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Declassified E.O. 12356 Section 3.3/NND No.

785016

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POWERS & RIGHTS
MAR. - DEC. 1944

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RESTRICTED

BGM/ar

ALLIED FORCE HEADQUARTERS
APO 512

ADMINISTRATIVE MEMORANDUM)

NUMBER

57)

11 December 1944

POWERS AND RIGHTS OF ALLIED FORCES IN ITALIAN
GOVERNMENT TERRITORY1. General

a. It is the policy of the Allied Governments, as military exigencies permit and as the Italian Government is able to take on the responsibility, to hand back to its jurisdiction and administration territory formerly subject to Allied Military Government. In such territory Allied Military Government ceases on the hand-over and the Italian Government assumes the jurisdiction and administration subject to the paramount guidance and control of the Allied Commission.

b. In handing back territory to the Italian Government, certain rights are reserved to the Allied Forces by agreement with the Italian Government. It is necessary that Allied troops in those areas should be aware of the most important of these rights and the manner in which they are to be exercised.

c. For the purposes mentioned herein the territory which may from time to time be included in that handed back to the Italian Government is termed Italian Government Territory. At the present time such territory comprises the Islands of Sicily and Sardinia and all provinces on the mainland south of the northern boundaries of the provinces of Viterbo, Rieti and Teramo with the exception of the comune of Naples which is still under Allied Military Government.

d. It is to be particularly noted that officers of the Allied Commission stationed in Italian Government territory are there to advise and control the Italian Government and one of their most important functions is liaison between Allied Military Formations in their areas and the local Italian administrative officials.

e. It is further particularly to be noted that all but the most routine dealings with the Italian administration must be conducted through the local Allied Commission representative.

2. Requisitioning - The Allied Forces have retained the power to requisition private and public property and services in Italian Government territory but it is emphasized that this must be exercised sparingly and only for reasons of genuine military necessity. This will be exercised through the Italian authorities. If for example it is necessary to requisition a building it should be done through the Sindaco of the town where the building is situated with the assistance of the nearest provincial officer of the Allied Commission. The usual formalities of requisitioning will be followed.

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MEMO Adm Memo #57 (cont'd)

3. Process in Italian Courts - No members of the Allied Forces, Allied followers of such forces, or British or U. S. Merchant Seamen will be subject to jurisdiction of Italian Courts.

4. Crimes against Allied Forces

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a. In Italian Government territory crimes committed by Italian nationals, will normally be tried under Italian Law and in Italian Courts.

b. The Allied Forces however have reserved to themselves the right to hold Allied Military Courts in Italian Government Territory for the trial of Italian nationals who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian penal code. The reservation of this right is not intended however to encourage the trial of Italian offenders by Allied Military Courts but is to enable them to deal with the most serious offences against Allied personnel or property which cannot effectively be dealt with by the Italian Courts.

c. The procedure to be followed, if it is desired that an offence should be tried by an Allied Military Court, will be for the military authorities to give a full statement of the facts to the local representative of the Allied Commission with a request that an Allied Military Government Court be convened to hear the charges. It will be the responsibility of Allied Commission to frame the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances will any case in Italian Government Territory be referred to Allied Military Courts and then only on order of Allied Commission.

d. Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local Allied Commission officer will be obtained beforehand, except in an emergency when he will be informed immediately after the arrest.

5. Military Zones - The present policy with respect to military zones and the employment of Allied troops to quell civil disturbances is as follows:

The right is reserved by the Supreme Allied Commander, Mediterranean Theater to declare specific areas of Italian Government Territory to be Military Zones. By the issue of such a declaration, the exercise of the powers of Military Government in the Zone in question is assumed by the Supreme Allied Commander, Mediterranean Theater. Should the situation in any area become such as to convince the District Commander that the establishment of Zones is necessary, he should, after consulting the Allied Commission Regional Commissioner, report accordingly to this headquarters, giving full reasons to justify his view. The Allied Forces may also re-occupy any part of Italian territory, but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

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AFHQ Adm Memo #57 (cont'd)

6. Use of troops in aid of the Civil Power

a. In the event that the local Italian authorities ask for the assistance of Allied troops in quelling civil disturbances, the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian authorities and he will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied military interests. Furthermore, before rendering such assistance, the local commander will warn the local official requesting his assistance that the territory in question will be liable to be made forthwith an Allied Military Zone. If time permits, the local commander will consult the local Allied Commission officer and seek instructions from his superior commander before giving assistance; in any event, he will inform his superior commander of any request made to him and the action taken thereon without delay.

b. District and Base Section Commanders in disposing of their forces should have regard for contingencies in which it might be necessary to send troops to quell civil disturbances. They should consult the local Allied Commission officer where appropriate in this matter particularly in regard to contemplated troop movements which might prejudice the security of any locality within their area of responsibility.

