

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

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

10000/105/847

DEFASCISM, AMENDMENT (HIGH COURT)
& (PART I DLL 159)
SEPT. - NOV. 1944

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

For the first time a good law : and a very good one.

No other comment.

12-9-64 PhonographCLo

I can only endorse this

G. G. Hamer
-H

5299

Minutes

HEADQUARTERS ALLIED COMMISSION
AID 394
FINANCE SUB-COMMISSION
TEL: 478404

11 NOV 1944

13/21/E

14 November 1944

SUBJECT: Instructions for the Treatment
of Suspended State Employees.

TO : Chief of Staff Section,
Economic Section,
Civil Affairs Section, ✓
Political Section,
Air Sub-Commission,
Army Sub-Commission,
Naval Sub-Commission,
Public Relations Branch
Local Government Sub-Commission,

Legal Sub-Commission,
Education Sub-Commission,
Commerce Sub-Commission,
Public Works Sub-Commission,
Public Safety Sub-Commission,
Agriculture Sub-Commission,
Communications Sub-Commission,
Transportation Sub-Commission.

1. Reference Para. 2 (b) of Notes on Meeting of Sub-Commission Representatives on 4 November, 1944.

2. Attached copy of this office letter of ^{13664/E} ~~number~~ dated 31 October, 1944, is forwarded for information.

W. J. Longstrech
Joint Director,
Finance Sub-Commission.

5298

6418

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

EXHAUSTIVE ALLIED COMMISSION
AFG 334
FINANCE SUB-COMMISSION

13004/F

31 October 1944

SUBJECT: Instructions for the Treatment of Suspended
State Employees in AMG Territory.

TO : Regional Finance Officers, Laredo-Tarifa, Aguascalientes,
Tampacan, Saltillo, Tijuana, Pinar del Rio, Veracruz,
Mexico; and for the information of Senior Finance Officers
AMG 6th and 8th Areas.

The following instructions will be followed in the treatment
of suspended public officials in AMG territory:

1. Permanent employees of the State, permanent officers, autonomous state organizations, provinces or communes, in Allied Military Government territory, who are suspended from duty under the provision of Art. 21 of DLI 27 July n. 189, will be entitled to receive their basic salary during the period of their suspension.
2. Basic salary does not include the supplement of active service, family allowance, indemnity for officer's benefits, or any other allowance, bonus or premium.
3. Employees classified as essential or special are excluded from the above provisions.
4. DLI 27 July 1944 n. 189 was implemented in AMG territory in a special supplement to Gazette Oficial n. 21 dated 29 July 1944.
5. Paragraph 2 (b) of Part I, Appendix A of the September report of Finance Sub-Commission should be amended accordingly. The date of the law quoted therein should also be amended to read: DLI 27 July 1944 n. 189.

By Command of Comodoro Stone.

The following instructions will be followed in the treatment of suspension of public officials in the territory:

1. Permanent employees of the State, presidential officers, autonomous State organizations, provinces or counties, in Allied Military Government territory, who are suspended from duty under the provision of Art. 24 of D.L. 27 July n. 159, will be entitled to receive their basic salary during the period of their suspension.
2. Basic salary does not include the supplement of active service, family allowance, reimbursement for office telephone, or any other allowance, bonus or premium.
3. Employees classified as assistant or clerical are excluded from the above provisions.
4. D.L. 27 July 1944 n. 159 was implemented in AMG territory in a special supplement to Gazzetta Ufficiale n. 31 dated 29 July 1944.
5. Paragraph 2 (b) of Part I, Appendix "a" in the September report of Financy Sub-Commission should be amended accordingly. The date of the law quoted therein should also be amended to read: D.L. 27 July 1944 n. 159.

By Command of Commodore Stone.

Signed: A.P. GRATTEN - SMITH
Joint Director,
Finance Sub-Commission.

JHH/t

Copy to:
C.A. Section HQ AAC

8/18

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24/5-8 ✓

HEADQUARTERS ALLIED COMMISSION
APO 391
FINANCE SUB-COMMISSION
TEL: 67504

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13191/F

10 November 1944

SUBJECT: Expiration Decree D.L.I., 27 July,
1944, No. 159.

19 NOV 1944

TO : Deputy Chief of Staff
Civil Affairs Section.

1. I refer to the Expiration meeting held on 4 November, 1944, at which the payment of "carovita" to suspended personnel was discussed. The Finance Sub-Commission was requested to send the necessary instruction to Military Government territory.

2. Article 22 of D.L.I. No. 159 of 27 July, 1944, specifies what portions of an employee's salary shall be paid during the period of his suspension. The "carovita" addition is not so specified.

3. If the Italian Government wishes to pay the "carovita" in addition to the basic salary, a new decree or an appropriate Amendment of DLI 159 is necessary. Until such a provision is enacted by law, payment of the "carovita" to suspended employees would be illegal.

4. Accordingly, no further action in this matter will be taken by Finance Sub-Commission unless and until the necessary legislative steps have been taken.

for *BEZ Immers*
Joint Director,
Finance Sub-Commission.

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To : Deputy C.L.A.

Subject: Expiration Service n. 159 and indemnity di servizio

1. - Major Palmeri wishes to be adopted if the opinion expressed by Finance S/C is right and if there is any possibility of giving employees the 'indennità carovita' suspended under art. 22 of D.L.L. n. 159.

Finance S/C is right from a legal point of view.

2. - In my opinion

part of what -

If we were to adopt a wider interpretation of the law, though, that the ratio legis of art. 22 is that employees suspended in the course of an operation ~~proceeding~~ should get what is necessary for their support: since the 'indennità carovita' is something that has been granted to all employees in consideration that their salary is not sufficient for their support, it should be included in the base salary. When art. 22 of D.L.L. n. 159 says that the employee should be paid the 'indennità carovita', it ~~expressed~~ intended to ~~indemnify~~ ^{indennità}

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by Finance S/C is right and if there is any payment of money

suspended under art. 22 of D.L.L. n. 159 the 'indennità carovita'.

2. - In my opinion Finance S/C

is right from a legal point of view -
 if we were to adopt a wider interpretation of the law, though, we could say that the ratio legis of art. 22 is that employees suspended in the course of an operation ~~proceeding~~ should get ~~the~~ what is necessary for their support: since the 'indennità carovita' is something that has been granted to all employees in consideration that their salary is not sufficient for their support, it should be included in the base salary. When art. 22 of D.L.L. n. 159 says that the employee should be paid his salary 'without any further allowance', it ~~expressed~~ intended to ~~any~~ refer to such allowances as 'indennità di peregrinazione' or 'indennità di rappresentanza', which are incompatible with the actual status of an employee who has been suspended from office -

To deny to suspended employees the 'indennità carovita'

-/

would amount to denying the very principle in consideration of which it was provided that they should get their salary, that is to say that they should not starve.

