

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

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10000/105/811

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DEFASCISM, DISABILITIES OF FASCISTS IN  
PRIVATE INDUSTRY (G.O.47)  
(ITAL DECREE ON DF/5.14/CA)  
JUNE 1945

Lt Col KENNETH J. GARDNER  
300 CA Sec

10.

- 1 GO 47, as further revised (by Legal Sub-Commission) is now before us (fol 3A). This draft represents our best joint efforts and we should get on with it as soon as possible. The figure for the companies to be included should be filled in (Article I).
- 2 It is quite important to send out an approved translation and I request that this be done when the English text is released.

23 June 1945  
CA Section

*E. Palmeri*  
E.L. PALMERI  
Major

4157

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

4157

Minutes

CA Section

Major

TO : CA Sec.

1. I agree with paras (a) (b) and (c) in Minute **6**.

2. With reference to the form of the order:

(a) The form "suspension" was substituted throughout for "disqualification" as a result of agreement between VP CA Sec. and A/VF Economic Section. The idea is that if we "suspend" the Italians can either disqualify or replace but if we "disqualify" and the Italians formally ratify in the restoration terms it is more difficult for them. During AMG it makes no difference.

(b) Art. I - the capital of the companies is not mentioned. Are we distinguishing between insurance and other companies?

(c) Art. I-4(c) - I think my wording, although less elegant is less capable of misconstruction.

(d) What is the purpose of Art. III -3. Is it not covered by Art. III -1.

(e) Art. VI the last 2 lines raise in an acute form the jurisdiction of Italian Courts to try AMG offences. Is this wise?

(f) The original Art. VIII is deleted. I think it should be retained.

Legal Sub-Commission  
20 June 1945.

W. Z. BENHENS, **156**  
Colonel,  
Chief Legal Advisor.

*I agree*  
*I prefer the word 'suspension' - disqualification is an abbreviation of 'disqualification' which would be avoided. Disqualification implies a more serious case of suspension of status. If the Italian Court has a jurisdiction to suspend - disqualification is a more serious case of suspension. If the Court is satisfied in a case of suspension, it is not necessary to disqualify.*

are we distinguishing between insurance and other companies?

(c) Art. I-4(c) - I think my wording, although less elegant is less capable of misconstruction.

(d) What is the purpose of Art. III -3. Is it not covered by Art. III -1.

(e) Art. VI the last 2 lines raise in an acute form the jurisdiction of Italian Courts to try AMG offences. Is this wise?

(f) The original Art. VIII is deleted. I think it should be retained.

Legal Sub-Commission  
20 June 1945.

*W. E. Behrens*

W. E. BEHRENS, 156  
Colonel,  
Chief Legal Advisor.

*Legal*

I prefer the word "unfair" - "disparity" is an indication of unfairness which would be created. Difficulties might arise in the execution of Art. 2 of the Statute in that members are designated in this - naturally it is a problem in that regard proposed during AMG if the number is reduced, it is subject to review of composition and can appoint representatives to carry on.

The caption is instructively left open to <sup>VP</sup> to decide. Originally it was 1 member the latest draft seems to be 1 member these are only 2 are members having a capital of 1 million. It is thought that the Statute does not go higher. If we put in a figure lower than 1 million it may compromise position of the Statute. But and under it is better to get a higher one in.

Art. III -1 - appeal, 2 members within Art. I - the amendment made in Art. II - 3 - to persons within Art. II - the amendment made in Art. II would be subject to appeal to be decided.

The amendment is to be the better, no significant disadvantage. Art. II - 2 will require a meeting one cannot have a new order for suspension when Art. I is affected. For that purpose Art. II may also require 2 members. The kind of an order for removal would be not in sufficient to cover an order to show cause why the suspension of Art. II should not be supplied with that in agreement to Art. 6, 7, 8 of the Statute.

28 June 1945  
The amendment is to be the better, no significant disadvantage. Art. II - 2 will require a meeting one cannot have a new order for suspension when Art. I is affected. For that purpose Art. II may also require 2 members. The kind of an order for removal would be not in sufficient to cover an order to show cause why the suspension of Art. II should not be supplied with that in agreement to Art. 6, 7, 8 of the Statute.

MINUTES

W. E. Behrens

In sub-division 1 of Article 1, reference has been made to the Special Courts of Assize law, D.L. 142. It was the intention to include persons convicted by these Courts.

Article VIII is no longer necessary in view of the revision of movement between the North and the rest of Italy. D.L. 7 of 18 Jan 1948 was intended to provide a means of replacing directors, controllers and liquidators where proxies could not be collected or shareholders meetings could not be held.

The classification of companies in Article 1 has been changed so that instead of one million lire capital for joint stock and limited liability companies it is now five million lire. Mutual insurance companies remain at one million.

This figure has been the subject of considerable discussion among the Ministers. I have seen various drafts since last February which fixed the figure at five, two and one million lire, with and without the clause relating to the mutual insurance companies. The figure of five million is in the most recent Italian draft decree (Folio 21) on 26/5.14/CA

The words "disqualified" and "disqualification" have not been substituted by "suspended" and "suspension". This substitution of terms apparently decided by the Legal Sub-Commission (see amendment slide attached to Folio 2-A) would create a grave difficulty. A suspended director, from the Italian viewpoint, remains a director, but is merely prevented from performing his duties. In consequence, the company cannot provide a successor. In order to permit the companies to continue to do business the directors must be considered disqualified or "incapaci".

I submit herewith a revised draft of G.O. 47 both in English (Folio 3A) and in Italian (Folio 3A) which I recommend should be adopted.

