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

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10000/105/829

DEFASCISM, ORG ROUTINE, PROVISION OF PERSONNEL
NOV. 1944 - APR. 1945

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1. The problem raised by Sig. Bellinguer is one that affects the whole of the judiciary and cannot be solved except by the confinement of judicial officers to strictly judicial work or by a large increase in the number of judicial officers as a whole

2. It should be observed that the transfer of the work now done by the High Court to an appropriate section of the Court of assize would have the effects of cutting down the overheads of personnel without necessarily reducing the punishments awarded or the constitutional legality of the tribunal.
Moreover, although there are 36 'magistrati' & 21 'cancellieri' attached to the High Court, there is only one possible session of the Court which obviously produces delays.

3. At present many administrative functions are performed by judicial officials. This policy extends to every branch of the High Commissioner's department. See More use should be made of retired and administrative personnel, under arts 18 and 40 of DHH 159, to the exclusion of the judicial officers now employed.

4. The main problem is however to increase substantially the number of 'magistrati'. If this can be achieved it would avoid the necessity of employing 'avvocati' to do judicial work, even on a temporary basis. This would definitely be contrary to the time honoured practice of the Italian administration of justice

5. This Sub-Commission has consistently been pressing the Ministry of Justice to adopt some of the methods outlined below, in order to increase the existing number of judges. The battery of our suggestions has failed to open a breach in the ministerial resistance. It is thought that the time is ripe for the heavier guns of higher authority to take part in this unequal struggle.

6. The following proposals are therefore put forward for

4754

[illegible]
delays.

3. At present many administrative functions are performed by judicial officials. This policy extends to every branch of the High Commissioner's department. In Moro we should be made of retired and administrative personnel under art 18 and 40 of DAA 159, to the exclusion of the judicial officers now employed.

4. The main problem is however to increase substantially the number of "magistrati". If this can be achieved it would avoid the necessity of employing "avvocati" to do judicial work, even on a temporary basis. This would definitely be contrary to the time honoured practice of the Italian administration of justice.

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6. The following proposals are therefore put forward for consideration.

The Minister of Grace & Justice should be requested to take the following steps.

a). maintain for another five years all reliable officials attaining the age limit of 70 (this has already been done for the "Avvocatura dello Stato)

b). promote through "scrutinio" (merit) all judicial officials having displayed conspicuous efficiency in both A.M.G. or AC areas.

c). appoint as many "pretori onorari" or "vice pretori" to the post of Pretore as can be done under present conditions

d). confirm or facilitate the transfer of "pretori" to the Bench wherever this transfer has shown good results & when it can be achieved without interfering with the normal activities of the lower Courts.

Minutes

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4.

Legal

I am to say that the JCS does not find from the paper either practical or helpful. He notes that the matter may receive further consideration and some practical solution found of what is an urgent ~~problem~~ and important problem.

CAS

1 DEC 1944

[illegible]
Secretary

4753

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Reference Minute 1, we have the following comments:

1. We can in no circumstances give our approval to a people's court.

2. We deprecate any suggestion of further depleting the already exiguous ranks of the Italian judiciary. It is at the moment impossible to fill satisfactorily, if indeed at all, the requirements of Rome, Bari, Lucera, Sicily and Sardegna, apart from the problem of the yet uncharted North.

3. We disapprove any suggestion of appointing "avvocati" to judicial appointments, unless such "avvocati" are prepared to pass the necessary examination and follow a permanent judicial career. It has always been and still is the policy of the Minister of Justice, with which we concur, to maintain a complete separation between the judiciary and the bar.

4. The solution to the problem lies rather, in our opinion, along the following lines:

a. In place of the existing judges, new judges should be appointed who are prepared to work full time at their task, rather than work short hours so as to prolong the period of their employment and retain, accordingly, the additional emoluments received therefor.

b. Judges of competent and and ~~unstained~~ unblemished judicial character, should be appointed who can apply to their task a speed of work and reliability of judgment which will hasten the conclusion of the proceedings. Reports which are reaching this sub-commission indicate that the judgements of the present judges are such as to raise the gravest doubts as to their qualifications for the work they are undertaking.

W. S. MAHRZIG,
Colonel,
Deputy Chief Legal Advisor.

VP.

All of this indicates that the problem is even bigger than indicated. If in addition to the extra judges they also have to replace some of the existing ones.

Can the problem be met only by appointing permanent full time additional judges. Introducing is only a temporary measure most of it should come to an end at any rate within 18 years. What then will be done with all the additional judges. Must not temporary needs be met by temporary measures. One can appreciate the desire to keep the judiciary separate from the bar but in England judicial appointees are arbitrators [illegible] assistant

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prepared to work full time at their task, rather than work short hours so as to prolong the period of their employment and retain, accordingly, the additional emoluments received therefor.

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W. E. BURNETT,
Colonel,
Deputy Chief Legal Advisor.

VP.

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Can the problem be met only by appointing permanent full time additional judges. Obviously is only a temporary measure. Most of it should come to an end at any rate within 18 months when there will be some with all the additional judges. Must not temporary needs be met by temporary measures. One can appreciate the desire to keep the judiciary separate from the bar but in England members of the bar do also act in judicial capacities as magistrates, recorders, special commissioners, temporary — & assistant county court judges. Temporary appointments with the other [illegible]

To distinguish these temporary appointments from the regular judiciary [illegible] a new title is needed, and such persons should not with full judicial powers may be entitled to preliminary but be entitled only to conduct investigatory proceedings. This would also avoid the difficulty as to remuneration. They might even be appointed merely as a higher division of the bar who could be called upon to conduct preliminary inquiries and administrative functions and receive the fees now called within the bar. The analogy is of course all wrong. There will I think have to be some representation the question is how

Minutes

CA White

We really entered this in our discussion today, dept. was evidently absent that day — para 3 of 2 to [illegible]

1 DEC 1944

29 Dec

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Legal

1.

