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

ACC

10000/105/856

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

10000/105/856

DEFASCISM, PROPOSED LEGISLATION, PROPERTY OF CONVICTED FASCISTS & FASCIST COMPANIES
(DL-364, DL-626)
JULY 1944 - OCT. 1945

Declassified E.O. 12356 Section 3.3/NND 785016

Legale

Please see ~~also~~ 334 ~~of~~ this month & will you please take urgent steps to get this decree implemented as soon as the necessary ~~as~~ that case should be appealed. You will note that the same time limit created by the decree expires on 1st Oct. It hardly gives time for the ~~order~~ law finally to come into effect. Let alone for parties to avail of its entitlements - but of course ~~they~~ the persons concerned have knowledge of the provision for some years. This decree is only to be a guide for defendants.

CA-S
11 OCT. 1962
X-Ref

C.A. Section

Steps have been taken for the advanced implementation of DLL No 626 of 5th October extending the time limit of DLL No 364 relating to the imposition and forfeiture of property given in import regime.

It is hereby informed that the Policy regime shall apply from expiry of Entry No 23 commencing on close Period as enumerated & defined in the Import Control Act 1962.

for C.A.

15th Oct 62

- 5800

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

C.A. Section

Steps have been taken for the advanced implementation of D.L.C. No 526 of 5th October extending the time limit of D.L.C. No 514 relating to the importation and production of prepared cream at Concentrating

It has been ascertained that the Philippine Relief Mission will supply three copies of Reports No 23 containing the three items for immediate Dispatch to the Report Compiled in Western Regions

13th Oct 45

for C.A.

- 5806

Minutes

0634

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

ERRATA - CORRIGE

D.L.L. 364 of 31 May 1945.

FORFEITURE OF FASCIST PROFITS

	DL.	=	D.L.L.
1.	(1°para)....for any of the crimes	=	for the crime
	(2°para)....may be	=	shall be
	(3°para)....may...be	=	shall be
	(4°para)....may...be	=	shall be
	.....after having heard the heirs' citation	=	after having summoned the heirs.
	(4°para)....order in council	=	"Ordinanza in Camera di Consiglio" or:...order of a judge in Chambers.
3.	(1°para) who has held any of	=	who after such date has held any of..
	a) Fascists	=	Fascism
	n) DLL 159 or who....	=	DLL 159.———————
	(3°para, the papers relative to the proceeding.....	=	the papers for the hearing...
5.	In the absence of the exonerating circumstances..	=	In the absence of the evidence...
6.	... in the absence of the exonerating circumstances..	=	In the absence of the evidence...
	b) by private physical or juridical persons...	=	by physical or private juridical persons...
	b) unrecognized bodies	=	unincorporated bodies.
	c) " "	=	" "
	investments	=	shares
11.	b) through an agent	=	through a nominee
	c) of his agents	=	of his nominees
14.	(2°para) be executive	=	be enforceable.
15.	(1°para) in the name of an agent	=	through a nominee.

Manuel

0 6 4

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

18. (6°para)...shall have power to take cognizance of proceedings before the Section or the Sub-Section; = shall assign the proceedings to the Section or the Sub-Sections;

(6°para) appointed to...: = appointed by the President of the Special Section to...

19 of the Province = of the Provincial Commission.
resides = has his domicile
residence = domicile
residence = domicile

21. and..... = and to Presidents of Special Sections after the latter have been formed.

22. (para 1) Commission of the proposed..... = Commission the proposed
(para 1) communicated to him by... = communicated by
(para 1) receipt and to... = receipt to

25. under art. 30 = under art. 32
in accordance..... = by registered letter with return receipt

26. (para 1) 20 and 24 = 20 to 24
(para 2) ---------- = x

27. (para 1) When any property is in jeopardy, the protective measures = The protective measures

(para 1) may be ordered by the President = shall be ordered, wherever the property subject to such measures is situated, by the President

(para 2) may be = shall be
(para 3) may = shall
residence = domicile

Minutes

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

(para3) to be protected = subject to the said measures.

28.(a) the protection = the protective measures.
(b) mortage = mortgage.
other securitym = a bail

30.(para 1) deciding upon = requesting
(para 2) trustee = receiver
(para 3) ordered then = ordered the said sequestration

33.(para 4) and serving of notice thereof on = and a notice thereof shall be served on
(para 5) a garnishee notice = a garnishment notified
notice, supply = notice, and supply
(para 6) trustee = receiver
(para 7) A...· after = After
shall imply... that = the transfer of the shares may be effected only if,
(para 8) of.... shares = of interests.

34.(para 1) trustee = receiver
(para 2) trustee = receiver
(para 4) trustee = receiver
to curry... operations = to exercise in the place of the garnishee, all the rights pertaining to the latter
(para 5) trustee = receiver

35 trustee = receiver

41 (para 5) and.. employed = to be employed as "attached personnel"

42 (para 1) The Respondant = the convicted Defendant.
(para 3) in the proceeding and for.. = by the same procedure established for

44 (para 1) the reserve = the minimum price
(para 3) the reserve = the minimum price
(para 6) = x
(para 7) brokers. = brokers; as regards other interests on the basis of the value to be determined by the Chamber of Commerce.

48 trustee = receiver

49 (para 1) be commenced within = be extinguished after

50 (para 1) shall cease after = shall be extinguished after
(para 2) tjis = this
any payment or = any payment note or

53 thenpresent = the present

Minutes

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

Legal

Will you please say if AMG ... necessary
because the contents of ... of terms of the ...
for the information of Finance Officers

A Wilson Lt/Col

24

A.G.
20.XI.43

CA Sec

a/ The translation follows the Italian text closely and is therefore stumbly littered a sometime cumbersome.

b/ The study of the Italian text in order to understand the procedure and technicalities will take some time. This however, must be done in order to be sure that the translation is correct or where it should be amended.

c/ In view of the fact that AMG will hand over on/Sep. I cannot see how this decree can begin to have any effect in Northern Italy before that date, considering its intricacy, lengthy procedure, complicated system of appointment etc.

d/ It will require at least a week to get translation in proper shape.

G. G. Humphrey Hbl

Legal D/C
31 Jan 44

Legal.

All that is required is to have checked the text
... the Italian version ...

d/- The study of the existing [illegible] the procedure and technicalities will take some time. This however, must be done in order to be sure that the translation is correct & when it shall be amended.

c/- In view of the fact that AMG will hand over on 1 Sep. I cannot see how this Service can begin to have any effect in Northern Italy before that date, considering its intricacy, lengthy procedure, complicated system of appointment etc.

d/- It will require at least a week to get translation in proper shape.

G. G. Hamilton Lt Col

Legal S/C
31 July 45

SD.~

Legal.

All that is required is to have clarified the legal [illegible] & always the authentic version is an index and general guide.

It is required for the information of persons who may be [illegible]

It will be understood if you can visit us within the next few days.

CA S.
31.7.45

Hdq

26.

CA Sc.

Amended as discussed yesterday.

Legal S/C
7/8/45

Minutes

Cpt A G Hamilton
CA Cell

&

Declassified E.O. 12356 Section 3.3/NND 785016

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

Rome 17 July 1945

M-207

To: A.C. Patterson Branch — Rome

Harm
IR 541

Subject: ~~Supplementary~~ Additional and amendments to the supplementary rules for [illegible]

We wish ~~to be informed~~ that the following additional ~~and amendments to the supplementary~~ direction is to be brought to Annex

n. 8 of the letter of this Embassy of 14 June 1945:

"The above subventions shall be paid also to all ~~amnistied~~ Italian patriots, who operated outside the national territory against the nazi-fascists with the exception of the members of the Garibaldi Brigades, because this unit is considered as a unit of the Italian Army - and to the ~~amnistied~~ patriots of foreign nationality who operated on

Declassified E.O. 12356 Section 3.3/NND 785016

~~and subordinate~~ ~~direction~~ to be brought
~~to the number~~

n. 3 of the letter of this ministry of 16th status
16 June 1945.

"The above subventions shall be paid also to
all ~~anti-Fascist~~ Italian patriots, who
operate outside the national territory
against the war-forces with the
exception of the members of the Garibaldi
Division, ~~who~~ because this unit a true and
as a unit of the Italian Army -
and b the ~~anti-Fascist~~ listed patriots of
foreign nationality who operated on
behalf of the Italian

The Chief of Cabinet
Bonalle

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

K

Ex Communications

Folio 26 is submitted for approval of statement, which is at Folio 18B has been passed to Blood (A. B)

28 June

D.D.Bonham Carter Lt Col
CAS

CAS

Draft approved in accordance

Signed Chief
for Ex Comm

25/6

20

Ex Communications

Letter now submitted for signature

30 June

D.D.Bonham Carter
CAS

21.

Chief Communications

Letter to PM Submitted by Ex Comm

Signature
cc 1630

Signed Chief
for Ex Comm

2/7/41

22

CA Sec

Ref Minute 20 above, letter, signed by Chief Secretary, in connection with the capital which copies have been returned.

Thanks

CA Section

Letter leaving out reference to statement, signed & despatched by Chief Commissioner's Office. Copies have been withdrawn fr CC and EC files.

19 June 45

Office of EC.

15 21A 18B

VP Story - Orders has been released but Polish view not to consider a statement proposed by Bonsey:

Folio (B) gave all clear (21A) Point (A) invites to speak (25A) -

I suggest that Major Paterson sees him. Reply eventually sent jointly by EC basis on 19B

B.A.Bonham Carter 21/6

16

Major Paterson

Please see a Minute 15, and Folio 25A

26 June B.A.Bonham Carter 26/6

17

Col. Bonham-Carter

I HAVE spoken with Mr TASCA. I READ McBRIDES MEMORANDUM (FOL 25A) to HIM.

MR TASCA SAYS HE SEES NO REASON THE

Declassified E.O. 12356 Section 3.3/NND 785016
NND 785016

Pols (A) gave all clear (25A) Pols (A) wishes to speak (25A).

I suggest that Mayn Palmieri see him reply contained 24 June by EC Envoy in 19B

16

Mayn Palmieri

Please cut a Minute 15, and Pols 25A

26 June

17

Col. Benham. Canty

I HAVE SPOKEN WITH MR. TASCA. I READ MC BRIDE'S MEMORANDUM (FOL 25A) TO HIM.

MR TASCA SAYS HE SEES NO REASON TO INTERVENE OR TO DELAY ENACTMENT OF THE LAW; THAT HIS POSITION WAS COVERED BY THE AMERICAN AMBASSADOR'S LETTER (FOL 20B).

21 JUNE 1945

Minutes

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

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

VP.

10 A & B are intended to meet the objection which was put out in 10A. They are explanatory only & do not [illegible]

CA 5
10 JUN 61

Ex Commissioner

Very urgent. I have put forward alternative letters for the Chief Commissioners consideration. He instructed me to take up the final paragraph of 10A with Pol Advisers. The two alternatives give the choice of mentioning that fact or ignoring it. I spoke with Major Stevens

10 June

H. D. Buchanan
CAS. 1.61

CAS
... / Dr Spry. CC ... Canberra. F.O.

Returned. [illegible]

CA 5
1000 1/42

Ex Commissioner

Very urgent I have put forward alternative letters for the Chief Commissioners consideration He instructed me to take up the final paragraph of 18A with Pol Advisers The two alternatives give the choice of maintaining that part or ignoring it I spoke with Major Stevens

18 June

R. K Bankemsaha
CAS 1.6.61

CAS
We spoke. CC a/c Cancelled. F.O.
Returned. Sd/ illegible
78/6

Chief Commissioner.

I submit two letters for signature addressed to the Prime Minister in answer to his letter at Folio 12A.

(1) does not mention the question of the statement which the Prime Minister proposes to issue on the publication of the decree

(2) mentions the statement which is at present under consideration by your political advisers who have not yet expressed an opinion.

You asked for these papers this evening.

78/16/6

Minutes

16 June 45 16/6
Sir, I have to note that C.C. signed letter (1)
Ex Com. signed for C.C. RB 19/6 H. 19/6.

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

Memorandum on the Decree forfeiting Fascist Profits

1 This decree has been passed by the Council of Ministers but has not yet been published in the Gazette.

2 L. 159 states the law in very wide terms. It requires both amplification and clarification. Rules of Procedure with actions for the recovery of profits are also required. These deficiencies are supplied by this decree. Almost the whole decree is taken up with these matters.

3 Apart from the above the only new matter is that which declares forfeit the estates of persons convicted under part I of L. 159 and of those who held a relatively small number of important posts in the fascist government or Party or subscribed substantially for party purposes.

4 The major part of the decree is taken up with details of procedure for recovery of "profits derived from the regime".

5 With the exception of one question which is dealt with below there is nothing in the decree to which objection should be taken.

6 It is not unreasonable that the corruptly wealthy should be deprived of their ill gotten wealth. It follows however that the state, if it acquires their assets, will also acquire their voting or other rights which appertain to such assets. The question is, is it possible for the state as a result to obtain control of important concerns to the detriment of Allied interests.

7 It must be borne in mind that the decree does not deal with the property of fascists generally but of a relatively few persons who held named positions and of profiteers. In order that the state may obtain control of a concern it would be necessary first that a majority of the shareholding should come within the decree which in most cases is in itself unlikely. That in itself is not sufficient, the whole of the property of a "profiteer" is not forfeitable but only the amount by which his wealth has increased. Therefore to get control of a company it is necessary that the wealth of the majority shareholding shall have increased by an amount which is in itself equal in value to a majority shareholding. Such a position is highly improbable though not completely impossible.

8 Even so the decree provides the following safeguards. (Art 34) that the manager shall vote only on ordinary matters of administration - on extra ordinary matters the vote shall remain in its previous owner. Secondly it forms a very high level committee of experts (Art 29) whose directions as to voting the manager must follow. It must be presumed that a Committee of the prescribed standing will not be [illegible]

9 Of necessity the rights must be lodged somewhere and the Italian Government seems to have tried to find a reasonable solution. The time limit contained in Art 49 will bring the matter to a conclusion within a relatively short time. It is

Declassified E.O. 12356 Section 3.3/NND No. 785015

0 6 5 1

Declassified E.O. 12356 Section 3.3/NND No. 759876

Memorandum on the Decree forfeiting Fascist Profits

1 This decree has been passed by the Council of Ministers but has not yet been published in the Gazette.

2 DL 159 states the law in very wide terms. It requires both explification and clarification. Rules of Procedure with actions for the recovery of profits are also required. These deficiencies are supplied by this decree. Almost the whole decree is taken up with these matters.

3 Apart from the above the only new matter is that which declares forfeit the estates of persons convicted under part I of DL 159 and of those who held a relatively small number of important posts in the fascist government or party or subscribed substantially for party purposes.

4 The major part of the decree is taken up with details of procedure for recovery of "profits derived from the regime".

5 With the exception of one question which is dealt with below there is nothing in the decree to which objection should be taken.

6 It is not unreasonable that the corruptly wealthy should be deprived of their ill gotten wealth. It follows however that the state, if it acquires their assets, will also acquire their voting or other rights which appertain to such assets. The question is, is it possible for the state as a result to obtain control of important concerns to the detriment of Allied interests.

7 It must be borne in mind that the decree does not deal with the property of fascists generally but of a relatively few persons who held named positions and of profiteers. In order that the state may obtain control of a concern it would be necessary first that a majority of the shareholding should come within the decree which in most cases is in itself unlikely. That in itself is not sufficient, the whole of the property of a "profiteer" is not forfeitable but only the amount by which his wealth has increased. Therefore to get control of a company it is necessary that the wealth of the majority shareholding shall have increased by an amount which is in itself equal in value to a majority shareholding. Such a position is highly improbable though not completely impossible.

8 Even so the decree provides the following safeguards. (Art 3h) that the manager shall vote only on ordinary matters of administration - on extra ordinary matters the vote shall remain in its previous owner. Secondly it forms a very high level committee of experts (Art 29) whose directions as to voting the manager must follow. It must be presumed that a Committee of the prescribed standing will not be [illegible]

9 Of necessity the rights must be lodged somewhere and the Italian Government seems to have tried to find a reasonable solution. The time limit contained in Art 49 will bring the matter to a conclusion within a relatively short time. It is

Declassified E.O. 12356 Section 3.3/NND No. 759016

recovery of "profits derived from the regime".

5 With the exception of one question which is dealt with below there is nothing in the decree to which objection should be taken.

6 It is not unreasonable that the corruptly wealthy should be deprived of their ill gotten wealth. It follows however that the state, if it acquires their assets, will also acquire their voting or other rights which appertain to such assets. The question is, is it possible for the state as a result to obtain control of important concerns to the detriment of Allied interests.

7 It must be borne in mind that the decree does not deal with the property of fascists generally but of a relatively few persons who held named positions and of profiteers. In order that the state may obtain control of a concern it would be necessary first that a majority of the shareholding should come within the decree which in most cases is in itself unlikely. Yet is itself is not sufficient, the whole of the property of a "profiteer" is not forfeitable but only the amount by which his wealth has increased. Therefore to get control of a company it is necessary that the wealth of the majority shareholding shall have increased by an amount which is in itself equal in value to a majority shareholding. Such a position is highly improbable though not completely impossible.

8 Even so the decree provides the following safeguards. (Art 3) that the manager shall vote only on ordinary matters of administration - on extra ordinary matters the vote shall remain in its previous owner. Secondly it forms a very high level committee of experts (Art 29) whose directions as to voting the manager must follow. It must be presumed that a Committee of the prescribed standing will not [illegible]

9 Of necessity the rights must be lodged somewhere and the Italian Government seems to have tried to find a reasonable solution. The time limit contained in Art 49 will bring the matter to a conclusion within a relatively short time. It is submitted that the scheme is reasonable and the risk is very remote.

10 Even so the matter can be satisfactorily dealt with by negotiating an agreement with the Italian Government that in the event of forfeiture of substantial interest in concerns in which the Allies have an interest the Allies shall have a right to acquire at current market rates up to one half of the forfeited shareholding (or that proportion of the forfeited shares as their interests bears to the total shareholding, but this latter division does not neutralise the forfeited shares as a 50-50 division would). If this is done there seems to remain no possible ground of objection to the decree. [illegible]

11 The opinions of the Finance and Legal Sub-Commissions on this decree have not yet been obtained.

Minutes

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

Memorandum on the consideration of Italian legislation

1 When considering Italian legislative proposals it is useful to have in mind the tests proper to be applied.

2 The touchstone by which proposals would be tested to see if objection should be taken by AC is fourfold.

a) It is contrary to the interests of Allied operations or Allied forces.
b) It is contrary to the obligations imposed on the Italian Government by the Armistice Terms.
c) It is so contrary to the interests of the Allied nations or of Allied nationals that in peace time representations would have been made.
d) It is so contrary to natural justice as to constitute a tyranny such as the Allies entered into the war to destroy.

Unless the proposed law offends one of these criteria the Allied Commission has no proper foundation for voicing any objection.

3 It is as useful to bear in mind the negative tests

a) that provided the above criteria are not infringed, it is not open to the Allied Commission to object because the offences created, the punishments authorised, the administrative powers granted or the procedure laid down differ from those to which we are accustomed.
b) that there is no difference between the opprobrium with which Nazism and Fascism should be regarded and in particular there is no justification for treating fascists more leniently than Nazis. It is a test which may be applied "would this provision be objectionable if applied to a Nazi. If the answer is no there is no logical reason for objecting to its application to a fascist.
c) that provided the above criteria are not infringed it is not open to the Allied Commission to object because it may not be in sympathy with the ideology believed to be instigating some of the proposals.

c) It is so contrary to natural justice as to constitute a tyranny such as the Allies entered into the war to destroy.

Unless the proposed law offends one of these criteria the Allied Commission has no proper foundation for voicing any objection.

3) It is as useful to bear in mind the negative tests

a) that provided the above criteria are not infringed, it is not open to the Allied Commission to object because the offences created, the punishments authorised, the administrative powers granted or the procedure laid down differ from those to which we are accustomed.

b) That there is no difference between the opprobrium with which Nazism and Fascism should be regarded and in particular there is no justification for treating fascists more leniently than Nazis. It is a test which may be applied - would this provision be objectionable if applied to a Nazi. If the answer is no there is no logical reason for objecting to its application to a fascist.

c) That provided the above criteria are not infringed it is not open to the Allied Commission to object because it may not be in sympathy with an ideology believed to be instigating some of the proposals. [illegible]

Minutes

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

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

3(a)

Memorandum on the petition at 14 A.

1 Fascism originated as an ideology to combat Communism. The petition is thoroughly Fascist. Its argument is based upon the necessity of combining to combat communism. It suggests that the decree will destroy the bourgeoisie which is a bulwark against communism. It ignores the fact that the decree does not deal with the bourgeoisie but with fascists and not with all fascists but only with those fascists who have been either of particularly high standing or have been corrupt. The petition suggests that fascists should not be punished, so that they should not be crippled for the struggle against communism.

2 The petition where it deals with facts is based upon surmise. It alleges that it will not be open to an accused to show that an accretion to his estate has been legally and honourably obtained. That is not so. Art. 7 provides that a forfeiture shall not be enforced where the accused proves that the accretion did not arise corruptly.

3 The petition does not mention the provision (art 10) that where forfeiture has been ordered the court can make provision for the maintenance of the accused and his dependants either by excepting a portion of the estate from forfeiture or by granting an annuity.

5816

785016

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

This document is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

MINUTES

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

CA Section.

Letter signed as requested, and on instructions of the Chief Commissioner was despatched last night. Copies have been withdrawn for CC and EC files.

22.May.45.

G. Thorden Maj

5810

Minutes

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

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Chief of Staff

V.P C.A.S

C.C. states decree has already been passed. What action do you recommend?

MS/17/5

EC. Letter at 11a for signature & dispatch

CA
19 Mar 1945

Minutes

V.P.

1

The proposed decree for the confiscation of illicitly acquired wealth during the Fascist regime is under discussion before the Council of Ministers. It has been prepared by a Committee of Ministers. They have drafted some portions of this measure themselves, and have left other portions to legislative drafts-men from various ministries. It has been difficult, therefore, to follow the development of this proposed law and new amendments are flowing into it constantly. I have been advised however, that the Ministers may pass it at any time and for this reason I urgently request that the Chief Commissioner sign a letter in substantially the same terms as those set forth below.

2

This request is made because the proposed decree contains provisions at the present time (Article 7) which refer to private companies. One provision is intended to prevent fascists whose property is subject to confiscation under other provisions of the law, from eluding its enforcement by ownership of stock in a "dummy" corporation. The corporate veil is pierced, however, only where the Fascist owns four-fifths of the stock. It is reported that Minister BROSIO wants this to be changed to a nine-tenths ownership of stock.

3

The other provision referring to companies makes subject to forfeiture any profits illicitly acquired by private companies and derived from business transactions in which Fascists effected by the decree were involved in association with these companies.

4

A proper safeguard has been inserted so that it is open to the interested parties to prove that the questioned profits were legitimately acquired notwithstanding the stock ownership or participation by the Fascist principally involved.

5

Since it is possible that these provisions with respect to private companies may be amended at any moment the following letter is suggested:-

" Dear Mr. Prime Minister, I understand that a decree for the confiscation of profits illicitly acquired during the Fascist regime is under discussion by the Council of Ministers.

I understand further that the proposed decree contains provisions affecting private companies.

The Allied Governments are vitally interested in this matter and I must request you to permit me to examine a copy of the final draft when it has been agreed upon, and before the Council of Ministers takes definitive action."

CA Section
15 May 45

E.L. PALMIERI Major,

Declassified E.O. 12356 Section 3.3/NND 785015 No. NND 785015

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

[illegible] owns four-fifths of the stock. It is reported that Minister BROSIO wants this to be changed to a nine-tenths ownership of stock.

3 The other provision referring to companies makes subject to forfeiture any profits illicitly acquired by private companies and derived from business transactions in which Fascists affected by the decree were involved in association with these companies.

4 A proper safeguard has been inserted so that it is open to the interested parties to prove that the questioned profits were legitimately acquired notwithstanding the stock ownership or participation by the Fascist principally involved.

5 Since it is possible that these provisions with respect to private companies may be amended at any moment the following letter is suggested:-

" Dear Mr. Prime Minister, I understand that a decree for the confiscation of profits illicitly acquired during the Fascist regime is under discussion by the Council of Ministers.

I understand further that the proposed decree contains provisions affecting private companies.

The Allied Governments are vitally interested in this matter and I must request you to permit me to examine a copy of the final draft when it has been agreed upon, and before the Council of Ministers takes definitive action."

CA Section
15 May 45

E. Palmieri
E.L. PALMIERI Major,

Minutes

4.

EoC.

As instructed by you yesterday I have caused inquiries to be made as to the present status of the confiscation decree. Please see Major Palmieri's report immediately above.

Draft letter for consideration of CC is at 11a.

15 May 45.

Big. Upjohn

(Considering that
(a) we do not
want companies
included
(b) our rôle is
advisory only,
why should un-
deleted section be
attached minute
written?

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

Big. Upjohn
(Considering that
(a) we do not
want companies
included
(b) our rôle is
advisory only,
why should un-
desired section in
attached minute be
written? DWS

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

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

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

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

Translation No. 975

LEGISLATIVE DECREE OF THE LIEUTENANT GENERAL NO. 626 OF 5 OCT. 45.

Extension of the time limits to make the declaration prescribed by Art. 11 of Legislative Decree No. 364 of 31 May 1945 relating to the forfeiture and confiscation of profits of the regime after the date upon which Legislative Decree No. 432 of 4 August 1945 has become operative in the provinces restored to the Italian administration, and in the territories not yet restored.

SINGLE ARTICLE

In the provinces restored to the Italian Administration after the coming into force of DLL 432 of 4 August 1945, and in those not yet restored, the time limit for making the declaration prescribed by the second para of art. 11 of DLL 364 of 31 May 1945, shall expire on 20 October 1945.

The present decree shall come into force on the day of its publication in the Official Gazette of the Kingdom. In the provinces not yet restored to the Italian Administration it shall become effective on the date it is made operative by the Allied Military Government.

Be order that the present decree, bearing the State seal, be inserted in the Official Collection of the laws and decrees of the Kingdom of Italy, and that all persons concerned observe it and see that others observe it as law of the State

5811

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref DF/5.17/CA

11 Oct 45

Dear Sir,

This Commission has no comment on the draft decree to amend DL 364 beyond the comment that it hardly seems possible to get the gazette into the hands of all concerned by the 20 Oct.

Steps are being taken to implement it at once.

Yours truly

M. Carr Brigadier

M. CARR, Brig.
VP CA Section

Dott. ARTESANI
The Under Secretary
Presidency of the Council of Ministers
R O M E

785016

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

(33A)

TRANSLATION NO. 955

PRESIDENCY OF THE COUNCIL OF MINISTERS

ROME, 9 October 1945

Ref. No. 10124.6.31/1.7

TO: COLONEL S.H. WHITE
ALLIED COMMISSION
R O M E

Dear Colonel,

The enclosed is a copy of a provision, to be published within a few days, which extends the time limit for reporting property, as set out in art 11 of DLL No. 364 of 31 May 1945 for the forfeiture and confiscation of profits derived from the regime, to 20 October next. The said postponement, concerning the northern provinces, has been made necessary by the fact that the time limit established for last September (with DLL No. 438 of 4 August 1945) had no practical effect in the territories subject to A.M.G. where the normal time limit of 30 days expired precisely at the time in which DLL No. 364 was extended to said territories.

The provinces in which the postponement shall have effect, have been notified of the provision (many of these provinces have, in the meantime, been restored to Italian administration); however, notwithstanding the delay, the provision must be published in order to ratify the reports presented after the expiry of the normal time limit.

Owing to the particular urgency of the measure I wish to point out that it should be made effective as soon as possible in the territories under A.M.G. Moreover, it is particularly desirable that the A.M.G. ordinance (as in similar cases) be published in the same number of the Official Gazette as the enclosed decree.

I wish to thank you for the kind interest shown in the above question.

Best regards.

/s/

5833

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

(33B)

HUMBERT OF SAVOY
PRINCE OF PIEDMONT
LIEUTENANT GENERAL OF THE KINGDOM

By virtue of the authority delegated to us;
Whereas DLL No. 438 of 31 May 1945;
Whereas art 4 of DLL No. 151 of 25 June 1944;
Whereas DLL. No. 58 of 1 Feb 1945;
Whereas the decision of the Council of Ministers;
On the proposal of the President of the Council of Ministers, Prime Minister Secretary of State, in conjunction with all the Ministers;

WE HAVE SANCTIONED AND PROMULGATE THE FOLLOWING:

Only article

In the provinces restored to the Italian administration after the effective date of DLL No. 438 of 4 August 1945 and in those not yet restored, the time limit for reporting property fixed in the second para of art 11 of DLL No. 364 of 31 May 1945, shall expire on 30 October 1945.

The present decree shall become operative on the day of its publication in the Official Gazette of the Kingdom. In the provinces not yet restored to the Italian administration, it shall become effective on such date as will be fixed by the Allied Military Government.

We order that the present decree, bearing the State seal, be included in the Official Collection of the laws and decrees of the Kingdom of Italy, be observed by all those concerned and that others observe it as law of the State.

Issued in Rome, 5 October 1945

/s/ Humbert of Savoy
Parri
Brosio
Nenni
De Gasperi
Togliatti
Nuini
Sacchimarro

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

Roma, 9 ottobre 1945

10 OTT. 1945

Presidenza del Consiglio dei Ministri
UFFICIO STUDI E LEGISLAZIONE

-All. 1-

Caro Colonnello,

con il provvedimento di cui Le trasmetto copia, e che sarà pubblicato tra qualche giorno, viene prorogato, fino al 20 ottobre prossimo, il termine per le dichiarazioni di beni, prevista dall'art. 11 del D.L.L. 31 maggio 1945, n. 364, ai fini dell'avocazione e della confisca dei profitti di regime. Tale proroga, concernente le provincie settentrionali, si è resa necessaria per il fatto che quella già disposta, fino al 15 settembre scorso (con il D.L.L.4 agosto 1945,n.438), non ha praticamente avuto effetto nei territori soggetti all'A.M.G., ove il normale termine di 30 giorni veniva a scadere proprio intorno a quella data, in relazione al-

---

Al Colonnello
S.H. WHITE
Commissione Alleata

R o m a

0671

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

Presidenza del Consiglio dei Ministri

UFFICIO STUDI E LEGISLAZIONE

l'epoca in cui il D.L.I. n.364 venne colà esteso.

La proroga anzidetta è stata resa già nota nelle predette in cui è destinata ad operare (molte delle quali sono, frattanto, già tornate all'Amministrazione italiana); ma la pubblicazione del provvedimento, nonostante il ritardo con cui ha luogo, è tuttavia essenziale per convalidare le dichiarazioni presentate dopo la scadenza del termine normale.

Data la particolare urgenza che il provvedimento riveste, sono indotto a farLe presente la necessità che esso venga reso esecutivo, al più presto possibile, nei territori soggetti al Governo Militare Alleato. Sarebbe, anzi, particolarmente opportuno che la relativa ordinanza dell' A.M.G. (analogamente a quanto è avvenuto in casi analoghi) venisse pubblicata nello stesso numero della Gazzetta Ufficiale, nel quale sarà pubblicato l'unito

0672

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

Presidenza del Consiglio dei Ministri

UFFICIO STUDI E LEGISLAZIONE

decreto.

Nel ringraziarLa dell'interessamento che Ella volle prendere al riguardo, colgo l'occasione, caro Colonnello, per inviarLe i miei saluti più cordiali

Fanfani

Umberto di Savoia

PRINCIPE DI PIEMONTE
LVOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il decreto legislativo Luogotenenziale 31 maggio 1946. n.438;

Visto l'articolo 4 del decreto-legge Luogotenenziale 5 giugno 1944,n.151;

Visto il decreto legislativo Luogotenenziale 1° febbraio 1945, n.98;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri;

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE:

Articolo unico

Nelle provincie restituite all'Amministrazione italiana dopo la entrata in vigore del decreto legislativo Luogotenenziale 4 agosto 1945, n.438, ed in quelle non ancora restituite il termine per la dichiarazione previsto dal secondo comma dell'art.11 del decreto legislativo Luogotenenziale 31 maggio 1946,

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

Udita la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri;

SENTITO IL PROVVEDIMENTO QUANTO ALLE [illegible]

Articolo unico

Nelle provincie restituite all'amministrazione italiana dopo la entrata in vigore del decreto legislativo Luogotenenziale 4 agosto 1945, n.438, ed in quelle non ancora restituite il termine per la dichiarazione previsto dal secondo comma dell'art.1 del decreto legislativo Luogotenenziale 31 maggio 1945, n.364, scadrà il 20 ottobre 1945.

Il presente decreto entra in vigore il giorno della sua pubblicazione nella Gazzetta ufficiale del Regno. Nelle provincie non ancora restituite all'amministrazione italiana, esso entrerà in vigore il giorno in cui sarà reso esecutivo dal Governo Militare Alleato.

Ordiniamo che il presente decreto, munito del sigillo dello Stato, sia inserto nella Raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare come legge dello Stato.

Dato a Roma, addì 5 ottobre 1945

F/to UMBERTO di SAVOIA
C.F/to PARRI
" BONOMI
" NENNI
" DE GASPERI
" TOGLIATTI
" RUINI
" SCOCCIMARRO

./.

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

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

0675

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

HQ VENEZIA REGION RPTD LOMBARDIA REGION

4324 27 AUGUST 1945 ROUTINE

UNCLASSIFIED EX

PARA GEN AV ACKNOWLEDGE YOUR DOCTR THAT ONE ONE SLANT TURIN THREE FOUR ONE TWO FIVE

EIGHT DOCTOR GOLLI LEFT ROME BY AIR ONE SEVEN AUGUST ORDER OF EVACUATION TOUR TURIN

MILAN PADUA ED

RETURN TO REGIONAL COMMISSIONER VENEZIA REGION FROM LOMBARDIA REGION FROM ALCOM

OPEN ADDAS PARAT

PARA TWO ED REGIONAL COMMISSIONER LOMBARDIA REGION WILL PLEASE CONTACT DOCTOR GOLLI

AND ARRANGE RETURN VENEZIA DATE DOCTOR GOLLI REPORTS ARRIVE PADUA

E 5835

CIVIL AFFAIRS SECTION

437

S.H. WITT, Lt Col.

NICHOLAS PICCIANO
CPO, USA
Asst Adjutant

0677

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

31A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DF/5.27/CA 27 Aug 45

SUBJECT : Defascism - Profits from the Regime.

TO : SCAO Venezia Giulia

1. Reference your 133/AMG/92.

2. Enclosed are 10 copies of DF/5.27/CA of 11Aug 45 and DL. 364 as requested.

S.H. White Lt.Col.
for VP CA Section.

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

2650

CASE C

HEADQUARTERS
AI 1ST MILITARY GOVERNMENT
13 CORPS

130/AMG/92

23 Aug 45

SUBJECT: Defascism - Profits from the Regime.

TO : H.Q. Allied Commission

1. May a further 10 copies of letter your H.Q. DP/S.17/CA dated 11 Aug 45 and DL.364 please be sent to this H.Q. as soon as possible.

F.B. Houdret.

F.B.HOUDRET.
Major,
G-II.

Copy to: Legal - Your 130/AMG/10/7
dtd 20 Aug 45, refers.

GM/sv

DL 364

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

294A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AF/A.47/3A

11 Aug 45

SUBJECT : Confiscation - Profits from the Regime.

TO : Pro Liberia, Lombardia, Piemonte, Venezia Regions.
(scale PRO (4) - PRO (2))

1 Enclosed are copies of AL 16, which deals principally with the procedure for the recovery of "profits from the Regime". The decree is not limited entirely to matters of procedure for it also adds to the classes of those liable to suffer forfeiture under AL 16.

2 While A/G is not concerned with the detail of the work of recovery of profits the contents of the decree are of interest to Legal, Finance and Requisition officers as a person suffering a forfeiture may for that reason suffer certain other civil disabilities.

3 Finance officers are also more particularly concerned as it is the responsibility of Intendenti di Finanza to "prosecute" forfeiture cases and for that reason they should be aware of the proper procedure to be followed.

BY COMMAND OF THE CHIEF COMMISSIONER :

W. H. WIGGETT Brig,
for AF CA Section.

5835

Copy for SCAO Venezia Giulia (4)
Finance S/O (20)

2290

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

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

Assessment Committee	"	18-20
Powers of Officers	"	21
Valid	"	22-24
Appeals	"	25-26
Protection of Property	"	27-32
Requisitions	"	33-39
Devolution	"	39
Prorition	"	40
Miscellaneous	"	41-42
Confiscation of Assets	"	43-45
Effect on other proceedings	"	46-48
Time Limits	"	49-50
Miscellaneous	"	51-54

15832

LIABILITY TO FORFEITURE

1 The provision of art 3 of DLL 190 of 27 July 44 remaining in force, the property of those persons who have been convicted for any of the crimes set out in art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for any of the crimes referred to in the 1st and 2nd paras of art 3 and art 5 of the said decree, may be forfeited wholly or in part according to the gravity of the case and to the circumstances or circumstances referred to in the 1st and 3rd paras of art 7 of the aforesaid decree.

An order for forfeiture would be ordered by the Court which pronounced the conviction.

In the case of a sentence pronounced before this decree came into force, the confiscation on the request of the High Commissioner for questions against Persons is ordered by the Court which pronounced sentence.

In the case of any penal proceeding becoming extinct, the forfeiture may, upon the request of the High Commissioner for questions against Persons, be ordered by the penal Tribunal of the place in which the greater part of the property liable to forfeiture is located. The Tribunal shall act, after hearing called the heirs; the latter may be assisted by an attorney. Judgement shall be in the form of an order of a Judge in chambers and be subject to appeal to Cassation. Appeals shall be heard by the section of the Supreme Court of Cassation referred to in art 6 of DLL 159 of 27 July 1944.

2 Without prejudice to the provisions of art 9 of DLL 190 of 27 July 1944 and of para 2 of the preceding art, all profits arising since 8 September 1943 from contracts, sales to or any other transactions with the Germans whether directly or through third parties are forfeited to the State.

Any transaction in which the contracting party knew or had good reason for believing that the benefit of the contract would be received by the Germans is included in the description "transactions through third parties".

3 All increases of property acquired since 5 Jan 1925 by any person who has held any of the offices mentioned below are forfeited to the State:

2290

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

0683

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

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

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

E.S.3.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Declassified E.O. 12356 Section 3.3/NND 785016 ON 785016

28W

TRANSLATION NO. 567

HIGH COMMISSIONER FOR SANCTIONS AGAINST FASCISM

ROME, 28 July 1945

SUBJECT: DLL 364 of 31 May 1945, providing complementary rules for the application of DLL 159 of 27 July 1944, for the part regarding the forfeiture and confiscation of profits derived from the regime.

TO : THE ALLIED COMMISSION
C.A. SECTION
R O M E

As your Sub-commission is aware, the complementary rules of DLL 159 of 27 July 1944, for the part regarding the forfeiture and confiscation of profits derived from the regime, approved by DLL 364 of 31 May 1945, have come into force in the territory restored to Italian Government and not in the territory still under Allied Military Government.

I refer especially to the obligatory denunciations, contemplated by art 11 of the said decree, which should be presented directly to Italian authorities, and to the constitution of the bodies for carrying out the assessment of profits derived from the regime.

I earnestly request you to consider the above difficulties which are certainly of such weight as to lessen substantially the results expected from the said decree, and consider consequently the desirability of bringing the decree into effect immediately in those provinces still under A.M.G.

You are undoubtedly aware, moreover, that the ex-President Bonomi sent a letter dated 14 June last, to Admiral Ellery W. Stone, stating his wish that the Allied Commission might agree to the application of the decree in question to the whole of the national territory, which in my opinion implies that the said Commission, in approving the decree, would naturally adhere also to its application in the territory of north Italy.

193

THE HIGH COMMISSIONER
/s/ Pietro Nenni

As your Sub-commission is aware, the complementary rules of DLL 129 of 27 July 1944, for the part regarding the forfeiture and confiscation of profits derived from the regime, approved by DLL 364 of 31 May 1945, have come into force in the territory restored to Italian Government and not in the territory still under Allied Military Government.

I refer especially to the obligatory denunciations, contemplated by art 11 of the said decree, which should be presented directly to Italian authorities, and to the constitution of the bodies for carrying out the assessment of profits derived from the regime.

I earnestly request you to consider the above difficulties which are certainly of such weight as to lessen substantially the results expected from the said decree, and consider consequently the desirability of bringing the decree into effect immediately in those provinces still under A.M.G.

You are undoubtedly aware, moreover, that the ex-President Bonomi sent a letter dated 14 June last, to Admiral Ellery W. Stone, stating his wish that the Allied Commission might agree to the application of the decree in question to the whole of the national territory, which in my opinion implies that the said Commission, in approving the decree, would naturally adhere also to its application in the territory of North Italy.

1945

THE HIGH COMMISSIONER
/s/ Pietro Nenni

- 58 -

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

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

I° Alla Commissione per la Sanzione del Fascismo

Roma, 28 luglio I945

30 LUG 1945

ALLA COMMISSIONE ALLEATA

Sottocommissione ~~Legale~~

R O M A

OGGETTO=D.L.L. 31 maggio I945, N°364, contenente norme integrative di attuazione del D.L.L. 27 luglio I944,N°I59, per la parte riguardante l'avocazione e la confisca dei profitti di regime=

Come è noto a codesta Sottocommissione le norme integrative del D.L.L. 27 luglio I944,N°159, per la parte riguardante l'avocazione e la confisca dei profitti di regime, approvate con il D.L.L. 31 maggio I945, N°364, sono entrate in vigore nel territorio restituito al Governo Italiano e non anche in quello tuttora soggetto al Governo Militare Alleato.

Tale circostanza crea un grave ostacolo ad una efficace applicazione delle norme stesse, soprattutto per il fatto che ne deriva l'impossibilità di svolgere nell'Italia Settentrionale quell'attività preparatoria che è indispensabile affinchè il meccanismo dell'avocazione possa agire non appena quei territori verranno restituiti al Governo Italiano.

Mi riferisco in modo particolare alle denunce obbligatorie, previste dall'art. 11 del citato decreto, che dovrebbero essere ricevute direttamente da Autorità italiane ed alla costituzione degli organi che dovranno attendere e concorrere all'accertamento dei profitti di regime.

Prego vivamente di considerare le difficoltà sopra indi

30 LUG 1945

ALLA COMMISSIONE ALLEATA

Sottocommissione ~~Legale~~

R O M A

OGGETTO=D.L.L. 31 maggio 1945, N°364, contenente norme integrative di attuazione del D.L.L. 27 luglio 1944,N°159, per la parte riguardante l'avocazione e la confisca dei profitti di regime=

Come è noto a codesta Sottocommissione le norme integrative del D.L.L. 27 luglio 1944,N°159, per la parte riguardante l'avocazione e la confisca dei profitti di regime, approvate con il D.L.L. 31 maggio 1945, N°364, sono entrate in vigore nel territorio restituito al Governo Italiano e non anche in quello tuttora soggetto al Governo Militare Alleato.

Tale circostanza crea un grave ostacolo ad una efficace applicazione delle norme stesse, soprattutto per il fatto che ne deriva l'impossibilità di svolgere nell'Italia Settentrionale quell'attività preparatoria che è indispensabile affinchè il meccanismo dell'avocazione possa agire non appena quei territori verranno restituiti al Governo Italiano.

Mi riferisco in modo particolare alle denunce obbligatorie, previste dall'art. 11 del citato decreto, che dovrebbero essere ricevute direttamente da Autorità italiane ed alla costituzione degli organi che dovranno attendere e concorrere all'accertamento dei profitti di regime.