It is believed that G.O. 47 revised represents as close an approximation as possible to the decree, it is hoped the Italian Government will adopt (Folio 21-A). Boeri is very close to Parri, the new Prime Minister, and will be in a very advantageous position to champion his own views/are those reflected in the revision of G.O. 47.

CA SECTION  
19 June 48

*E. J. Cabrin*  
S. L. FALCETTI Maj,  
CA Section.

...the figure of five million is in the most recent Italian draft decree (Pollo 21-A) on 08/5.14/CA

The words "disqualified" and "disqualification" have not been substituted by "suspended" and "suspension". This substitution of terms apparently desired by the Legal Sub-Commission (see amendment 2-A) would create a grave difficulty. A suspended director, from the Italian viewpoint, remains a director, but is merely prevented from performing his duties. In consequence, the company cannot provide a successor. In order to permit the companies to continue to do business the directors must be considered disqualified or "soggetti".

I submit herewith a revised draft of G.O. 47 both in English (Pollo 2A) and in Italian (Pollo 3A) which I recommend should be adopted.

It is believed that G.O. 47 revised represents as close an approximation as possible to the decree. It is hoped the Italian Government will adopt (Pollo 21-A). Boeri is very close to Terri, the new Prime Minister, and will be in a very advantageous position to champion his own view/are those reflected in the revision of G.O. 47.

CA SECTION  
19 June 43

*E. J. Labriola*  
P.I. BARNETT (M.),  
CA Section.

155

Minutes

LT COL A.D. SORRENTINO  
USO Civil Affairs Section

Pursuant to your instructions I have considered the amendments mentioned in 20-A with/to their incorporation in G.O. 47 (Folio 2-A).

6 views

DF-5.14  
I have conferred with Sig. Sorrentino, chief draftsman of the Italian decree and legislative adviser to the Prime Minister. I have also discussed the matter fully with Sig. Boeri of the High Commissioner for Sanctions Against Fascism. Sig. Sorrentino has kept a complete file of Minister Gronchi's proposals in connection with the draft decree. I have seen this file. My repeated efforts to reach Minister Gronchi himself have proved unavailing. He has not been available at his office and I am told he is participating in a series of conferences dealing with the formation of the new Government.

The principal suggestions made by the Minister Drought regarding the draft decree dealing with the disabilities of Directors of private companies are as follows:-

- (a) There should not be an expiration of directors alone, but it should be coupled with similar measures dealing with workers and employees. Since we have G.O. 46, this cannot apply to our plans. If anything, it is a reason for hurrying G.O. 47 since we would otherwise be open to this sort of objection (already made in the North) that we have evolved a partial expiration in private industry, leaving out the important persons (viz. Directors and statutory controllers).
- (b) The sanctions applied against the directors who came within this plan should be coupled with a suspension of their voting rights on stock owned by them. I regard this as unenforceable and dangerous. Shares of stock are intended to be easily negotiable. It would not be feasible to attempt to curtail voting rights because the owner at a given time is subject to a disability as a director or statutory controller or liquidator. Moreover, subsequent holders should not be afflicted with such an inheritance. In any event, the use of "dummy" holders of stock would conveniently defeat such a measure. I do not regard this as a desirable amendment. Neither Sorrentino nor Boeri approves of it.

- (c) Minister Gronchi has objected to that part of the decree which is set forth in Article III of G.O. 47 and which states that a suspended director (excluding, however, those suspended for conviction for fascist crimes, confiscation or loss of electoral rights), can apply for a revocation or reduction of the suspension where he has been guilty of only slight political activity, has a proved technical and administrative capacity, and has shown a hostile attitude to the Germans during their occupation. This provision was intended to permit some discretion in the cases of persons

The principal suggestions made by the Minister Grocchi regarding the draft decree dealing with the disabilities of Directors of private companies are as follows:-

- (a) There should not be an operation of Directors alone, but it should be coupled with similar measures dealing with workers and employees. Since we have G.O. 16, this cannot apply to our plans. If anything, it is a reason for hurrying G.O. 17 since we would otherwise be open to this sort of objection (already made in the North) that we have evolved a partial operation in private industry, leaving out the important persons (i.e. Directors and statutory controllers).
- (b) The sanctions applied against the Directors who were within this plan should be coupled with a suspension of their voting rights on stock owned by them. I regard this as unenforceable and dangerous. Shares of stock are intended to be easily negotiable. It would not be feasible to attempt to curtail voting rights because the owner at a given time is subject to a disability as a Director or statutory controller or liquidator. Moreover, subsequent holders should not be afflicted with such an impairment. In any event, the use of "dummy" holders of stock would conveniently defeat such a measure. I do not regard this as a desirable amendment. Neither Benvenuto nor Bocchi approves of it.
- (c) Minister Grocchi has objected to that part of the decree which is set forth in Article III of G.O. 17 and which states that a suspended Director (excluding, however, those suspended for conviction for fascist crimes, confiscation or loss of electoral rights, can apply for a revocation or reduction of the suspension where he has been guilty of only slight political activity, has a proved technical and administrative capacity, and has shown a hostile attitude to the Germans during their occupation. This provision was intended to permit some discretion in the cases of persons who had occupied fascist positions for a short time or held them only nominally. There is little danger that the Duration Commissions will abuse this power. I believe the temper of the Commissions is such that only the most forcing hardship cases will be considered. I recommend that this provision be retained.

I have made a few changes in G.O. 17 which make it conform more closely to the most recent Italian draft decree. The words "are liable to" in subdivisions 2 and 3 of Article I have been eliminated since it would be difficult to ascertain those liable to conviction or confiscation; whereas those actually convicted or subjected to confiscation (as the Italian decree provides) are readily ascertainable and the disabilities prescribed can be conveniently applied.