7. Military and Civilian Internees - The Allied Forces may continue to hold or require the Italian Government to hold in custody military or civilian internees in Italian Government territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless, in any particular case, it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all such cases the Local Allied Commission officer must, except in emergency, be informed of the intention to make the arrest, whether it is to be effected by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Such persons will be detained in 371 PW Camp, or such other place of internment as there may from time to time be designated for that purpose.

8. Emergency Action - All action required from the Italian Administration should invariably be sought through the medium of the Allied Commission Regional or Provincial Commissioner, except where an emergency may arise which requires immediate action by the Allied Forces for their protection and security. Where by reason of the emergency immediate action is taken without previous reference to Allied Commission, the appropriate Allied Commission officer will be informed as soon as possible.

By command of General WILSON:

C. V. Christenberry
C. V. CHRISTENBERRY,
Colonel, AGD,
Acting Adjutant General.

DISTRIBUTION:

"C"

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SECRET

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. Section
APO 394

Phone:
478201

4112A
7/6/3A

*Legal is fine as
agreed.
Please return*

Ref/125/66/CA.

18 August 1944.

19 AUG 1944

SUBJECT: Powers and Rights of Allied Forces and
Allied Military Government in Unoccupied Italy.

TO : Distribution below.

1. Attached hereto is copy of AAI Administrative Instruction
No. 48 dated 8 August 1944.
2. This supersedes our letter 125/18/CA dated 23 March 1944.

NORMAN E. FISKE
Colonel,
Deputy Executive
Commissioner.

DISTRIBUTION:

Group 2 & List "C".

TO : Adm Sec

20 August 1944.

AAI Administration Instruction No. 48 dated 8 August 1944
is drawn as agreed.

Under C.A.

RICHARD H. WILMER, 261
Colonel, CAC.
Acting Chief Legal Officer.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

SECRET

HQ., ALLIED ARMIES IN ITALY

AAI/3064/A(O)

8 AUG 44

ADMINISTRATIVE INSTRUCTION NO. 48

POWERS AND RIGHTS OF ALLIED FORCES AND ALLIED MILITARY GOVERNMENT IN UNOCCUPIED ITALY

This instruction supersedes Administrative Instruction No. 6, reference AAI/3064/A(O) dated 15 Mar. 44.

1. Definition

For the purpose of this instruction the term "Italian Government Territory" refers to territory forming part of ITALY, SICILY and adjacent islands handed over to ITALIAN Government and jurisdiction, subject to the guidance and instruction of the Allied Control Commission under the Chief Commissioner acting for the Commander-in-Chief, A.A.F.

2. General

The object of this instruction is to clarify the more important rights reserved to the Allied Forces by agreement with the ITALIAN Government, in such territory forming part of ITALIAN Government Territory which may be handed over to the ITALIAN Government from time to time, in respect of which full powers of Government will also have to be possessed by the ITALIAN Authorities.

Apart from those reserved rights, Allied Military Government in ITALIAN Government Territory ceases to exist. All Proclamations and Orders of the Military Government and those made by its authority cease and are no longer operative; no such Proclamation or Order can be issued in the future.

Although there will be officers of the Allied Control Commission in ITALIAN Government Territory, they will be there to advise and control the ITALIAN Government, and not as Governors. One of the most important functions of the Regional and Provincial Officers of the ACC will be liaison between Allied Military Governments in the area and the ITALIAN administrative officials. All but the most routine dealings between the two administrative and the Allied Military authorities must be conducted through the local ACC. When the ITALIAN Government is directly represented on a control board or committee the Military Government, of course, deals directly with that organization without the intervention of ACC.