3. — Major Salaverri tells me that H.E. Scoville's memo is of the same opinion as I am. But the Corte de' Conti might not share our views, just as Finance S/Chas rejected them.

Since the decree dealing with 'indemnità carceraria' has not yet been published could not the Ital. Gov. be requested to introduce in this decree a provision reading somewhat like this: "L'indennità di cui al presente decreto è corrisposta anche alle persone condannate nel tergo, con la dell'art. 22 del D.L.L. ~~27 luglio 1944~~ 27 luglio 1944, n. 159"?

14. 11. 54

Almondo

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

PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DI ROMA
UFFICIO INFORMAZIONI

Origine e nota N. del
Protocollo N. U. I.
Oggetto:

Phonograph

14. 11. 54

J. - Major Salazar: ...
... as I see. But the late dei conti might not share our views, just
as France S/C has rejected them.

Since the decree dealing with 'indennità cavour' has
not yet been published could not the Ital. Gov. be requested to introduce in
this decree a provision reading somewhat like this: "L'indennità di cui
" al presente decreto è contemplata anche alle persone contemplate nel terzo comma
" ma dell'art. 22 del D.L.L. ~~27~~ 27 luglio 1944, n. 159" 2

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

Dd/s2

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SECRET

The enclosed draft of the legislative decree of the Lieutenant General of the Kingdom contains regulations relative to the composition and the functioning of the High Court of Justice, established by Article 2 of DLI of 27 July 1944, no. 150; it further contains other procedural rules.

This decree is intended:

- 1) To regulate the form of the provisions contemplated in Part I of the law, the authority competent for their issuing the procedure and appeals (Articles 1, 2, 7, 8, 9, 10, 11, 12 and 15);
- 2) To regulate the composition of the High Court of Justice (Arts. 2, 3 and 11) and of the provincial commissions (Art. 13). With regard to the High Court, it is provided for the appointment of not more than 9 auxiliary members and it is contemplated that, the High Court may be divided in two sections by a decree of the President of the Council of Ministers. In this case, four auxiliary members may be appointed in excess of the contemplated number;
- 3) To confer upon the High Commissioner the power to issue orders of discontinuance when reports and denunciations appear to be obviously without foundation (Art. 5);
- 4) To enable the High Court of Justice to give in the finding a juridical definition of the facts different from that described in the summons, to inflict the corresponding penalties, even though heavier, and to apply security measures although the offence is within the jurisdiction of another ordinary or special court (Art. 6). This provision is evidently intended to avoid superfluous trials and to prevent facts already ascertained in proceedings before the High Court from being again examined by the judge originally competent, which might cause, in addition to wasting of time and of trial proceedings, the danger of losing evidences and other particulars acquired during the trial. The proposed provision, on the other hand, is coherent with the pre-eminent position of the High Court in respect to any other Court. Art. 6, in fact, provides that the High Court shall have exclusive jurisdiction on cases in which offences within its own jurisdiction are connected with offences within the jurisdiction of other ordinary or special courts.

DRAFT OF LEGISLATIVE DECREE.

Provisions relating to composition and functioning of the High Court of Justice established by art.2 of the Legislative Decree of the Lieutenant General of the Kingdom No.159 of 27 July 1944, and to other procedural rules.

Art.1

The annulment of sentences set out in art.1 of the Legislative Decree No.159 of 27 July 1944, shall be declared in an order issued in chambers by the judge who rendered the sentence upon application of the sentenced party or of the Pubblico Ministero. The sentences pronounced by the special Tribunal for the defense of the State shall be annulled by the section of the Supreme Court of Cassation set out in art.6 of the aforesaid Legislative Decree. The decision on the application for annulment cannot be opposed by any appeal.

Art.2

Auxiliary members of the High Court of Justice established by art.2 of the Legislative Decree No.159 of 27 July 1944, may be appointed in a number corresponding to the necessities for regular functioning of the High Court but in no case exceeding nine. Auxiliary members shall be called by the President to sit in the college in case of absence or impediment of regular members. In case of absence or impediment of the President, the highest ranking Magistrate member or the senior Magistrate member in case of equality of grade, shall temporarily act as President.

In case of trial is likely to last for a considerable length of time the President shall have the power to order the attendance of an additional member. The supernumerary member shall attend the trial and substitute those members of the college who are in any way impeded or absent from trial. Such substitution shall not be admitted after the hearing is closed.

Whenever the exigencies of the circumstances demand it, the President of the Council of Ministers may by a decree divide the High Court of Justice into two sections. By the same decree there shall be assigned to each of the two sections nine members chosen from among the regular and auxiliary judges. When the High Court is divided in two sections, four additional auxiliary members may be appointed in excess to the number provided for in first para of this article. The President of the High Court shall preside over the first section; the highest ranking Magistrate member or the senior Magistrate member in case of

Art.2

Auxiliary members of the High Court of Justice established by art.2 of the Legislative Decree No.159 of 27 July 1944, may be appointed in a number corresponding to the necessities for regular functioning of the High Court but in no case exceeding nine. Auxiliary members shall be called by the President to sit in the college in case of absence or impediment of regular members. In case of absence or impediment of the President, the highest ranking magistrate member or the senior magistrate member in case of equality of grade, shall temporarily act as President. In case of trial is likely to last for a considerable length of time the President shall have the power to order the attendance of an additional member. The supernumerary member shall attend the trial and substitute those members of the college who are in any way impeded or absent from trial. Such substitution shall not be admitted after the hearing is closed. Whenever the exigencies of the circumstances demand it, the President of the Council of Ministers may by a decree divide the High Court of Justice into two sections. By the same decree there shall be assigned to each of the two sections nine members chosen from among the regular and auxiliary judges. When the High Court is divided in two sections, four additional auxiliary members may be appointed in excess to the number provided for in first para of this article. The President of the High Court shall preside over the first section; the highest ranking magistrate member or the senior magistrate member in case of equality of grades, shall preside over the second section. The President of the High Court may replace absent or impeded members of one section by members of the other section.

Art.3

In cases within the jurisdiction of the High Court of Justice, the High Commissioner shall proceed with a summary pretrial investigation in accordance with the provisions set out in art 3, book 2 of the Code of penal procedure. The delay for appearance before the High Court of Justice shall not be less than 8 days saving the provisions of art.183 of the Code of penal procedure.