1. The Joint Committee for Disarmament [illegible]
[illegible] the investigation [illegible] is [illegible]
[illegible] - that the investigation [illegible] the [illegible] as the
military leaders at home do when they consult [illegible]
they do the [illegible] and then nothing needs to [illegible]
It has the suggestion that there be independent prosecutors
[illegible] and that [illegible] be [illegible]
large number of witnesses, and each of them at the final [illegible]
be nothing [illegible] and the [illegible] are getting [illegible]
they [illegible] [illegible] they [illegible]

The FHC suggest that [illegible]
a/ Further [illegible] - which he believes is [illegible]
[illegible] - and we have [illegible] that [illegible] the
[illegible] further [illegible] [illegible] the
[illegible] of knowledge [illegible]

b/ Instances of [illegible] that [illegible] suggested
[illegible] that they are not mentioned — the
[illegible] He suggests [illegible] some of his own staff and
[illegible] [illegible] of further evidence should be
given [illegible] process to conduct the investigation
stage and [illegible] or [illegible] for trial
But [illegible] is not recommended and possibly [illegible]
a "guide"

3 It is agreed that the problem is both important and
urgent [illegible] way of expediting the hearing of these cases
must be found.

a/ [illegible]
b/ [illegible]
[illegible]

4 Will you please [illegible] in the [illegible]
recommendation

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[illegible]

The AFHQ suggested that we may also consider

a) Further Court — [illegible] to AFHQ — [illegible] [illegible] Italian [illegible] [illegible] [illegible] [illegible]

b) Transfer of investigatory staff. He suggested [illegible] [illegible] but they are not mentioned in the letter. He suggests the case of the [illegible] "Italian [illegible] Government of Liberation Committee" should be given [illegible] powers to conduct the investigation stage and [illegible] to remand for trial. This seems to be experienced [illegible] a "guide".

3. It is agreed that the problem is both [illegible] and urgent [illegible] way of expediting the hearing of these cases must be found.

a) [illegible]

b) [illegible]

[illegible]

4. [illegible] recommendations.

4752

Minutes

CAS

28 NOV. 1944 The proposals are to be held in abeyance [illegible] pending the appointment of a new Minister of Justice, on the understanding that the present Minister of Justice [illegible] the proposals except that [illegible] should be handled very carefully from the [illegible] and in consultation with the responsible Italian officials. [illegible] hastily [illegible] be done not appears feasible because of the transport and accommodation and housing difficulties involved. It is felt that all concerned who have at a distance will be deterred. The military proposal should be [illegible] against the standards of compensation applied to Italian civil courts of similar grade in doing comparable work. [illegible]

Seen by the Lord President and the Cabinet

- 5 DEC. 1944

c/. organize a general "concorso" throughout liberated Italy in order to recruit junior officials for the Bench & Province. This "concorso" should enable young University graduates & "avvocati" to qualify for the posts of "Uditori" or every "aggiunto giudiziario" or "acting" "sostituti".
Existing salaries & allowances for ranks XI to VIII, including the last 70% increase, start at 53000 to rise to 40000 lits per annum, a livable salary in the provinces.

7. Finally, Sig. Berlenguer's reference to the "necessity of insuring immediate justice for the Northern provinces" is not new. This Sub Commission has already requested the P.G.M to prepare and the War Minister to enact a decree establishing Italian Military Courts having jurisdiction over all Northern Italy, under both the G.P.M.G & D.L.L 159.
These courts would be in function as soon as the Northern provinces are liberated.

[illegible]
DCA.

3 DEC 1944

VP

The suggestion at paras 6 and 7 are both useful and practicable. There is at least a suspicion that the Italians [illegible] is not entirely dissimilar from [illegible] from a feeling that the administration of DLL 159 may be [illegible] down.

[illegible]

7.

23 DEC 1944

4751

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the P.G.M to prepare and the War Minister to enact a decree establishing Italian Military Courts having jurisdiction over all Northern Italy, under both the G.P.M.G & D.L.L 159.
These courts would be in function as soon as the Northern provinces are liberated.

Yours sincerely
D.C.A.

3 DEC 1944

6.

VP

The suggestions at paras 6 and 7 are both useful and practical. There is at least a surprising feature in relation to more is not entirely divorced from a fond hope that the administration of D.L.L 159 may break down.

7.

20 DEC 1944

Legal

Would you please make a short note in lieu of the draft considered at the meeting yesterday

8.

26 DEC 1944

C.A.

Copy of our letter to the Minister of Justice is attached. It sets out the decisions taken at yesterday's meeting.
(see 2A)

G.G. Hampson
Legal Adviser

4751

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legal

9.

The copy letter to the Sec. of State which was sent to you yesterday suggests another method of easing the situation which is not included in 2A namely that experienced advocates may be authorised to act in Ecclesiastical matters such as Bishops in England are appointed Commissioners of Assize or act temporarily as County Court judges.

These proposals should be considered as well as those in 2A. Can you say what progress has been made by the State in the consideration of 2A. Is it too early to press for a reply.

[illegible]
[illegible]

C.A.S.
11 JAN 1945

10.

C.A.S.

Minister states

a). The present Italian organisation of judiciary forbids to employ advocates or the bar in any capacity whatsoever. This is a fundamental principle of all continental judicial system

b). Barristers can possibly act as Commissioners as in the offices of the High Commissioner. However these appointments are not the responsibility of the Minister of Justice, but no doubt he will welcome them if thought this medium judicial officials could be recruited. Full reply is forthcoming.

G. S. Hampson
Ital Legal

11 Jan 45

11.

legal

Noted. Thank you. Our notes do not suggest that advocates should be taken on the bench, but only in connection with Commissions. It may be that such appointments will not be the responsibility of the Min., but they are certainly to be under the responsibility of the Min. and we should therefore [illegible] this issue in the proposals and we should therefore [illegible] [illegible] and possibly also, if that is the fact, that [illegible] the release of

[illegible]

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

CAS.

Minister states

a). The present Italian organization of judiciary forbids to employ advocates on the bench in any capacity whatsoever. This is a fundamental principle of all continental judicial system

b). Barristers can possibly sit as equivalent Commissions as in the offices of the High Commissioner. However these appointments are not the responsibility of the Minister of Justice, but no doubt he will welcome them if thought this maximum judicial officials will be released. Full reply is forthcoming

G. G. Hamilton
Act Legal Adviser

11 Jan 45

Legal

Thank you. We will bear in mind that Minister should be asked on the Bench, but only in exceptional circumstances. It may be that such appointments will not be with operation. The responsibility of the Min. for they are all likely to be made without consulting the Minister in the profession and he should therefore be informed of the proposals and specially asked, if that is the fact, that he favours them. Further there are subject land to the relevant of some judges and in that he should be interested.

11 CT 45

Minutes

17 JAN 1945

12

CAS / SecCSA the Minister's answer. It is understood that the examination will make a few hundred junior magistrates available. (see Para 4)

G. G. Hamilton
Act Legal Adviser

(13)

Legal 3 a Ltd

Please continue to press for the early enactment of the proposed decree affecting judicial personnel to secure that there can be for the early of competitive examinations.