Prego vivamente di considerare le difficoltà sopra indicate che sono indubbiamente tali da attenuare enormemente i risultati che si attendono dal menzionato decreto ed, in conseguenza, di studiare l'opportunità che il decreto stesso possa entrare immediatamente in vigore anche in quelle provincie tuttora amministrate dall'A.M.G.

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

E' indubbiamente noto, del resto, a codesto Ufficio, che l'ex Presidente Bonomi con una sua lettera, in data 14 giugno u.s., diretta all'Ammiraglio Ellery W. Stone, esprimeva il desiderio che il decreto di cui trattasi riportasse l'adesione dell'A.C. perchè potesse essere applicato in tutto il territorio dello Stato, per il che parrebbe, a mio avviso, che detta Commissione dando la sua approvazione al decreto abbia aderito implicitamente alla sua applicazione anche nei territori dell'Italia Settentrionale.

L'ALTO COMMISSARIO

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

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

Engle Committee
Military Pol Coordination
Head of Italians
Ends by Neil Sheehan
Transcription.

0-6-74

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

1

Translation

C

E. A. Sec.

The President of the Council of Ministers

19020-1/12,-0.17

2

Rome, 11 July 1945

12 LUG 1945

Dear Admiral,

In answer to the letter of June 11th in which my predecessor submitted the text of a statement concerning the new law on the allotment of the profits of the past racing, the Allied Commission stated in its note of June 14th (22/.17) that it had no objections against the enforcement of the decree, as in the text which had been sent.

After this unconditional agreement, the On. BONOMI proceeded to have the decree countersigned. It is now being published.

Referring to your letter of the 3rd (22../.17/14) I have no difficulty in telling you that any observations which the Governments of the United Nations may make concerning citizens or concerns of the United Nations, will be given proper attention by the competent authorities.

I remain,

Yours truly,

P. PARRI

Admiral Stone
Chief Commissioner
Allied Commission
Rome

Re act

EC DIST - 12 July 45

(567/EC)

ACTION C A SEC

INFO CHIEF CAB OFF

EXEC CAB OFF

9980

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

29928-10124-6.17
1.7

Il Presidente
del Consiglio dei Ministri

Roma, 11 luglio 1945

12 LUG 1945

Mio caro Ammiraglio,

*in risposta alla lettera 14 giugno scorso con la qua*le il mio predecessore sottoponeva il testo di una dichiara=zione concernente la nuova legge sull'epurazione dei profitti di regime, la Commissione Alleata, con nota 18 giugno (DP/S.17/CA), comunicava di non aver alcuna obiezione alla entrata in vigore del decreto, nel testo comunicato.

*In seguito a questa incondizionata adesione, l'on. BO*NOMI procedeva alla controfirma del decreto, che trovasi ora in corso di pubblicazione.

In relazione alla Sua del 3 corrente (DP.S.17/CA) non ho difficoltà ad assicurarLa che è ovvio che le eventuali os=servazioni, che i Governi delle Nazioni Unite riterranno di formulare in ordine a procedimenti riguardanti cittadini o en*ti delle Nazioni Unite, saranno tenute dalle Autorità compe=tenti nella dovuta considerazione.

*Mi è gradita l'occasione per porgerLe i migliori salu*ti.

All'Ammiraglio
Ellery W. STONE
Commissario Capo
della Commissione Alleata
R O M A

0712

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

IF/5.17/GA

3 July 45

My dear Mr. Prime Minister,

As you are no doubt aware there has been considerable correspondence between the Italian Government and the Allied Commission regarding the proposed decree concerning the forfeiture of unlawful profits.

On the 14 June 1945 your predecessor wrote a letter (reference 364/101/2.(-17/1.7) with which he enclosed a proposed statement on the future enforcement of the law. He suggested that this statement should be made by his successor. Since that date the Allied Commission has said that there is no objection to the decree becoming law in its present state, but I would be glad if you would inform me whether the statement proposed by your predecessor has your approval. It removes any possible doubts which may exist concerning the body of the law itself.

Yours very truly,

ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

Professor Bertuccio PARRI
The President of the Council of Ministers
Italian Government,
ROME.

1846

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

(25A)

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser (A)

June 22, 1945

To: Civil Affairs Section
Attention of Lt. Col. Bonham-Carter

(17A)

Subject: Attached File

Df/s 17/6 of 18 Jun 45

With reference to ~~the attached~~ file concerning the decree on the forfeiture of property of convicted Fascists and Fascist companies, Mr. Tasca, U. S. Treasury Representative attached to the Embassy, has examined the statement in question and has asked for a chance to discuss it with you inasmuch as he believes that if comments concerning Article 6 are included, he would like to add certain comments and criticisms on various other articles of the draft decree.

Robert H. McBride
Political Adviser (A)

785016

Df/s 17/6

(25A)

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

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

23A

British Embassy.

Rome.

16th June, 1945.

132/37/45

Immediate.

My dear Admiral:

In your letter of May 26th, you asked for my comments on the redrafted decree on the forfeiture of Fascist profits.

As, I think, you are already aware, it was necessary to consult the Foreign Office, and I am now able to tell you that His Majesty's Government see no objection to the terms of the proposed decree as it stands.

Believe me

Yours very sincerely

/s/ Noel Charles

Rear Admiral Ellery W. Stone, USNR
Chief Commissioner
Allied Commission
Rome.

F 5815

cc: Exec. Counsr.
CA Sec.
Chief Commissioner

0716

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

228

Rome, Italy.
June 14, 1945.

Dear Admiral Stone:

With reference to your letter of June 12, 1945 regarding the proposed law for the forfeiture of Fascist profits, while the Embassy's views are those expressed in my letter of May 30, 1945, the measure in question has been reported to the State Department with the request that the Embassy be informed whether it is desired that representations be made to the Italian Government in the matter. I shall be glad to write you further on the subject when a reply is received from the Department.

Sincerely yours,

/s/ A. Kirk

785

Admiral Ellery W. Stone,
Chief Commissioner,
Allied Commission,
Rome.

cc: Exec. Counr.
CA Sec.
Chief Commissioner

143

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

21A

Ref: DF/5.17/CA.

18 June 1945

198

My dear Mr. Prime Minister,

I refer to your letter of 14 June 1945 regarding the decree concerning the forfeiture of unlawful profits to the State.

The Allied Commission has no objection to the decree becoming law in its present state.

Yours very truly,

/s/ [illegible]

ELLERY W. STONE,
Major General, USA,
Chief Commissioner.

Copies to Amb. De Gasperi

President of the Council of Ministers,
Italian Government,
ROME.

7817

DECLASSIFIED
Date Jun 15 1977

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

CC 2602 12 June 1945.

Dear Mr. Ambassador:

Thank you for your letter of 8 June in reply to my letter of 2 June on the subject of the law providing for the forfeiture of fascist profits.

In order to avoid any possible misunderstanding, can you inform me for my guidance if the American Embassy itself intends to make any representations to the Italian Government with respect to this law.

Very truly yours,

HILARY W. STONE
Rear Admiral, USNR
Chief Commissioner

The Honorable Alexander Kirk,
American Ambassador,
119 Via Vittorio Veneto,
Rome

: 58.6

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

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref: DF/5.17/CA. 18 Jun 45

SUBJECT: Decree on Forfeiture of Property of
Convicted Fascists & Fascist Companies.
TO: Political Adviser 'A'.
Political Adviser (B).

On the instructions of the Chief Commissioner I enclose copy of a letter from the Prime Minister dated 14 June 45 and request that you will inform me whether the text of the proposed statement has your approval.

G.R. WYNN, Brig.,
VP CA Section.

Copy to: Chief Commissioner,
Executive Commissioner.

0721

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

SECRET

198

TRANSLATION NO. 794

THE PRESIDENT OF THE COUNCIL OF MINISTERS,

Ref. No. 3621/1012.6.17/1.7 ROME, 12 June 1945

My dear Admiral,

With reference to your letter DF/5.17/CA of 21 May I had ordered that the law concerning the forfeiture of unlawful profits to the State, already approved by the Council of Ministers, be not enforced until your approval was given.

The opinion you expressed, that the part of the measure concerning profits of corporations might affect vital interests of the Allied Governments has been a cause of apprehension to me inasmuch as the Italian Government, even outside any question of control, does not desire in any way to impair the interests of the Allied Governments.

On the other hand, the measure in question must be applied throughout the entire territory of the State in order to be fully effective; it is therefore necessary that it receives the approval of the A.C. so that its sphere of enforcement will not be limited, as it has happened recently (I am referring to your letter DF/4.14/CA.)

Minister Casanti, who has kept in touch with the Commission through a delegate, informs me that a statement of the Italian Government on the matter would be enough to dispel the expressed apprehensions, and suggests the text herewith enclosed.

Since I am resigning, it is evident that the statement on the future enforcement of the law should be made by my successor; I should be very grateful if you will send me your approval of the text of the statement so that my successor may sign it immediately, thus avoiding further delay.

I remain, my dear Admiral,

Yours truly,
(Sgd.) I. Bonomi.

Copies to Br. Am. Embassy

Fdis

0722

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

COPY

With reference to the clarifications and assurances requested by the AC on the complementary rules for the forfeiture of profits derived from the regime and, in particular, on the extent of Art. 6 (b) and (c), the application of which may impair the interests of citizens or companies of the United Nations, the Italian Government would like to make it clear that:

1) Art. 6, (b) commits to forfeiture proceedings persons associated or having common interests with fascist leaders or persons declared to be profiteers by the law.

In order to determine that a relation of association existed, it must be proved that such a relation was kept with person on whose fascist activities there cannot be nor could there have been any doubt. Moreover, the said article specifies that the presumption covers only that part of the profit obtained by private citizens or companies in partnership with profiteers, which is derived directly from one or more definite transactions made in association with the profiteer.

This is the second assurance for third parties. If by chance a company in which citizens of the United Nations have interest, should be committed to proceedings for forfeiture, the factor of good faith and the proof contemplated by Art. 7 of the draft may favour the company.

2) Art 6 (c) gives the power to refer to proceedings of forfeiture those companies, nine tenths of whose stocks or proportionate interests on 31 December 1942 belonged to persons declared to be profiteers by the law or to relatives or persons associated with them.

With these rules the legislator intended to hit the fictitious companies, presuming that when nine tenths of the stock capital belonged to profiteers, the other tenth was also to be considered as belonging to profiteers by means of nominees. This is in fact what experience has proved and what is actually true in all cases.

However, if by chance in the remaining one tenth there are stocks held by persons of good faith, these persons would not be hit as would the profiteers who hold the nine tenths, but would only lose their proportionate interests in the company. This is evidently a just rule.

In any case the Italian Government would like to consider it impossible for citizens of the United Nations to have acted as nominees for recognized fascists or used as nominees recognized fascists. This would mean that the fascist regime and its economic and international policy had been supported.

In proceedings for forfeiture involving the interests of citizens or companies of the United Nations, the Italian Government will examine carefully any observations which the United Nations may make.

7814

0723

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

1

TRANSLATION NO. 2

THE PRESIDENT OF THE COUNCIL OF MINISTERS

ROME, 14 June 1945

Ref. No. 10124.6.17/1.7

(132)

My Dear Admiral,

With reference to your letter DF/6.17/CA of 21 May I had ordered that the law concerning the forfeiture of unlawful profits to the State, already approved by the Council of Ministers, be not enforced until your approval was given.

The opinion you expressed, that the part of the measure concerning profits of corporations might affect vital interests of the Allied Governments has been a cause of apprehension to me inasmuch as the Italian Government, even outside any question of control, does not desire in any way to impair the interests of the Allied Governments.

On the other hand, the measure in question must be applied throughout the entire territory of the State in order to be fully effective: it is therefore necessary that it receives the approval of the A.C. so that its sphere of enforcement will not be limited, as it has happened recently (I am referring to your letter DF/6.11/CA).

Minister Pesenti, who has kept in touch with the Commission through a delegate, informs me that a statement of the Italian Government on the matter would be enough to dispel the expressed apprehensions, and suggests the text herewith enclosed.

Since I am resigning, it is evident that the statement on the future enforcement of the law should be made by my successor; I should be very grateful if you will send me your approval of the text of the statement so that my successor may sign it immediately, thus avoiding further delay.

I remain, my dear Admiral

Yours truly
/s/ I. Bonomi

CH Dist - 15 June 45
CH Sec - ACTION
CC Info
Econ - Info

58.1

Declassified E.O. 12356 Section 3.3/NND 785016

IT

With reference to the clarifications and assurances requested by the AC on the complementary rules for the forfeiture of profits derived from the regime and, in particular, on the extent of art 6 (b) and (c), the application of which may impair the interests of citizens or companies of the United Nations, the Italian Government would like to make it clear that:

1) Art 6, (b) commits to forfeiture proceedings persons associated or having common interests with fascist leaders or persons declared to be profiteers by the law.

In order to determine that a relation of association existed, it must be proved that such a relation was kept with persons on whose fascist activities there cannot be nor could there have been any doubt. Moreover, the said article specifies that the presumption covers only that part of the profit obtained by private citizens or companies in partnership with profiteers, which is derived directly from one or more definite transactions made in association with the profiteer.

This is the second assurance for third parties. If by chance a company in which citizens of the United Nations have interest, should be committed to proceedings for forfeiture, the factor of good faith and the proof contemplated by art 7 of the draft may favor the company.

2) Art 6 (c) gives the power to refer to proceedings of forfeiture those companies, nine tenths of whose stocks or proportionate interests on 31 December 1942 belonged to persons declared to be profiteers by the law or to relative or persons associated with them.

With these rules the legislator intended to hit the fictitious companies, presuming that when the nine tenths of the stock capital belonged to profiteers, the other tenth was also to be considered as belonging to profiteers by means of nominees. This is in fact what experience has proved and what is actually true in all cases.

However, if by chance in the remaining one tenth there are stocks held by persons of good faith, these persons would not be hit as would the profiteers who hold the nine tenths, but would only lose their proportionate interests in the company. This is evidently a just rule.

In any case the Italian Government would like to consider it impossible for citizens of the United Nations to have acted as nominees for recognized fascists or used as nominees recognized fascists. This would mean that the fascist regime and its economic and international policy had been supported.

In proceedings for forfeiture involving the interests of citizens or companies of the United Nations, the Italian Government will examine carefully any observations which the United Nations may make.

...by chance a company ... Union citizens of the United Nations have interest, should be committed to proceedings for forfeiture, the factor of good faith and the proof contemplated by art 7 of the draft may favor the company.

c) Art 8 (d) gives the power to refer to proceedings of forfeiture those companies, nine tenths of whose stocks or proportionate interests on 31 December 1942 belonged to persons declared to be profiteers by the law or to relative or persons associated with them.

With these rules the legislator intended to hit the fictitious companies, presuming that when the nine tenths of the stock capital belonged to profiteers, the other tenth was also to be considered as belonging to profiteers by means of nominees. This is in fact what experience has proved and what is actually true in all cases.

However, if by chance in the remaining one tenth there are stocks held by persons of good faith, these persons would not be hit as would the profiteers who hold the nine tenths, but would only lose their proportionate interests in the company. This is evidently a just rule.

In any case the Italian Government would like to consider it impossible for citizens of the United Nations to have acted as nominees for recognized fascists or used as nominees recognized fascists. This would mean that the fascist regime and its economic and international policy had been supported.

In proceedings for forfeiture involving the interests of citizens or companies of the United Nations, the Italian Government will examine carefully any observations which the United Nations may make.

[illegible]

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

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

1 6 4 RECD

Il Presidente
del Consiglio dei Ministri
36544/40124.6.17/47

Roma, 14 Giugno 1945

14 GIU 1945

Mio caro Ambasciatore,

In relazione alla Sua lettera del 31 marzo scorso, n.UP/S.17/CM avevo disposto che, in attesa del Suo ritorno, non fosse dato corso al provvedimento già approvato dal Consiglio dei Ministri, concernente l'assegnazione allo Stato degli immobili requisiti.

Il dubbio da Lei manifestato che il provvedimento stesso per le sue finalità delle norme potesse toccare taluni interessi dei Governi Alleati mi ha preoccupato in quanto il Governo Italiano, anche al di fuori di ogni controllo Alleato, non pregiudicare in alcun modo gli interessi dei Governi Alleati.

D'altra parte il provvedimento di cui trattasi, per raggiungere la sua piena efficacia, deve essere applicato in tutto il territorio dello Stato: è quindi necessario che esso riporti l'approvazione dell'A.C. affinchè non accada, come Ella ricorda e ripete, (mi riferisco alla Sua lettera n.UP/S.24/CA dello scorrente) che la sua sfera di applicazione venga limitata.

[illegible]

All'Ambasciatore
Hilson E. T h o r p e
Vicepresidente Capo della Commissione Alleata
R O M A

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

COPIA

In relazione ai chiarimenti e alle assicurazioni chieste dell' A.C. sulle norme integrative in materia di profitti di regime ed in particolare sulla portata dell'art. 6 lett. b) e c), in quanto possa l'applicazione del medesimo pregiudicare eventuali interessi di cittadini o Società delle Nazioni Unite, il Governo Italiano precisa:

1º) l'art. 6 lett. b) assoggetta a procedimenti di avocazione gli associati o i conteressenti di gerarchi o profittatori qualificati.

Per poter giungere a determinare un rapporto di associazione, occorre quindi la prova che tale rapporto sia intercorso con persone sulla cui attività politica fascista non poteva e non può sorgere dubbio. Inoltre detto articolo precisa che la presunzione agisce soltanto per quella parte di profitto, conseguito dalle persone private o dalle Società associate ai profittatori, che sia in diretta derivazione di uno o più affari determinati compiuti in associazione col profittatore stesso.

E' questa una seconda garanzia per i terzi. Se per caso poi una Società con interessi di cittadini delle Nazioni Unite dovesser essere assoggettate a detto procedimento, potrà sempre a favore della stessa influire l'elemento della buona fede e la prova prevista dall'art. 7 del progetto.

2º) l'art. 6 della letterera c) consente di assoggettare a procedimento di avocazione le Società le cui partecipazioni azionarie o quote appartenessero per nove decimi alla data 31 dicembre 1942 a profittatori qualificati congiunti o associati dei medesimi.

Con questa norma il legislatore ha inteso colpire le Società fittizie presumendo quando i nove decimi del capitale azionario appartenesse a profittatori l'altro decimo si doveva intendere pur esso posseduto dai profittatori a mezzo di prestanomi. Questo infatti ha dimostrato l'esperienza e così è in realtà nella totalità dei casi.

Comunque se per caso esistesse una partecipazione per quella decima parte dei soggetti in buona fede, costoro, non verrebbero colpiti in proprio come invece i profittatori possessori dei nove decimi, ma perderebbero soltanto la loro quota sociale di profitto. Norma com si vede equa.

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

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

0730

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

HEADQUARTERS ALLIED COMMISSION
AND 39
CIVIL AFFAIRS SECTION

Ref: CA/S.17/CA. 1 Jan 45

SUBJECT: Decree on Forfeiture of Fascist Profits.

TO: Executive Commissioner.

Reference my CA/S.17/CA dated 25 May 45.

1 I feel that your attention should be drawn specifically to Article 6 of the above mentioned Decree. You will observe that by sub-para (b) of that Article, companies who have common interests with the persons on the proscribed lists set out in Articles 1, 3 and 4, will suffer confiscation to the degree that their increase in wealth has been the result of such association or co-interest.

It seems to me that this might hit Allied companies, e.g. oil or silk companies who have been associated with prominent fascists in the course of their business dealings and that they are, therefore, laid open to attack under Article 6.

This is not a matter which affects Allied Commission as such, but is one upon which I feel the Chief Commissioner would desire to consult the Commissions before giving his permission to the publication of the decree.

2 I should also draw your attention to sub-para (c) of Article 6, which lays open to attack a company wherein nine-tenths of the investments or interests belonged to fascists on the proscribed lists. It follows that an Allied holding of the remaining 10% would be open to suffer heavy loss and this also is a matter which the Commissions may care to consider although it is not so important from an Allied point of view as the provision of Article 6 (b) which I have discussed above.

[illegible] 1507
C.R. [illegible], Brig.,
VP CA Section.

Copy to: Political Adviser (A).
Political Adviser (B).
Legal Sub-Commission.
Finance Sub-Commission.

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

785016

[illegible]
AFO 374
CIVIL AFFAIRS SECTION

DE/3.17/CA

25 May 1943

SUBJECT: Decree on Forfeiture of Fascist Profits

TO: Executive Commissioner

1. I attach a translation of the new decree on the Forfeiture of Fascist Profits. It consists of eighteen pages and has been put into precis form for your convenience (Page 4).

2. The decree was passed by the Council of Ministers on 12 May. It then went back to be "finished", which in this case has meant considerable alteration. It was produced to CA Section on 17 May. The Section, from that time onwards, was in daily contact with the Ministry but did not receive the decree until very late on 21 May. The translation was completed on 23 May and the staff study and typing was finished this morning.

I mention these dates in order to assure you that the responsible officers have kept in close touch with the Government and have not lost any time. It is a very long decree.

3. I also attach two minutes and a memo from the officer who made the staff study. The minute at page 3 expresses the view, with which I concur, that the petition addressed to the Chief Commissioner was based on surmise and was an attempt to enlist sympathy for political party interests.

4. The memo at page 2 is an aide memoire for the officer himself and is included because it shows his line of thought when making his recommendations.

5. The recommendations, together with the effects of the decree, are given in the minute on page 1.

6. It is considered that there is nothing in this decree to which exception can be taken. The danger to Allied interests is very remote indeed and even so there are very reasonable safeguards (Page 1, paras. 7 & 8).

Should you feel that any further safeguarding is necessary, the Allies might be given the right to acquire, at current market rates, up to one-half of the forfeited shares. (Page 1, para 10).

considerable alteration. It was produced to Ch Section on 17 May. The Section, from that time onwards, was in daily contact with the Ministry but did not receive the decree until very late on 21 May. The translation was completed on 23 May and the staff study and typing was finished this morning.

I mention these dates in order to assure you that the responsible officers have kept in close touch with the Government and have not lost any time. It is a very long decree.

3. I also attach two minutes and a memo from the officer who made the staff study. The minute at page 3 expresses the view, with which I concur, that the petition addressed to the Chief Commissioner was based on surmise and was an attempt to enlist sympathy for political party interests.

4. The memo at page 2 is an aide memoire for the officer himself and is included because it shows his line of thought when making his recommendations.

5. The recommendations, together with the effects of the decree, are given in the minute on page 1.

6. It is considered that there is nothing in this decree to which exception can be taken. The danger to Allied interests is very remote indeed and even so there are very reasonable safeguards (Page 1, paras 7 & 8).

Should you feel that any further safeguarding is necessary, the Allies might be given the right to acquire, at current market rates, up to one-half of the forfeited shares. (Page 1, para 10). I do not believe this is necessary and think it might meet with considerable opposition from the Italian Government, but it is put before you as a possible solution.

7. Mr. Roseverthy of the British Embassy has already taken a copy and has verbally expressed the view that there is no objection to the decree. With your approval, copies of all the papers will now be sent to the Political Advisers and the Finance and Legal Sub-Commissions.

A.J. Denham-Carter, Lt.Col.
CMG Civil Affairs Section

Copies to: Political Adviser (A)
Political Adviser (B)
Legal Sub-Commission
Finance Sub-Commission

Declassified E.O. 12356 Section 3.3/NND No. 785015

Declassified E.O. 12356 Section 3.3/NND No. 785015

Precis of the Contents of the Decree on Confiscation of Fascist Property

Art. 1 The estate of any person convicted of Treason, of assisting to break the old constitution or of actively aiding the Germans is declared forfeit.

2 Profits derived from any contract with the Germans acquired after 8 Sep 43 is declared forfeit.

3 Any increase of wealth acquired since 3 Jan 25 by any person holding one of a relatively few named important positions in the Government or Fascist party is declared forfeit; but where the accused had retired or was anti-fascist or there are extenuating circumstances he may show that the increase was properly acquired and escape forfeiture.

4 An increase of wealth acquired since 3 Jan 25 by any person holding one of a wider list of offices (including all persons who have made substantial subscriptions to party funds) is declared forfeit so far as he cannot show that the accretion was honestly obtained.

5 Any increase of wealth corruptly acquired since 3 Jan 25 whether directly or indirectly is a profit derived from the regime.

6 An increase of wealth acquired since 3 Jan 25 by a close relative or by any person or body corporate or incorporate, associated or having common interests with any person within any of the preceding articles is, so far as he cannot show that the accretion was honestly obtained, a profit derived from the regime.

7 An increase of wealth to which Arts 4, 5 and 6 apply shall be exempt from forfeiture to the extent to which it can be proved to have been properly acquired. Where any increase of wealth arising from any property or enterprise exceeds the normal rate of increase so as to lead to the conviction that it has been dishonestly acquired, this exemption from forfeiture shall not apply and the increase in excess of the normal rate shall be forfeit.

8 Any profit derived from fascist political activities, fascist appointments or from favouritism by fascist leaders which are not within any of the preceding Articles is forfeit.

9 In the event of the death of a person whose estate is forfeitable his heir shall be liable to the extent to which assets come to his hand.

10 In ordering any forfeiture the Court may except certain property for the maintenance of the accused or his dependants or may assign him an allowance.

[illegible] Commissions may require any person to declare

An increase of wealth acquired since 3 Jan 25 by any person holding one of a wider list of offices (including all persons who have made substantial subscriptions to party funds) is declared forfeit so far as he cannot show that the accretion was honestly obtained.

5 Any increase of wealth corruptly acquired since 3 Jan 25 whether directly or indirectly is a profit derived from the regime.

6 An increase of wealth acquired since 3 Jan 25 by a close relative or by any person or body corporate or incorporate, associated or having common interests with any person within any of the preceding articles is, so far as he cannot show that the accretion was honestly obtained, a profit derived from the regime.

7 An increase of wealth to which Arts 4, 5 and 6 apply shall be exempt from forfeiture to the extent to which it can be proved to have been properly acquired. Where any increase of wealth arising from any property or enterprise exceeds the normal rate of increase so as to lead to the conviction that it has been dishonestly acquired, this exemption from forfeiture shall not apply and the increase in excess of the normal rate shall be forfeit.

8 Any profit derived from fascist political activities, fascist appointments or from favouritism by fascist leaders which are not within any of the preceding Articles is forfeit.

9 In the event of the death of a person whose estate is forfeitable his heir shall be liable to the extent to which assets come to his hand.

10 In ordering any forfeiture the Court may except certain property for the maintenance of the accused or his dependants or may assign him an allowance.

11 The President of Provincial Commissions may require any person to declare the value of his estate as on 3 Jan 25, on 31 Dec 42 and on the day on which this decree comes into force and to supply particulars of property acquired or disposed of between those dates showing from or to whom it was transferred. All persons within the provisions of Arts 3 and 4 hereof will make such a return within 30 days.

12 Failure to make the return is punishable by fine of one tenth the value of the increase except as regards an increase relating to the years 1938 - 43 in which case failure to make a return will involve a fine of the full value of the increase.

13 Holders of property belonging to persons referred to in Arts 3 and 4 hereof must give particulars thereof to the Intendenti within 60 days. In the absence of satisfactory explanation failure to report is punishable by fine to the full value of the property not reported, but this does not

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

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

6

apply to Banks and Credit houses except so far as they are called upon to disclose the property of named persons.

Art. 14 A Provincial (Assessment)Commission may make an interim order for forfeiture not exceeding 25% of the estimated forfeitable increase.

15 All property becoming part of the estate after 3 Jan 25 shall be included in computing the increase;conversions and re-investments will not be included nor will inherited property, or gifts from relatives nor investments or conversions thereof provided that they are not derived from a predecessor whose estate is liable to forfeiture.
The increase so determined shall be increased by 15% which shall be deemed to be the value of jewels cash and valuable chattels.

16 A Provincial Commission may order the forfeiture of particular items in which case their value shall be deducted from the assessed increase.

17 Any person against whom an order for forfeiture is made shall be deemed a "trader" and may be declared bankrupt.

18 Sub-Commissions may be formed and sit as Divisions of the Provincial Commissions of the Central Commission.

19 Jurisdiction shall lie with the Commission of the Province of residence or last residence of the person concerned.

20 A Provincial Commission shall have power to decide all interlocutory proceedings but its decisions shall not bind third parties. It shall not deal with false witness, civil status or capacity but shall adjourn pending decision of the competent authority.

21 Extends to the Intendenti the powers of investigation, entry etc. granted to a Provincial Commission. The powers may be exercised directly or by Judicial police. For the purposes of enforcing sequestration the same powers are extended to the Presidents of Tribunali and of the Special Section.

22 A proposal for assessment shall be served by registered post. Objections thereto shall be filed by the respondent within 30 days by the Finance Dept forthwith. The Article then proceeds to deal with the form of objections and of the procedure to be followed in connection therewith.

23 Deals with notices of hearing and the procedure in connection therewith.

24 States how the Commission will act in arriving at a decision and how the same shall be notified.

25 Fixes the time for the commencement of the time permitted for appeal. 804

26 Applies Arts 20 and 24 by analogy to the Central (appeal) Commission.

[illegible] the assessed increase.

17 Any person against whom an order for forfeiture is made shall be deemed a "trader" and may be declared bankrupt.

18 Sub-Commissions may be formed and sit as Divisions of the Provincial Commissions of the Central Commission.

19 Jurisdiction shall lie with the Commission of the Province of residence or last residence of the person concerned.

20 A Provincial Commission shall have power to decide all interlocutory proceedings but its decisions shall not bind third parties. It shall not deal with false witness, civil status or capacity but shall adjourn pending decision of the competent authority.

21 Extends to the Intendenti the powers of investigation, entry etc. granted to a Provincial Commission. The powers may be exercised directly or by Judicial police. For the purposes of enforcing sequestration the same powers are extended to the Presidents of Tribunali and of the Special Sections.

22 A proposal for assessment shall be served by registered post. Objections thereto shall be filed by the respondent within 30 days by the Finance Dept ~~forthwith~~. The Article then proceeds to deal with the form of objections and of the procedure to be followed in connection therewith.

23 Deals with notices of hearing and the procedure in connection therewith.

24 States how the Commission will act in arriving at a decision and how the same shall be notified.

25 Fixes the time for the commencement of the time permitted for appeal. 804

26 Applies Arts 20 and 24 by analogy to the Central (appeal) Commission.

27 Empowers the Provincial Commission to protect property "in jeopardy" as laid down in the following Arts. Where no Provincial Commission has been formed the President of the Tribunali may act.

28 The High Commission may appoint a technical committee who shall
a) decide whether the protection shall be by appointment of a manager or by Sequestration and advise as to administration;
b) decide whether in lieu of a) a guarantee or mortage may be accepted and if so to determine the amount and other conditions thereof;
c) nominate receivers and managers who shall be properly qualified persons;
d) direct and control and pay the managers.

29 The technical Committee shall be presided over by the High Commissioner and shall consist of six persons appointed by decree of the Min. of Finance

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

and shall consist of experts of Economics, agriculture, industry and commerce.
The Committee shall have a secretariat and a staff of Inspectors chosen from engineers, industrialists, chemists, accountants, surveyors and other experts.
The Article then deals with details of personnel pay etc.

Art. 30 The authority having power to protect property must before doing so consult and act on the advice of the Technical Committee but in case of emergency may order temporary sequestration, but on receipt of advice of the committee shall take such steps as may be necessary to follow the same, as also they shall do in the case of sequestrations already in force.

31 Contains instructions as to the removal of managers already appointed.

32 The power to take protective measure extends not only to property in possession of the respondent and his heirs but in the possession of intermediaries and where the guarantees are insufficient in the possession of legatees, donees and other transferees.

33 Contains details of the procedure to be followed in effecting a sequestration.

34 The right to vote in ordinary administrative matters shall belong to the trustee who shall exercise his powers in accordance with the Instruction of the Technical Committee.
The right to vote in extraordinary matters shall remain in the respondent but if authorised by the Technical Committee the resolution may be challenged if carried only by virtue of the respondent's vote.
Administrative powers may be delegated to the trustee. He shall also have the right to attend meetings.

35 Empowers the trustee to exercise powers of option, ~~cancellation~~, etc.

36 Deals with sequestration when third parties are involved.

37 Sequestration shall continue until the Provincial Commission announces its decision.

38 The body putting protective measures into effect shall have power to decide questions in connection therewith.

39 The Respondent may ask for revocation of a sequestration order or for its substitution by guarantee. The body with power to order protection may vary the form of protection.

40 As to priority of the debt to the state.

41 Formation and constitution of Secretariats for the Provincial and Central

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

...ession of the respondent and his heirs but in the possession of inter-
mediaries and where the guarantees are insufficient in the possession of
legatees, donees and other transferees.

33 Contains details of the procedure to be followed in effecting a sequestration.

34 The right to vote in ordinary administrative matters shall belong to the trustee who shall exercise his powers in accordance with the Instruction of the Technical Committee.
The right to vote in extraordinary matters shall remain in the respondent but if authorised by the Technical Committee the resolution may be challenged if carried only by virtue of the respondent's vote.
Administrative powers may be delegated to the trustee. He shall also have the right to attend meetings.

35 Empowers the trustee to exercise powers of option, ~~cancellation~~, etc.

36 Deals with sequestration when third parties are involved.

37 Sequestration shall continue until the Provincial Commission announces its decision.

38 The body putting protective measures into effect shall have power to decide questions in connection therewith.

39 The Respondent may ask for revocation of a sequestration order or for its substitution by guarantee. The body with power to order protection may vary the form of protection.

40 As to priority of the debt to the state.

41 Formation and constitution of Secretariats for the Provincial and Central Commissions.

42 Expenses and fees chargeable in connection with sequestrations and as to the paying and accounting therefor.

43 Amounts due to the State may be ordered to be paid to the Treasury. Such orders may be enforced by the tax collector as for arrears of taxes on war profits.

44 Unmovable property shall be realised by auction and rules therefor.
Movable property shall be offered at auction and rules thereon; unsold, moveable property may be taken by the State. Stocks and Shares may be acquired by the State at the current value.

45 Transfers to fulfill an existing moral obligation are exempt from the right of the State to recover the property from the transferee, examples of acts

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

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

which may be avoided.

Art. 46 As to the keeping and publication of records of forfeited property.

47 As to suspension of bankruptcy proceedings pending action for forfeiture.

48 As to the priority of payments of debts.

49 Actions for assessment to be commenced within two years from the coming into force of this decree.

50 As to extinction of the debt by effluxion of time (5 years).

51 As to the expenses of the technical Committee.

52 Applies certain statutory rules to proceedings.

53 Revokes provisions inconsistent with this decree.

54 Commencement.

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

0-74

1502

53 Revokes provisions inconsistent with this decree.

54 Commencement.

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

15B1

SCHEMA di D.L.L. : "Norme integrative in materia di profitti di regime".

UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il decreto legislativo luogotenenziale 27 luglio 1944, n. 159, e successive integrazioni;

Visto il decreto legislativo luogotenenziale 1° febbraio 1945, n. 58;

VISTO l'art. 4 del decreto legge luogotenenziale 25 giugno 1944, n. 151;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri:

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE :

LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il decreto legislativo luogotenenziale 27 luglio 1944, n. 159, e successive integrazioni;

Visto il decreto legislativo luogotenenziale 1° febbraio 1945, n. 58;

VISTO l'art. 4 del decreto legge luogotenenziale 25 giugno 1944, n. 151;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri:

ABBIAMO SANZIONATO E PROMULGHIAMO QUANTO SEGUE :

./.

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

Articolo 1

Fermo il disposto dell'art. 9 del D.L.L. 27 luglio 1944, n. 159, i beni dei condannati per il delitto previsto dall'art.2 del decreto stesso sono confiscati.

Sono altresì confiscati, in tutto od in parte, tenuto conto della gravità del fatto e delle circostanze di cui al primo e terzo comma dell'art. 7 del decreto predetto, i beni dei condannati per alcuno dei delitti previsti dal primo e secondo comma dell'art. 3 e dall'art. 5 del decreto stesso.

La confisca è ordinata dall'autorità giudiziaria che pronuncia la condanna.

Qualora la sentenza di condanna sia già intervenuta al momento della entrata in vigore del presente decreto, la confisca è disposta, su richiesta dell'Alto Commissario per le sanzioni contro il fascismo, con ordinanza dell'autorità giudiziaria che ha pronunciato la condanna.

Qualora l'azione penale sia estinta, la confisca è disposta, su richiesta dell'Alto Commissario, dal tribunale penale nella cui circoscrizione è situato il bene ou è situata la maggior parte dei beni da confiscare. Il tribunale provvede, previa citazione degli eredi, i quali possono farsi assistere da un difensore. Il provvedimento è dato con ordinanza in camera di consiglio ed è soggetto a ricorso per cassazione. Il ricorso è deciso dalla sezione della Suprema Corte di Cassazione indicata nell'art. 6 del D.L.L. 27 luglio 1944, n. 159.

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

della gravità del fatto e delle circostanze di cui al primo e terzo comma dell'art. 7 del decreto predetto, i beni dei condannati per alcuno dei delitti previsti dal primo e secondo comma dell'art. 3 e dall'art. 5 del decreto stesso.

La confisca è ordinata dall'autorità giudiziaria che pro_nuncia la condanna.

Qualora la sentenza di condanna sia già intervenuta al mo_mento della entrata in vigore del presente decreto, la confisca è disposta, su richiesta dell'Alto Commissario per le sanzioni contro il fascismo, con ordinanza dell'autorità giudiziaria che ha pronunciato la condanna.

Qualora l'azione penale sia estinta, la confisca è disposta, su richiesta dell'Alto Commissario, dal tribunale penale nella cui circoscrizione è situato il bene ov è situata la maggior parte dei beni da confiscare. Il tribunale provvede, previa citazione degli eredi, i quali possono farsi assistere da un difensore. Il provvedimento è dato con ordinanza in camera di consiglio ed è soggetto a ricorso per cassazione. Il ricorso è deciso dalla sezione della Suprema Corte di Cassazione in_dicata nell'art. 6 del D.L.L. 27 luglio 1944, n. 159.

./.

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

Articolo 2

Salvo il disposto dell'art. 9 del D.L.L. 27 luglio 1944, n. 159, e del secondo comma del precedente articolo, sono avocati allo Stato tutti i profitti conseguiti dopo l'8 settembre 1943, in dipendenza o in occasione di appalti, di forniture o di altri negozi conclusi, direttamente o a mezzo di intermediari, col tedesco invasore.

Si considerano conclusi col tedesco a mezzo di intermediari quei negozi la cui esecuzione non si ignorava o non si poteva ignorare avvenisse nell'interesse del tedesco medesimo.

Articolo 3

Sono avocati allo Stato, quali profitti di regime, gli incrementi patrimoniali conseguiti successivamente al 3 gennaio 1925 da chi sia stato dopo tale data :

a) membro del gran consiglio del fascismo;

b) membro del governo fascista;

c) segretario o vice segretario o membro del direttorio nazionale del partito fascista;

d) presidente, pubblico accusatore o membro del tribunale speciale per la difesa dello Stato;

e) ufficiale generale o console della milizia volontaria sicurezza nazionale in servizio permanente effettivo, salvo che avesse funzioni assistenziali o appartenesse a milizie speciali;

f) funzionario o confidente dell'ovra;

g) prefetto o questore nominato per titoli fascisti;

h) capo di missione diplomatica o governatore di colonia nominato per titoli fascisti;

i) segretario federale;

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

Si considerano conclusi col tedesco a mezzo di intermediari quei negozi la cui esecuzione non si ignorava o non si poteva ignorare avvenisse nell'interesse del tedesco medesimo.

Articolo 3

Sono avocati allo Stato, quali profitti di regime, gli incrementi patrimoniali conseguiti successivamente al 3 gennaio 1925 da chi sia stato dopo tale data :

a) membro del gran consiglio del fascismo;

b) membro del governo fascista;

c) segretario o vice segretario o membro del direttorio nazionale del partito fascista;

d) presidente, pubblico accusatore o membro del tribunale speciale per la difesa dello Stato;

e) ufficiale generale o console della milizia volontaria sicurezza nazionale in servizio permanente effettivo, salvo che avesse funzioni assistenziali o appartenesse a milizie speciali;

f) funzionario o confidente dell'ovra;

g) prefetto o questore nominato per titoli fascisti;

h) capo di missione diplomatica o governatore di colonia nominato per titoli fascisti;

i) segretario federale;

l) deputato fascista che, dopo il 3 gennaio 1925, abbia mantenuto la iscrizione al partito fascista o a questo si sia iscritto durante l'esercizio del suo mandato o abbia comunque votato, dopo tale data, leggi fasciste;

3799

./.

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

m) consigliere nazionale;

n) senatore nominato dopo il 3 gennaio 1925 e dichiarato decaduto a' sensi dell'art. 5 del D.L.L. 27 luglio 1944, n.159;

o) presidente di confederazione fascista.

Qualora a favore di una delle persone indicate nel comma precedente o dei suoi eredi ricorra taluna delle circostanze previste nel primo e terzo comma dell'art. 7 del D.L.L. 27 luglio 1944, n. 159, è fatta salva alla persona stessa, o, nei limiti dei rispettivi diritti quesiti, ai suoi eredi, la prova di cui all'art. 7 del presente decreto.

La norma dell'art. 7 del presente decreto può essere altresì dichiarata applicabile dalla Sezione speciale della Commissione centrale per le imposte dirette, su proposta della Sezione speciale della Commissione provinciale, a favore delle persone indicate alle lettere g) e seguenti quando, per lo scarso rilievo della loro azione politica o per essere state assolte dalle commissioni di epurazione o dagli altri organi per le sanzioni contro il fascismo, ne risultino meritevoli. In tal caso la Sezione speciale della Commissione centrale per le imposte dirette rinvia gli atti, per il giudizio di merito, alla Sezione speciale della Commissione provinciale competente.

Articolo 4

Si presumono profitti di regime, salvo la prova prevista dal successivo art. 7, gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925 :

a) dagli accademici d'Italia;

b) da chi abbia rivestito una delle cariche indicate nel decreto 2 febbraio 1945, del Presidente del Consiglio dei Mini_

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

viste nel primo e terzo comma dell'art. 7 del D.L.L. 27 luglio 1944, n. 159, è fatta salva alla persona stessa, o, nei limiti dei rispettivi diritti quesiti, ai suoi eredi, la prova di cui all'art. 7 del presente decreto.

La norma dell'art. 7 del presente decreto può essere altresì dichiarata applicabile dalla Sezione speciale della Commissione centrale per le imposte dirette, su proposta della Sezione speciale della Commissione provinciale, a favore delle persone indicate alle lettere g) e seguenti quando, per lo scarso rilievo della loro azione politica o per essere state assolte dalle commissioni di epurazione o dagli altri organi per le sanzioni contro il fascismo, ne risultino meritevoli. In tal caso la Sezione speciale della Commissione centrale per le imposte dirette rinvia gli atti, per il giudizio di merito, alla Sezione speciale della Commissione provinciale competente.

Articolo 4

Si presumono profitti di regime, salvo la prova prevista del successivo art. 7, gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925 :

a) dagli accademici d'Italia;

b) da chi abbia rivestito una delle cariche indicate nel decreto 2 febbraio 1945, del Presidente del Consiglio dei Ministri, pubblicato nella Gazzetta Ufficiale del 15 febbraio 1945, n. 20, e non comprese nell'articolo precedente;

c) da chi abbia gestito, senza obbligo di rendiconto, fondi segreti dello Stato;

./. 5798

Declassified E.O. 12356 Section 3.3/NND 785015

d) da chi abbia, dopo il 3 gennaio 1925, diretto o sostenuto mediante notevoli contributi finanziari, propri o altrui, organi della propaganda o dell'azione politica del regime fascista;

e) dai podestà delle città capoluogo di provincia o dai presi_ di di provincia.