Art.4

If in the opinion of the High Commissioner the proceeding should not be carried on because the report or denunciation appears to be obviously without foundation, he shall order the discontinuance of the proceeding. If during the summary pretrial investigation it is the High Commissioner's

opinion that the proceeding should be discontinued also against one of the defendants only, he shall transmit the record to the High Court of Justice with relative request. If the Court grants the request they shall render the sentence of discontinuance in chambers. In case of denial of the request the Court shall return the records to the High Commissioner who shall request that a summons be issued.

Art. 5. The High Court may give in the finding of the facts different from that described in the summons, may give the corresponding sentence, even though heavier, and apply security measures also if the crime is within the jurisdiction of another ordinary or special Court.

Art. 6

The High Court shall have jurisdiction over all cases in which offences within its own jurisdiction are connected with offences under the jurisdiction of other special or ordinary Courts.

The High Court however, for reasons of opportunity, may order, by a decision not subject to any appeal, that the proceedings be held separately.

Art. 7

If from the hearing it appears that the facts, even though not constituting a crime, come within the provisions of art. 8 of legislative decree 27 July 1944 No. 159, the High Court of Justice and the other special and ordinary Courts may apply the sanctions set out in the said art. 8, saving always the jurisdiction of the High Court, over the persons indicated in the last part of the above article. An appeal dealing also with the jurisdiction of the case, may be lodged with the Court of Cassation against the imposition of such sanctions, provided they have not been inflicted by the High Court or by the Court of Assizes. The appeal shall be decided by a section of the Supreme Court of Cassation contemplated in art. 6 of the said legislative decree.

Art. 8

The demand made by the High Commissioner to the High Court for dismissal from office of the members of legislative assemblies, bodies, or Institutions, who, by their vows or actions contributed to the maintenance of the fascist regime and to the outbreak of the war, must be notified, through the Chancery of the High Court, to the con-

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Court shall have jurisdiction over all cases in which offences within its own jurisdiction are connected with offences under the jurisdiction of other special or ordinary Courts. The High Court however, for reasons of opportunity, may order, by a decision not subject to any appeal, that the proceedings be held separately.

Art. 7

If from the hearing it appears that the facts, even though not constituting a crime, come within the provisions of art. 5 of legislative decree 27 July 1914 H. 159, the High Court of Justice and the other special and ordinary Courts may apply the sanctions set out in the said art. 5, saving always the jurisdiction of the High Court, over the persons indicated in the last ~~part~~ of the above article. An appeal dealing also with the jurisdiction of the case, may be lodged with the Court of Cassation against the imposition of such sanctions, provided they have not been inflicted by the High Court or by the Court of Assizes. The appeal shall be decided by a section of the Supreme Court of Cassation contemplated in art. 6 of the said legislative decree.

Art. 8

The demand made by the High Commissioner to the High Court for dismissal from office of the members of legislative assemblies, bodies, or Institutions, who, by their vote or actions contributed to the maintenance of the fascist regime and to the outbreak of the war, must be notified, through the Chancery of the High Court, to the concerned persons who shall be invited to submit their defense within a fixed term of not less than 15 days.

The concerned persons may examine the acts in the Chancery within such term.

The High Court, before taking a decision, may proceed to all necessary investigations and hear the concerned party, even when the latter did not make such request.

The dismissal from office is decided by Order in Chambers.

Art. 9

Against sentences or decisions of the High Court no appeal may be lodged.

Art. 10

Officials of the Judicial Chancery shall carry on the duties of the Chancery of the High Court of Justice; they shall be attached to the High Court of Justice by an order of the Minister of Justice and Justice, in number required by the needs.

Art.11

Repeal of the granting of amnesty and pardon (indulto) contemplated in art.6 legislative decree 27 July 1944 No.159, is declared on order issued in chambers by the judge who took such decision. No appeal may be lodged against such order.

Art.12

Presiding Magistrates of the Provincial Commissions established by art.8 legislative decree 27 July 1944 No.159, are appointed by the Minister of Pardon and Justice.

The drawing among the lay judges for the selection of the 2 members of the above Commissions, is made by the President according to the rules of the Court of Assizes, whenever applicable; the President shall be assisted by the secretary who writes the report.

Officials of the Judicial Chancery shall carry on the duties of the Secretariate of the Commissions; they are attached to the Commissions by the First President of the Court of Appeal residing in the chief city of the Province in which the Commission has its seat, or by the President of the local Tribunal, when there is no Court of Appeal in such city.

Art.13

The Provincial Commissions, established by art.8 legislative decree 27 July 1944 No.159, shall take their decisions within their jurisdiction upon request of the Procuratori del Regno or of the High Commissioner.

The jurisdiction to take decisions shall be with the Commission of the province in which the fact under consideration took place.

Before taking the measures foreseen in the above par., the Commissioner must hear the interested party or send a summons to appear.

The interested party may call a lawyer for his defense.

Appeals to the Court of Cassation, also regarding questions of jurisdiction, are admitted again at the decisions of the Commission.

The decision on appeal is taken in Chambers by the section of the Supreme Court of Cassation, contemplated in art.6 of above legislative decree.

Art.14

When no penal action is taken, the jurisdiction to order confiscation contemplated in art.9 legislative decree 27 July 1944 No.159, shall lay with the penal Tribunal of the place where the property undergoing confiscation or the greatest part of it, is situated.

The Tribunale takes such action after having summoned the interested party, who may choose a lawyer for his defense.

The confiscation is ordered by the Tribunale in an order issued in

President of the local Tribunal, when there is no Court of Appeal in such city.

Art.13

The Provincial Commissions, established by art.8 legislative decree 27 July 1944 No.159, shall take their decisions within their jurisdiction upon request of the Procuratori del Regno or of the High Commissioner.

The jurisdiction to take decisions shall be with the Commission of the province in which the fact under consideration took place.

Before taking the measures foreseen in the above par., the Commissioner must hear the interested party or send a summons to appear.

The interested party may call a lawyer for his defense.

Appeals to the Court of Cassation, also regarding questions of jurisdiction, are admitted again at the decisions of the Commission.

The decision on appeal is taken in Chambers by the section of the Supreme Court of Cassation, contemplated in art.6 of above legislative decree.

Art.14

When no penal action is taken, the jurisdiction to order confiscation contemplated in art.9 legislative decree 27 July 1944 No.159, shall lay with the penal Tribunal of the place where the property undergoing confiscation or the greatest part of it, is situated.