Noted and taken
G. G. Ham / Legal
15/1/45

14 JAN 45

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

TRANSLATION NO. 662

HIGH COMMISSION FOR SANCTIONS AGAINST FASCISM

ROME, 6 April 1945

Ref. 403

Dear General,

In my opinion the question whether lawyers and professors should take the place of magistrates in the commissions of epuration can be solved by a new rule stating simply:

"Regular professors (di ruolo) or professors teaching juridical subjects in the Universities, in the high schools, or elsewhere, lawyers registered in the "albo speciale" referred to in art 34 of RDL 1578 of 27 Nov 1933 converted into law 36 of 22 Jan 1934, and retired State administrative officials of a grade not lower than the fifth, may be called to preside in the epuration Commissions of first instance, in the place of the magistrates contemplated in art 18 of DLL 159 of 27 July 1944."

So much for the commissions dealing with epuration which are the most numerous.

I don't think it is possible to do without at least one magistrate in the commissions for the application of art 8, i.e. suspension of the right to vote and political rights.

The possibility of substituting the magistrates in the commissions for the forfeiture of profits derived from the regime could be studied. As this law is going to be completely amended I shall refrain from dealing with it for the present. It should be pointed out that proceedings of this kind very often concern juridical problems, for the solution of which the presence of a magistrate may often be necessary. In any case I should prefer to come back on this argument on the first occasion I have the pleasure of meeting.

My sincere regards

4750

TO: GENERAL G.R. UPJOHN
Administrative Section
ALLIED COMMISSION
R O M E

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

-8 APR 1945

Roma, 6 aprile 1945

Caro Generale,

Io penso che la questione relativa all'utilizzazione di avvocati e professori che sostituiscano i magistrati nelle commissioni di epurazione possa essere risoluta con una nuova norma, che dica semplicemente:

" I professori di ruolo o incaricati di discipline
" giuridiche nelle Regie Università o negli Istitu-
" ti superiori di istruzione, i liberi docenti di
" tutte discipline, gli avvocati iscritti nell'albo
" speciale di cui all'art. 33 del R. decreto legge
" 27 novembre 1933, n. 1578, convertito nella legge
" 22 gennaio 1934, n. 36, ed i funzionari ammini-
" strativi a riposo delle amministrazioni dello
" Stato, purchè di grado non inferiore al quinto,
" possono essere chiamati a far parte, con funzioni
" di presidenti, delle Commissioni di epurazione di
" primo grado, in luogo dei magistrati previsti
" dall'art. 18 del decreto legislativo luogotenen-
" ziale 27 luglio 1944, n. 159. "

Questa per le commissioni relative all'epurazione che sono le più numerose.

./.

4749

Al Generale G.R. CRAUN
Administrative Section - Allied Commission
= R O M A =

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Non credo che sia possibile non avere almeno un magistrato nelle commissioni per l'applicazione dell'art. 9 e cioè per la sospensione del diritto elettorale e dei diritti politici.

Si potrebbe esaminare la questione della sostituzione dei magistrati nelle commissioni per l'avocazione dei profitti di regime. Siccome tutta questa legge sta per essere completamente modificata mi riservo di trattarne allora. Non nascondo, per altro, che si tratta, in quei casi, di problemi di natura assai spesso giuridica, e risolvere i quali può essere necessaria la presenza di un magistrato. Ad ogni modo mi riservo di ritornare sull'argomento al primo incontro, che avrò il piacere di avere con Lei.

Distinti saluti.

Pappalardo

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

DF/4.12/CA

4A

TRANSLATION NO. [illegible]

MIXED COMMISSION FOR SANCTIONS AGAINST FASCISM.

Rome, 2 Mar 45.

TO: Col. Walte,
CA Section,
AC Rome.

Dear Colonel,

As I had promised you, I have met with Minister TUPINI during the last few days in order to find a way of reducing the number of magistrates who are to take part in the Commissions for Sanction.

Minister TUPINI, to whom I put forward the practical considerations which you pointed out to me, agreed with the solution of replacing some of the magistrates with persons who can be fully relied on for impartial judgment.

Very shortly I shall prepare a draft decree and I should like to show your opinion of it.

Yours respectfully,

(Sgd.) ????

Translators Pool,
Civil Affairs Section,
PB

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

Alta Commissione
per la sanzione delle violazioni
fascismo
segretario generale

Roma, 8 marzo 1945

-9 MAR 1945

Caro Colonnello,

come le avevo promesso, mi sono intrattenuto in questi giorni con il Ministro Tupini per cercare come ridurre il numero dei magistrati che devono partecipare alle commissioni per l'epurazione.

Il Ministro Tupini, a cui ho prospettato le considerazioni pratiche che Ella mi aveva esposte, ha finito con l'aderire alla soluzione di sostituire parte dei magistrati con persone che diano perfetta garanzia di equità di giudizio.

Preparerò nei prossimi giorni uno schema di provvedimento sul quale gradirò, poi, sentirla.

Distinti saluti

Pietro

Al Lt Col. S.H. WHITE
CA Section
Commissione Alleata

= R O M A =

4747

1095

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

Rome, 12 January 1945.

TO: ALLIED COMMISSION
Legal Sub-Commission

R O M E

SUBJECT : Scarcity of judicial personnel.

The following is stated with reference to your letter CJ/4001/2/2 of the 20 december 1944 concerning the measures which should be adopted in regard to the increasing scarcity of judicial personnel:

Para a) and b). The Ministry, gradually after each restoration of the civil administration to the Italian Government, has always adopted and will always adopt all the measures necessary for the purpose of restoring to full number the tables of the personnel serving with judicial offices, within the limits set up by the present legislation.

It must, however, be noted that this work of reorganization is hampered both by the epuration process, still in progress, and by the fact that a number of magistrates have been suspended or dismissed by the Allied Military Authorities.

Nevertheless, with the purpose to obviate in the best possible way the inconveniences deriving from scarcity of personnel, retired magistrates are being recalled in active service. Furthermore a legislative provision has been prepared and will shortly/ from the present judicial organic law (ordinamento giudiziario), shall authorize the Ministry to attach to those offices where the scarcity of personnel is more severe magistrates stranded away from their seats or in any way available, in substitution of those magistrates who, even though holding their original office are in fact not performing their duties .

The application of this provision will bring about a probable satisfactory solution of the problem set out under para b) of your letter. In this regard it must be also considered that the substitution of administrative officials attached to epuration commissions is not deemed satisfactory as the development already advanced of the relative work would not allow without prejudice a probable change of trend of the decisions.