Articolo 5

Si presumono profitti di regime, salvo la prova prevista dal successivo articolo 7, gli incrementi patrimoniali conseguiti, do_ po il 3 gennaio 1925, da chi, rivestendo cariche politiche o me_ diante l'opera di professionisti consulenti o intermediari aventi posizioni influenti nel campo politico o valendosi di aderenze e rapporti con personalità fasciste o profittando comunque del mal costume invalso nel regime fascista, abbia ottenuto, per sè, parenti o società da lui rappresentate o controllate, appalti, forniture e concessioni dallo Stato, delle provincie, dai comuni, o da enti sottoposti alla vigilanza o al controllo dello Stato, nonchè gli incrementi patrimoniali conseguiti dai procacciatori di affari o dagli agenti intervenuti nella conclusione dei ne_ gozi anzidetti.

Articolo 6

Si presumono profitti di regime, salva la prova prevista dal successivo art. 7, gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925 :

a) dagli ascendenti, dai discendenti, dal coniuge di taluna delle persone indicate negli articoli precedenti nonchè da chi abbia avuto con le stesse relazioni di concubinato;

b) dalle persone fisiche o giuridiche private e dagli enti non riconosciuti che abbiano avuto rapporti di associazione o [illegible] delle persone indicate alla lettera

Declassified E.O. 12356 Section 3.3/NND No. 785015

Si presumono profitti di regime, salvo la prova prevista dal successivo articolo 7, gli incrementi patrimoniali conseguiti, dopo il 3 gennaio 1925, da chi, rivestendo cariche politiche o mediante l'opera di professionisti consulenti o intermediari aventi posizioni influenti nel campo politico o valendosi di aderenze e rapporti con personalità fasciste o profittando comunque del mal costume invalso nel regime fascista, abbia ottenuto, per sè, parenti o società da lui rappresentate o controllate, appalti, forniture e concessioni dello Stato, dalle provincie, dai comuni, o da enti sottoposti alla vigilanza o al controllo dello Stato, nonchè gli incrementi patrimoniali conseguiti dai procacciatori di affari o dagli agenti intervenuti nella conclusione dei negozi anzidetti.

Articolo 6

Si presumono profitti di regime, salva la prova prevista dal successivo art. 7, gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925 :

a) dagli ascendenti, dai discendenti, dal coniuge di taluna delle persone indicate negli articoli precedenti nonchè da chi abbia avuto con le stesse relazioni di concubinato;

b) delle persone fisiche o giuridiche private e dagli enti non riconosciuti che abbiano avuto rapporti di associazione o cointeressenza con talune delle persone indicate alla lettera a) del presente comma e negli articoli precedenti. La presunzione ha luogo limitatamente agli incrementi conseguiti per effetto di detta associazione o cointeressenza:

./. 3797

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

c) dalle persone giuridiche private e dagli enti non riconosciuti le cui partecipazioni azionarie o quote appartenessero, alla data del 31 dicembre 1942, per nove decimi a taluna delle persone indicate alle lettere a) e b) del presente comma e negli articoli precedenti.

Articolo 7

L'avocazione degli incrementi patrimoniali di cui agli articoli 4, 5 e 6 non ha luogo o ha luogo solo parzialmente se sia data la prova, con elementi certi, che a determinare tali incrementi non abbiano influito od abbiano influito solo in parte l'esercizio della carica, la sussistenza dei rapporti, l'attività o le partecipazioni indicate negli articoli stessi.

Qualora gli incrementi patrimoniali eccedano in misura così ingente il normale da costituire la prova di una evidente partecipazione al malcostume invalso nel periodo fascista, non è ammessa la prova liberatoria di cui al comma precedente e sono avocati tutti gli incrementi eccedenti il normale.

Articolo 8

Sono avocati allo Stato i profitti che risultino derivati dall'attività politica fascista o dalla posizione avuta nel regime fascista, nonchè i profitti conseguiti, per il favore del partito o dei gerarchi fascisti, da persone diverse da quelle comprese nelle categorie contemplate nei precedenti articoli.

Articolo 9

Nel caso di morte della persona soggetta al procedimento di avocazione, questo è promosso o proseguito nei confronti dell'erede, nelle stesse forme in cui sarebbe stato iniziato o proseguito nei confronti del dante causa e con le stesse garenzie e gli stessi obblighi al medesimo spettanti.

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

li 4, 5 e 6 non ha luogo o~~r~~ ha luogo solo parzialmente se sia da_ ta la prova, con elementi certi, che a determinare tali incremen_ ti non abbiano influito od abbiano influito solo in parte l'eser_ cizio della carica, la sussistenza dei rapporti, l'attività o le partecipazioni indicate negli articoli stessi.

Qualora gli incrementi patrimoniali eccedano in misura così in_ gente il normale da costituire la prova di una evidente parteci_ pazione al malcostume invalso nel periodo fascista, non è ammessa la prova liberatoria di cui al comma precedente e sono avocati tutti gli incrementi eccedenti il normale.

Articolo 8

Sono avocati allo Stato i profitti che risultino derivati dal_ l'attività politica fascista o dalla posizione avuta nel regime fascista, nonchè i profitti conseguiti, per il favore del partito o dei gerarchi fascisti, da persone diverse da quelle comprese nelle categorie contemplate nei precedenti articoli.

Articolo 9

Nel caso di morte della persona soggetta al procedimento di avocazione, questo è promosso o proseguito nei confronti dell'ere_ de, nelle stesse forme in cui sarebbe stato iniziato o proseguito nei confronti del dante causa e con le stesse garenzie e gli stes_ si obblighi al medesimo spettanti.

Dei profitti del suo dante causa, dichiarati avocati, l'erede risponde nei limiti dei beni pervenutigli con la successione.

Articolo 10

Nel disporre la confisca o la avocazione a norma degli artico_ li precedenti, l'autorità giudiziaria o la Sezione speciale della Commissione provinciale delle Imposte, può riservare determinati beni o assegnare una rendita a titolo di alimenti a favore del soggetto o delle persone verso le quali il medesimo sia o fosse

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

tenuto agli alimenti a norma degli articoli 433 e seguenti del Codice Civile.

Articolo 11

Agli effetti di determinare l'ammontare dei profitti di regime, il Presidente della Sezione speciale della Commissione provinciale può, d'ufficio o su richiesta dell'Alto Commissario o dell'Intendente di Finanza, ingiungere, a chiunque sia indiziato di trovarsi nelle condizioni previste dagli articoli 2, 3, 4, 5, 6 e 8 o ai suoi eredi, di dichiarare entro il termine di trenta giorni :

a) i beni posseduti alla data del 3 gennaio 1925 o a quella più recente dell'assunzione delle cariche o del verificarsi delle condizioni previste nei detti articoli;

b) i beni posseduti, anche per interposta persona, alla data del 31 dicembre 1942 e alla data dell'entrata in vigore del presente decreto;

c) i beni che, durante il periodo avente inizio alla data indicata nella lettera a) e termine alla data di entrata in vigore del presente decreto, sono stati acquisiti o sono usciti dal patrimonio proprio o delle persone interposte, con la specificazione, per ciascuno di detti beni, della rispettiva provenienza o destinazione e con la indicazione del valore riferito rispettivamente alla data in cui il bene entrò a far parte del patrimonio o a quella in cui ne uscì.

Tutte le persone comprese in una delle categorie previste dagli articoli 3 e 4 sono tenute a presentare, entro trenta giorni dalla entrata in vigore del presente decreto, la dichiarazione indicata nel comma precedente; la norma non si applica agli eredi.

[illegible] nei modi stabiliti per il

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

...ministero di finanza, ingiungere, a chiunque sia indiziato di trovarsi nelle condizioni previste dagli articoli 2, 3, 4, 5, 6 e 8 o ai suoi eredi, di dichiarare entro il termine di trenta giorni :

a) i beni posseduti alla data del 3 gennaio 1925 o a quella più recente dell'assunzione delle cariche o del verificarsi delle condizioni previste nei detti articoli;

b) i beni posseduti, anche per interposta persona, alla data del 31 dicembre 1942 e alla data dell'entrata in vigore del presente decreto;

c) i beni che, durante il periodo avente inizio alla data indicata nella lettera a) e termine alla data di entrata in vigore del presente decreto, sono stati acquisiti o sono usciti dal patrimonio proprio o delle persone interposte, con la specificazione, per ciascuno di detti beni, della rispettiva provenienza o destinazione e con la indicazione del valore riferito rispettivamente alla data in cui il bene entrò a far parte del patrimonio o a quella in cui ne uscì.

Tutte le persone comprese in una delle categorie previste dagli articoli 3 e 4 sono tenute a presentare, entro trenta giorni dalla entrata in vigore del presente decreto, la dichiarazione indicata nel comma precedente; la norma non si applica agli eredi.

La dichiarazione deve essere resa nei modi stabiliti per il deposito del reclamo dal successivo articolo 21.

Articolo 12

Senza pregiudizio dell'azione penale prevista dall'art. 36, terzo comma, del D.L.L. 27 luglio 1944, n. 159, chi omette di presentare ovvero presenta tardivamente la dichiarazione indicata nell'articolo precedente ovvero omette di indicare nella stessa uno o più dei beni posseduti ovvero indica falsamente

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

la provenienza o la destinazione di tali beni, incorre in una penalità pari ad un decimo dell'importo dell'incremento definitivamente accertato.

Quando la proposta di accertamento della Sezione speciale della Commissione provinciale venga accettata senza impugnativa, la penalità per omessa, tardiva o infedele dichiarazione è condonata.

Indipendentemente dal disposto dei comma precedenti, nel caso di omessa dichiarazione dei singoli beni posseduti nel quinquennio anteriore al 25 luglio 1943, è dovuta una penalità pari all'ammontare del loro valore.

Articolo 13

Chiunque detiene beni delle persone indicate negli articoli 3 e 4 è tenuto a farne dichiarazione, entro 60 giorni dalla data di entrata in vigore del presente decreto, all'Intendenza di finanza nella cui circoscrizione ha il domicilio o la residenza o la dimora.

Senza pregiudizio dell'azione penale prevista dall'art. 36, terzo comma, del D.L.L. 27 luglio 1944, n. 159, chi omette di presentare la dichiarazione prevista nel comma precedente incorre in una penalità pari al valore dei beni non dichiarati, salvo che non dimostri un grave impedimento o la ignoranza delle qualifiche rivestite dalle persone stesse.

La disposizione del comma precedente non si applica alle banche ed agli istituti di credito se non per le persone loro indicate dall'Alto Commissariato, dalle Intendenze di finanza o dalle Sezioni speciali.

Articolo 14

Nel formulare la proposta di accertamento prevista dal -

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

Indipendentemente dal disposto dei comma precedenti, nel caso di omessa dichiarazione dei singoli beni posseduti nel quinquennio anteriore al 25 luglio 1943, è dovuta una penalità pari all'ammontare del loro valore.

Articolo 13

Chiunque detiene beni delle persone indicate negli articoli 3 e 4 è tenuto a farne dichiarazione, entro 60 giorni dalla data di entrata in vigore del presente decreto, all'Intendenza di finanza nella cui circoscrizione ha il domicilio o la residenza o la dimora.

Senza pregiudizio dell'azione penale prevista dall'art. 36, terzo comma, del D.L.L. 27 luglio 1944, n. 159, chi omette di presentare la dichiarazione prevista nel comma precedente incorre in una penalità pari al valore dei beni non dichiarati, salvo che non dimostri un grave impedimento o la ignoranza delle qualifiche rivestite dalle persone stesse.

La disposizione del comma precedente non si applica alle banche ed agli istituti di credito se non per le persone loro indicate dall'Alto Commissariato, dalle Intendenze di finanza o dalle Sezioni speciali.

Articolo 14

Nel formulare la proposta di accertamento prevista dal l'articolo 30 del D.L.L. 27.7/1944, n. 159, la Sezione speciale della Commissione provinciale può, ove sussistano prove manifeste della esistenza di profitti avocabili, ordinare alle persone contro cui la proposta è diretta, il pagamento, in via provvisionale, di una quota non eccedente il 25% dei

./.

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

profitti indicati nella proposta, salvo conguaglio in base alle risultanze dell'accertamento definitivo.

L'ordine di pagamento ha valore di titolo esecutivo.

Articolo 15

Gli incrementi patrimoniali sono costituiti da tutti i beni entrati, anche per interposta persona, nel patrimonio del soggetto, posteriormente alla data del 3 gennaio 1925 o a quella più recente dell'assunzione delle cariche o del verificarsi delle condizioni previste negli articoli 2, 3, 4, 5, 6 e 8. Sono esclusi i beni per i quali risulti provato che derivino da trasformazione di altri beni o da investimento di denaro preesistente nel patrimonio del soggetto. Sono esclusi altresì i beni pervenuti per successione ereditaria o per donazione avuta da parenti o affini, i relativi frutti, nonchè i beni risultanti da trasformazione di tali cespiti, semprechè non si tratti di beni derivanti da profitti avocabili nei confronti del dante causa.

L'incremento determinato ai sensi del comma precedente è aumentato del 15% a titolo di possesso presunto di gioielli, denaro e mobili di valore.

Articolo 16

A richiesta dell'Amministrazione finanziaria o d'ufficio, la Sezione Speciale della Commissione Provinciale può ordinare che beni determinati esistenti nel patrimonio del soggetto siano direttamente avocati allo Stato, determinandone il valore ed imputandolo in diminuzione dell'intero profitto avocabile accertato.

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

posteriormente alla data del 3 gennaio 1925 o a quella più recente dell'assunzione delle cariche o del verificarsi delle condizioni previste negli articoli 2, 3, 4, 5, 6 e 8. Sono esclusi i beni per i quali risulti provato che derivino da trasformazione di altri beni o da investimento di denaro preesistente nel patrimonio del soggetto. Sono esclusi altresì i beni pervenuti per successione ereditaria o per donazione avute da parenti o affini, i relativi frutti, nonchè i beni risultanti da trasformazione di tali cespiti, semprechè non si tratti di beni derivanti da profitti avocabili nei confronti del dante causa.

L'incremento determinato ai sensi del comma precedente è aumentato del 15% a titolo di possesso presunto di gioielli, denaro e mobili di valore.

Articolo 16

A richiesta dell'Amministrazione finanziaria o d'ufficio, la Sezione Speciale della Commissione Provinciale può ordinare che beni determinati esistenti nel patrimonio del soggetto siano direttamente avocati allo Stato, determinandone il valore ed imputandolo in diminuzione dell'intero profitto avocabile accertato.

Articolo 17

Chiunque sia soggetto alla avocazione per profitti di regime è considerato commerciante al fine della dichiarazione di fallimento. Questo, nel caso di morosità nel pagamento dei profitti definitivamente accertati, è dichiarato dal tribunale competente su istanza dell'Intendente di finanza.

379

./.

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

La data di cessazione dei pagamenti è quella della incorsa mora.

Art. 18

Accanto alla Sezione speciale della Commissione provinciale delle Imposte possono, con decreto del Ministro per le finanze, essere costituite una o più sottosezioni, ciascuna presieduta dal Presidente del Tribunale o da altro magistrato di pari grado o di grado immediatamente inferiore e composta di 4 Commissari da nominarsi a norma dell'art.10 del D.L.L.27 luglio 1944, n.159.

Con lo stesso decreto il Ministro per le finanze nomina, su designazione del Ministro per la grazia e giustizia, i Presidenti delle sottosezioni.

Con decreto del Ministro per le finanze possono essere costituite, accanto alla Sezione speciale della Commissione Centrale delle Imposte, una o più sottosezioni, i cui presidenti e membri sono nominati a norma dell'art.32 del D.L.L.27 luglio 1944, n.159.

L'attribuzione della cognizione dei singoli procedimenti alla Sezione o alle Sottosezioni spetta al presidente della Sezione speciale, che può, in caso di impedimento di uno o più Commissari della Sezione o delle Sottosezioni, provvedere a sostituirli rispettivamente con un Commissario delle Sottosezioni, o della Sezione.

Art. 19

La competenza per l'accertamento dei profitti di regime spetta alla Sezione speciale della Commissione provinciale nella cui circoscrizione il soggetto ha il domicilio o, nel caso che questo

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

delle Imposte possono,con decreto del Ministro per le finanze, essere costituite una o più sottosezioni,ciascuna presieduta dal Presidente del tribunale o da altro magistrato di pari grado o di grado immediatamente inferiore e composta di 4 Commissari da nominarsi a norma dell'art.30 del D.L.L.27 luglio 1944,n.159.

Con lo stesso decreto il Ministro per le finanze nomina,su designazione del Ministro per la grazia e giustizia,i Presidenti delle sottosezioni.

Con decreto del Ministro per le finanze possono essere costituita,accanto alla Sezione speciale della Commissione Centrale delle Imposte,una o più sottosezioni,i cui presidenti e membri sono nominati a norma dell'art.32 del D.L.L.27 luglio 1944,n.193.

L'attribuzione della cognizione dei singoli procedimenti alla Sezione o alle Sottosezioni spetta al presidente della Sezione speciale,che può,in caso di impedimento di uno o più Commissari della Sezione o delle Sottosezioni,provvedere a sostituirli rispettivamente con un Commissario delle Sottosezioni,o della Sezione.

Art. 19

La competenza per l'accertamento dei profitti di regime spetta alla Sezione speciale della Commissione provinciale nella cui circoscrizione il soggetto ha il domicilio o,nel caso che questo sia sconosciuto ovvero che il soggetto sia deceduto,alla Sezione nella cui circoscrizione il medesimo risulti avere avuto l'ultimo domicilio.

5792

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

Art. 20

Spetta alla competenza della Sezione speciale della Commissione provinciale la de-cisione di tutte le questioni pregiudiziali e incidentali relative all'accertamento e alla liquidazione dei profitti di regime. La decisione di tali questioni non ha efficacia rispetto ai terzi.

Sono in ogni caso escluse dalla competenza della Sezione Speciale le questioni di falso, di stato e di capacità, one non sia quella di stare in giudizio.

Sorgendo una di tali questioni, la Sezione Speciale, se la ritenga influente ai fini della decisione della controversia, ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente, salva la facoltà dell'Amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 21

I poteri indicati nel primo comma dell'art. 31 del D.L.L. 27 luglio 1944, n. 159, competono, ai fini del reperimento dei beni dei presunti profittatori, altresì alle Intendenze di Finanza, le quali possono esercitarli anche presso terzi.

Oltre ai poteri indicati nel primo comma di detto articolo 31 le Sezioni Speciali della Commissione provinciale e di quella Centrale hanno quello di procedere, direttamente o a mezzo della polizia giudiziaria, a perquisizioni domiciliari, anche presso terzi, nelle forme prescritte dal codice di procedura penale.

Gli stessi poteri spettano, ai fini del sequestro, al Presidente

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

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

Sono in ogni caso escluse dalla competenza della Sezione Speciale le questioni di falso,di stato e di capacità,che non sia quella di stare in giudizio.

Sorgendo una di tali questioni,la Sezione Speciale,se la ritenga influente ai fini della decisione della controversia,ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente,salva la facoltà dell'Amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 21

I poteri indicati nel primo comma dell'art.31 del D.L.L.27 luglio 1944,n.159,competono,ai fini del reperimento dei beni dei presunti profittatori,altresì alle Intendenze di Finanza,le quali possono esercitarli anche presso terzi.

Oltre ai poteri indicati nel primo comma di detto articolo 31 le Sezioni Speciali della Commissione provinciale e di quella Centrale hanno quello di procedere,direttamente o a mezzo della polizia giudiziaria,a perquisizioni domiciliari,anche presso terzi,nelle forme prescritte dal codice di procedura penale.

Gli stessi poteri spettano,ai fini del sequestro,al Presidente del Tribunale e,dopo la costituzione delle Sezioni speciali,ai Presidenti di queste.

Art. 22

3791

La Sezione speciale della Commissione provinciale notifica la proposta di accertamento al soggetto od ai suoi eredi e ne dà comunicazione,mediante raccomandata con avviso di ricevimento

./.

all'Alto Commissario,nonchè all'Intendente di finanza del luogo in cui ha sede la Sezione stessa.

Il reclamo avverso la proposta di accertamento deve essere, così dalle parti private come dall'Amministrazione delle finanze, interposto nel termine perentorio di 30 giorni dalla notifica per la prima e dal ricevimento della comunicazione della proposta stessa per la seconda.

Il reclamo si propone mediante deposito nella Segreteria della Sezione speciale della Commissione provinciale dell'originale e di 4 copie,queste in carta semplice, La Segreteria ne rilascia ricevuta, che costituisce l'unica prova del deposito e della data in cui è eseguito.

Ove le parti private risiedano o dimorino in luogo diverso da quello in cui ha sede la Sezione Speciale competente,il reclamo può essere depositato nella Segreteria della più vicina Sezione speciale che ne rilascia ricevuta,ne attesta la data di deposito e ne cura l'immediato inoltro alla Sezione competente.

Il reclamo deve contenere tutte le eccezioni e difese contro la proposta,indicare specificatamente i mezzi di prova e,quando si tratti di documenti,offrirne la comunicazione mediante deposito nella Segreteria,da effettuarsi entro 30 giorni da quello del reclamo.

Scaduto quest'ultimo termine,il Presidente fissa,con proprio decreto,l'udienza per la discussione e nomina il relatore.

Nel corso del giudizio non possono proporsi nuove eccezioni, dedursi nuovi mezzi di prova o esibirsi nuovi documenti a meno che la Sezione speciale non ne riconosca la utilità ai fini del giudi-

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

la prima e dal ricevimento della comunicazione della proposta stessa per la seconda.

Il reclamo si propone mediante deposito nella Segreteria della Sezione speciale della Commissione provinciale dell'originale e di 4 copie,queste in carta semplice. La Segreteria ne rilascia ricevuta, che costituisce l'unica prova del deposito e della data in cui è eseguito.

Ove le parti private risiedano o dimorino in luogo diverso da quello in cui ha sede la Sezione Speciale competente,il reclamo può essere depositato nella Segreteria della più vicina Sezione speciale che ne rilascia ricevuta,ne attesta la data di deposito e ne cura l'immediato inoltro alla Sezione competente.

Il reclamo deve contenere tutte le eccezioni e difese contro la proposta,indicare specificatamente i mezzi di prova e,quando si tratti di documenti,offrirne la comunicazione mediante deposito nella Segreteria,da effettuarsi entro 30 giorni da quello del reclamo.

Scaduto quest'ultimo termine,il Presidente fissa,con proprio decreto,l'udienza per la discussione e nomina il relatore.

Nel corso del giudizio non possono proporsi nuove eccezioni, dedursi nuovi mezzi di prova o esibirsi nuovi documenti a meno che la Sezione speciale non ne riconosca la utilità ai fini del giudizio.

Art.23

Il decreto di fissazione dell'udienza di discussione è, almeno 30 giorni prima della stessa,notificato alle parti [illegible]

./.

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

e comunicato,mediante raccomandata con avviso di ricevimento,all'Intendente di finanza del luogo in cui ha sede la Sezione Speciale,all'Alto Commissario nonchè,quando in rappresentanza dell'Amministrazione siasi costituita l'Avvocatura dello Stato,anche a questa.

Tanto le parti private che l'Amministrazione e,per essa, l'Avvocatura dello Stato,possono,non oltre il ventesimo giorno precedente la discussione,depositare nella Segreteria della Sezione Speciale memorie aggiuntive corredate di cinque copie,queste in carte semplice.

All'udienza,che è pubblica,dopo la relazione del Presidente o del Commissario da lui delegato e dopo l'assunzione degli eventuali mezzi di prova,sono ammessi alla discussione,prima il rappresentante dell'Amministrazione e,successivamente,la persona contro cui l'accertamento è diretto ovvero il suo avvocato o procuratore legale.

L'assunzione dei mezzi di prova può essere,dalla Sezione Speciale,delegata al suo presidente o ad un suo commissario e, quando trattisi di prove da assumersi fuori della sede della Sezione,ad altra Sezione o ad un giudice ordinario.

Art. 24

La Sezione Speciale delibera in segreto a maggioranza di voti subito dopo la discussione pronunciando anche sulle spese.

La motivazione,in forma sommaria,della decisione,è estesa dal Presidente o da un Commissario da lui delegato. L'originale

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

l'Avvocatura dello Stato,possono,non oltre il ventesimo giorno precedente la discussione,depositare nella Segreteria della Sezione Speciale memorie aggiuntive corredate di cinque copie,queste in carte semplice.

All'udienza,che è pubblica,dopo la relazione del Presidente o del Commissario da lui delegato e dopo l'assunzione degli eventuali mezzi di prova,sono ammessi alla discussione,prima il rappresentante dell'Amministrazione e,successivamente,la persona contro cui l'accertamento è diretto ovvero il suo avvocato o procuratore legale.

L'assunzione dei mezzi di prova può essere,dalla Sezione Speciale,delegata al suo presidente o ad un suo commissario e, quando trattisi di prove da assumersi fuori della sede della Sezione,ad altra Sezione o ad un giudice ordinario.

Art. 24

La Sezione Speciale delibera in segreto a a maggioranza di voti subito dopo la discussione pronunziando anche sulle spese.

La motivazione,in forma sommaria,della decisione,è estesa dal Presidente o da un Commissario da lui delegato. L'originale decisione sottoscritta dal Presidente e dal Segretario è depositata nella Segreteria della Sezione Speciale che provvede a disporne, entro 20 giorni dal deposito,la notifica alle parti private,nonchè la comunicazione,mediante raccomandata con avviso di ricevimento, all'Alto Commissario,all'Intendente di Finanza,e,quando sia intervenuta nel giudizio,all'Avvocatura dello Stato.

3789

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

Art. 25

I termini di 30 e di 60 giorni entro i quali le parti private e l'Amministrazione finanziaria,nonchè l'Alto Commissario possono, a norma dell'art.32 del D.L.L.27 luglio 1944,n.159,ricorrere alla Sezione speciale della Commissione centrale delle Imposte,decorrono rispettivamente dalla notifica della decisione e del ricevimento della decisione stessa col mezzo indicato nell'articolo precedente.

Art. 26

Si applicano,quanto alla competenza e ai poteri della Sezione speciale della Commissione centrale,alla proposizione del ricorso e,in genere,al giudizio in grado di appello,le norme dei precedenti articoli 20 a 24.-

Art. 27

Le misure cautelari indicate negli articoli seguenti sono disposte di ufficio,ovvero su richiesta dell'Alto Commissario o dell'Amministrazione finanziaria,dal Presidente della Sezione speciale della Commissione provinciale,competente a norma dell'articolo 18,ovunque si trovino i beni da sottoporre a tali misure. In caso di urgenza possono essere altresì disposte d'ufficio,ovvero su richiesta del Presidente della Sezione speciale competente,dall'Alto Commissario o dell'Amministrazione finanziaria,dal Presidente della Sezione speciale,nella cui giurisdizione debbono essere eseguite.

Prima della costituzione della Sezione speciale,le dette misure sono disposte di ufficio o su richiesta dell'Alto

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

no rispettivamente dalla notifica della decisione e dal ricevimento della decisione stessa col mezzo indicato nell'articolo precedente.

Art. 26

Si applicano,quanto alla competenza e ai poteri della Sezione speciale della Commissione centrale,alla proposizione del ricorso e,in genere,al giudizio in grado di appello,le norme dei precedenti articoli 20 a 24.-

Art. 27

Le misure cautelari indicate negli articoli seguenti sono disposte di ufficio,ovvero su richiesta dell'Alto Commissario o dell'Amministrazione finanziaria,dal Presidente della Sezione speciale della Commissione provinciale,competente a norma dell'articolo 18,ovunque si trovino i beni da sottoporre a tali misure. In caso di urgenza possono essere altresì disposte d'ufficio,ovvero su richiesta del Presidente della Sezione speciale competente,dall'Alto Commissario o dell'Amministrazione finanziaria,dal Presidente della Sezione speciale,nella cui giurisdizione debbono essere eseguite.

Prima della costituzione della Sezione speciale,le dette misure sono disposte,di ufficio o su richiesta dell'Alto

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

Commissario o dall'Amministrazione finanziaria,dal Presidente del Tribunale nella cui circoscrizione l'indiziato profittatore ha il domicilio od abbia avuto l'ultimo domicilio,dovunque le misure debbono essere eseguite,ovvero dal Presidente del Tribunale nella cui circoscrizione si trovano i beni da assoggettarsi alla stesse.

Art. 28

E' costituito presso l'Alto Commissariato un Comitato tecnico al quale spetta :

a)- di pronunciare se la misura cautelare che gli organi competenti ritengano di adottare debba attuarsi nella forma del sindacato, oppure,ove appaia necessario,in quella del sequestro,nonchè di dettare caso per caso le modalità di esecuzione della misura prescelta;

b)- di pronunciare se,in luogo del sindacato o del sequestro,la garanzia debba essere assunta mediante iscrizione di ipoteca legale o prestazione di cauzione,determinando,nel primo caso, il valore della garanzia,nonchè i beni da assoggettarvisi,nel secondo,l'importo e la natura della cauzione,nonchè il termine perentorio in cui deve essere prestata;

c)- di designare i sindacatori e i sequestratari scegliendoli, preferibilmente,per gli immobili,tra gli Istituti esercenti il credito fondiario ed agrario;per i mobili,denaro,titoli e valori tra le Banca d'Italia,le Banche di diritto pubblico e di interesse nazionale,le Banche regionali e popolari e le Casse di Rispar-

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

di ella stessa.

Art. 28

E' costituito presso l'Alto Commissariato un Comitato tecnico al quale spetta :

a)- di pronunciare se la misura cautelare che gli organi competenti ritengano di adottare debba attuarsi nella forma del sindacato, oppure,ove appaia necessario,in quella del sequestro,nonchè di dettare caso per caso le modalità di esecuzione della misura prescelta;

b)- di pronunciare se,in luogo del sindacato o del sequestro,la garanzia debba essere assunta mediante iscrizione di ipoteca legale o prestazione di cauzione,determinando,nel primo caso, il valore della garanzia,nonchè i beni da assoggettarvisi,nel secondo,l'importo e la natura della cauzione,nonchè il termine perentorio in cui deve essere prestata;

c)- di designare i sindacatori e i sequestratari scegliendoli, preferibilmente,per gli immobili,tra gli Istituti esercenti il credito fondiario ed agrario;per i mobili,denaro,titoli e valori tra la Banca d'Italia,le Banche di diritto pubblico e di interesse nazionale,le Banche regionali e popolari e le Casse di Risparmio;per le Aziende e i titoli industriali tra l'Istituto per la ricostruzione industriale e gli Enti e le Società controllate dal Demanio Mobiliare;

d)- di dirigere,vigilare e controllare l'operato dei sindacatori o sequestratari,di esaminare e approvare i rendiconti e le relazioni che gli stessi dovranno periodicamente fargli;

e)- di liquidare le somme dovute,a titolo di rimborso spese

./.

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

o compensi,ai sequestratari e ai sindacatori con provvedimento non impugnabile sia in via giurisdizionale che in via amministrativa.

Art. 29

Il Comitato è presieduto dall'Alto Commissario o da un suo delegato ed è composto di sei membri da nominarsi con decreto del Ministro per le finanze,di cui uno appartenente al Ministero delle finanze,uno designato dal Ministro per il Tesoro e gli altri quattro scelti tra persone,dipendenti dalle pubbliche amministrazioni od estranee ad esse,particolarmente versate in materia di economia,agricoltura,industria e commercio.

Il Comitato ha una propria segreteria,un ufficio di ragioneria ed un ufficio tecnico con non più di venti impiegati in complesso,temporaneamente distaccati da pubbliche amministrazioni. Esso dispone inoltre di un corpo di dieci ispettori da sceglieresi tra ingegneri,commercialisti,chimici,ragionieri,agronomi ed altri esperti temporaneamente assunti tra estranei alle pubbliche amministrazioni o distaccati da queste.

I dipendenti da pubbliche amministrazioni chiamati a far parte del Comitato,della segreteria e degli altri uffici o nominati ispettori sono distaccati nella forma del comando e la spesa relativa alle competenze ad essi spettanti deve essere rimborsata alle amministrazioni di appartenenza. Il trattamento economico da corrispondersi agli estranei alle pubbliche amministrazioni chiamati a far parte del Comitato o nominati ispettori sarà stabilito con decreto del Ministro per le finanze,

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

Il Comitato è presieduto dall'Alto Commissario o da un suo delegato ed è composto di sei membri da nominarsi con decreto del Ministro per le finanze,di cui uno appartenente al Ministero delle finanze,uno designato dal Ministro per il tesoro e gli altri quattro scelti tra persone,dipendenti dalle pubbliche amministrazioni od estranee ad esse,particolarmente versate in materia di economia,agricoltura,industria e commercio.

Il Comitato ha una propria segreteria,un ufficio di ragioneria ed un ufficio tecnico con non più di venti impiegati in complesso,temporaneamente distaccati da pubbliche amministrazioni. Esso dispone inoltre di un corpo di dieci ispettori da scegliersi tra ingegneri,commercialisti,chimici,ragionieri,agronomi ed altri esperti temporaneamente assunti tra estranei alle pubbliche amministrazioni o distaccati da queste.

I dipendenti da pubbliche amministrazioni chiamati a far parte del Comitato,della segreteria e degli altri uffici o nominati ispettori sono distaccati nella forma del comando e la spesa relativa alle competenze ad essi spettanti deve essere rimborsata alle amministrazioni di appartenenza. Il trattamento economico da corrispondersi agli estranei alle pubbliche amministrazioni chiamati a far parte del Comitato o nominati ispettori sarà stabilito con decreto del Ministro per le finanze, d'intesa con il Ministro per il tesoro.

Il Comitato può,per l'assolvimento dei suoi compiti,avvalersi dell'organo legale,nonchè degli organi tecnici finanziari e di polizia dello Stato.

5787

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

Art. 30

Gli organi competenti a promuovere o a ordinare misure cautelari debbono,prima di deciderle e disporle,farne rapporto al Comitato ed attenersi alle determinazioni dallo stesso adottate a norma dell'art.28

In caso di urgenza detti organi possono promuovere e disporre il sequestro,salvo a convertire tale misura in quella diversa che fosse decisa dal Comitato o,nel caso di conferma della forma del sequestro,a sostituire il sequestratario con la persona che fosse dal Comitato stesso a tale ufficio designata.

Per i sequestri già eseguiti,all'atto dell'entrata in vigore del presente decreto,il Comitato tecnico,su rapporto dell'autorità che li ha promossi o disposti,adotta le determinazioni indicate alle lettere a),b),c),dell'articolo 28 dandone notizia per l'esecuzione all'autorità medesima.

Art. 31

Nel disporre la misura cautelare,l'organo competente ai sensi dell'art.27 dichiara decaduti i Commissari ai quali fosse stato in precedenza affidata la gestione di determinati beni o gruppi di beni.

Per i sequestri già eseguiti la decadenza dei Commissari è pronunciata dall'organo anzidetto,entro trenta giorni dall'en-

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

Declassified E.O. 12356 Section 3.3/NND No. 785015

te a norma dell'art.28

In caso di urgenza detti organi possono promuovere e disporre il sequestro,salvo a convertire tale misura in quella diversa che fosse decisa dal Comitato o,nel caso di conferma della forma del sequestro,a sostituire il sequestratario con la persona che fosse dal Comitato stesso a tale ufficio designata.

Per i sequestri già eseguiti,all'atto dell'entrata in vigore del presente decreto,il Comitato tecnico,su rapporto dell'autorità che li ha promossi o disposti,adotta le determinazioni indicate alle lettere a),b),c),dell'articolo 28 dandone notizia per l'esecuzione all'autorità medesima.

Art. 31

Nel disporre la misura cautelare,l'organo competente ai sensi dell'art.27 dichiara decaduti i Commissari ai quali fosse stato in precedenza affidata la gestione di determinati beni o gruppi di beni.

Per i sequestri già eseguiti la decadenza dei Commissari è pronunciata dall'organo anzidetto,entro trenta giorni dall'entrata in vigore del presente decreto.

Art. 32

L'organo competente ai sensi dell'art.27 può ordinare che vengano sottoposte alle misure cautelari previste dall'art.28,a) e b),i beni immobili e mobili e,ove appaia necessario,le aziende e le altre universalità di mobili apparte-

./.

nenti oltre che alle persone indicate negli articoli 2,3,4,5,6 e 8, od ai loro eredi :

a)- alle persone fisiche interposte;

b)- ai legatari,ai donatari ed alle altre persone a favore delle quali siano stati effettuati atti di disposizione previsti dall'art.29. del D.L.L. 27 luglio 1944, n.159, quando risultino insufficienti le garanzie assunte nei confronti dell'indiziato profittatore e dei suoi eredi.

Art. 33

Il sequestro si esegue a norma degli articoli 678,679 c.p.c.

Non si applicano gli articoli 674,675,680 c.p.c. anche nel caso di sequestro ordinato di ufficio. I beni indicati nello art.520 c.p.c. sono custoditi secondo le determinazioni del Comitato tecnico.

Il sequestro può eseguirsi anche sui libri, registri,documenti modelli, campioni ed ogni altra cosa da cui possano desumersi elementi di prova circa la provenienza dei profitti.

Il sequestro dei titoli azionari è, di norma, eseguito sul titolo e deve essere notificato al legale rappresentante della società emittente.

Può essere eseguito anche mediante notifica di precetto al legale rappresentante della società emittente, che è tenuta a richiamare subito i titoli sequestrati e a comunicare, entro trenta giorni da detta notifica gli estremi dei titoli non consegnatile, all'organo che ha richiesto od ordinato il sequestro.

Salvo il diritto di promuovere, per tali titoli, la procedura di ammortamento, detto organo ha la facoltà di richiedere

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

profittatore e dei suoi eredi.

Art. 33

Il sequestro si esegue a norma degli articoli 678,679 c.p.c.

Non si applicano gli articoli 674,675,680 c.p.c. anche nel caso di sequestro ordinato di ufficio. I beni indicati nello art.520 c.p.c. sono custoditi secondo le determinazioni del comitato tecnico.

Il sequestro può eseguirsi anche sui libri, registri,documenti modelli, campioni ed ogni altra cosa da cui possano desumersi elementi di prova circa la provenienza dei profitti.

Il sequestro dei titoli azionari è, di norma, eseguito sul titolo e deve essere notificato al legale rappresentante della società emittente.

Può essere eseguito anche mediante notifica di precetto al legale rappresentante della società emittente, che è tenuta a richiamare subito i titoli sequestrati e a comunicare, entro trenta giorni da detta notifica gli estremi dei titoli non consegnatile, all'organo che ha richiesto od ordinato il sequestro.

Salvo il diritto di promuovere, per tali titoli, la procedura di ammortamento, detto organo ha la facoltà di richiedere alla società emittente, in sostituzione dei titoli stessi , certificati da intestarsi al sequestratario e in virtù dei quali questo è legittimato ad esercitare i diritti indicati nell'articolo seguente.

5780

Il trasferimento dei titoli azionari è, dalla data di entrata in vigore del presente decreto, vincolato di diritto alla condizione sospensiva che, al momento in cui è effettuato, non

./.

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

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

sia stato notificato al legale rappresentante della società e-
mittente il sequestro dei titoli trasferiti.

Le norme dei comma precedenti si osservano, in quanto applicabili, anche per le quote sociali.

Art. 34

Il diritto di voto per atti ed affari di ordinaria amministrazione spetta al sequestratario che lo esercita in conformità delle determinazioni adottate dal comitato tecnico.

Il diritto di voto per atti ed affari eccedenti l'ordinaria amministrazione spetta al sequestrato, salva al sequestratario la facoltà di impugnare, previa autorizzazione del comitato tecnico, la relative delibere, quando risulti che il voto del sequestrato abbia determinato la maggioranza prescritta.

Si osservano,in quanto applicabili, le norme dell'articolo 2378 c.c.

Spetta altresì al sequestratario di esercitare, in via surrogatoria, tutte le azioni sociali.

Il sequestratario ha diritto di intervenire a tutte le assemblee sociali.

Art. 35

Sulla istanza del sequestrato, il Comitato tecnico può autorizzare.il sequestratario ad esercitare il diritto di recesso, il diritto di opzione, nonchè ad eseguire i versamenti richiesti sulle azioni, utilizzando a tali fini i fondi disponibili della gestione sequestraria.

Art. 36

zione spetta al sequestratario che la esercita in conformità delle determinazioni adottate dal comitato tecnico.

Il diritto di voto per atti ed affari eccedenti l'ordinaria amministrazione spetta al sequestrato, salva al sequestratario la facoltà di impugnare, previa autorizzazione del comitato tecnico, la relativa delibera, quando risulti che il voto del sequestrato abbia determinato la maggioranza prescritta.

Si osservano, in quanto applicabili, le norme dell'articolo 2378 c.c.

Spetta altresì al sequestratario di esercitare, in via surrogatoria, tutte le azioni sociali.

Il sequestratario ha diritto di intervenire a tutte le assemblee sociali.

Art. 35

Sulla istanza del sequestrato, il Comitato tecnico può autorizzare il sequestratario ad esercitare il diritto di recesso, il diritto di opzione, nonchè ad eseguire i versamenti richiesti sulle azioni, utilizzando a tali fini i fondi disponibili della gestione sequestraria.

Art. 36

Il sequestro presso terzi si esegue con le norme del sequestro diretto presso il debitore, previa semplice intimazione al terzo del precetto di rilascio e senza la osservanza delle altre norme prescritte dagli articoli 543 e seguenti del codice di procedura civile.

3784

./.

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

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

Art. 37

Il sequestro è efficace fino a che non sia intervenuta pronunzia irretrattabile delle Sezioni speciali.

Art. 38

La competenza a risolvere gli incidenti che sorgono durante l'esecuzione delle misure cautelari spetta agli organi indicati nell'articolo 27.

Art. 39

La persona contro cui è ordinato il sequestro può ricorrere per ottenere la revoca, la riduzione o la commutazione in altra forma di garanzia. Il ricorso è diretto all'autorità che ha disposto il sequestro, la quale decide sentito il comitato tecnico.

Il sequestro può essere revocato, ridotto o commutato in altra forma di garanzia, anche di ufficio, dall'autorità che lo dispose, sentito il Comitato tecnico.

Costituita, peraltro, la sezione speciale spetta solo al presidente di essa di disporre, sentito il comitato tecnico, la revoca, la riduzione o la commutazione del sequestro ordinato in precedenza dal presidente del tribunale.

Art. 40

Il credito dello Stato per i profitti di regime ha privilegio generale su tutti i beni mobili ed immobili del debitore con collocazione, quanto ai mobili, prima dei crediti indicati al numero 15 dell'articolo 2778 c.c. e, quanto agli immobili, prima dei crediti indicati al numero ainque dell'articolo 2780 c.c.

l'esecuzione delle misure cautelari spetta agli organi indicati nell'articolo 27.

Art. 39

La persona contro cui è ordinato il sequestro può ricorrere per ottenerne la revoca, la riduzione o la commutazione in altra forma di garanzia. Il ricorso è diretto all'autorità che ha disposto il sequestro, la quale decide sentito il comitato tecnico.

Il sequestro può essere revocato, ridotto o commutato in altra forma di garanzia, anche di ufficio, dall'autorità che lo dispose, sentito il comitato tecnico.