(continued on next page)

7

for your advice please

haya

20 June

6 D. Benvenuto 1.6.1

MINUTES

Minute No. 2 - Cont.

I recommend that the latter course be adopted for the sake of speed, but before doing so the Government should be approached with a view to finding out the important amendments mentioned in Folio 17A so that they can be considered and incorporated if desirable.

DF/S.14/CH

Should you wish to discuss this in detail I must ask that the Chief Legal Officer be present as this General Order is a matter in which he has been particularly interested.

12 June 15  
Civil Affairs Section

*W. B. Macfarlane*  
A.D. 1945  
Lt. Colonel,  
GSO (4) Section.

3.

Chief Commissioner.

In spite of the probability of a new

Government, I recommend action under 2 & 3

7/5/14/6

9 minutes <sup>2</sup> above

4.

EL. I agree with CH Sec's para. 1. This means action under 3, I not 2 and 3, as recommended by you. And The Govt

3.

Chief Commission.

In spite of the probability of a new

Government, I recommend action under 2 & 3

of minute ~~2~~ above

TTS/12/10

~~4~~

EL. Agree with CFT Sec's para. made \* This means action

under 3, I not 2 and 3, as recommended by you. And The Govt

should be approached. IUD

153

as CFT Sec. Also  
p/v recommends.

20-5

CAS / M Sec CCS minute ~~2~~<sup>4</sup> referring to  
and opposing of the recommendation you  
make in the parallel minute para 4 of Govt.  
minute ~~2~~<sup>2</sup> Please take the necessary action

Encl. 1/11/45  
per Secy.

16/6/45.

Minutes



UNITED STATES GOVERNMENT  
OF COURTESY

REGIONAL ORDER NO.

DISQUALIFICATION OF PERSONS AND REMOVAL  
OF PERSONS FROM PUBLIC OFFICES

WHEREAS it is necessary that all persons who have participated actively in the political life of Fascism or who have taken part by reason of fascist tendencies they are unworthy of holding high office in private industry should be disqualified during the continuance of Allied Military Government from holding the office of administrator or controller or the appointment of liquidator in companies in private industry.

AND WHEREAS the Italian Government has not prior to the date hereof enacted legislation for this purpose within territory subject to the administration of the said Government.

I, Regional Commissioner,  
Region, hereby order as follows:

ARTICLE I

The following persons are hereby disqualified during the continuance of this Order from holding the office of administrator or controller and from the appointment of liquidator of stock or limited companies having a capital of more than 5 million lire or mutual insurance companies having a capital of more than 1 million lire or such lower capital in either case as I may hereinafter direct:-

- (1) Persons who have been convicted for any of the offenses referred to in the first part of the Italian Government's D.L. 159 of 27 July 1944 notwithstanding that the sentence which may have been imposed upon them in respect of such offenses does not include the exclusion from public offices;
- (2) Persons who have been subjected to confiscation in accordance with Art. 6 of D.L. 159 aforesaid.
- (3) Persons who have been subjected to any of the sanctions set out in Art. 6 of D.L. 159 aforesaid as amended by the Italian Government's D.L. No. 2 of 4 January 1945.

(4) Persons who

(a) have held any of the positions set out in the Decree of the President of the Council of Ministers dated 2 Feb 45 published

...for this purpose within territory subject to the administration of the said government.

Regional Commissioner,  
Region, hereby order as follows:

ARTICLE 1

The following persons are hereby disqualified during the continuance of the order from holding the office of administrator or controller and from the appointment of liquidator of stock or limited companies having a capital of more than 5 million lire or mutual insurance companies having a capital of more than 1 million lire or such lower capital in either case as may hereafter direct:-

- (1) Persons who have been convicted for any of the offences referred to in the first part of the Italian Government's D.L. 159 of 27 July 1944 notwithstanding that the sentence which may have been imposed upon them in respect of such offences does not include the exclusion from public offices;
- (2) Persons who have been subjected to confiscation in accordance with Art. 2 of D.L. 159 aforsaid;
- (3) Persons who have been subjected to any of the sanctions set out in Art. 8 of D.L. 159 aforsaid as amended by the Italian Government's D.L. No. 2 of 4 January 1945.

(4) Persons who

- (a) have held any of the positions set out in the Decree of the President of the Council of Ministers dated 2 Feb 45 published in Official Gazette No. 20 of 15 Feb 45;
- (b) have been members of the Fascist Government after 3 Jan 25;
- (c) having been militant members of the Fascist party subsequent to 3 Jan 25 have held the position of deputy or national councillor;
- (d) have been disqualified from holding the position of Senator in accordance with the last paragraph of Article 8 of D.L. 159 aforsaid;
- (e) have been appointed Ministers of State by the Fascist Government.
- (5) Persons who have been deprived by final judgement of their right to a

151

8699

person in accordance with Article 22 of the 1957 agreement.

Any person who at the effective date of this order is in office as an administrator or controller or liquidator as aforesaid and is disqualified by this Article from such office or appointment shall automatically vacate such office or appointment.

ARTICLE II

In the case of companies other than those contemplated by Article I hereof in which the office of administrator or controller or the appointment of liquidator is held by a person within any of the categories of Article I hereof and in the case of private concerns in which the manager or owner is a person in any such category it is hereby ordered that no contract for public works and no concession or public utilities may be granted to any such company or concern.

