems to the Soviet legislator and planner, problems distinct from those presented by land used for agriculture, forestry, the extractive industries, etc. The treatment of municipal land as a special legal category has freed Soviet jurists from the necessity of justifying the use of special criteria and

special methods for municipal land utilization. Particularly, it has supported the creation of special municipal land administrations with large powers.

The leading federal law on land utilization asserts that the disposition of city lands shall, on the basis of a few general principles set forth, be regulated by republican legislation. Thus, for the most part, the federal government has little to say as to how municipal land is utilized. However, federal laws insist that the construction of new cities and villages, and the reconstruction of existing ones, shall be carried out on the basis of plans drafted for those places, and that these plans must meet certain general requirements. Particularly, city plans are required to include drafts of housing, of technical equipment, of business construction, and “detailed” drafts. The draft of housing must secure the creation of quarters and of necessary sanitary conditions for the population, fire protection, etc. The draft of business construction must provide for the creation of bases supplying the city with agricultural products and for the allocation of individual stores. The detailed drafts establish the city boundaries, define housing areas, the distribution of walks, squares, streets, parks, and various reserve land-spaces necessary for the needs of production, transportation, housing construction, etc. These plans are binding upon the organizations charged with the administration of municipal lands. They are “juridical documents.”

The city lies within the jurisdiction of the republic in which it is located. The Land Codes of the different republics generally state that “land relations within city limits shall be defined by special ordinances.” In the Russian Republic, a special statute of 1925 on land ordinances in cities, together with supplementary laws and amendments, may be said to constitute a small code of municipal land law.

Republican legislation generally establishes what the city boundaries are, and the supreme republican legislative body may change these boundaries if it wishes. Likewise, republican laws determine what the minimum population of a locality must be in order to constitute a city rather than a village. Also, the exclusion of certain

---

45. In the Russian Republic, the criteria distinguishing a city from a village are: 1) an adult population of not less than 1000, 2) agriculture as the basic occupation of
lands "of special assignment" within the city boundaries (railroad lines, etc.) from the classification of municipal lands is based on republican law.

Immediate jurisdiction over municipal land is delegated by the republic to the city councils (soviets) of workers' deputies, which are the supreme city governing organs. The city council has charge of all municipal lands (with the exception of lands of special assignment), including sub-soil, waters, etc. In the case of lands of special assignment, questions involving city welfare are settled by the organizations in charge of such lands and the city council jointly.

(b) The Administrative Structure. City councils act administratively through the city divisions of the Ministry of Communal Economy. This is a Republican Ministry, with autonomous-republican, regional and city divisions.

A city division of the Ministry of Communal Economy is responsible for the following tasks: (a) the surveying of the city, (b) the composition of drafts of housing, business construction, technical equipment, and "detailed" plans, (c) the carrying out of these drafts after they are approved by the Republican Ministry, (d) the regulation of housing construction and architecture, (e) the regulation of land utilization, (f) the apportionment of land, (g) land registration.

City lands are classified as (1) lands improved or to be improved, (2) lands of common use, and (3) appendages (arable lands, forests, pastures, etc.).

Regarding improved or to be improved land, parcels are issued by the city division of communal economy (in behalf of the city council) either (a) for utilization for an indefinite time by state and cooperative institutions and enterprises, or (b) for long-term utilization by individual citizens or by juridical persons. In the former case, the lands are apportioned on the basis of annual plans of apportionment issued in accordance with drafts of the city plan. A grant (akt) is made, containing the conditions under which the land is granted (e. g., the construction of certain buildings on it), and imposing upon the landholder the duty of maintaining the land and buildings in good condition, keeping the site clean (including the street and sidewalks), preserving the gardens and trees (unless permission otherwise is not more than 25% of the population. Law of Sept. 15, 1924, [1924] COLL. LAWS R. S. F. S. R., No. 73, Art. 726. Other republics differ. Thus in the Ukraine Republic, a city must have a total population of 10,000.


granted by the city division of communal economy), the planting of new gardens, and similar duties of maintenance. If the landholder does not fulfill the conditions of the grant, the land parcel, with everything situated on it, may be transferred at the request of the city council to the disposition of the division of communal economy. Lands apportioned for long-term utilization are exclusively for residential purposes, and are discussed below.