The Tribunale takes such action after having summoned the interested party, who may choose a lawyer for his defense.

The confiscation is ordered by the Tribunale in an order issued in Chambers.

Against such confiscation appeal is admitted, also if for reasons regarding jurisdiction. Decision on such appeal is taken by the Supreme Court of Cassation contemplated in art.6 legislative decree above.

Art.15

The High Commissioner for the carrying out of duties entrusted to him by legislative decree 27 July 1944 No.159, may request all necessary information and documents also from the banking institutions or bodies; the present provisions regarding the communication of particulars and news concerning such institutions and bodies, shall not interfere with his power of inquiry.

He order etc.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394
ADMINISTRATIVE SECTION

13 Sept 1944

Dear Count Sforza:

The draft issues setting out the rules governing procedure under part I of MIL 159 which were enclosed with your Tag/791 of 10 Sept seem excellent.

I am anxious to receive the revised proposals governing procedure under part II. Can you give us any idea when this will be ready.

Yours sincerely,

H E Count Carlo SPORZA
L'Alto Commissario per le Sanzioni
Contro il Fascismo
Palazzo del Viminale
R O M A

Copy for 502 ✓

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REPORT

The enclosed draft of the legislative decree of the Lieutenant General of the Kingdom contains regulations relative to the composition and the functioning of the High Court of Justice, established by Article 2 of D.H. of 27 July 1944, No. 157; it further contains other procedural rules.

This decree is intended:

- 1) To regulate the form of the provisions contemplated in Part I of the law, the authority competent for their issuing the procedure and appeals (articles 1, 4, 7, 8, 9, 10, 11, 12 and 15);
- 2) To regulate the composition of the High Court of Justice (Arts. 2, 3 and 11) and of the provincial committees (Art. 13). With regard to the High Court, it is provided for the appointment of not more than 9 auxiliary members and it is contemplated that, the High Court may be divided in two sections by a decree of the President of the Council of Ministers. In this case, four auxiliary members may be appointed in excess of the contemplated number;
- 3) To confer upon the High Commissioner the power to issue orders of dis-confidence when reports and denunciations appear to be obviously without foundation (Art. 5);
- 4) To enable the High Court of Justice to give in the finding a juridical definition of the facts different from that described in the summons, to inflict the corresponding penalties, even though heavier, and to apply security measures although the offense is within the jurisdiction of another ordinary or special court (Art. 6). This provision is evidently intended to avoid superfluous trials and to prevent facts already ascertained in proceedings before the High Court from being again examined by the judge originally competent, which might cause, in addition to wasting of time and of trial proceedings, the danger of losing evidences and other particulars acquired during the trial. The proposed provision, on the other hand, is coherent with the pre-eminent position of the High Court in respect to any other Court. Art. 6, in fact, provides that the High Court shall have exclusive jurisdiction on cases in which offences within its own jurisdiction are connected with offences within the jurisdiction of other ordinary or special courts.

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DRAFT OF LEGISLATIVE DECREE.

provisions relating to composition and functioning of the High Court of Justice established by art.2 of the Legislative Decree of the Lieutenant General of the Kingdom No.159 of 27 July 1944, and to other procedural rules.

Art.1

The annulment of sentences set out in art.4 of the Legislative Decree No.159 of 27 July 1944, shall be declared in an order issued in chambers by the judge who rendered the sentence upon application of the sentenced party or of the Public Ministers. The sentences pronounced by the Special Tribunal for the defence of the State shall be annulled by the section of the Supreme Court of Cassation set out in art.6 of the aforesaid Legislative Decree. The decision on the application for annulment cannot be opposed by any appeal.

Art.2

Auxiliary members of the High Court of Justice established by art.2 of the Legislative Decree No.159 of 27 July 1944, may be appointed in a number corresponding to the necessities for regular functioning of the High Court but in no case exceeding nine. Auxiliary members shall be called by the President to sit in the college in case of absence or impediment of regular members. In case of absence or impediment of the President, the highest ranking Magistrate member or the senior Magistrate member in case of equality of grade, shall temporarily act as President. In case of illness likely to last for a considerable length of time the President shall have the power to order the attendance of an additional member. The supplementary member shall attend the trial and substitute those members of the college who are in any way impeded or absent from trial. Such substitution shall not be admitted after the hearing is closed.

Whenever the exigencies of the circumstances demand it, the President of the Council of Ministers may by a decree divide the High Court of Justice into two sections. By the same decree there shall be assigned to each of the two sections nine members chosen from among the regular and auxiliary judges. When the High Court is divided in two sections, four additional auxiliary members may be appointed in excess to the number provided for in first paragraph of this article. The President of the High Court shall preside over the first section; the highest ranking Magistrate member or the senior Magistrate member in case of equality of grades, shall preside over the second section. The President of the High Court may call absent or impeded members

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Art. 2

Auxiliary members of the High Court of Justice established by art. 2 of the Legislative Decree No. 159 of 27 July 1944, may be appointed in a number corresponding to the necessities for regular functioning of the High Court but in no case exceeding nine. Auxiliary members shall be called by the President to fill in the vacancy in case of absence or impediment of regular members. In case of absence or impediment of the President, the highest ranking magistrate member or the senior magistrate member in case of equality of grade, shall temporarily act as President.

In case of trial is likely to last for a considerable length of time the President shall have the power to order the attendance of an additional member. The supernumerary member shall attend the trial and substitute those members of the college who are in any way impeded or absent from trial. Such substitution shall not be admitted after the hearing is closed.

Whenever the exigencies of the circumstances demand it, the President of the Council of Ministers may by a decree divide the High Court of Justice into two sections. By the same decree there shall be assigned to each of the two sections nine members chosen from among the regular and auxiliary judges. When the High Court is divided in two sections, four additional auxiliary members may be appointed in excess to the number provided for in first para of this article. The President of the High Court shall preside over the first section, the highest ranking magistrate member or the senior magistrate member in case of equality of grades, shall preside over the second section. The President of the High Court may replace absent or impeded members of one section by members of the other section.

Art. 3

In cases within the jurisdiction of the High Court of Justice, the High Commissioner shall proceed with a summary pretrial investigation in accordance with the provisions set out in art. 3, book 2 of the Code of penal procedure.

The delay for appearance before the High Court of Justice shall not be less than 8 days saving the provisions of art. 183 of the Code of penal procedure.

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Art. 4

If in the opinion of the High Commissioner the proceeding should not be carried on because the report or denunciation appears to be obviously without foundation, he shall order the discontinuance of the proceeding.

