

Declassified E.O. 12356 Section 3.3/NND No. 735016

ACC

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

637

ITAL GOV'T, CONSTITUENT ASSEMBLY
OCT. 1944

MINUTE SHEET

To Pol/Tech Sec. ① ✓
C.O.S. ② ✓

A/CC. ③ Presumably has seen rds 4 & 5
by instructions at photo ① + opinion of CL A. at ②
are forwarded for your info. Para 4 of Chas letter
might make the question academic.

Thank you

11 Oct.

MS/18/A

CP/2/18

1193
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ESB/dfc (5)

A/CG 000.1-2

14 October 1944

My dear Sir Noel:

The attached letters from my Civil Affairs Section regarding the new Constituent Assembly and its effect on the right of the Italian Government to have a referendum of the people of Italy to determine the constitutional question are forwarded for your information.

Very truly yours,

HENRY W. STONE
Commodore, USNR
Acting Chief Commissioner

4300

Sir Noel Charles, St., K.C.M.G.
British High Commissioner in Italy
British Embassy
24 Via Venti Settembre
Rome

cc: Hon. Alexander Kirk (in original)
Chief of Staff Section
Civil Affairs Section
'A' Files
Political Section

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C O P Y

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

Ref: 9/16./1/C.A.

5 Oct 44

SUBJECT: Constituent Assembly

TO: Chief Legal Officer

The Acting Chief Commissioner desires to be advised whether D.L.L. No.151 of the 25th June, '44, creating a new Constituent Assembly precludes or in any way prejudices the right of the Government to have a referendum of Italy to determine the constitutional question.

/s/ G.F. UFFON

/t/ G.F. UFFON, Brigadier,
V.P. Civil Affairs Section.

4299

GRU/ymb.

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C O P Y

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

AGC/4005/L.

WEH/pm.
6 Oct 44.

SUBJECT: Constituent Assembly

TO : Deputy Chief of Staff, Civil Affairs Section

1. We have considered the question raised by your 9/16.1/CA of 5 Oct 44.

2. Article 1 of DLI No. 151 of 25 June 1944 provides, that the new constitution of the Italian State shall be determined by the Constituent Assembly to be elected by the Italian people for that purpose. We are advised and we are of opinion that this provision precludes the Government from determining the constitutional question by referendum. The effect of DLI is to take the direct determination of the issue out of the hands of the Italian people for that purpose. It would be contrary to the terms of the DLI to solve the problem by a direct vote of the people.

3. It is of course possible that the Constituent Assembly, which is a sovereign body with power to adopt any decision, may decide itself to determine the issue by referendum, but in this case both the holding of the referendum and subsequent constitutional decision based thereon will be the responsibility of the Constituent Assembly and not of the Government.

4. DLI No. 151 can be abrogated at any time by a subsequent DLI.

/s/ Richard E. Wilmer

/t/ RICHARD H. WILMER,
Colonel, CAC,
for Chief Legal Advisor.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

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WTH/pa.
6 Oct 44.

AGC/4005/L.

SUBJECT : Constituent Assembly.

TO : Deputy Chief of Staff, Civil Affairs Section.

1. We have considered the question raised by your ~~memo~~ memo/CA of 5 Oct 44.

2. Article 1 of D.L. No. 151 of 25 June 1944 provides, that the new constitution of the Italian State shall be determined by the Constituent Assembly to be elected by the Italian people for that purpose. We are advised and we are of opinion that this provision precludes the Government from determining the constitutional question by referendum. The effect of D.L. is to take the direct determination of the issue out of the hands of the Italian people and to entrust it to a body which shall represent the Italian people for that purpose. It would be contrary to the terms of the D.L. to solve the problem by a direct vote of the people.

3. It is of course possible that the Constituent Assembly, which is a sovereign body with power to adopt any decision, may decide itself to determine the issue by referendum, but in this case both the holding of the referendum and subsequent constitutional decision based thereon will be the responsibility of the Constituent Assembly and not of the Government.

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4. D.L. No. 151 can be abrogated at any time by a subsequent D.L.

Richard H. Wilmer
RICHARD H. WILMER,
Colonel, GAC,
for Chief Legal Advisor.

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6551

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

9/16-1 /
Ref: ~~XXXX~~/C.A.

SUBJECT:- Constituent Assembly.

TO:- Chief Legal Officer.

The Acting Chief Commissioner desires to be advised whether
D.L.R. No. 15 of the 25th June, '45, creating a new Constituent Assembly
precludes or in any way prejudices the right of the Government to have
a referendum of the people of Italy to determine the constitutional
question.

G. R. L. [Signature]

G.E. HUGHES, Brigadier.
Y.F. Civil Affairs Section. 429.

GBU/ymc.

LEGAL SUB COMMISSION

CLO

DCLO

Chief Legal Officer

CI

5 Oct '45

C

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