Lands of common use (streets, squares, sidewalks, quays, boulevards, gardens, parks, etc.) are within the immediate administration of the city division of communal economy and are for the social use of all citizens. Where special attractions, sports events, recreation, etc., are provided on such lands, a price for entrance may be charged, as established by the city councils. Markets are also considered lands of common use, and since 1936 these have been within the administration of organs of commerce rather than the division of communal economy. Lands of common use may also be rented temporarily for stalls, pavilions, kiosks, stands, advertisements, etc., with the condition that there should be no damage to the common use and with guarantees of observance of sanitary regulations. Great emphasis is placed upon gardens, greenery, trees, etc., and these are considered city property and protected by law whether they are on lands of common use or on lands used for housing or for business purposes.

The use of city lands for agricultural purposes has considerable importance in Soviet Russia; truck-gardening and, on the outskirts, farming both play a considerable part in the city economy. The utilization of municipal lands for such purposes is controlled almost entirely by the city councils through their divisions of communal economy, which grant the utilization to various state institutions, enterprises and social organizations under contracts, and to individual citizens for gardening by grants without special contracts. The state institutions, enterprises, and social organizations, but not the individual citizens, must present annual production plans for approval of the city councils, and are subject to systematic supervision in the fulfillment of their plans. Individual citizens are granted the use of land for market gardening for a term of from 5 to 7 years, and are allotted \( \frac{3}{4} \) to \( \frac{1}{4} \) hectares per working family.

(c) **Judicial Intervention.** It may be seen from the above description that Soviet municipal land is in the control of a vast but integrated administrative system. Judicial intervention occurs at three points only: (1) the People's Courts have jurisdiction over disputes arising between city divisions of the Ministry of Communal Economy and individuals or organizations which hold land under contract from
the city councils; (2) the organs of Gosarbitrazh \(^{48}\) decide cases arising between state business enterprises over the right to land allotted by superior ministries, chief administrations, etc.; (3) and the People's Courts have authority to settle controversies arising from rights in dwelling houses.

Disputes of the first two types are decided according to general principles of Soviet contract and property law. The third category—invoking housing rights—brings us to a detailed consideration of perhaps the most important aspect of municipal land administration, and one of the most important phases of the whole process of Soviet land planning and property law.

IV

The organization of Soviet housing provides a documentary illustration of how Soviet municipal land policy (and Soviet planning and property law in general) is applied in one important sphere of community activity. Here plans and operations meet the daily life of the Russian people.

The control of housing is, in the last analysis, a function of the federal government. The basic law governing the whole structure of housing administration throughout the Soviet Union was enacted by the Supreme Council of the U. S. S. R. \(^{49}\) Responsible for the execution of the provisions of this federal law, and for the planning and regulating of housing as part of the total economy, is the Council of Ministers of the U. S. S. R., and particularly the Ministry of the Interior. Cases involving the housing rights of individual citizens may be appealed finally to the Supreme Court of the U. S. S. R. These supreme legislative, administrative and judicial organs of government control—in the sphere of housing as in other spheres—have their counterparts on the Union Republican level; and the Republican organs are superior to the Regional, as the Regional are to the local.

The planning of housing—at least of the production of houses—is carried on, ultimately, by the State Planning Commission (Gosplan). The findings and estimates of Gosplan, based on the regular collection of essential information regarding all types of industry and production in all parts of the Soviet Union and the coordination of such information in progressive steps by larger and larger subdivisions of the nation—are the basis for more detailed plans drawn up by Republican,


Regional and local authorities. But together with this highly central-
ized system of planning there goes—in housing as in other spheres
of activity—a highly decentralized system of operations. Particularly,
each municipality has broad powers in the planning and administration
of its own housing, and, within the municipality, extensive operational
autonomy is delegated to the organizations and business enterprises
which do the actual managing, building, repairing, etc., of houses
and housing units.