If during the summary pretrial investigation it is the High Commissioner's

opinion that the proceeding should be discontinued also against one of the defendants only, he shall transmit the report to the High Court of Justice with relative request. If the Court grants the request they shall render the sentence of discontinuance in chambers. In case of denial of the request the Court shall return the records to the High Commissioner who shall request that a summons be issued.

Art. 5 ~~XXXXXXXXXXXXXXXXXXXX~~

The High Court may give in the finding ~~jurisdictional~~ definition of the facts different from that described in the summons, may ~~also~~ ^{give} the corresponding sentence, even though heavier, and apply security measures also if the crime is within the jurisdiction of another ordinary or special Court.

Art. 6

In the proceedings within the jurisdiction of the High Court which are also connected with proceedings within the jurisdiction of other special or ordinary Courts, the High Court shall have jurisdiction over all such proceedings.

The High Court however, for reasons of opportunity, may order, by a decision not subject to any appeal, that the proceedings be held separately, by itself and by the other Courts, according to their respective jurisdiction.

Art. 7 ~~XXXXXXXXXXXXXXXXXXXX~~
The decree 27 July 1944 N. 152, the High Court of Justice and the other special and ordinary Courts may apply the sanctions set out in the said art. 8, saving always the jurisdiction of the High Court over the persons indicated in the last ~~part~~ ^{para} of the above article. An appeal dealing also with the ~~jurisdiction~~ ^{jurisdiction} of the case, may be lodged with the Court of Cassation against the imposition of such sanctions, provided they have not been inflicted by the High Court or by the Court of Assizes. The appeal shall be decided by a section of the Supreme Court of Cassation contemplated in art. 6 of the said legislative decree.

Art. 8

The demand made by the High Commissioner to the High Court for dismissal from office of the members of legislative assemblies, bodies, or institutions, who, by their vote or actions contributed to the maintenance of the fascist regime and to the outbreak of the war, must be notified, through the Chancery of the High Court, to the concerned persons who shall be invited to submit their defenses within a fixed term of not less than 15 days.

The concerned persons may request the return to the Chancery within

are also connected with proceedings within the jurisdiction of the High Court which other special or ordinary Courts, the High Court shall have jurisdiction over all such proceedings.

The High Court however, for reasons of opportunity, may order, by a decision not subject to any appeal, that the proceedings be held separately, by itself and by the other Courts, according to their respective jurisdiction.

Five decree 27 July 1944 V/155, the High Court of Justice and the other special and ordinary Courts may, by the sanctions set out in the said art. 5, having always the jurisdiction of the High Court, over the persons indicated in the last ^{part} ~~part~~ of the above article. An appeal dealing also with the ^{jurisdiction} ~~jurisdiction~~ of the case, may be lodged with the Court of Cassation against the imposition of such sanctions, provided they have not been inflicted by the High Court or by the Court of Assizes. The appeal shall be decided by a section of the Supreme Court of Cassation contemplated in art. 6 of the said legislative decree.

Art. 8

The demand made by the High Commissioner to the High Court for dismissal from office of the members of legislative assemblies, bodies, or institutions, who, by their vote or actions contributed to the maintenance of the fascist regime and to the outbreak of the war, must be notified, through the Chancery of the High Court, to the concerned persons who shall be invited to submit their defenses within a fixed term of not less than 15 days. The concerned persons may examine the acts in the Chancery within such term.

The High Court, before taking a decision, may proceed to all necessary investigations and hear the concerned party, even when the latter did not make such request.

The dismissal from office is decided by Order in Chambers.

Art. 9

Against sentences or decisions of the High Court no appeal may be lodged.

Art. 10

Officials of the Judicial Chancery shall carry on the duties of the Chancery of the High Court of Justice; they shall be attached to the High Court of Justice by an order of the Minister of Justice and Justice, in number required by the needs.

No. 785016

Repeal of the granting of custody and pardon (indults) contemplated in art. 6 legislative Decree 27 July 1944 No. 159, is declared an order issued in obedience by the judges who took such decision. No appeal may be lodged against such order.

President Magistrate of the Provincial Commission established by art. 8 legislative decree of 27 July 1944 No. 153, and appointed by the Minister of Baron and Justice.

The drawing among the lay Judges for the selection of the 2 members of the above Commission, is made by the President according to the rules of the Court of Appeals, whenever applicable; the President shall be assisted by the secretary who writes the report.

carried out the judicial functions which carry on the duties of the secretariate of the Commissions; they are attached to the Commissions by the First President of the Court of Appeal residing in the chief city of the Province in which the Commission has its seat, or by the President of the local Tribunal, when there is no Court of Appeal in such city.

The Provincial Commissions, established by art. 8 Legislative Decree 27 July 1944 No. 159, shall take their decisions within their jurisdiction upon request of the Procuratori del Regno or of the High Commissioner.

The jurisdiction to take decisions shall be with the Commission of the Province in which the fact under consideration took place.

We must hear the latest party or send a message to a great.

the intervening party may call a lawyer for his defense. ~~Appeals to the Court of Cassation, being not the subject of this case.~~ Appeals to the Court of Cassation, being not the subject of this case.

The decision on appeal is taken in Chambers by the section of the Supreme Court of Cassation, contemplated in art. 6 of above legislative decree.

When no penal action is taken, the jurisdiction to order confiscation contemplated in art. 9 legislative decree 27 July 1944 No. 159, shall lay with the Penal Tribunal of the place where the property underlying confiscation or the greatest part of it, is situated. The Tribunale takes such action after having summoned the interested party, who may choose a lawyer for his defense.

the Commission is ordered by the Tribunal in an order issued at

1. Proof of citizenship in which the conscription has its seat, or by the
 President of the Local Executive, when there is no Court of appeal
 in such city.

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The Provincial Commissions, established by act, of 27 July 1944 No. 293, shall take their decisions within their jurisdiction upon request of the Procurator del Reame or of the High Commissioner.

The jurisdiction to take a company shall be with the Commission of the companies to which the first order consideration took place.

Before taking the amount shown in the above per., the Committee must send the interested party or send a witness to a judge.

The interested party may call a lawyer for his defense. The merit of Appeals to the Court of Cassation, ~~the~~ ^{the} ~~appealing~~ ^{appealing} question of jurisdiction ~~is~~ ^{is} ~~not~~ ^{not} ~~admitted~~ ^{admitted} again at the ~~discretion~~ ^{discretion} of the Commission.

The decision on appeal is taken in Chambers by the section of the Supreme Court of Cassation, constituted in accord of above legislative provisions.