Costituita, peraltro, la sezione speciale spetta solo al presidente di essa di disporre, sentito il comitato tecnico, la revoca, la riduzione o la commutazione del sequestro ordinato in precedenza dal presidente del tribunale.

Art. 40

Il credito dello Stato per i proventi di regime ha privilegio generale su tutti i beni mobili ed immobili del debitore con collocazione, quanto ai mobili, prima dei crediti indicati al numero 1b dell'articolo 2778 c.c. e, quanto agli immobili, prima dei crediti indicati al numero cinque dell'articolo 2780 c.c.

Al credito dello Stato sono preferiti i crediti garantiti da ipoteca anteriore al 25 luglio 1943, nonchè i crediti chirografari risultanti da scritture di data certa anteriore al 25 luglio 1943.

3785

./.

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

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

Art. 41

Presso le Sezioni speciali delle Commissioni provinciali e presso la Sezione speciale della Commissione centrale, funziona un ufficio di segreteria composto di uno o più segretari, nonchè di un congruo numero di impiegati per i servizi d'ordine, di copia e di notificazione degli atti.

I segretari intervengono alle pubbliche udienze, assistono il presidente e i commissari nell'assunzione delle prove, nonchè negli accessi, nelle perquisizioni ed ispezioni, sottoscrivono con i decidenti le decisioni, ne rilasciano copia certificandone, al pari di ogni altro atto, la conformità all'originale ed assolvono, in genere, le attribuzioni che la legge demanda ai cancellieri presso il giudice ordinario.

Presso le Sezioni speciali delle Commissioni provinciali e presso la Sezione speciale della Commissione centrale possono altresì essere addetti uno o più ufficiali o sottufficiali di polizia giudiziaria nonchè uno o più esperti tecnici e contabili.

Il personale indicato nei comma precedenti, se già appartenente ai ruoli dell'Amministrazione dello Stato, delle provincie o dei comuni, deve essere assunto in servizio presso le Commissioni, in qualità di comandato.

Il Ministro per le finanze, di concerto con quello per il tesoro, determina, con proprio decreto, il numero massimo degli appartenenti alle Amministrazioni dello Stato, da assumersi nella detta qualità.

La spesa relativa alle competenze spettanti al personale comandato deve essere rimborsata alle amministrazioni alle quali il

I segretari intervengono alle pubbliche udienze, assistono il presidente e i commissari nell'assunzione delle prove, nonchè negli accessi, nelle perquisizioni ed ispezioni, sottoscrivono con i deducenti le decisioni, ne rilasciano copia certificandone, al pari di ogni altro atto, la conformità all'originale ed assolvono, in genere, le attribuzioni che la legge demanda ai cancellieri presso il giudice ordinario.

Presso le Sezioni speciali delle Commissioni provinciali e presso la Sezione speciale della Commissione centrale possono altresì essere addetti uno o più ufficiali o sottufficiali di polizia giudiziaria nonchè uno o più esperti tecnici e contabili.

Il personale indicato nei comma precedenti, se già appartenente ai ruoli dell'Amministrazione dello Stato, delle provincie o dei comuni, deve essere assunto in servizio presso le Commissioni, in qualità di comandato.

Il Ministro per le finanze, di concerto con quello per il tesoro, determina, con proprio decreto, il numero massimo degli appartenenti alle Amministrazioni dello Stato, da assumersi nella detta qualità.

La spesa relativa alle competenze spettanti al personale comandato deve essere rimborsata alle amministrazioni alle quali il personale stesso appartiene.

Il Ministro per le finanze è altresì autorizzato ad assumere personale non di ruolo, per il numero massimo da determinarsi con suo decreto, di concerto con il Ministro per il tesoro. 3782

Art. 42

Le spese, i diritti e le indennità per la esecuzione dei sequestri sono anticipate dall'Amministrazione delle finanze. Esse sono

./.

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

ripetibili nei confronti della parte soccombente.

Le parti private, quando su loro richiesta la Commissione disponga indagini, perizie od altri mezzi di prova, debbono, qualora la Sezione lo prescriva, anticiparne le spese, da determinarsi in via presuntiva, salvo conguaglio, ed eseguirne il deposito nel termine che sarà di volta in volta prefisso.

Di ogni altra spesa e tassa per atti della Commissione nonchè per la difesa dell'Amministrazione sarà, al pari dei diritti per notifiche, rilascio di copie e simili, fatta prenotazione a debito in apposito campione, da tenersi dalla segreteria della Sezione speciale che provvederà, a giudizio esaurito, a curarne il recupero, col procedimento della liquidazione e riscossione delle spese e tasse giudiziarie a debito, contro la persona nei cui confronti sia stata pronunciata l'avocazione, e, in solido, contro ogni altra persona intervenuta nel giudizio e le cui istanze siano state respinte.

Art. 43

L'Intendente di finanza, sia d'ufficio che su domanda del debitore, può disporre che il pagamento dei profitti di regime venga eseguito, mediante versamento diretto in tesoreria.

Qualora il debitore non versi alla scadenza fissata la somma dovuta, l'Intendente di finanza affida la riscossione al competente esattore delle imposte, con l'aggiunta dell'indennità di mora e degli aggi di esazione. L'indennità di mora è di spettanza dell'Erario.

Per la riscossione dei profitti di regime a mezzo dell'esattore valgono le norme ed i privilegi stabiliti per la riscossione della imposta straordinaria sui maggiori utili relativi allo stato di guerra, senza l'obbligo del non riscosso per riscosso.

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

per la difesa dell'Amministrazione sarà, al pari dei diritti per notifiche, rilascio di copie e simili, fatta prenotazione a debito in apposito campione, da tenersi dalla segreteria della Sezione speciale che provvederà, a giudizio esaurito, a curarne il recupero, col procedimento della liquidazione e riscossione delle spese e tasse giudiziarie a debito, contro la persona nei cui confronti sia stata pronunciata l'avocazione, o, in solido, contro ogni altra persona intervenuta nel giudizio e le cui istanze siano state respinte.

Art. 43

L'Intendente di finanza, sia d'ufficio che su domanda del debitore, può disporre che il pagamento dei profitti di regime venga eseguito, mediante versamento diretto in tesoreria.

Qualora il debitore non versi alla scadenza fissata la somma dovuta, l'Intendente di finanza affida la riscossione al competente esattore delle imposte, con l'aggiunta dell'indennità di mora e degli aggi di esazione. L'indennità di mora è di spettanza dell'Erario.

Per la riscossione dei profitti di regime a mezzo dell'esattore valgono le norme ed i privilegi stabiliti per la riscossione della imposta straordinaria sui maggiori utili relativi allo stato di guerra, senza l'obbligo del non riscosso per riscosso.

Con decreto del Ministro per le finanze saranno emanate norme circa la misura dell'aggio da attribuire agli agenti della riscossione.

Art. 44

Per l'esecuzione sui beni immobili, ai fini della riscossione

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

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

cumitiva dei profitti di regime, l'esperimento d'asta è unico ed il prezzo minimo relativo è fissato nella somma pari al valore attribuito ai singoli cespiti nella decisione definitiva della Commissione. Qualora tale determinazione non risulti dalla decisione predetta, il valore dei singoli cespiti è fissato dal Comitato tecnico previsto dai precedenti articoli 28 e 29.

Riuscito infruttuoso l'unico esperimento d'asta, i beni sono di diritto devoluti allo Stato.

Per l'esecuzione sui beni mobili, ferma la norma del primo comma relativa al prezzo minimo, il nuovo incanto, ai sensi dell'articolo 39 del T.U. delle leggi sulla riscossione delle imposte dirette e successive modificazioni, deve essere autorizzato dall'Intendente di finanza, il quale ha facoltà di disporre la devoluzione allo Stato dei beni invenduti.

In ogni caso, lo Stato ha diritto di prelazione sui beni subastati, per il prezzo raggiunto nell'esperimento definitivo.

Tale diritto deve esercitarsi nel termine perentorio di giorni trenta dalla aggiudicazione, mediante dichiarazione da depositarsi presso la competente cancelleria giudiziaria.

Per i titoli azionari ed obbligazionari e per le quote sociali il diritto di prelazione può essere esercitato anche prima dello inizio della procedura esecutiva, quanto ai titoli, in base al valore di borsa o in mancanza, in base a quello da determinarsi dal comitato degli agenti di cambio, e quanto alle quote sociali, in base al valore da determinarsi dalla camera di commercio.

7780

Art. 45

Riuscito infruttuoso l'unico esperimento d'asta, i beni sono di diritto devoluti allo Stato.

Per l'esecuzione sui beni mobili, ferma la norma del primo comma relativa al prezzo minimo, il nuovo incanto, ai sensi dell'articolo 39 del T.U. delle leggi sulla riscossione delle imposte dirette e successive modificazioni, deve essere autorizzato dall'Intendente di Finanza, il quale ha facoltà di disporre la devoluzione allo Stato dei beni invenduti.

In ogni caso, lo Stato ha diritto di prelazione sui beni subastati, per il prezzo raggiunto nell'esperimento definitivo.

Tale diritto deve esercitarsi nel termine perentorio di giorni trenta dalla aggiudicazione, mediante dichiarazione da depositarsi presso la competente cancelleria giudiziaria.

Per i titoli azionari ed obbligazionari e per le quote sociali il diritto di prelazione può essere esercitato anche prima dello inizio della procedura esecutiva, quanto ai titoli, in base al valore di borsa o in mancanza, in base a quello da determinarsi dal comitato degli agenti di cambio, e quanto alle quote sociali, in base al valore da determinarsi dalla camera di commercio.

Art. 49

Tra gli atti a titolo gratuito contemplati sotto il numero uno dell'articolo 29 del D.L.L. 27 luglio 1944, n.159, non sono compresi quelli compiuti in adempimento di un dovere morale o a scopo di pubblico vantaggio.

Tra gli atti di disposizione contemplati sotto il numero due dell'articolo stesso non sono compresi quelli aventi per oggetto il pagamento di un debito certo e liquido che risulti costituito non

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

allo scopo di sottrarre artificiosamente di passività il patrimonio del debitore.

Gli altri atti di disposizione non a titolo gratuito, in tanto sono privi di effetto, ai sensi della prima parte di detto articolo in quanto sia dimostrato che il proprietario dei beni, già posseduti dalla persona debitrice di profitti avocati, sapeva o poteva sapere, al momento in cui acquistava la proprietà di tali beni, che ora i suoi danti causa esistesse detta persona e che essa avesse realizzato profitti di regime.

L'azione per la dichiarazione di inefficacia è proposta dalla Amministrazione finanziaria, innanzi al giudice competente secondo le norme ordinarie, contro il debitore e la persona a favore della quale sia stato dallo stesso compiuto l'atto di disposizione.

La domanda giudiziale è soggetta a trascrizione.

L'azione si prescrive nel termine di due anni dal giorno in cui la decisione di avocazione è divenuta irrevocabile.

Art. 46

Entro sei mesi dall'entrata in vigore del presente decreto le sezioni speciali delle commissioni provinciali debbono formare e comunicare all'Alto Commissario l'elenco nominativo delle persone sottoposte o da sottoporre al giudizio di avocazione a norma degli articoli 2,3,4,5,6 e 8.

L'Alto Commissario provvede, entro il mese successivo, alla pubblicazione di tali elenchi nella Gazzetta Ufficiale ed al deposito degli stessi presso gli uffici dei pubblici registri immobiliari, del pubblico registro automobilistico, del pubblico registro navale, del pubblico registro aeronautico, nonchè presso

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

Declassified E.O. 12356 Section 3.3/NND No. 785015

cati, che tra i suoi danti causa esistesse detta persona e che essa avesse realizzato profitti di regime.

L'azione per la dichiarazione di inefficacia è proposta dalla Amministrazione finanziaria, innanzi al giudice competente secondo le norme ordinarie, contro il debitore e la persona a favore della quale sia stato dallo stesso compiuto l'atto di disposizione.

La domanda giudiziale è soggetta a trascrizione.

L'azione si prescrive nel termine di due anni dal giorno in cui la decisione di avocazione è divenuta irrevocabile.

Art. 46

Entro sei mesi dall'entrata in vigore del presente decreto le sezioni speciali delle commissioni provinciali debbono formare e comunicare all'Alto Commissario l'elenco nominativo delle persone sottoposte o da sottoporre al giudizio di avocazione a norma degli articoli 2,3,4,5,6 e 8.

L'Alto Commissario provvede, entro il mese successivo, alla pubblicazione di tali elenchi nella Gazzetta Ufficiale ed al deposito degli stessi presso gli uffici dei pubblici registri immobiliari, del pubblico registro automobilistico, del pubblico registro navale, del pubblico registro aeronautico, nonchè presso le borse valori.

Avvenuta la pubblicazione ed eseguito il deposito degli detti elenchi, l'azione per la dichiarazione di inefficacia prevista nell'articolo precedente, non è proponibile per gli atti di disposizione successivamente effettuati qualora le persone che li hanno compiuti o i loro danti causa non risultino comprese negli elenchi stessi.

./.

Art. 47

Su istanza dell'Alto Commissario, dell'Amministrazione finanziaria o del Presidente della Sezione speciale, il giudice competente dispone la sospensione, sino alla definizione del giudizio di accertamento, delle procedure esecutive o fallimentari in corso o sopravvenute a carico delle persone sottoposte al giudizio stesso o nei confronti delle quali vengano o siano state adottate misure cautelari.

Art. 48

Su istanza del sequestratario o di qualunque interessato può essere consentito, previa autorizzazione del Comitato tecnico, il pagamento dei crediti aventi privilegio anteriore al credito dello Stato, a norma del primo comma dell'art.40, nonchè di quelli previsti nel secondo comma dell'articolo stesso e degli altri il cui pagamento risulti di evidente utilità per l'Amministrazione e conservazione dei beni sottoposti a sequestro.

Art. 49

L'azione dello Stato per l'accertamento dei profitti di regime si prescrive nel termine di due anni dall'entrata in vigore del presente decreto.

La notifica della proposta di accertamento interrompe la prescrizione la quale non corre per tutta la durata del giudizio innanzi le Sezioni speciali delle Commissioni delle imposte.

Art. 50

Il credito dello Stato per profitti di regime si prescrive nel

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

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

stato di tali contratti dalle quali vengano a trarre utilità misure cautelari.

Art. 48

Su istanza del sequestratario o di qualunque interessato può essere consentito, previa autorizzazione del Comitato tecnico, il pagamento dei crediti aventi privilegio anteriore al credito dello Stato, a norma del primo comma dell'art.40, nonchè di quelli previsti nel secondo comma dell'articolo stesso e degli altri il cui pagamento risulti di evidente utilità per l'Amministrazione e conservazione dei beni sottoposti a sequestro.

Art. 49

L'azione dello Stato per l'accertamento dei profitti di regime si prescrive nel termine di due anni dall'entrata in vigore del presente decreto.

La notifica della proposta di accertamento interrompe la prescrizione la quale non corre per tutta la durata del giudizio innanzi le Sezioni speciali delle Commissioni delle imposte.

Art. 50

Il credito dello Stato per profitti di regime si prescrive nel termine di cinque anni dalla data in cui l'accertamento è divenuto irretrattabile.

La prescrizione è interrotta dalla notifica della cartella di pagamento o dell'ordine di versamento diretto in tesoreria.

./.

Art. 51

Le spese occorrenti per il funzionamento del Comitato tecnico, previsto dall'articolo 28, e delle Sezioni speciali delle commissioni delle imposte sono a carico del bilancio del Ministero delle finanze.

Il Ministero del tesoro è autorizzato a disporre i necessari stanziamenti e ad apportare le occorrenti variazioni.

Art. 52

Per tutto quanto non sia disposto dal D.L.L. 27 luglio 1944, n. 159, e dal presente decreto valgono, in quanto applicabili, le norme contenute nel R.D.L. 7 agosto 1936, n. 1639, convertito nella legge 7 giugno 1937, n.1016, e nel R.D. 8 luglio 1937, n. 1516, e successive modificazioni.

Art. 53

Sono abrogate le disposizioni contrarie a quelle contenute nel presente decreto o comunque con esse incompatibili.

Art. 54

Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale. Nei territori non ancora restituiti all'amministrazione italiana, entrerà in vigore dalla data di tale restituzione o da quella in cui sarà dichiarato esecutivo con ordinanza del Governo Militare Alleato.

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

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

Art. 52

Per tutto quanto non sia disposto dal D.L.L. 27 luglio 1944, n. 159, e dal presente decreto valgono, in quanto applicabili, le norme contenute nel R.D.L. 7 agosto 1936, n. 1639, convertito nella legge 7 giugno 1937, n.1016, e nel R.D. 6 luglio 1937, n. 1514, e successive modificazioni.

Art. 53

Sono abrogate le disposizioni contrarie a quelle contenute nel presente decreto o comunque con esse incompatibili.

Art. 54

Il presente decreto entra in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale. Nei territori non ancora restituiti all'amministrazione italiana, entrerà in vigore dalla data di tale restituzione o da quella in cui sarà dichiarato esecutivo con ordinanza del Governo Militare Alleato.

Ordiniamo a chiunque spetti di osservare il presente decreto e di farlo osservare come legge dello Stato.

Dato a Roma, addì.....

3777

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

The law for the confiscation of the properties belonging to members of the Fascist party was initially limited to those who had covered prominent fascist positions in the government and in the Party. (Ministers - Members of the "Gran Consiglio" - Members of the Direttorio). Other categories were also submitted to the total or partial confiscation but giving them the faculty of proving the legitimate acquisition.

Consequently the law was discussed and modified, until recently it was agreed by the Government's Commission that except for those who had been condemned for so called fascist crimes, the other categories had the faculty of proving the legitimate acquisition.

In these last days Members of the North Italy Liberation Committee came to Rome and together with Mr. Togliatti imposed to the Government modifications, including new categories and excluding for almost all of them the faculty of demonstrating the legitimate acquisition and increase of their property.

The law which will be soon published distinguishes;

1) the total confiscation of the property for those who have been convicted as guilty of "fascist crimes"

2) the avocation of the so-called "profitti di regime".

The law for the confiscation of the properties belonging to members of the Fascist party was initially limited to those who had covered prominent fascist positions in the government and in the Party. (Ministers - Members of the "Gran Consiglio" - Members of the Direttorio). Other categories were also submitted to the total or partial confiscation but giving them the faculty of proving the legitimate acquisition.

Consequently the law was discussed and modified, until recently it was agreed by the Government's Commission that except for those who had been condemned for so called fascist crimes, the other categories had the faculty of proving the legitimate acquisition.

In these last days Members of the North Italy Liberation Committee came to Rome and together with Mr. Togliatti imposed to the Government modifications, including new categories and excluding for almost all of them the faculty of demonstrating the legitimate acquisition and increase of their property.

The law which will be soon published distinguishes,

1) the total confiscation of the property for those who have been convicted as guilty of "fascist crimes"

2) the avocation of the so-called "profitti di regime".

As such the law does not consider profits made as the result of fascist activity, or of activities connected with the Party, in other words, unlawful, but the total increase of the property since January

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

the 3rd 1925 whatever may be its source, even if inherited! No proof of legitimate acquisition is admitted except for some insignificant categories (academicians, etc.). The only possibility of escaping the avocation is for some categories the proof of having been scarcely or not active politically. Since the extension of such activities will be decided by a political Commission, and since those belonging to the same categories have been already removed from their positions as fascists, there is no hope for them.

I beg you to consider the following points:

1) It is illegal, and socially and morally inadmissible that the law should a priori consider any increase of property as a consequence of unlawful fascistic activities -- pushing the illegality to the extreme of including in the "Profitti di Regime" even the inherited patrimony (except that of wife and children). -- This is very closely resembling to what Count Sforza once publically said: "all the Ministers and Members of the Fascist Party should be considered a priori Thieves".

2) In any case the avocation of the property beginning from January the 3rd 1925 even if the political activity has begun much later is injust.

3) It is not legally and morally admittable to extend such avocation to categories of citizens without examining each individual [illegible] to the single a demonstration that

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

significant categories (academicians, etc.). The only possibility of escaping the evocation is for some categories the proof of having been scarcely or not active politically. Since the extension of such activities will be decided by a political Commission, and since those belonging to the same categories have been already removed from their positions as fascists, there is no hope for them.

I beg you to consider the following points:

1) It is illegal, and socially and morally inadmissible that the law should a priori consider any increase of property as a consequence of unlawful fascistic activities -- pushing the illegality to the extreme of including in the "Profitti di Regime" even the inherited patrimony (except that of wife and children). -- This is very closely resembling to what Count Sforza once publically said: "all the Ministers and Members of the Fascist Party should be considered a priori Thieves".

2) In any case the evocation of the property beginning from January the 3rd 1925 even if the political activity has begun much later is injust.

3) It is not legally and morally admittable to extend such evocation to categories of citizens without examining each individual case and without allowing to the single a demonstration that the increase of his property is legitimate.

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

4) The law gives to the Government the power of submitting to the avocation even non fascist citizens, industrialists, professionists and citizens of all kinds if they have been in some way connected with fascist. This large formula puts any citizen in the hands of the politicians having interest in depriving him of the property.

If the principle of right of property lawfully acquired is submitted so arbitrarily to political interest or vengeance, the consequences will not appear too late -- and since these arbitrary and unjust propositions have been imposed by communist party threatening the weak liberal and demochristians Components of the Government, forcing them to change the previous agreement, it is evident that a very, very large number of honest citizens will be deprived of their property with the consequence of annihilation of the bourgeoisie, breaking in this way the backbone of the country. Then the proper moment will come for the communist to step in. That this law is a communist law and that the Government and everybody are under the fear of them is amply proved by complete silence of the press.

My friends and I ask you to <u>read kindly</u> the enclosed memorandum and together with the British authorities <u>examine accurately</u> the law so that it may be corrected and guided by justice and not by a spirit

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

to the avocation even non fascist citizens, industrialists, professionists and citizens of all kinds if they have been in some way connected with fascist. This large formula puts any citizen in the hands of the politicians having interest in depriving him of the property.

If the principle of right of property lawfully acquired is submitted so arbitrarily to political interest or vengeance, the consequences will not appear too late -- and since these arbitrary and unjust propositions have been imposed by communist party threatening the weak liberal and demochristiane Components of the Government, forcing them to change the previous agreement, it is evident that a very, very large number of honest citizens will be deprived of their property with the consequence of annihilation of the bourgeoisie, breaking in this way the backbone of the country. Then the proper moment will come for the communist to step in. That this law is a communist law and that the Government and everybody are under the fear of them is amply proved by complete silence of the press.

My friends and I ask you to read kindly the enclosed memorandum and together with the British authorities examine accurately the law so that it may be corrected and guided by justice and not by a spirit of arbiter and destruction. We ask that to everybody who is not a criminal should be given the faculty of justifying the lawful acquisition of his property.

- 57 -

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

1). No doubt the R. Hon. Mr. MacMillan knows the law passed by Sig. Bonomi's Government on the 15th inst.; this law contemplates confiscation of patrimonial possessions belonging to all those who, in any way, have had a part of some importance in politics or in the administration, in industry or commerce, during the 2? years of the fascist regime. As we are going to show, this is the most violent assault by Communism against the existing order of Italian society.

2). The Law against the illicit enrichments by dishonest fascists exists since July 1944 and works quite well, as is shown by the fact that, so far, it has started 7500 proceedings against individual suspects, and has resulted in more than 1000 sequestrations of property. This 1944 law, as it was later perfected, is equitable and humane; probably, because it originated in the period when the Allies exercised an efficient and constant control over the policy of the Italian Government. But, just because of this, it did not give satisfaction to the Northern hordes now inspiring or controlling the weak and tired personages who compose the Italian Government.

3). The following series of facts may be of interest. When Sig. Togliatti realized that the law of July 1944 was working with justice, viz., only brought to ransom dishonest fascists, he began to be worried about it. The real purpose of the Communists, indeed, is not to get rid of the dishonest fascists, who gradually become absorbed into Communism, but to hit the honest ones, and even the non-fascists: in fact, all those who, sooner or later, might give their intellectual, practical and economic support to the cause of law and order.

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

belonging to all those who, in any way, have had a part of some importance in politics or in the administration, in industry or commerce, during the 20 years of the fascist regime. As we are going to show, this is the most violent assault by Communism against the existing order of Italian society.

2). The Law against the illicit enrichments by dishonest fascists exists since July 1944 and works quite well, as is shown by the fact that, so far, it has started 7500 proceedings against individual suspects, and has resulted in more than 1000 sequestrations of property. This 1944 law, as it was later perfected, is equitable and humane; probably, because it originated in the period when the Allies exercised an efficient and constant control over the policy of the Italian Government. But, just because of this, it did not give satisfaction to the Northern hordes now inspiring or controlling the weak and tired personages who compose the Italian Government.

3). The following series of facts may be of interest. When Sig. Togliatti realized that the law of July 1944 was working with justice, viz., only brought to ransom dishonest fascists, he began to be worried about it. The real purpose of the Communists, indeed, is not to get rid of the dishonest fascists, who gradually become absorbed into Communism, but to hit the honest ones, and even the non-fascists; in fact, all those who, sooner or later, might give their intellectual, practical and economic support to the cause of law and order.

Togliatti asked that the law of 1944 should be made more severe, leading to the confiscation of property belonging to people who might be considered even indirectly politically responsible for Italy's defeat. Sig Bonomi agreed, and a Ministerial Committee was appointed for the revision of the 1944 law.

77A

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

few days later Gen. Roatta escaped from jail and the Communists took this opportunity for forcing on the Bonomi Government the adoption of further and more vindictive regulations against the fascists, both honest and dishonest. The Ministerial Committee concluded its work and, a few days ago, brought to the Council of Ministers a new draft whose provisions were far more severe and sweeping than the first ones; yet, this proposed new law still displayed some semblance of justice by allowing thousands of victims to prove the honest origin of their patrimony.

4). At that moment came the liberation of the North, and the C.L.N. of Milan arrived in Rome. They insisted that the draft should be submitted to them for their inspection, did not approve of it and forced upon the Government certain alterations of a pityless gravity; we think it useless to illustrate these proposals here, as it is to be expected that the R. Hon. Mr. MacMillan has already received some information about them. They are everything that could be imagined in the way of illegality, arbitrariness, indiscrimination, vindictiveness and persecution. This is no longer a law: it is a clever Communist manoeuver against the upper and middle classes; it is a grand scale attempt at the practical destruction of the social and political class which might take the lead of the forces of order.

This law has been forced upon a trembling Council of Ministers by a small group of so-called partisan leaders who have reached Rome by the courtesy of the Allies. All the non-communist Ministers beginning with Bonomi were against it, but they wer too much afraid of the Communist and approved it with a bad conscience, thus consenting to throw the country into a new and more serious [illegible] the extent of which could not escape an intelligent observer.

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

Council of Ministers a new draft whose provisions were far more severe and sweeping than the first ones; yet, this proposed new law still displayed some semblance of justice by allowing thousands of victims to prove the honest origin of their patrimony.

4). At that moment came the liberation of the North, and the C.L.N. of Milan arrived in Rome. They insisted that the draft should be submitted to them for their inspection, did not approve of it and forced upon the Government certain alterations of a pityless gravity; we think it useless to illustrate these proposals here, as it is to be expected that the H. Hon. Mr. MacMillan has already received some information about them. They are everything that could be imagined in the way of illegality, arbitrariness, indiscrimination, vindictiveness and persecution. This is no longer a law: it is a clever Communist manouver against the upper and middle classes; it is a grand scale attempt at the practical destruction of the social and political class which might take the lead of the forces of order.

This law has been forced upon a trembling Council of Ministers by a small group of so-called partisan leaders who have reached Rome by the courtesy of the Allies. All the non-communist Ministers beginning with Bonomi were against it, but they wer too much afraid of the Communist and approved it with a bad conscience, thus consenting to throw the country into a new and more serious turmoil, the depth and extent of which could not escape an intelligent observer.

5). The real aims of this law are as follows: a) to make national reconciliation impossible, by creating new and deep hatreds and resentments between classes, groups and individuals; b) to increase the number of politically

377

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

persecuted people beyond any reasonable limit, so as to provoke the victims to react, and thus sow new elements of national unrest, which Communism will play upon in due time; c) to destroy economically, and therefore annihilate socially, the bourgeois class, so as to make easier and more decisive the conquest of the central power for the Communists, who are not willing to wait much longer. The draft of the law is due to the Communist Minister Gesenti, who wrote it, and was agreed to after a few hours discussion, only between him and the partisan representatives, and forced on the Council of Ministers by Togliatti with the connivance of Gronchi, who, under pretence of being a Demo-Christian, really acts as a Communist.

It will be enough to consider the first list of people who would have all their properties confiscated, <u>without being allowed to prove that such property has been honestly acquired</u>: members of the Grand Council, Ministers and Under-secretaries, all the ranks (even the secondary ones) of the fascist party, diplomats and ambassadors, prefects and colonial governors, members of Parliament and senators, national councillors and militia officers, 'questori' (local police officials) and 'podestà' (mayors), presidents of syndicates and federations, industrialists and builders, undertakers of public works and newspaper owners, commercial and limited liability companies, etc. A colossal national sequestration, which the Government have endorsed without seeming in the least conscious of its extreme gravity.

6). With this fratricidal law, worthy of the most violent periods of Russian Bolshevism, Togliatti aims at a thorough bleeding of the ruling bourgeois class and its most productive and constructive personalities, who have

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

the central power for the Communists, who are not willing to wait much longer. The draft of the law is due to the Communist Minister Pesenti, who wrote it, and was agreed to after a few hours discussion, only between him and the partisan representatives, and forced on the Council of Ministers by Togliatti with the connivance of Gronchi, who, under pretence of being a Demo-Christian, really acts as a Communist.

It will be enough to consider the first list of people who would have all their properties confiscated, <u>without being allowed to prove that such property has been honestly acquired</u>: members of the Grand Council, Ministers and Under-secretaries, all the ranks (even the secondary ones) of the fascist party, diplomats and ambassadors, prefects and colonial governors, members of Parliament and senators, national councillors and militia officers, 'questori' (local police officials) and 'podesth' (mayors), presidents of syndicates and federations, industrialists and builders, undertakers of public works and newspaper owners, commercial and limited liability companies, etc. A colossal national sequestration, which the Government have endorsed without seeming in the least conscious of its extreme gravity.

6). With this fratricidal law, worthy of the most violent periods of Russian Bolshevism, Togliatti aims at a thorough bleeding of the ruling bourgeois class and its most productive and constructive personalities, who have all of them (with irrelevant exceptions) belonged to fascism; he also aims at the destruction of the oldest and most important industrial organizations at a time when the country is most in need of a strenuous combined effort on the part of the said men and organizations, both in the economic and in the political fields, to save it from utter chaos. Togliatti wants to make sure

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

that her last internal supports will be brought to utter weakness, shame and despair. On the eve of the election of a very dangerous 'Costituente' Togliatti is making sure that all the moderate elements will be brought to economic impotence and moral despair, so that no chance will be left, not only for the principle of monarchism, but also for liberal and really democratic institutions; the mob, inspired and manoeuvred by the Communists, will carry the day all the more easily.

There is nothing new in the Communist technique followed by Togliatti; this law has its precedents in Stalin's legislation. This time the novelty is represented by the weakness of the moderate parties and the Council of Ministers, who have given in to the Communist thrust. It is enough to point to the 'Commission of Four', appointed by the Communist Peasenti, which in each province should decide the confiscation of property against prominent or humble citizens, and to the untold number of personal revenges which these commissions of Communists, or their own friends and adepts, would perform, without any possible redress for thousands of people, mostly aged and with families to keep. The victims would remain utterly destitute for no other sin than having served their country during the twenty years of the fascist regime without getting any undue advantage from it, and very often to their own personal loss.

7). We take the liberty to point out to the R. Hon. Mr. MacMillan that, by this law, the Communists would make a <u>coup</u>, in internal politics, perfectly equivalent to that attempted by Marshal Tito in the field of international relations. Just as Tito has invaded the Italian frontier as the agent of Moscow's imperialism, Togliatti does him the great service of paralysing the Italian

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

for the principle of monarchism, but also for liberal and really democratic institutions; the mob, inspired and manoeuvred by the Communists, will carry the day all the more easily.

There is nothing new in the Communist technique followed by Togliatti; this law has its precedents in Stalin's legislation. This time the novelty is represented by the weakness of the moderate parties and the Council of Ministers, who have given in to the Communist thrust. It is enough to point to the 'Commission of Four', appointed by the Communist Peasants, which in each province should decide the confiscation of property against prominent or humble citizens, and to the untold number of personal revenges which these commissions of Communists, or their own friends and adepts, would perform, without any possible redress for thousands of people, mostly aged and with families to keep. The victims would remain utterly destitute for no other sin than having served their country during the twenty years of the fascist regime without getting any undue advantage from it, and very often to their own personal loss.

7). We take the liberty to point out to the R. Hon. Mr. MacMillan that, by this law, the Communists would make a <u>coup</u>, in internal politics, perfectly equivalent to that attempted by Marshal Tito in the field of international relations. Just as Tito has invaded the Italian frontier as the agent of Moscow's imperialism, Togliatti does him the great service of paralyzing the Italian middle classes through the expropriation of many people, a series of threats against the others, and the inauguration of political chaos all through.

The Allies have already consented to the disfranchisement of ex-fascists

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

in the political field, through the suppression of their right to vote and to be elected. Will they now permit that a self-appointed and non-representative government should dispossess them of their means of economic independence and, in most cases, of physical survival? If so, it means that they have decided to abandon the monarchy and the Italian people to their destiny.

8). It seems that Adm. Stone, having been alarmed by the brief information published by the papers about this civil-war law, asked Sig. Bonomi to let him have a copy of the draft, and has submitted it to the perusal of two jurists, one English and one American. This news has gone round rapidly, giving rise to some hope.

We submit that the draft should be withdrawn altogether. The Law on illegal enrichments of July 1944 is, in our opinion, perfectly adequate to deal with the problem and is strictly democratic in principle and in its purport. If it should be thought absolutely necessary to extend its provisions, the draft which was so carefully studied and agreed upon by a Committee of Ministers before the liberation of the North should be adopted.

The cause of national pacification would suffer a severe setback if this new law were to come into force; for many years to come, one could not expect any normal form of public life to prevail in the country. Many thousand families would be in a revengeful mood; the 'Costituente' would be appointed and would meet in a red hot atmosphere of internal hatred and dissentions. One must admit that Togliatti has aimed a master-stroke at both Italian and Anglo-Saxon interests at a very dangerous and critical moment.

It is to be hoped that the Allies will not allow such a grave provision

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

abandon the monarchy and the Italian people to their destiny.

8). It seems that Adm. Stone, having been alarmed by the brief information published by the papers about this civil-war law, asked Sig. Bonomi to let him have a copy of the draft, and has submitted it to the perusal of two jurists, one English and one American. This news has gone round rapidly, giving rise to some hope.

We submit that the draft should be withdrawn altogether. The Law on illegal enrichments of July 1944 is, in our opinion, perfectly adequate to deal with the problem and is strictly democratic in principle and in its purport. If it should be thought absolutely necessary to extend its provisions, the draft which was so carefully studied and agreed upon by a Committee of Ministers before the liberation of the North should be adopted.

The cause of national pacification would suffer a severe setback if this new law were to come into force; for many years to come, one could not expect any normal form of public life to prevail in the country. Many thousand families would be in a revengeful mood; the 'Costituente' would be appointed and would meet in a red hot atmosphere of internal hatred and dissentions. One must admit that Togliatti has aimed a master-stroke at both Italian and Anglo-Saxon interests at a very dangerous and critical moment.

It is to be hoped that the Allies will not allow such a grave provision to be adopted, and that the A.C. will veto the publication of this law.

3762

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

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

Ref : CM/5.17/24 27 May 45

Dear Mr. Prime Minister,

I have been informed that certain amendments have been suggested to the proposed decree providing for the confiscation of illicitly acquired wealth, which re-introduce the principle of confiscation of the property of private corporations in certain circumstances.

This is a matter in which the Allied Governments are vitally concerned and I must ask you, my dear Prime Minister, to let this Commission see a draft of the proposed decree in its final form before it is passed by the Council of Ministers, or if already passed before its publication in the Gazette.

Yours very truly,

[illegible]

ELLERY W. STONE,
Major General, USA,
Chief Commissioner.

His Excellency Ivanoe BONOMI
The President of the Council of Ministers
Italian Government,
ROME.

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

17 MAY 1945

TRANSLATION: n. 748

HIGH COMMISSION - for Sanctions against FASCISM

Rome, 14 May 1945

Dear General,

As you have read in the newspaper, the law on the forfeiture of the profits derived from the regime has been approved in the Council of Saturday, the 12th.

I realize that the text I sent you sometime ago has undergone some changes. They are in general of limited importance, except those made in arts. 3 and 4.

I am sending you the text of the new articles as approved by the Council of Ministers.

Kind regards.

Sincerely yours,

To General G.R. UPJOHN
Allied Commission
ROME

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

Alla Commissione
per la armistizio civile e finanziario
SEGRETARIO GENERALE

Roma, 14 maggio 1945

14 MAG 1945

Caro Generale,

come avrà visto dai giornali, nel Consiglio di sabato, 12 corrente, è stata approvata la legge sull'avocazione dei profitti di regime.

So che il testo, che le avevo comunicato a suo tempo, sono state apportate alcune modifiche. Esse, in genere, sono di limitata importanza, tranne quelle apportate agli artt.3 e 4.

Le mando il testo dei nuovi articoli quale risulta dall'approvazione del Consiglio dei Ministri.

Cordiali saluti

Al Generale C.A. UTHEIM
Commissione Alleata

= R O M A =

5766

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

(188)

Art 3

All increases of property acquired since 3 Jan 1925 by any persons who have held any of the offices mentioned below shall be forfeited to the State:

a) Member of the Grand Council of Fascists,

b) Member of the Fascist Government,

c) Secretary or Vice Secretary of the Fascist party or member of the Fascist National Directorate;and National Inspector of the Fascist Party;

d) President, Public Prosecutor or member of the Special Tribunal for the defence of the State,

e) Commanding General or Counsel of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;

f) Official or adviser of the OVRA;

g) Prefect or Questore appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Federal Secretary of the Fascist party,

l) Fascist deputy who after 3 January 1925 has kept his registration in the Fascist party or has registered in it during his office or after such a date has voted for fascist laws;

m) National Councilman;

n) Senator appointed after 3 January 1925 declared removed or who has voted after such a date for fascist laws;

o) President of fascist confederations.

The rule of art. 8 of the present decree shall be applied whenever any of the

e) Commanding General or Counsel of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;

f) Official or adviser of the OVRA;

g) Prefect or Questore appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Federal Secretary of the Fascist party;

l) Fascist deputy who after 3 January 1925 has kept his registration in the fascist party or has registered in it during his office or after such a date has voted for fascist laws;

m) National Councilmen;

n) Senator appointed after 3 January 1925 declared removed or who has voted after such a date for fascist laws;

o) President of fascist confederations.

The rule of art. 8 of the present decree shall be applied whenever any of the circumstances indicated in the first and third paragraph of art. 7 of DLL 159 of 27 July 1944 exists in favor of the accused.

The same rule may be applied by the special Section of the Central Commission for direct taxes, on a proposal of the special Section of the provincial Commission for direct taxes as regards those accused persons referred to in letter i) and 5705 lowing when, because of the brief period they were in office or for the small importance of their political activity or because they have been acquitted by the Epuration Commission or by other bodies for sanctions against fascism, they are

Declassified E.O. 12356 Section 3.3/NND 910587 No. 7859

found to be deserving.

Art 4

The increases of property acquired since 3 January 1925 by the persons listed below shall be presumed to be profits derived from the regime unless the proof referred to in art 8 exists:

a) Whoever has held any of the offices indicated in the decree of 2 February 1945 of the President of the Council of Ministers, published in the Gazzetta Ufficiale of 15 February 1945, no. 20 and not included in the preceding article;

b) Whoever has administered secret State funds with no obligation to give a statement of accounts;

c) Whoever after 3 January 1925 has directed or supported with considerable funds of his own or of others the propaganda and the political activity of the fascist party;

d) Podestas of provincial capitals and presidi of province.

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

1945 of the President of the Council of Ministers, published in the Gazzetta Ufficiale of 15 February 1945, no. 20 and not included in the preceding article;

b) Whoever has administered secret State funds with no obligation to give a settlement of accounts;

c) Whoever after 3 January 1925 has directed or supported with considerable funds of his own or of others the propaganda and the political activity of the fascist party;

d) Podestas of provincial capitals and presidi of province.

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

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

(1231)

Atti di

...avvenuti anche dopo, quali profitti di regime, gli incarichi
...triennali conferiti successivamente al 3 gennaio 1925 da cui
...risulti, dopo tale data:

a) membro del gran consiglio del fascismo;

b) membro del governo fascista;

c) segretario o vice segretario o membro del direttorio nazionale del partito fascista o federale del partito fascista;

d) presidente, pubblico accusatore o membro del tribunale speciale per la difesa dello Stato;

e) ufficiale generale - console della milizia volontaria sicurezza nazionale in servizio permanente effettivo, esclusi quelli aventi funzioni esclusivamente o appartenenti a milizie speciali;

f) funzionario di concetto dell'ordine;

g) prefetto o questore nominato per titoli fascisti;

h) capo di missione diplomatica - governatore di colonia nominato per titoli fascisti;

i) segretario federale;

l) deputato fascista che dopo il 3 gennaio 1925 abbia mantenuto la iscrizione al partito fascista o a quello si sia iscritto durante l'esercizio del suo mandato o abbia comunque votato dopo tale data le leggi fascistissime;

m) consigliere nazionale;

n) senatore nominato dopo il 3 gennaio 1925 dichiarato decaduto o che abbia votato dopo tale data, le leggi fascistissime;

o) presidente delle confederazioni fasciste.

Qualora a favore dell'inquisito ricorra taluna delle circostanze indicate nel primo e terzo comma dell'art.7 del decreto L.L. 27 lu... nella parte dell'art. 2 del presente decret

per la difesa dello Stato;

c) ufficiale generale e console della milizia volontaria sicurezza nazionale in servizio permanente effettivo, escluse quelle aventi funzioni assistenziali e appartenenti a milizie speciali;

d) funzionario di carriera dell'ordine;

e) prefetto e questore comunque per titoli fascisti;

f) capo di missione diplomatica e governatore di colonia nominati per titoli fascisti;

g) segretario federale;

h) deputato fascista che dopo il 3 gennaio 1925 abbia mantenuta la iscrizione al partito fascista e a questo si sia iscritto durante l'esercizio del suo mandato e abbia comunque votato dopo tale data le leggi fasciste;

i) senatore nominato dopo il 3 gennaio 1925 dichiarato decaduto che abbia votato dopo tale data, le leggi fasciste;

l) presidente delle confederazioni fasciste.

Qualora a favore dell'inquisito ricorra taluna delle circostanze indicate nel primo e terzo comma dell'art.7 del decreto L.L. 27 luglio 1944, n.159, si applica la norma dell'art. 8 del predetto decreto del-

La stessa norma può essere applicata dalla Sezione speciale della Commissione Centrale per le imposte dirette, su proposta della Sezione speciale della Commissione provinciale per le imposte dirette per gli inquisiti di cui alle lettere g) e seguenti quando per la breve permanenza in carica e per lo scarso rilievo della loro azione politica e per essere stati assolti dalla Commissione di epurazione o dagli altri organi per le sanzioni contro il fascismo non risultino servizi di

7763

518

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

Art. 4.