As stated by the author of a Soviet textbook on housing: 50

"The present system of housing administration in the Soviet
Socialist Republics is constructed on the principle of the deep
inner unity of political and economic administration . . . This
unity is expressed both in the competence of the organs of power
and in the organizational unity of the whole system, which knows
no division into 'government' organs and organs of so-called 'self-
government,' such as exists in bourgeois countries. All organs
of Soviet power from top to bottom represent the whole system
of organization of the power of the workers, at the basis of which
is placed the principle of centralization of planning and decen-
tralization of operations. In the sphere of economic adminis-
tration, decentralization of operations is expressed in the broad
operative rights of the local (city and village) councils and in the
business accountability of the low links of the economic system—
enterprises and other economic units. In the sphere of housing
and housing construction, such low economic organs acting on
the basis of business accountability include house-managements,
hotel and small-home trusts, housing supply organizations, and
draft, construction and repair bureaus.

"Centralization of planning leadership is expressed in strict
planning discipline, uniting all low economic links into one system
of planned socialist economy. The Executive Committees of
the local Councils, which have immediate control over the above-
mentioned organizations, are, on the one hand, an apparatus
whereby these Councils carry out their decrees and directives, and,
on the other hand, organs of higher departments which fulfill
the functions of centralized planning leadership. The local Councils,
which exercise all the necessary rights and functions of operative
economic leadership . . . are at the same time subordinate to
Regional Councils, to Supreme Councils of the Republics, to the
Supreme Council of the U. S. S. R."

It is the purpose of the present section to illustrate the general
statement above quoted; i. e., to state the specific functional tasks of
the various parts of the administrative structure of Soviet housing,

50. KOBALEVSKII, ORGANIZATION AND ECONOMICS OF HOUSING IN THE U. S. S.
R. 74 (1940) (in Russian).
starting with the top planning-regulating organs and descending to the tenants’ committees of an individual housing unit. This description will be confined to municipalized housing, not only because this is the most important of the three types of housing that exist in the Soviet Union—the other two being (a) housing administered by state business enterprises (i.e., workers’ settlements belonging to factories, plants, etc.), and (b) houses owned by the individual citizens who built or bought them; but also because the administration of municipalized housing is basic to, and involves, the other two types. Although the legal problems connected with rent, rights to occupancy, duties of lessors, etc., differ in respect to municipalized, factory-administered, and personally owned housing, the planning and administrative structure is essentially one.

In terms of the Soviet principle of “democratic centralism,” I shall deal first with the process by which housing plans are composed, issued and administered, and second with the process by which operations in fulfillment of plans are executed.

1. The Structure and Process of Planning. No special federal organ exists for the planning and administration of housing, though the Ministry of the Interior takes responsibility for housing as one of its functions. The Law of October 17, 1937, which is the basic hous-

51. Surplus profits in industry are devoted in part to workers’ housing. In addition, state business enterprises are required in many cases to maintain a construction fund for workers’ housing and to provide such housing. In many instances factories collaborate with City Councils in building and maintaining workers’ settlements. Asknazii, Soviet Housing Law 44 et seq. (1940) (in Russian).

52. The building and buying of houses by individual citizens have assumed increased importance in recent years. The right to build one’s own home is granted by contract with the local city or village council. Hitherto the contract has been in the form of a lease on the land—for 65 years for a brick or stone building, for 50 years for a wood structure. Asknazii, op. cit. supra note 51, 54 et seq. However, this right to build is now being transformed into a right of ownership, and in proposals for the new all-union codes which are to appear, it is argued very strongly that under the new conceptions of law and ownership, there is no reason to continue the limitation of the lease. It is proposed that citizens be allowed to own their houses outright and to have the land on which the houses are situated for perpetual use. Already such rights have been granted to members of the Academy of Science, generals and old officers of the Soviet army and navy who had served more than 25 years and were in retirement, and workers and engineer-technicians volunteering for work in the Urals, Siberia and the Far East. “It is to be hoped that this tendency will be made universal and carried to its logical conclusion in the new Civil Code of the U. S. S. R.” Lipetskii, On the Juridical Nature of the Right to Build, [1947] Soviet State and Law, No. 3, 64 (in Russian). Cf. Vil’nianskii, The Right to a Dwelling-House, id., No. 4, 54.