In any event it is also advisable to add that the substitution of magistrates serving with epuration commissions or with the High Commissariat, in pursuance to specific provisions of law, involves a problem which exceeds the strictly administrative field

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4746

1098

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as it is connected with the political aspect of policy on epuration.

Para c). It is already under examination a legislative provision which will permit to resume competitive examination for promotions and for recruiting of new candidates as magistrates.

The enactment of such a provision is necessary to derogate from the rules actually in force, as it will modify the present recruiting system and reserve a certain number of seats to young people and magistrates who are in territories still occupied by the enemy.

Para d). Still of a more delicate character is the problem concerning the appointment of lawyers as magistrates. This is a question which shall be considered at the time when the amendment of the judicial organic law (ordinamento giudiziario) will be prepared which will be the duty of the newly appointed Commission for the reform of codes.

Para e). Our organic rules establish the age of seventy years as the maximum limit for active service and therefore it does not seem advisable to increase such limit by a provision of general character.

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
28 December 1944.

AG/4039/1.

SUBJECT : Shortage of judicial personnel.

TO : H.E., the Minister of Pardon and Justice.

1. Your Excellency will no doubt recollect that this question has been one of the matters which has been repeatedly discussed with yourself and the services of the Ministry. To date however no solution has been proposed to a problem which is daily becoming more acute considering the growing wave of criminality and the increasing shortage of officials all over Italy.

2. It is the opinion of this sub-commission that the only remedies to this most unsatisfactory situation lie in the following steps being taken at an early date,

a. Immediate increase of personnel of the Procure and especially of the offices of the "Giudici Istruttori."
b. Replacement of judicial officials now components of the ministerial epuration commissions and the High Commissioner's Offices by members of ordinary administration (Art. 18 and 40 of DLL 159).
c. "Concorsi" for posts of "Uditori Giudiziari" and superior grades to be held forthwith.
d. Modifying the existing "ordinamento giudiziario" in order to allow "avvocati" and "procuratori" to transfer to the judiciary with or without further examination.
e. Raising the age limit to 75 years.

3. As it is the intention of the Vice President, Civil Affairs Section, Brig. Upjohn, to urge that this matter be taken up with the Presidency of the Council unless some definite results are achieved along the lines set out in the preceding paragraph, would Your Excellency give this matter your urgent attention.

4. An early answer to the specific suggestions contained in this letter would be appreciated.

G. G. H

W. E. BURNS,
Colonel,
Deputy Chief Legal Advisor.

Copy to: AG/4039/1.

4744

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

HIGH COMMISSARIAT FOR THE SANCTIONS AGAINST FASCISM.

High Commissariat Aggiunto for the punishment of crimes.

14th of November, 1944

Eliot
What are yr recommendations
Spring

8 NOV 1944

TO : GENERAL OFFICER
ALLIED COMMISSION
R O M E

Your Ex. asked for information on the work of the Deputy High Commissariat for the punishment of fascist crimes and also regarding the delay in investigations and proceedings.

As you know, the High Commissariat has charge of investigations regarding proceedings which may be submitted to he High Court of Justice (Ministers and persons of very high rank who are responsible for the offence contemplated by art.2 of the law 27/7/1944, and a few other exceptionally serious cases). The army procurators and the procurators of the kingdom have charge of all the other cases which constitute the great majority.

The High Commissariat, although a very limited number of investigating judges (ten) were provided, has no delayed proceedings; has examined the situation of approx. 2360 accused, and made investigations for 216 proceedings, 887 of which have been deferred to the military and ordinary judicial authorities.

Only a few of the investigations made directly by the High Commissariat were found to be cases for the ordinary or military authorities.

The High Court of Justice has already held two important proceedings ; several others will soon begin.

It is to be pointed out however that nearly all those guilty of crimes of which the High Court of Justice has charge, have gone north.

In any case, the work regarding the punishment of fascist crimes is proceeding normally as far as the High Commissariat and the High Court of Justice are concerned.

On the other hand a serious problem consists in the delay in the proceedings and investigations carried out by the procurators of the kingdom, the investigating judges of the Tribunals and the Military Tribunals which have throughout liberated Italy thousand of incomplete proceedings, some since several months.

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As you know, the High Commissariat has charge of investigations regarding proceedings which may be submitted to he High Court of Justice (Ministers and persons of very high rank who are responsible for the offence contemplated by art.2 of the law 27/7/1944, and a few other exceptionally serious cases). The army procurators and the procurators of the kingdom have charge of all the other cases which constitute the great majority.

The High Commissariat, although a very limited number of investigating judges (ten) were provided, has no delayed proceedings; has examined the situation of approx. 2860 accused, and made investigations for 216 proceedings, 887 of which have been deferred to the military and ordinary judicial authorities.

Only a few of the investigations made directly by the High Commissariat were found to be cases for the ordinary or military authorities.

The High Court of Justice has already held two important proceedings ; several others will soon begin.

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In any case, the work regarding the punishment of fascist crimes is proceeding normally as far as the High Commissariat and the High Court of Justice are concerned.

On the other hand a serious problem consists in the delay in the proceedings and investigations carried out by the procurators of the kingdom, the investigating judges of the Tribunals and the Military Tribunals which have throughout liberated Italy thousand of incomplete proceedings, some since several months. The jails are becoming crowded, the press and public are protesting, and the High Commissariat has on various occasions issued in vain circulars to accellerate the investigations and proceedings.

The inactivity of the magistrature is partly due to the scarcity of personnel.

Ever since the first of this month there has been a press campaign against this. I have included several newspapers which discuss this problem and if more articles appear I will send them you directly.

47.43

I think it is important that the measures which the Ministry of Justice could adopt be specified in order to complet the staff layout of the magistrature; similar measures should be taken for the Military Tribunals.

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I include also an interview of mine which was published lately in the "Tempo".

You may be interested particularly in the last part in which is mentioned the law soon to be presented by Count Sforza with whom I have been studying the problem for some time.

Here is what it is about. An additional article is proposed by which the High Commissariat would be permited to delegate the magistrates of his office and even capable penal lawyers of fearless conduct. When the investigations are complete they could acquit the accused immediately or submit to the Court of Assises of the Military or ordinary Tribunals.

This would remedy the shortage of personnel in the judicial organs, accelerate the investigations and avoid the formulation of popular tribunals in the provinces recently liberated or soon to be liberated, which would not always guarantee justice.