ARTICLE III

It shall be lawful for any person affected by Article I, paragraph 4 hereof, to make application on the grounds hereinafter mentioned for the purpose of avoiding or limiting the application of the penalties imposed by Article I or II hereof, to a Commission appointed in accordance with the provisions of General Order No. 35 of the Allied Military Government. The said Commission is hereinafter called the Commission.

If on hearing such application the Commission shall determine that the applicant has distinguished himself in the fight against the Germans, or before the outbreak of the present war took an open stand against fascism and ceased to belong to the National Socialist Party, or that the applicant has been guilty of only slight political activity and in or acknowledged technical and administrative capacity and has shown a hostile attitude to the Germans during their occupation, the Commission may order that the penalties imposed by Article I or II hereof shall cease to have effect or may order that such penalties shall only operate for a specified term.

It shall be open to any administrator or controller of any company referred to in Article I hereof to make application to the Commission for the term in which the head office of said company is situated and before the date of this Order has been removed from the said office on the alleged ground that he has been guilty of fascist activity or fascist sympathies or of collaboration with the fascist German Government or the German Government to make application to the Commission for reinstatement. Upon such application the Commission shall take into consideration the matters referred to in this Article and may make such order as is mentioned therein.

ARTICLE IV

It shall be lawful for any person affected by Article I, paragraph 4 hereof, to make application on the grounds hereinafter mentioned for the purpose of avoiding or limiting the application of the penalties imposed by Article I or II hereof, to a Commission appointed in accordance with the provisions of General Order No. 15 of the Allied Military Government. The said Commission is hereinafter called the Commission.

If on hearing such application the Commission shall determine that the applicant has distinguished himself in the fight against the Germans, or before the outbreak of the present war took an open stand against Nazism and ceased to belong to the National Socialist Party, or that the applicant has been guilty of only slight political activity and is of acknowledged technical and administrative capacity and has shown a hostile attitude to the Germans during their occupation, the Commission may order that the penalties imposed by Article I or II hereof shall cease to have effect or may order that such penalties shall only operate for a specified term.

It shall be open to any administrator or controller of any company referred to in Article I hereof who gives liberation from the Germans of the town in which the head office of said company is situated and before the date of this Order has been removed from the said office on the alleged ground that he has been guilty of fascist activity or fascist sympathies or of collaboration with the fascist Republican Government or the German invader to make application to the Commission for reinstatement. Upon such application the Commission shall take into consideration the matters referred to in this Article and may make such order as is mentioned therein.

ARTICLE IV

It shall be an offense:

a. For any person being the administrator controller or liquidator of any company and being disqualified by Article I hereof from such office or appointment to continue to exercise the functions of such office or appointment.

b. For any person being the controller of any company mentioned in Article I hereof and having knowledge that any administrator, controller or liquidator of such company is continuing to exercise such function therein although disqualified under Article I hereof to fail to denounce such illegality to the President of the Tribunal of the district.

6. For any administrator, controller or liquidator of any company or any owner or manager of any concern as defined by Article II hereof, being assisted by the provisions of Article I hereof, to make a contract for public works or to procure the concession of a public utility in violation of the provisions of Article II hereof.

#### ARTICLE V

Within thirty days from the effective date of this order all companies referred to in Article I hereof shall make to the Commission and to the chancery of the appropriate Tribunal a report of the names of their administrators, controllers, or liquidators who have vacated their office or appointment in accordance with Article I hereof.

At the expiration of the said 30 days any administrator, controller or liquidator who has not been reported as having vacated his office may be required by the Commission to furnish information by a special questionnaire so as to show whether he is a person disqualified from office by Article I hereof. If from such information it appears to the Commission that he is a person so disqualified the Commission shall serve upon him and upon the company concerned and upon the chancery of the appropriate Tribunal a notice to that effect.

Any person who upon request fails to furnish such information within the prescribed time or furnishes false or incomplete information shall be guilty of the offense of the giving of false or incomplete evidence.

#### ARTICLE VI

Any administrator, controller or liquidator who receives notice in accordance with Article V hereof shall within 14 days of such receipt vacate his said office and the company concerned shall thereupon forthwith report next vacation to the appropriate chancery, provided always that such administrator, controller or liquidator may within 10 days of receipt of the said notice file with the Commission an appeal therefrom serving upon the company concerned and the appropriate chancery a copy of such appeal.

In such case the Commission shall forthwith hear and determine the said appeal and shall notify the appellant, the company concerned and the appropriate chancery of the decision thereon.

Provided always that in any case in which the Commission rejects an appeal in whole or in part but is satisfied that the appellant has acted in good faith in not previously vacating his office in accordance with Article I hereof, the Commission may so certify. Any such certificate shall preclude the institution of proceedings under Article IV (a) or (b) hereof in respect of any offenses committed by the appellant prior to the issue of such certificate.

any person who upon request fails to furnish such information within the prescribed time or furnishes false or incomplete information shall be guilty of the offense of giving or giving or false or incomplete evidence.

any person who upon request fails to furnish such information within the prescribed time or furnishes false or incomplete information shall be guilty of the offense of giving or giving or false or incomplete evidence.

### ARTICLE VI

any administrator, controller or liquidator who receives notice in accordance with Article V hereof shall within 14 days of such receipt vacate his said office and the company concerned shall thereupon forthwith report such vacation to the appropriate authority, provided always that such administrator, controller or liquidator may within 10 days of receipt of the said notice file with the Commission an appeal thereupon serving upon the company concerned and the appropriate authority a copy of such appeal.

In such case the Commission shall forthwith hear and determine the said appeal and shall notify the appellant, the company concerned and the appropriate authority of the decision thereon.