3. Requisitioning

The Allied Forces have retained the power and right to requisition private and public property and resources in ITALIAN Government Territory - this right must be exercised mainly in order to secure the necessities of genuine military necessity. This right will be exercised through the ITALIAN authorities. If, for example, a building is needed in the military, it should be requisitioned through the Sindaco of the town where the building is situated, with the assistance of the Provincial Officer of the ACC. The usual formalities of requisitioning used in Military Government territory will be strictly followed in ITALIAN Government territory. The property of fascist societies, whether dissolved or not, must not

1. Definition

For the purpose of this Instruction the term "Italian Government Territory" refers to territory forming part of ITALY, SICILY and adjacent islands handed over to ITALIAN Government and jurisdiction, subject to the guidance and instruction of the Allied Control Commission under the Chief Commissioner acting for the Commander-in-Chief, A.A.F.

2. General

The object of this Instruction is to clarify the more important rights reserved to the Allied Forces by agreement with the ITALIAN Government, in such territory forming part of Italian Government Territory which may be handed over to the ITALIAN Government from time to time in respect of which full powers of Government will otherwise be possessed by the ITALIAN Authorities.

Apart from these reserved rights, Allied Military Government in ITALIAN Government Territory ceases to exist. All Proclamations and Orders of the Military Governor and those made by his authority cease and are no longer operative; no such Proclamation or Order can be issued in the future.

Although there will be officers of the Allied Control Commission in ITALIAN Government Territory, they will be there to advise and control the ITALIAN Government, and not as Governors. One of the most important functions of the Regional and Provincial Officers of the ACC will be liaison between Allied Military Forces in the area and the ITALIAN administrative officials. All but the most vital dealings between the ITALIAN administration and the Allied Military authorities must be conducted through the local ACC.

When the ITALIAN Government is directly represented on a control board or committee the Military Governor, of course, deals directly with that organization without the intervention of ACC.

3. Requisitioning

The Allied Forces have retained the power and right to requisition private and public property and services in ITALIAN Government Territory - this right must be exercised only when necessary for reasons of genuine military necessity. This right will be exercised through the ITALIAN authorities. If, for example, a building is needed by the Military, it should be requisitioned through the Provincial Officer of the ACC. The usual facilities of requisitioning used in Military Government Territory will be strictly followed in ITALIAN Government Territory. The property of socialist societies, whether dissolved or not, must not be seized without giving receipt, and then only if required for reasons of military necessity.

4. Allied Military Courts

As the Proclamation of the Military Governor ceases to operate in ITALIAN Government Territory, the Military Governor ceases to operate in ITALIAN Government Territory.

Government Territory, all crimes will normally be tried under ITALIAN law and in ITALIAN Courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in ITALIAN Government Territory for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the ITALIAN Penal Codes.

The reservation of this right is not intended to encourage the trial of of civilian offenders by Allied Courts, but to enable them to deal with the most serious offences against Allied personnel or property which cannot be dealt with by the ITALIAN Courts. If such an offence has been committed the military authorities will give a full statement of the facts to the local representative of the ACC with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of ACC to frame the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances will any case in ITALIAN Government Territory be referred to AMG Courts and then only on order of ACC.

Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking ITALIAN officials and officers of the ITALIAN Armed Forces should, however, only be arrested in collaboration with the appropriate ITALIAN official (e.g. the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local ACC officer will be obtained beforehand, except in an emergency, when he will be informed immediately after the arrest.

5. Military Zones.

The right is reserved by the Commander-in-Chief to declare specific areas in ITALIAN Government Territory to be Military Zones. Upon the issue of such a declaration, the right to exercise the powers of military government in the Zone in question becomes once more vested in the Commander-in-Chief. It is hoped that the need for the establishment of such Zones will never arise, but should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ AMI giving full reasons to justify his view. The Allied Forces may also re-occupy any part of ITALIAN territory, but the right to constitute a Military Zone will render it unnecessary to exercise this right in respect of any local disorders.

6. Military and Civilian Internees

The Allied Forces may continue to hold or require the ITALIAN Government to hold in custody military or civilian internees in ITALIAN Government Territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with ITALIAN officials unless, in any particular case, it is thought that a request to the ITALIAN police to arrest a suspect would be ineffective. In all such cases the local ACC officer must, except in emergency, be informed of the intention to make the arrest, whether it is to be effected by the Allied or ITALIAN authorities. If he is not in agreement, the matter will be referred to higher authority. Normally such persons will be detained in 571 PW Camp.