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When no penal action is taken, the jurisdiction to order confiscation contemplated in art. 9 legislative decree 27 July 1944 No. 159, shall pass with the penal Tribunal of the place where the property underlying confiscation or the greatest part of it, is situated.

The Tribunal takes such action after having summoned the interested party, who may choose a lawyer for his defense.

The confiscation is ordered by the Tribunal in an order issued in chambers. Against such confiscation a ^{case} appeal is admitted, also for reasons ~~involving public interest~~ ^{involving public interest}. Decision on such appeal is taken by the Supreme Court of Cassation contemplated in art. 6 legislative decree above.

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The High Commissioner for the carrying out of duties entrusted to him by legislative decree 27 July 1944 №4153, may request all necessary information and documents also from the banking institutions or bodies; the present provisions regarding the communication of particulars and news concerning such institutions and bodies, shall not interfere with his power of inquiry.

To order etc.

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L'ALTO COMMISSARIO PER LE SANZIONI CONTRO IL FASCISMO - PALAZZO DEL Viminale - ROMA

La
La.g./791
Roma, *10* settembre 1944 *La.g.*

unl
Mio caro Generale,

Il Consiglio dei Ministri ha approvato nell'ultima riunione l'unito schema di decreto legislativo luogotenenziale recante norme circa la composizione ed il funzionamento dell'Alta Corte di Giustizia (istituita dall'art. 2 del decreto legislativo luogotenenziale 27 luglio 1944, n.159), ed altre disposizioni procedurali.

Le ragioni che giustificano l'anzidetto provvedimento sono contenute nella relazione che ugualmente allego.

Poiché l'Alta Corte di Giustizia dovrà iniziare i suoi lavori il 18 del corrente mese, La prego di volermi far conoscere, con cortese sollecitudine, se nulla osti da parte della Commissione Alleata di Controllo all'ulteriore corso del provvedimento la cui emanazione è necessaria per il funzionamento dell'Alta Corte.

Gradisca, caro Generale, i miei cordiali saluti

Spaza

Brigadiere Generale GERALD R. UPJOHN
V. Presidente della Commissione Alleata
di Controllo - Sezione Amministrativa

= R O M A =

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R E L A Z I O N E

L'unito schema di decreto legislativo luogotenenziale contiene norme relative alla composizione e al funzionamento dell'Alta Corte di Giustizia istituita dall'art. 3 del D.L.L. 27 luglio 1944, n. 158, e altre disposizioni procedurali.

Il provvedimento intende:

- 1) disciplinare la forma dei provvedimenti previsti dal Titolo I della legge, la competenza ad emanarli, il procedimento e le impugnative (artt. 1, 4, 7, 8, 9, 10, 12, 14 e 15);
- 2) disciplinare la composizione dell'Alta Corte di Giustizia (artt. 3, 3, 11) e delle Commissioni provinciali (art. 13), ammettendo per la prima la nomina di supplenti, in numero non superiore a nove, e prevedendo che essa possa essere, con decreto del Presidente del Consiglio dei Ministri, divisa in due sezioni, ammettendo in tal caso la possibilità della nomina di altri quattro supplenti oltre il numero previsto;
- 3) attribuire all'Alto Commissario il potere di archiviazione di rapporti e denunce manifestamente infondati (art. 5);
- 4) emettere che l'Alta Corte di Giustizia possa, nella sentenza, dare al fatto una definizione giuridica diversa da quella enunciata nel decreto di citazione, infliggere, 18/

11 provvedimento intenzionale;

1) disciplinare la forma dei provvedimenti previsti dal Titolo I della legge, la competenza ad emanarli, il procedimento e la impugnativa (art. 1, 4, 7, 8, 9, 10, 12, 14 e 15);

2) disciplinare la composizione dell'Alta Corte di Giustizia (art. 2, 3, 11) e delle Commissioni provinciali (art. 13), ammettendo per la prima la nomina di supplenti, in numero non superiore a nove, e prevedendo che essa possa essere, con decreto del Presidente del Consiglio dei Ministri, divisa in due sezioni, ammettendo in tal caso la possibilità della nomina di altri quattro supplenti oltre il numero previsto;

3) attribuire all'Alto Commissario il potere di archiviazione di rapporti e denunce manifestamente infondati (art. 5);

4) ammettere che l'Alta Corte di Giustizia possa, nella sentenza, dare al fatto una definizione giuridica diversa da quella enunciata nel decreto di citazione, infliggere pene corrispondenti, qualunque più gravi, e applicare misure di sicurezza, anche se la commissione del reato appartenga ad altro giudice ordinario e speciale (art. 6). La norma è evidentemente ispirata al principio dell'economia dei giudizi, ed è intesa ad evitare che fatti ormai accertati nel giudizio innanzi all'Alta Corte, debbano nuovamente essere sottoposti all'esame del giudice originariamente

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competente: il che importerebbe, oltre dispendio di tempo e di attività processuale, il pericolo di dispersione di prove e di altri elementi acquisiti al giudizio. La norma proposta, d'altra parte, è coerente alla posizione preminente dell'Alta Corte rispetto alle altre giurisdizioni. Per l'Alta Corte, infatti, il successivo art. 7 stabilisce la competenza assorbente nel caso di connessione di procedimenti di competenza propria e di altri giudici ordinari o speciali.

Declassified E.O. 12356 Section 3.3/NND

No. 785016

stabilisce la
competenza esclusiva nel caso di connessione di procedi-
menti di competenza propria e di altri giudici ordinari
o speciali.

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SCHEMA DI DECRETO LEGISLATIVO:

Norme relative alla composizione e al funzionamento dell'Alta Corte di Giustizia istituita dall'art. 2 del R.L. 27 luglio 1944, n. 159, ed altre disposizioni procedurali.

UMBERTO DI SAVOIA

PRINCIPE DI PIEMONTE

LUOGOTENENTE GENERALE DEL REANO

In virtù dell'autorità a Noi delegata;

Visto il decreto-legislativo 27 luglio 1944, n. 159;

Visto il decreto-legge luogotenenziale 23 giugno 1944, n. 151;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, di concerto con tutti i Ministri;

ABBIAMO SANCIONATO E PROMULGHIAMO QUANTO SEGUE:

Art. 1

L'annullamento delle sentenze indicate nell'art. 1 del decreto legislativo 27 luglio 1944, n. 159, è dichiarato con ordinanza, in Camera di Consiglio, su istanza del condannato o del pubblico ministero, dal giudice che ha pronunziato la sentenza. Se la sentenza è stata pronunziata dal tribunale speciale per la difesa dello Stato, l'annullamento è dichiarato dalla Sezione della Suprema Corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

I provvedimenti adottati sull'istanza di annullamento non sono soggetti ad alcun mezzo di impugnazione.