We think that it would be preferable to adopt a derogation from the normal regulations in the investigations (which, in any case, will be controlled by us when entrusted to lawyers) rather than having incompetent and passionate persons to judge as would be the case with the popular tribunals.

The problem of insuring immediate justice for the northern provinces is extremely important. It would be a grave danger to public order, to the prestige of a democratic government and perhaps even displeasing to the Allies if we were not capable of preparing at once the means of rapidly carrying out justice in the Regions where it will be most necessary and urgent. And this means can only be had by the Ministries of Justice and War taking immediate measures to increase the number of ordinary and military magistrates, and by a small but most useful amendment to the law which we prepared.

Meanwhile we shall urge the investigations in progress. If possible, certain accusations of which the Court of Assises originally had charge, even in some cases may, after careful examinations of the situation and if the matter is found to constitute a crime of small importance, be deferred to the Tribunals.

You also mentioned the difference between the system adopted in Italy for the punishment of fascist crimes and that adopted in France and other nations. I outlined the reasons for this difference in an article for the " Associated Press" but I do not know if and when it will be published. I include a summary of this article.

Yours respectfully,

Mario Berlinguer

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Mario Bedinger

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ALTO COMMISSARIATO PER LE SANZIONI CONTRO IL FASCISMO

ALTO COMMISSARIATO AGGIUNTO PER LA PUNIZIONE DEI DELITTI

Prot. N.
Allegati
Risposta al foglio N.
del

Roma, 14 Novembre 1944

OGGETTO:

Al SIG. GENERALE UPJHON

COMMISSIONE ALLEATA

ROMA

~~Poiché~~ La S.V. mi ha espresso cortesemente il desiderio di essere informata sulla attività dell'Alto Commissariato aggiunto per la punizione dei delitti fascisti e sul ritardo nelle istruttorie e nei dibattimenti.

Come la S.V. sa, l'Alto Commissariato ha competenza per la istruttoria dei procedimenti che possono essere deferiti al giudizio dell'Alta Corte di giustizia (ministri e altissimi gerarchi responsabili del reato previsto dall'art.2 della legge 27.7.1944, o pochi altri casi di eccezionale gravità). Per tutti gli altri procedimenti, che costituiscono la grandissima maggioranza, sono competenti i procuratori del regno e i procuratori militari.

Per quanto riguarda l'Alto Commissariato esso, sebbene abbia avuto assegnato un numero limitatissimo di giudici istruttori (dieci), non ha processi arretrati: ha esaminato la posizione di circa 2860 imputati, proceduto all'istruttoria per 216 processi e ne ha trasmesso per competenza all'autorità giudiziaria ordinaria o militare 667.

Alcune soltanto delle istruttorie direttamente fatte dall'Alto Commissariato risultarono poi di competenza dell'autorità ordinaria o militare.

L'Alta Corte di giustizia ha già giudicato su due importan=

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E' però da rilevare che quasi tutti i colpevoli dei reati di competenza dell'Alta Corte di giustizia si sono rifugiati al Nord.

Ad ogni modo, da quanto ho esposto, risulta che l'opera di punizione dei delitti fascisti, per quanto riguarda l'Alto Commissariato e l'Alta Corte di giustizia, procede normalmente.

Il problema grave consiste invece del ritardo delle istruttorie e dei giudizi presso i procuratori del regno, i giudici istruttori dei Tribunali e i Tribunali militari che hanno in corso, nell'Italia già liberata, migliaia di processi talvolta da mesi: le carceri

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si affollano, la stampa e l'opinione pubblica protestano e questo Alto Commissariato ha inutilmente, e più volte, diramato circolari per sollecitare le istruttorie e i dibattimenti.

La inerzia della magistratura è in parte giustificata dalla scarsità del personale.

Ciò ha formato oggetto di una campagna di stampa dal primo corrente ad oggi: le unisco alcuni giornali che trattano il problema e se ancora vi sarà qualche articolo mi farò premura di mandarglielo.

Ciò che mi pare importante è che vengono precisati i provvedimenti che si potrebbero adottare dal Ministero della Giustizia per completare i quadri della magistratura; a ciò dovrebbero aggiungersi provvedimenti analoghi per i Tribunali militari.

Le unisco pure una mia intervista pubblicata nei giorni scorsi sul "Tempo".

Potrà interessarle specialmente l'ultima parte: in essa si accenna ad un emendamento della legge che presenterà prossimamente il conte Sforza, il quale aveva da molto tempo con me preso in esame il problema.

Posso dirle di che si tratta; si propone un articolo aggiuntivo col quale viene consentito all'Alto Commissariato di delegare per le istruttorie di tutti i processi per delitti fascisti (e non soltanto per quelle di competenza dell'Alta Corte) i magistrati del suo ufficio od anche valenti avvocati penalisti di condotta intemerata; chiusa l'istruttoria essi potranno senz'altro prosciogliere gli imputati o deferirli al giudizio delle Corti d'assise, dei Tribunali ordinari e di quelli militari.

Ciò varrà a rimediare alla insufficienza di personale degli organi giudiziari, renderà più celeri le istruttorie ed eviterà che si ricorra, specialmente nelle provincie recentemente liberate o che saranno liberate in seguito, a creare dei tribunali popolari i quali non possono offrire sempre sicure garanzie di giustizia.

Ci è sembrato preferibile che una deroga alle norme ordinarie sia adottata nelle istruttorie (che, del resto, saranno controllate da noi quando verranno affidate ad avvocati) anzichè nel giudizio di persone incompetenti e appassionate come quelle che comporrebbero i tribunali popolari.

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Il problema di assicurare al Nord una giustizia pronta costituisce veramente un incubo; sarebbe gravissimo per l'ordine pubblico, per il prestigio di un governo democratico e forse anche spiacevole per gli Alleati, che non fossimo in grado di preparare subito gli strumenti per questa rapida opera di giustizia nelle zone in cui sarà più necessaria ed urgente. E gli strumenti non possono essere che immediati provvedimenti del ministero della giustizia e della guerra per accrescere il numero dei magistrati ordinari e militari, e la leggera ma utilissima modificazione della legge da noi preparata.

Intanto si insisterà perchè le istruttorie in corso vengano affrettate, e se possibile, certe imputazioni di originaria competenza delle Corti d'assise potranno anche, in qualche caso e con esame obiettivo della posizione, dichiarate invece, qualora risulti che i

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fatti costituiscono reato più un lieve, rinviate al giudizio dei Tribunali.