Home-builders are granted credits by the State Bank and guaranteed the necessary materials, provided that they invest a minimum of 30% of the total cost of the building. Such building loans are given for a maximum of 10,000 rubles and a seven-year amortizations. Interest is at two per cent. In 1942, loans totalled 7,000,000 rubles; in 1943, 35,000,000; in 1944, 260,000,000; in 1945, 325,000,000. 5 Embassy of the U. S. S. R. Information Bulletin, No. 98 (Sept. 22, 1945); id., No. 96 (Sept. 18, 1945).

53. See Hazard, Soviet Housing Law (1939) for a thorough investigation of these and similar problems.
ing law for the whole Soviet Union, delegated responsibility for the planning and administration of housing to the Ministry of Communal Economy in each Union Republic, which is in charge of the planning and regulating of municipal economic life generally. The Ministry acted, in respect to housing, through a Chief Administration of Housing Economy. However, since 1944 Republican Ministries of Housing have been set up. To the Republican Housing Ministry are subordinate a Regional Housing Administration and a City Housing Administration. Autonomous republics and autonomous regions have their own divisions of the Housing Ministry.

The various branches of the Housing Ministry are executive organs through which legislation promulgated by the Supreme Council of the Union Republic, the Regional Councils (or Executive Committees) and the City Councils is made effective. Plans prepared by the Housing Ministry for the Republic, or for a particular region or city, must receive the sanction of the corresponding legislative body before it can be administered. The City Housing Administration, for example, is thus subordinate both to the City Council and to the Regional Housing Administration.

The main functions of the Housing Ministry of a Union Republic are:

(a) to prepare five-year, annual and quarterly plans for city and village housing, workers' settlements, small homes, health resorts, etc., including plans for the financing as well as for the actual construction thereof;

(b) to work out rules and norms by which such plans may be realized;

(c) to supervise the realization of the plans;

(d) to exercise general supervision over the execution of laws on rent and on the utilization of housing.

The plans are prepared on the basis of information and applications received from City and Regional Housing Administrations. The Housing Ministry submits the plans to the Council of Ministers of the Union Republic. The Council of Ministers promulgates the plans as law for the Union Republic—with or without the participation of the Supreme Council of the Union Republic.

54. By decree of Council of People's Commissars (since 1946 called the Council of Ministers) of R. S. F. S. R. of 18 Nov. 1944 was established a People's Commissariat (Ministry) of Citizens' Housing Construction. [1945] COLL. LAWS R. S. F. S. R., No. 2, Art. 8. The Ukraine, White Russia, Estonia and Moldavia have followed suit. EVTIOHEV AND VLASOV, op. cit. supra note 47, at 367.

55. KOSALEVSKII, op. cit. supra note 50, at 79.
The Regional Housing Administrations apparently serve chiefly as links between the Chief Administration and the City Housing Administrations.

The main functions of the City Housing Administrations are:  

(a) to prepare, and to submit to the City Councils for issuance, five-year, annual and quarterly plans for the construction of housing, small homes, hotel and office buildings in the cities in which they are located, together with plans for the financing of such construction;

(b) to prepare, and to submit to the City Councils for issuance, plans for the distribution and use of building materials and tools, as well as for the procurement thereof from business enterprises;

(c) to prepare, and to submit to the City Councils for issuance, drafts of decrees on rents;

(d) to regulate the utilization of living space, to issue priorities for free rooms, to give permission to exchange quarters, to transfer houses belonging to the City Councils to state business enterprises and other organizations to be leased by them;

(e) to regulate the building by individuals of their own homes, in correspondence with decisions adopted by the City Council;

(f) to exercise sanitary and technical supervision of housing;

(g) to register cooperative associations of builders and to supervise their activities;

(h) to organize house-managements, to appoint, dismiss and transfer house-managers.