In virtù dell'autorità a Voi delegata;

Visto il decreto-legislativo 27 luglio 1944, n. 159;

Visto il decreto-legge luogotenenziale 25 giugno 1944, n. 151;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, di consenso con tutti i Ministri;

ABBIAMO SPOZIONATO E PROMULGATO QUANTO SEGUE:

Art. 1

L'annullamento delle sentenze indicate nell'art. 1 del decreto legislativo 27 luglio 1944, n. 159, è dichiarato con ordinanza, in Camera di Consiglio, su istanze del condannato o del pubblico ministero, dal giudice che ha pronunciato la sentenza. Se la sentenza è stata pronunciata dal tribunale speciale per la difesa dello Stato, l'annullamento è dichiarato dalla Sezione della Suprema Corte di Cassazione indicata nell'art. 5 del decreto legislativo suddetto.

I provvedimenti adottati sull'istanza di annullamento non sono soggetti ad alcun mezzo di impugnazione.

Art. 2

Possano essere nominati membri supplenti dell'Alta Corte di giustizia, istituita con l'art. 2 del decreto legislativo 27 luglio 1944, n. 159, nel numero che sarà richiesto dalle necessità del regolare funzionamento dell'Alta Corte, ma in ogni caso non superiore a nove. I membri supplenti sono chiamati dal Presidente a far parte del collegio nel caso di mancanza o di impedimento di membri effettivi. Nel caso di mancanza o di impedimento del presidente, ne assume temporaneamente le funzioni il membro magistrato di grado più elevato e, a parità di grado, il più anziano.

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Nel dibattimento che si prevede di lunga durata il presidente ha facoltà di disporre che intervenga anche un altro membro. Il membro in soprannumero assiste al dibattimento e sostituisce quello dei membri del collegio che sia comunque impedito o assente. Tale sostituzione non è più ammessa dopo la chiusura del dibattimento.

Qualora le necessità del servizio lo richiedano, con decreto del Presidente del Consiglio dei Ministri l'Alta Corte di Giustizia può essere divisa in due sezioni, a ciascuna delle quali sono assegnati con lo stesso decreto di costituzione delle sezioni nove membri eletti tra gli effettivi e i supplenti. Qualora l'Alta Corte sia divisa in due sezioni, possono essere nominati altri quattro membri supplenti oltre il numero previsto nel primo comma di questo articolo. La prima sezione è presieduta dal Presidente dell'Alta Corte; l'altra sezione dal membro anziano di grado più elevato e, a parità di grado, dal più anziano.

Il Presidente dell'Alta Corte può sostituire i membri assenti o impediti di una sezione con membri appartenenti all'altra sezione.

Art. 3

Per i delitti di competenza dell'Alta Corte di Giustizia, l'Alto Commissario procede con istruzione sommaria, osservando le disposizioni stabilite nel titolo VIII del libro II^o del codice di procedura penale.

Il termine a comparire davanti all'Alta Corte di Giustizia non può essere inferiore a giorni otto, salvo quanto è disposto nell'art. 193 del Codice di procedura Penale.

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Art. 4

L'Alto Commissario, se ritiene che non si debba procedere per

può essere divisa in due sezioni, a ciascuna delle quali sono assegnati con lo stesso decreto di costituzione delle sezioni nove membri scelti tra gli effettivi e i supplenti. Qualora l'Alta Corte sia divisa in due sezioni, possono essere nominati altri quattro membri supplenti oltre il numero previsto nel primo comma di questo articolo. La prima sezione è presieduta dal Presidente dell'Alta Corte; l'altra sezione dal membro magistrato di grado più elevato e, a parità di grado, dal più anziano.

Il Presidente dell'Alta Corte può sostituire i membri assenti o impediti di una sezione con membri appartenenti all'altra sezione.

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Il termine a comparire davanti all'Alta Corte di Giustizia non può essere inferiore a giorni otto, salvo quanto è disposto nell'art. 183 del Codice di procedura Penale.

Art. 4

L'Alto Commissario, se ritiene che non si debba procedere per la manifesta infondatezza del rapporto o della denuncia relativi a delitti di competenza dell'Alta Corte di Giustizia, ordina la trasmissione degli atti all'archivio.

Nel corso dell'istruzione sommaria, se ritiene che non si debba procedere anche solo per taluno degli imputati, trasmette gli atti all'Alta Corte con la opportuna richiesta. La Corte, se accoglie la richiesta, pronuncia in Camera di consiglio sentenza di non doversi procedere. Altrimenti restituisce gli atti all'Alto Commissario perchè richieda il decreto di citazione.

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Art. 5

Nella sentenza l'Alta Corte di Giustizia può dare al fatto una definizione giuridica diversa da quella enunciata nella richiesta del decreto di citazione, infliggere le pene corrispondenti, quantunque più gravi, e applicare le misure di sicurezza anche alla cognizione del reato appartenuta ad altro giudice ordinario o speciale.

Art. 6

Nel caso di connessione tra procedimenti di competenza dell'Alta Corte di Giustizia e procedimenti di competenza di altri giudici speciali o di giudici ordinari la competenza per tutti spetta all'Alta Corte di Giustizia. Questa tuttavia per ragioni di convenienza può ordinare con provvedimento insindacabile la separazione dei procedimenti.

Art. 7

L'Alta Corte di Giustizia e i giudici ordinari e speciali, se risulta dal dibattimento che i fatti, pur non integrando gli estremi del reato, rientrano nell'ipotesi prevista dall'art. 8 del decreto legislativo 27 luglio 1944, n. 159, possono applicare le sanzioni ivi stabilite, salva la competenza dell'Alta Corte di Giustizia per le persone indicate nell'ultimo comma del detto articolo.

Contro l'applicazione di tali sanzioni, quando esse non siano applicate dall'Alta Corte di Giustizia o dalle Corti di Assise, è ammesso ricorso per Cassazione anche per il merito. Il ricorso è deciso dalla sezione della Suprema Corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

Art. 8

La richiesta dell'Alto Commissario all'Alta Corte di Giustizia per la decadenza dalla carica dei membri di Assemblée legislative o

giustizia e procedimenti di competenza di altri giudici speciali o di giudici ordinari la competenza per tutti spetta all'Alta Corte di giustizia. Questa tuttavia per ragioni di convenienza può ordinare con provvedimento ineludibile la separazione dei procedimenti.