La S.V. mi accennò anche al problema della differenza fra il sistema di punizione dei delitti fascisti adottato in Italia e quello adottato in Francia o in altre nazioni. Le ragioni di questa differenza erano state da me riassunte in un articolo per la "Associated Press" che non so se e quando verrà pubblicato, e di cui Le unisco la minuta.

Con distinti ossequi.

Mario Berenguer

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FROM "IL TEMPO"

"CINDERELLA"
(or else about justice)

"Have the judges given ~~her~~ ~~that~~ she needed? we asked investigating judge Ricciardi.

"They have put eight at my disposition" replied the magistrate. "But, he added, now they are threatening to take them away from me little by little. It is a case of judges belonging to civil sections who should return to their habitual activities.

This little reflection gives a small idea of the vicious circle in which justice is pushed around. The personnel is moved from the civil to the penal, from the ordinary penal, so to speak, to the political proceedings. Conclusion: the "big drum" announced the celebration of a few proceedings by direct denouncement in which the accused, who did not make their appearance, evidently did not tire the investigators' brains; but, on the whole, the political proceedings, when they are not sleeping they are dozing; as to the civil cases, we had better not speak of them. There is nothing to prevent a creditor. In the ten days prescribed, he must hurry and deposit documents in the chancelry, forking out a few bank notes. Then he will hear nothing said for ten months. If he has another eighteen lire to throw away, he may request the President of the Tribunal to urge the discussion of the dispute. The President will put the request together with the others. Thus any dishonest contractor, if he doesn't succeed in subduing his creditor he defies him saying: "Well, if you don't like it like that, put a case against me".

We have often denounced in these columns the gravity of this situation which may have bitter surprises in store. Now the "Italia Libera" has taken it up. In an anonymous article whose author shows the wisdom of a political authority and the experience of a person deeply interested in justice, the organ of the Action Party denounces the present tragic situation and indicates two causes; the scarcity of judges and chancelry officials, on one hand; and on the other hand a separation between the Magistrature and the public feelings, which is a fundamental essential for the administration of justice.

The remedies in view to overcome the deficiency of personnel are so simple that one may easily wonder, with alarm, why they have not yet been put into effect: call to service the judicial auditors who have already passed the examination; make temporary use of the magistrates who, although they have reached the age limit, are still capable of useful service, employ expert lawyers who have a fearless conduct; hold another competitive examination for judges and chancellors to which many representatives of that miserable class of intelligent persons, which is the one most suffering and abandoned to-day, would present themselves. Needless to say, the assistant to justice should be granted a higher wage, at least to bring it somewhat nearer to the income of an ordinary porter.

The other side of the problem is less easily solved: it is a matter of sensitiveness; and this kind of affairs cannot be defined by hammering out decrees.

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"The magistrature", writes Iudex in the "Italia Libera", "has become a separate caste, uninfluenced by the Country's free tendencies, incapable of adhering or listening to it." Unfortunately this description is exact, at least in many cases. Until yesterday, the magistrature, whenever it did not collide with the Federation in normal administration and when it was in accord with the keeper of the seals in the most serious affairs, acquired the right to appear to the people like an angry god to whom one had every duty but could not boast of a single right.

Such an outlook has not disappeared, especially in the younger generation. The latter, on seeing the press and citizens take an interest in judicial problems, was almost scandalized. The opinion was that public interest violated this impure privilege of the last twenty years, profaned the dark holy misteriam of Temi. Youth evidently confused the high dignity of the function with the few men concerned, an easy error. Justice, a constant desire of humanity, is sublime, but my neighbour cannot presume that he is the one sure guardian of truth merely because he is a part of a company of colleagues called a "Tribuna".

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FROM THE "UNITA'"

FASCIST CRIMES STILL UNPUNISHED

The "Italia Libera" of the first instant published a noteworthy article denouncing one of the principal reasons why the law for the punishment of fascist crimes cannot possibly be applied. This cause is expressed by a rivelation, which at the same time is a scandal. After more tahn a year since the liberation - for the South - and after more than two months since the law on defascistization came into force, the ordinary magistrature has not concluded one single proceedings for the punishment of all the crimes committed by the fascists in all the cities and villages of Italy! Why?

I personally asked a General Procurator the reason. He gave the explanation that there is a great deficiency of personnel, especially of investigating judges and chancellors. There is the reason, although it seems impossible that there could be such a serious deficiency in the magistrature personnel while there are so many unemployed doctors in law who are looking in vain for any kind of employment.

The same General Procurator assured me that he had asked the Ministry of Justice for a double provision which would largely overcome the difficulties encountered; temporarily call back to service the many retired magistrates who are still capable of exercising their profession; confer offices to the many judges "auditers" who were promoted years ago and who - it is not known exactly why - are allowed to remain "auditers" and hence prevented from exercising a function of which they have been recognized capable. When it is so urgently required to enable the magistratures to function and the laws to be applied, even the simplest common sense induces one to think that the Ministry of Justice would have adopted the measuers requested by the magistrates themselves or issue others which would have permitted reaching the same end. Instead the Ministry of Justice did nothing. Why?

But there are many other matters which cannot be explained and of which the people have a right to demand explanations. For example Art. 8 of the law of 27 July 1944 on the defascistization directs the formation of provincial commissions composed of a magistrate and two popular judges, for sanctions against those sectarious and law-breaking fascists who although they did not exactly commit crimes, can nevertheless be sent to the farm colonies or forced labor establishments. Well, up to date not one of these provincial Commissions has been formes. Why? What are the people to think when laws are made and not applied, and the organs for applying them are not even formed? The reality which stands before everyone's eyes is that there are too many

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In truth, even admitting that the deficiency of personnel considerably hinders the magistrature from functioning normally we do not think that this is the real reason why the laws on the punishment of fascist crimes are not applied. We think that mamagistrature which is less influenced by fascism or by the classes which gave rise to fascism and equipped it and profited by the fascist terror, could have done much more, even with reduced staff, to put their hands on numerous fascist assassins who are still at liberty and whose presence in the cities where they committed their crimes profoundly offends our people's sense of justice.

People are saying everywhere that the Magistrature is the organism which would have best resisted against the criminal illegalities of fascism

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and which would still be sound and worthy of the new democratic Italy; and we are very happy to find that this is true in the cases of a certain number of magistrates.

But as regards the organization in general, we would still like to believe what we hear, but we wish to base our belief on facts.