Provided always that in any case in which the Commission rejects an appeal in whole or in part but is satisfied that the appellant has acted in good faith in not previously vacating his office in accordance with Article V hereof, the Commission may so certify. Any such certificate shall preclude the institution of proceedings under Article IV (a) or (2) hereof in respect of any offences committed by the appellant prior to the issue of such certificate.

### ARTICLE VII

Without prejudice to the foregoing provisions of this Order it is hereby enacted that all administrators, controllers and liquidators of concerns mentioned in Article I (a) of General Order No. 35 of the Allied Military Government shall be subject in all respects to proceedings under that Order.

### ARTICLE VIII

Administrators and controllers disqualified under this Order shall be disqualified in accordance with the provisions of the Italian Government's Law 7 of 18 Jan 45 or a receiver may be appointed by the Allied Military Government.

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

ARTICLE IX

This Order shall come into effect in any Province or part thereof on the date of its first posting therein and shall continue in full force and effect until the conclusion of Allied Military Government or until the liquidation in the said Province of a decree enacted by the Italian Government for the purpose of the repatriation of such administrators, controllers and liquidators as are mentioned in this Order, whichever date shall first occur.

## GOVERNO MILITARE ALLEATO

## ORDINANZA GENERALE No 47

ESCLUSIONE DI AMMINISTRATORI E DI SINDACI DI IMPRESE PRIVATE

Data in necessita' che quanti parteciparono attivamente alla vita politica fascista o dimostrano, in ragione delle loro tendenze fasciste, di essere inadatti di occupare posti rappresentativi in imprese private, decano, mentre perora il Governo Militare Alleato, dalla carica di amministratori o sindaci e non siano nominati liquidatori di dette imprese,

Dato che il Governo Italiano non ha esitato a tal fine, anteriormente alla data della presente Ordinanza, alcuna norma di legge applicabile nel territorio soggetto alla sua amministrazione,

Io, WILLIAM WHEELER STONE, Contrammiraglio della Marina della Marina degli Stati Uniti, Ufficiale Capo degli Affari Civili, in nome e per conto del Comandante Supremo Alleato e Governatore Militare, ordino quanto segue :-

## Articolo I

Non possono ricoprire cariche di amministratori o di sindaci e non possono essere nominati liquidatori di societa' per azioni od a responsabilita' limitata con capitale superiore a cinque milioni di lire, ne' di societa' di mutua assicurazione con patrimonio sociale superiore ad un milione di lire :-

- 1) - coloro che hanno riportato condanne per i delitti previsti dal titolo primo del D.L.L. 27 Luglio 1944, No 159 o del D.L.L. 22 Aprile 1943, No 142, anche quando la condanna per tali ~~delitti~~ non comporti la interdizione dai pubblici uffici;
- 2) - coloro che sono stati assoggettati a confisca ai sensi dell'Art. 9 del citato D.L.L. 27 Luglio 1944, No 159;
- 3) - coloro che hanno riportato alcuna delle sanzioni previste dall'Art. 8 del detto D.L.L. 27 Luglio 1944, No 159, modificato dal successivo D.L.L. 4 Gennaio 1945, No 2;
- 4) - coloro che

- a) hanno rivestito una delle cariche previste dal Decreto del Presidente del Consiglio dei Ministri del 2 Febbraio 1945 pubblicato nella Gazzetta Ufficiale No 20 del 15 Febbraio 1945;

2149

...della presente Ordinanza, alcuna norma di legge applicabile nel territorio soggetto alla sua amministrazione.

Io, KILBY MARSHALL STONE, Contrammiraglio della Marina degli Stati Uniti, Ufficiale Capo degli Affari Civili, in nome e per conto del Comandante Supremo Alleato e Governatore Militare, ordino quanto segue :-

#### Articolo I

Non possono ricoprire cariche di amministratori o di sindaci e non possono essere nominati liquidatori di società per azioni od a responsabilità limitata con capitale superiore a cinque milioni di lire, né di società di mutua assicurazione con patrimonio sociale superiore ad un milione di lire :-

1) - coloro che hanno riportato condanne per i delitti previsti dal titolo primo del D.L. 27 luglio 1944, No 159 o del D.L. 22 aprile 1945, No 142, anche quando la condanna per tali ~~delitti~~ non comporti la interdizione dai pubblici uffici;

2) - coloro che sono stati assorbiti e confisca ed esent dall'Art. 3 del citato D.L. 27 luglio 1944, No 159;

3) - coloro che hanno riportato alcuna delle sanzioni previste dall'Art. 8 del detto D.L. 27 luglio 1944, No 159, modificato dal successivo D.L. 4 gennaio 1945, No 2;

4) - coloro che

- a) hanno rivestito una delle cariche previste dal Decreto del Presidente del Consiglio dei Ministri del 2 febbraio 1945 pubblicato nella Gazzetta Ufficiale No 20 del 15 febbraio 1945;
- b) sono stati membri del governo fascista successivamente al 3 gennaio 1925;
- c) militando nel partito fascista successivamente al 3 gennaio 1925, abbiano ricoperto la carica di deputato o di consigliere nazionale;
- d) siano stati dichiarati decaduti dalla carica di senatori ai sensi dell'ultimo comma dell'Art. 8 del citato D.L. 27 luglio 1944, No 159;
- e) siano stati nominati Ministri di Stato dal governo fascista;
- 5) - Coloro che siano stati privati, con giudizio definitivo, del diritto a pensione come previsto dall'Art. 22 del citato D.L. 27 luglio 1944, No 159.