The above list "far from exhausts the functions of the City Housing Administrations." In addition they have immediate supervision of the various business organizations which build housing, small homes, hotels and office buildings, which carry out repairs, procure building materials, etc.

The City Housing Administration is the executive organ, in the sphere of housing, of the City Council, upon which the federal housing law of 1937 places "direct administration of state housing and complete responsibility for its preservation," giving the Council power

56. Id. at 77.
57. Id. at 78.
"to conduct direct administration of the houses belonging to it" as well as to exercise "technical and sanitary supervision, and also surveillance and supervision over the maintenance and repair of all remaining housing regardless of whose control it may be under." It is also prescribed\(^59\) that "local Councils are required to organize Housing Administrations (in the form of departments of Communal Economy) to carry out the tasks set for them."

The City Council has the following functions in respect to municipal housing:\(^60\)

(a) to issue five-year, annual and quarterly plans for housing;

(b) to issue five-year, annual and quarterly plans for the building of small homes, hotels and office buildings;

(c) to plan and regulate building by individuals of their own homes;

(d) to regulate rents in correspondence with prevailing republican and federal laws;

(e) to appoint and dismiss the heads of small-home and hotel trusts;

(f) to organize the production of building materials;

(g) to organize a City Housing Administration for the execution of the above tasks;

(h) to hear reports of the City Housing Administration and give it directives relating to its work.

The City Council selects certain of its members to form a permanent Commission on Housing. This Commission has the following functions:

(a) to submit questions on housing for discussion at meetings of the City Council;

(b) to carry on investigations of the housing situation;

(c) to supervise the activity of the City Housing Administration, without mixing into its actual work;

(d) to prepare legislation, on its own initiative or by assignment of the City Council, for consideration by the Council;

(e) to make reports and give accounts of the housing work of the City Council at meetings of the voters, "who thus supervise the work of their representatives."

\(^59\) Id., §10.

\(^60\) Kobalevskii, \textit{op. cit. supra} note 50, at 75.
2. The Structure and Process of Operations. The City Council and the City Housing Administration are respectively the legislative and the planning-regulating organs which direct and administer municipal housing; their plans and directives are carried out by House Managements, Small-home and Hotel Trusts, Repair Bureaus, Housing Supply Organizations, and Building Trusts.

The direct administration of housing units—individual buildings and groups of buildings—is in the House Managements. Under the Law of Oct. 17, 1937, it is established that a house manager shall be named: (a) for every building with dwelling space in excess of 3000 square meters or with a population in excess of 500 persons; (b) for every group of 3 to 5 moderately large buildings joined together on the same plot of land with a total dwelling space of from 2000 to 3000 square meters; and (c) for groups of 10 to 15 small buildings (along a by-street or part of a main street) with a total dwelling space of from 1500 to 2500 square meters. It is also provided that the house manager shall be responsible for:

(a) the administration of the house in accordance with the established rules;
(b) timely repairs of the building and suitable quality of repairs;
(c) maintenance in good keeping of the structure and its sanitary and technical equipment and places of general use in the apartments (central heating, lighting, kitchens, stairways, water closets, gas, baths, elevators, etc.).

The house manager is appointed by the City Housing Administration. He exercises "one-man control" of the House Management, which is said to have "economic independence and the rights of a juridical person." He has at his disposal turnover capital determined on the basis of one-and-one-half months' rent for the buildings under him, plus one-eighth of the annual cost of central heating.

From the moment of its registration with the proper authorities, the House Management may have a checking account in the bank, may conclude contracts in its own name, may acquire materials, fuel, uniforms, etc. It has limited liability, based on its turnover capital (since buildings, structures, machines, etc., are exempt from commerce). It is not answerable for claims against the City Council or the City Housing Administration, and they in turn are not answerable for its obligations.