Si presumono profitti di regime, salvo la prova prevista dal successivo art. 5, gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925:

a) - da chi abbia rivestito una delle cariche indicate nel decreto 2 febbraio 1945, del Presidente del Consiglio dei Ministri, pubblicato nella Gazzetta Ufficiale del 15 febbraio 1945, n.20, e non compresse nell'articolo precedente;

b) - da chi abbia gestito, senza obbligo di rendiconto, fondi segreti dello Stato;

c) - da chi abbia dopo il 3 gennaio 1925 diretto o sostenuto mediante notevoli contributi finanziari, propri o altrui, organi della propaganda o dell'azione politica del regime fascista;

d) - dai podestà delle città capoluogo di provincia o dai presidi di provincia.

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

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

TRANSLATION NO. 735

HIGH COMMISSION FOR SANCTIONS AGAINST FASCISM

Ref. 598

ROME, 5 May 1945

Dear General,

In accordance with my promise I send you the text of the draft of law on the forfeiture of profits derived from the regime.

The draft was submitted to the Council of Ministers on Thursday. It will be discussed at next Wednesday's meeting. It is advisable therefore that you let me know before then such observations as you may make.

Yours respectfully

TO: GENERAL G.R. UPJOHN
ALLIED COMMISSION
ROME

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

10 MAG

Caro Generale,

come le avevo promesso, le trasmetto il testo del progetto di legge sull'avocazione dei profitti del fascismo.

Tale progetto è stato presentato giovedì al Consiglio dei Ministri. Sarà discusso nella riunione del Consiglio di mercoledì prossimo. Sarà, quindi, opportuno che prima di allora Ella mi faccia avere le eventuali osservazioni.

Fratelli saluti

Al Gen. C.R. JEJCHS
Commissione Alleata
= R O M A =

Passed to Secretariat
10/5/45

Declassified E.O. 12356 Section 3.3/NND 785016

(118)

DECREE No 701

Art 1

In addition to the case contemplated by art 9 of DLL 159 of 27 July 44, the property of those persons who have been convicted for any of the crimes set out in art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for any of the crimes contemplated by art 3, 1st and 2nd paras of the said decree may be confiscated wholly or in part according to the gravity of the act and the circumstances listed under art 7, paras 1st and 2nd, of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for any of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by the Court that has pronounced the sentence upon request of the High Commissioner for sanctions against fascism. If the penal proceeding becomes extinct the confiscation shall be ordered, upon the request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof, is located.

Art 2

Outside the provisions of art 9 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired since 8 September 1943 through contracts, supplies or any other transactions made with the Germans directly or through intermediaries shall be forfeited to the State.

according to the gravity of the act and the circumstances listed under art 7, paras 1st and 2nd, of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for any of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by the Court that has pronounced the sentence upon request of the High Commissioner for sanctions against fascism. If the penal proceeding becomes extinct the confiscation shall be ordered, upon the request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof, is located.

Art 2

Outside the provisions of art 5 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired since 8 September 1943 through contracts, supplies or any other transactions made with the Germans directly or through intermediaries shall be forfeited to the State.

Transactions made with the Germans through intermediaries are to be those executed when and would not help knowing who their indirect receiver was.

Art 3

All increases of property acquired since 3 Jun 1925 by any persons who have held any of the offices mentioned below shall be forfeited to the State:

5760

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

a) Member of the Grand Council of Fascists;

b) Member of the Fascist Government;

c) Secretary or Vice-Secretary of the Fascist party or member of the Fascist National Directorate;

d) President, Public Prosecutor or member of the Special Tribunal for the defence of the State and of the special tribunals instituted by the Fascist government after 8 September 43;

e) Commanding General or Consul of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;

f) Officials or advisors of the CVNS;

g) Prefect or Questore appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Inspector of the Fascist party;

l) Federal secretary of the fascist party.

If it is found that the person concerned has acted with such restitude as to exclude the possibility that the increase might have derived from the office held, or if any of the circumstances indicated in art. 7, 1st and 2nd paras of RDL 159 of 27 Jul 1944 exist in his favor, the Special Section of the Provincial Commission of Taxation, contemplated by art 30 of RDL 159 of 27 Jul 1944, may order all the assessed increase or part thereof be not forfeited.

Art 4.

The increases of property acquired since 1 Jan 1924 by the persons listed below

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

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

[illegible]

a) [illegible] of the CPL;

b) [illegible] functions appointed for fascist merits;

c) Head of Diplomatic missions or colonial Governor appointed for fascist merits;

d) Inspector of the fascist party;

e) Federal secretary of the fascist party.

If it is found that the person concerned has acted with such retribution as to exclude the possibility that the increase might have derived from the office held, or in any of the circumstances indicated in art. 7, 1st and 2nd paras of DLL 159 of 27 Jul 1944 acted in his favor, the special Section of the provincial Commission of Taxation, contemplated by art 30 of DLL 159 of 27 Jul 1944, may order all the accrued increase or part thereof be not forfeited.

Art 4

The increases of property acquired since 3 Jan 1925 by the persons listed below shall be presumed to be profits derived from the regime unless the proof referred to in art 3 exists:

a) Those who held any of the offices contemplated by the Decree of 2 Feb 1943 of the President of the Council of Ministers, published in the Official Gazette No 30 of 4 Feb 1943 and not included in the preceding article;

b) Those deputies who after 3 Jan 1925 retained their registration in the fascist party or have registered in it while holding their office;

5759

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

3) National Councilors;

4) Senators appointed after 3 Jan for the 3rd, 20th and 21st categories of art 33 of the Statute and who have been declared to remove from office;

5) Whoever has administered secret State funds with no obligation to give a statement of accounts;

6) Whoever after 3 Jan 1925 has directed or supported with considerable funds of his own or of others the propaganda or the political activities of the fascist regime;

7) Presidents of Fascist Confederations;

8) Podestas of provincial capitals and "presidi" of provinces.

Art 5

Increases of property acquired since 3 Jan 1925 are presumed to be profits derived from the regime, unless the proof referred to in art 8 exists, if they have been acquired by any person who, by holding political offices or by taking advantage of the work of professional advisers or brokers having influential positions in the political field, by maintaining business relations or connections with fascist figures, and by taking advantage of the evil practices introduced by fascism, has acquired for himself, for relatives or companies represented by him, contracts, supplies or concessions from the State, from provinces, communes and from State-controlled or supervised bodies and also such increases of property acquired by business solicitors or by agents who have acted in the contracting of the above mentioned business relations.

Art 6

Those profits which have been derived from fascist political activities or from

Declassified E.O. 12356 Section 3.3/NND No. 785015

Art 5

Increases of property acquired since 3 Jan 1925 are presumed to be profits derived from the regime, unless the proof referred to in art 8 exists, if they have been acquired by the person who, by holding political offices or by taking advantage of the work of professional alliances or brokers having influential positions in the political field, by arbitrating business relations in connections with socialist figures, and by taking advantage of the evil practice introduced by fascism, has acquired for himself, for relatives or companies represented by him, contracts, supplies or concessions from the State, from provinces, communes and from State-controlled or supervised bodies and also such increases of property acquired by business solicitors or by agents who have acted in the contracting of the above mentioned business relations.

Art 6

Those profits which have been derived from fascist political activities or from a position secured in the fascist regime, as well as those profits acquired through the favoritism of the party leaders by persons other than those included in the categories contemplated by the preceding articles shall be forfeited to the State.

Art 7 - 3758

Increases of property acquired since 3 Jan 1925 by the following persons shall be presumed to be derived from the regime:

a) formerly as descendants, the husband or wife of any of the persons indicated in the preceding articles, or anyone who has had relations of concubinage with any of the said persons;

b) by private physical or juridical persons, even if not recognized, and by committees, which have been associated or have had common interests with any of the persons indicated in (a) and in preceding articles. The presumption shall be limited to the increases acquired as the result of said association or co-interest;

c) by private juridical persons, even if not recognized, and committees, $\frac{1}{5}$ of whose investments or interests belonged, on 31 Dec 1936, to any of the persons indicated in the preceding articles or in (a) and (b) of this paragraph, unless it is found that the percentage, the relations or the investments mentioned above had no influence on the acquisition of the increases.

Art 8

Whenever the profits acquired by the persons indicated in the articles from 4 to 7 do not exceed the normal rate to such an extent as to constitute a proof of an evident participation in the evil practice introduced during the Socialist period, the forfeiture shall not be effective or shall be made only partially provided it is found in either case from certain data and evidence that in the acquisition of such increases the office, the acts and the above mentioned relationship had no influence or only a partial one.

Art 9

While proceeding to confiscation or forfeiture under the preceding articles,

Declassified E.O. 12356 Section 3.3/NND No. 785015

Whose investments or interests belonged, on 31 Dec 1941, to any of the persons indicated in the preceding articles or in (a) and (b) of this paragraph, unless it is found that the patronage, the relations or the investments mentioned above had no influence on the acquisition of the increases.

Art 8

Whenever the profits acquired by the persons indicated in the articles from 4 to 7 do not exceed the normal rate to such an extent as to constitute a proof of an evident participation in the evil practice introduced during the fascist period, the forfeiture shall not be effective or shall be made only partially provided it is found in either case from certain data and evidence that in the acquisition of such increases the office, the acts and the above mentioned relationship had no influence or only a partial one.

Art 9

While proceeding to confiscation or forfeiture under the preceding articles, the judicial authority or the special section of the Provincial Commission for taxation may exclude certain properties or fix an allowance as alimony in favor of the persons entitled by art 433 and following of the civil code.

Art 10

For the purpose of determining the amount of the profits derived from the facts the President of the Special Section of the Provincial Commission for taxation may on his own initiative or on request of the High Commission or of the

- 3757

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

"Interdicts of Consent", order to whomever is suspected to be in the position set out in art 2 and 7 to report within 30 days:

a) the total patrimony as on 1 Jan 1939, or at the time the respective titles were assumed or the conditions set out in arts 2 and 7 were found to exist, and the total patrimony as on 31 Dec 1942 and as on the effective date of the present decree , together with an indication of the property acquired or possessed through an agent;

b) the items of property which during the same period were added to or deducted from the patrimony of the person concerned or of his agents, with the indication of the origin or destination as the case may be. The value of each item of property on the date it became part of the patrimony or was detracted from it must be indicated.

Except for the provision of the preceding paragraph, all those persons who on the date of publication of the present decree are included in the categories indicated in arts 3 and 4 shall be required to present the report referred to in letters (a) and (b) within 30 days following the effective date of the present decree.

The report is presented according to the procedure established under art 21 for lodging the claim.

Art 11

Without prejudice to the penal proceeding contemplated by art 30, part 3 of 1ª2 159 of 27 Jul 1944, whoever fails to present the report referred to in art 10 or presents it too late or makes a false statement shall be liable to a fine equal to 1/10 of the total assessed increase.

[illegible] Corporations

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

from the patrimony of the person concerned or of his agents, with the indication, in the margin or footnotes as the case may be, the value of each item of property on the date it became part of the patrimony or was detached from it must be indicated.

Except for the provision of the preceding paragraph, all those persons who on the date of publication of the present decree are included in the categories indicated in arts 3 and 4 shall be required to present the report referred to in letters (a) and (b) within 30 days following the effective date of the present decree.

The report is presented according to the procedure established under art 21 for lodging the claim.

Art 11

Without prejudice to the penal proceeding contemplated by art 30, para 3 of Ord 199 of 27 Jul 1944, whoever fails to present the report referred to in art 10 or presents it too late or makes a false statement shall be liable to a fine equal to 1/10 of the total assessed increase.

When the proposal for assessment of the Special Section of the Provincial Commission of Taxation is accepted without appeal, the fine for omitted, tardy or false report shall be commuted.

Independently of the provisions of the preceding paragraphs, in case of an omitted report of the items of property owned during the 5-year period prior to 25 Jul 1943 a fine equal to their value shall be paid.

Art 12

Whoever witholds property items of the persons indicated in arts 3 and 4 shall be

3756

Declassified E.O. 12356 Section 3.3/NND No. 785015

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

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

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

Art 16

Whoever is subjected to the forfeiture of profits derived from the regime shall be considered a traitor or traitor even if he does not or has never actually practiced such a profession.

If he is in arrears in the payment of the assessed profits, the Tribunal, at the request of the Intendente of Finance, shall declare him bankrupt. The date of the cessation of payments shall be that on which the arrears began.

Art 17

One or more sub-sections, each presided by the President of the Tribunal or by another Magistrate of equal or next to equal grade, and composed of four commissioners to be appointed in accordance with art 30 of DLL 159 of 27 Jul 1944 may be formed in addition to the special section of the Provincial Penal Sion of Taxation, by decree of the Minister of Finance. With the same decree the Minister shall appoint the President of the Sub-sections.

By decree of the Minister of Finance one or more sub-sections may be formed, in addition to the special Section of the Central Commission of Taxation, whose presidents and members shall be appointed according to art 32 of DLL 159 of 27 Jul 1944.

The President of the special Section shall have the power of cognition of the proceedings before the Section or the Sub-Section; if one or more of the commissioners of the Section or the Sub-Sections is impeded, he may substitute them with a commissioner of the sub-section or of the Section respectively.

Art 18

The jurisdiction for the assessment of fascist profits

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

either legislative of equal or next to equal grade, and chairman of four coordinators to be appointed in accordance with art 30 of DLL 159 of 27 Jul 1944 may be formed in addition to the special section of the Provincial Commission of Taxation, by degree of the Minister of Finance, with the same powers the Minister shall appoint the President of the Sub-sections.

By decree of the Minister of Finance one or more sub-sections may be formed, in addition to the special Section of the Central Commission of Taxation, whose presidents and members shall be appointed according to art 32 of DLL 159 of 27 Jul 1944.

The President of the special Section shall have the power of coquition of the proceedings before the section or the Sub-Section; if one or more of the coordinators of the Section or the Sub-Sections is impeded, he may substitute them with a coordinator of the sub-section or of the Section respectively.

Art 18

The jurisdiction for the assessment of fascist profits

shall belong to the special provincial Section in whose circumscription the debtor resides, and if the debtor's residence is not known, in the province where it is known that the debtor last resided.

Art 19

It is the power of the special Section of the Provincial Commission of Taxation to decide all preferential or incidental questions connected with the assessment and liquidation of profits derived from the regime, except questions of false, etc.

5750

civil status and capacity, other than to be a part in the proceedings. If any of these last questions arises, the special Section shall order the proceeding suspended until such time as the competent Judge gives his decision whenever it deems it relevant for the settlement of the controversy; the power of the Finance Department to propose or continue the proceeding shall prevail.

Art 20

The powers indicated in the first paragraph of art 31 of Dec. 159 of 29 Jul 1944 shall belong, for the purposes of finding the properties of presumed profiteers, also to the Intendente of Finance, which may exercise them also upon third parties.

Besides the powers indicated in the first paragraph of the mentioned art 31, the special Sections have also that of proceeding directly or through the Judicial Police, to perquisition of houses also of third parties in the ways prescribed by the Code of penal procedure.

The same powers shall belong, for sequestration purposes, to Presidents of Tribunals and to Presidents of special Sections, when the latter are formed.

Art 21

The proposal for assessment is notified by the special section of the Provincial Commission, through administrative channels, to the person against whom the proposal is directed and communicated by means of registered letter and with return receipt to the High Commissioner as well as the Intendente of Finance of the place in which the same Section is located.

The claim against the proposal for assessment must be submitted both by the [illegible] to the Finance Department within the peremptor-

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

also to the Intendente of Finance, which may expedite them also upon third parties.

Besides the powers indicated in the first paragraph of the mentioned art 31, the special sections have also that of proceeding directly or through the judicial police, to perquisition of houses also of third parties in the ways prescribed by the code of penal procedure.

The same powers shall belong, for sequestration purposes, to Presidents of Tribunals and to Presidents of special Sections, when the latter are formed.

Art 34

The proposal for assessment is notified by the special section of the Provincial Commission, through administrative channels, to the person against whom the proposal is directed and communicated by means of registered letter and with return receipt to the High Commissioner as well as the Intendente of Finance of the place in which the case section is located.

The claim against the proposal for assessment must be submitted both by the person against whom it is directed and by the Finance Department within the perentory time limit of thirty days from notification as regards the former and from the receipt of the communication as regards the latter.

The claim shall be made by lodging in the Secretariat of the special Section the original and four copies free of duty. The secretariat shall give a receipt for same, which constitutes the only proof of the lodging and date of the same.

If the person against whom the proposal is made resides in a town other than that in which the competent special Section has its seat, the claim may be lodged in the Secretariat of the nearest special Section, which shall issue the relative receipt, acknowledge the filing and shall forward it immediately to the proper Section.

5754

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

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

The appeal must contain all the objections and defenses against the proposal, indicate specifically the items of proof and whenever these are documents, they must be filed in the Secretariat within 30 days from the date of the claim.

On the expiry of such period, the President shall issue a decree ordering the meeting for the discussion and shall appoint the reporter.

In the course of the proceeding new objections, new items of proof cannot be submitted, nor can new documents be exhibited, if the special Section does not acknowledge their usefulness in the proceeding.

Art 22

Notice of the decree establishing the date of the hearing shall be given, at least 30 days prior of the self hearing, and through Administrative channels, to the person against whom the proposal for the contested assessment is directed and shall be communicated, by registered letter with return receipt xxxxxxxxx to the Intendente of Finance of the place in which the special Section has its seat, to the High Commission and to the Avvocatura of the State when the latter is constituted to represent the Administration.

Thus the person against whom the contested proposal for assessment is directed, as well as the Administration and, on its behalf, the Avvocatura dello Stato may, twenty days prior to the hearing, file in the Secretariat of the special Section supplementary notes accompanied by 5 copies on duty-free paper.

In the hearing, after the relation by the President or the Commissioner delegated by him and after the presentation of items of proof, the counsel for the Administration is admitted in the discussion first and then the debtor, or his attorney or

Art 22

Notice of the decree establishing the date of the hearing shall be given, at least 30 days prior of the said hearing, and through administrative channels, to the person against whom the proposal for the contested assessment is directed and shall be communicated, by registered letter with return receipt expressly to the Intendente of Finanza of the place in which the special Section has its seat, to the High Commissioner and to the Avvocatura of the State when the latter is constituted to represent the Administration.

Thus the person against whom the contested proposal for assessment is directed, as well as the Administration and, on its behalf, the Avvocatura dello Stato may, twenty days prior to the hearing, file in the Secretariat of the special Section supplementary notes accompanied by 5 copies on duty-free paper.

In the hearing, after the relation by the President or the Commissioner delegated by him and after the presentation of items of proof, the counsel for the Administration is admitted to the discussion first and then the debtor, or his attorney or legal procurator.

The presentation of the items of proof may be delegated by the special Section to its President or his Commissioner and in case the items of proof are to be received outside the seat of the Section, the presentation may be delegated to another Section or to an ordinary Judge.

Art 23

The special Section shall resolve in secret session and by majority vote in-

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

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

audiately after the discussion, and shall decide also on the expenses.

The reasons for the decision shall be set out in summary form by the President or by a Commissioner appointed by him; the original statement of the decision is signed by the President and by the Secretary and lodged in the Secretariat of the Special Section which shall give instructions, within twenty days from communication by registered letter with return receipt, to the High Commissioner, to the Intendente di Finanza and to the "Avvocatura dello Stato" whenever it takes part in the proceedings.

Art 24

The time limits of 30 and 60 days within which the Debtor and the Finance Department or the High Commission respectively may, under art 30 of DLL 159 of 27 Jul 1944, appeal to the special Section of the Central Commission of Taxation, shall begin, for the debtor, from the notice of the decision, and for the administration and the High Commissioner, from the receipt of the said decision through the procedure under the preceding article.

Art 25

The rules of articles 19 and 24 shall be applicable as regards the jurisdiction of the special Section of the Central Commission, the lodging of the appeal and the proceedings on appeal in general.

The discussion before the Special Section of the Central Commission is on a par with that before the special Section of the public Provincial Commission.

Art 26

Art 24

The time limits of 30 and 60 days within which the Debtor and the Finance Department or the High Commission respectively may, under art 20 of LEI 159 of 27 Jul 1961, appeal to the special Section of the Central Commission of Taxation, shall begin, for the debtor, from the notice of the decision, and for the administration and the High Commissioner, from the receipt of the said decision through the procedure under the preceding article.

Art 25

The rules of articles 19 and 21 shall be applicable as regards the jurisdiction of the special Section of the Central Commission, the lodging of the appeal and the proceedings on appeal in general.

The discussion before the Special Section of the Central Commission is on a par with that before the special Section of the Lusaka Provincial Commission.

Art 26

The precautionary measures indicated in the following articles shall be ordered ex - officio, or upon the request of the High Commissioner and the Finance Administration, by the President of the Special Section of the competent Provincial Commission under art 19, whenever there is property to be subjected to such measures. In urgent cases the measures may be ordered ex - officio, or upon the request of the competent Special Section, of the High Commissioner or of the Finance Administration, by the President of the Special Section, in the circumscription of which they are to be put into effect.

5752

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

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

...ending the special section is formed, the said measures shall be ordered ex - officio or upon the request of the High Commissioner or the Finance Administration, by the President of the Tribunal in the circumscription of which the suspected profiteer resides wherever the measures are to be carried out, or by the President of the Tribunal in the circumscription of which is the property to be subjected to the measures.

Art 27

A technical committee shall be constituted in the Ministry High Commission for the confiscation of profits derived from the regime, which shall:

a) decide whether the precautionary measure which the proper authorities wish to adopt against the suspected profiteer should be in the form of sequestration or of control and also state in each case the procedure to be followed for carrying out the measure chosen;

b) decide whether, instead of sequestration or control, the guarantee should be taken by registering a legal mortgage or a security, specifying in the first case the value of the guarantee and the property to be affected by it and, in the second, the amount and nature of the security and the perentory time limit within which it must be given;

c) nominate the persons who are to receive or control the sequestrated property, selecting them preferably, for real property, from the Institutes of land and farming credit; for movable property, money, bonds and values, from the Bank of Italy, the banks constituted under public law, of public interest, the regional and people's banks and the savings banks; for businesses and industrial

Declassified E.O. 12356 Section 3.3/NND No. 785015

[illegible] of profits derived from the regime, shall shall:

a) decide whether the precautionary measure which the proper authorities wish to adopt against the suspected profiteer should be in the form of sequestration or of control and also state in each case the procedure to be followed for carrying out the measure chosen;

b) decide whether, instead of sequestration or control, the guarantee should be taken by registering a legal mortgage or a security, specifying in the first case the value of the guarantee and the property to be affected by it and, in the second, the amount and nature of the security and the peremptory time limit within which it must be given;

c) nominate the persons who are to receive or control the sequestrated property, selecting them preferably, for real property, from the Institutes of land and farming credit; for movable property, money, bonds and values, from the Bank of Italy, the banks constituted under public law, of public interest, the regional and people's banks and the savings banks; for businesses and industrial bonds, from the "Mobiliare" and the Institute for Industrial reconstruction;

d) direct, supervise and control the activity of the receivers or controllers, examine and approve the accounts and reports which they shall be required to draw up periodically;

e) order the liquidation of sums due to the receivers or controllers as reimbursement of expenses. This order may not be opposed either through judicial or administrative channels.

77-1

Art 18

The Committee shall be presided by the Assistant High Commissioner and shall be composed of six members, to be appointed by decree of the Ministry of Finance, one of which to be nominated by the Ministry of the Treasury and the other five selected from persons who have a particular knowledge of finance, agriculture, industry and commerce.

The Committee shall have a secretariat, an accountancy office and a legislation office, with not more than 30 employees altogether, temporarily taken from government departments.

The Committee shall have also a body of 10 inspectors, to be selected from engineers, accountabilists, chemists, accountants, surveyors and other experts to be temporarily employed or taken from government departments.

The Committee may, in order to achieve its task, avail itself of the legal, technical, financial or police bodies of the State.

Art 19

The bodies entrusted with moving or ordering precautionary measures, must, before doing so, make a report of the measures to the Committee and adhere to the decisions adopted by the same under art 17.

In urgent cases the said bodies may serve and order sequestration. They shall exchange such measure, however, with any other which the Committee may decide or, if the Committee approves of the form of the sequestration, shall replace the trustee (secuestratario) with the person nominated for the purpose by the Committee, should it so decide.

[illegible] already executed when the present decree comes into force,

Declassified E.O. 12356 Section 3.3/NND No. 785015

The Committee shall have also a body of 10 inspectors, to be selected from engineers, doctor-chemists, chemists, accountants, surveyors and other experts to be exclusively employed or drawn from government departments.

The Committee may, in order to achieve its task, avail itself of the legal, technical, financial or police bodies of the State.

Art 29

The bodies entrusted with serving or ordering precautionary measures, must, before doing so, make a report of the measures to the Committee and adhere to the decisions adopted by the same under art 27.

In urgent cases the said bodies may serve and order sequestration. They shall exchange such measure, however, with any other which the Committee may decide on, if the Committee approves of the form of the sequestration, shall replace the trustee (sequestratario) with the person nominated for the purpose by the Committee, should it so decide.

For sequestrations already executed when the present decree comes into force, the Technical Committee, upon the report of the authorities which served or ordered them, shall make the decisions indicated in letters (a), (b) and (c) of art 27 and give instructions for carrying them out to the same authorities.

Art 30

In ordering the precautionary measure, the competent body shall declare the bodies formerly previously entrusted with the administration of certain property or groups of property, to have lost their position.

77-0

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

Declassified E.O. 12356 Section 3.3/NND No. 785916

for sequestrations already executed the said body shall declare, within 30 days from the effective date of the present decree, that commissioner has lost his position.

Art 31

The competent body may order precautionary measures contemplated by art 27 (a) and (b) be taken on real and movable property, businesses and all other kinds of property belonging to:

a) the persons indicated in art 2 and 7 of the present decree;

b) the intermediary persons;

c) donors and other persons to whom dispositions have been made as contemplated by art 29 of the DLL 159 of 27 Jul 1944, when guarantees taken upon the suspected profiteer prove insufficient.

Art 32

Sequestration shall be carried into effect under art 678, and 679 c.p.c.. Art 675 and 680 c.p.c. shall not be applied, even if the sequestration is ordered automatically. The property items indicated in art 520 c.p.c. shall be taken care of as the technical Committee decides.

The sequestration may/~~xxxxxxx~~ be executed also on books, registers, documents, models, samples and anything else which may be presumed to give evidence on the source of the profits.

The sequestration of stocks, deviating from art 3, 3rd para, DLL 239 of 25 March 1943 and company part-ownerships may be brought into effect by means of a garnishment to the legal representative of the company.

b) the intermediary persons;

c) donors and other persons to whom dispositions have been made as contemplated by art 29 of the DLL 159 of 27 Jul 1944, when guarantees taken upon the suspected profiteer prove insufficient.

Art 32

Sequestration shall be carried into effect under art 678, and 679 c.p.c.. Art 675 and 680 c.p.c. shall not be applied, even if the sequestration is ordered automatically. The property items indicated in art 520 c.p.c. shall be taken care of as the Technical Committee decides.

The sequestration may be executed also on books, registers, documents, models, samples and anything else which may be presumed to give evidence on the source of the profits.

The sequestration of stocks, deviating from art 3, 3rd para, DLL 339 of 25 March 1942 and company part-ownerships may be brought into effect by means of a garnishment to the legal representative of the company.

Art 33

The right to vote for acts and affairs of ordinary administration pertains to the trustee, who shall exercise it in accordance with the resolutions adopted by the Technical Committee.

The right to vote for acts and affairs beyond the ordinary administration pertains to the owner of the sequestrated property, unless his vote brought about the prescribed impass. In which case the administratorio shall have the power to bind the resolution in question, following the authorization of the Technical Committee.

- 13 -

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

The rules in art 2170 c.c. shall be observed whenever possible.

The trustee shall also carry out in a subrogatory manner all the operations pertaining to the trusteeship.

The trustee must be invited to attend all the company's meetings.

Art 34

Upon the application of the "sequestrato" the Technical Committee may authorize the trustee to exercise the right of redemption, the right of option not to make the required payments on the stocks, using for this purpose the available funds of the trusteeship (gestione sequestrataria).

Art 35

Sequestration against third parties shall be carried out with the same rules as the direct sequestration against the debtor, following notification to the third party of the consignment order, and without observing the other rules prescribed by art 543 and subsequent articles of the Code of Civil Procedure.

Art 36

The sequestration shall be effective - without recognition or renewal of the precautionary acts - until the Special Section takes a decision, which shall be final.

If within a year from sequestration the debtor or the third party who suffered the measure have not been notified of the proposal of assessment, they may ask the President of the Tribunal, or the President of the Special Section when formed, to revoke the sequestration.

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

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

transferable (positive proprietary rights).

Art 33

Preventive seizure against third parties shall be carried out with the same rules as the direct preventive against the debtor, following notification to the third party of the encashment order, and without observing the order rules prescribed by art 543 and subsequent articles of the Code of Civil Procedure.

Art 34

The sequestration shall be effective - without recognition or renewal of the precautionary acts - until the special Section makes a decision, which shall be final.

If within a year from sequestration the debtor or the third party who suffered the measure have not been notified of the proposal of assessment, they may ask the President of the Tribunal, or the President of the Special Section when formed, to revoke the sequestration.

The President shall decide after hearing the sides and may, when serious motives justify it, extend the effective period by not more than six months.

Art 35

The bodies indicated in art 31 shall have jurisdiction to decide questions which arise during the execution of the precautionary measures.

Art 36

The person against whom sequestration has been ordered may appeal for the repeal, reduction or change to another form of guarantee. The appeal shall be ad-

0844

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

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

Art 39

The State credit for grains derived from the regime shall have general privilege over all movable and real property of the debtor. As to movable property it shall have priority over the credits indicated in Nr 45 of art 2773 c.c. and as to real property, over the credits indicated in Nr 5 of art 2763 c.c.

The mortgage credits created before 27 July 1963 and the chirographic credits resulting from documents certain as to previous date shall be preferred to the State credit.

Art 40

In the Special Section of the Provincial Commission which may have its main office in the premises of the Tribunal - and in the Special Section of the Central Commission there will be a Secretariat composed of one or more secretaries and a suitable number of employees for filing, copying and serving deeds.

The secretaries shall be present at public hearings, shall help the President and the Commissioners to obtain evidence, shall take part in entrances, perquisitions and inspections and make reports of the same, shall add their signature to decisions, draw up copies of them and certify them as they shall for all deeds, and in general shall discharge all the duties which are entrusted by law to the chancellors of ordinary judges.

One or more officers or non commissioned officers of the Judicial police and one or more technical and accountancy experts may also be attached to every Special Section of the Provincial Commission or to the Special Section of the Central Commission.

57147

The personnel indicated in the preceding paragraphs, if they are already regularly employed by the State, provincial or Communal Administration, must be transferred to the Commissions.

However, the Ministry of Finance shall be authorized to employ temporary personnel up to a maximum to be fixed by his decree.

Art 4:

The expenses for fees and indemnities for carrying out the re-partitions shall be advanced by the Finance Department. They shall be charged to the losing party.

The expenses and taxes connected with the opposition to the proposal of assessment and subsequent proceedings shall be charged to the private party against whom the proposal of assessment is made or who in any way takes part in the trial.

The said party, whenever the Commission upon his request makes investigations or estimates or collects other evidence, must if the section orders it, advance the amount, which shall be estimated approximately and saving subsequent balance, depositing it within the time limit which will be fixed in each case.

The Secretary of the Special Section shall keep a special record of all other expenses and taxes for acts of the Commission and for the defence of the Administration, entering them as a debit. The Secretary, on the completion of the proceedings, shall provide for the recovery, in the proceedings for the liquidation and collection of judicial taxes and expenses entered as debits , from the person against whom the forfeiture was ordered, or, jointly, from every other person who took part in the proceedings and whose applications were rejected.

Declassified E.O. 12356 Section 3.3/NND No. 785015

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

Art 43

As regards immovable property, the procedure for the executive collection of fiscal profits shall be that of a single auction and the minimum price shall be equal to the value given to each item of property in the final decision of the jurisdiction. If such a value does not appear from the afore-mentioned decision, the Technical Committee instituted under arts 27 and 28 shall establish it for each item of property.

If the single auction is fruitless, the property shall be by right forfeited to the State.

As regards movable property, the rule set out in the first paragraph regarding the minimum price remains the same, and the new auction, in accordance with art 39 of T.U. of the laws on tax collection, must be authorized by the Intendente di Finanza, who shall have the power to order the forfeiture to the State of the unsold property.

For the price reached in the finally auction the State shall have in each case the preference right on the property placed on auction. Such a right must be exercised within the peremptory period of 30 day following the acceptance of the bid, by an application to be filed in the proper judicial chancellery.

For shares, obligations and similar credit holdings the preference right may be exercised, even before the commencement of the executive procedure, on the basis of values in the stock exchange or, in the absence of these, on those established by the Committee of brokers.

Art 44

Among the gratuitous acts contemplated under No 4 of art 29 of DLL 139 of

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

As regards movable property, the rule set out in the first paragraph regarding the debtor, rules the case, but the presumption, in accordance with art 37 of T.U. of the laws in the application, must be rebutted by the intendente of finanze, who shall have the power to order the forfeiture to the state of the immoveable property.

For the price reached in the finally auction the state shall have in each case the preference right on the property placed in auction. Such a right must be exercised within the peremptory period of 30 day following the acceptance of the bid, by an application to be filed in the proper judicial chancellery.

For chirve, obligations and similar credit holdings the preference right may be exercised, even before the commencement of the executive procedure, on the basis of values in the stock exchange or, in the absence of these, on those established by the Committee of brokers.

Art 41

Among the gratuitous acts contemplated under No 4 of art 39 of tit. 139 of 27 July 1934 are not included those performed to fulfil a moral obligation of public advantage in as much as these and the others are proportionate to the lawful estate of the donor.

Among the acts contemplated under No 2 of the case article are not included those of amount of a certain and liquid duty/contracted to increase artificially the debtor's liquidation.

not

- 17 -

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

Declassified E.O. 12356 Section 3.3/NND 785016

The other non-gratuitous acts shall be void, according to the first part of the said article, if the person in favor of whom the contract was made is found to be the owner of the estate formerly owned by the profiteer, does not prove that when the contract was made he or she was not and could not have been aware that the profiteer was doing his profiteering in interest.

The Finance Department shall propose the action to declare such acts void, before the competent judge according to the ordinary rules, against the debtor and the person in whose favor the debtor made the donation or performed the non-gratuitous act.

The application for the writ shall be subject to transcription.

Action may not be taken after the lapse of two years following the day on which the decision for the forfeiture became irrevocable.

Art 45

Upon the application of the High Commissioner, of the Finance Department or of the President of the Special Section the competent Judge shall order suspension until the outcome of the ascertainment decision of the execution or bankruptcy procedures pending on the day the sequestration was carried out or began during the effective period of the sequestration.

Upon the same application the Judge may also order, instead of the suspension, that certain property there indicated as subject to forfeiture be separated from the flock.

Art 46

The [illegible] the appropriate authorization of the Technical Committee, may

act.

The application for the writ shall be subject to prescription.

Action may not be taken after the lapse of two years following the day on which the decision for the forfeiture became irrevocable.

Art 45

Upon the application of the High Commissioner, of the Finance Department or of the President of the Special Section the competent judge shall order suspension until the outcome of the decontainment decision of the execution or bankruptcy procedures pending on the day the sequestration was carried out or began during the effective period of the sequestration.

Upon the same application the judge may also order, instead of the suspension, that certain property items indicated as subject to forfeiture be separated from the block.

Art 46

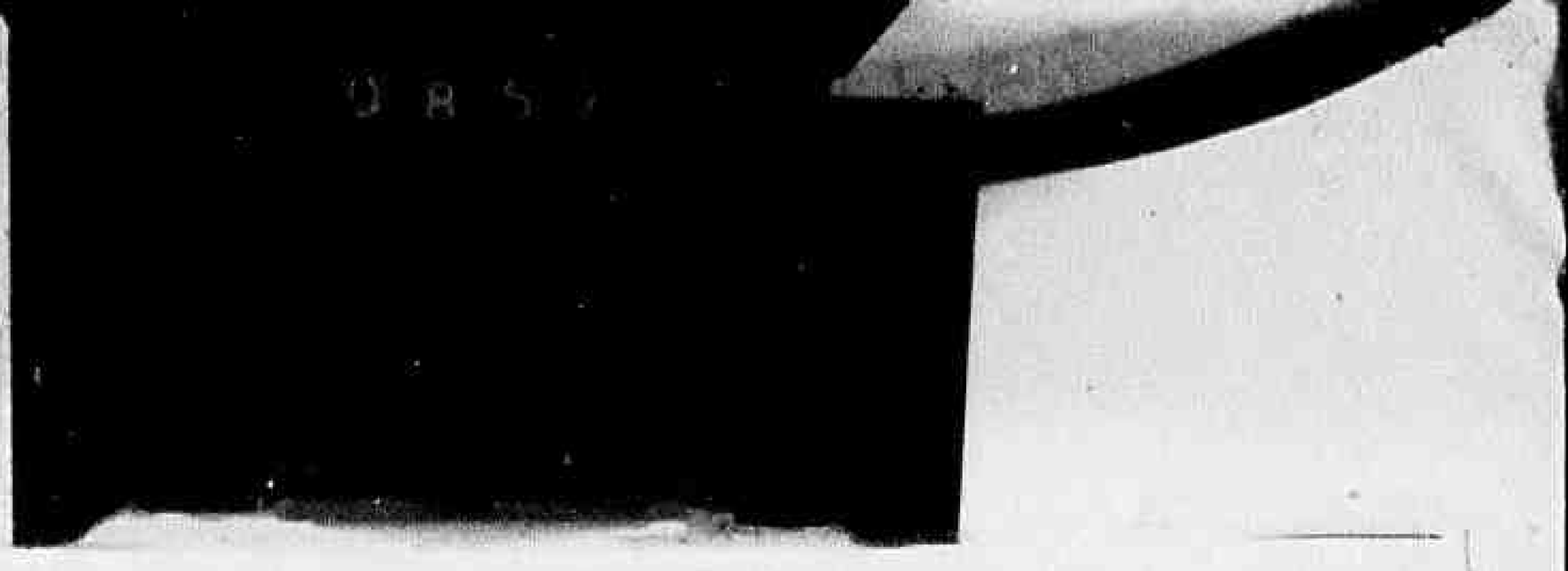
The trustee, upon the appropriate authorization of the Technical Committee, may allow the payment of credits which have priority over State credits, under the first paragraph of art 39, as well as those contemplated by the second para, of the same article and others the payment of which is evidently useful for the administration and conservation of the property subjected to sequestration.

5744

Art 47

Unless otherwise prescribed by the RDL 159 of 27 July 1934 or by the present decree, the rules contained in RDL 1631 of 7 August 1936 converted into law by 1040

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



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

Declassified E.O. 12356 Section 3.3/NND 910587

Art. 1

Oltre che nel caso previsto dall'art. 9 del D.L.L. 27 luglio 1944, n. 159, sono confiscati a favore dello Stato i beni di coloro che sono stati condannati per uno dei delitti previsti dall'art. 2 del decreto stesso.

Possono essere confiscati in tutto o in parte, tenuto conto della gravità del fatto e delle circostanze di cui al 1° e 2° comma dell'art. 7 del decreto predetto, i beni di coloro che sono stati condannati per uno dei delitti previsti nel 1° e 2° comma dell'art. 3 del decreto stesso.

La confisca totale o parziale dei beni può altresì essere disposta nel caso di condanna per uno dei delitti previsti dall'art. 5 del decreto medesimo.

La confisca è ordinata dall'autorità giudiziaria che pronuncia la condanna. Qualora la sentenza di condanna sia già intervenuta al momento della entrata in vigore del presente decreto, la confisca è disposta, su richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dall'autorità giudiziaria che ha pronunciato la sentenza. In caso di estinzione dell'azione penale la confisca è ordinata, su richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dal tribunale penale del luogo nel quale è situato il bene o la maggior parte dei beni da confiscare.

Art. 2

Salvo il disposto dell'art. 9 del D.L.L. 27 luglio 1944, n. 159, e del 3° comma del precedente articolo, sono avocati allo Stato tutti i profitti conseguiti dopo l'8 settembre 1943, in dipendenza o in occasione di appalti, di forniture o di altri negozi conclusi direttamente o a mezzo di intermediari col tedesco invasore.

Si considerano conclusi col tedesco a mezzo di intermediari quei negozi la cui esecuzione non si ignorava e non si poteva ignorare avvenisse nell'interesse del tedesco medesimo.

Art. 3

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

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

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

Art. 4

Si presumono profitti di regime, salvo la prova prevista dal successivo art. 8, gli incrementi patrimoniali conseguiti, dopo il 3 gennaio 1925:

1°) da chi abbia rivestito una delle cariche indicate nel decreto 2 febbraio 1945 del Presidente del Consiglio dei Ministri, pubblicato nella Gazzetta Ufficiale del 15 febbraio 1945, n. 20 e non compresa nell'articolo precedente;

2°) dai deputati fascisti che dopo il 3 gennaio 1925 abbiano mantenuto l'iscrizione al partito fascista o a questo si siano iscritti durante l'esercizio del loro mandato;

3°) dai consiglieri nazionali;

4°) dai senatori nominati dopo il 3 gennaio 1925 per le categorie 3°, 20° e 21 dell'art. 33 dello Statuto e dichiarati decaduti;

5°) da chi abbia gestito senza obbligo di rendiconto fondi segreti dello Stato;

6°) da chi abbia dopo il 3 gennaio 1925 diretto o sostenuto mediante notevoli contributi finanziari, propri o altrui, organi della propaganda o della azione politica del regime fascista;

7°) dai presidenti delle confederazioni fasciste;

8°) dai podestà delle città capoluoghi di provincia o dai presidi di provincia.

Art. 5

3741

Si presumono profitti di regime, salvo la prova prevista dal successivo art. 8 gli incrementi patrimoniali conseguiti, dopo il 3 gennaio 1925, da chi, rivestendo cariche politiche o valendosi comunque dell'opera di professionisti consulenti o intermediari aventi posizioni influenti nel campo politico o mantenendo aderenze e rapporti con personalità fasciste, o profittando comunque del malcostume invalso nel regime fascista, abbia ottenuto per sé, parenti e società da lui rappresentate o controllate, appalti, forniture e concessioni dallo Stato, dalle provincie, dai comuni o da enti sottoposti alla vigilanza o al controllo dello stato, nonché gli incrementi

./.

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

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

0864

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

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

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

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

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

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

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

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

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

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

0874

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

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

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

Art. 29

Gli organi competenti a promuovere o ad ordinare misure cautelari debbono, prima di richiederle o disporle, farne rapporto al Comitato ed attenersi alle determinazioni dallo stesso emottate a norma dell'art. 27.

In caso di urgenza detti organi possono promuovere e disporre il sequestro, salvo a convertire tale misura in quella diversa che fosse decisa dal Comitato o, nel caso di conferma della forma del sequestro, a sostituire il sequestratario con la persona che fosse dal Comitato stesso a tale ufficio designata.

Per i sequestri già eseguiti, all'atto dell'entrata in vigore del presente decreto, il Comitato tecnico, su rapporto dell'autorità che li ha promossi o disposti, adotta le determinazioni indicate alle lettere a), b), c) dell'art. 27 dandone notizia per l'esecuzione all'autorità medesima.

Art. 30

Nel disporre la misura cautelare, l'organo competente dichiara decaduti i commissari ai quali fosse stato in precedenza affidata la gestione di determinati beni o gruppi di beni.

Per i sequestri già eseguiti la decadenza dei commissari è pronunciata dall'organo ancidetto entro 30 giorni dall'entrata in vigore del presente decreto.