*sulla scorta su non presente*

Gli amministratori, i sindaci o i liquidatori che siano in carica alla data di entrata in vigore della presente Ordinanza e che si trovino nelle condizioni previste nel capo precedente, godranno di diritto da detta carica.

## Articolo 2

Alle società diverse da quelle indicate dall'articolo precedente, ed alle imprese individuali, di cui qualcuno dei dirigenti o titolari si trovi nelle condizioni previste dall'articolo stesso, non possono essere affidati ap-  
*partiti di opere pubbliche o concessi pubblici servizi.*

## Articolo 3

A coloro che si trovano nelle condizioni previste al lo 4 dell'Art. 1 e' concesso di presentare ricorso, in base ai motivi indicati nel capo 1, ad una Commissione nominata secondo le disposizioni dell'Ordinanza Generale N. 35 del Governo Militare Alleato.

Se dopo l'esame di tale ricorso la Commissione stabilisce che l'appellante si e' distinto nella lotta contro i tedeschi, ovvero prima dell'inizio della pre-  
 sente guerra ha preso pubblicamente posizione ostile al fascismo ed ha cercato di appartenere al partito nazionale fascista, o che l'appellante si sia reso colpe-  
 vole solo di scarsa attivita' politica ed e' di provata capacita' tecnica ed am-  
 ministrativa ed ha mostrato un atteggiamento ostile ai tedeschi durante la loro occupazione, la Commissione puo' ~~ordinare~~ che la sanzione prevista dall'Art. 1 della presente Ordinanza cessi di essere applicata o che tale sanzione abbia ef-  
 fetto soltanto per un determinato periodo di tempo.

I dirigenti ed i titolari delle società ed imprese indicate nell'Art. 2, i quali si trovino nelle condizioni previste nell'Art. 1, No 4, possono chiedere il giudizio ai sensi del presente articolo, al fine di escludere o limitare le sanzioni stabilite nel medesimo Art. 2.

Ogni amministratore o sindaco delle società di cui all'Art 1 il quale, dopo la liberazione dal tedesco della città sede principale della rispettiva società, e prima dell'entrata in vigore della presente Ordinanza, sia stato ri-  
 mosso dalla carica per motivi di attivita' fascista o di insubordinazione o di collaborazione col governo repubblicano fascista ovvero coll'invasore tedesco, puo' presentare ricorso alla Commissione per essere reintegrato nella carica. A  
 seguito di tale ricorso, la Commissione ~~ordinera~~ ~~in base alle condizioni~~ ~~del presente articolo~~ ~~di~~ ~~potra'~~ ~~ordinare~~ quanto disposto nel secondo comma del presente articolo.

## Articolo 4

Gli amministratori, i sindaci, i liquidatori delle società indicate nell'Art. 1, No 4, ~~che si trovino nelle condizioni previste nell'Art. 1, No 4, della presente Ordinanza~~ ~~continueranno ad esercitare~~ ~~le loro funzioni~~ ~~secondo le disposizioni della presente Ordinanza~~ ~~se non~~ ~~sono~~ ~~stati~~ ~~esclusi~~ ~~o~~ ~~limitati~~ ~~dal~~ ~~presente~~ ~~articolo~~.

*Teneri presenti le disposizioni*

*Articolo 4*

Gli amministratori, i sindaci, i liquidatori delle società indicate nell'Art. 1, No 4, ~~che si trovino nelle condizioni previste nell'Art. 1, No 4, della presente Ordinanza~~ ~~continueranno ad esercitare~~ ~~le loro funzioni~~ ~~secondo le disposizioni della presente Ordinanza~~ ~~se non~~ ~~sono~~ ~~stati~~ ~~esclusi~~ ~~o~~ ~~limitati~~ ~~dal~~ ~~presente~~ ~~articolo~~.

del Governo Militare Alleato.

Se dopo l'essere di tale ricorso la Commissione stabilisce che l'appellante si è distinto nella lotta contro i tedeschi, ovvero prima dell'inizio della presente guerra ha preso pubblicamente posizione ostile al fascismo ed ha cercato di appartenere al partito nazionale fascista, o che l'appellante si sia reso colpevole solo di scarsa attività politica ed o di privata capacità tecnica ed amministrativa ed ha mostrato un atteggiamento ostile ai tedeschi durante la loro occupazione, la Commissione può ~~eventuale~~ che la sanzione prevista dall'Art. 1 della presente Ordinanza cessi di essere applicata o che tale sanzione abbia effetto soltanto per un determinato periodo di tempo.

I dirigenti ed i titolari delle società ed imprese indicate nell'Art. 2, i quali si trovino nelle condizioni previste nell'Art. 1, No 4, possono chiedere il rinvio al senai del presente articolo, al fine di escludere o limitare le sanzioni stabilite nel medesimo Art. 2.

Ogni amministratore o sindaco delle società di cui all'Art 1 il quale, dopo la liberazione dei tedeschi della città sede principale della rispettiva società e prima dell'entrata in vigore della presente Ordinanza, sia stato rimosso dalla carica per motivi di attività fascista o di inclinazioni fasciste o al collaborare col governo repubblicano fascista ovvero coll'Invasore tedesco, può presentare ricorso alla Commissione per essere reintegrato nella carica. A seguito di tale ricorso, la Commissione ~~potrà~~ ~~ordinare quanto disposto nel secondo comma del presente articolo~~ ~~potrà~~ ~~ordinare quanto disposto nel secondo comma del presente articolo~~.

*Articolo 1*

Gli amministratori, i sindaci, i liquidatori delle società indicate nell'Art. 1, i quali, trovandosi nelle condizioni ivi previste, continuano ad esercitare le loro funzioni, sono puniti con la reclusione fino ad un anno e con la multa fino a lire cento mila.