63. KOBALEVSKII, op. cit. supra note 50, at 85.
The house manager may name tenants to be his assistants in running the apartments, these helpers receiving small fees set by him in accordance with rules established therefor. Particularly it is prescribed 64 that "in cases where there are several independent occupants of dwelling space in the apartment, the house manager, having obtained their consent, shall name one person from among their number, preferably a housewife, who shall be primarily responsible for the apartment, with the task of superintending places of general use and seeing that the rules of internal order in the apartment are obeyed by all occupants.”

During the war, the powers of the house manager were increased. In addition to being in command for purposes of air raid protection, he was permitted to exact from a resident or tenant a sum not exceeding 100 rubles for injuries done to the house property.65 He was also given the right to cite residents to the administrative authorities for breach of sanitary, fire, or domestic regulations, and to summon them to the comrades' court for offenses within that court's jurisdiction.66

In charge of small-home settlements are the Small-home Trusts,67 which exercise functional tasks somewhat analogous to those of the House Management. They are responsible for the building, care and upkeep of the houses under them, for the maintenance of the water supply, the streets, and of welfare in general. They likewise operate on the basis of business accountability—i. e., they have limited liability, keep a checking account in the State Bank, and in general exercise economic autonomy in fulfillment of the plans issued for them. They operate under the supervision of the City Housing Administration.

The Hotel Trusts are composed of individual hotels, which themselves exercise economic independence and have the rights of juridical persons. The trusts are likewise independent economic units. Their functions are:

(a) to plan the economy and supervise the work of the member hotels;
(b) to supply them with fuel, equipment, furniture, etc.;
(c) to build new hotels;
(d) to name the managers of the hotels belonging to the trust, give them their general instructions, review their activity, hear reports of their work.

---

67. KOBALEVSxIn, op. cit. supra note 50, at 88.
The Hotel Trusts are organized and, in case of necessity, liquidated by the City Council, and are under the control and supervision of the City Housing Administration. They function on the basis of plans issued by the Housing Administration and account to it for the fulfillment of those plans.

Serving the House Managements, Small-home Trusts and Hotel Trusts are the business organizations which carry out the actual production and maintenance of housing. Thus Repair Bureaus have the function of organizing, on the basis of contracts, capital and current repairs, including plumbing, heating, gas supply, etc. Housing Supply Organisations manufacture and purchase wood and other building materials, various kinds of equipment, plumbing and electrical supplies, and other materials necessary for the utilization of housing. The Housing Supply Organizations supply the Repair Bureaus and the House Managements with these materials, and also sell them to state business enterprises through their own wholesale stores. They operate on the basis of funds assigned to them by the City Housing Administration, organizing and administering therewith the necessary manufacturing enterprises, transportation, warehouses, etc. Finally, Building Trusts and Building Bureaus are set up for the construction of housing, and belong to the Ministry of Communal Economy.

3. Tenant Participation in the Administration of Housing. Tenants take an active part in the administration of Soviet housing, without interfering in the operative economic activity of the house management. "The principle of one-man control in no way hinders the participation of tenants, but on the contrary to a certain extent increases the role and significance of mass organizations of workers in house management, assisting the development of the activity and initiative of all tenants of the house and the correct utilization by them of house property." 68 Tenants participate in house management through membership in (1) economic-financial commissions, (2) sanitary commissions, (3) cultural commissions, and (4) comrades' courts. These bodies are elected for a term of one year by the general assembly of tenants called by the house manager for that purpose.

(1) The economic-financial commission participates with the house manager in composing the economic-financial plan of house management, participates in composing plans of capital and current repairs and in the work of the Commission on Housing of the City Council in receiving the executed repairs, examines the accounts of receipts and expenditures, supervises the maintenance of the house in

---

68. Id. at 93.
good order, makes an annual report to the house manager. The commission fulfills no administrative functions, and does nothing to interfere with the operative work of the house manager. Its role is to assist the house manager, and it presents all its suggestions to him. However, if the house manager fails to act on its suggestions, it may go over his head to the City Housing Administration. Moreover, the commission is responsible to the tenants and reports to the general assembly of tenants not less than twice a year.