5735

Art. 31

L'organo competente può ordinare che vengano sottoposte alle misure cautelari previste dall'art. 27, lettere a), b), i beni mobili ed immobili, le aziende e le altre universalità di mobili, appartenenti:

a) alle persone indicate negli articoli 2 e 7 del presente decreto;

b) alle persone fisiche interposte;

./.

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

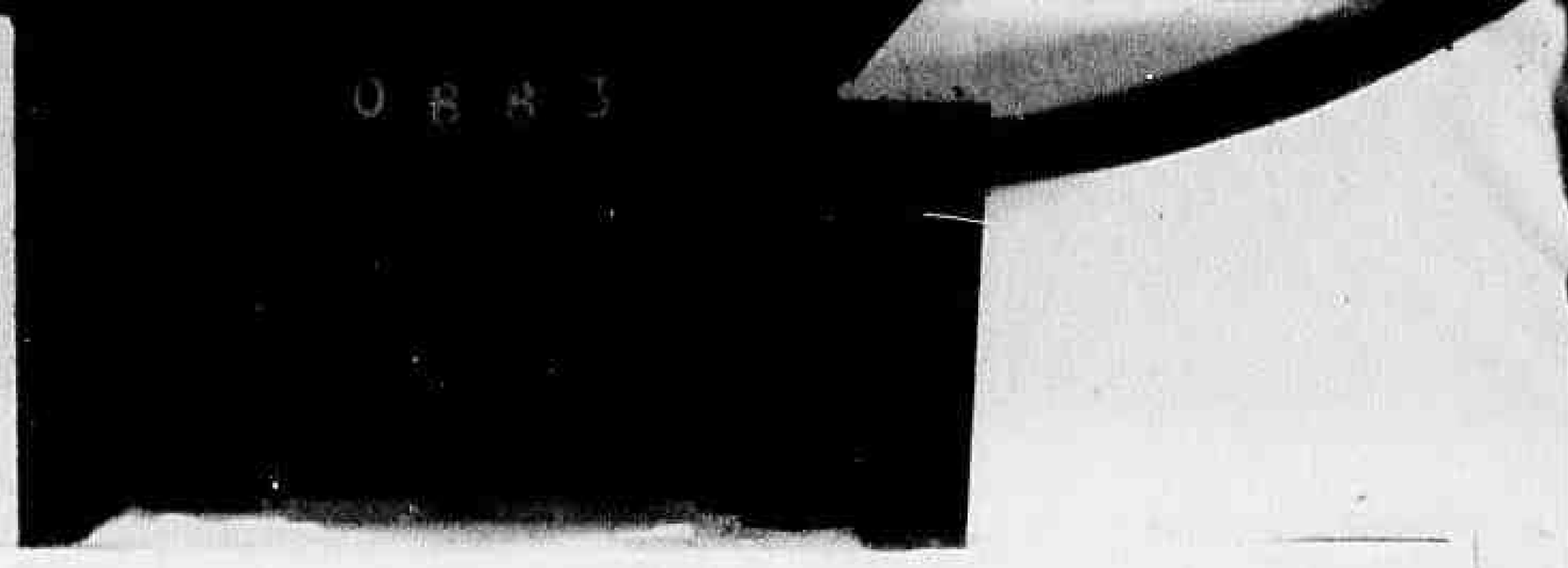
Declassified E.O. 12356 Section 3.3/NND No. 785016

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

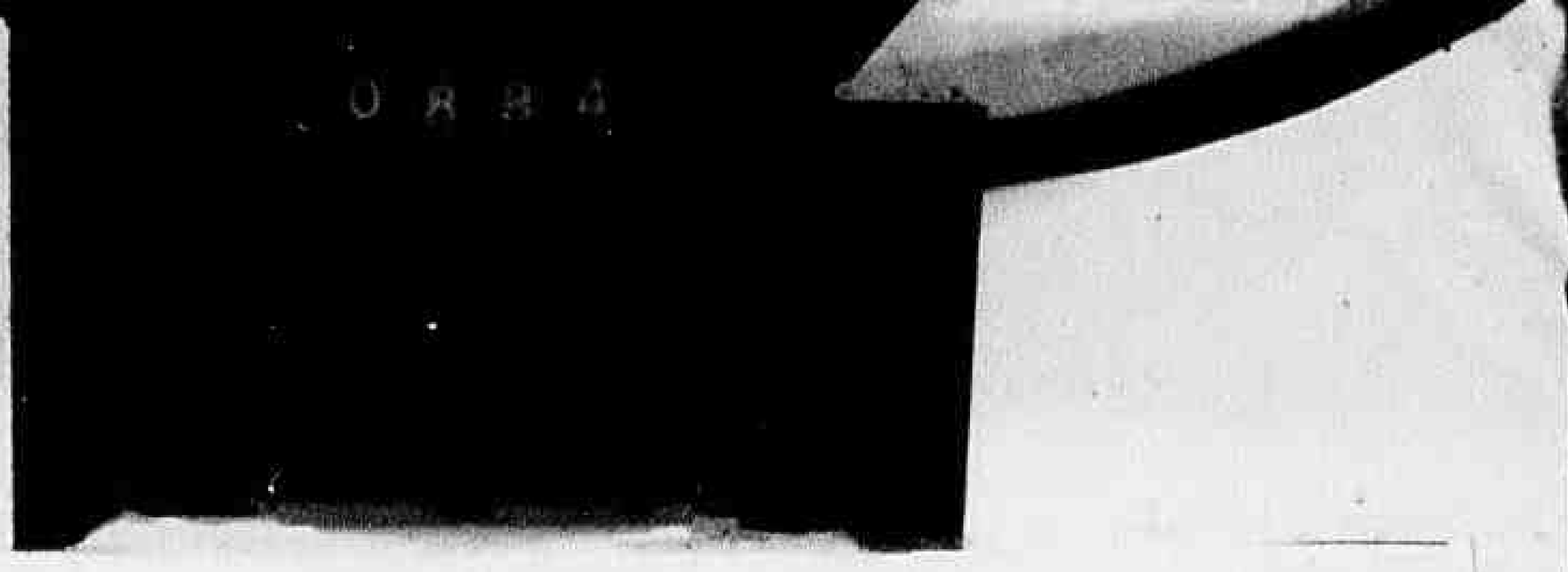
Declassified E.O. 12356 Section 3.3/NND No. 785016

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

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



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



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

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

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

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

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

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

0893

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

(10)

HEADQUARTERS ALLIED COMMISSION
(PC) 904
CIVIL AFFAIRS SECTION

1 May 47.

Ref: PC/C.17/CA.

SUBJECT: Italian Draft Decree.

TO: AFHQ, G-5 Section.

Reference your letter dated 27 March 1947.

1 The position is as follows:

The draft decree in question is still in the course of preparation by a Committee of Ministers. Their report has not yet been completed. I understand that their meetings have not reflected any unanimity of opinion and it may be some time before the matter is finally submitted to the Council of Ministers. The ultimate disposition of the proposal is a matter of considerable speculation since it is understood that the Ministers regard it as highly controversial. Sig. Bosi has promised to let Brig. Upjohn have a copy of the latest draft in 2 or 3 days. It is understood to be a very long document which will merit close study.

For the Chief Commissioner.

[signature]

[illegible], Brig.,
VP CA Section.

Copy to G Comm (ref 567/48/EC of 30 Apr)

7126

0891

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

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref CAF/5.17/CA 2 May 45

SUBJECT : Italian Draft Decree dealing with Fascist Companies

TO : Brigadier BROWN

1 The decree dealing with the forfeiture of profits derived from the fascist regime is still in the course of preparation by a Ministerial Committee of which Mr. PONTI is a member.

2 The last draft submitted to us is summarized in Col WHITE's Minute of April 22. (See Chief Commissioner's attached note).

3 There is of course, the final draft decree for the removal of Amministratori and Sindaci which it is proposed to submit to the Council of Ministers at their next meeting and of which you indicated your approval in your last meeting with Mr. PONTI. This law would eliminate from directorship persons who have been convicted of fascist crimes, who have been epurated and who come within certain specific fascist categories.

4 I suggest the following reply to G-5 AFHQ :

"The draft decree in question is still in the course of preparation by a Committee of Ministers. Their report has not yet been completed. I understand that their meetings have not reflected any unanimity of opinion and it may be some time before the matter is finally submitted to the Council of Ministers. The ultimate disposition of the proposal is a matter of considerable speculation since it is understood that the Ministers regard it as highly controversial."

E.L. PALMIERI
Major

1 5725

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

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

Tel: 434.

Ref: 367/48/BC.

30 April 1945.

SUBJECT: Italian Draft Decree.

TO : VP, Civil Affairs Section.

1. You are requested to prepare a letter to G-5, AFHQ, giving them information on the current status of this decree.

2. It is understood that a draft of the new decree has been submitted to the Chief Commissioner as requested in the Minutes of the VPs Meeting.

3. G-5 stated in their letter of 27 March 45 that further action on our letter 367/12/BC of 19 March 45 has been suspended pending receipt of further communications from us.

4. May this be expedited, please.

Joseph C. O'Reilly major
Chief Staff Officer,
To the Executive Commissioner.

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

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

27 March 1945

SUBJECT: Italian Draft Decree.

TO : Headquarters, Allied Commission, APO 394.
(Attention: Chief Commissioner)

Reference is made to your 567/12/AC of 19 March and to your letter CC 2610 of 23 March to Sir Noel Charles. In the circumstances further action on your original letter is being suspended pending receipt of any further communications from you on the matter.

for CHARLES M. DUOTFORD,
Brigadier General, U.S.C.,
Assistant Chief of Staff, G-5.

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

TRANSLATION NO. 716

HIGH COMMISSION FOR SANCTIONS AGAINST FASCISM

Ref. No. 535

ROME, 25 April 1945

Dear General,

The work of the Commission for the forfeiture of profits derived from the regime is progressing satisfactorily. Yesterday an important step forward was made.

A further meeting will be held on Friday 27 inst., at which it is hoped to complete the preparation of the decree.

In the meantime, herein enclosed are the articles which have hitherto been approved.

Yours sincerely

TO: GENERAL C.R. UPJOHN
Administrative Section
ALLIED COMMISSION
ROME

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

Alto Commissario
per le sanzioni contro il fascismo
IL SEGRETARIO GENERALE

26 APR. 1945

Roma, 25 aprile 1945

Caro Generale,

proseguono i lavori della Commissione per l'avocazione dei profitti di regime. Ieri si é fatto un notevole passo avanti.

Una ulteriore seduta si terrà venerdì 27 corrente e si ha speranza di arrivare, in quella occasione, a ultimare la preparazione del decreto.

Le trasmetto, intanto, il testo degli articoli approvati finora.

Molti cordiali saluti

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

TRANSLATION NO. 716

Art 1

In addition to the case contemplated by art 9 of DLL 159 of 27 July 44, the property of those persons who have been convicted for any of the crime set out in art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for any of the crimes contemplated by art 3, 1st and 2nd paras of the said decree may be confiscated wholly or in part according to the gravity of the act and the circumstances listed under art 7, paras 1st and 3rd, of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for any of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by the Court that has pronounced the sentence upon request of the High Commissioner for sanctions against fascism. If the penal proceeding becomes extinct the confiscation shall be ordered, upon the request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof, is located.

Art 2

Outside the provisions of art 9 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired since 8 September 1943 through contracts, sup- [illegible] with the Germans directly or through intermediaries

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

part according to the gravity of the act and the circumstances listed under art 7, paras last and 3rd, of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for any of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by the Court that has pronounced the sentence upon request of the High Commissioner for sanctions against fascism. If the penal proceeding becomes extinct the confiscation shall be ordered, upon the request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof, is located.

Art 2

Outside the provisions of art 9 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired since 8 September 1943 through contracts, supplies or any other transactions made with the Germans directly or through intermediaries shall be forfeited to the State.

Transactions made with the Germans through intermediaries are those whose executor knew and could not help knowing who their indirect receiver was.

3721

Art 3

All increases of property acquired since 3 Jan 1925 by any persons who have held any of the offices mentioned below shall be forfeited to the State:

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

a) Member of the Grand Council of Fascists;

b) Member of the Fascist Government;

c) Secretary or Vice Secretary of the Fascist party or member of the Fascist National Directorate;

d) President, Public Prosecutor or member of the Special Tribunal for the defence of the State and of the special tribunals instituted by the fascist government after 8 September 43;

e) Commanding General or Counsel of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;

f) Officials or advisers of the OVRA;

g) Prefect or Questore appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Federal secretary of the fascist party.

If it is found that the person concerned has acted with such rectitude as to exclude the possibility that the increase might have derived from the office held, or if any of the circumstances indicated in art 7, 1st and 2nd paras of DLL 159 of 27 Jul 1944 exist in his favor, the Special Section of the Provincial Commission of Taxation, contemplated by art 30 of DLL 159 of 27 Jul 1944, may order all the assessed increase or part thereof be not forfeited.

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

e) Commanding General or Counsel of the Volunteers' Militia for National Security in permanent service, except those acting as assistants or belonging to special militias;

f) Officials or advisers of the OVRA;

g) Prefect or Questore appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Federal secretary of the fascist party.

If it is found that the person concerned has acted with such rectitude as to exclude the possibility that the increase might have derived from the office held, or if any of the circumstances indicated in art 7, 1st and 2nd paras of DLL 159 of 27 Jul 1944 exist in his favor, the Special Section of the Provincial Commission of Taxation, contemplated by art 30 of DLL 159 of 27 Jul 1944, may order all the assessed increase or part thereof be not forfeited.

Art 4

The increases of property acquired since 3 Jan 1924 by the persons listed below shall be presumed to be profits derived from the regime unless the proof referred to in art 8 exists:

1) Whoever has held any of the offices contemplated by the decree of 2 Feb 1945 of the President of the Council of Ministers, published in the Official Gazette of ..... and not included in the preceding article;

2) Those deputies who after 3 Jan 1925 retained their registration in the fascist

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

party or have registered in it while holding their office;

3) National Councilmen;

4) Senators appointed after 3 Jan for the 3rd, 20th and 21st categories of art 33 of the Statute and who have been declared as removed from office;

5) Whoever has administered secret State funds with no obligation to give a statement of accounts;

6) Whoever after 3 Jan 1925 has directed or supported with considerable funds of his own or of others the propaganda or the political activities of the fascist regime;

7) Presidents of General Fascist Confederations;

8) Podestas of provincial capitals and "presidi" of provinces.

Art 5

Increases of property acquired since 3 Jan 1925 are presumed to be profits derived from the regime, unless the proof referred to in art 8 exists, if they have been acquired by any person who, by holding political offices or by taking advantage of the work of professional advisers or brokers having influential positions in the political field, by maintaining relations or connections with fascist figures, and by taking advantage of the evil practice introduced by fascism, has acquired for himself, for relatives or companies represented by him, contracts, supplies, or concessions from the State, and also such increases of property acquired by business solicitors or by agents who have acted in the stipulation of the above mentioned relations.

Art 6

Declassified E.O. 12356 Section 3.3/NND No. 785015

own or of others the propeganda or the political activities of the fascist regime;

7) Presidents of General Fascist Confederations;

8) Podestas of provincial capitals and "presidi" of provinces.

Art 5

Increases of property acquired since 3 Jan 1925 are presumed to be profits derived from the regime, unless the proof referred to in art 8 exists, if they have been acquired by any person who, by holding political offices or by taking advantage of the work of professional advisers or brokers having influential positions in the political field, by maintaining relations or connections with fascist figures, and by taking advantage of the evil practice introduced by fascism, has acquired for himself, for relatives or companies represented by him, contracts, supplies, or concessions from the State, and also such increases of property acquired by business solicitors or by agents who have acted in the stipulation of the above mentioned relations.

Art 6

Those profits which have been derived from fascist political activities or from a position secured in the fascist regime, as well as those profits acquired through the favoritism of the party or party leaders by persons not belonging to the categories contemplated by the preceding articles shall be forfeited to the State.

5720

Art 7

Increases of property acquired since 3 Jan 1925 by the following persons shall be presumed to be derived from the regime:

a) forebears or descendants, the husband or wife of any of the persons indicated in the preceding articles, or anyone who has had relations of concubinage with any

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

of the said persons;

b) physical or juridical persons associated or having common interests with any of the persons indicated in the preceding articles;

c) physical or juridical persons who have mediated in any way for any of the persons indicated in the preceding articles or in letters (a) and (b) of this paragraph, except if it is found that the above-mentioned relationships have not influenced the increases.

As regards juridical persons, only those increases are presumed to be derived from the regime which were acquired by means of the said association, co-interest or mediation.

Art 8

Whenever the profits acquired by the persons indicated in the articles from 4 to 7 do not exceed the normal rate to such an extent as to constitute a proof of an evident partecipation in the evil practice introduced during the fascist period, the forfeiture shall not be effective or shall be made only partially if it is found from certain data and evidence that in the acquisition of such increases the office, the acts and the above mentioned relationships had no influence or only a partial one.

Art 9

While proceeding to confiscation or forfeiture under the preceding articles, the judicial authority or the special section of the Provincial Commission for taxation may exclude certain properties or fix an allowance as alimony in favor of the persons

Declassified E.O. 12356 Section 3.3/NND No. 785015

As regards juridical persons, only those increases are presumed to be derived from the regime which were acquired by means of the said association, co-interest or mediation.

Art 8

Whenever the profits acquired by the persons indicated in the articles from 4 to 7 do not exceed the normal rate to such an extent as to constitute a proof of an evident partecipation in the evil practice introduced during the fascist period, the forfeiture shall not be effective or shall be made only partially if it is found from certain data and evidence that in the acquisition of such increases the office, the acts and the above mentioned relationships had no influence or only a partial one.

Art 9

While proceeding to confiscation or forfeiture under the preceding articles, the judicial authority or the special section of the Provincial Commission for taxation may exclude certain properties or fix an allowance as alimony in favor of the persons contemplated by art 433 and following of the Civil Code.

Art 10

The President of the Special Section of the Provincial Commission for taxation may on his own initiative or on request of the High Commission or of the "Intendente of Finanza", order to whomever is suspected to be in the position set out by art 2 and 7 to report within 30 days:

(a) the total patrimony as on 3 Jan 1925, as well as at the time the respective titles were assumed or the conditions set out in arts 2 and 7 were found to exist, and

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

the total patrimony as on 31 Dec 1942 and as on the effective date of the present decree, together with an indication of the property acquired or possessed through an agent.

(b) the items of property which during the same period were added to or deducted from the patrimony of the person concerned or of his agents, with the indication of the origin or destination as the case may be. The value of each item of property on the date it became part of the patrimony or was detracted from it must be indicated.

Except for the provision of the preceding paragraph, all those persons who on the date of publication of the present decree ar included in the categories indicated in arts 3 and 4 shall be required to present the report referred to in letters (a) and (b) to the Intendenza of Finance nearest to their residence within 30 days following the effective date of the present decree.

Art 11

Whoever fails to present the report referred to in art 10 or presents it too late or makes a false statement shall be liable to a fine equal to 1/10 of the total assessed increase.

When the assessment is accepted without appeal the fine for omitted, tardy or false report shall be condoned.

Independently of the provisions of the preceding paragraphs, in case of an omitted report of the items of property owned during the 5-year period prior to 25 Jul 1943 a fine equal to their value shall be paid.

Declassified E.O. 12356 Section 3.3/NND No. 785015

Except for the provision of the preceding paragraph, all those persons who on the date of publication of the present decree ar included in the categories indicated in arts 3 and 4 shall be required to present the report referred to in letters (a) and (b) to the Intendenza of Finance nearest to their residence within 30 days following the effective date of the present decree.

Art 11

Whoever fails to present the report referred to in art 10 or presents it too late or makes a false statement shall be liable to a fine equal to 1/10 of the total assessed increase.

When the assessment is accepted without appeal the fine for omitted, tardy or false report shall be condoned.

Independently of the provisions of the preceding paragraphs, in case of an omitted report of the items of property owned during the 5-year period prior to 25 Jul 1943 a fine equal to their value shall be paid.

Art 12

Whoever withholds property items of the persons indicated in arts 3 and 4 shall be required to report them within 60 days following the effective date of the present decree to the Intendenza of Finance in their community. Default of this requirement shall be punished by a fine equal to the value of the property items that are not reported, unless it is found that a grave impediment existed or the holder did not know the title of the persons concerned. This shall not be of prejudice to the penal proceeding under art 36, 3rd para of DLL 159 of 27 Jul 1944.

5718

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

This provision shall not apply to Credit Institutes except for such persons as will be indicated by the A.C., the Intendenze of Finanze or by the Special Sections.

Art 13

In order to determine what profit is subject to forfeiture, the special section of the Provincial Commission of taxation, on the basis of the report or other data, shall proceed temporarily to calculate the difference between the amounts of property contemplated in art 10, letter (a) and shall send to the finance department an account, for purposes of collection, of not more than 15% of the amount which will be later assessed. The liquidation has the force of an executive measure.

The final assessment shall determine the bulk of net profits subject to forfeiture and, according to the case, whether a sum received as above is adequate or whether it is more or less than that due. In the latter case reimbursement of the difference to the debtor and payment of the difference by the same shall be ordered, as the case may be.

In determining the property increases, property which has in any way been acquired or possessed through agents and also that which has ceased to belong to the presumed profiteer shall be taken into consideration.

In determining the profit subject to forfeiture no account shall be taken of property derived through succession or donation from the relative interests nor of property resulting from transformation of such assets, unless the property is derived from those profits of the accuser which are liable to forfeiture.

Art 15

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

contemplated in art 10, letter (a) and shall send to the [illegible] for purposes of collection, of not more than 15% of the amount which will be later assessed. The liquidation has the force of an executive measure.

The final assessment shall determine the bulk of net profits subject to forfeiture and, according to the case, whether a sum received as above is adequate or whether it is more or less than that due. In the latter case reimbursement of the difference to the debtor and payment of the difference by the same shall be ordered, as the case may be.

In determining the property increases, property which has in any way been acquired or possessed through agents and also that which has ceased to belong to the presumed profiteer shall be taken into consideration.

In determining the profit subject to forfeiture no account shall be taken of property derived through succession or donation from the relative interests nor of property resulting from transformation of such assets, unless the property is derived from those profits of the accuser which are liable to forfeiture.

Art 15

At the request of the Department of Finance, the Special Section of the Provincial Commission of Taxation may order that definite items of property of the debtor, acquired from the regime, be forfeited to the State according to the assessed tax levied to the debtor.

Art 16

Whoever is subjected to the forfeiture of profits derived from the regime shall be considered a trader or broker even if he does not or has never actually practices such a profession.

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

If he is in arrears in the payment, the tribunal, at the request of the Intendente of Finance, shall make the declaration of bankruptcy, and may retain itself in conformity with the present decree in declaring that he is not in a condition to make the payments.

Art 17

One or more sub-sections, each presided by the President of the Tribunal or by another Magistrate of equal or next to equal grade, and composed of four commissioners to be appointed in accordance with art 30 of DLL 159 of 27 Jul 1944 may be formed in addition to the special section of the Provincial Commission of taxation, by decree of the Minister of Finance. With the same decree the Minister shall appoint the President of the Sub-sections, upon the nomination submitted by the President of the Section.

By decree of the Minister of Finance one or more sub-sections may be formed, in addition to the special Section of the Central Commission of Taxation, whose presidents and members shall be appointed according to art 32 of DLL 159 of 27 Jul 1944.

The President of the special Section shall have the power of cognition of the proceedings before the Section or the Sub-section; if one or more of the commissioners of the Section or the Sub-sections is impeded, he may substitute them with a commissioner of the sub-section or of the Section respectively.

Art 18

The jurisdiction for the assessment or for the liquidation proceeding of first instance shall belong to the special provincial Section in whose circumspection the debtor resides, and if the debtor's residence is not known, in the province where it

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

appointed in accordance with art 30 of DLL 159 of 27 Jul 1944 may be formed in addition to the special section of the Provincial Commission of taxation, by decree of the Minister of Finance. With the same decree the Minister shall appoint the President of the Sub-sections, upon the nomination submitted by the President of the Section.

By decree of the Minister of Finance one or more sub-sections may be formed, in addition to the special Section of the Central Commission of Taxation, whose presidents and members shall be appointed according to art 32 of DLL 159 of 27 Jul 1944.

The President of the special Section shall have the power of cognition of the proceedings before the Section or the Sub-section; if one or more of the commissioners of the Section or the Sub-sections is impeded, he may substitute them with a commissioner of the sub-section or of the Section respectively.

Art 18

The jurisdiction for the assessment or for the liquidation proceeding of first instance shall belong to the special provincial Section in whose circumspection the debtor resides, and if the debtor's residence is not known, in the province where it is known that the debtor last resided.

Art 19

It is the power of the special Section of the Provincial Commission of Taxation to decide all prejudicial or incidental questions of substantial or processual law, in any way pertinent or connected with sequestration or assessment proceedings, with liquidation and the forfeiture of profits derived from the regime, except those questions of state or of concerning perjury. If any of these last questions arises, the special Section shall order the proceeding suspended until such time as the competent judge gives his decision whenever it deems it relevant for the settlement of the controversy;

7716

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

the power of the Finance Department to propose or continue the proceeding shall prevail.

Art 20

The powers indicated in the first paragraph of art 31 of DLL 159 of 27 Jul 1944 shall belong, for the purposes of finding the properties of presumed profiteers, also to the Intendents of Finance, which may exercise them also upon third parties.

Besides the powers indicated in the first paragraph of the mentioned art 31, the special Sections have also that of proceeding directly or through the Judicial Police, to the house perquisition also of third parties in the ways prescribed by the Code of penal procedure.

The same powers belong, for sequestration purposes, to Presidents of Tribunals and to Presidents of special Sections, when the latter are formed.

Art 21

The special section of the Provincial Commission shall notify through administrative channels the debtor of the proposal of assessment and communicate the proposal by means of registered letter and with acknowledgment of receipt to the High Commissioner as well as the Intendente of Finance of the place in which the same section is located.

The appeal against the proposal for assessment must be submitted both by the debtor and by the Finance Department within the peremptory time limit of thirty days from notification as regards the former and from the receipt or the communication as regards the latter.

The appeal shall be made by lodging in the Secretariat of the special Section the original and four copies free of duty. The secretariat shall give a receipt for same.

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

to the house perquisition also of third parties in the ways prescribed by the Code of penal procedure.

The same powers belong, for sequestration purposes, to Presidents of Tribunals and to Presidents of special Sections, when the latter are formed.

Art 21

The special section of the Provincial Commission shall notify through administrative channels the debtor of the proposal of assessment and communicate the proposal by means of registered letter and with acknowledgment of receipt to the High Commissioner as well as the Intendente of Finance of the place in which the same section is located.

The appeal against the proposal for assessment must be submitted both by the debtor and by the Finance Department within the peremptory time limit of thirty days from notification as regards the former and from the receipt of the communication as regards the latter.

The appeal shall be made by lodging in the Secretariat of the special Section the original and four copies free of duty. The secretariat shall give a receipt for same, which constitutes the only proof of the lodging and date of the same.

The appeal must*..... all the exceptions and defences against the proposal, indicate specifically the items of proof and whenever these are documents, they must be filed in the Secretariat within 30 days from the date of the appeal.

On the expiry of such period, the President shall issue a decree ordering the meeting for the discussion and shall appoint the reporter.

* the original obviously is not complete (Trans.)
The meaning is not quite clear.

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

If properties acquired or owned in any way through an agent concur in determining property increases, the proposal for assessment shall be directed and notified also to such agents who are thus constituted as parts in the proceeding, having the same position and the same rights and guarantees as the person against whom the proposal is directed, and the decision shall be effective also for such agents.

Art 23

The debtor shall be notified through administrative channels at least 30 days in advance, of the decree ordering the meeting for the discussion, which shall be communicated also, by registered letter and with acknowledgment of receipt, to the Intendente of Finance of the locality in which the special section is located, to the High Commissioner and also to the "Avvocatura dello Stato" whenever such body has been instituted to represent the Administration.

Both the debtor and the Administration, or the "Avvocatura dello Stato" representing it, may, not later than the 20th day preceding the discussion, lodge with the Secretariat of the special section the supplementary notes, together with five additional copies of same free of duty.

After the President or the Commissioner appointed by him has made the report or after the items of proof have been taken into discussion, the representative of the Administration or of the "Avvocatura dello Stato", if such body is representing the Administration in the proceedings, shall be allowed admission to the discussion before the debtor or his lawyer or legal procurator.

The special section shall resolve in secret session and by majority vote immediately

Declassified E.O. 12356 Section 3.3/NND No. 785015

advance, of the decree ordering the meeting for the discussion, which shall be communicated also, by registered letter and with acknowledgment of receipt, to the Intendente of Finance of the locality in which the special section is located, to the High Commissioner and also to the "Avvocatura dello Stato" whenever such body has been instituted to represent the Administration.

Both the debtor and the Administration, or the "Avvocatura dello Stato" representing it, may, not later than the 20th day preceding the discussion, lodge with the Secretariat of the special section the supplementary notes, together with five additional copies of same free of duty.

After the President or the Commissioner appointed by him has made the report or after the items of proof have been taken into discussion, the representative of the Administration or of the "Avvocatura dello Stato", if such body is representing the Administration in the proceedings, shall be allowed admission to the discussion before the debtor or his lawyer or legal procurator.

The special section shall resolve in secret session and by majority vote immediately after the discussion, and shall decide also on the expenses.

Art 24

The reasons for the decision are set out in summary form by the President or by a Commissioner appointed by him; the original statement of the decision is signed by the President and by the Secretary and lodged in the Secretariat of the Special Section which shall give instructions, within twenty days from communication by registered letter with acknowledgment of receipt, to the High Commissioner, to the Intendente of Finance and to the "Avvocature dello Stato" whenever it takes part in the proceedings.

Declassified E.O. 12356 Section 3.3/NND No. 785015

Art 25

The time limits for the debtor, the Administration and the High Commissioner to appeal under art 32 of the law, to the Special Section of the Central Commission of Taxation, begin from the notification of the decision for the debtor, and from receipt of the same decision by the means indicated in the preceding article for the Administration and the High Commissioner.

Art 26

The rules of articles 19 and 25 shall be applicable as regards the jurisdiction of the special section of the Central Commission, the lodging of the appeal and the proceedings on appeal in general.

The discussion before the Special Section of the Central Commission is on a par with that before the Special Section of the Public Provincial Commission.

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

The rules of articles 19 and 25 shall be applicable as regards the jurisdiction of the special section of the Central Commission, the lodging of the appeal and the proceedings on appeal in general.

The discussion before the Special Section of the Central Commission is on a par with that before the Special Section of the Public Provincial Commission.

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

Art. 1

Oltre che nel caso previsto dall'art. 9 del D.L.L. 27 luglio 1944 n. 159, sono confiscati a favore dello Stato i beni di coloro che sono stati condannati per uno dei delitti previsti dall'art. 2 del decreto stesso.

Possono essere confiscati in tutto o in parte, tenuto conto della gravità del fatto e delle circostanze di cui al 1° e 3° comma dell'art. 7 del decreto predetto, i beni di coloro che sono stati condannati per uno dei delitti previsti nel 1° e 2° comma dell'art. 3 del decreto stesso.

La confisca totale o parziale dei beni può altresì essere disposta nel caso di condanna per uno dei delitti previsti dall'art. 5 del decreto medesimo.

La confisca è ordinata dall'autorità giudiziaria che pronuncia la condanna. Qualora la sentenza di condanna sia già intervenuta al momento dell'entrata in vigore del presente decreto, la confisca è disposta su richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dall'autorità giudiziaria che ha pronunciato la sentenza. In caso di estinzione dell'azione penale la confisca è ordinata, sua richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dal Tribunale penale del luogo nel quale è situato il bene o la maggior parte dei beni da confiscare.

Art. 2

Salvo quanto è disposto dall'art. 9 del D.L.L. 27 luglio 1944, n. 159, e del 3° comma del precedente articolo, sono avocati allo Stato tutti i profitti conseguiti dopo l'8 settembre 1943 in appalti, forniture o in altre operazioni realizzate con il tedesco direttamente o a mezzo di intermediari.

Sono considerate operazioni realizzate col tedesco a mezzo di intermediari quelle relativamente alle quali l'esecutore non ignorava o non poteva ignorare il destinatario indiretto.

Art. 3

Sono avocati allo Stato quei profitti di regime, gli incre-

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

della gravità del fatto e delle circostanze di cui al 1° e 3° comma dell'art. 7 del decreto predetto, i beni di coloro che sono stati condannati per uno dei delitti previsti nel 1° e 2° comma dell'art. 3 del decreto stesso.

La confisca totale o parziale dei beni può altresì essere disposta nel caso di condanna per uno dei delitti previsti dall'art. 5 del decreto medesimo.

La confisca è ordinata dall'autorità giudiziaria che pronuncia la condanna. Qualora la sentenza di condanna sia già intervenuta al momento dell'entrata in vigore del presente decreto, la confisca è disposta su richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dall'autorità giudiziaria che ha pronunciato la sentenza. In caso di estinzione dell'azione penale la confisca è ordinata, sua richiesta dell'Alto Commissariato per le sanzioni contro il fascismo, dal Tribunale penale del luogo nel quale è situato il bene o la maggior parte dei beni da confiscare.

Art. 2

Salvo quanto è disposto dall'art. 9 del D.L.L. 27 luglio 1944, n. 159, e del 3° comma del precedente articolo, sono avocati allo Stato tutti i profitti conseguiti dopo l'8 settembre 1943 in appalti, forniture o in altre operazioni realizzate con il tedesco direttamente o a mezzo di intermediari.

Sono considerate operazioni realizzate col tedesco a mezzo di intermediari quelle relativamente alle quali l'esecutore non ignorava o non poteva ignorare il destinatario indiretto.

Art. 3

Sono avocati allo Stato, quali profitti di regime, gli incrementi patrimoniali conseguiti successivamente al 3 gennaio 1925 da chi sia stato:

a) membro del gran consiglio del fascismo;
b) membro del governo fascista;
c) segretario o vice segretario o membro del direttorio nazionale del partito fascista;

5712

./.

Declassified E.O. 12356 Section 3.3/NND No. 785015

d) presidente, pubblico accusatore o membro del tribunale speciale per la difesa dello Stato o degli altri tribunali speciali istituiti dal governo fascista dopo l'8 settembre 1943;

e) ufficiale generale o console della m.v.s.n. in servizio permanente effettivo esclusi quelli con funzioni assistenziali o appartenenti a milizie speciali;

f) funzionari o confidenti dell'Ovra;

g) prefetto o questore nominati per titoli fascisti;

h) capo di missioni diplomatiche o governatori di colonie nominati per titoli fascisti;

l) segretari federali.

Qualora risulti che l'inquisito abbia agito con tale dirittura morale da escludere che l'incremento possa essere derivato dalla carica ricoperta o a suo favore ricorra taluna delle circostanze indicate nel 1° e 2° comma dell'art. 7 del D.L.L. 27.7.1944 n.159, la Sezione Speciale della Commissione Provinciale delle Imposte, prevista dall'art. 30 del D.L.L. 27.7.1944 n. 159, può disporre l'esclusione dalla avocazione di tutto l'incremento accertato o di parte di esso.

Art. 4

Si presumono profitti di regime salvo la prova di cui al successivo art. 8 gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925:

1°) da chi abbia rivestito una delle cariche previste dal decreto 2 febbraio 1945 del Presidente del Consiglio dei Ministri, pubblicato nella Gazzetta Ufficiale del ..... e non comprese nell'articolo precedente;

2°) dai deputati fascisti che dopo il 3 gennaio 1925 abbiano mantenuto la iscrizione al partito fascista o a questo si siano iscritti durante l'esercizio del loro mandato;

3°) dai consiglieri nazionali;

4°) dai senatori nominati dopo il 3 gennaio 1925 per le categorie 3a, 20a e 21a dell'art. 33 dello statuto e dichiarati decaduti;

5°) da chi abbia gestito senza obbligo di rendiconto fondi segreti dello Stato;

6°) da chi abbia, dopo il 3 gennaio 1925, diretto o sostenuto mediante notevoli contributi finanziari propri e di altri organi [illegible] fascista;

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

nominati per titoli fascisti;

l) segretari federali.

Qualora risulti che l'inquisito abbia agito con tale dirittura morale da escludere che l'incremento possa essere derivato dalla carica ricoperta o a suo favore ricorra taluna delle circostanze indicate nel 1° e 3° comma dell'art. 7 del D.L.L. 27.7.1944 n.159, la Sezione Speciale della Commissione Provinciale delle Imposte, prevista dall'art. 30 del D.L.L. 27.7.1944 n. 159, può disporre l'esclusione dalla avocazione di tutto l'incremento accertato o di parte di esso.

Art. 4

Si presumono profitti di regime salvo la prova di cui al successivo art. 8 gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925:

1°) da chi abbia rivestito una delle cariche previste dal decreto 2 febbraio 1945 del Presidente del Consiglio dei Ministri, pubblicato nella Gazzetta Ufficiale del ..... e non comprese nell'articolo precedente;

2°) dai deputati fascisti che dopo il 3 gennaio 1925 abbiano mantenuto la iscrizione al partito fascista o a questo si siano iscritti durante l'esercizio del loro mandato;

3°) dai consiglieri nazionali;

4°) dai senatori nominati dopo il 3 gennaio 1925 per le categorie 3a, 20a e 21a dell'art. 33 dello statuto e dichiarati decaduti;

5°) da chi abbia gestito senza obbligo di rendiconto fondi segreti dello Stato;

6°) da chi abbia, dopo il 3 gennaio 1925, diretto o sostenuto mediante notevoli contributi finanziari propri e di altri organi della propaganda e dell'azione politica del regime fascista;

7°) dai Presidenti delle Confederazioni Generali Fasciste;

8°) dai podestà delle città capoluoghi di provincia o dai presidi di provincia.

3711

./.

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

Art. 5

Si presumono profitti di regime, salvo la prova di cui al successivo art. 8 gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925 da chi, rivestendo cariche politiche o valendosi comunque dell'opera di professionisti consultanti o intermediari aventi posizioni influenti nel campo politico mantenendo aderenze o rapporti con personalità fasciste, e valendosi comunque del malcostume invalso nel regime fascista, abbia ottenuto per sè, parenti o società da lui rappresentate, appalti, forniture o concessioni dallo Stato, nonchè gli incrementi patrimoniali conseguiti da procacciatori di affari o dagli agenti intervenuti nella stipulazione dei rapporti anzidetti.

Art. 6

Sono avocati allo Stato i profitti derivanti dall'attività politica fascista o dalla posizione raggiunta nel regime fascista, nonchè i profitti conseguiti per il favore del partito o dei gerarchi fascisti da persone estranee alle categorie contemplate nei precedenti articoli.

Art. 7

Si presumono profitti di regime gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925:

a) dagli ascendenti, dai discendenti, dal coniuge di talune fra le persone indicate negli articoli precedenti, nonchè da chi abbia avuto con la stessa relazioni di concubinaggio;

b) dalle persone fisiche o giuridiche associate e cointeressate con talune delle persone indicate negli articoli precedenti;

c) dalle persone fisiche o giuridiche comunque interposte, rispetto a talune delle persone indicate negli articoli precedenti o nelle lettere a) e b) del presente comma,

salvo che non risulti che a determinare gli incrementi non abbia influito la parentela o le relazioni anzidette.

La presunzione ha luogo, quanto alle persone giuridiche, limitatamente agli incrementi conseguiti per effetto di detta as

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

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

lendosi comunque del malcostume invalso nel regime fascista, abbia ottenuto per sè, parenti o società da lui rappresentate, appalti, forniture o concessioni dallo Stato, nonchè gli incrementi patrimoniali conseguiti da procacciatori di affari o dagli agenti intervenuti nella stipulazione dei rapporti anzidetti.

Art. 6

Sono avocati allo Stato i profitti derivanti dall'attività politica fascista o dalla posizione raggiunta nel regime fascista, nonchè i profitti conseguiti per il favore del partito o dei gerarchi fascisti da persone estranee alle categorie contemplate nei precedenti articoli.

Art. 7

Si presumono profitti di regime gli incrementi patrimoniali conseguiti dopo il 3 gennaio 1925:

a) dagli ascendenti, dai discendenti, dal coniuge di talune fra le persone indicate negli articoli precedenti, nonchè da chi abbia avuto con la stessa relazioni di concubinaggio;

b) dalle persone fisiche o giuridiche associate e cointeressate con talune delle persone indicate negli articoli precedenti;

c) dalle persone fisiche o giuridiche comunque interposte, rispetto a talune delle persone indicate negli articoli precedenti o nelle lettere a) e b) del presente comma,

salvo che non risulti che a determinare gli incrementi non abbiano influito la parentela o le relazioni anzidette.

La presunzione ha luogo, quanto alle persone giuridiche, limitatamente agli incrementi conseguiti per effetto di detta associazione, cointeressenza o interposizione.

3710

Art. 8

Qualora i profitti conseguiti dalle persone indicate negli articoli da 4 a 7, non eccedano in misura così ingente il normale da costituire la prova di una evidente partecipazione al malcostume invalso nel periodo fascista, l'avocazione non ha luogo

./.

o ha luogo solo parzialmente se risulti da elementi certi e da prove precostituite che a determinare tali incrementi non abbiano influito solo in parte l'esercizio della carica, il compimento degli atti e la sussistenza dei rapporti sopraindicati.

Art. 9

Nel disporre la confisca e l'avocazione a norma degli articoli precedenti, l'autorità giudiziaria o la sezione speciale della Commissione provinciale delle imposte, possono riservare determinati beni o assicurare una rendita a titolo di alimenti a favore delle persone indicate negli articoli 433 e seguenti del codice civile.

Art. 10

Il Presidente della Sezione Speciale della Commissione Provinciale delle Imposte, può d'ufficio o su richiesta dell'Alto Commissariato o dell'Intendente di Finanza, ingiungere a chiunque sia indiziato di troversi nelle condizioni previste dagli art. 2 a 7, di dichiarare entro il termine di 30 giorni:

a) la consistenza patrimoniale alla data del 3 gennaio 1925, nonchè al tempo dell'assunzione delle rispettive qualifiche o del verificarsi delle condizioni indicate nei detti articoli 2 a 7, e la consistenza patrimoniale alla data del 31 dicembre 1942 e alla data dell'entrata in vigore del presente decreto, con indicazione anche dei beni comunque acquistati o posseduti per interposta persona.

b) i beni durante lo stesso periodo acquisiti ed usciti dal patrimonio dell'intimato o di interposte persone con la specificazione della rispettiva provenienza o destinazione. Nella dichiarazione deve essere indicato per ciascuno di detti beni, il valore riferito rispettivamente alla data in cui il bene entrò a far parte del patrimonio e a quella in cui ne uscì.

Salvo il disposto del comma precedente, tutti coloro che alla data di pubblicazione del presente decreto si trovano compresi in una delle categorie di cui agli art. 3 e 4 sono tenuti a presentare la dichiarazione di cui alle lettere a) e b) all'intendenza di Finanza del domicilio o della dimora entro 30 giorni dalla data

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

coli precedenti, l'autorità giudiziaria o la sezione speciale della Commissione provinciale delle imposte, possono riservare determinati beni o assicurare una rendita a titolo di alimenti a favore delle persone indicate negli articoli 433 e seguenti del codice civile.