Se un sindaco di una delle società indicate nell'Art. 1 della presente Ordinanza è a conoscenza che un amministratore, altro sindaco o liquidatore della stessa società, continui nell'esercizio della carica qualunque decaduto ai sensi dell'Art. 1 della presente Ordinanza e non denuncia tale irregolarità al Presidente del Tribunale competente per territorio, egli è punito con l'arresto fino a sei mesi e con l'ammenda fino a lire cinquanta mila.

I dirigenti o titolari delle società o imprese indicate nell'Art. 2 che, trovandosi nelle condizioni previste nell'Art. 1, assumono appalti di lavori pubblici o concessioni di pubblici servizi in violazione delle disposizioni del citato Art. 2, sono puniti con la reclusione fino ad un anno e con la multa fino a lire cento mila.

Chi risponderà entro un termine prefisso al suddetto questionario affinché i risultati ne essi si trovino nelle condizioni previste dallo stesso articolo 1.

Chi mette il rispondere al detto questionario entro il termine prescritto o vi risponde dando informazioni.

~~La Commissione, nel caso di rifiuto o di omissione di rispondere al termine prefisso nell'Art. 1, che costituisce un termine prefisso, un'eventuale questione, se si trovano nelle condizioni previste dallo stesso articolo 1.~~

~~Chi mette il fare la richiesta di dichiarazione entro il termine prefisso o di dichiarazione, l'elenco o i ricorsi e' punito con le pene stabilite per la falsa testimonianza.~~

#### Articolo 6

La dichiarazione di decadenza fatta dalla Commissione ai sensi dell'Art. 5, come 2, e' notificata all'interessato, il quale, se ritiene che a torto e' stata dichiarata la sua decadenza, può presentare ricorso alla stessa Commissione, nel termine di dieci giorni dalla notifica annullata.

La Commissione, qualora non venga presentato alcun ricorso o questo sia respinto, comunicherà la dichiarazione di decadenza alla Cancelleria del Tribunale competente, salvo la denuncia all'autorità giudiziaria competente per l'attribuzione delle sanzioni previste dall'articolo 4.

#### Articolo 7

Indipendentemente dalle disposizioni della presente Ordinanza, tutti gli amministratori, i sindaci o i liquidatori delle imprese indicate nell'articolo 1 (c) dell'Ordinanza Generale No 35 del Governo Militare Alleato dovranno, ~~essere sottoposti~~ a tutti gli effetti, ~~il~~ <sup>che</sup> giudizio ai sensi della stessa Ordinanza Generale No 35.

#### Articolo 8

La presente Ordinanza entrerà in vigore in ogni provincia o parte di essa alla data in cui vi sarà per la prima volta affissa, e rimarrà in vigore fino al termine del Governo Militare Alleato o fino alla data in cui, ancor perdurante detto Governo, sarà reso esecutivo nelle dette provincie, un decreto del Governo Italiano destinato all'epurazione degli amministratori, sindaci e liquidatori di cui nella presente Ordinanza.



27  
 WHEREAS it is necessary that all persons who have participated actively in the political life of fascism or who have shown that by reason of fascist tendencies they are unworthy of holding high office in private industry should be suspended during the continuance of Allied Military Government from holding the office of administrator or controller or the appointment of liquidator in companies in private industry.

AND WHEREAS the Italian Government has not prior to the date hereof enacted legislation for this purpose within territory subject to the administration of the said government

I, KILERY WHEELER STONE, Rear Admiral, United States Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme Allied Commander and Military Governor, hereby order as follows.

#### ARTICLE I

The following persons are hereby disqualified from holding the office of administrator or controller and from the appointment of liquidator of stock or limited or mutual insurance companies

#### AMENDMENTS

#### ARTICLE I

for  
 1st and last paras to be read "disqualified from holding" and "disqualified" read "suspended".

- (2) Persons who have been subjected or are liable to confiscation in accordance with Article 9 of the said decree;
- (3) Persons who have been subjected or are liable to any of the sanctions set out in Article 9 of the said decree as amended by Article 2 of the Italian Government's D.L. No 2 of 31 January 1945;

#### (4) Persons who

- (a) Have held any of the positions set out in the decree of the President of the Council of Ministers dated 2 February 1945 published in Official Gazette No 20 of 15 February 1945; 146
- (b) have been members of the Fascist Government after 3 January 1925;

(c) have been members of the Fascist

The following persons are hereby disqualified from holding the office of administrator or controller and from the appointment of liquidator of stock or limited or mutual insurance companies

#### AMENDMENTS

#### ARTICLE I

for  
let and last para to be read "disqualified from holding" and "disqualified" read "suspended".

(2) Persons who have been subjected or are liable to confiscation in accordance with Article 9 of the said decree;

(3) Persons who have been subjected or are liable to any of the sanctions set out in Article 3 of the said decree as amended by Article 2 of the Italian Government's D.L. No 2 of 31 January 1945;

(4) Persons who

(a) Have held any of the positions set out in the decree of the President of the Council of Ministers dated 2 February 1945 published in Official Gazette No 20 of 15 February 1945;

(b) have been members of the Fascist Government after 3 January 1925;

(c) having been militant members of the fascist party subsequent to 3 January 1925 have held the position of deputy or national councillor;

(d) being senators have been removed from their office in accordance with the last paragraph of Article 8 of the said D.L. 159;

(e) have been appointed Ministers of State by the Fascist Government;

(5) Persons who have been deprived by final judgment of their right to a pension in accordance with Article 20 of the said D.L. 159.