If the City Housing Administration is dissatisfied with the work of a particular economic-financial commission, it may at any time place before the general assembly of tenants the question of making a new selection.69

The economic-financial commission consists of from 3 to 5 members.

(2) The sanitary commission,70 which also consists of from 3 to 5 members, exercises systematic supervision of the observance by both the tenants and the house manager of the established sanitary regulations. It supervises the condition of the buildings, kitchen, laundry, nursery, etc. It participates in investigations of the State Sanitary Inspection Board and other such organs, organizes lectures and discussions on subjects connected with sanitation and hygiene, watches over the execution of sanitary and health decrees of the City Council (such as decrees on rubbish and snow-removal, on the elimination of lice and parasites, on the maintenance of gardens and greenery, on the proper maintenance of the water supply and plumbing, etc.).

The sanitary commission has the right to inspect living quarters and places of general use, as well as other parts of the buildings, and to give instructions for the correction of abuses within a certain time. In case of failure to correct such abuses, the commission reports such failure to the State Sanitary Inspector.

The sanitary commission is in effect an arm of the State Sanitary Inspector. After its election, it must report to that officer, and if its work is unsatisfactory, he may consult the general assembly of tenants as to its desire to have a new election.71

(3) It is the function of the cultural commission,72 which also consists of from 3 to 5 persons, to organize the so-called cultural requirements of the house, by developing the intellectual and social

70. KOBALEVSII, op. cit. supra note 50, at 94.
72. KOBALEVSII, op. cit. supra note 50, at 94.
initiative and activity of the workers living therein. The commission organizes nurseries for the children, walking groups, mass games for the children, visits by them to theaters, cinemas, museums, etc.; it organizes dramatic, musical, chess and other types of activity for the adults; it is responsible for publishing a wall newspaper for enlightening the tenants as to the work of the house management as well as for expressing the tenants' criticism thereof; the commission helps the house manager in maintaining a reading room, with a circulating library, and assists in "liquidating illiteracy among the population"; it also assists in the work of voluntary societies sponsored by the municipal community as a whole.

The cultural commission is guided in its work by the division of national education of the City Council. Its expenses are covered by special accounts provided for in the economic-financial plan of the house-management.

(4) Comrades' courts were established in housing units in 1931 "for the purpose of fighting against the uneconomic, anti-social attitude toward the utilization of state, cooperative and social housing, for the speedy inculcation of social responsibility in the broad toiling masses, in the struggle against survivals of the past (insults, self-help, etc.), and for consideration of petty housing conflicts and disputes emerging from survivals of the past." These courts continue to exist, after 16 years, with essentially the same tasks.

The general assembly of tenants of a housing unit elects from 10 to 25 people to the comrades' court, the exact number depending on the size of the housing unit. The members sit for one year; they get no remuneration.

The court has a broad competence. It tries cases of uneconomic practices in the use of the housing facilities (dirtying the bathroom, drying laundry in living quarters, etc.), in the use of places of general use such as kitchens, corridors, baths, etc., in the use of dwelling space by persons living together in one room, in the distribution of duties among the tenants in regard to putting in order the places of general use and the payment for communal services according to their use; insults by word, deed or writing; spread of false rumors; self-help and "hooliganism" not requiring criminal prosecution.

The penalties which the comrades' court may impose are: warning, social censure with or without publicity in the wall newspaper or the

73. Id. at 95. Comrades' courts also exist in the factories and cooperatives.
public press, fine up to 10 rubles, compensation for damage to property up to 50 rubles.

The comrades’ court is under the guidance of the People’s Court of the particular jurisdiction, which may annul its decisions where they are in violation of law or where the comrades’ court wrongly takes cognizance of a case.

V

Although the Soviet social-economic order is generally said to be founded on state ownership of the means of production, developments during the past decade indicate that the basis of Soviet socialism is over-all integrated planning, and that such planning is compatible with, and in fact has required, important modifications of the doctrine of absolute ownership whether of the state or otherwise.