But the facts have told us hitherto that under the fascist dictatorship which had built up a series of anti-juridical and ferocious laws - those laws were always applied with the desired speed and severity by the magistrature while the few and unperfect antifascist laws which we have are not applied in the least.

May I recall that when I accepted the appointment of Commissioner of the Aost. High Commissariat for the punishment of fascists crimes, I expressed my scepticism not so much for the faults and discontinuance of the relative law as for the principal or almost exclusive instruments for its application, i.e. the ordinary magistrature and the ordinary police soiled by fascism in the course twenty years dictatorship. The facts confirm the too simple prophecy. And meanwhile there are still at liberty thousands of assassins and torturers of the best citizens who endeavoured to resist the terrorism which was to bring about the disbandonment and treason of the homeland. The country's rebirth and even the public order demand that the people be able to rely on justice and on the new democratic order, and this is only possible if the democratic laws are applied; if all the crimes still unpunished - and rewarded - are finally and speedily punished without a mean spirit of vengeance but with a sense of humanity and justice.

What is to be done? In our opinion, either radical and immediate measures must be taken to put the magistrature in a position to apply the laws on defascistization by operating without regard the judicial organization of all the individuals who sabotage the same law both by negligence and by excess of beaurocratic and pseudojuridical formalities; or else commit the application of the dais law to a special magistrature composed of popular judges. Needless to say, we prefer the second solution.

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FROM THE "AVANTI"

POLICE AND MAGISTRATURE

An article by "Iudex" in the "Italia Libera" concerning the grave crisis of the Italian Magistrature has raised a problem which must be solved.

We were the first to express the public alarm as to the deplorably slow epuration and disinfection being carried out in liberated Italy. There is no doubt that the greatest responsibility for this slowness lies with the lazy mechanical and stubborn magistrature which is still unwilling to comply with the wishes of the people.

It is painful to see the police organs, which are often insufficient to suppress common and fascist crimes, become excessively active when they wish to protect a monarchy, which has already been judged by the people, from every little offense to its delicate hypersensibility. The personnel of the ordinary and military magistratures, with few exceptions, are thus taking what is nothing short of a holiday, which would cause one to fear that the "North wind" may wreck the whole beaurocratic structure and perhaps bring irretrievable damage to the Country and undermine the prestige of the class.

This situation must be rectified without delay. The greater fascist criminals are in the north. We if the organs ready for action are not prepared and trained.

On the other hand we have the High Commissioner who is working diligently. The High Court happily announces, although with much delay and singular postponments, the few proceedings which the law refers to its special jurisdiction. Epuration of the higher ranks has begun and in Rome a certain number of orders have been issued for the sequestration of the property of profiteering hierarchs. But the huge majority of fascist crimes, of epurations and cases of illegally-acquired wealth are to the jurisdiction of the regional organs and especially the magistratures. What have they done up to date? Nothing or almost nothing.

It has been observed that there are insufficient judges. One would think that there are none whatsoever, for their action is totally lacking.

But in any case if the staffs are incomplete they must be completed at once and at all costs, even at the cost of harming some jealous ideals of cast or, worse some professional ambitions.

"Iudex" proposes a few remedies. But there is more to be said: how is it that while on one hand the scarcity of personnel is given [illegible] on the other hand

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TRANSLATION NO. 403

FROM: L'ITALIA LIBERA 17 Nov

CONCLUSIONS ON THE MAGISTRATES

We may draw our first conclusions from the press discussions since my article of the first November. They will be but temporary conclusions, for the competent authorities have yet to apply the remedies or at least let us know which of these remedies is being examined in order to overcome the crisis in the Magistrature which is becoming ever more alarming.

All those who have taken part in these discussions have unanimously agreed on the necessity and urgency of taking measures. Among the writers are Orvieto for the "Tempo", Giuseppe Di Vittorio for the "Unita'", G.D. for the "Avanti". The problem has also been mentioned in the order of the day of the liberal party, in an exchange of ideas between Mario Vinciguerra and myself in the "Italia Libera", in articles in the same newspaper by Alberto Cianca and Federico Comandini in another article by G.Musmo in the "Voce Republicana" and in the declarations of two Deputy High Commissioners for sanctions against fascism, Scicchitano and Berlinguer.

All this proves the gravity of the problem, which is deeply felt by every current of public opinion.

Judging from several particular observations of the various writers and from a few new solutions suggested, it seems that all have agreed on the following points:

1) The ordinary and military magistratures are going through an alarmingly critical period; the organs of justice, with the exception of the High Court, are not even functioning with regard to that punishment of fascist crimes which should have the precedence.

2) The cause of this is the scarcity of personnel in the magistratures; and also by the fact that many of those who are in a position to act are indolent or are not yet free in some sectors from bad fascist habits nor influenced by the demands of the people in the new democratic tendency in which the judges must operate under the control of public opinion and hear the people's demand for ready and efficient action.

3) This holiday justice has taken is already causing alarm in the liberated provinces where not only has it given rise to unanimous criticism but has also been the origin of deplorable incidents; if the instruments of justice are not prepared to act quickly when the ordinary and military magistratures have jurisdiction over the northern provinces, we will pay for our inactivity with frightful disorder and with the final discredit of a whole class of officials. The political consequences of such discredit cannot yet be estimated, but would certainly be serious for the organs responsible and also for the Country.

4) All agree on the necessity of repeating appeals to the patriotism of the magistrature and above all by those who direct and supervise its action and on the desirability of the remedies I discussed in my article for completing the staff layout. (immediate

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4) All agree on the necessity of repeating appeals to the patriotism of the magistrature and above all by those who direct and supervise its action and on the desirability of the remedies I discussed in my article for completing the staff layout, (immediate inclusion of auditor judges and recall to service or retired magistrates and the suspension of further retirement, competitive examinations for judge and chancelor, inclusion of lawyers in the in the magistrature personnel). It has also been observed that not only nothing of this, or anything else, has yet been done to place the judicial organs in a position to act, but on the contrary, fully efficient magistrates have been placed in retirement and others not made use of because appointed to northern regions; and new judicial seats have even been formed.

We could also mention and discuss other matters and other observations which have been sent us in numerous letters; but for to-day we prefer to consider only what has been said by the press; especially as the letters, some of them authoritative, refer mostly to general political problems which, even if they concern that of justice, cannot be examined in this discussion, or disturb the silence of the only parties and the only newspapers which could express the opinion of the directors of the magistrature and the silence of the directors themselves. We believe the reason for this silence to be the fact that the solutions are being examined by the Ministry.