Any person who at the effective date of this order is in office as an administrator, or controller or liquidator as aforesaid and is disqualified by this Article from such office or appointment shall be automatically removed from such office or appointment.

#### ARTICLE II

In the case of stock or limited or mutual insurance companies having a capital of not more than one million lire in which the office of administrator or controller or the appointment of liquidator is held by a person within any of the categories of Article I hereof and in the case of private concerns in which the manager or owner is a person in any such category it is hereby ordered that no contract for public works and no concession of public utilities may be granted to any such company or concern.

#### ARTICLE III

#### ARTICLE III

Add new paragraph.

It shall be open to any administrator or controller of any company referred to in Article I hereof who since liberation from the Germans of the town in which the head office of said company is situated and before the date of this Order has been removed from the said office on the ~~xxx~~ alleged ground that he has been guilty of fascist activity or fascist sympathies or of collaboration with the Fascist Republican Government or the German invader to make application to the Commission ~~within~~ for ~~his~~ reinstatement. Upon such application the Commission shall take into consideration the matters referred to in this Article and may make such order as is mentioned in the last preceding paragraph hereof.

I shall ~~thereafter~~ cease to have effect or may order that such penalties shall have effect only for a specified term.

#### ARTICLE IV

#### ARTICLE IV

Paras 1 and 2 for "disqualified" read "suspended".

If any person being the controller of any company

ARTICLE III

ARTICLE III

Add new paragraph.

2143  
It shall be open to any administrator or controller of any company referred to in Article I hereof who since liberation from the Germans of the town in which the head office of said company is situated and before the date of this Order has been removed from the said office on the ~~xxx~~ alleged ground that he has been guilty of fascist activity or fascist sympathies or of collaboration with the Fascist Republican Government or the German invader to make application to the Commission ~~xxxxxx~~ for ~~the~~ reinstatement. Upon such application the Commission shall take into consideration the matters referred to in this Article and may make such order as is mentioned in the last preceding paragraph hereof.

I and II hereof shall cease to have effect or any order that such penalties shall have effect only for a specified term.

ARTICLE IV

... the administrator controller or

ARTICLE IV

paras 1 and 2 for "disqualified" read "suspended."

If any person being the controller of any company mentioned in Article I hereof has knowledge that any administrator controller or liquidator of such company is continuing to exercise such function therein although disqualified under Article I hereof and fails to denounce such illegality to the President of the Tribunal of the district he shall be liable <sup>144</sup> to imprisonment for six months and a fine of fifty thousand lire.

If any company or concern mentioned in Article II hereof makes any contract for public works or receives any concession of public utilities in violation of the provisions of that article the managers or owners of such company or concern shall be liable to imprisonment for one year and a fine of one hundred thousand lire.

#### ARTICLE V

Within thirty days from the effective date of this order all companies referred to in Article I hereof shall make to the Chancellor of the appropriate Tribunal a report of the names of their administrators controllers or liquidators who have been removed from their office or appointment in accordance with Article I hereof.

At the expiry of the said thirty days all administrators controllers and liquidators who are not reported

#### ARTICLE V

Para 2 for "disqualified and disqualification" read "suspended and suspension".

a special questionnaire so as to show whether they are liable to disqualification under the said Article.

Any person who upon request fails to furnish such information within the prescribed time or furnishes false or incomplete information shall be liable to the penalties for the giving of false or incomplete evidence.

#### ARTICLE VI

Any person affected by an order of removal made by the Commission in accordance with Article V hereof shall be notified of such order and if he considers the same to be unjust he may appeal therefrom to the said Commission within ten days from receipt of notification hereof.

When no appeal has been received within the said period or when the appeal has been rejected the Commission shall forward the order of removal to the Chancellor of the appropriate Tribunal.

#### ARTICLE VII

Without reference to the foregoing provisions of this Order it is hereby enacted that all administrators and controllers of concerns mentioned in Article I (c) of General Order No. 55 of the Allied Military Government shall be subject in all respects to proceedings under

para 2 for "disqualified and disqualification" read "suspended and suspension".

a special questionnaire as to whether they are liable to disqualification under the said Article.

Any person who upon request fails to furnish such information within the prescribed time or furnishes false or incomplete information shall be liable to the penalties for the giving of false or incomplete evidence.

#### ARTICLE VI

Any person affected by an order of removal made by the Commission in accordance with Article V hereof shall be notified of such order and if he considers the same to be unjust he may appeal therefrom to the said Commission within ten days from receipt of notification thereof.

When no appeal has been received within the said period or when the appeal has been rejected the Commission shall forward the order of removal to the Chancellor of the appropriate Tribunal.

#### ARTICLE VII

Without reference to the foregoing provisions of this Order it is hereby enacted that all administrators and controllers of concerns mentioned in Article I (c) of General Order No. 38 of the Allied Military Government shall be subject in all respects to proceedings under that Order.

#### ARTICLE VIII

Administrators and controllers removed under this Order shall be replaced in accordance with the provisions of the Italian Government's D.L. 7 of 18 Jan 45 or a receiver may be appointed by the Allied Military Government.

#### ARTICLE IX

This Order shall come into effect in any province or part thereof on the date of its first posting therein and shall continue in full force and effect until the conclusion of Allied Military Government or until the implementation in the said province of a decree enacted by the Italian Government for the purpose of the epuration of such administrators, controllers and liquidators as are mentioned in this Order, whichever date shall first occur.

Hear Admiral,  
United States Naval Reserve,  
Chief Civil Affairs Officer.

Dated:

0 2 2 3