7. Use of Troops in Aid of the Civil Power.

It may happen that the local ITALIAN authorities may ask for the assistance of Allied troops in quelling civil disturbances.

ment with by the ITALIAN Courts. If such an offence has been committed the military authorities will give a full statement of the facts to the local representative of the ACC with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of ACC to fix the charges and constitute the Court. It is emphasized that only in the most exceptional circumstances will any case in ITALIAN Government Territory be referred to AMG Courts and then only on order of ACC.

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6. Military and Civilian Internees

The Allied Forces may continue to hold or require the ITALIAN Government to hold in custody military or civilian internees in ITALIAN Government Territory. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with ITALIAN officials unless, in any particular case, it is thought that a request to the ITALIAN police to arrest a suspect would be ineffective. In all such cases the local ACC officer must, except in emergency, be informed of the intention to make the arrest, whether it is to be effected by the Allied or ITALIAN authorities. If he is not in agreement, the matter will be referred to higher authority. Normally such persons will be detained in 371 PW Camp.

7. Use of Troops in Aid of the Civil Power.

It may happen that the local ITALIAN authorities may ask for the assistance of Allied troops in quelling civil disturbances.

If such a request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the ITALIAN Administration and he will refuse such assistance, unless he is of the opinion that it is necessary for the protection of Allied Military interests. Furthermore, before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone (see para 5 above).

/s/ tnc

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para 7 contd.

If time permits the local commander will consult the local AOC officer and seek instructions from his Superior Commander before giving assistance; in any event he will inform his Superior Commander of any request made to him and the action taken thereon without delay.

8. Process in ITALIAN Courts

No member of the Allied Forces may be prosecuted or sued in ITALIAN Courts.

9. Emergency Action

It is appreciated that an emergency may arise which requires immediate action by the Allied Forces for their protection and security, but except in such emergency all action required from the ITALIAN Administration should invariably be taken through the medium of the Regional or Provincial Commissioner. Where immediate action is taken without previous reference to AOC for emergency reasons, the appropriate AOC Officer will be informed as soon as possible.

10. Assistance to ITALIAN Authorities.

Apart from the powers and rights described above, it should be remembered that the transfer of territory to the ITALIAN Government is made as part of the policy of the Allied Governments.

It is the duty of all Allied officers to assist the central and local Government authorities in acquiring and maintaining authority, and to avoid thoughtless acts which may undermine the authority of the police, the Sindaco, or the Prefects.

/VET

W. J. Anderson
Major General.
Chief Administrative Officer.

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HEAD QUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.C. Section
APO 394

Phone :
478808

4 August 1944

Ref/125/58/CA.

SUBJECT : Powers and Rights of Allied Forces and Allied
Government in Italian Government Territory.

TO : HQ. Allied Armies in Italy.

1. With reference to your AAI/3064/A(O) of 30 July 1944 your draft Administrative Instruction No. 6 is returned herewith.
2. It has had some comments made on it by our Legal Advisers which are entered on the original draft for purposes of easy comparison with the original. These are nearly all of a minor nature in connection with the use of the term "Italian Government Territory" which has been adopted by A.C.C.
3. It is thought necessary to stress the point amended by us in para 4.
4. May 12 copies of this Instruction be sent to this HQ when you decide to issue it.

G. W. L. SHIPP *SHL*

f Brigadier,
Executive Commissioner,
For A/Chief Commissioner.

✓ Copy to: Admin Sec.

To A/P for information *SHC*

0464

German Section
2 copies 31 MAR 1944
for [unclear] 2264

CONFIDENTIAL

HEADQUARTERS
ALLIED CONTROL COMMISSION
R.C. & M.G. Section
APO 394

Ref/125/18/CA.

23 March 1944.

SUBJECT: Powers and Rights of Allied Forces and Allied
Military Government in Unoccupied Italy.

TO : See Distribution Below.

1. HQ. A.A.I. (Admin. Echelon) C.M.F. has issued an Administrative Instruction to all Military formations outlining the situation in general terms and substantially as stated in memoranda from this HQ dated 23 Jan and 31 Jan already in your possession.