Nor can we doubt that the problem has already long been studied by those who can best weigh and solve it and who undeniably have an high sense of responsibility.

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But this problem is so vital and urgent that we cannot lament having pointed it out and brought it to public discussion in order that the democratic government may also know the Country's opinion that without the watchful and ready activity of justice, especially with regard to the disinfection of fascist leprosy, irreparable situations may arise such as a fearful anarchy.

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(Associated Press)

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WAR CRIMES PUNISHMENT IN ITALY AND ABROAD

Many people, here and abroad, are wondering why punishment of those who are responsible for fascism and the war, and for collaboration with the Germans, proceeds so much more slowly in Italy than in France or in other liberated countries.

One of the reasons is to be sought in the general problem of control : the Allied Commission as a matter of fact exercises its supervision on Italian administration and particularly on those activities of the Italian Government that aim at the destruction of fascism, responsible for the war and for the tragedy which is taking place on Italian soil.

In free America there certainly will be no objection if those, like myself, who carry the heavy burden of punishing fascist criminals, discuss this point with sincerity and frankness.

First of all it should be kept in mind that the punitive laws made by the Italian Government at Salerno and Rome, had to be minutely examined by Allied Control Commission before approval, which delayed initial action.

Furthermore these laws cannot be enforced immediately in the last liberated provinces which fall under Allied jurisdiction only : Italian laws cannot be applied for a period of two, three months or even more as it was the case for Naples

Under the armistice conditions and because of the war requirements, Italy is still subjected to control; this is a general situation which is being examined, but which it is not for us to discuss.

In France, on the other hand, and in other liberated nations, the local governments are given the right to apply there own laws against those who collaborated with the enemy within national bounderies, immediately, even when they have only temporary functions.

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In Italy, in the first few months after liberation of new territories, the Allies take care, for reasons of safety, of sending to concentration camps suspects, collaborators and fascist exponents who have been unable to flee northwood. This they do on the basis of information given them by their own police, the committees of liberation and partisans. Their action is most useful but never can be complete, since they can-

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not be expected to have such accurate information as might be available to the Italian authorities who would be in a position to understand better questions of environment and local requirements.

When the High Commisioner for the punishment of fascist crimes is finally allowed to extend his jurisdiction over these territories, a number of agreements with the Allies must take place before he can act : coordination of inquiries, request that the prisoners be turned over to the Italian judges etc.. Allied help in these matters is always prompt and loyal, no doubt, but obviously this procedure is one of the causes for delays. For example the Roman chief of police Caruso, captured by the Allies and sentenced to death by the Italian High Court of Justice was turned over to the Italian authorities two months after his arrest.

It may be said that all this is due to the particular conditions created by a long war on Italian territory, which is not the case in other theatres of war, such as France and other countries.

There are other reasons, however, of equal importance : Italy was the first European State to sanction laws against political criminals and traitors. They were made as soon as the Badoglio Cabinet at Salerno was reshuffled to include representatives of the six democratic parties. The former Badogl Cabinet however had failed to provide these necessary measures for justice.

Later on, last July, this body of laws was rectified by the Bonomi government in order to increase its efficiency. A new office, the High Court of Justice, was created to tackle major responsibilities, and it started to work immediately, while, with the adjunction of popular and military Justices, normal courts were given all minor cases.

True enough, trials drag on for a long period of time becaus of scarcity of judges, insuperable comunication difficulties and also because all guarantees of fairness are afforded the defendent as the Caruso and Azzolini cases clearly show; but there are also other impediments to quick action :

Another condition, which is proper to Italy as confronted to other nations, is the following : Italian laws have to deal with two distinct categories of crimes : those committed

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during the twenty years of fascist domination and those connected with collaboration with the enemy after Italian armistice. In other liberated nations there is only one category of traitors, and this greatly simplifies their task.

Oppression and terror lasted twenty years in Italy: this should not be forgotten. The intention of the law is to strike where there is responsibility for those twenty years of internal and foreign policy of violence, injustice and aggressio Therefore amnesties and terms have been revoked.

Besides their work on cases that never were brought up, the judges take up again for revision old trials such as those that are connected with the Matteotti affair. Long and difficult inquiries must be made to gather evidences which refer to old times, and sometimes to trials whose records are in German occupied cities.

In France and other countries the punishment of political criminals is limited to cases of collaboration with the enemy during the recent German occupation. This category of criminals is punished with death also in Italy, but here, in the south, German occupation has been very short or never took place : after September 8, 1943 the Germans were immediately thrown out of Sardegna; Sicily was quickly liberated by the Allies; at Naples the Germans held out for little more than one month. Rome was in German hands for nine months and most of the arrests of traitors and spies took place here (almost one thousand).

While France was totally liberated with such rapidity as to leave no chance of escape to collaborators, in Italy the campaign had a slower tempo. Liberation is still going on gradually. Most of the traitors and most of the major responsibles for fascism oppression could take refuge in northern provinces; almost all the secretaries of State, high hierarchs generals who collaborated with the Germans etc..
The High Commissioner's office has until now followed the policy of striking immediately those who could be arrested rather than sentence in default the criminals who fled. Thus every one is given a chance to disclaim responsibilities and defend himself. Sentences in default might be considered as a useless and demagogic sanction. Of course this is not a rule without exceptions and, after liberation of northern Italy, those who escape to Germany or other countries will be indicated.

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The problem for Italy is a very serious one in view of the liberation of the northern regions. The urge for quick justice was already evidenced in painful episodes which took place in Rome and Florence where the Germans stayed for a longer period of time : at Rome, the brutal lynching of prison chief Carretta, who apparently was mistaken by the crowd for the chief of police Caruso, was a first symptom; at Florence, in the first days after liberation, a number of collaborators were executed after summary trial which offered little guarantee of fairness. Worse things may happen North, where the principle culprits in large number have taken refuge.

The people who have suffered for a longer period of time, and are so hostile to the Germans and their puppets of the fascist government, will be exasperated and might well indulge in reprisals. There is no telling as to how much private vengeance and how many summary executions will take place.

It is essential that the Allies and the Italian Government agree without delay on the steps to be taken. They must prepare the instrument for quick, efficient punitive action.

For this, both the insufficient means which the Italian authorities dispose of, and the rightful Allied requirements for the prosecution of the war should be taken into consideration; but also co-ordination is indispensable if the task of justice is to be achieved promptly. The democratic government of Italy is sure to succeed if the Allies will grant them their help and confidence.

MARIO BERLINGUER

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