Art. 10

Il Presidente della Sezione Speciale della Commissione Provinciale delle Imposte, può d'ufficio o su richiesta dell'Alto Commissariato o dell'Intendente di Finanza, ingiungere a chiunque sia indiziato di trovarsi nelle condizioni previste dagli art. 2 a 7, di dichiarare entro il termine di 30 giorni:

a) la consistenza patrimoniale alla data del 3 gennaio 1925, nonchè al tempo dell'assunzione delle rispettive qualifiche o del verificarsi delle condizioni indicate nei detti articoli 2 a 7, e la consistenza patrimoniale alla data del 31 dicembre 1942 e alla data dell'entrata in vigore del presente decreto, con indicazione anche dei beni comunque acquistati o posseduti per interposta persona.

b) i beni durante lo stesso periodo acquisiti ed usciti dal patrimonio dell'intimato o di interposte persone con la specificazione della rispettiva provenienza o destinazione. Nella dichiarazione deve essere indicato per ciascuno di detti beni, il valore riferito rispettivamente alla data in cui il bene entrò a far parte del patrimonio e a quella in cui ne uscì.

Salvo il disposto del comma precedente, tutti coloro che alla data di pubblicazione del presente decreto si trovano compresi in una delle categorie di cui agli art. 3 e 4 sono tenuti a presentare la dichiarazione di cui alle lettere a) e b) all'Intendenza di Finanza del domicilio o della dimora entro 30 giorni dalla data di entrata in vigore del presente decreto.

Art. 11

Chi omette di presentare ovvero presenti tardivamente od infedelmente la dichiarazione indicata nell'art. 10 incorre in una pena pecuniaria eguale ad 1/10 dell'importo dell'incremento definitivamente accertato.

./.

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

Quando l'accertamento venga accettato senza impugnativa, la penalità per omessa, tardiva ed infedele dichiarazione è condonata.

Indipendentemente dal disposto dei comma precedenti, nel caso di omessa dichiarazione di singoli beni posseduti nel quinquennio anteriore al 25.7.1943, sara dovuta una penalità pari all'ammontare del loro valore.

Art. 12

Chiunque detiene beni delle persone indicate negli artt. 3 e 4 è tenuto a farne dichiarazione entro 60 giorni dalla data di entrata in vigore del presente decreto, all'Intendenza di Finanza del domicilio o della dimora. In difetto incorrerà in una penale pari al valore dei beni non dichiarati, salvo che non risulti un grave impedimento o che il detentore ignorasse la qualifica delle persone stesse. E ciò senza pregiudizio dell'azione penale ai sensi dell'art. 36, 5° comma, del D.L.L. 27.7.1944, n. 159.

La presente disposizione non si applica agli Istituti di Credito se per quei nominativi che saranno ad essi indicati dall'A.C. dalle Intendenze di Finanza o dalle Sezioni Speciali.

Art. 13

Per la determinazione del profitto avocabile, la sezione speciale della Commissione Provinciale delle Imposte, sulla base della dichiarazione o di altri elementi, procede provvisoriamente al calcolo della differenza fra le consistenze patrimoniali previste nell'art. 10 lett. a) e rimette all'amministrazione finanziaria, per la riscossione, la liquidazione relativa ad un acconto non superiore al 15% sulla somma che sarà più tardi accertata. La liquidazione ha valore di titolo esecutivo.

L'accertamento definitivo determina il cumulo dei profitti netti avocabili conseguiti e dichiara, secondo i casi, congrua una somma come sopra percepita ovvero superiore od inferiore a quella dovuta, ordinando, in questa ultima ipotesi, il rimborso della differenza a favore del debitore e il pagamento della differenza a carico del medesimo.

Nella determinazione degli incrementi patrimoniali si ha

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

Art. 12

Chiunque detiene beni delle persone indicate negli artt. 3 e 4 è tenuto a farne dichiarazione entro 30 giorni dalla data di entrata in vigore del presente decreto, all'Intendenza di Finanza del domicilio o della dimora. In difetto incorrerà in una penale pari al valore dei beni non dichiarati, salvo che non risulti un grave impedimento o che il detentore ignorasse la qualifica delle persone stesse. E ciò senza pregiudizio dell'azione penale ai sensi dell'art. 38, 3° comma, del D.L.L. 27.7.1944, n. 159.

La presente disposizione non si applica agli Istituti di Credito se per quei nominativi che saranno ad essi indicati dall'A.C. dalle Intendenze di Finanza o dalle Sezioni Speciali.

Art. 13

Per la determinazione del profitto avocabile, la sezione speciale della Commissione Provinciale delle Imposte, sulla base della dichiarazione o di altri elementi, procede provvisoriamente al calcolo della differenza fra le consistenze patrimoniali previste nell'art. 10 lett. a) e rimette all'amministrazione finanziaria, per la riscossione, la liquidazione relativa ad un acconto non superiore al 15% sulla somma che sarà più tardi accertata. La liquidazione ha valore di titolo esecutivo.

L'accertamento definitivo determina il cumulo dei profitti netti avocabili conseguiti e dichiara, secondo i casi, congrua una somma come sopra percepita ovvero superiore od inferiore a quella dovuta, ordinando, in questa ultima ipotesi, il rimborso della differenza a favore del debitore e il pagamento della differenza a carico del medesimo.

Nella determinazione degli incrementi patrimoniali si ha riguardo anche ai beni in qualunque modo acquistati o posseduti per interposta persona, nonchè ai beni che abbiano cessato di appartenere al presunto profittatore.

Nella determinazione del profitto avocabile non si tiene conto dei beni pervenuti per successione o donazione dai relativi frutti, nonchè dai beni risultanti da trasformazione di tali cespiti, sempre che non si tratti di beni derivati da profitti avocabili nei confronti del dante causa.

./.

Declassified E.O. 12356 Section 3.3/NND No. 787016

0 9 2 7 0 5 1 6

5708

Art. 15

A richiesta dell'Amministrazione Finanziaria, la Sezione Speciale della Commissione Provinciale Imposte può ordinare che beni determinati esistenti nel patrimonio del debitore, l'acquisto dei quali sia particolarmente dovuto a profitto del regime, siano avocati allo Stato a seconto dall'imposto accertato a carico del debitore.

Art. 16

Chiunque sia soggetto all'avocazione per profitti di regime è considerato commerciante o mediatore quand'anche non eserciti o non abbia mai esercitato virtualmente la professione.

Ove egli si renda moroso al pagamento, il tribunale, su ricorso dell'Intendente di Finanza pronuncierà la dichiarazione di fallimento, ritenendosi in forma il presente decreto legislativo che egli sia in istato di cessazione dei pagamenti.

Art. 17

Accanto alla Sezione speciale della Commissione Provinciale delle Imposte, possono, con decreto del Ministro delle Finanze, essere costituite una o più sottosezione, ciascuna presieduta dal Presidente del Tribunale o da altro Magistrato di pari grado o di grado immediatamente inferiore, e composto di quattro commissari da nominarsi a norma dell'art. 30 del D.L.L. 27.7.1944 n. 159. Con lo stesso decreto il Ministro nomina il Presidente della sottosezioni, su designazione del Presidente della Sezione.

Con decreto del Ministro delle Finanze, una o più sottosezioni possono essere costituite accanto alla Sezione speciale della Commissione Centrale delle Imposte, i cui presidenti e membri sono nominati a norma dell'art. 32 del D.L.L. 27.7.1944 n. 159.

L'attribuzione della cognizione dei singoli procedimenti alla Sezione o alle Sottosezioni spetta al Presidente della Sezione speciale, che può anche, in caso di impedimento di uno o più commissari della Sezione o delle Sottosezioni, provvedere a sostituirli rispettivamente, con un commissario delle sottosezioni o della sezione.

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

Art. 16

Chiunque sia soggetto all'avocazione per profitti di regime è considerato commerciante o mediatore quand'anche non eserciti o non abbia mai esercitato virtualmente la professione.

Ove egli si renda moroso al pagamento, il tribunale, su ricorso dell'Intendente di Finanza pronuncierà la dichiarazione di fallimento, ritenendosi in forma il presente decreto legislativo che egli sia in istato di cessazione dei pagamenti.

Art. 17

Accanto alla Sezione speciale della Commissione Provinciale delle Imposte, possono, con decreto del Ministro delle Finanze, essere costituite una o più sottosezione, ciascuna presieduta dal Presidente del Tribunale o da altro Magistrato di pari grado o di grado immediatamente inferiore, e composto di quattro commissari da nominarsi a norma dell'art. 30 del D.L.L. 27.7.1944 n. 159. Con lo stesso decreto il Ministro nomina il Presidente della sottosezioni, su designazione del Presidente della Sezione.

Con decreto del Ministro delle Finanze, una o più sottosezioni possono essere costituite accanto alla Sezione speciale della Commissione Centrale delle Imposte, i cui presidenti e membri sono nominati a norma dell'art. 32 del D.L.L. 27.7.1944 n. 159.

L'attribuzione della cognizione dei singoli procedimenti alla Sezione o alle Sottosezioni spetta al Presidente della Sezione speciale, che può anche, in caso di impedimento di uno o più commissari della Sezione o delle Sottosezioni, provvedere a sostituirli rispettivamente, con un commissario delle sottosezioni o della sezione.

Art. 18

La competenza per l'accertamento o per il giudizio di liquidazione in primo grado spetta alla Sezione speciale provinciale nella cui circoscrizione il debitore ha il domicilio e, nel caso che questo sia sconosciuto a quello della provincia nella cui circoscrizione il debitore risulta avere avuto l'ultimo domicilio.

./.

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

Art. 19

Spetta alla competenza della Sezione speciale della Commissione Provinciale delle Imposte la decisione di tutte le questioni pregiudiziali o incidentali, di diritto sostanziale o processuale, comunque pertinenti o connesse alle procedure di sequestro e di accertamento, alla liquidazione ed alla avocazione dei profitti di regime, tranne che si tratti di questioni di stato o di falso. Sorgendo una di tali questioni la Sezione speciale ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente sulle questioni stesse, quante volte lo ritenga rilevante ai fini della decisione della controversia, e salvo la facoltà dell'Amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 20

I poteri indicati nel primo comma dell'art. 31 del D.L.L. 27.7.1944 n. 159, competono, ai fini del reperimento dei beni dei presunti profittatori altresì alle Intendenze di Finanza, le quali possono esercitarli anche presso terzi.

Oltre ai poteri indicati nel primo comma dell'art. 31 sopracitato, le Sezioni speciali hanno anche quello di procedere direttamente o a mezzo della Polizia Giudiziaria, a perquisizione domiciliare anche presso terzi nelle forme prescritte dal Codice di procedura penale.

Gli stessi poteri spettano ai fini del sequestro, ai Presidenti di Tribunale e, dopo la costituzione delle Sezioni speciali, ai Presidenti di queste.

Art. 21

La proposta di accertamento è dalla sezione speciale della Commissione provinciale notificata in via amministrativa al debitore e comunicata, mediante raccomandata con avviso di ricevimento all'Alto Commissariato, nonchè all'Intendente di Finanza del luogo in cui ha sede la Sezione stessa.

Il reclamo avverso la proposta di accertamento deve essere,

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

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

Terzo. Sorgendo una di tali questioni la Sezione speciale ordina la sospensione del procedimento fino a quando non sia intervenuta la decisione del giudice competente sulle questioni stesse, quante volte lo ritenga rilevante ai fini della decisione della controversia, e salvo la facoltà dell'Amministrazione finanziaria di promuovere o di proseguire il relativo giudizio.

Art. 20

I poteri indicati nel primo comma dell'art. 31 del D.L.L. 27.7.1944 n. 159, competono, ai fini del reperimento dei beni dei presunti profittatori altresì alle Intendenze di Finanza, le quali possono esercitarli anche presso terzi.

Oltre ai poteri indicati nel primo comma dell'art. 31 sopracitato, le Sezioni speciali hanno anche quello di procedere direttamente o a mezzo della Polizia Giudiziaria, a perquisizione domiciliare anche presso terzi nelle forme prescritte dal Codice di procedura penale.

Gli stessi poteri spettano ai fini del sequestro, ai Presidenti di Tribunale e, dopo la costituzione delle Sezioni speciali, ai Presidenti di queste.

Art. 21

La proposta di accertamento è dalla sezione speciale della Commissione provinciale notificata in via amministrativa al debitore e comunicata, mediante raccomandata con avviso di ricevimento all'Alto Commissariato, nonchè all'Intendente di Finanza del luogo in cui ha sede la Sezione stessa.

Il reclamo avverso la proposta di accertamento deve essere, così dal debitore che dall'Amministrazione delle Finanze, interposto nel termine perentorio di trenta giorni dalla notifica, per il primo e per la seconda dal ricevimento della comunicazione della proposta.

Il reclamo si propone mediante deposito nella segreteria della sezione speciale dell'originale e di quattro copie, queste in carta semplice. La segreteria ne rilascia ricevuta, che costituisce l'unica prova del deposito e della data in cui è seguito.

Il reclamo deve tutte le eccezioni e difese contro la proposta, indicare specificatamente i mezzi di prova e, quando si tratti di documenti, offrirne la comunicazione mediante deposito nella segreteria, da effettuarsi entro 30 giorni da quello del

./.

reclamo.

Scaduto quest'ultimo termine, il Presidente fissa, con proprio decreto, l'udienza per la discussione e nomina il relatore.

Art. 22

Qualora a determinare gli incrementi patrimoniali concorrono anche i beni in qualunque modo acquistati o posseduti per interposta persona, la proposta di accertamento è diretta e notificata anche a tali persone, che vengono così costituite parti nel processo, con la medesima posizione e con gli stessi diritti e le stesse garanzie della persona contro cui la proposta è direttamente formulata, e la decisione fa stato anche contro tali persone.

Art. 23

Il decreto di fissazione dell'udienza di discussione è, almeno trenta giorni prima della stessa, notificato in via amministrativa al debitore e comunicato, mediante raccomandata con avviso di ricevimento, all'Intendente di Finanza del luogo in cui ha sede la Sezione speciale, all'Alto Commissariato, nonchè, quando in rappresentanza dell'Amministrazione siasi costituita l'Avvocatura dello Stato, anche a questa.

Così il debitore che l'Amministrazione e, per essa, l'Avvocatura dello Stato, possono, non oltre il ventesimo giorno precedente la discussione, depositare nella Segreteria della Sezione speciale memorie aggiuntive corredate di cinque copie, queste in carta semplice.

All'udienza dopo la relazione del Presidente o del Commissario da lui delegato o dopo l'assunzione degli eventuali mezzi di prova sono ammessi alla discussione prima il rappresentante dell'Amministrazione e dell'Avvocatura dello Stato, quando questa abbia assunto la rappresentanza dell'Amministrazione in giudizio, e successivamente il debitore, ovvero il suo avvocato o procuratore legale.

La sezione speciale delibera in segreto ed a maggioranza di voti subito dopo la discussione, pronunziando anche sulle spese.

Art. 24

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

anche i beni in qualunque modo acquistati o posseduti per interposta persona, la proposta di accertamento è diretta e notificata anche a tali persone, che vengono così costituite parti nel processo, con la medesima posizione e con gli stessi diritti e le stesse garanzie della persona contro cui la proposta è direttamente formulata, e la decisione fa stato anche contro tali persone.

Art. 23

Il decreto di fissazione dell'udienza di discussione è, almeno trenta giorni prima della stessa, notificato in via amministrativa al debitore e comunicato, mediante raccomandata con avviso di ricevimento, all'Intendente di Finanza del luogo in cui ha sede la Sezione speciale, all'Alto Commissariato, nonchè, quando in rappresentanza dell'Amministrazione siasi costituita l'Avvocatura dello Stato, anche a questa.

Così il debitore che l'Amministrazione e, per essa, l'Avvocatura dello Stato, possono, non oltre il ventesimo giorno precedente la discussione, depositare nella Segreteria della Sezione speciale memorie aggiuntive corredate di cinque copie, queste in carta semplice.

All'udienza dopo la relazione del Presidente o del Commissario da lui delegato o dopo l'assunzione degli eventuali mezzi di prova sono ammessi alla discussione prima il rappresentante dell'Amministrazione e dell'Avvocatura dello Stato, quando questa abbia assunto la rappresentanza dell'Amministrazione in giudizio, e successivamente il debitore, ovvero il suo avvocato o procuratore legale.

La Sezione speciale delibera in segreto ed a maggioranza di voti subito dopo la discussione, pronunziando anche sulle spese.

Art. 24

La motivazione, in forma sommaria, della decisione è estesa dal Presidente o da un commissario da lui delegato, l'originale della decisione sottoscritta dal Presidente e dal Segretario, è depositata nella Segreteria della Sezione speciale che provvede a disporre, entro venti giorni dalla comunicazione mediante raccomandata con avviso di ricevimento, all'Alto Commissario, all'Intendente di Finanza e, quando sia intervenuta nel giudizio, all'Avvocatura dello Stato.

./.

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

Art. 25

I termini, entro i quali il debitore, l'Amministrazione e l'Alto Commissariato possono a norma dell'art. 32 della legge, ricorrere alla Sezione speciale della Commissione Centrale delle Imposte, decorrono per il debitore, dalla notifica della decisione, per l'Amministrazione e per l'Alto Commissario, dal ricevimento della decisione stessa col mezzo indicato nell'articolo precedente.

Art. 26

Si applicano quanto alla competenza ~~quanto alla competenza~~ della sezione speciale della Commissione Centrale, alla proposizione del ricorso e al giudizio, in genere, in grado di appello, le norme dei precedenti artt. 19 e 25.

La discussione innanzi la Sezione Speciale della Commissione Centrale è al pari di quella innanzi la Sezione Speciale della Commissione provinciale pubblica.

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

Art. 26

Si applicano quanto alla competenza ~~quanto alla competenza~~ della sezione speciale della Commissione Centrale, alla preposizione del ricorso e al giudizio, in genere, in grado di appello, le norme dei precedenti artt. 19 e 25.

La discussione innanzi la Sezione Speciale della Commissione Centrale è al pari di quella innanzi la Sezione Speciale della Commissione provinciale pubblica.

570

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

0934

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

TRANSLATION NO. 685

WITH COMMISSION FOR SANCTIONS AGAINST FASCISM

ROME, 14th April 1945

REF. 467

Dear General,

In yesterday's meeting of the Commission which deals with the forfeiture of profits derived from the regime, the discussion in connection with the 11 articles I have already sent you was resumed and brought to an end.

No important changes were made. Art 3 only was amended as follows:

"Increases of property are presumed to be profits derived from the regime as contemplated by art. 20 of DLL 159 of 27 July 1944 if they have been acquired since 3 Jan 1925 by any person who, having a political position, or by using the influence of professional men, advisers, or intermediaries who have influential positions in politics, or through relation or attachments in any way connected with fascist personalities, has obtained for himself, for his relatives or for companies represented by him, contracts, supplies or concessions from the State or from public bodies or State financed bodies, as are also the increases of property acquired by business procurators or by the agents who have acted in the above-mentioned relations."

Also art 4 is amended as follows:

"Increases of property are presumed to be profits derived from the regime as contemplated by art 20 of DLL 159 of 27 July 1944 if they have been acquired since 3 Jan 1925 by any person - whether physical or juridical - who has had relations as associate or partner with any of the persons indicated in the preceding art, excluding, in the case of juridical persons, the profits not acquired through the said relations, or with any of the interposed juridical persons."

The text of the other article of the decree will presumably offer much smaller difficulties. They will be discussed by a sub-commission composed of Minister Jemolo myself and two State lawyers, at a meeting fixed for Sunday morning. The Commission will meet again on Monday in order to approve the final text. I shall inform you immediately after.

Sincere regards

TO: Colonel Chas. POLK
CIVIL AFFAIRS SECTION
ALLIED COMMISSION
N.C.A.O.

3703

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

Alla Commissione
per la armistizio con la Germania
IL SEGRETARIO GENERALE

Roma, 14 aprile 1945

Caro Generale,

nella riunione di ieri della Commissione che si occupa dell'applicazione dei profitti di regime, si è iniziata e completata la discussione relativa agli 11 articoli che le ho già trasmessi.

Non vi sono state modifiche rilevanti. Solo l'art. 5 è stato modificato così:

" Si presumono profitti di regime a norma dell'art. " 25 del D.L.L. 27.7.1944, n. 159, gli incrementi " patrimoniali conseguiti dopo il 3 gennaio 1925 da " chi, investito di cariche politiche o valendosi " dell'opera di professionisti, dipendenti o funzionari aventi posizioni influenti nel campo politico, o mezzi legali comunque riportabili a coloro " nei confronti dei quali sia stato per sé, " parenti o soggetti da lui rappresentati, acquisti, " forniture o concessioni dallo Stato o da enti pubblici o finanziati dallo Stato, nonché gli incrementi patrimoniali conseguiti dai predetti per " le attività o dagli atti intervenuti nella stipulazione del rapporto suddetti."

./.

On. Generale S.E. Mason MacFarlane
c/o I. a Divisione
Alleata Commissione

= ROMA =

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

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

13 APR 1945

TRANSLATION DC. 670

Art 1

Besides the cases contemplated by art 9 of DLL 159 of 27 July 44, the property of those persons who have been convicted for some of the crimes contemplated by art 2 of the said decree shall be forfeited to the State.

The property of those persons who have been convicted for some of the crimes contemplated by art 3, 1st and 2nd paras of the said decree may be confiscated wholly or in part according to the gravity of the act and the circumstances referred to in art 7, paras 1st and 3rd of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for some of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by request of the High Commissioner for sanctions against fascism by the Court that has pronounced the sentence. In the event of the extinction of the penal proceeding, the confiscation shall be ordered, by request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof is located.

Art 2

Outside the provisions of art 9 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired after 8 September 1943 through contracts, supplies and operations made with the Germans directly or through intermedia-

in art 7, paras 1st and 3rd of the afore-mentioned decree.

The total or partial confiscation of the property may also be ordered in the event of a conviction for some of the crimes contemplated by art 5 of the same decree.

The confiscation shall be ordered by the Court which pronounces the sentence. If the sentence is pronounced prior to the effective date of the present decree, the confiscation shall be ordered by request of the High Commissioner for sanctions against fascism by the Court that has pronounced the sentence. In the event of the extinction of the penal proceeding, the confiscation shall be ordered, by request of the High Commissioner for sanctions against fascism, by the penal Tribunal of the place in which the property to be confiscated, or the greater part thereof is located.

Art 2

Outside the provisions of art 9 of DLL 159 of 27 Jul 1944 and of para 3 of the preceding art, all the profits acquired after 8 September 1943 through contracts, supplies or any other transactions made with the Germans directly or through intermediaries shall be forfeited to the State.

The afore mentioned transactions are those whose executor knew and could not help knowing who their indirect receiver was.

3701

Art 3

All increases of property acquired since 3 Jn 1923 by any persons who have held any of the offices contioned below shall be forfeited to the State:

a) Member of the Grand Council of Fascists;

b) Member of the Fascist Government;

c) Secretary or Vice Secretary of the Fascist party or member of the Fascist National Directorate;

3871

Declassified E.O. 12356 Section 3.3/NND No. 785015

d) President, Public Prosecutor or member of the Special Tribunal for the Defence of the State and of the special tribunals instituted by the fascist government after 8 Sept 43;

e) Commanding General or Consols of the Volunteers' Militia for National Security in permanent service except those acting as assistants or belonging to special militias;

f) Officials or advisers of the CVRA.

g) Prefect or questors appointed for fascist merits;

h) Head of diplomatic missions or colonial Governor appointed for fascist merits;

i) Federal secretary of the fascist party.

If it is found that the person concerned has acted with such a moral rectitude as to exclude the possibility that the increase might have derived from the office held, or if any of the circumstances indicated in art 7, 1 and 2 paras of DLL 159 of 27 Jul 1944 exist in his favor, the Special Section of the Provincial Commission of Imposts, contemplated by art 30 of DLL 159 of 27 Jul 1944, may order that the forfeiture contemplated by the 1st para be not effective or that it be limited to a part of the increases of property ascertained.

Art 4

The increases of property acquired after 3 Jan 1944 by the persons listed below shall be presumed to be profits derived from the regime in accordance with art 26 of DLL 159 of 27 Jul 1944:

1) Whoever has held any of the offices contemplated by the Decree of 2 Feb 1945 of the President of the Council of Ministers, published in the Official Gazette of the ..... and not included in the preceding art;

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

Declassified E.O. 12356 Section 3.3/NND No. 785916

by federal secretary of the fascist party.

If it is found that the person concerned has acted with such a moral rectitude as to exclude the possibility that the increase might have derived from the office held, or if any of the circumstances indicated in art 7, 1 and 2 paras of DLL 159 of 27 Jul 1944 exist in his favor, the Special Section of the Provincial Commission of Imposts, contemplated by art 30 of DLL 159 of 27 Jul 1944, may order that the forfeiture contemplated by the 1st para be not effective or that it be limited to a part of the increases of property ascertained.

Art 4

The increases of property acquired after 3 Jan 1924 by the persons listed below shall be presumed to be profits derived from the regime in accordance with art 26 of DLL 159 of 27 Jul 1944:

1) whoever has held any of the offices contemplated by the decree of 2 Feb 1945 of the President of the Council of Ministers, published in the Official Gazette of the ..... and not included in the preceding art;

2) Those deputies who after 3 Jan 1925 have continued to be registered in the fascist party or have registered in it, and National Councilmen;

3) Senators appointed after 3 Jan 1925 for 3rd, 20th and 21st categories of art 33 of the Statute and who have been declared as removed;

4) Whoever has administered secret State funds with no obligation to give a statement of accounts;

5) whoever after 3 Jan 1925 has directed or supported with considerable funds of his own or of others the propaganda or the political activities of the fascist regime;

6) Presidents of National Fascist Confederations;

7) Podestas of provincial capitals and provincial "Consigli".

Art 5

Increases of property acquired after 3 Jan 1925 are presumed to be profits derived from the regime and in accordance with art 26 of DLL 159 of 27 Jul 1944 if they have been acquired by any person who through political activities or by taking advantage of relations or adherences to fascism has obtained for himself, for his relatives or companies represented by him contracts, supplies or concessions from the State or from public bodies or State finance bodies, and also business agents or agents who have acted in the stipulation of the afore-mentioned relations.

Art 6

The increases of property acquired since 3 Jan 1925 by whomsoever has had relations as associate or partner with any of the persons indicated in arts 3 and 4 shall be presumed to be profits derived from the regime according to art 26 of DLL 159 of 27 July 1944.

Art 7

The presumption established in articles 3, 4 and 5 shall not be applied to increase of property acquired prior to the time the office was entrusted or before the acts were committed or at the beginning of the relations contemplated by the said articles.

Art 8

If the increases of property referred to in arts 3, 4, 5 and 6 do not exceed the normal rate to such an extent as to evince the ill-usage introduced by fascism, the forfeiture shall not be effected, or shall be effected only partially if it is

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

...State finance bodies, and also business agents or agents who have acted in the stipulation of the afore-mentioned relations.

Art 6

The increases of property acquired since 3 Jan 1925 by whomsoever has had relations as associate or partner with any of the persons indicated in arts 3 and 4 shall be presumed to be profits derived from the regime according to art 26 of DLL 159 of 27 July 1944.

Art 7

The presumption established in articles 3, 4 and 5 shall not be applied to increases of property acquired prior to the time the office was entrusted or before the acts were committed or at the beginning of the relations contemplated by the said articles.

Art 8

If the increases of property referred to in arts 3, 4, 5 and 6 do not exceed the normal rate to such an extent as to evince the ill-usage introduced by fascism, the forfeiture shall not be effected, or shall be affected only partially if it is found from reliable sources that such increases were not acquired or only partly acquired through the office, the acts or the above-mentioned relations.

Art 9

3695

The profits acquired through political activities carried on during the fascist regime and those acquired through the favoritism of the party or of fascist hierarchs, save the regulations of the preceding articles, shall be forfeited to the State independently of any penal action.

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

Art 10

Increases of property shall be presumed to be profits derived from the regime according to art 26 of RRL 159 of 27 Jul 1944 when acquired by the ascendants, descendants or wives of the persons contemplated in the preceding articles, or else by whoever has had relations of concubinage with the same, unless it is found that the increases have not been acquired through the said parentage or relations.

Art 11

In ordering the confiscation or forfeiture set out in the preceding articles, the court or the special section of the Provincial Commission of Taxation may exclude certain property or insure a certain income for the support of the persons indicated in articles 435 et seq. of the civil code.

TRANSLATORS POOL
C.A. Section

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

Art 11

In ordering the confiscation or forfeiture set out in the preceding articles, the court or the special section of the Provincial Commission of Taxation may exclude certain property or insure a certain income for the support of the persons indicated in articles 493 et seq. of the civil code.

TRANSLATORS :COL
C.A. Section

5695

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

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

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

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

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

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

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

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

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

269

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

TRANSLATION No 626

HIGH COMMISSION
FOR SANCTIONS AGAINST FASCISM

26 Mar 45

Dear General,

Enclosed are the first five articles of the draft concerning the forfeiture of profits derived from the regime.

They are the only articles which were the subject of our discussions of last week and of this morning.

As I have stated in my note on Art. 3, several questions are still to be settled. We shall continue our study next Thursday.

I do not send you the other articles of the draft because they will require radical changes after those which have been made in these first five. In any case I shall see that you have them next Thursday, immediately after the meeting of the Commission.

Yours respectfully,

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

ARTICLE 1

Without prejudice to the provisions of Art. 9 of DLL 159 of 27 Jul 44, in the event of a conviction for the crimes contemplated by Art 2 of the said decree the court shall order the confiscation of the property belonging to the person convicted.

Whenever the conditions referred to in Art 7 of DLL 159 of 27 Jul 44 are not found to exist, the same court may order the total or partial confiscation of the property belonging to the person convicted in the event of a conviction for any of the crimes contemplated by Art 3 (perms 1 and 2) and Art 5 of the said decree.

If the penal action becomes extinct, the High Commissioner for the forfeiture of profits derived from the regime shall have the power to request total or partial confiscation of the property belonging to the responsible persons.

The confiscation shall be ordered by the Tribunal having jurisdiction over the area concerned.

ARTICLE 2

Independently of penal responsibility, total or partial confiscation may be ordered at the request of the High Commissioner against all those who, by taking advantage of their particularly high economic or social position, have contributed since 3 Jan 25 considerable assets belonging to them or to others for the support of the propaganda and the political actions of the fascist regime.

If no penal proceeding is proposed, the High Court of Justice shall make the decision.

ARTICLE 3

All increases of property acquired since 3 Jan 1925 by any persons who have held any of the offices mentioned below shall be forfeited to the State:

Member of the Grand Council of Fascists;
Member of the Fascist Government;
Secretary or Vice Secretary of the Fascist party or member of the Fascist National Directorate;
President or Public Prosecutor or member of the Special Tribunal for the Defense of the State and of the other special tribunals instituted by the fascist government after 8 Sep 43;
Commanding General of the Volunteers' Militia for National Security in permanent service;
Counsel for the National Militia in permanent service except those acting as assistants or belonging to special militias;
Members of the OVRA (Organization for the vigilance and repression of anti-fascism)
Prefect or Questore appointed for fascist merits;
Head of diplomatic mission or Governor of colony appointed for fascist merits;
Federal Secretary of the fascist party;
Deputy who has kept the registration in the party even after 3 Jan 1925 or who has registered in the party after such a date, and national council-

Independently of penal responsibility, total or partial confiscation may be ordered at the request of the High Commissioner against all those who, by taking advantage of their particularly high economic or social position, have contributed since 3 Jan 25 considerable assets belonging to them or to others for the support of the propaganda and the political actions of the fascist regime.

If no penal proceeding is proposed, the High Court of Justice shall make the decision.

ARTICLE 3

All increases of property acquired since 3 Jan 1925 by any persons who have held any of the offices mentioned below shall be forfeited to the State:

Member of the Grand Council of Fascists;
Member of the Fascist Government;
Secretary or Vice Secretary of the Fascist party or member of the Fascist National Directorate;
President or Public Prosecutor or member of the Special Tribunal for the Defense of the State and of the other special tribunals instituted by the fascist government after 8 Sep 43;
Commanding General of the Volunteers' Militia for National Security in permanent service;
Counsel for the National Militia in permanent service except those acting as assistants or belonging to special militias;
Members of the OVRA (Organization for the vigilance and repression of anti-fascism)
Prefect or Questore appointed for fascist merits;
Head of diplomatic mission or Governor of colony appointed for fascist merits;
Federal Secretary of the fascist party;
Deputy who has kept the registration in the party even after 3 Jan 1925 or who has registered in the party after such a date, and national councillor;
Senator appointed after 3 Jan 1925 for the III, XX, and XXI categories referred to in Art 33 of the Statute and who has been removed.

The rules referred to in para 1 shall not apply when, following the request of the person concerned, the Special Section of the Provincial Commission recognizes that, although the person did hold one of the above mentioned offices, he conducted himself with particular rectitude, and his activities in that did not influence in any way the increases of his property.(It remains to be decided whether the above list shall include the Presidents of Fascist Confederations and persons upon whom since 3 Jan 25 Italian titles to nobility have been conferred for the first time).

691

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

ARTICLE 4

Outside the cases mentioned in Art 3, the following shall be considered as profits derived from the regime, in accordance with Art 26 of DLL 159 of 27 Jul 44: all increases of property - exceeding the normal rate - which have been acquired by persons who as fascists have held any office of a political character or have engaged in fascist activities, or by persons who have obtained or procured contracts, supplies or grants from the State or from the State or from State-controlled or State-financed bodies, or whoever has derived economic benefits through favoritism of the party or of fascist leaders or has maintained relations as associate or partner with the latter, unless the persons concerned show that the aforementioned office, activities, favoritism or relations have in no way influenced the increases.

If the above factors have influenced the increases partially, that part of the property invested which has been affected shall be presumed to be a profit derived from the regime.

ARTICLE 5

Those increases which exceed the normal rate to such a degree as to make it evident that they were derived from the bad practices of the fascist period shall be presumed to be profits derived from the regime and shall be forfeited to the State.

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

ARTICLE 5

Those increases which exceed the normal rate to such a degree as to make it evident that they were derived from the bad practices of the fascist period shall be presumed to be profits derived from the regime and shall be forfeited to the State.

. 6 .

- 5690

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

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

27 MAR 1945

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

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

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

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

0963

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

28 MAR 1945

CC 2610

28 MAR 1945 27 March 1945

My dear Mr. Prime Minister:

In the course of the conversation which we had at my villa on the 23rd of this month, you stated that H.E. Casardi had agreed to withdraw from his draft decree any reference to occupations (hostels Anonime).

Such proposed legislation, both in its effect upon present military production and also--looking at the matter from a longer point of view--upon foreign investments, is of extreme importance to Allied interests, and I should therefore be most grateful to receive from Your Excellency, in writing, confirmation of this withdrawal.

Yours sincerely,

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

His Excellency Ivanoe Bonomi
President of the Council of Ministers
Italian Government
Rome

3680

cc: A/President, AC
American Embassy
British Embassy
Political Advisers, AC
Executive Commissioner
Civil Affairs Section (Legal S/C)
Finance S/C

0964

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

C.A. Sec

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

25 MAR 1945

Ref: 567/12/EC

19 March 1945

Subject: Italian Draft Decree.

To: G-5 Section, AFHQ.

1. The Italian Council of Ministers at their last meeting considered a Draft Decree proposed by Minister PARRI. It is understood that at their next meeting further consideration will be given to this Draft Decree.

2. Attached are:

(a) Copy of the full Decree in Italian.

(b) A brief synopsis of the Articles.

(c) Full translation of the more important of these Articles, namely Nos. 1, 2, 3, 4, 10, 17, 30, 31, 32 and 40.

(d) Copy of letter to the Prime Minister requesting him to defer adoption of the Decree pending approval.

3. The possibility of socialization of big industries such as PIRELLI and FIAT may well hamper the Allied war effort. The Council of Ministers has appointed a Committee of Ministers to consider the draft. Instructions are requested as to whether the AC should take any position in this matter from the military point of view.

4. May this matter please be treated as urgent.

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

5685

Copy to: Economic Section
American Ambassador
British Ambassador
CC Files
A Sec

0963

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

CM Loc

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

19 March 1945.

My dear Mr. Prime Minister:

Because of its possible effect on enterprises engaged or to be engaged in production or services for the Allied military effort, the draft decree submitted by H.E. Minister Parenti at the last meeting of the Council of Ministers has been referred to the Supreme Allied Commander, Field Marshal Sir Harold Alexander, for his views.

It is therefore requested that the Council defer the adoption of this decree, either in its present or modified form, until approval to its adoption has been given.

Yours very truly,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USN
Chief Commissioner

His Excellency Ivanoe Bonomi,
The President of the Council of Ministers,
Italian Government,
Rome.

Copy to: U.S. Ambassador
British Ambassador
AFHQ

3684

U.S. Political Advisor
British Political Advisor
Executive Commissioner
CC Files
CM Loc

Finance Sub-Commission - for notation and return.

0966

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

CA Loc.

British Embassy,

Rome.

134/7/45 19th March, 1945.

My dear Admiral,

I am writing to thank you for your letter of the 15th March, enclosing a copy of a draft decree presented by the Minister of Finance to the Council of Ministers on the 10th March and now under discussion in the Council.

2. Clearly the effect of the decree as it stands on the economic and industrial structure of Italy would be radical and might raise a political question whether a non-elected, interim Cabinet would not be acting essentially ultra vires in passing it. It might furthermore be naked whether an attempt to do so might not endanger the Coalition, with possible effects on the Italian war effort and thus on the conduct of operations, and whether therefore legislation of this nature is not better postponed until the country is wholly liberated. Yet, I feel that, however carefully any advice offered by the Allied Commission may be confined to these aspects while avoiding the slightest expression of opinion on the merits of the decree itself, it is highly likely that any attempt at dissuasion would be misrepresented on the left. The Commission might be placed in the light of attempting to protect Fascist big business from the people's justice.

3. I do not myself believe it to be the policy of the Communist party to break the Coalition. The Rosetta incident gave them an opportunity, but they confined themselves to demonstrating their strength by imposing conditions for their continued collaboration. This decree is pursuant to one of their conditions, and it is a fair guess that in its present form it represents a maximum, on which they are prepared to compromise rather than leave the Government. There is however, the danger of immediate reaction, arising in particular from article 17, on the financial interests of other countries. To take an illustration: Courtaulds hold an important interest in the Snia-Viscosa. Under Article 17, it would be sufficient for 20% of the shares to be found to belong globally to persons of the proscribed categories to have the whole Company brought under the control of the new Ente dominated by a single Minister who, it is safe to presume, will be a Communist. He might well order the nationalisation of the Company; and, what is more, the proceeds of such an operation, on the Company would pass not to the National Treasury but to the funds of this new autonomous Ente. They would be subject to no direct budgetary control.

5683

0967

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

4. I am of course unable to say how real the danger is. I have no exhaustive list even of British investments in Italian industry. But I do not think we can doubt the existence of a risk. The Americans and the French, not to speak of the Swiss and the Swedes, have invested capital in Italian industry. I feel that the Allied Commission have a responsibility to put in a formal reminder to the Government of this international interest in Article 17. If the Italian Government ignore such a warning they will have only themselves to blame if claims for damages are brought against them at the peace conference.

5. Mr. Macarthy tried to see Rector Pesenti or Mr. Gabrieli at the Ministry of Finance yesterday, but the former is ill and the latter is away from Rome. In their absence he saw Rector Carcaciolo, the Minister's private secretary. He reminded him that it had always been a feature of Italian economic policy to encourage the investment of foreign capital in this country, and he remarked that at this moment when, more than ever, Italy had need of fresh capital from abroad, he could imagine nothing more likely to discourage foreign investment than legislation of this nature. Mr. Carcaciolo appeared to be impressed, and he remarked that this Article was in fact a storm-centre in the Cabinet.

Believe me

Yours sincerely

/s/ Noel Charles

Noel Charles.

COPY

COPY

SYNOPSIS OF DRAFT DECREE

SUBMITTED TO THE COUNCIL OF MINISTERS BY

H.E. PERSENTI

Art. 1 - Property of all persons sentenced by High Court and Sanzioni shall be confiscated (DLL 159).

Art. 2 - All officials of Fascist Government, persons who have received titles of nobility, etc. after 3 Jan 25 have all their property confiscated, except if retired voluntarily or acted without political bias.

Art. 3 - Are deemed to be profits under fascist regime any abnormal increase of the estates of persons having held any public office and of non-members of the fascist party who have taken advantage of it (Rules for ascertaining increases).

Art. 4 - Are deemed to be profits under fascist regime and are confiscated all increases in the assets of the parents, descendants, etc. of such persons under Art. 3.

Art. 5 - Rules for ascertaining the existing assets before 1922 and 1945.

Art. 6 - Powers for State officials enable them to obtain required return under previous articles.

Art. 7 - Penalties for false returns (fines).

Art. 8 - List of persons who are compelled to make returns (Senators and State Officials).

Art. 9 - Value of lire to be considered in assessing increases.

Art.10 - Extension of above provisions to all companies, individuals, etc., even if not members of fascist party, who have had dealings with the State, Enti, administration and Para-Statal institutions exceeding 10,000,000 lire in all.

Art.11 - Power to Provincial Commissions to assess increases and order confiscation

Art.12 - Rules of procedure for assessment.

Art.13- Exclusion from above provisions estate acquired through inheritance.

Art. 14- Powers to Provincial Commissions to issue provisional orders of confiscation.

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

Art. 3 - Are deemed to be profits under fascist regime any abnormal increase of the estates of persons having held any public office and of non-members of the fascist party who have taken advantage of it (Rules for ascertaining increases).

Art. 4 - Are deemed to be profits under fascist regime and are confiscated all increases in the assets of the parents, descendants, etc. of such persons under Art. 3.

Art. 5 - Rules for ascertaining the existing assets before 1922 and 1925.

Art. 6 - Powers for State officials enable them to obtain required return under previous articles.

Art. 7 - Penalties for false returns (Fines).

Art. 8 - List of persons who are compelled to make returns (Senators and State Officials).

Art. 9 - Value of lire to be considered in assessing increases.

Art.10 - Extension of above provisions to all companies, individuals, etc., even if not members of fascist party, who have had dealings with the State, Enti, administration and Para-Statal institutions exceeding 10.000.000 lire in all.

Art.11 - Power to Provincial Commissions to assess increases and order confiscation

Art.12 - Rules of procedure for assessment.

Art.13 - Exclusion from above provisions estate acquired through inheritance.

Art. 14 - Powers to Provincial Commissions to issue provisional orders of confiscation.

Art. 15 - Powers to Provincial Commission to confiscate specific property among existing assets.

Art.16 - All persons under this Decree are considered traders and subject to existing bankruptcy laws.

Art. 17 - Are declared Fascist Companies, any company where the majority of directors come under this present decree or where 1/5 of shares are held by such persons.

6822

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

Art. 18 - Procedure for functioning of Provincial Commissions and Central Commissions.

Art. 19 - Territorial jurisdiction of such Commissions.

Art. 20 - Legal jurisdiction of such Commissions.

Art. 21 - Powers of investigations for'Intendente delle Finanze.'

Art. 22 - to Art. 29 - Rules of procedure (trials, appeals, sentences, etc.)

Art. 30 - Setting up a special Ente to act as receivers of impounded property.

Art. 31 and 32 - Rules governing the functioning of such Ente.

Art. 33 - Setting out procedure for relation between Ente and third parties.

Art. 34 and 35 - Procedure as to sequestration of property under this decree.

Art. 36 - Powers to appoint controllers instead of receivers in exceptional cases.

Art. 37 and 38 - Function and power of controllers.

Art. 39 - Special mortgage on assets granted to the Ente.

Art 40 - Power to set aside acts of disposal made previously by the persons or companies under this decree.