Soviet law of the N. E. P. period (1921-1928) inherited from the Continental European legal tradition the “Roman” conception of property. The Soviet Civil Code of 1923 defines the right of the owner as that “of possessing, using and disposing of his property.” This definition presupposes a system of property in which independent and co-equal units hold in absolute and original right, the character of the interests being the same.

Our own system of law has undergone a transformation, during the past 150 years, in the Romanist image. Ideas of absolute private property—of complete and indivisible “title”—have made inroads on the traditional English conception, inherited from feudalism, of property relations between dependent and ranked units, of derivative tenure, of “splinters of ownership.”

The feudal property regime linked estates in land with status in society. This involved a union of political and proprietary relations, a fusion of public and private law. Dominium meant both “ownership” and “lordship.” Feudal tenures were intimately bound up with political and military service. With the development of the modern English state, particularly in the 17th century, much feudal lore was revived and fashioned into an elaborate structure of life estates, legal

76. This Code, still in force, was based on the German Civil Code. It is the Code of the Russian Republic, and has been more or less copied in the other republics. Since 1936 Soviet jurists have been working on the preparation of an all-union code, as provided by the 1936 Constitution.
77. Cf. Code NAPOLEON, which defines ownership as “the right to enjoy and dispose of things in the most absolute manner, provided they are not used in a way contrary to law or regulations.”
79. This is Gierke’s phrase to distinguish Germanic from Roman law regarding rights in re aliena. See in general, NOYES, loc. cit. supra note 78; also PHILBRICK, CHANGING CONCEPTIONS OF PROPERTY IN LAW, 85 U. of Pa. L. Rev. 691, 701 (1938).
and equitable contingent remainders, executory interests, rules of remoteness and limitations—all designed once again to link land law with political power and political service, but this time in the interests of the English landed gentry, whose political position was buttressed by the system of "family settlements" which such land law protected.

Against a property law conceived in terms of lasting relationships, relationships based on marriage and inheritance, the French Revolution and the Code Napoleon brought to bear a conception of property in terms of transitory commercial relationships based on contract. Land and chattels came to be dealt with as a manifestation of the will of the owner; the transfer of property as a meeting of minds. This meant the assimilation of the law of real property to the law of personal property—the abolition of tenurial survivals and of fictitious procedures of transfer, the development of the power of the life tenant to render the land freely alienable even when subject to a family settlement, the simplification of title registration. In America, particularly, it meant the divorce of proprietary from direct political-social-economic responsibility.

Our own legal history—as well as the re-emergence during the past fifteen years of a functional approach to property as "a rubric covering all instances of apportioned use"—provides a background for understanding what is developing in Soviet law. The Soviet restoration of property concepts is taking place along functional lines; a new dependent and derivative tenure is replacing absolute and co-equal ownership; there is a fusion of public and private law. One may say of Soviet law what Holdsworth says of English law: "There are a large number of interests, recognized and protected by law, which may coexist in the same piece of land at the same time." This may be seen on all levels of ownership. A private citizen may own his house, but he holds the land of the state. A collective farm has "absolute" ownership, but this ownership must be defined in terms of the public-law, public-economic role of the collective farm in the national political-economic order. For effective administration of the industrial process it has been found necessary to restore certain proprietary rights in the state business enterprises. A peasant household holds its land—in a sense—of the collective farm to which it belongs, which in turn holds its land of the state (with perhaps a further breakdown necessary—into Ministry of Agriculture, Council of Ministers, Party, etc.)—the proprietary relations having an administrative and public as well as a domestic, private character.

82. Philbrick, op. cit. supra note 79, at 702.
Behind these relationships is the Plan. The role of contract as the dynamic element in property relations has been filled by consciously integrated direction of the whole economy on a continental scale. Planning gives new content to Soviet property relations, continually replenishing them. And "property" and "contract," which have been for us the symbols of rapid economic progress, are restored in Soviet law as elements of continuity and stability.