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Contro l'applicazione di tali sanzioni, quando esse non siano applicate dall'Alta Corte di giustizia o dalle Corti di Assise, è ammesso ricorso per Cassazione anche per il merito. Il ricorso è deciso dalla sezione della Suprema corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

Art. 8

La richiesta dell'Alto Commissario all'Alta Corte di giustizia per la decadenza dalla carica dei membri di Assemblies legislative o di enti ed istituti, che con i loro voti o atti contribuirono al mantenimento del regime fascista e a rendere possibile la guerra, deve essere notificata, a cura della cancelleria dell'Alta Corte, ai singoli interessati con l'invito a presentare le deduzioni difensive entro un termine prefisso, che non può essere inferiore a giorni 15.

Entro questo termine gli interessati possono consultare gli atti nella cancelleria.

L'Alta Corte, prima di provvedere, può procedere a tutte le in-

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dagini occorrenti e contro l'interessato, anche se questi non ne abbia fatto richiesta.

La decadenza dalla carica è disposta con ordinanza in camera di consiglio.

Art. 9

Contro le sentenze e gli altri provvedimenti dell'Alta Corte di giustizia non è ammesso alcun mezzo di impugnazione.

Art. 10

Il servizio di cancelleria presso l'Alta Corte di giustizia è disimpegnato da funzionari delle cancellerie giudiziarie, che vi sono destinati in numero adeguato al bisogno con provvedimento del Ministro di Grazia e Giustizia.

Art. 11

La revoca delle declaratorie di amnistia ed indulto preveduta dall'art. 6 del decreto legislativo 27 luglio 1944, n. 159, è promulgata con ordinanza in camera di consiglio dal giudice che aveva emesso la declaratoria stessa.

Contro l'ordinanza non è ammesso alcun mezzo d'impugnativa.

Art. 12

I magistrati presidenti delle Commissioni provinciali, istituite con l'art. 8 del decreto legislativo 27 luglio 1944, n. 159, sono nominati dal Ministro di Grazia e Giustizia.

L'entratura a sorte tra i giudici popolari dei due membri delle predette Commissioni è fatta con l'osservanza delle disposizioni sull'ordinamento delle Corti di Assise, in quanto applicabili, dal Presidente, assistito dal segretario che ne redige verbale.

Il servizio di cancelleria è disimpegnato da funzionari della can-

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Il servizio di cancellerie presso l'Alta Corte di giustizia è disimpegnato da funzionari delle cancellerie giudiziarie, che vi sono destinati in numero adeguato al bisogno con provvedimento del Ministro di Grazia e Giustizia.

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La revoca delle declaratorie di amnistia ed indulto preveduta dall'art. 6 del decreto legislativo 27 luglio 1944, n. 159, è promulgata con ordinanza in camera di consiglio dal giudice che aveva emesso la declaratoria stessa.

Contro l'ordinanza non è ammesso alcun mezzo d'impugnativa.

Art. 12

I magistrati presidenti delle Commissioni provinciali, istituite con l'art. 8 del decreto legislativo 27 luglio 1944, n. 159, sono nominati dal Ministro di Grazia e Giustizia.

L'estrazione a sorte tra i giudici popolari dei due membri delle predette Commissioni è fatta con l'osservanza delle disposizioni sull'ordinamento delle Corti di Assise, in quanto applicabili, dal Presidente, assistito dal Segretario che ne redige verbale.

Il servizio di segreteria è disimpegnato da funzionari delle cancellerie giudiziarie, destinati dal Primo Presidente della Corte di appello che ha sede nel comune capoluogo di provincia in cui la Commissione è istituita o, se il detto comune non è sede di corte di appello, dal Presidente del locale Tribunale.

Art. 13

Le commissioni provinciali, istituite con l'art. 8 del decreto legislativo 27 luglio 1944, n. 159, adottano i provvedimenti di loro competenza su richiesta dei procuratori del Regno o dell'Alto Commissario.

La competenza a provvedere spetta alla Commissione della provincia nella cui circoscrizione è stato compiuto il fatto per il quale si procede.

La Commissione prima di adottare i provvedimenti previsti nell'articolo suddetto, deve sentire l'interessato o invitarlo a comparire.

L'interessato può farsi assistere da un difensore.

Contro i provvedimenti della Commissione è ammesso il ricorso per cassazione, anche per il merito.

Il ricorso è deciso, in camera di consiglio, dalla Sezione della Suprema Corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

Art. 14

Quando non v'è esercizio dell'azione penale, la competenza a disporre la confisca prevista dall'art. 2 del decreto legislativo 27 luglio 1944, n. 159, spetta al tribunale penale del luogo nel quale è situato il bene o è situata la sua porzione dei beni da confiscare.

Il tribunale, provvede, previa citazione dell'interessato, il quale può farsi assistere da un difensore.

La confisca è disposta dal tribunale con ordinanza in camera di consiglio, che è soggetta al ricorso per cassazione, anche per il merito. Il ricorso è deciso dalla Sezione della Suprema Corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

Art. 15

L'Alto Commissario, per l'assolvimento dei compiti e lui demandati dal decreto legislativo 27 luglio 1944, n. 159, può chiedere informazioni e documenti anche agli istituti ed aziende di credito, senza che a ciò siano di ostacolo le disposizioni vigenti circa la comunicazione dei dati e delle notizie riguardanti le aziende e gli istituti anzidetti. Ordiniamo ecc.

slativo suddetto.

Art. 14

Quando non v'è esercizio dell'azione penale, la competenza a disporre la confisca prevista dall'art. 3 del decreto legislativo 27 luglio 1944, n. 159, spetta al tribunale penale del luogo nel quale è situato il bene o è situata la materia per parte dei beni da confiscare.

Il tribunale, provvede, previa citazione dell'interessato, il quale può farsi assistere da un difensore.

La confisca è disposta dal tribunale con ordinanza in camera di consiglio, che è soggetta al ricorso per cassazione, anche per il merito. Il ricorso è deciso dalla Sezione della Suprema Corte di Cassazione indicata nell'art. 6 del decreto legislativo suddetto.

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L'Alto Commissario, per l'assolvimento dei compiti a lui demandati dal decreto legislativo 27 luglio 1944, n. 159, può chiedere informazioni e documenti anche agli istituti ed aziende di credito, senza che a ciò siano di ostacolo le disposizioni vigenti circa la comunicazione dei dati e delle notizie riguardanti le aziende e gli istituti anzidetti.

Ordiniamo ecc.

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