Art. 41 - Appointments to Provincial Commissions.

Art. 42 - All expenses incurred by Public Administration in dealing with investigations, trials, appeals under this decree to be borne by the interested party.

Art. 43 - Provisions for the payment of illegal profits to the State.

Art. 44 - Forced sale of property to recover illegal profits when assessed.

Art. 45 - All property confiscated or acquired under previous article to be property of the State.

Art. 46 - Reference to existing laws.

Art. 47 - Abrogation of any existing legislation contrary to the provisions of this decree.

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

Art. 29 - [illegible] - forms of procedure (trials, appeals, sentences, etc.)

Art. 30 - Setting up a special Etat to act as receivers of impounded property.

Art. 31 and 32 - Rules governing the functioning of such Etat.

Art. 33 - Setting out procedure for relation between Etat and third parties.

Art. 34 and 35 - Procedure as to sequestration of property under this decree.

Art. 36 - Powers to appoint controllers instead of receivers in exceptional cases.

Art. 37 and 38 - Function and power of such rollers.

Art. 39 - Special mortgage on assets granted to the Etat.

Art 40 - Power to set aside acts of disposal made previously by the persons or companies under this decree.

Art. 41 - Appointments to Provincial Commissions.

Art. 42 - All expenses incurred by Public Administration in dealing with investigations, trials, appeals under this decree to be borne by the interested party.

Art. 43 - Provisions for the payment of illegal profits to the State.

Art. 44 - Forced sale of property to recover illegal profits when assessed.

Art. 45 - All property confiscated or acquired under previous article to be property of the State.

Art. 46 - References to existing laws.

Art. 47 - Abrogation of any existing legislation contrary to the provisions of this decree.

5781

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

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

TO : Chief Commissioner.

TRANSLATION OF DRAFT DECREE

ARTICLE I

In the event of a conviction for any of the crimes mentioned in RDL 159, Art. 2, Art. 3 (Paras. 1 and 2) and Art. 5, the court shall order confiscation of the property of the person convicted. The court may grant a subsistence allowance to the members of the family maintained by the person convicted.

If, by reason of lapse of time, no penal proceedings can be brought, confiscation shall nevertheless be ordered at the request of the High Commissioner by the judicial authority having jurisdiction over the area concerned.

ARTICLE II

All increases in assets acquired since 3rd of January 1925 by any persons who have held any of the offices mentioned below shall be confiscated by the State:-

1) Members of the Grand Council of Fascists;

2) Members of the Fascist Government;

3) Secretary and Vice Secretary of the Fascist Party and member of the Fascist Directorate;

4) President and Public Prosecutor and member of the special tribunal for the defense of the State;

5) Commanding General of the Voluntary Militia for National Security;

6) Lieutenant General, Consul General and Consul of the Militia for National Security, in permanent duty;

7) Head of the mission appointed for fascist merits;

8) Governor appointed for fascist merits;

9) Prefect and questore appointed for fascist merits;

10) Party Secretary;

person convicted.

If, by reason of lapse of time, no penal proceedings can be brought, confiscation shall nevertheless be ordered at the request of the High Commissioner by the judicial authority having jurisdiction over the area concerned.

ARTICLE II

All increases in assets acquired since 3rd of January 1925 by any persons who have held any of the offices mentioned below shall be confiscated by the State:-

1) Members of the Grand Council of Fascists;

2) Members of the Fascist Government;

3) Secretary and Vice Secretary of the Fascist Party and member of the Fascist Directorate;

4) President and Public Prosecutor and member of the special tribunal for the defense of the State;

5) Commanding General of the Voluntary Militia for National Security;

6) Lieutenant General, Consul General and Consul of the Militia for National Security, in permanent duty;

7) Head of the mission appointed for fascist merits;

8) Governor appointed for fascist merits;

9) Prefect and questore appointed for fascist merits;

10) Party Secretary;

11) Persons who have for the first time been granted Italian title to nobility since the 3rd January 1925.

The Special Section of the Central Commission for direct taxation in any particular case in which it is proved that a person belonging to one of the classes above defined has either voluntarily retired from his office or has behaved in his office with strict rectitude may exclude such person from the operation of Art. 2 and may hold him subject to the provisions of Art. 3.

5680

Declassified E.O. 12356 Section 3.3/NND No. 785916
785916

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

ARTICLE III

All increases of property--considerably exceeding the normal rate--which have been acquired by persons holding public offices or engaged in political activity or by any person, who even if not a member of the fascist party, has in any way directly or indirectly taken advantage of the bad practices introduced by fascism, shall be presumed to be profits derived from the regime and shall be forfeited to the State.

The forfeitable increase shall be the difference between the estate on the date of October 28, 1922 or on the date on which the inspected person became a member of the fascist party and engaged himself in political activity or on which he, even if not a member of the fascist party, began to take advantage of the bad practices introduced by fascism, and the estate as on the date of the ascertainment (of illegal profits).

For the assessment of the said increase the Commission instituted by DLL 159 may deduct from the difference mentioned in the preceding paragraph an amount which shall not exceed by 40% the total income of the inspected person as registered in the rolls of direct taxation during the period of time between the two dates set out in the preceding paragraph.

The actual deduction shall be fixed in each particular case by the special section of the Provincial Commission for taxation, which shall take into consideration the nature and the importance of the business carried out by the inspected person and the extent to which the particular situation created by fascism may have contributed to obtain the increase of property.

The value of the assets to be compared (in accordance with paragraph 2 of this Article) shall be calculated on the basis of values prevailing at the time of the assessment, saving always the provisions of DLL 159 concerning any variation in the estate after July 25, 1943.

No forfeiture shall be ordered if the increase of property, after the deductions mentioned in paragraph 3 have been made, does not exceed Lire 200,000.

ARTICLE IV

Shall be presumed to be profits derived from the regime and shall be forfeited to the State--in accordance with the provisions of the preceding article--all increases of property acquired by the ascendants, the descendants, the consort and by those who, even if not a member of the fascist party, maintained relations as associate, partner or concubine with the persons indicated in Articles 2 and 3.

activity or on which he, even if not a member of the fascist party, began to take advantage of the bad practices introduced by fascism, and the estate as on the date of the ascertainment (of illegal profits).

For the assessment of the said increase the Commission instituted by DLL 159 may deduct from the difference mentioned in the preceding paragraph an amount which shall not exceed by 40% the total income of the inspected person as registered in the rolls of direct taxation during the period of time between the two dates set out in the preceding paragraph.

The actual deduction shall be fixed in each particular case by the special section of the Provincial Commission for taxation, which shall take into consideration the nature and the importance of the business carried out by the inspected person and the extent to which the particular situation created by fascism may have contributed to obtain the increase of property.

The value of the assets to be compared (in accordance with paragraph 2 of this Article) shall be calculated on the basis of values prevailing at the time of the assessment, saving always the provisions of DLL 159 concerning any variation in the assets after July 25, 1943.

No forfeiture shall be ordered if the increase of property, after the deductions mentioned in paragraph 3 have been made, does not exceed Lire 200,000.

ARTICLE IV

Shall be presumed to be profits derived from the regime and shall be forfeited to the State--in accordance with the provisions of the preceding article--all increases of property acquired by the ascendants, the descendants, the consort and by those who, even if not a member of the fascist party, maintained relations as associate, partner or concubine with the persons indicated in Articles 2 and 3.

5679

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

ARTICLE X

Shall be subjected to the declarations set out in preceding articles all contractors of public works, State suppliers, even if not members of the Party, who either directly or by means of a company in which they had an interest, have entered into contracts with the State, public administrations or para-statal institutions exceeding in all the amount of ten millions. Representatives, agents, intermediaries who have taken part in such contracts or supplies or have had an interest in them and also importers and exporters of controlled goods and those who were responsible for the storage of such goods shall be subject to the same provisions.

ARTICLE XI

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

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

ARTICLE XVII

Shall be declared Fascist Companies and as such shall pass under the Control of the Ente entrusted with receivership created under Article 6, all companies and institutions in which the Board of Directors on the was composed of a majority of persons as specified in Arts. 1, 2, and 3 or in which 1/5 of the shares were on that date in the undivided possession of a person as specified in Arts. 1, 2 and 3.

1/5

The Ente entrusted with receivership shall guaranty the interests of the small shareholders.

Action in this connection shall be taken upon the decision of the Special Section of the Provincial Commissions.

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

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

Action in this connection shall be taken upon the declassification of the Financial Conditions.
Special Section

3677

ARTICLE 30

An institution called "Ente per amministrazioni e gestioni sequestrate" shall be instituted with its main office in Rome, with the task of assuming the custody and providing for the administration and management of properties which may be attached under Article 35 of the DLL 159.

The Ente shall be a public institution and shall be furnished with a fund of 3,000,000 to be included, by order of the Minister for Finance, in the Budget of his Ministry.

In the execution of all its functions the Ente shall comply with the general directives and the particular instructions given to it by the High Commissioner, to whom the Ente shall make the necessary proposals for the exercise of the powers conferred under art. 27 of DLL 159 to the authorities charged with investigating and assessing profits derived from the regime.

The Ente shall avail itself of the Avvocature dello Stato for assistance in any proceedings.

Whenever the Ente decides to make use of the "Istituti di Credito Fondiario" for the administration of immovable property, these institutes may establish special sections even deviating from provisions of law at present in effect and from their own by-laws.

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

In the execution of all its functions the Ente shall comply with the general directives and the particular instructions given to it by the High Commissioner, to whom the Ente shall make the necessary proposals for the exercise of the powers conferred under Art. 27 of DLL 159 to the authorities charged with investigating and assessing profits derived from the regime.

The Ente shall avail itself of the Avvocatura dello Stato for assistance in any proceedings.

Whenever the Ente decides to make use of the "Istituti di Credito Fondiario" for the administration of immovable property, these institutes may establish special sections even deviating from provisions of law at present in effect and from their own by-laws.

3676

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

ARTICLE 31

The Ente shall be administered by a Board composed of a President, Vice President, and 5 members to be appointed by decree of the Minister of Finance and proposed by the Assistant High Commissioner for the "Forfeiture of Profits derived from the regime."

A Control Board shall be formed in the Ente, composed of 3 permanent controllers and 2 substitutes to be appointed by decree of the Minister for Finance and proposed by the Assistant High Commissioner for the "Forfeiture of Profits Derived from the Regime."

One of the 3 permanent controllers must be chosen from among the magistrates of the Court of Accounts with a grade not lower than the 4th.

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

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

Registered Copy

One of the 3 defendants controllers must be chosen from among the
Registered Accounts with a grade not lower than GS-7.

ARTICLE 32

The Ente shall be ruled by a statute to be approved by a legislative decree prepared by the Minister for Finance. The budget shall be submitted for the approval of the same Minister of Finance at the end of every fiscal year.

The amounts which shall be advanced by the Ente for the administration of each estate shall have preference over any mortgage even if privileged that may exist on any such estate.

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

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

ARTICLE XI

Among the transfers made without valuable consideration, which are contemplated by N. 1 of Art. 29 (of DL N. 159) shall not be included those made in fulfilling a moral obligation or for public advantage, inasmuch as they are not out of proportion of the legally acquired property of the donor.

Among the transfers contemplated by N. 2 of the said article shall not be included those effected in payment of a certain and liquidated debt, which is shown not to have been contracted with the purpose of increasing artificially the liabilities of the debtor.

The other non-gratuitous transfers should be null and void in accordance with the provisions of the first part of the said articles, unless the present owner of property formerly owned by the profiteer shows that at the time when the transfer took place he did not, and could not, know that among his predecessors in right was included the person declared as profiteer or that the same had derived profits from the regime.

The action for the declaration of nullity (of such transfers) shall be brought by the Treasury before the ordinary courts against the debtor and the person in whose favor the transfer has been effected.

The summons shall be entered in the public registers.

No such action can be initiated after two years have elapsed since the order of forfeiture has become definitive.

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

increasing artificially the liabilities of the debtor.

The other non-gratuitious transfers shall be null and void in accordance with the provisions of the first part of the said articles, unless the present owner of property formerly owned by the profiteer shows that at the time when the transfer took place he did not, and could not, know that among his predecessors in right was included the person declared as profiteer or that the same had derived profits from the regime.

The action for the declaration of nullity (of such transfers) shall be brought by the Treasury before the ordinary courts against the debtor and the person in whose favor the transfer has been effected.

The summons shall be entered in the public registers.

No such action can be initiated after two years have elapsed since the order of forfeiture has become definitive.

5673

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

Draft for the Confiscation
of profits made under the fascist regime.

Sec. 1

In case of a sentence for the crimes punished by Sections 2 and 3 (1st and 2nd paras.) and 5 of RDL 27/7/44 n. 159, the Court orders the confiscation of the property of the sentenced persons. The Court can grant an allowance to the members of the family who are dependant on the sentenced person.

In cases when an action cannot be brought before the Courts the confiscation is ordered by the territorially competent Court on request of the High Commissioner.

Sec. 2

The increased wealth of those who after the 3rd of January 1925 were :-

1) Members of the Great Council of Fascism.
2) Members of the Fascist Government.
3) Secretary or Vice Secretaries of the fascist party or members of the national directorship.
4) Presidents, public prosecutors or members of the special Court for the defence of the State.
5) General commander of the Voluntary Militia for National Safety.
6) Lieutenant General, Consul General or Consul of the Militia in permanent service.
7) Chief of a mission appointed for fascist merits.
8) Governor of a Colony appointed for fascist merits.
9) Prefect or Questore (Chief of the Police) appointed for fascist merits.
10) Federal Secretary.
11) Persons on whom a new title of nobility was conferred after the 3rd of January 1925, are seized by the State.

The special section of the Central Commission of direct taxes may in special cases, when it is proved that the person belonging to one of these categories has resigned his post of his own will or has behaved with special straightforwardness, exclude from the above provisions and deal with him as in Sec 3.

Sec 3

Increased estates exceeding the normal by a sizeable amount obtained by those who have had any public post or been politically active, or by those who, even if not members of the party, have availed themselves of the political immorality created by fascism, either directly or indirectly,

Declassified E.O. 12356 Section 3.3/NND 785087 NARS, Date 6-28-82

[illegible] of those who after the 3rd of January 1925 were :-

1) Members of the Great Council of Fascism.
2) Members of the Fascist Government.
3) Secretary or Vice Secretaries of the fascist party or members of the national directorship.
4) Presidents, public prosecutors or members of the special Court for the defence of the State.
5) General commander of the Voluntary Militia for National Safety.
6) Lieutenant General, Consul General or Consul of the Militia in permanent service.
7) Chief of a mission appointed for fascist merits.
8) Governor of a Colony appointed for fascist merits.
9) Prefect or Questore (Chief of the Police) appointed for fascist merits.
10) Federal Secretary.
11) Persons on whom a new title of nobility was conferred after the 3rd of January 1925, are seized by the State.

The special section of the Central Commission of direct taxes may in special cases, when it is proved that the person belonging to one of these categories has resigned his post of his own will or has behaved with special straightforwardness, exclude from the above provisions and deal with him as in Sec 3.

Sec 3

Increased estates exceeding the normal by a sizeable amount obtained by those who have had any public post or been politically active, or by those who, even if not members of the party, have availed themselves of the political immorality created by fascism whether directly or indirectly, are presumed fascist profits and seized by the State.

The increase that can be seized consists of the difference between the estate on the 28th of October 1922 - or the subsequent date when the person became a member of the fascist party or carried on political activity or even if not a member of the party began to avail himself of the political immorality created by fascism - and the estate owned by him on the date of assessment.

In order to determine the increase of the estate exceeding the normal, the commission instituted by DLL 27/7/44, N° 159 can diminish this difference by a portion not exceeding 40% of the sum of the incomes inscribed in the rolls of direct taxes assessed on the accused party in the period of time between the two dates.

5672

Declassified E.O. 12356 Section 3.3/NND 915019 No. 78501

The amount of deduction will be fixed from time to time by the special section of the Provincial Commission of Taxes in connection with the kind and importance of the activity carried out by the party and to the measure in which the special situation occasioned by fascism may have influenced in their opinion the increase of the estate.

The value of the estates to be compared is equalised to that current at the moment of assessment, except as provided by DLL 27/7/44 n. 159 concerning the variations that took place after the 25th of July 1943.

The increases of estate which after the above deductions do not exceed L. 200.000 will not be confiscated.

Sec. 4

The increases of estate of the ascendants, descendants, spouse and anyone even if not a member of the fascist party, had relations of association, partnership, or concubinage with the person listed in sec. 2 and 3 are presumed to be fascist profits unless proof to the contrary is given and are confiscated by the State according to the previous sections.

Sec. 5

The initial estate is the one resulting from the assessment for the extraordinary estate and property tax under the law of 3 Feb. 1922 n. 78 with the addition of the increases occurring until the 28th October 1922 and with deduction of the diminutions up to that date when they are a loss of property and not a transformation.

The onus of proof of the amount of the initial estate lies on the party.

After the 28th of October 1922 the initial estate is assessed, subject to proof to the contrary, by adding to the estate assessed under the law of 5/2/22 and its amendments until the 28/10/22 the 40% of the incomes assessed for direct taxation on the party.

If on the 28/10/22 the party owned no estate, the initial estate will be assessed by adding a figure not above 40% of the incomes inscribed in the rolls of direct taxes, of the several years up to the moment when the party became a member of the fascist party or carried on fascist activity or profited by the political immorality created by fascism.

Sec. 6

In order to assess the amount of the fascist profits, the President of the Special Section of the Provincial Commission can, either ex officio or on request of the High Commissioner or of the Intendente di Finanza,

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

[redacted] to be fascist profits unless proof to the contrary is given and are confiscated by the State according to the previous sections.

Sec. 5

The initial estate is the one resulting from the assessment for the extraordinary estate and property tax under the law of 5 Feb. 1922 n. 78 with the addition of the increases occurring until the 28th October 1922 and with deduction of the diminutions up to that date when they are a loss of property and not a transformation.

The onus of proof of the amount of the initial estate lies on the party.

After the 28th of October 1922 the initial estate is assessed, subject to proof to the contrary, by adding to the estate assessed under the law of 5/2/22 and its amendments until the 28/10/22 the 40% of the incomes assessed for direct taxation on the party.

If on the 28/10/22 the party owned no estate, the initial estate will be assessed by adding a figure not above 40% of the incomes inscribed in the rolls of direct taxes, of the several years up to the moment when the party became a member of the fascist party or carried on fascist activity or profited by the political immorality created by fascism.

Sec. 6

In order to assess the amount of the fascist profits, the President of the Special Section of the Provincial Commission can, either ex officio or on request of the High Commissioner or of the Intendente di Finanza, issue an order to anyone who is suspected to be in the position of sections 1, 2, 3 to make a declaration, (within a specified period of not less than 10 days) of the property owned by him on the date of the liberation of the territory where he owns most of the property, as well as on the date of the order, making a description of all the items of his estate, and indicating the present value of each of them.

In the order the party will be demanded to indicate his property on the 28/10/22 in case of members after 28/10/22 or persons who held public posts or high grades in the party after that date, and who only after that date have commenced to make supplies to the State or to the other Enti listed in Sec. 17, the President can summon them to state their property on the date when they became members of the party or obtained the post or grade, or began their supplies.

Declassified E.O. 12356 Section 3.4 NND 785015 By NARS, Date 1/6/09

Sec. 7

Whoever fails to make the declaration of sec. 6 or delays in making them is liable to a penalty of one half of the amount that will be finally assessed.

Whoever declares a property more than one third inferior to the one that will be finally assessed is liable to a penalty equal to the difference between what is due under his declaration and what is due under he assessment. However, if the assessment is accepted by the party the penalty is cancelled. Every item which has not been declared is seized by the State, apart from the provisions of the previous sections.

Sec. 8

The persons who have been members of the fascist party and have held one or more of the following posts are compelled to make the declaration both of their property on the 28/10/22 and at the moment of the order and at the moment when they were appointed to their posts.

a) Members of the Fascist Government whether Ministers or Under-secretaries.
b) Members of the Great Council of fascism.
c) Members of the directorship of the fascist party.
d) National inspector of the fascist party.
e) Secretary of fascists abroad.
f) Federal secreatries and vice-secretaries.
g) Permanent officers of the voluntary militia of rank not below consul.
h) President or member of the special Court for the defence of the State.
i) Senator appointed after the 28/10/22 for the category 3, 20, 21 of Section 33 of the constitution and who was dismissed according to Sec. 8 of DLL 27/7/44 n. 159.
l) Member of parliament who remained member of the party after the 3rd Jan. 1925 or became a member of the party after that date, or National Councillor.
m) Governor of a colony appointed after the 3rd Jan. 1925.
n) Ambassador or Minister, Prefect or Questore chosen out of the lists after that date.
o) A person on whom a title of nobility was conferred after that date.

Sec. 9

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

a) Members of the Fascist Government whether Ministers or Under-secretaries.
b) Members of the Great Council of fascism.
c) Members of the directorship of the fascist party.
d) National inspector of the fascist party.
e) Secretary of fascists abroad.
f) Federal secreatries and vice-secretaries.
g) Permanent officers of the voluntary militia of rank not below consul.
h) President or member of the special Court for the defence of the State.
i) Senator appointed after the 28/10/22 for the category 3, 20, 21 of Section 33 of the constitution and who was dismissed according to Sec. 8 of DLL 27/7/44 n. 159.
l) Member of parliament who remained member of the party after the 3rd Jan. 1925 or became a member of the party after that date, or National Councillor.
m) Governor of a colony appointed after the 3rd Jan. 1925.
n) Ambassador or Minister, Prefect or Questore chosen out of the lists after that date.
o) A person on whom a title of nobility was conferred after that date.

Sec. 9

In assessing the value of the real property of the initial estate one must take into account the value of the lira at the moment of the assessment of the increase.

Sec. 10

The declaration of the above sections must be made also by all the contractors of public works and purveyors to the State even if they are not members of the party, who, either directly or through companies or firms in which they have a share, have made a contract with the State with Enti pubblici or Enti parastatali for an amount exceeding all together 10 millions and also all agents, representatives or intermediaries who took part in these contracts or supplies or were concerned in them, as well as exporters and importers of goods subject to a quota and those who have collected (ammasso) these goods.

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

Sec. 11

The special section of the Provincial Commission on receiving the declaration, will fix temporarily the amount of the increase appearing from the data contained in the declaration and will refer it to the financial administration for collection ; the assessment is enforceable.

The final decision declares that the amount collected is just or, as the case may be, below the one due, and orders the payment of the balance.

Sec. 12

The Commissions must, if possible, examine and decide the appeals in groups and kinds of taxpayers and when for the decision of some appeal a special knowledge is required they can ask for official or other experts to attend; the latter have only a consultative vote.

The Intendenti di Finanza and their deputies can attend the meeting of the Commissions with a consultative vote.

Sec. 13

In assessing the profits to be seized according to previous sections, the property received from successions or donations from relatives, if supported by documents, are not reckoned.

Sec. 14

The Commission in the first meeting after the appeal has been presented, is entitled to fix provisionally and with reserve of giving a final decision, an amount to be paid by the debtor as payment on account of his debt.

This amount cannot exceed 25% of the increase of the estate appearing on the provisional assessment unless the claimant admits that the increase exceeds that percentage.

It is compulsory to fix this amount for the persons listed in sections 8 and 10 if the amount of the increase of the estate to be seized and appearing from the provisional assessment exceeds one million.

Sec. 15

The Commission is entitled to order that some special goods existing in the estate of the debtor whose acquisition is due to fascist profits be appropriated by the State, according to the amount assessed on the debtor.

It is also entitled to order that this amount be totally or partially

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

of the Commissions with a consultative vote.

Sec. 13

In assessing the profits to be seized according to previous sections, the property received from successions or donations from relatives, if supported by documents, are not reckoned.

Sec. 14

The Commission in the first meeting after the appeal has been presented, is entitled to fix provisionally and with reserve of giving a final decision, an amount to be paid by the debtor as payment on account of his debt.

This amount cannot exceed 25% of the increase of the estate appearing on the provisional assessment unless the claimant admits that the increase exceeds that percentage.

It is compulsory to fix this amount for the persons listed in sections 8 and 10 if the amount of the increase of the estate to be seized and appearing from the provisional assessment exceeds one million.

Sec. 15

The Commission is entitled to order that some special goods existing in the estate of the debtor whose acquisition is due to fascist profits be appropriated by the State, according to the amount assessed on the debtor.

It is also entitled to order that this amount be totally or partially paid by particular goods included in the estate of the debtor, reckoned at the value determined by . . .

Sec. 16

Whoever is liable to the appropriation for fascist profits is considered a merchant or broker even if he does not carry out this profession. If he is in arrears with payment, the Court, on application of the Intendente di Finanza declares his bankrupcy considering him under the present decree to be insolvent.

Sec. 17

The companies and Entis whose boards of directors at the date of . . . was composed with a majority of persons listed in sections 1, 2, and 3 or in which one fifth of the shares were owned by a person listed in sections 1, 2 and 3 are declared fascist companies and consequently

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

put under the control of the ente mentioned in Sec. 30. The ente will guarantee the interests of the minor shareholders. The order is issued by the special sections of the Provincial Commissions.

Sec. 18

Besides the special section of the Provincial Commission, the Minister of Finance can appoint one or more sub-sections each presided over by the President of the Court or by another magistrate of the same grade or of next lower grade and composed of four commissioners to be appointed in accordance with sec. 30 of the law. By the same decree the Minister appoints the Presidents of the sub-sections on nomination of the President of the section. By decree of the Minister of Finance one or more sub-Commissions can be formed besides the special section of the Central Commission whose presidents and members are appointed according to Sec. 32 of the law. The President of the special section assigns the several cases to the section or the sub-sections and also in case one or more Commissioners of the section or sub-sections is unable to attend, can substitute him with another Commissioner.

Sec. 19

The assessment and liquidation is the competence of the special Provincial section of the district where the debtor resides and if the residence is unknown, in the Province where the debtor has had his last residence.

Sec. 20

All prejudicial and incidental questions whether of law or of procedure connected in any way with the assessment, liquidation and appropriation of fascist profits fall within the competence of the special Provincial sections, except questions of status and forgery. If one of these questions should arise the Commission suspends the proceeding until they have been decided by a competent judge and the financial administration is entitled to commence or prosecute the judgment concerning them.

Sec. 21

In order to find out the property of the presumable profiteers, the powers indicated in the first para. of sec. 31 of the law belong also to Intendenze di Finanza which can investigate also with third parties derogating from the rules of banking secrecy. The Special Provincial

Declassified E.O. 12356 Section 3.3/NND No. 787016

cases to the section or the sub-sections and also in case one or more Commissioners of the section or sub-sections is unable to attend, can substitute him with another Commissioner.

Sec. 19

The assessment and liquidation is the competence of the special Provincial section of the district where the debtor resides and if the residence is unknown, in the Province where the debtor has had his last residence.

Sec. 20

All prejudicial and incidental questions whether of law or of procedure connected in any way with the assessment, liquidation and appropriation of fascist profits fall within the competence of the special Provincial sections, except questions of status and forgery. If one of these questions should arise the Commission suspends the proceeding until they have been decided by a competent judge and the financial administration is entitled to commence or prosecute the judgment concerning them.

Sec. 21

In order to find out the property of the presumable profiteers, the powers indicated in the first para. of sec. 31 of the law belong also to Intendenze di Finanza which can investigate also with third parties derogating from the rules of banking secrecy. The Special Provincial sections can also either directly or through the police search the dwelling with the formality prescribed by the Code of criminal procedure. Before the Commissions are formed the President of the Court has the same powers for the purpose of sequestration.

Sec. 22

The notice of assessment is served by the special section of the Provincial Commission on the debtor and is communicated by registered letter with return receipt to the High Commissioner and to Intendente di Finanza of the place where the section is located.

The appeal against the assessment must be made by the debtor and by the administration of Finance within 30 days from service or from receiving the communication. The appeal is made by filing in the secretary's office one original and four copies, on unstamped paper. The secretary delivers a receipt which is the only legal proof of the filing and the date.

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

Declassified E.O. 12356 Section 3.3/NND No. 785019

The appeal must state all the defences against re-assessment, indicate the evidence and when there are documents communicate them by depositing them in the secretary's office within 30 days from the appeal. After this term is expired the President fixes the date of hearing and appoints a "relatore" (member of the Commission who investigates the case and refers on it to the Commission).

Sec. 24

In case, in order to determine the increase of estate provided for in Sec. 26 of the law, the property of other persons involved, the assessment must be notified also to these persons who become parties in the case with the same rights and guarantees of the party against whom the assessment is made and the decision is binding also on these people.

Sec. 24

The decree fixing the day of hearing is notified at least 30 days before to the debtor and communicated by registered letter with return receipt to Intendente di Finanza of the place where the section is located to the High Commissioner and also to Avvocatura dello Stato when it represents the administration. Both the debtor and the administration, on the latter's behalf can deposit with the secretary of the special section additionnal memoranda in five copies on unstamped paper at least 10 days before the day of hearing. At the hearing, after the summing up by the President or Commissioner deputised by him and after hearing the evidence submitted, it is argued by the representatives of the administration or by the member of Avvocatura dello Stato and then by the debtor or his counsillor or solicitor. The special section decides in secrecy and by majority vote immediately after the debate and decides also about the costs.

Sec. 25

The motivation in summary form is drawn up by the President or by the Commissioner deputised by him. The original decision signed by the President and secretary is deposited in the secretary's office who will arrange within 20 days for the communication by registered letter with return receipt to the High Commissioner, Intendente di Finanza and to the Avvocatura dello State if this office has taken part in the case.

Sec. 26

The period within which the debtor, the administration and the High Commissioner can appeal to the Special Section of the Central Commission

Sec. 24

The decree fixing the day of hearing is notified at least 30 days before to the debtor and communicated by registered letter with return receipt to Intendente di Finanza of the place where the section is located to the High Commissioner and also to Avvocatura dello Stato when it represents the administration. Both the debtor and the administration, on the latter's behalf can deposit with the secretary of the special section additional memoranda in five copies on unstamped paper at least 10 days before the day of hearing. At the hearing, after the summing up by the President or Commissioner deputised by him and after hearing the evidence submitted, it is argued by the representatives of the administration or by the member of Avvocatura dello Stato and then by the debtor or his councillor or solicitor. The special section decides in secrecy and by majority vote immediately after the debate and decides also about the costs.

Sec. 25

The motivation in summary form is drawn up by the President or by the Commissioner deputised by him. The original decision signed by the President and secretary is deposited in the secretary's office who will arrange within 30 days for the communication by registered letter with return receipt to the High Commissioner, Intendente di Finanza and to the Avvocatura dello State if this office has taken part in the case.

Sec. 26

The period within which the debtor, the administration and the High Commissioner can appeal to the Special Section of the Central Commission according to Sec 32 of the law, commences for the debtor from the date of service of the decision and for the administration and High Commissioner from the date of receipt of the decision through thechannels set forth in the previous section.

Sec. 27

The rules of the previous sections apply to the filing of the appeal to the Central Commission and to judgment of appeal in general. The debate before the Special Section of the Central Commission, like the one before the Special Section of the Provincial Commission, is public.

Sec. 28

Before the Special Sections of the Provincial Commissions are formed the President of the Court of the place where the section is located according to the previous section 5 or the President of the Court in whose district the property is situated is competent to order the restraint (sequestro conservative) according to sec. 35 of the law.

Declassified E.O. 12356 Section 3.3/NND 910587 By NARA Date 6/6/01

When the special sections of the Provincial Commissions are formed, the restraint can be ordered by the President of the special section which is competent according to the previous sec.5 and also to the Presidents of the special sections of the Provinces in whose district the property is situated.

Sec. 29

The Ente indicated in the following sections is by law the trustee of the restrained property according to sec. 35 of the law. In ordering the restraint the President of the Court or the President of the special section declares null and void the powers of the Commissioners who had been formerly entrusted with the management of the property distrained and fixes the terms and method for transferring the management to the Ente.

For restraints already carried out the President will declare null and void the powers of the Commission within 15 days from this decree becoming effective.

Sec. 30

An Ente called "Ente per Amministrazione e Gestione Sequestrataria" is instituted in Rome with the task of taking over and managing the property that is placed under restraint according to sec. 35 of the law. The Ente is a public body and is supplied with a fund of 3 millions to be appropriated by the Minister of Finance in the budget of his Ministry.

In carrying out its duties the Ente obeys directives and the particular instructions issued by the High Commissioner to whom he make opportune proposals for the exercise of the faculties conferred by sec. 27 of the law. The Ente avails itself of the Avvocatura dello Stato for its assistance representations and defence before the Courts. If the Ente decides to avail itself for the administration of real property of the services of the Istituti di Credito Fondiario the latter can institute special sections, even derogating from existing laws and articles of association.

Sec. 31

The Ente is administered by a President, a Vice-President and 5 membe appointed by a decree of the Minister of Finance on the proposal of deputy High Commissioner for the confiscation of fascist profits. With the Ente there will be three auditors and 2 sup lementary auditors to be appointed by a decree of the Minister of Finance on proposal of the deputy High Commissioner for the confiscation of fascist profits. One of the three auditors must be chosen among the magistrates of the Corte dei Conti not

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

becoming effective.

Sec. 30

An Ente called "Ente per Amministrazione e Gestione Sequestratarie" is instituted in Rome with the task of taking over and managing the property that is placed under restraint according to sec. 35 of the law. The Ente is a public body and is supplied with a fund of 3 millions to be appropriated by the Minister of Finance in the budget of his Ministry.

In carrying out its duties the Ente obeys directives and the particular instructions issued by the High Commissioner to whom he make opportune proposals for the exercise of the faculties conferred by sec. 27 of the law. The Ente avails itself of the Avvocatura dello Stato for its assistance representations and defence before the Courts. If the Ente decides to avail itself for the administration of real property of the services of the Istituti di Credito Fondiario the latter can institute special sections, even derogating from existing laws and articles of association.

Sec. 31

The Ente is administered by a President, a Vice-President and 5 membe appointed by a decree of the Minister of Finance on the proposal of deputy High Commissioner for the confiscation of fascist profits. With the Ente there will be three auditors and 2 supplementary auditors to be appointed by a decree of the Minister of Finance on proposal of the deputy High Commissioner for the confiscation of fascist profits. One of the three auditors must be chosen among the magistrates of the Corte dei Conti not below the fourth grade.

Sec. 32

The Ente is regulated by regulations to be approved by decree on the proposal of the Minister of Finance. The budget at the end of each financial period is submitted to the approval of the Minister of Finance The credits of the Ente for the amounts advanced by it to the various managements have a lien on the property of these managements with priority on all other credits. The garnishee order is carried out with the same rules of distraint by issuing a summons to the third party to release the property without observing the other rules prescribed by sections 345 and following of the Code of Civil Procedure. The third party can appear in the judgment even in the judgment of appeal and present his claims on the distrained goods with the same rights and guarantees as the debtor. For this purpose

Declassified E.O. 12356 Section 3.3/NND 785019

if the garnishee order precedes the assessment the latter must be notified also to the third party as well as all other orders and decisions which must be notified ~~also to the third party as well as all other orders and decisions which must be notified~~ to the debtor during the proceedings. If the thrid party does not appear in the judgment the decision of the special section and of the central section are effective also against him.

Sec. 34

The provisions of sec. 675 of the Code of Civil Procedure does not apply to the order of distraint issued according to the sec. 35 of the law.

If within a year from levying distraint the assessment has not been notified according to previous sec. 8, the debtor or the third party can apply to the President of the Court or of the Special Section in order to obtain the revocations of the distraints and the application must be notified to the authority that had applied for distraint. The President decides after hearing the parties and if there are justified motives can grant an extension not exceeding six months.

Sec. 35

The decision of all incidents arising during the execution of the distraint is given by the president of the Court or of the special section who has ordered it.

Sec. 36

If there are special requirements of public economy or reasons which make the direct management not convenient or when there are dangers of loss or devaluation of the property the President of the Ente after consulting the board of directors can arrange for the concern to be submitted to a trusteeship.

Sec. 37

The trustee is appointed by the President of the Ente among individual persons or Companies which are particularly qualified for managing similar concerns. The trustee controls the activity of the concern and makes a report to the ente at least once every three months. He can inspect the books, records and correspondence and can forbid the owners to carry out certain transactions, informing the Ente at once that will decide the advisability of such transactions and whose decision is final and cannot be revoked either by the Minister or the law Court.

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

decides after hearing the parties and if there are justified motives can grant an extension not exceeding six months.

Sec. 35

The decision of all incidents arising during the execution of the distraint is given by the president of the Court or of the special section who has ordered it.

Sec. 36

If there are special requirements of public economy or reasons which make the direct management not convenient or when there are dangers of loss or devaluation of the property the President of the Ente after consulting the board of directors can arrange for the concern to be submitted to a trusteeship.

Sec. 37

The trustee is appointed by the President of the Ente among individual persons or Companies which are particularly qualified for managing similar concerns. The trustee controls the activity of the concern and makes a report to the ente at least once every three months. He can inspect the books, records and correspondence and can forbid the owners to carry out certain transactions, informing the Ente at once that will decide the advisability of such transactions and whose decision is final and cannot be revoked either by the Minister or the law Court.

Sec. 38

The fees and reimbursement of expenses of the trustee are determined bythe President of the Ente according to Sec. 18 and are charged on the concern put under trusteeship.

Sec. 39

Without altering the priority of costs according to sec. 2777 of the Civil Code, the priority depending on the general or special liens established for the war profits tax, which are extended also to the credit of the State for fascist profits, is exercised when it concurs with other liens in the order prescribed in sec. 2777 and 2778 of the Civil Code.

5665

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

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

Sec. 40

Gifts and donations included in N. 1 of sec. 29 of the law do not comprise those made to fulfil a moral duty or for public benefit provided they are in proportion to the lawful estate of the donor.

Among the deeds included in n. 2 of the same section are not comprised those of payment of a certain and liquid debt which has been contracted not for the purpose of burdening artificially the estate of the debtor. The other deeds of sale and the like are null and void, according to the first part of this section if the person who owns at present the property which formerly belonged to the profiteer does not prove that when the contract was made he or she was not aware that the other party was a profiteer who had realised fascist profits. The action is brought by the financial administration before the competent Court, according to the usual rules, against the debtor and the person to whom he has sold his property or otherwise disposed of it. The writ is transcribed. The action is limited in two years from the date when the decision of appropriation have become final.

Sec. 41

With every special section of the Provincial Commission and with special section of Central Commission there will be a secretariat composed of one or more secretaries and a proper number of clerks for the service of filing copying and serving deeds. The secretaries attend the public meeting, assist the President and Commissioners in taking evidence as well as in the searches and inspections compiling the records, signing decisions, delivering copies of them, certifying that the copies correspond to the original and carrying out all the duties which the law confers on the Court clerks. With every special section of the Provincial Commission and with every section of the Central Commission can be detailed one or more officers or non commissioned officers or police and one or more technical or accounting experts. This staff, if belonging to the ruoli of the State, Provincial or Communal administrations will be taken over by the Commissions in the position of "comandati". The Minister of Finance is also empowered to engage temporary employees in the number that will be fixed in another decree.

Sec. 42

The costs and Court fees relative to the appeal, the assessment and subsequent proceedings are borne by the parties against whom the assessment is made or who appear in the case. These parties if they request an inquiry or technical report and other evidence entailing a disposable expense must advance the amount that will determined by the sections

...art is transcribed. The action is limited in two years from the date when the decision of appropriation have become final.

Sec. 41

With every special section of the Provincial Commission and with special section of Central Commission there will be a secretariat composed of one or more secretaries and a proper number of clerks for the service of filing copying and serving deeds. The secretaries attend the public meeting, assist the President and Commissioners in taking evidence as well as in the searches and inspections compiling the records, signing decisions, delivering copies of them, certifying that the copies correspond to the original and carrying out all the duties which the law confers on the Court clerks. With every special section of the Provincial Commission and with every section of the Central Commission can be detailed one or more officers or non commissioned officers or police and one or more technical or accounting experts. This staff, if belonging to the ruoli of the State, Provincial or Communal administrations will be taken over by the Commissions in the position of "comandati". The Minister of Finance is also empowered to engage temporary employees in the number that will be fixed in another decree.

Sec. 42

The costs and Court fees relative to the appeal, the assessment and subsequent proceedings are borne by the parties against whom the assessment is made or who appear in the case. These parties if they request an inquiry or technical report and other evidence entailing a sizeable expense must advance the amount that will determined by the sections approximately with reserve of paying the difference, depositing the amount within the period that will be fixed. As all other costs or fees for acts of the Commission or for defence of the administration, as well as the fees of the third-parties for services, copies etc. will be entered in a special account to be kept by the secretary of the Commission; at the end of the judgment the secretary will try to recover this amount with the proceedings for the recovery and collection of costs and Court fees against the person against whom the assessment has been made and jointly against any other person who has appeared in the case and whose claims have been rejected.

Sec. 43

The payment of fascist profits can be made directly into the Treasury by order of the Intendente di Finanza whether ex-officio or on application of the debtor. For the collection of fascist profits through the Esattorie the rule and privileges for the collection of the war profits tax are

Declassified E.O. 12356 Section 3.3/NND No. 785015

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

100

applicable without obligation of "non discuss per discuss" (of being responsible for the non collected amounts). The Minister of Finance will issue the rules as to the mode to be given to the execution.

Art. 14

For the execution on real property for the purpose of collecting fascist profits, the auction sale will be a single one and the minimum price is fixed in the amount equivalent to the value ascribed to each item in the final decision of the commission. In case this valuation does not appear in the decision, it will be made by the Ente after consulting the official income specialist. If the auction has been unfruitful, the property is devolved on the State. For the execution on personal property, the minimum price is fixed according to the previous paragraphs and the new auction according to sec. 39 of T.U. of the laws on the collection of direct taxes and subsequent amendments, must be authorized by the Intendente di Finanza who is entitled to order the appropriation of the unsold property to the State. In any case, the State has a right of priority on all goods sold by auction at the final price and can exercise this right within thirty days from the sale by depositing a declaration with the clerk of the competent Court. Regarding shares, debentures, and other securities, the right of priority can be exercised even before the beginning of the execution on the basis of the quotation in the Stock Exchange or Rolling Mills, if the price to be determined by the Commission of Stock Brokers.

Art. 15

The property confiscated by the State according to sec. 17 of the law and purchased according to the previous section becomes an integral part of State property.

Art. 16

Values allowable provided for by the decree 7/7/45 n.459 and by this decree, the rules contained in the D.L. 7/8/36 n.1639 converted into the law 7/4/37 n.1016 and in the D.L. 5/7/37 n.1516 and subsequent amendments are still operative.

Art. 17

All provisions contrary to those of the present decree or incompatible with them are repealed.

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

[illegible] to allow the appropriation of the unsold property to the State. In any case, the State has a right of priority on all goods sold by auction at the final price and can exercise this right within thirty days from the sale by presenting a declaration with the clerk of the competent Court. Regarding shares, obligations, and other securities, the right of priority can be exercised even before the beginning of the execution on the basis of the quotation in the Stock Exchange or failing this, of the prices to be determined by the Committee of Stock Brokers.

Sec. 45

The property confiscated by the State according to sec. 37 of the law and purchased according to the previous section becomes an integral part of State property.

Sec. 46

Unless otherwise provided for by the decree 7/7/36 n.159 and by this decree, the rules contained in the R.D. 7/7/36 n.1639 converted into the law 7/6/37 n.1016 and in the R.D. 8/7/37 n.1516 and subsequent amendments are still operative.

Sec. 47

All provisions contrary to those of the present decree or incompatible with them are repealed.

[illegible]

1608