2. The following extracts are quoted for your information :

(a) Although there will be officers of the Allied Control Commission in unoccupied ITALY they will be there to advise and control the Italian Government and not as governors. One of the most important functions of the Regional and Provincial Officers of the Commission will be liaison between Allied Military formations in the area and the Italian administrative officials. All but the most routine dealings between the Italian administration and the Allied Military authorities must be conducted through the Commission. When the Italian Government is directly represented on a control board or committee, the Military may, of course, deal directly with that organisation without the intervention of the Commission.

(b) Requisitioning.

The Allied Forces have retained the power and right to requisition private and public property and services in unoccupied ITALY - this right must be exercised sparingly and only for reasons of genuine military necessity. This right will be exercised through the Italian authorities. If, for example, a building is needed by the military it should be requisitioned through the Sindaco of the town where the building is situated, with the assistance of the Provincial Officer of the Commission. The usual formalities of requisitioning used in occupied territory should be strictly followed in unoccupied ITALY. The property of dissolved fascist societies must not be seized without giving a receipt and then only if required for reasons of military necessity.

(c) Allied Military Courts.

As the Proclamation of the Military Governor ceases to operate in unoccupied ITALY, all crimes will normally be tried under Italian law and in Italian courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in unoccupied ITALY for the trial of civilians who commit acts seriously hostile to the Allied Forces and to punish them in accordance with the Italian

SUBJECT: Powers and Rights of Allied Forces and Allied Military Government in Unoccupied Italy.

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The reservation of this right is not intended to encourage the trials of civilian offenders by Allied Courts but only to deal with the most serious offences against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offence has been committed the Military Authorities should give a full statement of the facts to the local representative of the Commission with the request that an Allied Military Court be convened to hear the charges. It will be the responsibility of the Commission to frame the charges and constitute the Court.

-2-

Consequent on reservation of the power to try such offenders there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offences. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g., the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of the local officer of the Allied Control Commission will be obtained beforehand, except in an emergency, when he should be informed immediately after the arrest.

(d) The right is reserved by the Commander-in-Chief to declare specific areas in unoccupied ITALY to be Military Zones. Should the situation in any area become such as to convince the District Commander that such action is necessary, he should, after consulting the Regional Commissioner, report accordingly to HQ. A.C.I. Giving full reasons to justify his view. It may happen that the local Italian authorities may ask for the assistance of Allied troops in quelling civil disturbances. If such request is made the local commander will point out that the quelling of civilian riots or disturbances is a matter for the Italian Administration and he will refuse such assistance unless he is of the opinion that it is necessary for the protection of Allied Military interests. Before rendering such assistance the local commander will warn the local official requesting his assistance that the territory in question will be made forthwith an Allied Military Zone. If time permits the local commander will consult the local officer of the Commission before giving assistance.

(e) Prisoners of War and Civilian Internees.

The Allied Forces may continue to hold or require the Italian Government to hold in Custody military or civil prisoners of war in unoccupied ITALY. If the Allied Forces require to arrest any person for security or other reasons such arrest should be carried out in collaboration with Italian officials unless in any particular case it is thought that a request to the Italian police to arrest a suspect would be ineffective. In all cases, except in emergency, the local officer of the Commission must be informed of the intention to make any such arrest, whether by the Allied or Italian authorities. If he is not in agreement the matter will be referred to higher authority. Normally such persons will be detained in 371 P.W. Camp.

(f) Process in Italian Courts.

No member of the Allied Forces may be prosecuted or sued in Italian Courts.

(E) The agreement now reached with the Italian Government makes the rights of the Allied Forces in the Provinces of Apulia identical with their rights in the areas recently transferred from Allied Military Government to Italian Government.

3. The instruction emphasises that except where, in emergency, immediate action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken

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3. The instruction emphasizes that except where, in emergency, immediate action is required by the Allied Forces for their own protection and security, all action required from the Italian Administration should invariably be taken through the medium of the Regional or Provincial Commissioner.

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It is further notified that where immediate action is taken without previous reference to the Allied Control Commission for emergency reasons, the appropriate officer of the Commission will be informed as soon as possible.

4. It will thus be appreciated that HQ. A.C.C.I. are seeking to obtain the fullest co-operation between military commanders and the Allied Control Commission. It should be your constant endeavour to reciprocate.

Handwritten signature

NORMAN E. FISKE
Colonel,
Deputy Executive
Commissioner.

DISTRIBUTION:

All Regional Commissioners.
S.O.'s 5th and 8th Armies.
Distribution "C".

